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**BREWER:** Good morning and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, representing the 43rd Legislative District. And I'm the Chair of this committee. For the safety of our committee members, staff, pages, and the public, we ask that those attending the hearings abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited, although it's looking good for today. We ask that you only enter during the hearing that you're to testify on. Bills will be taken up in the order outside the hearing room that they are posted. The requirement to clean between each testifier and we'll need a break between bills to reset the number and to clean the table. We request that everyone utilize the identified entrance on my left, exit on my right. Note that the requiring of face coverings will be in effect for those in the hearing room, but as the testifiers come up and testify, they are allowed to remove their face covering so that we can hear clearly for the transcribers their testimony. For committee members, I will leave it up to your discretion on face coverings because we have adequate dividers with the Plexiglass and separation. Public hearings for which attendance reaches the max capacity, the entrance door will be monitored by the Sergeant at Arms. Should, again, not be a problem today. We ask that you continue to observe social distancing and wearing a face mask. Legislature does not have available overflow rooms because of HVAC. Please limit handouts. The committee again will take up the bills as they are posted in the agenda. Our hearing today is you're public part of the legislative process. This is your opportunity to express your position on legislation coming before this body. Committee members will come and go during the hearing. It's just part of the process. Many are introducing bills in other committees as we will be ongoing here. Also understand that the senators will be using their computers and cell phones to either look up information or find out if they need to be in another committee hearing. I ask that you abide by the following procedures to better facilitate today's procedures. Please silence or turn off your cell phones or other electronic devices. No food or drink in the hearing room. Please move to the reserved chairs that are designated and marked when you're getting ready to testify. Introducers will make the initial statement, followed by proponents, opponents, and those in neutral testimony. Closing remarks will be reserved for the introducing senator. If you're planning to testify, please pick up a green sheet, that's at a table at the back of the

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room. Please fill out the green sheet at the sign-in table before you testify. We'd ask that you would print them clearly so that we can properly enter into the official record the information. All letters of support need to be posted by 12:00 noon, Central Standard Time, the day prior to the hearing. If you have handouts, we would ask that you provide at least 12 copies, give those to pages or the committee clerk to make "distro." Each letter must identify the bill number, proponent, opponent, neutral. And mass mailings will not be entered. When you come up to testify, please speak clearly into the microphone. Tell us your name, then please spell your first and your last name to ensure we get an accurate record. We'll be using the light system for testifiers today. You'll be given five minutes to make your initial remarks to the committee. When the yellow light comes on, you'll have one minute. When the red light comes in, your time has expired and there will be an audible alarm also. Questions may follow your testimony. No display of support or opposition to a bill, vocal or otherwise, will be allowed in the hearing. Committee members with us today will introduce themselves starting on my right.

**BLOOD:** Good morning. Senator Carol Blood, representing District 3, which is western Bellevue and southeastern Papillion, Nebraska.

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

**SANDERS:** Good morning. Rita Sanders, District 45, representing the Bellevue-Offutt community.

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

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

**HALLORAN:** Good morning. Steve Halloran, District 33, Adams and Hall County.

**BREWER:** Got Dick Clark, our legal counsel, on my right. And on the corner, our committee clerk, Julie Condon. And this morning, our pages are Jon Laska. Raise your hand. There he is. He's a senior at UNL from Genoa. And we got Ryan Koch on the other side. Ryan is a senior at UNL from Hebron. With that, Senator Cavanaugh, Machaela Cavanaugh, come on up.

**M. CAVANAUGH:** Good morning, Chairman Brewer.

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**BREWER:** Welcome to the Government Committee.

**M. CAVANAUGH:** Thank you. And members of the Government Committee. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h. I have the privilege of representing District 6, west central Omaha here in the Nebraska Legislature. And I'm here today to introduce LB284. The intent of LB284 is to maximize federal relief funding for the benefit of Nebraskans and the public resources they rely upon and to ensure the Legislature honors their duty to authorize all funding. More specifically, it requires that any federal programs expanding-- expanded during the declared emergency-- declared federal emergency be implemented by the state for the duration of the emergency. Any federal funds made available will be applied for at the maximum allowed. An example would be SNAP benefits. Being the only state to skip a month of federal funding of SNAP dollars was just plain irresponsible. The second piece of this bill is related to the duty of the Legislature to appropriate funds. LB284 states that the Legislature shall appropriate the available federal funds to the Governor's emergency fund or other agency or program as approp-- as appropriate. If this money becomes available during the first ten days of session, a bill shall be introduced to appropriate such funds. If the Legislature is not in session, the funds cannot be expended until the appropriation is made. Thus, it would necessitate a special session. I'm hoping that a special session could be held virtually in the case of another pandemic, but I suppose that's something that we as a body will have to work through the remainder of the session. There are many questions about the expenditures of COVID relief dollars. I believe that the Legislature needs to be more involved with decisions about how to spend future funds made available in declared emergencies. And as we returned last July and there were still unspent funds and I, I know I heard from a lot of constituents and I assume most of you did as well about wanting to know how things were going to be handled, how unemployment was going to be handled, how SNAP was going to be handled, how we-- if we were going to be giving small business grants and things like that. And it was really hard to, to give that information because we had no oversight or transparency and communication from the Governor's Office. And that is our job is to appropriate the funds and direct the funds. And if we had been in session when those funds had been given to us by the federal government, we would have taken control of them. And it was only because we had adjourned for a period of time that we didn't take

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control of those funds. And so this bill would require us to be called back into session if we're not in session. So in looking at the fiscal note and the letter that I think you all received from the Department of Health and Human Services, it, it indicates that those funds would just sit there. And that's not the case. If these funds were to come to the state, the Governor or the Legislature could call us back, we could call ourselves back into session, or the Governor could call us back into session. And we could do something with those funds. We can have a special session to appropriate funds. I, I feel very strongly that it is the role of the Legislature to appropriate funds and to have oversight over the administration. And this is just another tool in our toolkit to make sure that we are doing our job serving the citizens of Nebraska. So with that, I will take any questions you might have.

**BREWER:** All right. Thank you, Senator Cavanaugh, for that introduction. Questions for Senator Cavanaugh and LB284? Will you be sticking around for close?

**M. CAVANAUGH:** I am going to go across the hall to HHS, we have some committee confirmations, so. I believe there's some opposition testimony behind me, but that should be about it.

**BREWER:** OK, so--

**M. CAVANAUGH:** So no.

**BREWER:** OK.

**M. CAVANAUGH:** Sorry, no is the short answer. Thank you.

**BREWER:** Thank you. All right, we will start with proponents to LB284.

**\*CRAIG BECK:** Good morning, Chairman Brewer and members of the Government Committee. My name is Craig Beck and I'm the Fiscal Analyst for OpenSky Policy Institute. I'm testifying in support of LB284, a bill that would ensure Nebraskan taxpayers receive the full extent of federal funding available to them and codify the Legislature's duty to authorize all state expenditures. Article III-25 of the Nebraska Constitution requires that a specific appropriation be made in order to spend money from the state treasury. However, there is language in each mainline budget bill, such as Section 257 of 2019's budget bill (LB294), that allows federal grant funds to be appropriated outside of

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the legislative process. This language is intended to expedite the process of distributing federal grant money that is already earmarked for specific purposes, rather than determining the distribution of large amounts of federal stimulus aid. Nebraska Revised Statutes Section 84-612 states that "the Cash Reserve Fund shall receive federal funds received by the State of Nebraska for undesignated general government purposes." In the case of coronavirus-related stimulus, the federal guidelines specify what constitutes eligible and ineligible expenditures but gives the state broad discretion as to how to designate such funds. While CARES Act funding and future stimulus packages may not qualify as "undesignated" for the purposes of this statute, whether that's the intent of the law is certainly up for debate. Finally, when the state received federal stimulus funds from the American Recovery and Reinvestment Act (ARRA) in 2009, the majority of those funds were appropriated by the Legislature. In contrast, the Legislature allowed the executive branch to take full control of determining which programs and areas received Coronavirus Relief Funds from the CARES Act. LB284 would clarify which branch of government determines the use of federal stimulus funds and recognizes that the Legislature is the best equipped to do so. The Legislature's appropriation process is a more deliberative and transparent way to expend federal stimulus funds and it allows for greater public input. It also puts the Legislature in the best position to deal with the economic fallout of whatever emergency the stimulus funds are designed to combat. For those reasons, spending has always been the Legislature's purview, and we believe that LB284 is necessary to ensure that federal stimulus funds are treated in the same manner as regular state appropriations. Thank you for your consideration.

**BREWER:** All right, then we will move to opponents. Oh, I got to read in, we've got written testimony and this would be a proponent would be Craig Beck with OpenSky Policy Institute. Now, first opponent to LB284. General Bohac, welcome back to the Government, Military and Veterans Affairs Committee.

**DARYL BOHAC:** Thank you, Senator. Well, good afternoon, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. Let me get untangled here. I am Major General Daryl Bohac, D-a-r-y-l B-o-h-a-c, and I serve as the Adjutant General for Nebraska Military and the director of Nebraska Emergency Management Agency. And I am here today to testify in opposition to LB284. Funding to address disaster emergency response by the state is derived from one of two

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sources, either federal funds appropriated by Congress or through appropriations authorized by this Legislature. Federal funds to address disaster response and recovery issues become available to the state of Nebraska through a variety of Congressional measures and following a presidential declaration for a disaster emergency. While LB284 does not impact traditional federal disaster funds that are reimbursed to state and local entities, it would require all other federal funds directed to the state or state agencies be appropriated by the Legislature. Requiring the Legislature to pass an appropriation bill to use federal dollars could limit a timely response, delay fiscal assistance to state and local governments, and compromise public safety and potentially endanger life and property. Congress may appropriate funds to federal agencies who offer programming to address specific government service sectors impacted by disasters and assist with response and recovery issues. The federal agency is the grant authority and requires the state agency to sign grant agreements and assume responsibility for the grant dollars. When this occurs, the state agency must direct payments to grant recipients in strict accordance with grant guidelines for the program. Requiring legislative appro-- appropriation of these funds would slow down funding streams to assist local governments and individual citizens, particularly when the Legislature is not in session. In that case, a special session would be needed-- called to order for the Legislature to pass an appropriation and again thereby delaying the resourcing of response activities in the state for unemployment assistance, food assistance, emergency education relief funds, and other programs where funds could not be used for another purpose. Finally, Congress can appropriate funds directly to the states, which is what occurred with the CARES Act. These funds were directed to the governors in each state to address issues associated with the COVID-19 pandemic. Coronavirus relief funds were received into the State Treasury and then made available through the Governor's Emergency Fund to facilitate accountability for the funds and to make payments. U.S. Treasury guidance dictated the use of those funds by states and other recipients of CRF funding. The state of Nebraska established a series of programs to support community institutions to meet critical needs such as food, security, shelter, and mental healthcare. The state also stabilized impacted businesses, including restaurants, childcare, and livestock producers. Additional funds were used to address the cost to state and local agencies, in particular public health departments that provided the central government services throughout the pandemic and

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continue to do so. LB284, if enacted, would delay our response to using those federal funds. Delivering a rapid and efficient response is crucial in disasters and emergencies that by their very nature are dynamic, fluid, and unpredictable and often require intense, agile, rapid responses that would not be facilitated by the proposed language in LB284. Delays created by the Legislature not being in session or being encumbered with other legislative issues could compromise the ability of the Governor and the Adjutant General to execute on emergency or disaster response requirements. Requiring the Legislature to pass an appropriation bill to use federal dollars would negatively impact Nebraska's disaster response and recovery capabilities. Thank you for your attention. I would be happy to answer any questions you might have.

**BREWER:** Thank you, General Bohac. One that we probably should start with so that everybody's on the same sheet of music. You have state funds that you have available that would be utilized, say, if we were to have a, a, a quick event, say, flooding in the spring here. If we're talking federal money, where does it kind of break in, in money that you have for, for state emergencies becomes federally funded?

**DARYL BOHAC:** So when, so when we have a presidential disaster declaration, that opens up the possibility for federal funds to flow to the state to assist in recovery projects. So, for example, and there's-- and let me before I give you the example, and those funds are tied to a state cost share. So that's where the mix occurs with state funds that this Legislature appropriates into the Governor's Emergency Fund that are matched to federal dollars to help do repair projects. So, for example, take Plattsmouth, Nebraska, lost both their wastewater treatment plant and their water treatment plant in the floods of 2019. That's a great example of where the, the funds come together to solve a recovery project. The other way, Senator, that it comes in, as, as I said, in the CARES Act, where it's, it's appropriated through the federal government directly to the states to be put into immediate action in the midst of response, not waiting for recovery, but in response to a disaster emergency. And often those funds are given to, to, to so we can rapidly respond and move quickly in helping people.

**BREWER:** All right. Thank you. I just want to make sure we got it on the record so folks kind of understood that because sometimes they see

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this is one issue and one pot and they need to understand that there  
are certain limits and, and purposes.

**DARYL BOHAC:** Yes, sir.

**BREWER:** All right. Questions for General Bohac? All right. Thank you  
for coming in and testifying and helping us to better understand.

**DARYL BOHAC:** All right. Thank you, Senator and members of the  
committee.

**BREWER:** Next-- as soon as we get Jonathan up here. Hang on here, he's  
got to do that cleanup duty there. Don't be breaking the system down  
here. All right, our next opponent to LB284. Sir, welcome to the  
Government Committee.

**JOHN ALBIN:** Thank you and good morning. Good morning, Chairman Brewer  
and members of the Government, Military and Veterans Affairs  
Committee. My name is John Albin, J-o-h-n A-l-b-i-n, Commissioner of  
Labor on behalf of the Department of Labor. I'm appearing here today  
in opposition to LB284. Department opposes LB284 as it would  
significantly hinder the department's ability to get much needed  
unemployment aid to Nebraskans during times of emergency. As you are  
aware, the COVID-19 pandemic brought record-breaking unemployment  
claims to Nebraska. The Nebraska unemployment program is 100 percent  
federally funded. During times of recession and increased  
unemployment, the department receives increased administrative  
funding. Since April 1, 2020, the Department of Labor received an  
additional \$21 million-- \$21.8 million in federal administrative funds  
as part of the emergency federal relief bills: the Families First  
Coronavirus Response Act; the Coronavirus Aid, Relief, and Economic  
Security (CARES) Act; the Lost Wage Assistance Program; and the  
Continued Assistance Act. As proposed, LB284 requires the Legislature  
to appropriate these administrative funds to NDOL. Last year, the  
Nebraska Legislature suspended the one hundred sixth session on March  
16 of 2020. The Families First Coronavirus Relief Act and the CARES  
Act were passed on March 18 and March 27, 2020, respectively. NDOL was  
federally required to enter into contracts with the USDOL to implement  
the CARES Act programs. Unemployment benefits could only be paid for  
weeks after the contract was signed with no retroactivity. The  
contracts were received on March 27, 2020 and signed by March 28, 2020  
to allow Nebraskans to receive the full benefit available by law. Any

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delay between March 28, 2020 would have resulted in lost benefits. Under LB284, NDOL would not have entered, entered that contract until the Legislature appropriated the administrative expenses. The Nebraska Legislature reconvened on July 20, 2020. A minimum of seven days is required to pass legislation. The earliest an appropriation of NDOL would have been completed is July 28, 2020. NDOL does not need an appropriation to pay regular state unemployment benefits, but an appropriation is required for the administration. And depending upon how you read LB284, the federal unemployment benefits as well. NDOL would not have had sufficient administrative funds to implement the new CARES Act programs, the pandemic unemployment assistance, pandemic emergency unemployment compensation, and federal pandemic unemployment compensation until an appropriation was received. Benefits for all CARES Act programs prior to August 20-- August 1, 2020 would have been lost. That is over \$624 million in CARES Act benefits. Further, NDOL would not have had sufficient staff to work the number of regular unemployment insurance claims received because the agency would have lacked federal-- lacked funds to hire employees and contractors to assist in processing claims. From March 27, 2020 to July 28, 2020, NDOL paid the following benefits: regular unemployment, \$242 million; PUA, \$46 million; PEUC, \$4.4 million; FPUC, \$573.9 million. NDOL estimates that from March 15, the start of the pandemic to July 31, 2020, approximately \$205 million of the regular state unemployment benefits were attributable directly to the pandemic. In prior years, NDOL paid closer to \$21 million during that same time frame. If NDOL had to wait until July 28, 2020 for administrative appropriation, NDOL would not have been able to implement the federal programs or handle the volume of regular unemployment claims that Nebraskans-- Nebraska actually experienced. Even if LB284 would allow NDOL to contractually agree to pay the federal benefits without an appropriation of the federal funds by the Legislature, payment of approximately \$829 million in state and federal unemployment benefits would have been significantly delayed. Another example of the challenges, the Lost Wage Assistance program was created through executive order on August 8, 2020. The legislative session ended August 13, 2020. To participate in the program, states had to submit a grant application to FEMA by September 10, 2020. To date, NDOL has paid \$52.5 million in Lost Wage Assistance. NDOL would not have been able to participate in LWA without a special session convened just days after the Legislature had adjourned. Finally, the new language in Section 1 on page 5 of the bill creates confusion over how long the federal program must continue

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and whether state funds must be obligated to maximize the federal benefit. The Lost Wage Assistance program had two options, one for \$300 per week and one for \$400. The \$400 option required states to pay the additional \$100 benefit amount. States could not use their unemployment trust fund to pay the additional \$100, but were required to use a state source. This would be approximately \$17 million of state funding the department would be forced to apply for under LB284 before any consideration into the matter by the Legislature. While the department certainly hopes that the circumstances surrounding the COVID-19 pandemic or anything similar never occur again, the emergency funding flexibility in existing law was critical to the department's response. Losing that flexibility would be detrimental to Nebraskans. That concludes my testimony and I'll be happy to answer any questions.

**BREWER:** All right. Thank you for that testimony. Quick question for you. As compared to other states, Nebraska and the percent of unemployed were, were better or in some cases weren't we among the very best as far as the percent that we had unemployed compared to, to other places in the country?

**JOHN ALBIN:** As a whole, Nebraska had a lower unemployment rate throughout the entire pandemic, although by Nebraska standards it was a record number. The 8.4 percent, I believe, that we hit in April blew away any number that we had had, at least since the Great Depression, when they weren't even keeping statistics. Right now, we do have the, as of the last month's report, the lowest unemployment rate in the nation.

**BREWER:** All right. All right, questions? Senator McCollister.

**McCOLLISTER:** What is the current unemployment rate?

**JOHN ALBIN:** Is 3 percent right now.

**McCOLLISTER:** Three percent. I want to thank the department for the work that you've done in working with the various state senators on the request that we would get for unemployment benefits. We would call in and, and, you know, the people that we would discuss with the department were helped in, in a quick way. So thank you for that.

**JOHN ALBIN:** You're welcome. That's what we're here to do.

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**BREWER:** All right. Additional questions? Well, thank you for coming in  
and sharing your information and testifying.

**JOHN ALBIN:** Thank you, Senator.

**BREWER:** All right. So we're still on opponents to LB284. Thank you,  
Jonathan.

**\*DOUG CARLSON:** Good afternoon Chairman Brewer and members of the  
Committee. My name is Doug Carlson, D-O-U-G C-A-R-L-S-O-N, Deputy  
Director and Materiel Administrator of the Department of  
Administrative Services (DAS). I am here today in opposition of LB284.  
The Emergency Management Act as it exists today, allows for the  
Governor to issue a proclamation which continues until the threat or  
danger has passed or the emergency has been dealt with to the extent  
those conditions no longer exist. The Legislature has the power to  
terminate an emergency proclamation by resolution at any time. The  
state of emergency proclamation is the authority for activation to use  
or distribute supplies, equipment, materials, or arrange for same to  
be made available. LB284 is unnecessary as statute already allows for  
funds made available by the government of the United States to be  
accepted by the State Treasurer and to be credited to a separate and  
distinct fund for use. Requiring an appropriation by the Legislature  
is simply not in the best interest of Nebraskans and adds an  
additional layer of administration to a situation that likely has  
little to no time to waste in order to be responsive to the needs of  
the citizens of our State. More recently, the world experienced a  
global pandemic due to COVID-19. DAS procured close to \$60 million in  
Personal Protective Equipment (PPE), which directly supported  
hospitals, long-term care facilities, assisted living facilities,  
schools, and countless other organizations in their efforts to combat  
the pandemic. Nebraska competed not only with every other state, but  
also with every other country to procure a limited world supply of  
PPE. Nebraska was the first state in the country to have a 120-day  
supply of all major categories of PPE, according to the Nebraska  
Emergency Management Association. This was possible because our  
current laws allow the DAS to act in the best interest of the state.  
Had we had to gain approval from the legislative branch, PPE would not  
have been sourced and precious time would have been wasted. The  
Nebraska Emergency Management Act already provides for the authority  
to address the Nebraska in the best position. NEMA, in coordination  
with multiple other state agencies, all come together with a unity of

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purpose, to protect the health, safety, and citizens of our great state. Thank you for your time. I would be happy to answer any questions you may have.

**BREWER:** All right. Any additional opponents? All right. We will then go to anyone in the neutral. Well, Senator Cavanaugh's waived the close. So with that, I'll need to read in some information. First off, we've got one opponent, Doug Carlson, Department of Administrative Services. And letters to read in for LB284, we have zero proponents, two opponents, and zero neutral. With that, we will close the hearing on LB284 and we will welcome Senator Hansen and LR27CA. Good morning, welcome to the Government-- your Government Committee, Senator Hansen.

**M. HANSEN:** Thank you. Thank you, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. I'm Senator Matt Hansen, M-a-t-t H-a-n-s-e-n, and I represent District 26 in northeast Lincoln. I'm here today to introduce LR27CA, which is a proposed constitutional amendment to allow for protections for the continuity of government in the face of a pandemic. Let me share at the outset that my main goal is to eliminate the constitutional concerns that have prevented us as a Legislature from allowing members to vote remotely as needed. My proposal is one way of doing that, but I'm open to changing or limiting the language as needed. For background, last year at the urging of a number of senators, the Legislature's Rules Committee, led by then Senator Sue Crawford, examined how a number of different legislatures across the country responded to the pandemic, including those that implemented versions of remote voting and remote sessions. Based upon that research, I introduced a proposed rules change this session that would have allowed remote voting and limited context as approved by the Exec Board, which was modeled after the procedures the Minnesota State House of Representatives developed last summer. Ultimately, the Rules Committee, which I serve on, decided to not move forward with that proposal, in part because of concerns in the state constitution placed upon the Legislature by the state constitution, such as the quorum requirements in Article III, Section 10. I understand and supported the Rules Committee decision, and at that point I turned to drafting this LR to give the Legislature the flexibility to implement a rule for future sessions. I drew inspiration again from the research that Senator Crawford and her staff did for the Rules Committee. Specifically, they found that the state of Washington had some added flexibility in their pandemic response because they had recently amended the section of their

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constitution focused on continuity of government during an enemy attack to give the Legislature similar ability to what they called, quote, catastrophic incidents. My understanding with the history is that they were specifically worried about earthquakes since much of their state is on a fault line. But the language adopted in 2019 nonetheless proved helpful in responding to the pandemic. Nebraska had a similar provision in our-- similar provision in our constitution as to the Washington provision in Article III, Section 29. This section gives the government of Nebraska and specifically the Legislature a number of powers to respond quickly in the event of an enemy attack. Specifically, subsection (1)(b) gives the Legislature the ability to come into an emergency session and during that session can change or suspend quorum requirements. This would, in my mind, erase all constitutional concerns should we find ourselves looking at the possibility of needing remote voting or a virtual session in the future. I initially chose the term pandemic rather than a term like Washington's catastrophic incident, to ensure that my main intent was clear. However, I do think a broader term that could give the same flexibility for other natural disasters, could be good state policy as well. I do want to say that I'm very appreciative of Speaker Hilgers and Speaker Scheer, as well as all of the work that the Exec Board and Clerk's staff and others have put into protecting the body for the past year. A lot of people put a lot of thought and effort into these past two sessions. To me, though, it was still alarming how close we got-- how close we've come at points to not being able to effectively execute our duties as an equal branch of government. I believe some of the constitutional considerations are some of the biggest limitations remaining. LR27CA is my attempt to protect future Legislatures. With that, I'll close and be happy to take any questions.

**BREWER:** All right. Thank you, Senator Hansen, for that opening. Questions for Senator Hansen on LR27CA? All right. I'm assuming you'll stick around for close.

**M. HANSEN:** Absolutely.

**BREWER:** All right. We will start with any proponents to LR27CA. All right, then we will start with the opponents to 27CA-- LR27CA. General Bohac, welcome back to the Government, Military and Veterans Affairs Committee.

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**DARYL BOHAC:** Thank you, Senator. Good to be back. Good morning, Chairman Brewer, members of the Government, Military and Veterans Committee. I am Major General Daryl Bohac, D-a-r-y-l B-o-h-a-c, and I serve as the Adjutant General for the Nebraska Military Department and Director of Emergency Management Agency. I'm here today to testify in opposition to LR27CA. The resolution seeks to modify the state constitution to provide for the prompt and temporary succession of powers when incumbents may be unavailable to perform the duties of their office and allow the Legislature to convene on an emergency basis to address pandemic events. With respect to the issue of succession of powers and duties, this is already contemplated in the State Emergency Operations Plan, which addresses the issue of continuity of government in the face of disasters or public emergencies. The plan contains lines of succession, strategies for alternate government facilities, and speaks to the specific functions of government that may be impacted by an emergency or disaster. Local emergency operation plans mirror the architecture of the national and state planning documents. The Nebraska Continuity of Government plan has been recognized on a national level for having incorporated the legislative branch of government in the plan. If the Governor or Lieutenant Governor becomes incapacitated, the succession of authority immediately transitions to the Speaker of the Legislature, followed by a prioritized list of chair persons responsible for legislative committees. In other words, the existing plan already ensures the succession of powers and duties and the continuity of government operations so that we may address the needs of the citizens when their safety and welfare are threatened. It is also important to note that the Nebraska Emergency Management Act provides the statutory authority for the Governor and local elected officials to address emergencies and disasters. The act outlines the emergency management program for the state of Nebraska, and the provisions are in sync with the national emergency management doctrine. This approach is flexible, scalable, and adaptable to any situation, not just pandemics. And it is based on the premise that managing a response is done through unity of effort, unified command, and in accordance with preparedness measures. Moreover, funding provided by the Federal Emergency Management Agency as a result of a presidential disaster declaration is to be federally resourced, state facilitated, and locally executed, which is exactly how the Nebraska Emergency Management Act articulates state and local responsibilities and allows for timely and efficient responses. While the constitutional amendment proposed describes

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continuity of government operations, it also provides for the Legislature to convene itself into emergency session and to suspend or temporarily change the provisions of the state constitution or general law relating to the length and purpose of any legislative session, prescribing a specific proportion the number of legislators whose presence or vote is necessary to constitute a quorum or to accomplish any legislative act or function. Since this authority is extraordinary, it is currently limited to emergency caused by war or an enemy-caused disaster. Our state remains in the midst of a COVID-19 pandemic. Yet, we have managed without the need for this provision and I respectfully suggest that this provision has not been needed. In conclusion, the architecture and authorities already exist to meet the needs of LR27 [SIC] that, that resolution is attempting to address and is unneeded. Thank you for your consideration and I would be happy to address any questions you might have.

**BREWER:** Thank you, General Bohac. One my colleagues had approached me on the issue of the Nebraska Emergency Management Agency and, obviously, if you're not involved with the military, it's kind of an unknown and his thoughts were that this was a group that in the event something happened, they were called in and, and then went to work. Could you share a little if you wanted to explain exactly what is the Emergency Management Agency do day to day and, and kind of long term?

**DARYL BOHAC:** Yes, sir, I'd be happy to. So the Nebraska Emergency Management Agency is charged by statute and by policy to not only respond to disasters, but also to prepare for disasters. So the staff that we have there is broken up in two main sections. So there's a planning exercise and training section and an operations section which deals with response and recovery. So we are working year round to work with local jurisdictions through the emergency manager network across the state to help deliver training and exercises that help prepare those local jurisdictions to be able to respond efficiently and effectively. And when needed, our NEMA staff can also join in those operations to provide expertise and guidance when required. Let me give you an example of where this explicitly played out recently here in Nebraska. So you may recall the Banner County fire also called the Hubbard Gap Fire. As a result of legislation put into place by the Legislature in 2012 following significant wildfires in the state, there was created the ability to do training, not only, not only with just NEMA, but with also Nebraska Forest Service and the Nebraska Fire Service, both at the Fire Marshal's office, all of us having some

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sense of responsibility or actually legislative responsibility to manage wildfire response. It gave us the ability to work with locals as local as a local volunteer fire department, as well as regional capabilities. As a result of that, and the ability to come together to deliver resources in the state, that fire was held to 4,000 acres. But the local fire incident commander estimated the risk was to grow to, to over 10,000 acres at the time. So that multiagency from local to state proved critical in the response and was very effective. So that's a-- that's an example of how we work day to day to prepare for and then help facilitate response across the state.

**BREWER:** So if it was a national event, say, an EMP burst or something, that line of communications that you now can take down to a county level can go the opposite way?

**DARYL BOHAC:** Yes, Senator, they can. The 2019 floods are an excellent example of that. Once we had the Governor's declaration, followed by the presidential declaration that enabled the FEMA, or the Federal Emergency Management Agency, to roll in within days, a ten-person executive team that helped begin to help us get the right declarative language built in cooperation with FEMA. But it also led to a joint field office being established here in Lincoln to help manage both response and recovery, recovery to the flood. So, yes, so now you have federal, state, local, all working together to help the citizens of this state.

**BREWER:** And the Nebraska Emergency Management headquarters or their, their facility is a part of your command headquarters at the air base?

**DARYL BOHAC:** It is in our joint force headquarters building, which we occupied or took possession of in 2012. So there's a separate portion of that building dedicated exclusively to their work and it's also where the State Emergency Operations Center is located, where representatives from across state government and nongovernmental organizations such as American Red Cross and others that helped in the flood response, for example, came together to work together to effectively communicate and deal with the response.

**BREWER:** All right, thank you. Questions for General Bohac? Yes, Senator Sanders.

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**SANDERS:** Thank you, Senator Brewer. General Bohac, thank you so much for being here. And thank you for your service. With your opposition to this resolution, I think the intent is smoother transaction. But with that said, do you have an opinion of what we could have done differently that could assist smoother transition, quicker response, if anything?

**DARYL BOHAC:** So, so, Senator, I'd, I'd probably ask you to explain what you mean, smooth transition for what?

**SANDERS:** Well, I think this resolution was trying to give the authority right so we can, in this case a pandemic, be able to move through the emergency powers quickly.

**DARYL BOHAC:** But-- oh, yes.

**SANDERS:** And, and maybe because you are boots on the ground, maybe it went as fast as, as it could have happened.

**DARYL BOHAC:** Well, I think once we knew of the situation, particularly at the Spencer Dam on the Niobrara and what was coming, we, we stood up the emergency operations center within hours and had-- so each state agency, for example, Department of Transportation, Nebraska State Patrol, among others, have somebody designated as an emergency support function representative to that EOC. So we train with them and they're on-- literally on call to us. And so we're very effective in terms of rapidly turning on and scaling the scope of the need inside that emergency operations center to the disaster or emergency that's being presented to us.

**SANDERS:** Thank you.

**BREWER:** And General Bohac, on specifically the issue of the pandemic, the first requirements that you had were to assist with testing or and, and then it morphed over time into actually being supporting the process of the vaccinations?

**DARYL BOHAC:** That's correct, Senator. So in terms of at least what the Nebraska National Guard did, but also NEMA in supporting the ability of Department of Human Health and Services [SIC], which became the lead agency in the pandemic response, given their responsibilities to public health departments and those kind of related matters. So we were definitely in support. And, and so there's probably three

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functions. There, there was the initial testing and supporting which we provided support logistically and ability to get test supplies across the state and to stand up test stations and test teams. So we had mobile teams that were responding. Those were integrated teams. It was not only the National Guard, but was also elements from public health districts and DHHS staff as well. We're also currently involved with vaccination operations. In fact, two days ago I was out in North Platte and visited the West Central Public Health Department to see their operation. We have four members there who are making a difference with the public health department out there in terms of effectively delivering vaccine. And then I also visited an operation in Christ Community Church in Omaha, which was an amazing operation to watch. I mean, they had ten people there. There were hundreds of volunteers helping folks get through that. So were involved in that. And then the third element is because of the way we're, we're set up to receive federal funds into the Governor's Emergency Fund, then we have a fiscal oversight responsibility as well to ensure the funds are executed in a rapid and, and proficient manner. And I would offer to you to consider spending a bit of time on the Nebra-- or [coronavirus.nebraska.gov](https://coronavirus.nebraska.gov) website and click on the coronavirus relief fund dashboard. And you can see exactly the programs, the state working together across agencies and across jurisdictions delivered to the citizens. And you can also see exactly where the money went, how it was allocated, and who-- and, in fact, can see who received the money. So, for example, we supported livestock producers. And for those that needed some assistance to sustain operations in the face of the pandemic, you can go and see exactly by legislative district, by county, or across the state who received those funds and what amount was received. We're doing exactly the same thing with the Emergency Rental Assistance Fund. There will be a dashboard where anybody can see it. It's transparent, it's accountable, and, and it provides, I would say, more than enough information to any reader to understand the requirements for the program, how to access those funds, and how rapid we can do it. And we stood up the Emergency Rental Assistance contract, received-- the state received the funds in the Treasury in late January, the 2nd of February, I signed the emergency contract to make this work because we needed additional help. And the-- and as the Governor announced on the 22nd of this month that on Monday the program stood up. So I think that's pretty amazing in 20 days to stand up a program and people being able to touch that and apply for funds and assistance when they most need it.

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**BREWER:** This, this is great information to make sure we have it correct in the record. Can we go through that website again that you can go to?

**DARYL BOHAC:** It's, it's coronavirus.nebraska.gov.

**BREWER:** Very good. Thank you. Yes, Senator McCollister.

**McCOLLISTER:** Yeah, thank you, Mr. Chairman. Thank you, General, for being here. Are you employed by the state of Nebraska or the federal government?

**DARYL BOHAC:** I'm employed by both, Senator. So today I'm on the state's payroll. But if I go on to military duty, then I'm on the federal payroll.

**McCOLLISTER:** I understand. Is the National Guard under your command?

**DARYL BOHAC:** It is.

**McCOLLISTER:** OK. Thank you, General.

**DARYL BOHAC:** Thank you, Senator.

**BREWER:** And I guess just so everyone understands the, the Adjutant General can be either Air Force or Army, but no matter who has it, they're responsible for both elements. And then, of course, the chain of command falls underneath them. But a lot of times folks get kind of compartmentalized where they think with the blue uniform, they just do blue or green, green. He, he has the entire state of Nebraska and all the responsibilities that come with it.

**McCOLLISTER:** But the 55th Air Wing is a different.

**BREWER:** It would be. That's active duty Air Force, Omaha, but they work very close with the elements of Nebraska National Guard because we have Nebraska Air National Guard personnel on Offutt Air Force Base doing missions there continually.

**McCOLLISTER:** [INAUDIBLE]

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**BREWER:** Actually, we have, and I'll, I'll just let you explain. There is a Air Guard element that is part of the, the Offutt Air Force base structure, correct?

**DARYL BOHAC:** That's correct, Senator. So for the 55th Wing, in 2000, we stood up something called the 170th Group, which is referred to as a classic associate. So they embed directly into the 55th Wing missions and support their ability to do that. It's been described, it's about 1 percent of the force delivering 10 percent of the effect.

**BREWER:** There you go. All right, any additional questions for the General? Sir, thank you for coming in and thank you for your testimony.

**DARYL BOHAC:** Thank you, Senators.

**BREWER:** All right, Jonathan, you're on the job. All right, we will continue with opponents to LR27CA. No opponents. OK. Are there any in a neutral testimony for LR27CA? All right, Senator Hansen, welcome back.

**M. HANSEN:** Thank you, Chairman Brewer and members of the committee. Let me start by saying that, fundamentally, I think I agree with pretty much everything General Bohac said. So I think we're actually-- some of the things he was, I think, concerned about were things that I wasn't intending to change or mess around with. I was trying to, as I understand the single subject restrictions of our state constitution, add some more flexibility. Since I've initially drafted this, I kept-- come to the understanding that we as State Legislature get a little bit more flexibility than the petition initiatives do in amending our constitution. So this might be a good opportunity to look at new language and amend it. Fundamentally, where we're at, and I've, I've read our continuity state government plan. I'm actually kind of regretting that I read it in year seven of my legislative career and not on day one. We do have a lot of things in statute and in place, and I think we have both through the floods, through the pandemic shown that, you know, Emergency Management, National Guard, you know, local, local agencies, local divisions have really stepped up and done things well. The one big limitation we have, and in my mind it's tied to this provision, is the language of enemy attack. If there needs to be any extra wiggle room or whatnot, that's something I do think we need to look at. For example, we do have laws on the books providing

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that the seat of the state government can move if necessary. In my mind, and this is maybe-- in my mind, but it is very tied to specifically the term enemy attack. And in my mind, a natural disaster, a pandemic, or something like that could have necessitated, you know, or could have been some flexibility could have been desired. In my mind, I'm really thinking of last summer, you know, we took a five-month break in the session and it's something I don't think anybody wanted to do, but we recognized it was necessary. But the thing that made it work or made it possible was that we were in the second year of our biennial budget. We didn't have to pass a budget by the end of June. Had we been in a budget year and had we had the same outbreak at the same timeline, we would have been pushed to meet and hash out the budget at a minimum. In the midst of the pandemic, we would have been both required to do it in person and in the city of Lincoln. And there would have been no flexibility in that per this constitution-- per our constitution in whole. And that specifically is what I'm trying to figure out. What extra flexibility can we give ourselves and what extra flexibility can we give future Legislatures? Because I'm termed out if this does get adopted, it won't ever impact my legislative career. So with that, happy to work with the committee, happy to work with General Bohac, and happy to work with others, because I do think this is something we're going to have to keep looking at.

**BREWER:** Thank you, Senator Hansen, and, and I agree with you. I have a critical workers bill that I looked at and it's one of those where a lot of things are a good idea when you start putting them together, but then as people enlighten you and you learn more, all of a sudden you realize that maybe you weren't quite as informed as you thought you were. And then it makes it hard because, well, you've written the bill and you, you got to walk it down the road and figure out what, what the best, I guess, alternate way of shaping it. And so it's still good. It does what you wanted to do, but it doesn't affect all the negatives that, that might come from it. All right. Questions? All right.

**M. HANSEN:** If I could just add to that?

**BREWER:** Oh, yes, please.

**M. HANSEN:** It's, it's kind of that perpetual thing of you're never quite sure how senator-- how married a senator is to the green copy.

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This is an instance where I'm not at all if there's a way to solve it and fix it another way. And I understand testifiers got to come in based on the green copy, so I completely understand.

**BREWER:** All right. Well, let me read in here then on 27CA-- LR27CA, we have zero proponents, 21 opponents, zero in the neutral, and no written testimony. So with that, we will close the hearing on LR27CA, and we'll close our hearings for the morning.

**BREWER:** Good afternoon, and welcome to the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer from the 43rd District and I'm serving as the Chair of this committee. Before I jump into the read-- written stuff, I've got to tell you. Understand, they're doing construction next door and those drills you hear, I would love to be able to go over and tell them, no, they can't do it, but they're going to continue to drill. So when you get an opportunity to speak, if you're planning to be a testifier, just speak clearly in the mike and I think we'll probably be OK. But it is part of the construction here and there's not a lot we can do about it. So with that said, for the safety of the committee members, staff, and pages and the general public, we ask those attending the hearing to abide by the following procedures. Due to the social distancing requirement, seating in the hearing room is limited. So understand that the Sergeant at Arms will be kind of shuffling folks out to allow room for folks to come in. I think there's more in the hallway. So that's just so that everybody can get seated. And the way that this is going to work efficiently is that as the forward seats move up to speak in whatever order here, then move forward and fill those seats. That-- that will kind of cue everyone when they're next to come, because otherwise everyone kind of looks at everybody and nobody knows when to walk up. So if you work with me on that and there is one seat here in front which we'll probably have for the first one after I introduce the bill. So that'll be the procedures here. Bills taken up are posted on the order outside the hearing room. This list will be updated as we'd-- well, this afternoon, because we just have one bill, LB424, we won't have any changeover, but we will have a pause between testifiers to clean the table and clean the chair. Just part of the procedures we have here. We request anyone utilizing-- anyone that's testifying today, utilize the entrance to my left and exit to my right. So keep that in mind as you're coming in and going out. Request that you wear face covering while you're in the hearing room, but when you come up to speak, you may remove that so that we can hear clearly what you

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have to say. And when you're done, just place the mask back on. Committee members, I will leave it up to your discretion on face covering because of the plexiglass protection and the separation. Public hearings for which attendance reaches the seating capacity, the entrance door, again, is going to be monitored by the Sergeant of Arms or the redcoat back there, if you're not familiar with Sergeant of Arms, and they'll help manage that. Due to the legislative HVAC project, we do not have an overflow room otherwise normally we would. Normally we would have the normal seating but because of COVID, these are the restrictions that were under. The committee will take up the bills in order again, that's on the agenda. The hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation before us today. Committee members may be coming and going as needed to attend other hearings. Just be aware of that, that we're all in multiple committees and sometimes we have present in others. They will be also on their computers or cell phones. Some of that is doing research on the subject here or finding out if they need to be somewhere else to testify. I ask that you abide by the following procedures to better facilitate today's proceedings. First, silence your cell phone or any electronic devices. No food or drink in the hearing room. Please move to the reserved chairs that are marked. You guys are already in those, but as you come forward in the first row, there is one identified there. The introducers will make the initial statement, followed by proponents, opponents and those in the neutral testimony. Closing marks will be reserved for the introducing Senator. If you're planning to testify, please pick up a green sheet that is on the table out front and fill it out. We ask that you print and complete the form so that we can use it for the official record. All of the letters that were sent in support had to be in by 12:00 noon Central Standard Time yesterday, the day before the hearing. If you have handouts, we'd ask that you have 12 copies and you give them to the pages and pages will get the distribution taken care of. The green sheets will be given to the committee clerk. When you come up to testify, please speak clearly into the microphone. Tell us your name and then please spell your first name and your last name to ensure that we get it accurately in the record. We'll be using a light system today for all testifiers. Let's do a quick head count here to see where we're at with those here in the room. How many here are to testify in-- well, we'll start with the way we do it. Those that are proponents of the bill supporting the bill. How many? Two, four, six, eight. OK, how many here in

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opposition. OK, we got two, well, the numbers aren't as high as I thought, but for the facilitating time, we're going to go with three minutes. I know some of your testimony may be built around five minutes. We will have a chance to ask questions when it's done so we can get more clarification there if there's other things that you need to-- to bring up. So, three minutes for each testifier to make their remarks to the committee. You'll see a yellow light come on with one minute to go and then when your time expires, the red light will come on and soon after that, you'll hear an audible alarm. The audible alarm-- oh, well, technically, the light, but the alarm will let you know that your-- your time has expired and you need to cease and desist. We will be asking questions, like I said, so just stand by for any questions that you may have after that. No displays of support or opposition for the bill, vocal or otherwise, will be allowed in this hearing. What we'll do now is go around and we'll start with the committee members introducing themselves, on my right to start.

**BLOOD:** Good afternoon. Senator Carol Blood representing District 3, which is western Bellevue and southeastern Papillion, Nebraska.

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

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

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

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

**HALLORAN:** Steve Halloran, District 33, Adams and the better part of Hall County.

**BREWER:** Dick Clark, the legal counsel for Government Committee on my right, Julie Condon, the committee clerk on the corner there. And our pages in the back today are Caroline Hilgert right there and she is a junior at UNL, and then Peyton Larsen back in the corner there and she's a sophomore at UNL. With that said, I'm going to hand the gavel over to the Vice Chair.

**M. HANSEN:** Thank you. All right, and thank you, Chairman Brewer, and welcome to your committee on Government, Military and Veterans Affairs.

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**BREWER:** All right, thank you, Vice Chair Hansen, and good afternoon, fellow Senators of the Government, Military and Veterans Affairs Committee. Again, I am Senator Tom Brewer. For the record, that's T-o-m B-r-e-w-e-r, and I represent the 43rd Legislative District, which is 13 counties of western Nebraska. I am here today to introduce LB424. There will be parts of this will be very familiar to some of you. So I'll ask you to--to just bear with and we'll go through the details of it, but it is my hope that this bill will address some of the-- the most challenging aspects of wind energy here in Nebraska. What we've seen through many counties and, of course, with wind energy in Nebraska, it started northeast Nebraska and then kind of has-- has gone to other places too. When it came to western Nebraska, what we had happen was a tear in the fabric of the communities as a result of it. And that tear is something that has spread now, and I think if you watch it all, it is something that Lancaster County is dealing with, what Gage County is dealing with, Saline County is dealing with, and that-- that tear in the fabric of the community is caused by the fact that you have landowners that are next to where the towers are being built that have no or limited ability to express their concerns about wind energy. But I want to be clear, I'm not here to debate questions like, is wind energy really good for the environment or does wind energy create a lot of jobs and economic development. Whether wind energy is-- is a good source of local tax revenue, whether wind energy is-- is free or not. There are a lot of negatives and positives. What we're trying to talk the issue today is simply about local control. So let's-- let's go into that. All these are good questions, but what this bill is about is giving counties the ability to make decisions specific to wind energy. It is about powers of-- of county government. Despite what you're going to hear today, LB242 (SIC 424) it's not an anti-wind energy bill. If it-- if it was a wind energy bill, it would be in Natural Resources. The opponents of this bill will argue that this prevents wind energy development in Nebraska. This is false. Unless you believe that local control prevents or discourages anything, including wind energy development and wind energy supporters don't really have an issue here with this. All we're trying to do is give a voice to those who are going to be affected by wind energy in their counties. Whether-- whether or not wind energy prevents or limits any-- in any way, those in Nebraska, that question, again, is left up to the county. Right now whether or not a county has zoning or any-- for any reason is a question left entirely up to the county. In short, county zoning is optional. This bill simply requires counties

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that wish to host industrial wind energy facilities to have zoning in place. Of the hundreds of concerned citizens that have called and have concerns, we have identified three that are the primary reasons that we receive concern calls reference wind energy here in Nebraska. And these concerns first are that the county zoning must address setback distances between homes and property lines and the wind turbines. So if you can imagine this, you're-- you're a homeowner and you've spent your life buying and building this home that you live in and your neighbor across the road decided to invite the industrial wind turbine to be built on his land. He builds it. And then what happens is the value of that property that you have, has declined because at the point that you're ready to become a snowbird, move south, move to another location and sell that home, your ability to have someone come and want to look out the front window at this giant wind turbine has caused you to either not be able to sell your home or have the value of that home degraded. So first concern county zoning must address the setback distances between homes and property lines and with industrial wind turbines. Second issue. Counties must address noise and the use of industrial standards, specific methods to measure noise. Now, again, I would invite you to simply go to a location where there's a wind tower and keep in mind, it-- it needs to be one of the more modern towers. If you look at the wind tower that's north of Lincoln here, those are about 25-years ago technology. They are minor in size compared to the new 600-foot-plus towers that are being built. So to really appreciate the effect of those towers, you need to go to one of those and actually listen as those giant blades are coming around so that you could hear, because, again, this is another fact that you're going to have to deal with as a property owner. The third one. Counties must address the decommissioning of industrial wind facilities and decide what kind of financial assurity instrument they wish to hold as a way to guarantee that when the time comes that that giant tower has lived out its life, whether it be 15 years or 20, you know, the-- the life of them is a questionable issue right now because the blades are failing at a much higher rate than expected. The ability to decommission that tower and the cost of decommissioning that tower is a critical issue. There are few facilities that have the capability of bringing down one of those towers in a decommissioning. And then what do you do with the materials? And keep in mind that at the bottom of all this, if you're able to figure out what to do with all of the metals and fiberglass from the towers, you have the issue of the giant concrete pads and what to do with them. The problem with

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most of the decommissioning plans and I've asked for decommissioning plans. Senator McCollister was good about sharing one that was kind of a general one and-- but I guess I'm more interested in the ones that affect the people of my district, and those are confidential and not available. And I just think that if you're going to build these and expose people to them, the people should be able to understand what that commitment is. Why is this important? Right. Envision this. A company builds a wind tower. Now they're getting federal subsidies to do that to the tune of a million-plus. They run the tower for X amount of time and then they sell that tower to someone else that sells it to someone else, and when I say someone else, probably a company. But if those companies go bankrupt and there's no one to come back and hold accountable, who will pay because at some point that tower will disintegrate. The bearings will-- will come apart, it will catch on fire or it will literally come apart. So, there has to be a way to take and account for that tower and what's going to happen to it. Well, there's a few people that fall into that-- that area of responsibility. Is it the county? Is it the state? Someone at some point will have to do something because you can't just let it simply disintegrate. That all should be addressed and it should be public information. It should not be kept confidential because there's no reason to keep it confidential. Transparency is-- is a minimum requirement, I believe, with this. So, again, we talked about setbacks. We talked about addressing noise and we talked about decommissioning. This bill also creates a mechanism for counties to recoup the costs associated with enacting the zoning requirements by the bill, otherwise the conditional use permit. Those costs associated with the-- if there's a planning board and figuring out the criteria to set up the conditional use permit and just so everyone understands, that's essentially, that's the blessing to move forward with being able to build the industrial wind farm. Please note that this bill does not establish a value for these three subjects that we just talked about. It just simply says that you need to address those to make sure that they're not left out. What I'm asking for in this bill is less restrictive than state law that we currently have in the books that would govern things such as chicken plants, commercial hog facilities, feedlots, landfills, all of these things we address in other capacities. So why wouldn't we do that here? State law specifies that-- state law specifies that we must adopt county zoning for these kind of things, so why we wouldn't do it for this again is-- is a question I-- I can't answer. It seems only logical. This, again, goes

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back to local control. So let me close by touching on a few points here that will likely be heard today. People will say that I'm being unfair to wind energy businesses by singling them out with specific restrictions in law. If that is true, then every industry that has zoning enacted or regulated are in that category of being treated unfair. I don't think that's what we're trying to do here. Some will argue that this bill isn't needed. They will tell you that the counties, they want zoning to address wind energy in their counties, then they should be able to decide that for themselves. If that was true, we wouldn't have this situation because there are a number of counties that have no zoning whatsoever for wind energy. To that point, I would like you to consider that across the board when we have tried to address issues like this, we have been blocked by not being able to get the information that we needed to understand the processes necessary so that people can make decisions, because part of it is, if you have a planning and zoning board and that planning and zoning board cannot collect enough information to make decisions and shape what that-- what the, the rules should look like or the zoning, that makes it very difficult to-- to make that requirement. This bill preserves both our pro-- our tradition of local control and the safety of the Nebraskans that are going to be exposed to these wind towers. At the end of the day, it's simply giving a voice to the counties to have effect on the decisions being made with the wind towers that are being built in their counties. With that, I am subject to your questions.

**M. HANSEN:** Thank you. Are there questions from the committee? Seeing none, thank you.

**BREWER:** Thank you.

**M. HANSEN:** And as we said before, we'll start with proponents. We'll ask those of you to-- first proponent to come up in the testifier chair and kind of as proponents come forward, ask people to cycle up and move forward to the front of the room. Welcome.

**CHARLES T. FOTE:** Good afternoon. Before I start, does anyone smile around here? I mean, I know everyone is covered up, but people just don't seem to be happy. You should be happy. Listen, Senator Brewer, you know how much I respect you and what you've done for this state. So thank you for having me here. I'm Charles T. Fote. That is spelled C-h-a-r-l-e-s T. Fote, F-o-t-e, and I'm from Denver, Colorado, and

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also from western Nebraska. I'm formerly of Omaha where I was the chairman and CEO of one of the largest employers in the state, First Data Corporation. I own ranch land and farmland near North Platte. I'm here to testify to support LB424. I urge the Senators on this committee-- I urge all the Senators on this committee to advance this bill to General File for debate by the full Legislature. And listen, no matter what side of wind energy you're on, this is a subject that causes strong feelings with the people. And I'll touch on that a little later, because I've been in an experience and I'm going through another experience. The hard feeling it causes between neighbors that are tearing them apart, in small communities it's just not acceptable. I urge you to attend the county commissioner meeting about a proposed wind energy project and see it for yourself. It's nice to have barroom talk that everyone does things and say things that don't make any difference at the end of the day, you got to get in deep. It's a sad sight to watch the friendliest people on earth. And I'm talking-- I'm talking about Nebraskans get this angry with each other. Our objectives and our goals is-- is and are something we manage to do every day. From the day you start exercising a plan to the day it's completed, you go through all kinds of obstacles. But at the end of the day, you never moved the rope to get to the conclusion, which means everything is solvable, especially with the input of the pressure of the senators and the constituents of Nebraska. You'll always get to an answer. Requiring the counties have zoning for wind energy-- for wind energy creates numerous opportunities for citizens to be heard. This reduces the anger and helps people feel their local government is paying attention to their concerns. If nothing else, no one can say they are being ignored. This bill doesn't make any specific requirements for the three things, set back distances, noise limits and decommissioning are all up-- are all left up to the county-- to the county to decide. These things will be debated by citizens and the county board. It is up to them to determine what works best for the county in question. This aspect of the bill preserves the long tradition of local control in Nebraska. Think how important this is. You control what yours-- local control. As long as the federal government continues to pay--

**M. HANSEN:** You've hit your time limit, if you would--

**CHARLES T. FOTE:** Thank you. As long as the federal government continues to pay a large subsidy to wind-- wind energy company, I like to be-- own the stock of the subsidies that are coming from the

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federal government. This will continue. I was moved to be here today  
to support this bill because I love my property in Nebraska.

**M. HANSEN:** Sir--

**CHARLES T. FOTE:** It is threatened by wind energy as well as NPPDs,  
R-Project power line. I was proud to be part of the federal lawsuit--

**M. HANSEN:** Sir, I'd ask you--

**CHARLES T. FOTE:** --to shut down this destructive power line. Any  
questions?

**M. HANSEN:** Thank you, sir. Are there questions from the committee?  
Senator Sanders, for question.

**SANDERS:** Thank you, Vice Chair. Good afternoon, and thank you for  
being here.

**CHARLES T. FOTE:** Thanks for having me.

**SANDERS:** And thank you for your investment in the state of Nebraska  
and everything that you've done. Local control, I think, is important  
that we-- we in the counties, we in the cities live around, whatever  
it is, whether it's the wind turbines or in my case, it would be  
Offutt Air Force Base and the noise that the planes make and so it's  
so important for us to have like local control. Do you think the  
wind-- the wind energy adds to noise pollution and should be  
addressed?

**CHARLES T. FOTE:** I didn't have enough time today because I would have  
taken an hour to have gone through my biggest issue, who's done due  
diligence on this? It's like the R-Project. The big companies come in  
and they're going to ram it home and started 10 years ago, cost me  
\$300,000 in legal fees, in accountant fees and consultant fees to get  
the true story out because the contractor is going to do everything  
they can and some of you endorse it, by the way, so don't take any of  
it personally because everyone has their, you know, objectives in life  
in how to make money. But these contractors give you 27 percent of the  
story and I'm giving them a high rating. So what you have to do and  
you brought up noise. I brought it up-- I'd bring up light  
reflections, weight. When they rip these things out and they'll be  
ripped out someday, what's left on the properties? I mean, I could go

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on. The question list would be an hour. And some of these people in this room are pro it that they have no idea of what they're approving. I've had a large board of directors. You guys like it or not, are a board. I mean, we call you Senators, but, you know, you're backing up when people come in and tell you and you believe it or not. And I've seen board members have a decision made before they ever saw a presentation. And I'm talking about 7 and \$10 billion transactions. I'm not talking about this is a-- we're buying a new computer. And to answer your question, you asked me about noise, add to that list. I know about the vibrations. You know, I know when the R-Projects if I hold the light up to the sky over a wire, the light goes on and-- but you don't-- no one is telling you this. So you've got to go out and here's why the big guy wins all the time. He's got the power, the money, the donation capability to impress government officials. There's people, especially the people, the farmers and the occupations of Nebraska as individuals can't afford to take on those big companies. And I've sat in meetings with the big companies and they just-- they keep quiet. I say, you know, I can't-- I got nothing to lose here. We're out for the people. And I think that-- you used noise as an example. If there's noise, there's vibrations. So has anyone done any diligence on this? And, you know, in the-- in one of my-- if I got one more second, because I'm just communicating. And the R-Project and this was eight years ago. We have headquarters in Paxton, Nebraska, great-- Go Paxton, by the way, and they-- the people came out from the contractor and they said, just sign here and we're going to start, we want to dig into your property line, see what we can-- see how deep it has to go, how deep the soil is, how wide we got to put concrete and so on. And this went on for a two-hour fancy presentation. I mean, it looked like Picasso's artwork that this made. And at the end of the presentation, I said no. You're not going to put this power line on our property. And they ignored it, went away, came back, sent another group of present-- came out with a fancier presentation. I think it had lights in the ceiling, but whatever it was, I said no. Well, how can we put it on your property? I said, bury it. Just-- you can have access to our property. You got to bury the line, though. Oh, Mr. Fote you don't understand that cost us an additional \$400 million for the project for 18 miles. Well, I said then you didn't put in your business plan, we don't want wires above our property down. That's why I say that due diligence is so important for both sides. The property has three and a half miles of river and we got environmental issues. I mean, this thing goes on under, you

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know, it costs a lot of money to get to what I'm explaining. And I said bury it. We can't bury it. Cost too much money. Now, I just want to tell you, the R-Project is over 250 miles a line. This wind farm, I don't know how many miles of line it is, but they'll bury the wind farm line because they can't get it tangled up in the propellers. So you have to understand all management objectives to get-- to get projects done and why sometimes it's unbelievable that things get passed that we need, but we need it under the appropriate construction, for example. But you've got a lot of-- I mean, I'm telling you, you got a lot of work to do, all of you. I mean, I don't-- and you own it. You like your-- you like your jobs and so on, you ran for them and you got them, now you've got to be responsible. That's all I ask. Thank you. Any other questions?

**M. HANSEN:** Senator Lowe.

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

**CHARLES T. FOTE:** Thanks, Senator.

**LOWE:** And thank you for reminding us to smile.

**CHARLES T. FOTE:** Amen.

**LOWE:** You touched on, and Senator Brewer touched on, the way it tears neighbors up between this. We all are fans of the Huskers. We're all Nebraskans, but can you explain a little bit more about how this is tearing neighbor apart from neighbor?

**CHARLES T. FOTE:** Yeah in the-- I want to make sure I'm not-- I'm not being rude or insulting when I say this, I just speak what-- you know, I speak what I know and what I feel. When you take on a large entity, and I'm not bragging about myself, I don't-- I mean, in the most humble way, but when I was running First Data, we owned Western Union and Tolichowki and merchant price. We did business in 200 countries and territories that I used to move around. And let me just use Western Union for a minute. All those individuals in those countries and territories had to respect the local, the brand. So even though you had pushes and pulls on commission rates and what profitability went here and so on, at the end of the day when you got the agents in a room and we had over 500,000 of them, they weren't all in the same room. but we had 100,000, you had to respect that common end game,

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which was you threw \$300 at a pharmacy, it was going to show up at a gas station immediately if you wanted the money. So no matter what else you said and so on, you had to respect the brand. What we have going, and it costs money. I mean, I'm telling you, it costs lot of money to keep the brand stable and they've had their own issues also since I left, by the way, but they've have their own-- they've had their own issues. So, that everyone-- I was to several meetings, community meetings of the people as related to the R-Project. I'm trying to give an example of what's going on here, and we got the fancy presentations and so on and half of the presentation in are lies none on truths. They're just plain out lies, but people are trying to drive through their expenditures and get OKs from boards and so on. In fact, one of the organizations had the issue of debt offering in 2018 or '19 to cover their underfunded pension plan. Now, I don't want to give the pension plan accounting, but it's a-- so they could raise money so then they could retire and make sure they got paid. Now I don't know how they ran it under water, but that was the same group that said I don't want to take a loan to make sure we get paid long term. People are afraid of the environment, and I'm talking about-- and it's going to happen here, I can feel it already. I don't mean to say you heard it here first, but it's going to happen with this project. People don't have the money to fight the big guys. And, uh, that's what the tear is, you know, so they end up becoming the individual spats, they can't step back and look at the big picture. And so you got one neighbor saying, I want it because I'm going to get \$10,000 a year. Another neighbor says, I don't want it and I don't want any money. And it's just-- they're going to string that over my property and so I don't have a tower here so you get ten thousand a year and I only have rights for a tower because they don't even need to put a post up there. So it's a-- it's too deep to listen. I'm not a psychiatrist, I'm just telling you how people react, all right. I appreciate the question. Thank you.

**M. HANSEN:** Seeing no other questions, thank you for your testimony.

**CHARLES T. FOTE:** Thank you.

**M. HANSEN:** Ready for the next proponent after-- Hi. Welcome.

**EMILY HAXBY:** Before I begin, I just want to tell you guys it's a honor to sit in front of you. Before last week, I think the last time I was here was third grade. So I appreciate you guys serving and-- and

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looking after the good old state of Nebraska. All right, my name is Emily Haxby, E-m-i-l-y H-a-x-b-y. I came here today in support of LB424. I have heard many times and I'm sure you will hear this also today, that this bill kills wind. However, after reading this bill, it does no such thing. The reason that I support this bill is it does require regulations to be in place before a special permit can be accepted. Those regulations must essentially include three things. They must have a setback-- distant setback from nonparticipants. They must have decibel levels and is measured with an instrument that meets the specifications of the American National Standards Institute or the International Electrical Technical Commission and follow their procedure to do so. They must have terms for decommissioning that would assure payment for removal. There is no place in this bill for proposed changes that tells a county what those regulations must be set at and just that they must have them in place. This provides the county and its constituents ample time to discuss and include significant public information efforts. Our counties should encourage the public to participate in their local government and the setting of these regulations. The best way to gain community interest is to have them involved early in the planning process, which gives them a voice. And like Senator Brewer said, projects like these can tear apart the fabric of our rural communities, but through the process of creating these regulations, it gives them a chance to be heard. And these three things gives them the stepping stones to do so. I respectfully ask for your support on this bill, and I thank you for your time.

**M. HANSEN:** Thank you. And we hope you enjoy coming back to the Capitol. Any questions from committee members? Seeing none, thank you for your testimony.

**EMILY HAXBY:** Thank you.

**M. HANSEN:** Welcome.

**LARRY ALLDER:** Good afternoon. I want to talk a little about my experiences with wind development. My name is Larry Allder, L-a-r-r-y A-l-l-d-e-r. I live in Cortland, Nebraska-- near Cortland, Nebraska. I've seen firsthand how wind development has divided communities. I lost some good friends over a wind project that was proposed for my area back in 2015. By the time the developer heard their first informational meeting with our community about that project, they had already been in the area for two years, signing 30-year-- 30-year

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confidentiality contract with my neighbors for wind turbines. When I confronted my neighbors about the wind project, they were very defensive and their comments were not about green energy. Their comments were about money. If wind energy is going to go forward in this country, it should be done with public support-- support, involvement from the entire community that will be affected first. It should not be forced on them later by changing regulations or setting up regulations that fit the wind developer. We need to support LB424 to protect the remaining counties that do not have regulations. We need public involvement in every step of a wind development, and we need to take a long, hard look at the way wind developers are allowed to conduct business in the state of Nebraska. Thank you for your time.

**M. HANSEN:** Thank you, Mr. Allder. Any questions from the committee? Seeing none, thank you for your testimony.

**TERRY MADSON:** My name is Terry Madson, 3427 Road T, Nelson. That's in Nuckolls County, I'm representing a group called the Nebraska Coalition for Responsible Energy. That group is-- has been formed as kind of an offshoot of all of the problems that you've heard discussed, lack of input, inconsistency and concerns about the unintended consequences of wind generation if it's not done properly. It doesn't mean we're opposed to zero carbon generation. Doesn't mean that we're necessarily opposed to wind generation. It does mean it has to be done properly. And so our group is strongly in support of the Senator's bill, LB424, and we appreciate the opportunity to be heard today. We strongly support the bill. Nebraska's got a patchwork of zoning regulations because the enabling legislation goes back to 1967 and the evolution of the zoning is-- has been more than 50 years is not complete yet. Some counties have no zoning rules in place. Several of the major players in the wind energy business are foreign owned and are doing business primarily to harvest the federal subsidies. Those countries are Spain, Portugal, France, Italy, China and there's some very large domestic energy companies in the business for the same reason. They're not concerned if a Nebraska-- Nebraska citizen has to put up with wind generated flicker, noise, or if it diminishes the value of the property that they live on. They focus on making their projects successful and in a sense, that's what they need to do and they can't be blamed for trying to make that happen. But if wind development continues in Nebraska, these conflicts are going to become greater and greater, as the saturation point is-- is more near. Much of the conflict, though, can be avoided by just reasonable

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protections, and that goes to the Senator's points about setbacks, noise, property values and decommissioning. His bill provides a template for those facing a need to update their zoning, and it should require-- and it requires the counties to address the decommissioning issue and that's a huge one. Lack of an effective plan burdens Nebraskans financially when a project closes, the chances of wind developments folding increase daily because things like hydrogen power, compressed natural gas fuels and small modular reactors are close by. When a project closes, restoration will only be as good as a decommissioning plan. So this bill empowers counties to implement a plan in the face of a wind development. I'm talking about non-zone counties. I've seen it where the developer will say something like, there wouldn't be zoning except to prevent illegal business from entering the county. And so I urge you to vote to advance this bill. It's a good bill. It gives people a voice that don't have a voice today. Thank you very much.

**M. HANSEN:** Thank you, sir. First and foremost, can we get you to spell your name for the record?

**TERRY MADSON:** T-e-r-r-y M-a-d-s-o-n.

**M. HANSEN:** Thank you very much. Any questions from committee members? Seeing none, thank you. We'll invite up the next proponent. Are there any other proponents? All right, Sergeant at Arms, is there anybody waiting out the hallway still? OK, we've got the hand waive, we're good. With that, we'll close proponents and we'll move on to the first opponent and will welcome them up in kind of the same routine. There's a seat available in the first couple of rows if you move up-- be prepared.

**DAVID LEVY:** Hope I didn't jump in front of anybody, I just thought I would take the opportunity since it was-- the chair was open. Mr. Vice Chairman, members of the committee, good afternoon. My name is David Levy. That's D-a-v-i-d L-e-v-y. I'm a lawyer and lobbyist with the BairdHolm law firm in Omaha and Lincoln. I'm testifying today in opposition to LB424 on behalf of BHE Wind. In 2016, BHE completed a 400 megawatt wind farm in Holt County, Nebraska. This is the largest wind energy project in the state's history, and it constituted an approximately \$700 million investment in Nebraska. This project now generates over \$4 million per year in landowner payments and approximately \$2 million per year in new property tax revenue annually

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for Holt County, over two-thirds of which goes to the Holt County schools. LB424 discriminates against the wind energy industry by singling it out for treatment that the Legislature has not sought fit for any other industry in the over 50 years of county zoning authority in Nebraska. This Legislature authorized counties to adopt zoning regulations in 1969. However, neither then, nor since then, has the Legislature sought fit to require counties to have zoning. LB424 would require them to do so, but only for one industry. LB424 is discriminatory against that one industry. LB424 also runs contrary to over 100 years of zoning law nationwide. There's a saying that all land use is local. What that essentially means is that the substance of zoning regulations, what goes where, how close it can be, whether it has a height limit and so on, is left to local jurisdictions. State zoning statutes around the country are almost entirely procedural and enabling of local jurisdictions to design and regulate their communities as they choose. LB424 would impose the opposite, but again only for one industry. Put simply, not only is LB424 anti-wind, but it is anti-local control. Senator Brewer brought similar legislation two years ago and he sought an Attorney General's opinion on the topic. The Attorney General concluded in opinion 19-008, that wind energy generation facilities are a legal use in Nebraska and that counties may not either directly or indirectly zone that use or any other legal use out of their jurisdictions. That opinion rings relevant and true today, and it compels the committee not to advance LB424. With that, I'll stop and I'm happy to answer any questions.

**M. HANSEN:** Thank you, Mr. Levy, . Are there questions? Senator Blood.

**BLOOD:** Thank you, Vice Chair Hansen, and thank you for coming today. Just a quick question. I've been reading-- they can submit comments now online and I was reading through all those letters, especially the opposition letters--

**DAVID LEVY:** Sure.

**BLOOD:** --and the proponent letters and both. And the one that proponents-- thing the proponents-- sorry. The afternoon and my brain is already fried-- I apologize.

**DAVID LEVY:** Proponents of the bill.

**BLOOD:** The proponents of the bill--

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**DAVID LEVY:** Yeah.

**BLOOD:** --have stated, and I heard it today, too, on the people who supported the bill. What would be your response to those who say that the only reason people do wind is for the subsidies? What's your response to that?

**DAVID LEVY:** Well, it's simply not true. And there are lots of other industries that receive subsidies. The oil and gas industries, for example, receive far, far more subsidies than the wind energy industry. Wind is the cheapest form of energy available. Wind, the fuel is free. The fuel does not require excavation or transport or water. Coal plants are huge users of water, for example. There are lots of reasons to build wind energy facilities besides subsidies.

**BLOOD:** Do you know in comparison the amount of subsidies between the two?

**DAVID LEVY:** I don't, but I do know that the oil and gas industry subsidies are multiples of the wind energy subsidies.

**BLOOD:** Thank you. I appreciate that.

**DAVID LEVY:** Um-hum.

**M. HANSEN:** Senator Blood. Other questions? Senator Halloran.

**HALLORAN:** Thank you. Thank you, Vice Chair Hansen. Thanks for your testimony today. Earlier, you suggested that-- that zoning laws weren't-- that this was targeting wind.

**DAVID LEVY:** Um-hum.

**HALLORAN:** Right. And that there's not zoning-- implying there's not zoning laws for other applications within the county?

**DAVID LEVY:** My point there is that Nebraska law does not require counties to adopt zoning regulations. Period. This bill would do so, but only for one industry. If the Legislature wants to require counties to adopt zoning across the board, that's a different story. But this only does it for one industry. And there are counties, I can tell you, that are adamantly opposed to any zoning. Talk to the folks in Butler County, for example. They have had lots and lots of back and

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forth that their county board about having zoning at all in the first place. And they've decided over-- since 1969 not to have it. The other thing I would say is that in Nebraska, before a county can adopt a zoning regulation, the county has to adopt a comprehensive plan. So it has to adopt a land use plan with land use and transportation and the energy and all kinds of other elements for the entire county. And then it can adopt zoning. What that says is the Legislature adopts-- intends a program of zoning to be comprehensive. LB424 would say you have to have zoning, but only for one industry. You don't have to have zoning for any other industries. That turns over 50 years of Nebraska law on its head.

**HALLORAN:** OK. So it's a difference between "may" and "shall".

**DAVID LEVY:** Exactly, exactly. State law regarding zoning says you may have it. And if you do, you need to have a planning commission and hold public hearings and all of those things, but nowhere does it say you must.

**HALLORAN:** Do you find there's anything fundamentally wrong with local control? If a county wants zoning, they--

**DAVID LEVY:** No, by no means. But if they don't want to have zoning, that's also local control and that's where this bill is contrary to local control.

**HALLORAN:** OK, thank you.

**M. HANSEN:** Thanks, Senator Halloran. Other questions? Senator Blood.

**BLOOD:** Thank you, Vice Chair Hansen. And sorry, when I-- sometimes when I hear people's answers, it brings up other questions.

**DAVID LEVY:** Sure.

**BLOOD:** So-- so say that in one of the counties-- the many counties that are in Senator Brewer's district, were to write a county comprehensive development plan, if they identified that this was an issue, they already have the right to do this, don't they?

**DAVID LEVY:** Absolutely.

**BLOOD:** All right.

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**DAVID LEVY:** They have the right, they have the tools, all of those things.

**BLOOD:** So-- all right. That answers the question. Thank you.

**DAVID LEVY:** OK.

**M. HANSEN:** Thank you, Senator. Seeing no other questions, thank you for testifying.

**DAVID LEVY:** All right. Thank you, Senators.

**M. HANSEN:** And I should have done this earlier. Before we move on, I will note for the record that we had 21 position letters in support from proponents and no written testimony from proponents. Welcome.

**ELAINE MENZEL:** Good afternoon, Vice Chairman Hansen, and members of the Government, Military, and Veterans Affairs Committee. My name is Elaine Menzel. It's E-l-a-i-n-e M-e-n-z-e-l, here on behalf of the Nebraska Association of County Officials. We are in opposition to LB424, not for the reasons that Mr. Levy testified to in terms of the wind energy aspect, but rather the local control issues that-- which he did touch on by all means, as well as zoning and county authority. On that, I do have some primary issues to discuss with you, but I will-- now, I'm drawing a blank what your question was related to. Well, I apologize-- that I-- I was going to respond. Perhaps I will get to that. As indicated within the statement of intent, within LB524 (SIC 424), the importance for the legislation is that there be public input in the process. Importantly, as counties consider county zoning and also the regulations that go with that, there is the opportunity for public input. Counties are subject to Open Meetings Act, as well as any provisions for a hearing require notice to individuals who would like to participate in those hearing procedures. And I just recalled your question and it related to, do counties have the opportunity to already address whether they want to have wind energy specific regulations within their zoning regulations? And the answer is yes. And we had done a survey approximately two or three years ago. Not all of the counties which are zoned responded, but of those that did, 35 of the 83 had specific requirements pertaining to wind energy. With that said, I know in the past, for those of you who have been on the committee, I have sent out a map to you, if you're interested, to know which counties don't actually have zoning. And one additional

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factor that I wanted to bring up that Mr. Levy didn't related to, I believe this bill through inference would be creating a moratorium to the counties or the state for wind energy, which then would transfer potentially to the counties in terms of claims potentially being filed. There was an Attorney General's opinion in 1997 that talked about various claims that could be filed related to contract clause issues, commerce clause, due process and equal protection. And then those are my primary issues I'd like to bring up. And if you have any questions, please feel free to ask me.

**M. HANSEN:** Yes. Senator Blood.

**BLOOD:** Thank you, Vice Chair Hansen. Are you a little nervous?

**ELAINE MENZEL:** Well, apparently. I had it all written out and then I'm like, OK, but I want to respond to this and this and this.

**BLOOD:** You did fine. Don't worry about it. Um, so, yeah, I want to build on that because I hear the concerns that are coming from the residents and they have valid concerns--

**ELAINE MENZEL:** Sure.

**BLOOD:** --and I don't want to minimize that in any way. But at the same token, I go back to what Senator Sanders and I learned when we were on the city council is that zoning falls under state statute, which we all know then trickles down to the municipal levels. And-- and I remember reading Chapter 23, and I have it in front of me about the county comprehensive development plan, and so the question that I have, because you already answered that, yes, they can do this, it-- is the issue and maybe this will be better for Senator Brewer, issue that counties are refusing to do this, that if their citizens come to them and say they come for the open meeting, which they're allowed to make a comment whenever there is comprehensive plan, because that's-- that's always got to be public input, are we not hearing from the public? Are they being ignored? What-- what is your knowledge of this?

**ELAINE MENZEL:** Or-- and I must say, I don't know all of the situations--

**BLOOD:** Right.

**ELAINE MENZEL:** --by any means.

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**BLOOD:** But-- but from what you know.

**ELAINE MENZEL:** And when there would be amendments proposed or something of that nature and there are counties that are doing temporary stopgaps to analyze the impact of what a wind energy project would potentially be within their county, such as consideration for conditional use permits. And so they'll ask themselves, have they sufficiently addressed within their regulations? Because, you know, 20 years ago, wind energy was not necessarily an issue that counties were addressing.

**BLOOD:** Right.

**ELAINE MENZEL:** So it's much like, I believe it was roughly 2000, 2001, when the Legislature was being asked to consider issues related to large confinement facilities and the statutes didn't necessarily have issues related to that or counties were looking for ways. One way that they did do that is they adopted temporary-counties could borrow from other jurisdictions. Zoning, and that was at the time when they didn't have zoning in place at all. So a little bit different situation certainly than we're dealing with now, because in 1969, as was testified, that's when the zoning regulations were authorized for counties to adopt, but then they didn't all buy in to the theory of having county zoning as those 10 that are still in existence that don't have county zoning, for whatever reason, choose not to.

**BLOOD:** So, I mean, it clearly says in statute that these-- these comprehensive development plans are to promote the health, safety, morals, convenience, order, prosperity and welfare--

**ELAINE MENZEL:** Sure.

**BLOOD:** --of the present and future inhabitants of Nebraska. These people are in support of this bill obviously.

**ELAINE MENZEL:** Correct.

**BLOOD:** But, so the question that I have is, much like a strategic plan, a comprehensive plan is supposed to be a living, breathing document. It's supposed to be very fluid. Do we have the smaller counties not revisiting these?

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**ELAINE MENZEL:** I don't know what the time frame is for purposes of when all counties would be doing it, but I know certainly there are some that will look every three to five years and determine whether they need it issues-- issues to be addressed.

**BLOOD:** That-- that I mean, that's the question I-- and maybe there's somebody else can answer that I want answered because I see a lot of government waste when it comes to things like comprehensive plans where they write them and then they go on a shelf and nobody ever looks at it again. And I've seen that in big municipalities and small municipalities and counties.

**ELAINE MENZEL:** Sure.

**BLOOD:** And so, I'd be interested in the question in these areas where they have done a comprehensive plan that might be in Senator Brewer's district.

**ELAINE MENZEL:** I--

**BLOOD:** And how often they've looked at it and how often they've tweaked it.

**ELAINE MENZEL:** That's prompted me to go back to the survey, and again, it's not responses from all of the counties--

**BLOOD:** Right.

**ELAINE MENZEL:** --that have zoning by any means, but as I recall after our discussion, that there are dates that when possible, amendments occurred within their zoning regulations. Again, that's not necessarily a full picture of what's going on, but that's a possibility that I--

**BLOOD:** At least we know that they've revisited it.

**ELAINE MENZEL:** Potentially.

**BLOOD:** Yeah.

**ELAINE MENZEL:** Potentially.

**BLOOD:** All right, fair enough.

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**ELAINE MENZEL:** And as I recall in the past, it was going to be 18 to 24 months for an estimation of what it would require to adopt a comprehensive development plan and regulations. And that would be something applicable and maybe those 10 counties that don't have something at this point.

**BLOOD:** Interesting. All right. Thank you.

**M. HANSEN:** Thank you, Senator Blood. I see Senator McCollister.

**McCOLLISTER:** Yeah. Thank you, Senator Hansen. You've mentioned there's 10 counties that have-- have no zoning regulations. Is that correct?

**ELAINE MENZEL:** Correct.

**McCOLLISTER:** Is it because they have philosophical differences with zoning regulations or is-- they just haven't gotten around to it.

**ELAINE MENZEL:** My impression is probably philosophical based upon their constituencies. Now, I do know of at least one of those counties that I referenced within that 10, that they are examining whether they should have zoning. And it is actually based upon winded-- wind energy development that's prompting them to reevaluate whether adopting a plan and regulations would be appropriate for their county.

**McCOLLISTER:** But that decision rests entirely on the county itself, correct?

**ELAINE MENZEL:** Correct, at this time. Yes.

**McCOLLISTER:** Thank you.

**M. HANSEN:** Thank you, Senator McCollister. Senator Lowe.

**LOWE:** Thank you, Vice Chair. And thank you, Ms. Menzel, for being here today.

**ELAINE MENZEL:** Thank you.

**LOWE:** How many counties did you say had a zoning for wind? Was it 31, 32?

**ELAINE MENZEL:** Based upon the information that I had collected, and I don't recall how many responded to the survey. Again, this was

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conducted and I didn't really look at it, about three years ago, so it was cut-- as I-- we were looking at, as Mr. Levy testified to also, that it's best not to look at just one issue. So we looked at-- at the time that the agriculture issue, as well as wind energy, just because those seem to be the hot topics recently in terms of more movement on people making regulation changes or something of that nature.

**LOWE:** OK. In any of those counties where they had wind zoning, did they touch on the three points of this bill? Do you know?

**ELAINE MENZEL:** I can't say that they touched on all three points, but some of them did touch on some of those points, yes. So, I mean, I'm not going to be able to give you a number that has-- right now by any means, but I know there were certainly some that talked about decommissioning and setbacks and etcetera and that type of stuff, but.

**LOWE:** So they might have one-- one of them, but not all--

**ELAINE MENZEL:** Possibly.

**LOWE:** --three of them.

**ELAINE MENZEL:** Yes. And I don't know specifically that number right now, but I could go back and look at the survey by all means and make a determination based upon the results. And again, I make the statement there's only a couple of issues that we get 100 percent survey response on for county issues, but. And at this point, the zoning had not been one of them. Part of it relates to zoning administrators, and I know that it's not always a full-time position, for instance, and staff, so.

**LOWE:** Well, if you don't have zoning in the county, you're not going to answer it.

**ELAINE MENZEL:** Well, no, that-- they weren't-- they weren't-- they weren't surveyed.

**LOWE:** OK. Thank you.

**M. HANSEN:** Thank you, Senator Lowe. Other questions? Seeing none, thank you for your testimony.

**ELAINE MENZEL:** Thank you very much. Appreciate it.

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**M. HANSEN:** Welcome.

**DAVID BRACHT:** Good afternoon, Vice Chairman Hansen, members of the committee. My name is David Bracht, that's spelled D-a-v-i-d, last name is spelled B as in boy, r-a-c-h-t. I live in Omaha, Nebraska. I'm an attorney with Kutak Rock. I'm also affiliated with-- or of counsel with Catalyst Public Affairs. In that role, I represent businesses that buy energy and also businesses that develop and operate and own renewable energy projects, including ethanol, biodiesel, wind and solar. However, today I'm here testifying in opposition to LB424 on my own behalf based on my experience as a former director of the Nebraska Energy Office, a position I held for nearly four years from early 2015 until late 2018. In that role, which is essentially the state energy director, I had an opportunity to learn about how renewable energy fits in Nebraska's energy portfolio, the economic impact it has on local communities and what other states are doing to develop that resource. Nebraska has a natural resource economy. I think we all know that. For generations we've used our ample sun, fertile soils and-- and water, abundant water and both above ground and rainwater to make Nebraska a leading agriculture state. Nebraska also has a great natural resources in its wind, and that it's one of the highest wind capacity states in the country and has a significant potential with that. We have developed some aspects of that, but not completely. We're about 20th in total wind potential. Interestingly, Iowa-- we've had wind projects today, 20-- almost 2400 megawatts. That's twentieth in the country. I note that that's about three times what the amount was when I became energy director. But we're far behind both Iowa and Kansas. And I would note that Iowa has had wind farms for more than 40 years. And I think that sometimes when we're thinking about things like this, that we have a feeling that it's new, if it's new to our area. Wind energy is not a new development. It's something-- and in fact, as had been already stated, it's been around for 20 years. A couple of points that I would make as well. There had mentioned how-- the prior speaker about livestock confinement facilities. That is something that I worked on and in fact, worked for a senator here in the early 2000s on that very issue. And I can tell you that that was also an issue that drew controversy between the communities. But I would also tell you that there was certainly a time then to look at, should we force-- should the state force counties to approach zoning of that topic in a particular issue, on a particular way. And it was universally no and this body worked from that standpoint. And in fact,

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what it did was something that was more proactive in the livestock friendly county regulations. I see that very much in a similar way here. Just to close up. Nothing that I've read in this bill is something that a county can choose-- is prevented from choosing to do on its own. It has the authority to do everything that this bill says, it's opening up for that local control. What it is actually doing, it is taking away the choice for those that want to approach it in a different way. So with that, I would open up and be happy to answer any questions.

**M. HANSEN:** Thank you. Are there questions from the committee? Senator Lowe.

**LOWE:** Thank you, Vice Chair Hansen, and thank you for being here today and for your service to the state.

**DAVID BRACHT:** Sure.

**LOWE:** We have two very similar things that caused problems with our neighbors that you touched on, livestock facilities and wind energy. They're both driving a stake between neighbors. We seem to have come to an agreement with livestock by making facilities by making not quite so offensive, especially with the smell. How can we do that with wind energy--

**DAVID BRACHT:** So--

**LOWE:** --so they're not as offensive to the neighbor?

**DAVID BRACHT:** You know, and I think that the answer to that, I would say, Senator Lowe, is that balancing really happens at the local community. I grew up on a farm, on a cattle feedlot, in fact, in Cuming County, Nebraska. When I was growing up, not only was Cuming County the largest cattle and hog county in Nebraska, it was the largest cattle and hog county in the country. It's not that any more, just as other counties have changed. So I can tell you that every county is going to make that analysis differently. And so to the answer of your question, I think it is to let the individual counties work that out. And I would argue that this bill is saying, we don't trust you enough to let you work it out completely on your own, we're going to require you to do certain things and do that. And so, again, I think that giving each county, and they have the authority to do

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that today, to enter into those discussions. And in fact, we've had wind in different parts of the state for over 20 years. And while a significant part, as I said, more than we've tripled in the amount of wind from when I became energy director in 2015, so it's a significant increase in that period of time. We have that whole amount that was really around for 10, 15, and some of them nearly 25 years. So I think that this is just an-- we need to continue to let the counties work their way because it's that county commissioner and zoning administrator and zoning board member that knows those neighbors and what's going to be important to them, what's important from the economics of wind, and it is a significant impact and has really helped. There's at least three counties that I know of, and I believe there's two others that get more than 10 percent of their property tax from wind facilities today. Property tax being something all of you have heard far too much about. So cutting off the opportunity, as Ms. Menzel talked about essentially putting in place a moratorium is taking away the opportunities for counties to work through that, take advantage of the resources they have.

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

**M. HANSEN:** Thank you. Any other questions? Seeing none, thank you for your testimony. Welcome.

**JOHN HANSEN:** Vice Chairman Hansen, and members of the committee, Chairman Brewer. Good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union and I have been working on planning and zoning issues since 1974. And so as my memory has it, then State Senator Doug Bereuter, when we first started down the path toward planning and zoning, had a mandatory planning and zoning bill that was carried. The amount of pushback from counties was so severe that the mandatory became permissive and we have been permissive ever since. We-- in the-- in the 90s, we-- during the hog wars, there were efforts to try to force counties to have minimum standards relative to the livestock operations. This committee rejected that. And so I look at this bill and this says, thou shall. And so counties make their own bed on these issues. If you want planning and zoning and you want all of the advantages and disadvantages of planning and zoning, then set it up in your county. And if you don't, then you live with it. And so this is an effort to force a set of planning and zoning requirements on counties who have already made the decision not to do planning and

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zoning in their counties. Right? So they already-- they already made that decision. And so as you look at the issues that surround wind development and we've been in the middle of all of those, it all goes back to the business of trying to, you know, protect public health and safety while you still allow legal businesses that are economically beneficial to operate. Wind development is a legal option and is a legal business. It provides enormous economic benefits. We have a total of 2,366 megawatts of wind developed in the state, going all the way back to 1998 when we started. It is \$4 billion worth of new tax base in capital investment. And as we look at the question of subsidies, as the president of a farm organization, I have to kind of hang my head and admit that last year that we received 40 percent of our net farm income in government subsidies, but that's not why we farm. But sometimes it's helpful to have subsidies in order to farm. So as we look at this legislation, is this actually needed? And the answer is no. I don't know of any developers who, in the absence of planning and zoning standards in a county that don't use virtually the same set of standards that they do in counties that do. And why is that? It's because that's just good business. And with that, I'd be glad to end my testimony and answer any questions if you have any.

**M. HANSEN:** Thank you, Mr. Hansen. Are there questions? Seeing none, thank you very much.

**JOHN HANSEN:** Thank you.

**\*RON SEDLACEK:** Chair Brewer and members of the Government, Military and Veterans Affairs Committee: My name is Ron Sedlacek and I testify today on behalf of the Nebraska Chamber of Commerce in opposition to LB424. While the Nebraska Chamber supports the opportunity for citizens to be heard in public hearings on matters of policy, we do not support legislation that would bar the construction of wind energy generation projects subject to the restrictions of a "one size fits all" state-imposed county zoning restriction requirement. We believe that local government should formulate local zoning standards and not by state legislation. In the case of LB424, it should be noted that wind energy generation projects must comply with local zoning regulations. Counties have the ability to determine zoning restrictions or requirements that are best suited for its residents and to address community concerns. There will always be individuals or groups that demand unduly restrictive zoning ordinances in order to put wind energy projects and its benefits to a stop, despite the many

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benefits such projects may provide to local property taxpayers, rural communities and the state. The Nebraska Chamber asks the Government, Military and Veterans Affairs Committee not to advance LB424 for further consideration by the full Legislature.

**\*ROB McENTARFFER:** To the members of the Government, Military, and Veterans Affairs Committee: We are writing to voice our opposition to LB425. Wind energy is vital for the future of Nebraska's rural economies and an important part of meeting the energy needs of our state's citizens. In the last decade the wind industry has invested 3.2 billion in Nebraska communities. Our energy grid is aging and our energy needs are growing. Wind energy is a practical and efficient source of electricity and it uses one of Nebraska's abundant natural resources: wind energy. Nebraska is one of the states in our country that can count on steady wind energy throughout the year, and we should take advantage of this unique natural feature of our state. The proposals in LB425 make it more difficult for counties to approve wind energy projects. The proposed zoning regulations are overly complicated and add needless obstacles in the way of approving valuable wind projects. What problem is this bill trying to solve? Other than making it more difficult for wind energy companies to invest in our state. The bill accomplishes little. Please act to ensure that we have more clean, renewable wind energy in our state, not less.

**\*AL DAVIS:** Good afternoon, Senator Brewer and members of the Natural Resources Committee: My name is Al Davis (A L D A V I S) submitting this letter as the registered lobbyist for the 3000 members of the Nebraska Chapter of the Sierra Club in opposition to LB424. LB424 is an attempt to override decisions made by local planning boards and local county commissioners by requiring that all counties implement a state-dictated zoning plan when a wind energy company chooses to construct a wind farm in that county. Nebraska has had a long and troubled history of state government trying to impose its will on the counties, and zoning regulations are one example of that. During the 2015-16 session, corporate agricultural interests attempted to impose a zoning matrix on the state which would supersede county rules and regulations, relax stringent zoning regulations put in place in some counties, and prohibit counties from enacting their own rules. That bill, like this one, was an attempt to impose a "one-size fits all" approach to zoning when that obviously doesn't work. The Nebraska Chapter of the Sierra Club does believe that zoning is an appropriate

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decision for counties. Each individual county has elected officials and appointed officials who are perfectly capable of enacting rules and regulations which suit the needs of their county. Some counties have extensive restrictions on any number of issues while others have refused to enact even the most lightly regulated zoning plan. The heavy hand of the state should be as lax as possible when dictating how counties manage their affairs. As drafted this bill would prohibit the construction of a wind farm in a county with no zoning at all, effectively permitting that county to "zone out" a wind farm by taking no action at all. Wind farms are legal industries and can't be shut down by doing nothing. Suggested regulations within this bill also impose more strict rules on the counties than most counties have enacted upon themselves, which obviously was done to force the industry to cease construction in the state of Nebraska. The wind industry is a dynamic business, producing good jobs, millions of dollars in income for strapped farmers, and significant property tax relief for all residents of that county. Government needs to stay out of the way of business as much as possible. This is an example of bad legislation which should be postponed indefinitely to send a message to the industry that Nebraska is a favorable place to invest.

**M. HANSEN:** Are you neutral? Before you come up, are there any other opponents on LB424? All right, seeing none, you're welcome to come up. And at this point, I will note we did have three written testimonies opposed: Rob McEntarffer from Lincoln-- from Lincoln, Nebraska, representing himself; Al Davis from the Nebraska Chapter of the Sierra Club; Ron Sedlacek from the Nebraska Chamber. And we had nine position letters in the opposed. With that, welcome.

**BILL HAWKINS:** Thank you, Vice Chairman Hansen, and members of the committee. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I'm a lifelong Nebraska resident. I have been an environmentalist my whole life, lived in teepees, participated in Earth Day since the beginning. I was blessed as a young-- a lot younger man for over 40 years ago to purchase a piece of property when I decide what to do with my life, 20 miles northwest of here, one mile from Branched Oak Lake, which is the largest lake in eastern Nebraska. I'm on one of the highest hills out there. I can see the State Capitol from here. I have a 360-degree view and then I have the most beautiful sunsets in the world. As an environmentalist, you'll come to find out that I don't really think wind energy is the best thing, especially for our state. I greatly appreciate Senator Brewer's effort and the fight, and I understand how

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it tears up communities because I feel that. But I don't feel that this bill goes far enough. The opposition to this bill comes from a well-paid lobbyist who represents an industry that is foreign-owned companies, greedy foreign-owned companies that want to come in here and milk subsidies to destroy our way of life. Property values, it brings all kinds of property values to those counties. Does that take an affect how it destroys the peace of life, the tranquility of Nebraska, our heritage? It destroys that. It would crush my property values, which right now probably I have a million dollar piece of property I'm sitting on. I'm a poor farmer, but it's a tall grass prairie piece of paradise. I have-- our pelicans that come off the lake and ride thermals there. If Seward County, which I'm on the border of, decides to allow a wind farm, I have no say in that. If the county to the north in Valparaiso decides to put up a wind farm, I have no say in that but it destroys my horizon to the north, where when I had a kite party a few years ago, somebody came out on a bicycle and stated that we would see the northern lights possibly. I was up at two o'clock in the morning and all of a sudden these green columns come up on that ridge up there and I, here in Nebraska, am seeing the northern lights. That wind farm would destroy that. The gentleman in the lobby has stated that it's free, wind is free. It doesn't use water, it doesn't use any energy. The carbon footprint of those towers is tremendous. They're throwing off blades now. It uses up a tremendous amount of energy just to produce those and then 20 years from now, where is that foreign entity when those have to be decommissioned? But my important thing is, it will destroy my good life in Nebraska.

**M. HANSEN:** Sir--

**BILL HAWKINS:** Yes, I certainly understand that. And I appreciate this committee. I would look at this as a wake up call to the sustainability of our Nebraska energy system and not a foreign companies political gain. So I would greatly take any questions, but I thank you for your time.

**M. HANSEN:** Sure. I believe Senator Blood has a question for you.

**BILL HAWKINS:** Yes.

**BLOOD:** Thank you, Vice Chair Hansen, So, Mr. Hawkins--

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**BILL HAWKINS:** Yes.

**BLOOD:** --I think you've testified in front of me before.

**BILL HAWKINS:** Oh, a few times or not in this committee, I don't-- well, maybe, but many times I've testified.

**BLOOD:** So, and I mean this very politely.

**BILL HAWKINS:** Yes.

**BLOOD:** Based on what I just heard, wouldn't you say that you're a proponent and not neutral?

**BILL HAWKINS:** No, because I do not feel that this bill goes far enough. And so while I appreciate Senator Brewer's effort, this doesn't protect my rights at all. So I'm imploring to the committee itself to look at everybody's testimony and weigh the benefits and put out a good bill, because I'm not a-- yes, I don't agree with wind power, you bet, but I don't agree with Senator Brewer. I much appreciate his effort and support his effort, but it doesn't go far enough if that answers your question on my neutrality.

**BLOOD:** And-- and then I have a second question.

**BILL HAWKINS:** Certainly, certainly.

**BLOOD:** So you talked about-- it sounds like your property is awesome, by the way.

**BILL HAWKINS:** Oh, indeed.

**BLOOD:** You talked about looking in one direction that they want to put something up you have no say, so in another direction, you have no say, so are there not public hearings when they decide to do something like this?

**BILL HAWKINS:** Certainly. Certainly.

**BLOOD:** And do you attend those public hearings?

**BILL HAWKINS:** If-- I guarantee you, if it's a wind project, I will be there, but their zoning regulations don't address my concerns living in another county. Or if-- I mean, they just-- I'm not able to come--

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as a county, they go by county residents and so they're-- I'm not a  
part of that county.

**BLOOD:** But you are allowed to testify.

**BILL HAWKINS:** Certainly. Certainly. And I would say and I would agree  
with that but being not a county resident, it would not give me as  
much say as a county resident who is electing that county board. So I  
would have no control over reelecting a positive county board if I  
felt that. So I couldn't go into that county and truly make my voice  
heard. And it's the setbacks that don't address the whole issue. And  
so, you know, I'm not here as a proponent for Senator Brewer's bill,  
if that answers my-- and, you know, it's something that neutrality is  
probably-- probably a touchy subject, so I certainly appreciate your  
input in that. It's a fine line.

**BLOOD:** And again, I didn't mean to be offensive.

**BILL HAWKINS:** No, no, no, no, not at all. I appreciate the interest  
and it is a fine line, I will agree.

**BLOOD:** Thank you.

**BILL HAWKINS:** Certainly. Any other questions?

**M. HANSEN:** Any others? Seeing none, thank you for your testimony.

**BILL HAWKINS:** Thank you. And I just appreciate the committee looking  
at the good life of Nebraska.

**M. HANSEN:** Absolutely. All right. Are there any other neutral  
testifiers? Seeing none, we will welcome up Senator Brewer again. We  
had no written testimony in the neutral capacity and we had one  
position letter that was neutral. With that, welcome back.

**BREWER:** We're going to get you guys out here at a decent time today  
anyway. Well, that might have been the best neutral testimony I've  
ever heard so compliment him on that. And Senator Blood, kind of to  
your point, what I want to do now is kind of share the story of-- of  
Cherry County because they-- they have planning and zoning board. They  
met for a year and a half. They came with a criteria that they were  
comfortable with for the county and the county commissioners looked at  
it and decided that they would not adopt them and went ahead and gave

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a conditional use permit with none of the requirements that the planning and zoning board had-- had wanted. So what happened was, the people of Cherry County and it wasn't just the dozens of worked on the planning zoning board, but literally hundreds came together. They formed a 501C3 and they sued the county. Now, you know, the sad point here is that you're probably somebody in the county who's paying taxes that the county is going to use to pay for an attorney because they had to hire attorneys beyond the county attorney to fight this case. But you're also going to be paying for the attorneys that are going to be fighting for your cost to have this issue addressed. And that's where we, you know, have a situation where folks no longer smile or shake hands on Main Street and in towns that it used to happen. Now, I don't want folks to get the wrong impression. I think green energy has a place. I think that there is both use for wind and solar. And I've shared some of it with solar. There's a lot of the windmills in western Nebraska they're no longer being used as the old traditional windmill. That they're actually using solar panels and they're doing a very good job of those wells being able to be pumping water when they need them. I think if there is a place where you can put wind towers where it isn't causing this heartache and the issues that we're fighting with, I think that has potential. But what's happened is, I've been put in a situation in my district where there is a very distinct line between those that love it and those that hate it and there's really not a lot of ground in-between. And so if I do justice to my district, I've got to come and work issues. Now, as far as the lawyers that came in and spoke today, I just-- I ask you to understand, they are hired guns that came in here. I think with John Hansen, it's different. John's heart is in the right place. John has been respectful and helpful. We've had good conversations. He sees it one way and he's very involved with that and-- and I'm probably on the other side, but I think at the point that we live in a world where we can't at least respect and work with each other, then shame on us. We may have thousands of megawatts of wind energy, but let's just stop for a moment and think about the past week and some of the issues that came up. Now, we had our-- our blackouts, rolling blackouts around here, and they affected us some in that street lights weren't working and in certain places lost power for a fairly small window of time here in Lincoln. It was managed pretty well. As you go west, those windows of time become much bigger. And the problem was the farmers and ranchers were calving. It was a time where a lack of power was critical. It was-- it was costing them the lives of the very livestock

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that was their livelihood. So if we blindly charge into green energy, I think that we put at risk those that live in an environment where temperature becomes life-threatening. California can have rolling brownouts and blackouts. And, you know, if you could walk outside and not freeze to death, you're probably going to be OK, if they're going to find a way to make it work. There's issues, obviously, beyond that with electricity that I think there is some happy medium, but I didn't take on this issue simply because of a burning hatred of wind or-- I took it on because the people asked me to because we had counties in my district that-- that don't have it. And the fear is if we can have planning and zoning boards and they can do everything they're supposed to do and it's completely disregarded, I understand. There is the, the ballot box and I think that ballot box may get very well used in certain counties in the future. My attempt was to try and and put a left and right boundary and give some structure to what does right look like, because unlike a hog farm, which-- which is a fair example, that will probably at the point they decide they're no longer going to use it, be relatively easy to bring back to the way it was before. With wind towers, it's a very different issue. And-- and they affect so much more than just that little piece of ground, because as they go vertical, everything around them is affected. And, you know, things that we haven't talked about, you know, we have had to restructure our NOE routes, nap of the earth, our helicopter routes we fly. Try to imagine what it would be like to fly into one of those. It's catastrophic and it's just as catastrophic it is for the birds that get hit by it too. We don't consider that. But I think there will be a time come in the future when there's enough of these, that we'll realize that the endangered species that are being shredded by them, the effect it has on the communities, and then the decommissioning and those requirements are going to make life very difficult for some of the younger folks that will be around to see this. And so, again, the intent was not to force the counties to do something other than to make sure that when they address the issues of wind energy, that those three issues are addressed. So with that, I will gladly take any questions.

**M. HANSEN:** Thank you, Senator. Are there questions? All right, looks like there's none.

**BREWER:** Early day. Thank you, sir.

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**M. HANSEN:** Thank you. Thank you, Chairman Brewer, and with that we  
close the hearings on LB424 and our hearings for the day and for the  
week.