

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

HALLORAN: Welcome to the Government, Military and Veterans Affairs Committee. I am Senator Steve Halloran from District 33. I'm substituting for Chairman Tom Brewer and I wanted to make sure everyone clear-- was clear because I know there's a striking resemblance between the two of us. I will serve as the Chair of the committee on a substitute basis today. The committee will take up the bills in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us. The committee members might come and go during the hearing, this is just part of the process as we have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones or electronic devices. Please move to the reserved chairs when you are ready to testify. It helps facilitate moving the, the hearing expeditiously if you come forward as, as testifiers move through. Introducing senators will make initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green testifier sheet that is on the table at the back of the room. Please fill out the green sheet before you testify. Please print and it's important to complete the form in its entirety. When it is your turn to testify, give the green sheet to the page or the committee clerk. This will help us to make a more accurate public record. If you do not wish to testify today, but would like to record your name as being present at the hearing, there's a separate gold sheet on the table in the back of the room that you can sign for that purpose. This will be part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up and testify and they will distribute to the committee. If you do not have enough copies, the page will make sufficient copies for you. When you come up to testify, please speak clearly into the microphone, tell us your name, and please spell your first and last name to ensure that you get-- that we get an accurate record. We will be using the light system today for all testifiers. Let's have a head count for-- I would guess most all of you are going to testify, but let's have a head count for LB1358. You're not up first, are you?

LOWE: No, I'm a different bill.

HALLORAN: OK. We will stick with 5 minutes. You have 5 minutes to make your initial remarks to the committee, when you see the yellow light come on it means the same thing it does when you're driving the car,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

be prepared to stop, and 1 minute remaining, after the yellow light comes on. And when the red light indicates your time has ended, an alarm will-- no alarm today. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, are allowed from the audience at the public hearing. The committee members with us today will introduce themselves starting to my far, far right. Senator Aguilar.

AGUILAR: Ray Aguilar, District 35, Grand Island.

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

HUNT: I'm Megan Hunt, and I represent District 8 in the northern part of midtown Omaha.

HALLORAN: Senator Raybould and Senator Brewer are excused, will not be attending today, and I think Senator Conrad will be here shortly when she's done with another hearing. OK. To my far right is committee legal counsel Dick Clark, and to my far left is committee clerk Julie Condon. And I think I have some-- a note from-- oh, this is for the senators. For the sake of the transcribers, if we would be sure that we speak clearly into the microphone and not leaning back in our chairs would be helpful. With that, we'll start with LB1358. Senator McDonnell.

McDONNELL: Thank you, Senator Halloran, members of the committee. My name's Mike McDonnell, M-i-k-e M-c-D-o-n-n-e-l-l. I represent Legislative District 5, south Omaha. LB1358, a bill designed to enhance fiscal responsibility and accountability within political subdivisions of Nebraska. The bill ensures that local elected officials simply cannot vote to approve their own salary increases beyond a basic cost of living, COLA plus 1%, without first getting approval from the voters. This initiative aims to ensure that salary adjustments for governing bodies are made transparently and with direct voter oversight, reinforcing our commitment to serving the best interest of our constituents. Following votes by both the Omaha City Council and Douglas County Board of Commissioners to raise their own salaries beyond \$50,000, an increase the Omaha World-Herald in an editorial piece on December 11, 2017, a 34% called obscene. I received numerous complaints about this from the residents of the great city of Omaha, with the exception of public service commissioners who are barred from holding other jobs. Our, our local elected officials are generally not career politicians and are expected to maintain full-time employment outside their official part-time roles. This distinction is a key reason for proposing this legislation. It fairly

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

allows for adjustments based on the cost of living plus 1% to keep pace with inflation, while introducing the transparency needed in the salary decisions of election boards. Frankly, the actions taken by the Douglas County Board and the Omaha City Council undermined the reputation of all of us who serve in the public when you do not-- when you give these kind of pay increases without a vote of the people. The idea of actually, comparability, I believe in. The idea of actually having if it's, for example, a, a, a county board that says we are X percent behind, 16, 18% behind our comparability, then for them to take that to the, the, the citizens, educate them, and, and increase their salaries, I'm in favor of. And I believe our Douglas County Board members, I believe our City Council in, in Omaha. I can't speak for the whole state, but I-- I'm certain this is something we'd agree upon, work, work very hard and we want to retain and recruit people. But there's a fine line where we look at the idea of, like, if you are caught up with your compare-- comparability and you look at a cost of living adjustment plus 1%, I think that's something that's within their discretion. But when you start looking at a 34% increase without a vote of the, the citizens, I think that undermines the trust for all of us. And I believe transparency builds trust so this is twofold is to make sure that those people that are serving are treated fairly financially for their sacrifice of time for the citizens of Nebraska. At the same time, it's also to make sure the citizens also have input on, on how much they're going to increase their pay at certain times when it's above the cost of living plus 1%.

HALLORAN: OK. Very good, Senator McDonnell. Questions from the committee? All right. Looks good. You going to stick around for close?

McDONNELL: Yes, yes.

HALLORAN: All right.

McDONNELL: Thank you.

HALLORAN: Thank you. So we'll have first proponent for LB1358. Good afternoon.

RICK KUBAT: Chair Halloran and members of the Government, Military and Veterans Affairs Committee, my name is Rick Kubat, R-i-c-k K-u-b-a-t, here today on behalf of the Metropolitan Utilities District, known as MUD. Also, here today on behalf of the Omaha Public Power District, OPPD, Nebraska Public Power District, NPPD, Central Nebraska Public Power and Irrigation District, and the Nebraska Rural Electric Association. I want to thank Senator McDonnell for introducing LB1358.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

MUD serves roughly a third of Nebraskans with their natural gas and water services. MUD, like our state's other public utilities, was established by you, the Legislature. We are governed by the statutory framework you created to provide low-cost and reliable utility services. Informing the utility empowering statutes, this Legislature also sets out how much utility board members can be compensated. LB1358 addresses the fact that the current statutory framework for board compensation remains stagnant. Board salaries are not revisited until taken up-- taken back up from time to time by this Legislature. Public Power Board compensation was last adjusted in 2000. MUD Board compensation was last dealt with by this Legislature in 2001. Because compensation can only be adjusted by this Legislature, a natural problem occurs when we go over 20 years without any modifications. With the value of the dollar, we are essentially compensating today's utility directors roughly 58% of what they were making in the early 2000s. Put another way, and this is somewhat depressing to me, but if you had a \$100 bill in your wallet in, in 2001, you would need \$173 today for the same purchasing power. If we were to use this same model for employees, we simply would not be able to maintain an adequate and competent workforce for our public utilities. LB1358 solves this problem today and into the future. It addresses statutorily created compensation that remains dormant for decades until revisited by the Legislature. This-- number 2, and this is important, it maintains the requirement that government officials to establish their vote on any proposed compensation in open and transparent fashion. In other words, if LB1358 were to become law, boards may or may not provide themselves with a, a compensation adjustment. But if they're going to do so, they have to do so in an open and transparent manner. It-- again, it maintains a permissive authority for boards to keep their current compensation structure in place. If any government board votes for compensation over a cost-of-living adjustment plus 1%, they must do so through a vote of the people, which I believe is a fine balance that Senator McDonnell is trying to achieve here. Through a more commensurate pay structure, it will encourage additional candidates to run for office for the public's consideration. To put this in perspective, MUD Board members currently make \$14,640 per year, and the Chair is provided a salary of 15,120. If a cost-of-living adjustment were to be applied, board members would make \$23,289 per director or, or an additional \$8,649 per year. The Chair would receive a pay increase of \$10,968. NPPD and OPPD would, would have almost identical mirrored pay structures. There is a bifurcation in the public power statutes for those with gross annual revenues of \$40 million-- below \$40 million and \$40 million or more. When one considers that the, the board oversees 2 utilities, gas and water,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

with a \$506 million budget, a cost adjustment that simply acknowledges inflation would not even be a blip on the radar as it equates to .00012 of MUD's annual budget. We are thankful for the expertise, knowledge, and experience that each member of our 7-member board brings to bear in oversight and accountability for our public utility. Utility boards deal with a myriad of issues not limited to construction, operations, salaries, governance, legal requirement, federal and state regulations, personnel matters, finances, and rate structure. And I've got 2 more sentences, if I can finish?

HALLORAN: Sure. Go ahead.

RICK KUBAT: LB1358 would help address adequate compensation for their skills and would encourage additional members of the public with utility experience to consider running for office. This will naturally give our public more options in choosing who should run their publicly elected utilities. Thank you for your consideration of LB1358.

HALLORAN: All right. Thank you, Mr. Kubat. Questions from the committee? Nope. Seeing none, thank you--

RICK KUBAT: Thank you.

HALLORAN: --very much. Next proponent, LB1358. Proponent? Third call, proponent, LB1358? Seeing none, opponents for LB1358? Good afternoon.

BETH BAZYN FERRELL: Good afternoon, Senator Halloran, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and I'm testifying in opposition to LB1358. We understand the intent of this bill ensuring fiscal responsibility. However, county officials' salaries are already subject to a number of restrictions. First, the constitution prohibits an increase or diminution in salary during the term of office. So that's Article III, Section 19 of the constitution. There is case law that says that salaries can be adjusted within that period if they're set within the salary resolution. So generally when a county does that, they set it based on CPI, not to exceed a certain amount, not to drop below a certain amount. Those salary resolutions have to be set prior to January 15 before the term of office starts so anyone who runs for the office knows what the salary will be for the upcoming term. Those provisions in the constitution and in the statute help stabilize budgets. They help provide financial responsibility. The salaries are set by county board members. They're elected by the people. So there's already a process to have a, a vote for that-- those decisions. In

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

addition to that, county board members pay taxes on their own county so they are conscious of their budget and they're conscientious about their budgets as well. For more than 50 years, NACO has done a salary study and provided recommended salary levels to county officials. We'll continue to do that. The history of that is because there was legislation looking at a situation similar to what the power districts have where the salaries would be set in statute. And so NACO started doing a salary study to provide recommendations and input about what those salaries would be good ideas for what they, they might reflect. So with all those guardrails in place, we don't think it's necessary to have a vote of the people to increase the salaries for county board members. I'd be happy to take questions.

HALLORAN: OK. Thank you, Ms. Ferrell. Any questions from the committee? No. Seeing none, thank you. Additional opposition to LB1358? Seeing none, neutral for LB1358? Seeing none-- oh, excuse me.

LYNN REX: Sorry.

HALLORAN: Good afternoon.

LYNN REX: Good afternoon, Senator Halloran, members of the committee. I will get that to you later, if I may?

CAMERON LEWIS: You have your green sheet? Oh, you have to fill it out?

LYNN REX: I just need to fill it out.

CAMERON LEWIS: Yeah, no [INAUDIBLE]

LYNN REX: Thank you very much. Sorry, I was in Revenue. Senator Halloran, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We've had ongoing conversations with Senator McDonnell and-- pardon me?

HALLORAN: Could you speak up for the transcribers?

LYNN REX: Oh, sure. Very few people ever ask me to speak up so I appreciate that, Senator Halloran. So the League of Nebraska Municipalities has had ongoing negotiations with Senator McDonnell, and he's graciously agreed to take out first class cities, second class cities, and villages. And with that, we'd be neutral. We appreciate him doing so. And I'd be happy to respond to any questions that you might have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

HALLORAN: All right. Thank you so much. Any questions from the committee? Seeing none, thank you very much.

LYNN REX: Thank you very much. Thank you.

HALLORAN: Additional neutral for LB1358? Did Senator McDonnell leave? OK. Senator McDonnell, you're up for closing if you wish.

McDONNELL: Thank you. What I've learned through this process is, you know, you look at some of the, the larger boards and, and the amount they're being paid. And as Lynn Rex just testified to, some of the smaller ones, if you look at 3% on \$50 plus 1 isn't going to make that kind of impact. So with the idea of respecting the, the people that, that give their time to these different boards and wanting to make sure they're compensated fairly, at the same time, when you look out for the taxpayers. And when you go to a point and if it's based on comparability and you're going to go above that cost of living plus 1%, you have to take it to a, a vote of the people. I think that's a fair balance and I'm here to try to answer any of your questions.

HALLORAN: I've turned the Chair over to Senator Sanders. She's Vice Chair and she's able to take over at this point.

SANDERS: Thank you, Senator Halloran. Are there any questions? I see none. We do have position comments: proponents, 1; opponents, 1; and zero in the neutral. Thank you.

McDONNELL: Thank you.

SANDERS: This will end our testimony on LB1358, and we will move on to LB1375. Senator Lowe. Welcome, Senator Lowe.

LOWE: Thank you. Thank you, Vice Chair Sanders and members of the Government, Military and Veterans Affairs Committee. My name is John Lowe, that's J-o-h-n L-o-w-e, and I represent Kearney, Gibbon, and Shelton. LB1375 is a bill dealing with county zoning that I brought on behalf of Governor Pillen. LB1375 makes 5 changes on how county zoning operates. First change we are making with this bill is to-- is just to clarify the timeline when a company wants to seek a zoning permit. This bill makes clear that applicants do not need state or federal permits prior to receiving county zoning approval. If then the state rejects the permit on the application, the permit at the county level becomes null and void. LB1375 also prohibits redundant conditions on applications by making it clear that county boards can only put requirements on applicants the county has the authority or the ability to enforce. If the authority falls under a state or federal agency,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

the county board cannot make it a requirement on the zoning permit. We did add language to make, make it clear that the applicant is still required to follow state and federal laws and regulations. The idea is to simply make clear that the county can only require things that they have the authority and resources to enforce. LB1375 makes clear that if an applicant does not meet or will meet all the conditions or requirements that the application will be granted. Basically, this creates a permit by right if the applicant meets all the county zoning requirements. LB1375 will require that a county must act on an application within 90 days of receiving a completed application. The county board may vote yes on an application or they may vote no on the application but LB1375 makes clear that they must vote. LB1375 adds one last change to the county zoning process. Planning and zoning committees can still hold public hearings if they want to, but they can also choose to just take written comment. I want to be clear on the way this bill is written. Planning and zoning committees will simply be given a choice on whether they want to hold a public hearing or if they want to take written public comment. LB1375 is an attempt to streamline our county zoning process, make clear what order things should be done, and an effort to make Nebraska a more business friendly state. With that, I'd be happy to answer any questions.

SANDERS: Are there any questions for Senator Lowe? I see none.

LOWE: You guys are too kind.

SANDERS: Thank you for your opening, Senator Lowe, and you'll stick around for the closing?

LOWE: Yes.

SANDERS: Thank you. And we have a guest today. Welcome, Governor Pillen.

JIM PILLEN: Thank you. Chairwoman Sanders and committee, thanks for the opportunity to visit with you this afternoon. My name is Jim Pillen, J-i-m P-i-l-l-e-n, and I'm humbled to serve as the Governor of the great state of Nebraska. I appreciate the opportunity to address the committee about our state's county zoning process. The goal of this bill is really simple. It's to smooth out the process of obtaining a proper permit to do business at the county level. You'll hear from several testifiers today who have struggled to get permits, including, I think, we have a young sheep producer whose ordeal clearly illustrates why reform is necessary today. Each of Nebraska's 93 counties has the chance to implement county zoning regulations to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

determine how to develop-- how development is carried out in our borders. Not all 93 counties have county zoning, but, but the majority do. When seeking to expand or build new businesses, folks in zone counties go before their county boards to obtain a permit-- a, a special use permit for their intended projects. Unfortunately, meeting zoning-- county zoning requirements is sometimes clouded, kind of gray, complicated, and most of our elected neighbors are themselves very unfamiliar with the process. And you might ask why? Largely because these types of permit applications come up rather infrequently. But when they do it's important that they're handled appropriately. I believe we should not be stifling economic growth by cumbersome county zoning process. Further, we need to encourage our local leaders to make decisions based on objective zoning requirements, not subjective fears. This bill attempts to take some of that subjectiveness out of this process that allows permits to be-- merits of a permit to be weighed in a straightforward and consistent manner. I believe we need to-- continue to-- we, we, we need to incentivize development across our state, not disincentivize it. Just calling it the way it is, the county zoning process can be extraordinarily, extraordinarily frustrating. The measures proposed in this bill are only one part of the solution. I think it's important that we collaborate with county leaders on even more effective ways to improve the process. I think that-- I want to thank Senator Lowe for carrying this bill and I think that-- I can't overstate the last piece of his testimony where he talked about it gives the counties the option to have testimony in a written form instead of verbal. I think it's incredibly challenging within our communities when emotions run high and people are coming forward and giving [INAUDIBLE] testimony. And the most disappointing part is if somebody makes a comment about a neighbor in a public setting emotionally charged, the chances of ever apologizing are pretty well slim and none. And then it just creates extraordinary ravines between neighbors within our rural communities. It's the worst part of county zoning. So I look forward to continuing work on this issue and I'd be happy to take any questions.

SANDERS: Thank you, Governor Pillen, for your testimony. We'll check to see if we have any questions from the senators. See none. I see none.

JIM PILLEN: OK.

SANDERS: Thank you very much.

JIM PILLEN: Thanks. Thanks for all you do.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: We'll have proponents who would like to testify. Are there any proponents? Welcome to the Government Committee.

TODD TULS: Good afternoon, committee, Senators. My name is Todd Tuls, spelled T-o-d-d T-u-l-s. I'm here in support of LB1375. I currently have 2 dairies and a calf ranch that I built as greenfield sites here in Nebraska. I also have three dairies in Wisconsin that I built in-- on greenfield sites in that state. I've built a greenfield site in southwest Kansas earlier on, back in 1994, with my brother. So I have experience in a lot of different settings, different states, different counties. My first experience here in Nebraska was in Pierce County back in 1999. I came up here to build my first dairy, met all the state requirements. I actually had a state DEQ permit for my facility, went before the, the zoning committee and was denied the permit based on really opinions and not facts or the rules that we had met. And so I ended up relocating that facility down into Polk County, which at that time had no zoning. Proceeded to get the dairy built, Double Dutch Dairy, and then expanded Double Dutch 5 years later. And then I ended up building a dairy and started permitting in 2007 in Butler County. Butler County had no zoning, but I dealt with some township government zoning at that time and it was a very difficult process to get, get that dairy permitted and built. So my calf ranch was another project I built in Butler County. But prior to summit, I have tried to build a calf/Hereford facility in Polk County after zoning and ran into a lot of difficulties with just, you know, Governor Pillen hit on it, just neighbors reacting to neighbors and the ravines that are actually built in those relationships. Even, even where my dairies are now, you know, you got-- you got neighbors next to my facilities that work with many neighbors that don't and those relationships prior to my dairies being there were friendships and long-term family stuff and, and I know that there's some of those that have never recovered from that. So I think-- I think LB1375 outlays some really clear parameters, which would take out some of the emotional and some of the neighbor bias that some of these county officials are, are weighed down with. It's, it's a really heavy deal to follow the rules and upset neighbors, upset, you know, fellow farmers or, or people that have lived in the area for a long, long time. When you look at-- when you look at where, like, livestock facilities or some of these facilities are built where we're out in, you know, rural agricultural areas, you know, whether, whether it's dairy farming or whether it's, you know, beef production or, or poultry or swine, we all face some different challenges that we come in with. We bring a lot of infrastructure, a lot of buildings. My facilities are, you know, they're \$30, \$40 million facilities that you build bringing a lot of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

jobs, a lot of revenue. We buy a lot of feed locally and create a lot of opportunity in business for, for Nebraska, create a lot of added value products. You know, we're-- take corn and soybeans and make it into, you know, soybeans go into soybean meal, soybean meal and corn goes into our cows and our cows make milk. Milk gets made into cheese and different products. And so there's just a tremendous amount of added value. Our company right now is, is, is researching building a processing facility for our milk to add further value. We want to build that here in Nebraska. And so, again, we're going to be in front of zoning and some of the permitting on that facility as well. So I just wanted to just express from my 20-some years, going back to 1999, experiences of, of zoning and I think having a very clear outlined bill like this that gives county supervisors clear guidelines on how to process this would alleviate a lot of hardships and, and narrow the time gap on getting a facility permitted. So I want to thank you for your time today. Appreciate it.

SANDERS: Thank-- don't, don't go anywhere yet, we might have some questions, but thank you for your testimony, Mr. Tuls. Are there any questions? I see none. I'd like to personally thank you for providing ice cream to my husband so appreciate the dairy farmers and thank you for your testimony.

TODD TULS: All right. Thank you.

SANDERS: Are there any other proponents?

MARSHALL PETERSEN: Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, my name is Marshall Petersen, M-a-r-s-h-a-l-l P-e-t-e-r-s-e-n, and I'm here to testify in support of LB1375. I'm a first-generation sheep farmer from Pierce County, Nebraska, and my family has been involved in agriculture within Pierce County since 1981. My business is a ewe lamb operation, which houses ewes with lambs inside a confinement facility and gestating ewes in outside yards. I sell replacement ewe lambs and market lambs. In 2021, I applied for a conditional use permit for my sheep operation. I was hopeful that Pierce County would be happy to allow me to invest in their agriculture-based county. I found that this was an ignorant thought. What I saw as one of my more beneficial traits, my young age/ambition was a concern of the zoning boards. I was told that if I were older, I wouldn't have had an issue of getting the permit. There were neighbors in opposition who didn't want livestock facilities around their dwellings even though my proposed operation met all the legal setbacks and requirements. I had 2 meetings with the zoning board tabled because they did not want to be part of the decision

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

which would affect relationships within their businesses, families, and community. The third zoning board meeting only had 4 members of the zoning board in attendance, until a fifth member came 20 minutes late after several were called. The vote was 3 to 2, with the tiebreaker vote taking a long pause before slightly forcing out the word "yeah." Within the meetings, there were large amounts of unnecessary stress, emotions, and argument from all parties. The current system is unorganized and confusing. With the NDEE, the permitting process was super simple and straightforward. A few gentlemen came out to my site and looked over and discussed proposed plans, setbacks, water drainage, manure distribution, and other important aspects of a livestock facility. My proposed operation checked all the right boxes and I had a permit in the mail 2 weeks later. LB1375 allows counties to make more straightforward decisions without holding back construction dates for new livestock facilities. It helps remove unnecessary argument and emotions by utilizing written testimony instead of public hearings. It holds counties accountable by not allowing them to table meetings and waste precious time based on Department of Environment and Energy and Natural Resources District permits. If there's any questions, I'd be happy to answer.

SANDERS: Are there any questions? I see none. Mr. Marshall, thank you for testifying today. It's always good to hear from someone that has personally been involved in this process. So thank you very much and good luck with your business. Thank you.

MARSHALL PETERSEN: Thank you. Have a great day.

SANDERS: Thank you. You too. Proponent. Anyone else? Welcome to the Government Committee.

DEAN OTTO: Hi. Chairman, members of the Government, Military and Veteran Affairs Committee. My name is Dean Otto, D-e-a-n O-t-t-o. I am here to testify in support for LB1375, which makes significant, needed changes to the zoning process. Over the past 5 years or so, we've been looking to expand our operation and not be so dependent on artificial fertilizers by using livestock manure. By placing the livestock manure into the farm's ground, we will be more economically friend-- friendly and environmentally friendly. I do the-- I make-- I do my best-- I make my best decisions when I think about my family. This one has to do with my son who just came back from college to farm. Our goal was to build 2 swine finishing sites near-- in Gage County where we have sufficient acreage to apply manure. Both sites I brought to Gage County met all setbacks and requirements established by the county. These projects should have been a slam dunk. They were not. On our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

first site, the Planning and Zoning Commission required us to get our NRD permit before the committee would allow the project to move forward, a couple month delayed. We received our NRD permit and went back to planning and zoning for approval. They tabled our project again and required us to get a DEE permit before they would make a decision on the application. The process cost us thousands of dollars in engineering and staff time. Every time our application was tabled-- as you know, last year we had inflation, rising interest costs and staff time to do all this. Finally, after being tabled multiple times, a decision was made to approve us to the supervisors. The supervisor level was just as contentious. We went through the hearing process for a second time where we were belittled, degraded, and attacked. Every time there's a meeting at ours, both sides kept getting more tense. They even had law enforcement there most meetings. The commissioners then put conditions on my permit that cost thousands of dollars to comply, such as groundwater monitoring wells when the state DEE did not require them, nor did the NRD. The county doesn't have a hydrologist on staff, nor do they have any expert certified in verifying contamination and the DEE said they would not regulate or validate these wells as they are not applicable to their DEE permit. So the county created more bureaucratic red tape that cost the business thousands of dollars and nobody is going to verify or make sure this stuff is in compliance. The second site was worse. The same things were required of us so we came in with the DEE and the NRD permit in hand, exceeded and met all requirements again by the county and were still denied after P&Z and the supervisors delayed us multiple times. Again, costing my family money and my business partners. This was very embarrassing to me as a Gage County resident, bringing people in from other counties and for my son to see how the planning and zoning acted. I got girls, I wouldn't let my 12-year-old girls act like these guys did. It was simply humiliating. This process is broken. The state must bring more clarity and direction to the counties on their purview, while providing some accountability in the cadence of the process so we can make appropriate business decisions as time goes on. There are good people on these boards. It's not that they're bad people, they bring in their personal feelings and the neighbors' feelings. When they have sets of rules, they don't follow them. I just think a lot of them need guidance. You know, I've been told I'm voting against you because my-- I got to look at my neighbors every day, not you. I appreciate your time. Do you have any questions?

SANDERS: Thank you, Mr. Otto, for your testimony. Are there any questions for Mr. Otto? See none. Thank you very much. Are there any other proponents? Welcome to the Government Committee.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

HADEN OTTO: Thank you. Chairman and members of the Government, Military and Veterans Affairs Committee, my name is Haden Otto, spelled H-a-d-e-n O-t-t-o. I'm here to testify in support of LB1375, which makes significantly needed changes to Nebraska's zoning process. I'm a farmer from south of Lincoln, Nebraska, about 30 miles, this is in Gage County. I grew up, went to school, and farm in Gage County. I hope to raise a family and have another generation to farm in the county as well. Recently, my family tried to put up 2 hog barns in rural Gage County: 1 west of Adams and 1 north of Liberty, Nebraska. Even though we met and exceeded all the requirements, this was a very painful process with multiple months of planning and zoning. They tabled the permits multiple times. When it finally made it to the supervisors, the same thing happened. All these meetings would start to allow people to get out of control, and multiple remarks were made towards me and my family, as well as the board members themselves. Each time we had another meeting because it was tabled, people against it would get more aggressive and wound up on both sides. Unfortunately, this county has also set a precedent for southeast Nebraska now. Even though we met all the requirements, they denied the building by Liberty because of some of the elected officials had a personal problem with us or personally know the people in the area. Unfortunately, this has started what I'm going to call "an anti livestock movement." People are posting on Facebook that they stopped the Liberty ones so they can stop more building sites for other farmers trying to put up chicken houses in our area as well. Being a young farmer and seeing this all going on scares me. I believe that as long as this happen-- keeps happening, not only me, but other young farmers looking to build livestock facilities are going to be held back or moved out of Nebraska. Holding back the future of Nebraska, the people will keep the town's thriving, schools open, and economy going in rural Nebraska going is quite sad. I have had multiple young farmers in the area come and talk to me about the matter, and they're also upset. They're worried they might go through all the time and effort, all the requirements, and then be turned down because some personal issues over a few board members might have. If Nebraska wants to make the young farmer thrive and be able to start new operations, expand their own, and be able to be sustainable, we need to have better followed rules and stricter rules. We should make this process better for everyone involved. I believe utilizing LB1375 would be for the best of everybody. Thank you. Questions? Thank you for your time.

SANDERS: See none. Thank you, Haden. Is, is Dean your dad?

HADEN OTTO: Yes, he is.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: Well, thank you for both being here today for your--

HADEN OTTO: Thank you.

SANDERS: --family business. Thank you. Are there any other proponents? Welcome to the Government Committee.

DARREN NELSON: Good afternoon, Vice Chair Sanders and members of the Government, Military and Veterans Affairs Committee. My name is Darren Nelson, D-a-r-r-e-n N-e-l-s-o-n. I farm near Genoa, Nebraska. I currently serve on the Nance County Board of Supervisors. I am here today on my own behalf in support of LB1375. I want to thank Senator Lowe and the Governor for introducing LB1375. This, this bill will be beneficial for both county officials and producers that are applying for conditional use permits. I believe LB1375 will streamline the permitting process by not requiring the county to have a public hearing at the Planning and Zoning Commission. It will require them to accept written public comment. As a county supervisor, it is my understanding that the Planning and Zoning Committee should look at the application and investigate how it fits within the current regulations that our county has adopted. If they align, they should be recommended for approval in their report to the county board. If, on the other hand, they do not meet regulations, they cannot be recommended conditions or denied in their report we the county board can consider. I also must point out that the individuals who serve on the Planning and Zoning Committee are volunteers and appointed by the county board. It is my desire to give them the tools they need to do their job based on the facts and not have emotion and fear entered into their decision-making. I do not-- do not see LB1375 take away any local control from the county. It simply streamlines the process and makes it fair for everyone. It is the reason I encourage the committee to advance LB1375 and I would be happy to answer any questions.

SANDERS: Thank you, Mr. Nelson, for your testimony. Let's see if we have any questions from-- Senator Halloran.

HALLORAN: Thank you, Vice Chair Sanders. Thank you, Mr. Nelson, for being here. So I'm going to oversimplify this, and I'm probably wrong. But to get a conditional use permit, the oversimplification would be it's a checklist of things you have to do. Right?

DARREN NELSON: Correct. Well, you meet your-- in your conditional use permit, they have that in a hearing for-- in our county now is an open hearing where you can have public comment at the Planning and Zoning Commission as well as the county board. It is my feeling that we've

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

had certain permits and other livestock facilities offered where planning and zoning maybe puts a motion into their decision other than looking at strictly the facts. It'd be nice just to have the public comment at one meeting or the other in order to kind of streamline the process. I know this bill has the support of our zoning administrator in Nance County. He said anything to make the process easier would be greatly appreciated.

HALLORAN: OK. But-- I, I understand, but it's not an effort to do away with public expression or public input.

DARREN NELSON: No, not-- we will still-- still welcomed at our county supervisors meeting.

HALLORAN: All right.

DARREN NELSON: It'd just be nice to let the Zoning Commission make their decision on fact and not emotion.

HALLORAN: Which is basically the checklist--

DARREN NELSON: Yes.

HALLORAN: --of things required to do to get the conditional use permit.

DARREN NELSON: Correct.

HALLORAN: Right. Thank you.

SANDERS: Thank you, Mr.-- Senator Halloran. Are there any other questions? See none. Thank you, Mr. Nelson, for your testimony. Are there any other proponents? Welcome. Welcome.

STEVE GOANS: Good afternoon, Chair Sanders and members of the Government, Military and Veterans Affairs Committee. My name is Steve Goans, spelled S-t-e-v-e G-o-a-n-s. I am the deputy director at the Nebraska Department of Environment and Energy, NDEE. I'm testifying as proponent of LB1375 and I'm here to provide an overview of the agency's permitting process for livestock waste control facilities and answer questions you may have. The Nebraska Livestock Waste Management Act and the Nebraska Livestock Waste Control Regulations provide the authority for 2 permitting programs: a state program which contains design standards for construction and operating livestock waste control facilities, and the federal program which regulates discharges to water in accordance with the National Pollutant Discharge

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

Elimination (System), NPDES, program pursuant to the Clean Water Act. Not all facilities that require a construction and operating permit will require an NPDES permit. An example would be a deep pit barn. An NPDES permit is not required because there are no outside open lots that require livestock waste containment. Nebraska has 1,252 permitted animal feeding operations. Of these, 485 are covered by an NPDES permit. Additionally, a nutrient management plan is required for all permitted facilities. In general, small animal feeding operations, or AFOs, are exempt from the act and Title 130 permitting requirements provided the AFO does not discharge to waters of the state. Example of a small AFO would be a cattle operation with less than 300 head. The state permit program maximum timeline of 110 days for construction operating permit is laid out in statute. The timeline starts when a complete application is received by the department. The owner/operator must request an initial inspection before submitting an application. And here are the permitting steps: An inspection is required for a new operation or a major modification at an existing operation. The inspection is done by the compliance inspector to determine whether preventive actions or controls are required-- let me see, if I can get to page turned-- management of livestock waste. If controls are required, the owner/operator must obtain a construction and operating permit prior to initiating physical on-site construction activities. Within 5 days of receiving a construction and operating application, NDEE notifies the Natural Resources District and the county board. The NRD and the county have 30 days to provide NDEE comments as conditions at or near the proposed site, which we should consider during the review of the construction and operating application. The NDEE conducts a team review as the application is processed. It's reviewed by an engineer to determine compliance with design standards, the compliance inspector to ensure that the application matches the initial inspection, and an agronomist to evaluate whether the nutrient management plan is adequate, including whether the operation has sufficient acres for land application, a groundwater geologist to evaluate the potential for threat to groundwater by looking at the depth of groundwater, types of soils and nearby receptors, and to make recommendations regarding groundwater monitoring. Within 60 days after considering comments from the NRD and the county and the team review, the NDEE issues a proposed decision on the application and offers the public the opportunity to comment. The comment period is 30 days. The public does not have an opportunity to request a public hearing during the construction and operating permit public comment period. Within 110 days after consideration of comments received during the public notice period, the NDEE issues the final decision on the permit. NDEE prepares a response summary to those comments received during the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

public notice period. The federal NPDES permit does not have a timeline, but our goal is 180 days or less. Thank you for your time and I would be willing to answer any questions you may have.

SANDERS: Thank you, Mr. Goans. A very thorough permitting process for us to have. Let's check to see if there are any questions for you. See none. Thank you again very much.

STEVE GOANS: Thank you.

SANDERS: Are there any other proponents? Welcome to the Government Committee.

ALLEN KAMPSCHNIEDER: Thank you. Thank you.

SANDERS: I'm going to ask you to hold just a minute. We've got some people coming and going here. There you go.

ALLEN KAMPSCHNIEDER: Good afternoon. My name is Allen Kampschnieder, A-l-l-e-n K-a-m-p-s-c-h-n-i-e-d-e-r. I've been a consultant with Nutrient Advisors out of West Point for 13 years. We do environmental consulting, permitting, and nutrient management work for livestock operations as well as other industries. We have had a, a lead role in hundreds of conditional use permit applications in over 40 counties in Nebraska over the last several years, including a few that you've heard from today. As we've helped our clients navigate through the permitting process at the county level, we have had some very positive experiences, but we have also faced many more challenging and just miserable experiences. Our, our county system is broken and there are inconsistencies and confusion at, at multiple levels in, in our counties. It is a problem that is burdening both applicants and county officials and stifling economic growth in Nebraska. I was going to go through the Ottos' example. They did a great job. I just want to add a few things. So they were in Gage County. We had multiple sites in 2 adjacent counties that, that passed without any hesitation in 60 days or less. So just want to note the, the inconsistency from county to county. I actually feel especially bad for, for the Planning Commission members. These are-- these are volunteers that in many times are, are the busiest people in the county. They're, they're business owners. They're, you know, family people. They're serving on their boards. And they find themselves in these public hearings with great pressure from both sides, whether it be neighbors or, or, or other people, maybe both ways from neighbors. And they're supposed to make decisions on these things that a lot of the times was just thrown in front of them and, and they don't necessarily understand or they're

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

not experts in. I believe this proposed bill would allow those Planning Commission members to receive written testimony about various applications and then have the proper time to, to read them thoroughly and evaluate them according to, to county guidelines, rules, and regulations. In addition to that, the, the bill gives those Planning Commission members clear guidance on their authority on, on what they can and can't consider in regard to those permit applications. I think this bill will give those volunteers the confidence to act on items in-- according to their-- to their own county rules and regs and will prevent them from being forced into subjects and circumstances that they are not qualified to make decisions about. This bill will absolutely help minimize the number of public hearings and-- that are unfortunately shredding relationships in our rural neighborhoods. It is also important to have an absolute timeline, just a timeline of 90 days that we can get this completed. I can tell you in other states, they, they have a timeline and a deadline, and it's, it's proven to be very effective, efficient, and, and promotes economic investment in those states because applicants know what to expect when they're going through the process. I would ask you to please support the changes in LB1375 so that the good people of Nebraska serving on Planning Commission boards have clarity and the support of the law on what their role is and how they can make decisions. Your support of this bill will also promote economic development by attracting investment into Nebraska. Thank you very much for your service, your time, and your consideration.

SANDERS: Thank you, Mr. Kampschnieder. Appreciate your testimony. Are there any questions? I see none. Thank you very much. Proponents? Welcome to the Government Committee.

GREG HOEGERMAYER: Thank you, Madam Vice Chair. Good afternoon, and thank you to the members of the committee for listening to our testimony. My name is Greg Hoegermeyer, spelled G-r-e-g H-o-e-g-e-r-m-e-y-e-r. I farm and raise livestock along with my family near Herman, Nebraska. I have the pleasure of serving on the Washington County Planning and Zoning Commission. I also serve on the Nebraska Farm Bureau State Board of Directors, and I am testifying today on behalf of the Nebraska Farm Bureau Federation, the Nebraska Corn Growers Association, the Nebraska Soybean Association, and Renewable Fuels Association in support of LB1375. We appreciate Senator Lowe for introducing LB1375 on behalf of the Governor. A key priority of organizations that I am promoting is to promote the growth and development of animal agriculture. There are many challenges Nebraska livestock or-- livestock producers face in starting or expanding their operations. While LB1375 does not address all of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

challenges, it does help streamline the process of acquiring a conditional use permit through the county planning and zoning process. We do not believe LB1375 takes away local control from counties, because it still allows counties to adopt their zoning regulations specific to their own specific needs. It also allows them to have the final approval or denial on all conditional use permits. What LB1375 does help with is the accountability for all parties involved. The applicant must be held accountable for their application and that they are following all federal, state, and local regulations. It requires the county to be fair and impartial, that they follow their own rules and regulations pertinent to their own zoning, and do it within a reasonable amount of time. We also believe that requiring counties to hold 2 public hearings on the same conditional use permit can be counterproductive, and can impose unnecessary expenses to the applicants. Many times an applicant will hire an attorney or an engineering firm to represent them during these hearings. Having a public hearing at both the planning and zoning level, and again at the county board level, in our view, can be unnecessary. However, I will add that there is nothing in the bill that takes away the county's ability to have 2 public hearings and simply removes the requirement of 2 public hearings. In closing, again, thank you, Senator Lowe, and the Governor for the introduction of LB1375 and we encourage the committee to advance the legislation to General File. We believe this will go a long way in clarifying and streamlining the conditional use permit process. I would welcome any questions.

SANDERS: Thank you, Mr. Hoegermeyer. Are there any questions? See none.

GREG HOEGERMEYER: Thank you so much.

SANDERS: Thank you very much. Appreciate it. Other proponents? Thank you. Welcome.

JAMES NYGREN: Good afternoon, Chairwoman Sanders, members of the committee I'm James Nygren, J-a-m-e-s N-y-g-r-e-n, and I'm representing the Nebraska Chamber of Commerce and Industry. I presently serve as the Chair of the Agribusiness Council for the Chamber. The Agribusiness Council is directed by Chamber Policy and the Board of Directors, takes a look at legislation believed to have an impact on rural areas of the state and particularly those that may enhance or inhibit the growth of value-added enterprises which serve to diversify the state's economy, create additional revenue streams, and create jobs and opportunities for those of us in the state, and for those would-be newcomers to the state. LB1375 inject certainty

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

into the permitting processes without unreasonable restriction on public input, as has been described just by Mr. Hoegermeyer ahead of me. As Senator Lowe said in his opening, and we appreciate your leadership on this bill, we believe LB1375 creates an environment for a more business friendly community, and a more business friendly county permitting process. With that, I am finished, Madam Chair.

SANDERS: Wow. Thank you very much--

JAMES NYGREN: Thank you.

SANDERS: --for your tightly knitted testimony. Appreciate it. Are there any questions for Mr. Nygren? See none. Thank you for your testimony and coming out today. Welcome to the Government Committee.

JESSICA KOLTERMAN: Hello. Good afternoon, members of the Government, Military and Veterans Affairs Committee. For the record, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I'm the director of administration for Lincoln Premium Poultry and I'm here today to talk about the processes that our company went through to zone approximately 500 poultry barns around 20 different counties in Nebraska. This process occurred between 2016 and 2021 as part of the development of Costco's poultry complex, Lincoln Premium Poultry. First, let me begin by saying that our relationship with the counties was very good. We had a lot of professionalism with them. They were well organized, and the people that serve in those-- in those roles are clearly invested in the future of their areas. The decision-makers were generally thoughtful in their decision-making processes, and we had a positive experience. That being said, the process in every county is very different, which of course is the element of local control. And we respect local control and understand it, but in some counties the processes became cumbersome and extremely complex. I want to paint a picture of the complexity of what we tried to accomplish with our organization. It was the goal to have the facility opened 3 years after deciding to build it, and then to do a 1-year ramp-up of that process. In order to do that, we had to build a feed mill, a hatchery, a processing plant, in that order, and we had to bring approximately 500 poultry barns online in a 4-year period of time. Keep in mind, first we had to recruit the farmers, determine the right land for them to place their barns on. They had to get the land sited, determine the water availability, get financing, and then sometimes even go through multiple hearings to get wells approved. And then you could start your building process after all the other permitting have been done with the counties. So that went on for a very long period of time, all this process. And in that you also had a lot of weather you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

had to consider and small windows for building. Additionally, the Gantt chart for this entire venture wrapped around a conference room 2 times. Everything has to be done in a certain order in order to accommodate when those birds are going to be hatched at a hatchery and placed in barns. So it was really quite a feat to put this all together, including an unprecedented flood. So we had to work very closely with the counties to accomplish this. And we knew we were going to be moving into this zoning situation, so a year ahead of that we started working with the counties in advance to really prepare for all these hearings that we knew were coming. But every once in a while, you would get a farmer who would sign up in an area that we did not anticipate having barns and, and so then you were kind of working at a more fast pace trying to get that county up to speed. I'm very proud to say that eventually we got all of our barns sited and permitted with one exception and that-- but in that process, the timing was constantly changing, and you're kind of trying to move barns around. Where can we place chicks today? What's built? What's ready to go? And we ultimately did this with approximately 250 public hearings. So I guess if anybody wants to have questions about public hearings in Nebraska, I'm probably a very good person to talk to. It takes a lot of resources to put together presentations and experts to come in to over, you know, 200 hearings. It's-- you know, this bill does go a long ways in helping to streamline that process. You know, be happy to work with the committee on any potential changes you see to the bill. And we believe that this legislation would provide clear guidance, allow the, the Planning Commission time to study the issue, and hopefully remove some of the emotion from the process. And I think that is one of the most important things. Quite frankly, if I think the team that was working on this in the beginning knew what they're going to have to go through to do this many hearings, I'm not sure that they would have jumped so fast into the waters. But they're here, we are here, everyone is-- everything is going very well with the company and we have about 100 wonderful farm families that we work with out on the farms that were able to get barns, so. Be happy to answer any questions you have.

SANDERS: Jessica, thank you very much for your testimony and explaining all the moving parts and how that's coordinated to all come down to Super Bowl Sunday and chicken wings, right?

JESSICA KOLTERMAN: Right. Exactly.

SANDERS: It's the only part we get to see.

JESSICA KOLTERMAN: Exactly.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: So thank you for your expertise in that field. I really appreciate it. Are there any questions for Ms. Kolterman? See none. Thank you very much.

JESSICA KOLTERMAN: Thanks.

SANDERS: Welcome. Welcome.

AL JUHNKE: Well, thank you. And, thank you, Madam Chair and members of the committee. I'm Al Juhnke, A-l J-u-h-n-k-e. I'm the executive director of the Nebraska Pork Producers Association and here on their behalf to testify in favor of Senator Lowe's bill. I'm not going to repeat what everyone said. I do have a handout is the first thing I'll mention, I'm not going to read it. I hope you appreciate that. But it, it does state our views and also attached are some minutes from one of our county's meetings. So you can see some of the things that they base their denial of a permit on and you can-- and I'm happy to answer questions on it now or in the future. But, but I think it's important for people to see what, what actually occurs at some of our meetings. And like was said, most of our meetings are very smooth. In fact, a lot of meetings and public hearings, whether it's at the planning and zoning or commissioner level, we get very few, if any, people that show up and testify because they've, they've done their job. Our farmers have their permits. They've met all the rules and regulations of the county. I want to point to-- I know we have a lot of people in the room, and I'm, I'm not naive to why a lot of them are here because there was a misunderstanding, I think, by people that somehow the public hearing is not going to be allowed at a Planning and Zoning Committee level anymore. That is not the case and is not what the bill says. When you look at page 3 of the bill, if you want to-- want to look at it, the change there basically says that preliminary reports from the commission-- the Planning and Zoning Commission shall accept written public comments. So first of all, I think that's a good thing. We have a lot of people on both sides of a planning and zoning hearing that might not be able to make the hearing. Right? So whether-- maybe I think it's too close to my property line and I want to comment, but I got a kid's volleyball game that night and I can't go. Well, this would allow that person to put in a written comment to the planning and zoning people so they would understand where they stand, and they can look and see if that complaint is valid and make that judgment. So both sides can use that written comment as a way to get their, their word heard at a planning and zoning. And then what you see is "hold public hearings" is crossed out. So what people think-- and legislation is sometimes hard to understand. I, I spent 14 years in Minnesota House of Representatives, and so even I have a hard time

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

sometimes understanding this. But by crossing that out, it does not say you cannot hold public hearings at the planning and zoning level. It gives the county board the option. You can hold one at the planning and zoning level because the rest of the bill is silent. It doesn't say you cannot. So the county board can absolutely require a public hearing at planning and zoning or it can say some counties only have one planning and zoning meeting a year. In that case, the public hearing for things will be at the commissioner level. And most county boards have that at their board or commissioner or supervisor level. So now that's 2 meetings. If they decide one meeting and that's a public hearing at those levels too, they can decide that. If they want to call another meeting-- if they want to call a special meeting, a planning and zoning for additional public comment, call a third meeting, call a fourth. That is their decision. Also, by allowing at planning and zoning, which is still allowed, there are counties-- and, and don't quote me because I'm not the expert, but I live in Lancaster County and I believe Lancaster County only makes decisions at the planning and zoning level on zoning issues and not at the Lancaster County Board level. This bill doesn't preclude them from doing that and they can continue right on their way. So I just want to point that out and make it very clear. But for all the other reasons in the bill, obviously we're supportive. Our farmers are, are, are great people, whether they have 100 pigs or 1,000 pigs or 10,000 pigs, we want to do the right thing. We want to follow the rules, and we do. And we want to be a part of a, a vibrant economic, rural area of the state. So thank you, Senator Lowe. Thank you, Governor Pillen. And thank you, Madam Chair and committee, for listening to me. Happy to stand for any questions.

SANDERS: Thank you, Mr. Juhnke. Let me check to see if there are any questions. See none. Thank you for your insight. Much appreciated.

AL JUHNKE: Thank you, Madam Chair and members.

SANDERS: Thank you. Any other proponents? Welcome. Hold on just a second, got some moving parts here.

KRIS BOUSQUET: Yeah, happy to. Good afternoon, Ma'am, and members of the committee. My name is Kris Bousquet, spelled K-r-i-s B-o-u-s-q-u-e-t, and I serve on-- as the executive director of the Nebraska State Dairy Association. The Nebraska State Dairy Association is one of the oldest ag associations in Nebraska, and actually the oldest dairy association in the United States and we're very proud of that. We've got a significantly long history with, with going through the county zoning process. And, and I don't want to beat up some of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

the same points that, that have already been done and I know you guys get the point for on our side of things. But what I would like to do is point out some exhibits that are being handed out now, which is-- which is a testimony from Steve Mossman, who is a, a lawyer and an individual with significant experience with the county zoning process. He's got a really good analysis of what this bill does that I would recommend that you guys look into and, and examine. But, you know, I want to first off say that there's a reason why we're here and I think you guys understand it. In this-- since, since the start of this whole process, it's been extremely collaborative. We've, we've met with all of the industry stakeholders, including Planning and Zoning Association. We've met with NACO. We've met with, with other industry stakeholders within the business community. And, although, you know, some of them individuals will testify shortly in opposition, I just want you guys to be aware that, you know, this is a very collaborative bill and that we're all trying to find a path forward and make things better for Nebraska. And I think this bill provides some framework that we can work off of and, and, and utilize to, to, to improve our county zoning process because it's extremely important. The current status of the-- of the zoning process is costing applicants thousands, where they're, they're coming to a county, they're trying to get a project done that, that is beneficial to them in their community and, and, and to their, their business enterprise. And it's, it's costing them significant time. It's costing them money. And it's also costing them valuable relationships within their community. And so, you know, that's, that's the reasons-- main reasons why the NSDA is so focused on making this process easier not just for our producers, but for county officials. This, this bill gives counties more control over the hearing process with the option for them to choose whether to hold a county-- an oral hearing or a written testimony. And so I think that's something that-- you know, counties, they can make that decision themselves and, and have that control over the process and how they see it fit. But it also provides some guide rails and some accountability for applicants and I think that's extremely important. Specifically, the 90-day time frame. You know, that's a starting point. We're happy to, to talk about that going forward. But when you look at the process in general, there has to be some accountability and there has to be some assurances that not just the applicants are going to get an answer, but the community is going to get an answer in a reasonable time frame. And whether you're on the-- on the, the left or the right or opposed or proponent, I think that's a-- that's a really positive change for, for counties to, to consider. And so with that, I appreciate the, the time today and, and would answer any questions that you guys have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: Thank you very much, Kris-- say your last name again--

KRIS BOUSQUET: Bousquet.

SANDERS: --Bousquet.

KRIS BOUSQUET: Yes, ma'am.

SANDERS: Thank you very much. Are there any questions for Mr. Bousquet? Mr.-- Senator Halloran.

HALLORAN: Thank you-- thank you, Vice Chair Sanders. It's good to see you again, Kris.

KRIS BOUSQUET: Yeah. Long time no see, sir.

HALLORAN: Mr. Juhnke is absolutely correct, language is important and sometimes can be confusing in the legislation.

KRIS BOUSQUET: Yes, sir.

HALLORAN: And oftentimes we use shall and some-- and sometimes we use may.

KRIS BOUSQUET: Yes, sir.

HALLORAN: And they have significant meanings. Right? So on page 3, section number (2), line 11 says, "shall make preliminary reports on its findings and accept written public comment." Shall would mean you have to.

KRIS BOUSQUET: Yes.

HALLORAN: Right?

KRIS BOUSQUET: Correct.

HALLORAN: Would, would it be helpful-- just a suggestion maybe. Would it be helpful to include maybe a period in there somewhere and say the commission may, at its discretion, decide to hold public testimony?

KRIS BOUSQUET: Yeah, I think we're--

HALLORAN: Because it takes that vagueness out of there.

KRIS BOUSQUET: Yeah. Yeah. To be completely honest with you, Senator, I think-- I think we're open to making this bill better. And if that's

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

a, a clerical change that we need to make to provide clear, concise guidance to the counties on, on, what their role is in this process then we're happy to do so. But the one thing that I want to make completely clear is that we have to do something and-- because the, the process is, is, like other people have testified today, broken.

HALLORAN: But even in spite-- right, I agree with you. So-- but even in spite of maybe changing that language, at least giving people the impression that we're not-- that they're not being arbitrarily excluded from testifying publicly would help, I think.

KRIS BOUSQUET: Yeah, absolutely.

HALLORAN: But the way it's written now, also, though, it's, it's-- once the commission has made its decisions with written testimony, as is suggested here, right, once they've made their, their, conclusions with written testimony it goes to the county.

KRIS BOUSQUET: Correct.

HALLORAN: And there they-- just for clarification, there they can have public testimony.

KRIS BOUSQUET: They're required to hold public testimony.

HALLORAN: Right. Right.

KRIS BOUSQUET: Yes, sir. Yep.

HALLORAN: So at, at some--

KRIS BOUSQUET: So--

HALLORAN: --at some stage after the facts and the checklists are gone through with the planning and zoning, which I, I still think are rather-- I mean, they're, they're, they're pretty mechanical. You, you know, you go down a checklist of things that are necessary to do and then it goes to the county and, and they are, as you say, required to have public testimony. So the public is involved.

KRIS BOUSQUET: Yes, sir. Yep.

HALLORAN: All right.

KRIS BOUSQUET: Yeah, to your point, too, sir. You know, as an application flows through the process, this, this bill, you know, it obviously gives the control to the counties. And if we need to clarify

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

language, we're more than happy to do so. But this, this bill does not change the county's zoning regulations whatsoever. The county still has 100% complete control over what they deem appropriate for their setback distances and the parameters that they base these applications off of. And so the control is 100% the county's. The process that we're recommending for streamlining is the only thing that's really affected in this situation. The, the final decision is still the county's to make. The county commissioners will make that decision. But on the planning and zoning level, we think out of respect for our volunteer Planning and Zoning Committee members, that it would be a really good idea to take them out of the, the court of public opinion and allow them to make a-- an unbiased decision on those regulations as their-- as they see fit.

HALLORAN: OK. Thank you very much.

SANDERS: Any other questions? See none. Thank you for your testimony and explanation of the process. Appreciate it.

KRIS BOUSQUET: Yes, ma'am. Thank you.

SANDERS: Thank you. Any other proponents?

HALLORAN: Bring some ice cream the next time. OK?

KRIS BOUSQUET: Yes, sir.

SANDERS: I see no other proponents. Opponents? Welcome to the Government Committee.

LARRY HUSA: Thank you very much. Larry Husa, last name H-u-s-a, first name L-a-r-r-y. I live northwest of Liberty, the town that was brought up a short time ago. One thing we need to understand is that the Governor has a vested interest in this going through. There should be some level of conflict-of-interest considerations taken in effect. He has a large number of operations similar to what a lot of people are trying to shove into areas. And that is-- that is a conflict and it should be looked into very strongly. Another thing to look at, I was at a lot of the meetings that was mentioned earlier about the Liberty site. The tenor was set when a certain individual called someone that stood up and was against it a drunk and told them to go crawl inside a bottle, several minutes of berating. So the tenor and the tone was set by that individual at that meeting, just so you know. Now, one thing we've heard here from the proponents is a lot of people that are for this process, but there's no thought given to the people that already live in a given area that have their lives built in a farm or a house

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

they want to pass on to, to their generations, their family, their level of quality of life. That would not be possible when you put something like that in the area. We found multiple verified instances of land values going down, businesses having to leave. They're talking about we want to promote business. They want to-- they don't want to promote business. They want to promote their business. And that will come at the discre-- or the-- take, take away from businesses that are already there. For instance, we had one individual in the area that has an outfitting and hunting business and he puts in thousands of dollars of taxes a year. He said he would shut it down in that area because of the odor. Oh, and by the way, about odor, last week I heard on the Beatrice radio, the side up by Adams, there's people 2 miles away that are complaining about the odor. The odor that we were guaranteed was not going to be there. I am very, very proud and very, very happy to say that I was part of the group that helped to stop the site in south Gage County. I hope that this group and this government process looks at the thoughts and the opinions of the people that live in the area, not outsiders. This individual would never be within-- he lives over a half hour away. He would never smell that stuff. We would. It would hurt our businesses and our lifestyle. We live in the south part of Gage County, up where the Wildcat Hills come up out of Kansas. Beautiful area. Awesome place for tourism as far as hunting, fishing, eagle tourism, things like that. That would not be possible if you place things like this in the area, because the odor and the site of it would drive people away. I did not know when I came here that you'd be able to speak like this. I'm very gratified for it. But if anybody wants to have-- we came up with a lot of verified information against these CAFOs and putting them in areas from all over the country, and if anyone would have any interest in getting any of that information, I'd be more than happy to take an email address. I'll bring it up to you personally, the information that we went off, off of and the county went off of to make their decision. This is a process that's being made by a Governor with a conflict of interest and by businesses, a parade of people coming up here that all have a vested interest in it being pushed through. That's all I have. Thank you very much for your time. Any questions?

SANDERS: Are there any questions? See none. Thank you for your testimony, Mr. Husa?

LARRY HUSA: Husa. Yeah.

SANDERS: Husa.

LARRY HUSA: Czech.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: Thank you very much.

LARRY HUSA: Thank you.

SANDERS: Any other opposition? Welcome.

MARK SCHOENROCK: Good afternoon, Vice Chairman Sanders and members of the committee. My name is Mark Schoenrock, spelled S-c-h-o-e-n-r-o-c-k. I appear before you today representing Jefferson County and the Nebraska Association of County Officials. I was born and raised in Jefferson County to a farming family, and I have a deep and abiding love for agriculture and for ranching. I am proud to call Nebraska home. Upon graduation from the University of Nebraska College of Agriculture, I served our country as an Army officer for over 40 years. And upon returning home to Nebraska, I became a Jefferson County Commissioner. I'm going on my ninth year of service as a commissioner, and 3 of those as county board chairman. I also was elected and served as the Nebraska Association of County Officials southeast area director, representing 17 counties in southeast Nebraska. In all my service, I have strived to always do the right thing, to do what's best for our citizens, that we as elected officials represent and to serve liberty and freedom. It is a sacred trust. The county elected officials with whom I serve in Jefferson County and from across Nebraska share that trust. One of the most important foundations of our republic is that government is here to best serve our citizens. It is of vital importance that our citizens have every opportunity to participate in the process of government at every level and at every step. As the north portico of our Capitol reads: The salvation of the state is watchfulness in the citizen. This is especially important in Jefferson County, who over the recent past, we have held numerous public forums regarding our zoning regulations pertaining to commercial wind energy systems and confined animal feeding operations. These are controversial subjects and it's of vital importance that our citizens have the opportunity to voice their views. Whatever government decides needs to reflect the will of the people and the public input is curtailed to reflect only written public comment. That is bad public policy. And, Senator Halloran, I appreciate very much your recommended revisions to this flawed bill. That's very, very important. If we do this, respecting the opportunity for the public to come and voice their view in these hearings, that does not make the process transparent. And it's not out in the open where it needs to be. And I speak firsthand, some of these hearings can get to be very emotional, but that has to be out in the public forum, not in written comments. Additionally, the bill places county or local approval based solely on county zoning regulations and not on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

rules and regulations of such state and federal agencies. That also is bad public policy. As applicable, state and federal regulations need to be considered at the local level during the local process, not after. Additionally, the bill calls for a maximum of 90 days for the county board to decide on conditional use permits of special exceptions. This also is bad public policy as well, because the process could take much longer for the county or the local governing board to ensure that it has all the necessary facts and has the appropriate input, such as studies and other input before making a decision. It appears that the intent of this bill is trying to jam something through without public knowledge and input and without appropriate time to ensure that it's good policy for our citizens. It's a-- it's a responsibility that we in local government take very seriously. And I would ask that you please do not support this bill as currently written. We, the Nebraska Association of County Officials, would be very willing to work with Senator Lowe to make some revisions to this bill. But as it's currently written, we definitely stand in opposition to this bill. It is bad public policy for Nebraska. And with that, I'd be happy to take any of your questions.

SANDERS: Thank you, Commissioner Schoenrock. Appreciate your insight and thank you for your service to our country.

MARK SCHOENROCK: Thank you. I appreciate that.

SANDERS: Are there any questions? See none.

MARK SCHOENROCK: OK.

SANDERS: Thank you very much.

MARK SCHOENROCK: You bet. Thank you.

SANDERS: Welcome to the Government Committee.

JONATHAN LEO: Thank you, Senator Sanders. My name is Jonathan Leo. I live at 2330 Royal Wood Drive in Omaha. Jonathan is J-o-n-a-t-h-a-n, Leo is L-e-o. I practice environmental land use and administrative law as an attorney in a municipal law office, as well as in a large private law firm. I'm currently of counsel with the Richman Law and Policy law firm. Sections (2)(d) and (3)(b) of this bill eliminate, as I now understand better before I came into this hearing room, eliminate the obligation of planning commissions to hold public hearings in virtually every area of their statutory authority. They do not prohibit the holding of public hearings by planning commissions. I especially want to thank Senator Halloran for pointing this out. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

actually had read this ambiguously and thought that it was possible that this bill would prohibit county planning commissions from holding public hearings, not just with respect to conditional use permits, but with respect to all matters. I now understand that's not true. I agree with Senator Halloran, this bill must clarify that and state explicitly that planning commissions in every county may, at their discretion, hold public hearing-- one or more public hearings if they choose to depending upon the nature of the permit being applied for. I still oppose this bill because it removes the obligation of planning commissions to hold public hearings. I believe very strongly, having seen these hearings, both with respect to Lincoln Premium Poultry, broiler chicken barn applications for conditional use permit in Saunders County and in Lancaster County, as well as the second of the two, Summit Pork, Otto Acres [SIC] permit applications for conditional use permits for swine CAFOs in Gage County. Democracy, as you all know and we all know, is a messy process. That's why Winston Churchill said it was the best kind of government-- the worst kind of government until you see all the other kinds. Conditional use permits are the messiest kind of land use and zoning permits because they are conditional. They are-- county governments can define for themselves what kinds of land use permits pose threats, potential threats, public health threats, land, land use threats depending upon the activity. A-- an animal feeding operation, huge land animal feeding operation of the largest kind poses certain public health threats as well as environmental threats. Liquid hazardous waste treatment facilities and solid waste facilities pose certain kinds of threats to public health and the environment. Renewable energy facilities pose unique kinds of dangers. All of these are properly dealt with in the land use permitting process through conditional use permits because the neighbors, the surrounding landowners, the project proponents, the businesses, and the county leaders appointed and elected need to understand from as wide a range of possible interested parties what are the concerns, legitimate or illegitimate, about this particular kind of controversial use? It's also why I think that having an arbitrary 90 day, deemed approved provision on all conditional use permit reviews is arbitrary and, in fact, incentivizes both rushed judgments and, and rushed information gathering processes, depending again upon the particular permit being applied for, and could incentivize artificial and arbitrary delay by members of planning commissions or by county boards who know that-- who want the conditional use permit to be approved know they don't have the votes and arbitrarily seek to get more information in order to move that 90-day limit closer so that it can pass without a vote and be deemed approved. I think that has inherent problems. I realize I'm about out

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

of time. I would love to field your questions because I think that this is-- what's been painted so far is, I believe, a misrepresentation of what the conditional use permitting process necessarily entails. You need to have the public given every opportunity, especially with 10-day notice periods of hearing initially before a conditional use permit comes before a planning commission, as is often the case in many, many county zoning regulations. People don't-- I mean, people-- most people-- most citizens certainly who don't already have a vested interest in this, and that is pretty much the majority of citizens in every county don't see a notice coming in a public paper for 10 days. May not drive by the county road where there's been a posted notice that may, in fact, be in a ditch off the county road near where the property that the operation is going to take place is and not be visible or not be obvious. So there are reasons why this process needs discretion, requires discretion on a case-by-case basis, depending upon the land uses and the neighbors in each county and, and near where the operation should be submitted. Thank you for your attention and I appreciate your consideration.

SANDERS: Thank you, Mr. Leo. Let's check if there are any questions for you. See none. Appreciate your input.

JONATHAN LEO: Thank you.

SANDERS: Thank you. Other opponents?

MISTY AHMIC: Hello.

SANDERS: Welcome.

MISTY AHMIC: Thank you. My name is Misty Ahmic, M-i-s-t-y A-h-m-i-c, and I am representing Seward County. I am the current Chairperson for our board. Prior to being on our board, I was a member of the Seward County Planning Commission. During the time I served on the Planning Commission, we had 36 broiler barns and eight breeder barns for chickens who requested conditional use. Every one of them had a public hearing, and all were recommended for approval to the Board of Commissioners at the time. You see, Senators, Seward County is ag friendly. We bring ourselves to the table and have educated conversations at public forums or public hearings. These meetings have served as a place for open, transparent discussion for years, a place for many of the organizations in this room to come to the table and provide information alongside our producers. Many neighbors and friends come to these hearings to share their apprehension and ask

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

questions. And if any negativity or misunderstanding was present prior to the hearing, I'd say that 95% of the time it vanished by the end, which is why they should be required. I'd also like to say that for us and for many counties, planning commissions are in the evening, which is a really convenient time for the public and for neighbors to come to the table and to ask those questions. I'd also like to talk about those 90 days and break it down for our county. In Seward County, you have to turn in your permit 10 days before the Planning Commission meeting. If you do it 9 days before, you get pushed to the next month, so you're at 39 days. If that month happens to have a holiday, which is a Monday, you're now at 46 days. If that hearing you forget a piece of information or the Planning Commission tables to the next meeting, that's now 69 to 76 days. After that, the hearing must be posted for the Board of Commissioners' meeting and that requires 10 business days. But our county's paper is posted every Wednesday, and the deadline for submission is on Fridays, adding an additional 10 days. So in the very best scenario, that's 90 to 103 days and an auto approval would happen even if an error was on the part of the applicant. So simply put, the process takes longer to allow for any-- to allow for any follow-up questions to be answered. Something as a county we should be allowed. So of course we would be willing to work on that and we understand that the process should be-- we should be diligent with that process. Follow up doesn't always need to happen, but sometimes it does. NACO has given me the opportunity to meet other officials statewide, and I truly believe that 98% of our Planning Commission members, our county board members, and our counties in general are here to help our producers, our developers, our neighbors, and our friends accomplish their dreams and their goals. At the local level, we go out of our way to make the impossible happen because we want to see our communities thrive. Please don't enforce unnecessary legislation on those doing the right thing, because there are a few of us that are not. Thank you.

SANDERS: Thank you for your testimony, Ms. Ahmic?

MISTY AHMIC: Ahmic.

SANDERS: Ahmic.

MISTY AHMIC: Thank you.

SANDERS: Thank you very much. Let's see if there are any questions for you. See None. Thank you.

MISTY AHMIC: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: Opposition? Welcome. Go ahead.

EMILY HAXBY: My name is Emily Haxby, H-a-x-b-y. I am a wife, mother of 4 young children, a fifth-generation farmer, deeply committed to both my family and our community. Our farm focuses on corn, soybeans, and we've expanded into a successful cow-calf operation. Since getting married, my husband and I have diligently grown our herd, which now stands at over 100 pair, making us a significant contributor to the local agricultural landscape. In addition to my farming responsibilities, I also serve on the Gage County Board of Supervisors, a role that has given me a unique perspective on the intersection of agriculture, regulation, and community welfare. I want to emphasize the critical importance of transparent and inclusive public hearing processes. These processes are not just about allowing the public to voice their concerns, but about affording the applicants the opportunity to respond constructively and potentially adjust their plans to benefit the community. Openness and transparency breeds success, ensuring that all stakeholders have a voice and fostering an environment where dialogue can flourish. One crucial aspect often overlooked in these hearings is the human element of the ability to hear the inflection in people's voices to gauge their concerns beyond mere words on a page. This is especially relevant when discussing matters as vital as water quality, which consistently ranks as a top concern among the public. As stewards of our constituents' health, safety, and welfare, it's our job to prioritize protections and monitoring against any mistakes that could impact not only this generation, but for those to come. Furthermore, the notion that if an applicant meets these regulations and their proposal shall be approved is deeply flawed. Regulations cannot possibly anticipate every circumstance, present or future. That is why the public process is so vital. It allows flexibility and considerations of unique circumstances, preventing more rigid regulations. Hastening this process undermines the very essence of public input and risks overlooking critical community concerns. I must echo the previous sentiments that 90 days is simply insufficient. Proper public notification, information gathering, and thorough research cannot be rushed without sacrificing the integrity of the process. Finally, I must address the absurdity of the section prohibiting county board from requiring applicants to obtain necessary permits. This is a shortsighted approach. Permitting is not a bureaucratic hurdle, but a fundamental aspect of ensuring that proposed projects adhere to the necessary standards and regulations. Without this safeguard, we risk unforeseen consequences that could jeopardize the very projects we seek to approve. If a permit cannot be-- cannot be received for a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

specific aspect, it can change the application that was approved. I urge this committee to reconsider the implications of the proposed legislation. As a farmer and a cow-calf producer, this legislation deeply disappoints me. It feels like bullying, which is a stark departure from the values that I was raised with. Let us not forget the values of good neighbors and open communication that have long defined our communities. Let us prioritize dialogue, respect, and proactive measures to safeguard our environment and well-being. As someone deeply proud of the agricultural industry I have grown up in, I implore you to remember that true progress is rooted in understanding, collaboration, and care for our neighbors. And as Gage County was brought up a few times, I'd like to clarify a few things. We have law enforcement at every single one of our meetings, not specifically. These contentious, contentious issues go both ways, not just the opposition. Rules and regulations do not ruin relationships. It's how they-- it's how people are treated. And they say it was delayed, typically, our Planning and Zoning Board only meets once a month. And on both of these situations, they were meeting every 2 weeks. Three years I have been on, on the board. We have passed 2 and denied 1. The first one had zero opposition there because they had spoke to their neighbors and had gotten good neighbor agreements and made that relationship prior to coming to our board. If a checklist is required, it could-- it could end up adding more regulations to the process. And then as for the water monitoring wells, it was a suggestion that was made to help protect the constituents and to protect the applicant for any nitrate issues in the future. They had taken that on their own and added that to the permit. So why, why do we need-- and we-- and we ended up putting it in the condition of the-- of the passing of that, that permit. So I just think that if we have problems, we need to start talking to a-- to each other instead of forcing something through because it's just not a good look for agriculture. Thank you.

SANDERS: Thank you for your testimony, Ms. Haxby. Let me check to see if there are any questions. See none. I appreciate you coming down today.

EMILY HAXBY: Thank you.

SANDERS: Thank you very much. Opposition? Welcome.

KORBY GILBERTSON: Good afternoon, Vice Chair Sanders, members of the committee. For the record, my name is Korby Gilbertson. That's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm here today on behalf of Media of Nebraska, Inc., in opposition to LB1375. Media of Nebraska is a group

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

of both print and broadcast media that limits their interest just to First Amendment open meetings and public records issues. So, obviously, I'm here today to talk about the, the open meetings aspect of this bill. Yes, we fully are aware that they could-- that groups-- political subdivisions can hold a hearing. But we also know that every time we have changed anything in the public meetings law, it has become the practice. It hasn't changed and there's been questions, been more hearings. I think one thing that concerned me about saying, well, let them decide when you have a hearing. If the goal of this is to focus on having objective decisions made, having a group have the subjective right to decide which issue they will have a hearing on is frankly dangerous because it lets them choose who they want to listen to. And I think all of you understand the issues of not having a public hearing or when we were during the pandemic, having only the written testimony and how that served-- it was a problem because you could not have that give and take that you can have with people that come to hearings. And, obviously, there were numerous people that testified in support of this so they saw the value in having a public hearing. The second reason I wanted to-- I volunteered to testify today is one of the proponents said this isn't a problem because you can always testify at the county board level. That is simply not true. County boards don't have to have hearings on these. They don't even have to do anything unless it is appealed to the county board. So a lot of people, just normal members of the public, do not realize that. And that isn't true in every county. I do know it is true in Lancaster County, because I've dealt with this myself, and I knew the law and knew enough to know that we had to appeal. Now, if folks don't know that, you cannot say that there is a fair amount of involvement in the process. So we would argue that it is-- it is a necessity to bring back the, the mandatory public meetings. And with that, I would be happy to answer any questions.

SANDERS: Thank you, Ms. Gilbertson. Are there any questions? See none. Thank you very much--

KORBY GILBERTSON: Great. Thank you.

SANDERS: --for taking the time. Any other opposition? Welcome to the Government Committee.

MARGARET HAITH: Thank you, Senator Sanders. My name is Margaret Haith, spelled M-a-r-g-a-r-e-t H-a-i-t-h. So I strongly oppose LB1375. I live in Gage County. And one thing I would like to get clarified, I attended the same planning and zoning meetings and the same Gage County Board of Supervisors meetings that had opposed the last CAFO

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

application in Gage County. So those meetings are recorded. So instead of taking someone's word for how bad they were, how contentious they were, I recommend maybe you just go to the Gage County Board of Supervisors website and they are-- the live meetings are posted. The recordings I mean are posted on that website, so you can listen to them yourselves to see how professionally those meetings were handled. So I'm not going to go into my next part that I think everyone has had a lot of confusion here about the public hearings were going to be eliminated from the Planning and Zoning Commission. So I think a lot of people, they just literally took it, that was struck out on the-- on the record and that's what it looked like, they were not going to allow those. And I think enough has been said about the importance of having the public hearings for the county and zoning, too. One thing I would like to point out, though, is that I don't think this can be a one size fits all. Every application is going to be different, and just having this generalized checklist that somebody needs to go down, well, they got this and they got that and they got something else. OK, fine, here's your permit. I just-- I just don't see that that is going to be-- there's going to be mistakes made in doing it that way. And let's see-- and then, yeah, and the 90 days, I agree with that, too, that there, there is just, just no way that in 90 days to do the research that we had to do. And even though-- the, the state had given permits for some of these things, some of the people that opposed that last CAFO, they, they went and talked to some of these people at the state and got their own information, and they came to find out that nothing about that information was accurate. So they-- then they had to come forward with the, the information that they had found. I don't know, I'm kind of rambling now, but like I said, I've just really had to change from what I had handed in or written down for, you know, to testify. But mostly it's just, yes, I've been through that process. I know the importance of having these public hearings and not just letting them decide. Make them have them, the, the planning and zoning and the Board of Supervisors, and not limiting this to just being a 90-day thing. If you're not-- if you're not approved or denied in 90 days, then you're automatically going to get that permit. That is just not realistic, so. Any questions?

SANDERS: Margaret, thank you so much for being here today. Appreciate it.

MARGARET HAITH: Thank you for listening and public hearings are a very important thing.

SANDERS: Thank you very much. Are there any other opponents? Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

FAYE SMITH: Good afternoon, everyone. My name is Faye Smith, F-a-y-e S-m-i-t-h, and I am a commissioner for Rock County, which is located in the north central part of the state. I'm very proud of the fact that I live, work, and have raised my family on a ranch in the Sandhills of Nebraska that was homesteaded by my husband's great-grandfather in 1884. That's 140 years ago. My grandchildren are the sixth-generation to call our ranch home. So LB1375 is very concerning to me, and I am not in favor of the proposed changes. The bill is asking to eliminate public hearings and, and, therefore-- I, I know we have talked about this in other testimony, but when something has a strike in, in the bill, to me it looks like they don't want to have them. So it's very misleading. So I'll just go ahead and read it: Or oral comments from county planning commissions when considering conditional use permits or special exceptions. Public hearings and oral comments are important because written statements can be misinterpreted with no chance for clarification. Complete transparency is needed, even at the risk of being redundant when granting a permit that can change the landscape of a county forever. County residents have a vested interest to keep their property viable for future generations, and they deserve the right to stand up and defend it. It is also asking that counties face their decisions solely on county zoning regulations, and not on rules and regulations of state and federal agencies, including regulations governing water quality such as the NRD. Our number 1 natural resource in the Sandhills is our pure, fresh water. We depend on it for our livelihood, and we have an obligation to protect it. The bill is also asking that counties act within 90 days upon the receipt of a completed application or the permit would be granted by default. Scheduling, advertising, holding meetings and decision-making take so much time and it should not be rushed, especially at the risk of a permit like this being granted simply by default. So to quickly summarize: number 1, public hearings and oral comments should definitely be allowed; number 2, state and federal agencies and outside expertise should be able to be considered; and number 3, permits should not be granted by default. Thank you very much for allowing me this time.

SANDERS: Thank you very much for being here. And let me check to see if there are any questions for you. See none. Thank you, Faye Smith,--

FAYE SMITH: Thank you.

SANDERS: --for being here. Thank you. Any other opponents? Welcome to the Government Committee.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

HELEN L. GREER: Thank you. Thank you for welcoming all of us. It's wonderful to be before you, Senators, and everyone else. I'm Reverend Helen L Greer. My nickname is Penny, and that's how most people know me. I'm not a farmer, and my family isn't, but I grew up here in Lincoln. My grandfather started Woods and Aitken. He was with Tom Woods, who did that. And my great-grandfather was the first banker in Lincoln. It said he actually loaned his own personal money to the bank during one of the serious depressions at the end of the 19th century. So we have a lot of family stories about-- that's, that's where we have really made a difference as a family. I'm a pastor and ordained minister in the United Church of Christ, but I speak to you on my own accord today, and I speak in strong opposition to this bill. First of all, I want to clarify, as we've been talking about the possibility of commissions holding public hearings, there is a lot of other material in the bill that has been struck and its public hearings on page 3 toward the bottom. It looks to be that they would be forbidden to summon witnesses, administer oaths, and compel the giving of testimony. So there are a lot of-- this bill easily looks as though it prohibits public hearings and any proportion of a public hearing that needs, needs to occur looks to be prohibited. What I want to do today is a little different, I preach every week so I want to take you back to a different kind of place. I want to take us all back to the arrival of European settlers on our continent, who organized small towns in England. And if any of you have traveled there, you will immediately notice the church is often at the center of the village square, and it was historically often accompanied by a tavern and maybe still is. Pilgrims and then Puritans came to New England seeking religious freedom and better economic livelihoods. This building was called a "meeting house" and it was designed to be a space for discussing local issues, engaging in town business, as well as a space for conducting worship. As separating church and state became law, settlers changed the meeting house, putting worship in a different space within the house, sometimes on the second floor. The point is, governing themselves was essential, reflecting the same values we Nebraskans hold dear: self-reliance, democratic process, and honesty, to name a few. And the very design of the center of the village reflected this priority, even though we now know so many were excluded from such assemblies until recently. Many New England communities still use open town meetings for basic decision-making, and thank goodness all residents are included in the process. With such an elemental tradition that has shaped us as Americans, it's difficult for me to comprehend this bill, assuming that public meetings would no longer be required. Written comments can never suffice for the far richer interplay of oral advice, wisdom and expertise given by a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

diverse group of participants as county planners and commissioners attempt to make these decisions. I've testified in some of these settings, and I've observed county officials listening closely, taking in varied testimony. And in some cases, making public comments about how they have just learned something new. Simply reading comments could never be the best venue for this essential kind of work and reflection. In addition, how would this bill not further erode public trust that a person's or county's representatives, at whatever level, would not be looking out for their best interests, balancing them with other interests? Further, the 90-day automatic approval provision seems to me to be a direct invitation to any officials who might wish to delay any consideration of a proposed special use permit, such that the permit would automatically be approved after that time period without any kind of critical evaluation necessarily. So I strongly urge you to vote against this bill and not to allow it out of committee. Some other kind of-- some other kind of bill is needed for some of the changes that our proponents have suggested. Thank you for listening.

SANDERS: Thank you for your testimony, Penny. Appreciate you coming down.

HELEN L. GREER: Oh, thank you for listening.

SANDERS: Let's see if there are any questions for you. Are there any questions? See none.

HELEN L. GREER: So we'll all go to New England and take a look.

CONRAD: That's right.

HELEN L. GREER: It is amazing. Even though towns are, you know, reviving themselves, and even though churches may have closed, the church is still in the center and it's called the town hall-- town meeting hall. Yeah. Thank you.

SANDERS: Thank you. Welcome to the Government Committee.

SCOTT RYAN GROPP: Thank you. Thank you for having me, committee members. My name is Scott Ryan Gropp, and that is S-c-o-t-t R-y-a-n G-r-o-p-p. I own Gropp Law and Mediation in Wilber and Fairbury. I also have real estate here in southwest Lancaster County. I would tell you that I'm here in opposition of LB1375, specifically the elimination of public hearings. And let's be honest, it's my belief as a cynic and probably a defense attorney most of the time that the actual intent of this was to eliminate public hearing. We have found a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

creative way after the backlash to make it look like that that wasn't the intent, but I believe that actually was the intent. So let's be real about that. I'll probably go off script because most of the stuff that's in here I already have heard said by others, but there were some concerning things. In conditional use permits, not only when we talk about livestock, but as was mentioned earlier, we have them for commercial wind energy systems and those type of things. And I think one of the scariest thoughts is that if we eliminate the public hearing requirement, it's like asking my children to do the dishes versus requiring them to do the dishes. It's not going to happen unless it's required. And if it's not required and we don't have public discourse, there are other negative consequences. I'm sure you're aware there is shenanigans in the government. It happens. And I would point out that I have included on page-- it's actually page 3 of my handouts labeled as 1, 2, and 3. I've redacted some things to protect the somewhat innocent. And, again, the cynic in me would just have you turn to what a planning and zoning meeting agenda looks like for this particular place in December of 2021. And if you look at item 3, it says: Review of current zoning regulations. That's what was published in the paper, that's what the public was made aware of, and most of the people that retained me there after this meeting said, I'm not going to go to that, I don't know what that's about. If you look at the minutes from that meeting-- again, redacted-- the important thing to note that there was almost nobody that spoke at that meeting except for public comments concerning wind farm noise. If you'll note, the first person that spoke was from Maynard, Massachusetts, the second person was from Hamilton, Ontario, Canada, the third person at the meeting that spoke was from Omaha, and the next person that spoke was from Clay Center, Kansas, and the last person that spoke was Mr. Jones from Florida. Now, I think it's important to understand that you have people who are the gatekeepers of information, even when it comes to public meetings, and it strikes me odd, and it struck my clients as odd in this situation that you had an agenda item in the paper that said: Review of current zoning. Yet, you had people from multiple states and Canada coming to a meeting in small town Nebraska where there was almost no opposition. So the next meeting or the I think there may have been one in the interim, if you'll note, is page 3. And after public hearing, it seems that there was more interest in putting what was actually going on at the meetings. So it's very important, I think, that we have the ability for the public to come in and talk about these things. The planning and zoning guys that I know, gals, guys, some of them I've represented on personal levels with their farming and other interests and I'll tell you, if it's going to rain on Thursday and there's a Wednesday night planning and zoning meeting,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

many of them that are honest will tell you I opened the packet I received on the way up the steps to the courthouse meeting. That is not their fault. They are doing everything they can. They're working as hard as they can. We need the public meeting to make sure that there is free and open discourse about what is there. I will tell you that at some of these meetings, they have been provided information that is flat out incorrect by a planning and zoning administrator, that has a certain skew to it. And so I'm not saying that there's corruption. What I'm saying is we have to make sure that everyone has a chance to have their voice heard, because submitting a comment doesn't necessarily mean it's looked at before there's a decision. And I would also say I was at a, a hearing for the commissioners in a county and planning and zoning had approved a meteorological tower. And when it came up, there were a number of people in the public who expressed concern to the commissioners, and the county attorney explained to the commissioners that because planning and zoning had already approved it, they had no option but to approve it. So if we eliminate the public option at the planning and zoning level and the attorney would recommend that no one can have any input at the county commissioner level, you essentially eliminate everyone. And some people have said up here that we have a broken system because it's not easy for one side to get what they want. That's not how it works. And so I would ask that LB1375 be opposed in its entirety, and I think that if there is language that's adopted in other areas with regard to the public hearing, it should be mandatory for 2 public hearings. Keep it the way it is.

SANDERS: Thank you, Mr. Gropp, for your testimony. Are there any questions for Scott Ryan Gropp? See none. Thank you very much.

SCOTT RYAN GROPP: Thank you.

CONRAD: Thank you.

SANDERS: My staff needed to talk to me.

ASHLEY MASON: Oh, OK.

SANDERS: She wanted to--

ASHLEY MASON: That's OK.

SANDERS: --wait to in-between testifiers.

ASHLEY MASON: Thought you wanted me to move forward.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: Thank you very much.

ASHLEY MASON: I'm working on it for you.

SANDERS: Welcome to the Government Committee.

ASHLEY MASON: Thank you, Senators, for hearing us today. Ashley Mason, A-s-h-l-e-y M-a-s-o-n. I appreciate that we have these hearings, so I don't mind being redundant. Today, I bring to you-- your attention the critical implications of LB1375, a legislative proposal that could profoundly affect our democratic process. LB1375 aims to eliminate the requirement for 2 public hearings, endangering the democratic foundation of permit approvals. The current 2-hearing system at the local county level is not bureaucratic red tape or cumbersome. It safeguards comprehensive community input and scrutiny, preventing decisions without full-citizen participation. Written comment has always been welcomed and appropriated by those who can't-- and appreciated by those who can't attend. When government is given the option to not hear the public, there is a known track record of the government to avoid the public. This option, LB1375 offers is very risky to all public citizens. Proponents keep saying that they want this bill to help streamline things. However, at a county level, it could change from one year to the next based on who is sitting at the county board. Reducing public hearings limits opportunities for communities to voice concerns, ask questions, and understand proposed developments. This jeopardizes thorough assessments of complex projects, potentially leading to overlooked long-term consequences for all citizens. Two public hearings contribute to transparency and accountability, ensuring decisions undergo rigorous public scrutiny. Reducing hearings compromises transparency, enabling decisions with less oversight. If this public hearing process that has been in place for decades has actually limited the ag industry, then we would not have the thriving ag industry that is the backbone of Nebraska. The argument that we need to streamline the process to increase the ability for growth is null and void when you look at the continued growth of the Nebraska economy. While it may seem like a great, cumbersome area to the Governor and producers who want their permits approved to assure there is no loss in cost and a faster ability for them to be making money, we must remember that this process is put in place to protect the entirety of the public, including the producers themselves. While it may feel to some that these planning and zoning hearings cause neighbors to be emotional and biased, it doesn't change the fact that the process is in place for the long-term safety of all. There are also risks of unforeseen consequences, as complex projects may reveal hidden impacts after public scrutiny. Limiting hearings

increases the likelihood of approving projects without understanding their long-term effects. The elimination of the second public hearing may overlook valid community objections disproportionately affecting vulnerable communities. Two hearings ensure their voices are genuinely considered in the decision-making process. This legislation's repercussions extend to legal challenges over rushed decisions without adequate public input. The current 2-hearing requirement minimizes legal disputes and ensures thorough consideration. It was my personal experience when viewing the Gage County meetings that tensions run high when business owners are unwilling to abide by common knowledge, friendly neighborhood rules such as being kind, respectful, honest, and having open communication with their neighbors. With this rare experience across the state-- while this was a rare experience across the state, Gage County has experienced the heavy, harmful hand of landowners when they insist that their profits should have more weight on the county than homeowners. I would also like to clarify that in Gage County law enforcement attends every county meeting, and it is not a special occurrence. You guys have law enforcement here today. I don't think you would consider it special either. This is exactly why this process is completely necessary. It is entirely frustrating to have board members that put self-interest above following the rules and laws, but the answer is to elect new board members, not to relinquish oversight and transparency to the public. Just because there is passion amongst community members is no reason to remove the parts of the democratic process. As a Gage County resident, I attended all of the Otto hearings and I do agree with the Ottos. I, too, was disappointed by a few planning and zoning meetings and the behaviors of those who spoke. Both sides, the applicant and the community, had tense moments. While our P&Z Board is a volunteer board, they did take the time to fully understand before voting. It is an example of a dedicated community member. Why would we want to rush any permit through the process with a deadline of 90 days? I am incredibly proud of our elected supervisors. They may have tabled the permit request multiple times, but that was to ensure they heard both sides clearly before moving forward and thankful that in Gage County we do have the ability to come and testify at public hearings and express our concerns. In conclusion, LB1375's removal of our second public hearing poses a significant threat to our democratic values, public input, transparency and accountability. As responsible citizens, we must question moves compromising the foundation of our democracy. The citizens embodied in the second house of Nebraska should have more control than the Governor in shaping our community's future. Attending planning and zoning hearings is the easiest way for citizens to be active and a 90-day time frame is unrealistic. Let us stand united in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

preserving our democratic process and not let this bill out of committee. Thank you.

SANDERS: Thank you, Ms. Mason, for your testimony. Much appreciated. Let me check if there are any questions from the senators. I see none. Thank you very much.

ASHLEY MASON: Thank you.

SANDERS: Any other opposition? Welcome.

JOE NEARY: Thank you. Thank you, Senator Sanders and fellow committee members. My name is Joe Neary, J-o-e, last name is N-e-a-r-y. I reside at 7522 Shirley Street in Omaha, Nebraska 68124. I'm here today to oppose LB1375. My background is as a commercial-- 40 years as a commercial real estate broker in the Omaha area and a real estate developer. And we also own both industrial and residential real estate in, in 3 Nebraska counties. As a commercial broker and a landlord, my experience is helping businesses find new locations to either rent or-- rent or purchase new locations. So my background is primarily in the business world. I also spent 10 years as an elected official at the Papio Natural Resources District in Omaha, representing my part of Omaha. And because of my NRD work, I have become-- I have become involved in the conservation community. I continue my conservation work. I'm not-- no longer on the board, but I continue that work on about a 400-acre conservation farm that we own. And also I have joined a, a group in Lincoln called-- which is based in Lincoln called Guardians of the Aquifer. I've worked many times with the city of Omaha Planning Department, city of Omaha Planning Board, city of Omaha Zoning Board of Appeals. I've also worked with the Lincoln Planning Department, and I realize those experiences are a little different than what you're talking about today. You're mostly talking about rural planning commissions and county boards, but I feel the process is similar. And all the times that I've worked with those planning departments and boards, they always require neighbor input to whatever project or thing we're proposing. These, these boards always want to know that I, as the applicant, have worked with the neighbors to resolve their concerns the best I can. And it, it-- this-- that function at the planning board level seems to be a fundamental function of planning boards to appease the neighbors of whatever project is being proposed. LB1375 would not allow water quality to be considered at all. Water quality and water, water, water quantity, in my opinion, is Nebraska's future. Water quality affects public health. We must protect our surface water and groundwater. Nebraska is already experiencing nitrate issues already. We can't allow LB1375 or any

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

other new law that I feel could jeopardize water quality. LB1375 also seeks a 90-day limit on rural planning board actions. After the 90-day period, the zoning action is considered approved. These rural CAFO actions can be complicated, 90 days, in my opinion, would encourage potential planning board members to just want to get it over the 90 days and then it's approved and then they can say, well, the clock ran out and, and it's approved. And I think that could happen with a-- with a LB1375. Iowa has already substantially damaged their water quality. It's been well written and well documented. Most of that has been through unregulated agricultural practices and extensive CAFO development. As you-- as you should all be aware, Nebraska is experiencing major issues in the Mead area from the AltEn development. We need open dialogue and to have county planning boards that consider all issues, including water quality and public health issues when they consider such projects. Former Governor Ricketts and current Governor Pillen think that more CAFOs in Nebraska are a solution to strengthen our rural areas. While I believe on the surface that sounds like a good-- sort of a good idea to diversify more opportunities for young people to return to the farms, I believe LB1375 is an attempt to speed up the CAFO development and I don't know that-- I don't know that we want that.

SANDERS: Mr. Neary, your time has run out. You can wrap that up.

JOE NEARY: Please reject LB1375.

SANDERS: Perfect.

JOE NEARY: Thank you.

SANDERS: All right. Well, thank you so much. Don't, don't go anywhere. Let's see if there are any questions.

JOE NEARY: OK.

SANDERS: Are there any questions for Mr. Neary? See none. Thank you for your testimony.

JOE NEARY: You bet. Thank you.

SANDERS: Spot on. Thank you. Welcome to the Government Committee.

LINDA DUCKWORTH: Thank you, Senator Sanders and members of the committee. I'm Linda Duckworth, L-i-n-d-a D-u-c-k-w-o-r-t-h. I live in Omaha. However, I am reading this testimony on behalf of Claudia Stevenson of Ogallala. She is the director of our National Resources

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

and Energy Committee for the League of Women Voters of Nebraska. So this is testimony on the, the LWVNE's behalf. The League of Women Voters of Nebraska supports clean drinking water for all-- for all Nebraskans and Americans. We believe that measures should be in place to protect water from contamination and pollution, both from direct point-source discharges and from indirect nonpoint sources. We support the effort to clarify the regulation, but are concerned about some of the provisions, and we are concerned the language does not address its intended goal to streamline and define the process. The League appreciates the timeline added to this legislation of a 90-day clock to encourage zoning committees to make a timely decision on an application for a special use permit and owner of a business should have the right to a timely decision. However, we object to the wording in this bill that would automatically give a yes decision or vote if the committee chose to delay its meeting time to 91 days after the application has been received or if a county has no zoning committee or commission in place. With either of these 2 outcomes, there is no chance for a review to take place and to adequately assess the proposed application. The bill leads to confusion and no clear statement that the granting of a special use permit will be evaluated to ensure water quality will be guaranteed after construction. The addendum that is the second page of, of this, I'm not going to read, but here's a little bit about that. In fact, some provisions appear in direct conflict with later provisions. For example, Section 1, part (4) (b), lines 24 to 30 seems to contradict Section 1, part (7). Section 1, part (7) reads as a contradiction with itself. The bill's stated intent is to streamline the process, but the language being added only further complicates the regulations. Finally, the LWVNE believes that government bodies must protect a citizen's right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible before eliminating the option for counties to hold 2 public hearings for the same permit application. For these reasons, the League of Women Voters of Nebraska asks you indefinitely postpone or take no action on LB1375.

SANDERS: Thank you very much for your testimony. Let's see if there are any questions. See none. Thank you very much. Any other opposition? Welcome to the Government Committee.

KENNETH WINSTON: Thank you, Vice Chair Sanders. Good afternoon, my name is Kenneth Winston, K-e-n-n-e-t-h W-i-n-s-t-o-n. I'm appearing on behalf of the Bold Alliance in opposition to LB1375. The Bold Alliance works to protect the land, air, and water from pollution and strongly supports efforts to protect fundamental, fundamental rights to own property. And we have a number of reasons why we are opposed to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

LB1375. I won't read my testimony, but I'll just kind of run through what our-- what some of these reasons are. Well, first of all, I am an attorney. I've been practicing law for 41 years, and it appears to me that, that the language would eliminate the ability to hold public hearings. When words are stricken, that-- that's an intentional act by a, a legislative body. So I don't know how they would hold public hearings when the statute says-- when the statute does not give them authority and when it's specifically been stricken so I just wanted to mention that. Open public meetings are often one of the best tools to protect private property rights from proposals, as you've heard, that can hurt on their property values, degrade natural resources, and harm the health and well-being of both individuals and the community as a whole. Now, one of the things-- I've attended a number of public Planning Commission hearings over the years, and one of the things that I've found is that oftentimes they're very educational for everybody involved. The, the, the developer-- sometimes there's misunderstandings about what's trying to be done so the developer has an opportunity to explain what they're-- what they're trying to do and the neighbors and the other people in the community have an opportunity to come in and say, well, these are our concerns. And sometimes that leads to improvements in the process and improvements in the proposal. And so eliminating public hearings would be a very bad idea. So, so we, we would encourage-- well, we're opposed to the bill but, but if you're going to go forward with the bill, definitely make sure that public hearings continue to be part of the process. Removing consideration of state and federal rules and regulations in planning and zoning decisions, we also think that's a bad idea because if you take out the consideration of those issues, that could mean that you would approve something that is in violation of something that's, that's, of a federal or state rule or regulation. And the way to respond to that would be to file-- to file a lawsuit. Well, I don't know-- as a lawyer, I probably should be all in favor of more lawsuits but, but I don't think it's good public policy to, to create that. Water quality issues, it's been mentioned a couple times today. Water quality is, is vital to the state of Nebraska. We have some of the best water resources in, in the United States, but we need to make sure that the water quality is protected. And there's been a lot of concern about nitrates and the-- and the health impacts of nitrate contamination. And we need to make sure that, that our water quality is protected so, so I can't imagine why anyone would want to take out consideration of water quality issues in a planning and zoning decision. Then I guess one of the other things that I'm concerned about is, if you take out a public hearing, what is that-- what's going to happen with the commission? Are they going to start talking

to each other in private? And will that lead to more violations of, of planning of open meeting laws? And if you have a violation of open meeting law, what-- what's the remedy? You, you void the, the approval, you void whatever action was taken at, at that meeting. And that's also not good policy. And then the provision requiring deemed approval of after 90 days, that could lead to poorly planned proposals being rushed through without adequate opportunity for public input. And I've personally been involved in situations that were delayed where the developer came in and said, we want a delay, we're not ready to go forward. And so this is a bad idea. And then I guess I just want to also talk a little bit about something that Bold is working on. They're advocating for a statewide standard for all energy pro-- projects to replace the patchwork that currently exists. Simply put, we need energy parity in our state. We need energy parity to ensure fossil fuel infrastructure projects like pipelines have similar decommissioning requirements and meet the same setback requirements that renewable energy projects currently are being required to meet. This would provide certainty for developers, landowners, and communities so that Nebraska can be probably seen as both feeding the world and providing energy to the world. For these reasons, we respectfully ask that LB1375 be indefinitely postponed and instead convene a working group that would include industry and landowner, tribal and environmental groups to develop policies that will encourage energy development on a level playing field. Thank you.

SANDERS: Thank you very much, Kenneth Winston. I'm going to check to see if there are any questions. I see none. Thank you for your time and coming down here.

KENNETH WINSTON: Thank you.

SANDERS: Thank you. Any other opponents? Please. Welcome.

JANE EGAN: Good afternoon, committee. I'll try and-- I have a rather rough voice today. I'm sorry. My name is Jane Egan. That's J-a-n-e E-g-a-n. I reside at 7001 West Old Cheney Road, Denton, Nebraska. I'm here representing the Lancaster Hills Alliance. It's a coalition of citizens residing in southwest Lancaster County that opposes LB1375. Our opposition to this bill is threefold. One, public hearings will not be allowed. And there's been a lot of discussion about whether the language in the bill, actually, does that or not. And I thank Senator Halloran for trying to take a stab at changing the, the language, but it's still ambiguous. And I think that-- I, I know that we still oppose that portion of it, in my opinion, and I'm representing this group is that, that is the most egregious and undemocratic element of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

LB1375, limiting public input in any manner. LB1375 takes away the judgment of locally appointed and elected officials. And why do we need them at all if this bill is passed? Maybe we just need to do away with local boards, which I'm sure the proponents of the bill would love. Item 3 of, of our opposition is the 90-day shot clock. Again, a lot of has been discussed about that. We believe it is an artificial and arbitrary deadline that limits the time officials need to research and learn about an issue, to hold public hearings, and, and, and, essentially, allows an application to be passed without due diligence from the local boards, commissions, and, most importantly, input from experts and citizens. I have a couple of examples here of some experiences that I've had with this sort of thing. Lancaster Hills Alliance's opposition has roots in our nearly 3-year fight against Costco and Lincoln Premium Poultry and their contractor, Randy Essink, who applied for a special permit to build 4 barns in an established residential neighborhood in Lancaster County. It's a rural residential neighborhood. Our members researched the impacts of concentrated animal feeding operations on the environment, property values, and the health effects on-- of the humans living in close proximity to a large poultry operation. We also had concerned about-- concerns about a regulatory gap in the county ordinance that made it impossible to govern such a project or to hold the corporation and contractor accountable. We got organized and we contacted our local planning and zoning board, county commissioners, and learned how to express our opposition to the special use permit. We did a number of things: sent mail-- emails and letters, and we attended public hearings, we testified, we met with them individually. We provided them with research and evidence demonstrating that a CAFO in the proposed area was going to be detrimental to the health and well-being of residents and would reduce the enjoyment and value of their property, while providing no benefit to them economically or in any other way. We're the ones that did that. The P&Z and county commissioners were oblivious to CAFOs and their impacts on a community. The special use permit was ultimately approved so our members brought a lawsuit against the governmental bodies asking them to reverse their decision. Although we lost our suit, we did the next best thing and requested the county commissioners create a text amendment group to develop new regulations for CAFOs in Lancaster County and close that regulatory gap. The group was made up of farmers, a banker that specialized in ag loans, and other citizens associated with agricultural communities. Their work product resulted in the most restrictive CAFO regulations of any Nebraska county. The county commissioners approved the new regulations and they became law. We have not had a CAFO-- a new CAFO located in Lancaster County since. The same scenario was repeated

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

recently in Gage County. A special use permit was submitted by Otto Farms and Summit Pork to build a very large hog confinement operation in Liberty township. Ordinary citizens, once they learned about it, organized to oppose the project. The Gage County citizens did the same thing that we did. They educated themselves and, and the elected officials and directly addressed their governing boards with, with valuable information about the detrimental effects such a project would have on their community that resulted in denial of that permit. Why am I telling you this? I'm relating these experiences because I want this committee to understand the importance of the ability of regular citizens to be able to directly address their local planning and zoning boards and county commissions to not-- to deny bad projects and to improve laws and local ordinances in their own communities. LB1375 removes the opportunity to educate and inform appointed elected officials of what citizens want for their own communities. Citizens do not have the resources to sue every corporation that seeks to do them harm. We must rely on the ability to have our voices heard by our elected representatives, representatives to advance and protect our interests. This committee's own website says the following under heading of procedures: Nebraska's unique Unicameral Legislature relies heavily on the second house, the citizens of the state of Nebraska, ensuring that members of the public have the opportunity to have their voice heard is vital to the legislative process. I'll just read one more sentence. Where in LB1375 does it provide for members of the public to have their voices heard? We want you to kill this bad bill and retain the ability of the second house to directly address our governments through a thoughtful and democratic process. Thank you for your time.

SANDERS: Thank you very much for your testimony. I will check to see if there are any questions from the senators. See none. Thank you very much for your testimony. Say that again.

CONRAD: [INAUDIBLE]

SANDERS: I did not, but I think-- I'm just going to ask a show of hands of those that would still like to present their testimony on this bill in opposition. And how many in the neutral? OK. Thank, thank you. Thank you.

CONRAD: Thanks. Thank you.

SANDERS: Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

TERRY ACTON: Excuse me. Thank you, Senator Sanders and committee, for letting us speak today. My name is Terry Acton, T-e-r-r-y A-c-t-o-n, and I'm from Gage County, Nebraska. And I currently serve on Gage County Planning and Zoning. And my recommendation to you today is to disapprove the entire LB1375 with no amendments to it. And what-- ask-- you ask me why is that? Because if it isn't broke, you don't need to fix it. And I can tell you after past special use permits that I've sat through, and I've been on that board a long time, we've taken either through waivers or they were-- there was no opposition at any of those meetings or those hearings and they went cleanly through. Now last fall we had a, a, a new situation come to us, there was an application presented to us, there was a local name on it, and then there was a-- it, it was a co-application, a local name and a, a name that nobody recognized. So what do we do? You go home and you do your research. That's what planning and zoning is supposed to do. I've talked to several of our previous-- or current and previous supervisors and asked them, did you ever find us very valuable in what we were doing? And they all said, yes. We saved those people so much time and research, and they valued our opinions on this. So if you're-- if you're on that board, you do your work. Who's the co-applicant on there? It was an out-of-state person. You just Google it and read it. If you read about this person, you will find out there's got to be consequences for your actions. That's just the way I, I read it. So the first one was contentious. It passed. It went through. The second one, which was news to everybody else that there was going to be a second one, we thought it was just going to be one. And previously I had told the local applicant, if this was just your name on this, it would go through. That's how strongly I feel about animal agriculture. I, I champion animal agriculture, but it has to be from local farmers. And if you ask, well, what's the difference between-- why was this so contentious? That's it. It's right there and if you-- if you-- the group that was in Liberty rallied around this. And to tell you the truth, the reason it didn't make it through is because it was a terrible road to situate a CAFO on, not all pieces of property in Nebraska are good for CAFOs. Move on. It's a safety-- it was a safety issue with a bus route. There was only one other worst place in south Gage County that you'd locate a CAFO on and he didn't own it so that's, that's how that happened. And so I, I guess I don't understand, there's a cabal of, of big animal agriculture coming at you today with its-- I got ones telling you they got land rights, but they're-- they are people coming in from outside of the state. And my question is, why are their land rights supersede the land rights of the people that have lived in those communities and have paid way more taxes than they ever will? Why is that? Why is it that somebody from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

Iowa can come in and start plopping down hog units wherever he wants and his land rights are being violated, whereas those people that have lived there for years, their, their rights don't mean as much. Why is that? And I can tell you what will solve that too. If, if these guys want to keep coming in with big CAFOs and plopping them down, you tell them, OK, you got 1 satellite, this will-- you've got 1 satellite location. Meaning if a family farmer wants to build a hog farm and he can't do it because of surrounding people, or his 2 setbacks won't work, he can do a satellite location. I'm fair with that. After that, if you want to keep plopping down CAFOs, you need to build a home at every one of those within close proximity of that CAFO. That'll solve this. They can enjoy then the same amenities that everybody else in that Liberty area what-- got to enjoy. You get to live it, eat it, drink it, smell it every day in that home and just see how that works out. Well, they probably start complaining. Well, I can't rent it out or I can't get nobody to live there. Well, bingo, there's your answer. There's your answer right there. This-- the question is, who does LB1375 benefit? It don't benefit the small farmer. It benefits the big cabal of animal agriculture coming at us. That's-- when you say business, why don't you just say cabal and animal agriculture because they're synonymous in the way it is. Small, small farmers aren't building. We're not building because inflation's too high. There's no money in it. How, how can these people keep coming in here building when they're losing money on every hog? They got deeper pockets than any small farmer. So I'm going to wrap it up. I'd-- this was-- this was so bolden and arrogant. I cannot believe that this, this bill that came forward. So I please recommend all you vote down LB1375.

SANDERS: Thank you so much for your testimony. Let's check if there are any questions from committee. I see none. Thank you for coming down today.

TERRY ACTON: Thank you.

SANDERS: Opponent? Welcome.

NANCY MEYER: Hello. Thank you, Senator Sanders. Hello, my name is Nancy Meyer, N-a-n-c-y M-e-y-e-r, 2043 County Road Y, Cedar Bluffs, Nebraska. My husband grew up in Nebraska. 25 years ago, he convinced me to drop my career and move our young family across the country to a home in the middle of cornfields. I was reluctant, but I soon came to love living here. We returned to Nebraska for the good life. Some of the most important values embodied in the good life are local control, keeping young people in the state, and prioritizing Nebraska businesses over outside interests. These values are all threatened by

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

LB1375. A few years ago, an industrial ag operation moved into our rural neighborhood. Because of this, my husband, a born and raised Nebraska farm boy, now wants to move us out of the state. We don't want to be trapped living on property while its value is steadily diminished by industrial facilities moving in next door. LB1375 is an outright attack on local control, restricting what local agencies can do to make their areas livable and inviting to young families whose parents would like to see them stay in Nebraska. I'm a big fan of local control, having served elected positions in Nebraska on both my local school board and on an NRD. As those of you who have also served in local government know, these bodies understand their geographies and constituents best. Local authorities are beholden to local residents who count on them to preserve the good life. In fact, I believe more policy ought to be enacted that preserves the rights of local residents and the powers of local governmental bodies, not restricts them. Now, several proponents today have testified that most of their permits have gone through county board smoothly. They've also said that in some counties, these-- the process is cumbersome. And even that hundreds of their facilities have gone in and only 1 denied. OK, some counties and 1 denied. Now from an economic development standpoint, that sounds like a system that's working properly. I don't want you to break a working system because some people don't like the purposely designed-in speed bumps in the road. So I have to wonder, what do the authors of this bill not trust about our established local processes? Eliminating a requirement for public hearing eliminates the likelihood that a hearing will be held. I want to repeat that. Eliminating a requirement for a public hearing eliminates the likelihood that the hearing will be held. This is especially true when a 90-day deadline is imposed. Without local control and local accountability, Nebraska citizens' power disappears, and moving into its place will most certainly be outside entities that do not have the best interests of Nebraska in mind. LB1375 will make Nebraska irresistibly attractive to out-of-state and foreign interests who wish to invest in nuisance industrial operations that are located as far as possible from their own homes and shores. This isn't just anti-Nebraska, it's anti-American. More than two-thirds of Nebraskans live outside or on the edges of Omaha and Lincoln metropolitan areas. These are the people who this bill will affect the most. I urge you to consider the majority of your statewide constituents and please reject LB1375. Thank you.

SANDERS: Thank you, Ms. Meyer, for your testimony. Check to see if there are any questions from the committee. See none. Thank you for taking the time to come out.

NANCY MEYER: Thank you.

SANDERS: Thank you for your service as well. Welcome to the committee.

SCOTT PEKAREK: Good afternoon. Long day. My name is Scott Pekarek, S-c-o-t-t P-e-k-a-r-e-k. I have lived in Seward County for most of my life and reside on a farm near Garland, and I am in opposition to LB1375. Nebraska's counties are in constant state of change. Planning and zoning plays a key role in how a county changes. Hopefully, always for the good. Planning is a vital part of the future of Nebraska counties to grow, prosper, and move into the future with a plan. I currently serve as the Chair for the Seward County Planning and Zoning Board. An important part of the zoning process is having public hearings on conditional use permits. This process allows the residents of the county to voice their opinion on conditional use permits. Now, today we've heard a lot about conditional use permits, strictly ag related, and there's so many more on the matrix that nobody's talking about. So if we take away this opportunity for public to come in, somebody wants to put in some type of an industrial thing that's allowed in AG1 in Seward County, if you don't have that process available, we're, we're not going to know about it. And it doesn't always come down to just checking the boxes, because sometimes there's so many boxes, you have a hard time figuring out where it lies. So there's, there's-- it's not always just clear. But this, this process allows residents of the county to voice their opinion on conditional use permits. The process is in place for a reason. There is value in being able to express your concerns at public hearings about issues that will impact a parcel of land or a community, that people should have the opportunity to be heard. In some cases, just having the opportunity is enough. Sometimes just being heard is enough. Counties across Nebraska have their own uniqueness, such as Seward County with the water conservation district. Now, water conservation district in eastern Seward County is Dakota Aquifer. And right now, we're, we're doing all we can to research it and figure out how we can preserve that natural resource, because it's not like the Ogallala Aquifer that's just west of us. Just a little bit east of Seward, you go west, you're in the Ogallala, you go east of Seward, you're in the Dakota, and it's a completely different aquifer. So we're working really hard to try to figure out how to preserve that natural resource. Each county will need to address issues in such a manner that creates different needs for residents, producers, industry, and developers. These different needs are why it is important to allow county residents to have the opportunity to assemble and voice their opinions at planning and zoning meetings through the hearing process. Even if the regulations go against what the residents would like to see

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

happen, they still have their voice at a public hearing. When residents take the time to come, listen, or speak at a public hearing-- public hearing, it shows that they care and want to be involved in the process. Residents are more likely to be involved if they know someone has heard them. Moving forward with LB1375 will remove transparency and increase distrust in county government. The public most generally cannot attend county board meetings as they are conducted during the daytime, when most people are at work supporting their families. Planning and zoning meetings are held in the evening when county residents can attend to either listen to, or voice their opinions on issues related to planning and zoning, such as conditional use permits. Seward County has had a great relationship with producers that have come to the planning-- Planning Commission for conditional use permits. The county wants to see producers continue to prosper and expand their operations. We are all right now at a public hearing to hear testimony concerning LB1375, the people of the state of Nebraska, the residents of each county in the state of Nebraska, have a right to be heard and voice their opinion. Lest us not forget the second house of the Nebraska Unicameral is the people's house. I do not support this bill and I ask that this bill does not advance out of committee. Thank you.

SANDERS: Thank you for your testimony. Are there any questions for Mr. Pekarek?

SCOTT PEKAREK: That's close enough.

SANDERS: I see none.

SCOTT PEKAREK: All right. Thank you.

SANDERS: Thank you taking the time out. Thank you. Any other opposition? Welcome.

ANDREW TONNIES: Thank you. I'll be brief. Hello, my name is Andrew Tonnies, Andrew, A-n-d-r-e-w T-o-n-n-i-e-s. I'm a rural resident near North Bend. I have a small diversified farm of hogs, chickens, fruits, and vegetables which I sell at area farmers markets. I am active in my community. I serve on the Farm and Community Advisory Committee for the Center for Rural Affairs, and I also serve on the board of directors for the Lower Platte North Natural Resources District. However, I'm here today to speak to you as a concerned citizen. Of all the levels of government, local governments are the best situated to be responsive to their constituents' needs. LB1375 will limit public participation in the decision-making process at the local level. If

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

adopted, this bill will lead to a disconnect from communities who will not have their concerns and needs adequately heard or addressed. Especially at the county level, our government is designed to balance the needs of the individual with the greater good of the community. This bill will tip the scales away from the community. If, a handful of times in a handful of counties, a company seeking a county permit cannot make a compelling case for themselves, that should not be cause to mandate changes to every county zoning rules. This bill is unnecessary, and this bill is overkill, and this bill will lead to poor governance. I respectfully ask that the committee reject this bill.

SANDERS: That was fast. Thank you very much for your testimony.

ANDREW TONNIES: We've all heard a lot today.

SANDERS: It's been a long day. Let me make-- any questions for Mr. Tonnies? See none. Thank you again.

ANDREW TONNIES: Thank you.

SANDERS: Welcome.

ROBERT BERNT: Thank you, Senators, for taking your time. I appreciate the ability and the allowance of me to be able to come in here and testify in person. That's my best and adventurous way of doing things as Senator Halloran probably knows. With that, my name is Robert Bernt, R-o-b-e-r-t B-e-r-n-t, and I'm from Spalding, Nebraska. It's about 165 miles northwest of here. I have 12 children and 16 grandchildren. That's why I'm here. I have a diversified farming ranching operation. I have dealt with conditional use permits in several, several different incidents. I have a meat processing farm on my place. I have a cheese processing farm on my property. So I have the beef, the pork, and the dairy operation. So I've dealt with this in several different entities. But I think what we've hear and heard is, is emotion. Emotions arise at these meetings and I've seen it and I've witnessed it. Did emotions come about when our forefathers drew up the Constitution of the United States? Yes, they got very emotional. And what became of that was great. One of our best followings that we can have and one of them is the freedom of voice. Our voices need to be heard. Putting them on a piece of paper doesn't cut it. And I've experienced that recently. In our zoning board, we had a public hearing, and at that public hearing, a gentleman was there to testify of his experience with a local operation, a CAFO, that went in. That CAFO was able to put in and implement a half-mile

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

property boundary line using the neighbor's property to where they were not allowed to put manure on their own property. But yet that operation could spread his manure up to the fence line all the way around his section. So he had 4 adjacent landowners that were not allowed to use their property to put their own manure on, and that came out at the public hearing. It wouldn't have if we wouldn't have had that and, therefore, it was stopped. The second experience I had recently was a young lady here from Bassett. I was there in Rock County at that hearing, and it was a very good, very well-run meeting, a lot of discussion. And what happened was they got an invite to go visit the operation. Took them more than 90 days to put that visit together but they went there and they visited it, came back and made the decision not to support it. Those are the things that need to be done at these hearings, and they have to be done publicly. My experience with them is they will avoid at all cost to having that public hearing. We recently had a public hearing, it was not advertised properly, so we forced them to go back and have another second hearing because it wasn't advertised properly. So if they don't want to have that hearing, in my experience if they don't want to have it, that's what will happen. You will end up with-- my son operates an agritourism operation. He put himself through Chadron State College with it. And we've talked a lot today about our resources-- natural resources. He generates \$50,000 a year over a 4-month summer income for his college. All right. We don't want to see that destroyed with these operations going up in our part of the Sandhills or anywhere. But it's pretty ironic when today we're sitting here, we're having this discussion about this, and we're hearing about the waters and we're hearing about the possible contamination, but our Governor agritourism convention is in this city at this very minute trying to promote agritourism in our state. Do you know where we're ranked for agritourism in Nebraska? 50th, 50th. And we're, we're willing to jeopardize the future of that by allowing this to continue. It will jeopardize it. Nobody will come to our little Cedar River to tank on it or canoe on it or kayak on it if they have to put up with smell and the odor or the contamination in the water. So that's something we need to elaborate on and we need to look for down the road. If we want to increase the economics in rural Nebraska, that's when we've got room to go with. We've got nothing but up, and there's a lot of money out there that people want to spend on recreation. Let's allow them to do it. Very important to have that public meeting. It's very important not to rush the situation. Let them take their time. Only good comes from a good debate, not bad. Thank you for your time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: Thank you for your time. Appreciate it. Right on time. Hold on just a moment. See if there are any questions from the committee. Senator Hunt.

HUNT: Thank you, sir, for being here today. Can your son teach me how to make \$50,000 in 4 months over the summer? I'd like to know more about that. Maybe he could reach out to me. Thank you for your testimony.

ROBERT BERNT: I wish he could teach me how to do it, you know.

HUNT: Seriously, everybody here.

ROBERT BERNT: But he has absolutely done that. And, you know, I'm not-- it's not a fabrication. He's looking it up. He's looking forward to building that. He's, he's, he's marrying a young lady. They're going to start a family and they're going to do nothing but that. So his, his time spent at Chadron and what he was wanting to do there has went out the window, and now he's looking forward to, to, to generating more income using agritourism. It's a very, very, very ludicrous business that we can draw people into the state from. We don't have to think about CAFOs and, and those things that come in to, to do that. You know, in our situation where we brought added value to our dairy operations, the cheese and our beef with the [INAUDIBLE], you know, we brought our children home. So out of our 12 children, we've got 7 of them that operate there daily with us.

HUNT: Wow.

ROBERT BERNT: So it's important that we-- as everybody previous has spoke to you about and I, I-- you know, it's very important that we take our time and look at this. We can build our state the way we need to build it. We need to reestablish our rural economy and we need to do it the way it was intended to be and not by bringing in these operations that are doing nothing but depleting it. And they have done that and the history shows it.

HUNT: Thank you--

ROBERT BERNT: Thank you.

HUNT: --again for your testimony and congratulations to your son and his fiancée.

ROBERT BERNT: Well, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: Are there any other questions? I see none. Thank you for your testimony, Robert. Are there any other opposition? Please. Welcome.

MARLA SHELBOURN: My name is Marla Shelbourn, M-a-r-l-a S-h-e-l-b-o-u-r-n, and I come before you today as a private citizen. Members of the committee, I thank you for this opportunity to speak. And your attentiveness is commendable. I want to appreciate the fact that you have all really listened to everybody today and, and it makes me feel good inside. As a current Cherry County Planning Commission member, I deeply oppose LB1375. Having been an active participant on both sides of the conditional use process, first by giving public testimony as a private citizen, and more recently, hearing public testimony as a member of the Planning Commission, I assure you that public testimony is a vital part of proper decision-making when making a conditional-- when considering a conditional use permit. Public testimony has more than the ability to bring forth different ideas and perspectives. It can also educate and inform everyone present. Public testimony also provides the county board the opportunity to observe and question individuals as they testify. Clarification is extremely valuable to the county board as they implement their local zoning regulations. Being a retired USDA NRCS employee, I have 39 years of experience as a resource and range management specialist in the Nebraska Sandhills. I know our natural resources districts work diligently to track and record the level of nitrates in our groundwater as they continue to rise across the state. LB1375 includes a special exception for those operations that specifically states that the granting of a conditional use permit, or special exception by the commission or county board shall be based solely on county zoning regulations and not on the rules and regulations of such state and federal agencies, including, but not limited to, rules and regulations governing water quality. It is imperative that counties are allowed to turn to our state and federal agencies for specific information, and possibly include any rules or regulations as a condition of a special use permit that they feel are necessary to protect private property rights and the natural resources in their county. And I really hated to bring forward personal things, but I think you need to know that conditional use applicants for CAFOs are not always as prepared as the proponents would like you to believe. The gentleman representing NDEE today stated that a nutrient management plan is required as part of their permitting process. I reviewed a CAFO conditional use permit nutrient management plan that was submitted as part of the permit that was prepared and presented by an engineering firm that assured us they had an outstanding reputation founded on decades of experience. After identifying 4 typewritten pages of inconsistencies within that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

document, I asked one of the staff about that. He replied, well, it's just a draft. Some of those items were all manure will be injected. But the document mentioned applying effluent, which is through a center pivot. The map showed applications where all manure would be injected again, maps showed applications of manure on grassland. I talked to Leslie Anderson [SIC], the manure management specialist at UNL, and she said that would be very difficult to do physically because of the injection equipment and the grassland root system is so dense, it's not like injecting into a row crop. By requiring the, the permit ahead of approving a conditional use permit, it allows county boards to deal with facts, not some draft nutrient management plan. It, it allows-- by, by making those conditions, taking things out of that permit and making them a condition of that conditional use permit, allows the county to follow up on that. It puts it in the county's hands to decide if they want to go out and check and make sure that's being done. NDEE writes some great plans. But we need to let the county make sure they're implemented, because NDEE just doesn't have the staff and the resources to get across the state like the county can. If the county has 10 or 15 CAFOs and they have conditions that they felt addressed the public concerns and their concerns of water quality, that's wonderful. Let the county pursue it, but don't exclude them from that option in their-- granting their conditional use permit. As I conclude, I ask you to think about how your decision-making process would be affected if public testimony was removed from the legislative process. It may be more efficient, but if the process loses its effectiveness, the entire process becomes worthless. I ask you to oppose LB1375 in order to protect our citizens' right to public testimony and the right of our local county government to carefully protect and manage their resources for the good of the county. Thank you.

SANDERS: Thank you, Ms. Shelbourn, for your testimony. Are there any questions from the committee? See none. Thank you again. Welcome.

ROBERT SHELBOURN: Thank you. My name's Robert Shelbourn, R-o-b-e-r-t S-h-e-l-b-o-u-r-n. And thank you for this chance to express my concerns regarding LB1375. I have made a living in the agriculture industry in the Nebraska Sandhills for 65 years, my entire life, with 62 of those years spent in Cherry County. I understand the importance of clean air, clean water, and also the need to allow the public to speak on local issues. This country was founded on the right of the people to voice their opinion. LB1375 takes away our right to speak and provide public testimony at a conditional use permit hearing. The applicant of a conditional use permit and the county board need to hear from the people whose lives and personal property rights will be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

affected as a result of the conditional use permit. To disallow the science-based rules and regulations of our state and federal agencies and only allow the county zoning regulations to be considered when granted a conditional use permit or-- for a confined animal feeding operation, is extremely concerning. The knowledge that the County Planning Commission Board members is not adequate to accurately capture every scenario and the zoning regulations that could negatively impact by the confinement feeding operation, especially in sandy soil. Our groundwater in Nebraska is very important. Yearly water supply samples by our Natural Resource Districts show we already have problems with nitrate contamination in groundwater, especially in eastern Nebraska. This makes it even more important that the state does not limit our county boards in any way as they work to ensure a conditional use permit, if approved, will indeed become a compatible use as defined by our zoning regulations. The bill should encourage counties to seek out state and federal information, not exclude state and federal rules and regulations from being a condition for granting the permit as LB1375 currently requires. This bill has the potential to affect our entire state as a devastating way by removing the public voice from decision-making at the county level and limiting, limiting the county board's resources that can be used to the decision-making process. I ask that you not advance this bill. Thank you for your time and consideration.

SANDERS: Thank you for your time, Mr. Shelbourn. Let me check to see if there are any questions from the committee. See none.

ROBERT BERNT: Thank you.

SANDERS: Thank you very much. Are there any other opponents? Welcome to the committee.

JENNIFER SUHR: Thank you. My name is Jennifer Suhr, J-e-n-n-i-f-e-r S-u-h-r. I am here as a lifelong resident of Nebraska and a concerned landowner. Thank you for this opportunity to address your committee. LB1375 deprives the public the right to speak at a conditional use permit public hearing. The very people whose private property rights and property values could be affected by the granting of a conditional use permit. Zoning regulations are in place to protect all people's property rights. I ask you a question. Why would someone want to deny a person's right to speak to provide information on why they feel they will be affected by a conditional use permit? The knowledge and insight of people who work and live in a county is extremely valuable. They understand the fragile nature of their environment and they know which direction the wind comes from-- comes from during the seasons of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

the year. Their perspective and knowledge should be welcomed as part of the conditional use permitting process instead of disallowed as LB1375 states. With a massive amount of private financial backing and government funding now available to some projects that require conditional use permits, it is even more imperative that I-- that private citizens keep their voice. Attempting to streamline this process will lead to inferior decisions being made. Often, streamlining is just another word for fast-tracking. Forcing counties to fast-track a, a conditional use permit only opens the door for additional litigation, costing both the applicant and the county. Being one of the fortunate states that sits above the aqua-- Ogallala Aquifer, Nebraska's priority should be protecting our groundwater quality. This challenge becomes even greater as you move west into the Nebraska Sandhills. The sandy soils in this great expanse of grassland are extremely susceptible to leaching of contaminants directly into the groundwater. This is why county boards need to have every rule, every regulation, and every piece of science-based information available to them as they consider conditional use permits for confined animal feeding operations. Grand Island has struggled to reduce their groundwater nitrate levels. This is a slow and expensive process. When it comes to groundwater quality, I have to share with you my personal mantra: You don't know what you've lost until it's gone. I ask you to not let LB1375 out of committee. We need to protect the right of the public to speak and we need to use every tool available to protect our groundwater quality. Thank you for your consideration.

SANDERS: Thank you, Jennifer Suhr, for your testimony. Hold on, there might be a question. There might be. Are there any questions from the committee? I see none. Thank you very much for taking the time.

JENNIFER SUHR: Thank you.

SANDERS: Are there any other opponents? Welcome.

PAM WAKEMAN: Thank you. My name is Pam Wakeman, P-a-m W-a-k-e-m-a-n. I live in Lancaster County in a rural part. A lot's been said today, and I don't-- and a lot has been said a lot better than what I could probably say. But a couple of things have struck me that I-- since I'm here, I might as well share with you. I, I looked up the definition of conditional use permit and, and found that it's a zoning exception, which kind of confused me because if government agencies and-- have zoning, then why is there a need for an exception? Why isn't zoning in place to put these CAFOs, which are not indust-- are not agricultural, they are industrial in places where people are living? And why is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

there so much interest in, in this? This seems to be the, the, the focus of the whole bill. And it does, frankly, smell of conflict of interest. I have been before the Lancaster County Planning Commission twice myself. The first time was a neighbor literally in my backyard across the pond was having large 300-person weddings on weekends with bands and tents and fireworks and a lot of drinking going on. And they didn't realize they needed a permit, which was susceptible. I won't go into all the details, but that was the first time I went before the Planning Commission. The second time was the CAFO that does currently exist in Lancaster County. In both cases, there was information that the Planning Department did not share with the Planning Commission or the information that they did share was erroneous. And it may not have been intentional, but it certainly had an impact on what the Planning Commission's information was that they were making their decision upon. So it was very important that people did speak up. And it did make an impact. In both cases, I wasn't necessarily happy with the outcome, but I, I can say that I did feel like it was a success because as a citizen and a voting citizen and a taxpaying citizen, I just didn't let things happen without having some kind of say in, in what was going on. So the fact that it was-- I was participating in the democratic process was gratifying to me. It was a long process, but it was a necessary process. To streamline, which currently is in, in this bill, seems to me to be counterproductive and opens the doors for corporations and special interests that have a lot more money than I do to take unfair advantage over people like myself who, and others that have spoken, who have property who are taxpayers. We did go to court with the CAFO that is in Lancaster County. Unfortunately, it was not a successful outcome. But there again, it was citizens not just rolling over and letting somebody else tell us what they were going to do because they had more resources. So it's, it's not an ideal process. I really have sympathy with all the environmental agencies that I went to visit when trying to gather information and educate myself about the possible pitfalls of, of CAFOs. They are understaffed and underfunded, just like most of our government agencies are. And, unfortunately, the environment shows that that is, is occurring. I do strongly urge you not to support LB1375 for all the reasons that have already been stated. I thank you for your time and your attention and would be glad to answer any questions if you have any.

SANDERS: Thank you, Ms. Wakeman, for your testimony. Let's see if there are any questions. We've, we've worn down. We are worn down.

PAM WAKEMAN: Yes.

SANDERS: Thank you so much for coming in.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

PAM WAKEMAN: Oh.

SANDERS: Appreciate it. Opposition?

MARINA BARRETT: Opposition.

SANDERS: Welcome.

MARINA BARRETT: Yeah, I'm hoping-- I have a migraine so I'm hoping these glasses will help because my writing is blurred now.

SANDERS: Take your time.

MARINA BARRETT: And I'm writing on the pretense that I assumed that they are not going to allow public hearings. And in my eye, you giving them the choice of whether we're going to have one or not is, to me, not allowing me to speak and so that's how I'm-- wrote--

SANDERS: Yes, if you could state your name and spell.

MARINA BARRETT: --and how I wrote mine. My name is Marina Barrett, M-a-r-i-n-a, Barrett, B-a-r-r-e-t-t. I live in Crete, but I'm actually in Lancaster County. So good afternoon, senators from the committee of the Government, Military and Veterans Affairs. I just wanted to say, I served my country for 23 years in the Army. I was born into the military because my father served 32 years. I was an enlisted soldier and then I was an officer. I also worked for the Veterans Hospital and their clinics as a nurse and then Veterans Affairs on the benefits side so I'm very experienced with your committee. I'm sad that I'm here again to defend my rights as a citizen of Nebraska. We know why we are here, and that is the sole purpose of the government to mute the public or should I say not to be able to speak when we have public hearings? So here I am in front of you to defend my rights as a citizen of Nebraska, which I should not have to do. It clearly shows that corporate companies such as Costco, because of their CAFOs, are telling government officials how to mute the public from public hearings and in public hearings in the future, which is what LB1375 will do. We are concerned Nebraskans, and that is why we are here. We pay taxes and the government positions are paid for by the taxes of the people of Nebraska, which means the government works for the public and not solely for the government-- the Governor's personal agenda. A government that wants to mute the public is a government being run-- how I see it is a dictator, that you don't give the public a voice, because this is exactly what LB1375 is to me. I also want to say that passing LB1375, to me, I really feel is a criminal act. You're actually shutting my voice. It's like telling somebody who is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

gay and not being allowed to say that's what they are, which in some states like Florida saying you can't say who you are. And that's what this is like to me. You can't take my rights away after I served my country for this country. You, you see what I'm saying? So I-- so to have no rights and no say at what is going on in our counties and state, our local government wants to control the people that pay the taxes that keep this state running. Our local government works for us and muting us about the concerns to attend public meetings for issues that affect us is unconstitutional. This bill is a heavy-handed approach by state government to limit local policies and local decisions. If you have to pass a bill to shut the public up, this only tells me that a lot of wrongful things is going on or will be going on. I think that this is-- think about this, that when maybe when you're no longer in your positions, you won't have a voice either. And I also wanted to say that my address is actually 3, 4 miles from the CAFO chicken farms of which the Lancaster Hills Alliance, which I was their treasurer, that fought against him. And I'm glad we did because you've heard against other people saying that what can come about this LB1375? And it's mainly to me, I see Costcos and the corporates that are trying to shut us up. And to me, I find that, like I said, unconstitutional. And I have firsthand experience of attending planning commissions and no one got out of hand. No one was fighting, no emotions. And even if the, the individual has emotions, they have that right. I should be able to come to you that somebody is near my property and is going to do something that I don't agree with. I could at least just say it may not-- it may not work and they get what they want, but I should at least get to say I have 75 acres of land that I bought after I retired, and I've been there over 20 years. Why can't I say something then somebody just coming in that has never lived there have more rights than I have? So I deeply oppose LB1375.

SANDERS: Thank you so much for your testimony, and also thank you for your service to our country and your continued service.

MARINA BARRETT: Thank you.

SANDERS: But don't leave, we might have a question for you. Are there any questions from the committee? I see none. Thank you for coming in. Any other opposition? Welcome, and thanks for waiting.

JOHN HANSEN: Well, good afternoon, Senator Sanders and members of the Government Committee. For the record, my name is John, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. Our state's second oldest, second largest general farm organization. So for me, if my count is right, I think this marks about 49 years that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

I've been coming before this committee and talking about planning and zoning issues. So I helped organize and establish-- I was 1 of 2 folks who led the effort in Madison County to organize planning and zoning and get our county up and running in the mid-'70s. And as president of Farmers Union, when I started in '90, we started helping counties who wanted help setting up planning and zoning. And so for in a period of years during the '90s, for about 3 years, that's about all our staff did, is to help get different kinds of options out-- the planning and zoning options out to local folks and have them look it over and decide which one was the best fit for them based on what they wanted and how they wanted to go at things. So we helped an awful lot of the counties in Nebraska get set up with planning and zoning. So I have been in the middle of planning and zoning issues for a long time. In my organization, issues that are important to us, that run right through local planning and zoning, so they include pipelines, they include livestock zoning, they include renewable energy. And so if you can find somebody that's been in the middle of more different kinds of local planning and zoning battles then our organization, good luck. I'm not sure who that would be. So here's what a little bit of what it is, I think, we've learned is that when, when you think about planning and zoning it's really the collision of, of perspective and interests. And so how do you-- how do you modify that? How do you work through those differences? Well, first of all, you have to say up front, this is a open process. Everyone's voice is going to be heard and so you all come and let us reason together. And you learn stuff when you have to listen to people that you strongly disagree with. And you have to think, why are they thinking this way? Why are they looking at it this way? And good planning and zoning protects public health, protects public safety, and, and brings together the collision of different interests and ideas in order to be able to move things forward in a positive kind of way. And so what is it that we have learned? The, the, Department of Energy-- the U.S. Department of Energy, Berkeley, did a study on how folks thought about renewable energy regulations. And what they found was, I think what I've kind of always known about all of the other planning and zoning issues that we've been involved in and that is that it is critical for people to feel like their voice is heard, and they are much more likely to accept the outcome of those conflicted processes if they think their voice has been heard. And even though they didn't get their way, if it was a fair and open process and their voice was heard, they were much more willing to accept the outcome. So I look at LB1375 and say, does that leave us better off or worse off than where we are now? I think it's worse off because you're saying that we're going to have a 90-day outcome, and then we're going to, in order to get there, we're going to have to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

reduce the amount of public hearings and meetings that we have and process that we use because all of those things as you look at due process and posting cost time. So we're going to say we're going to speed up the process and it will come at the-- at the expense of public input and the opportunity for face-to-face meetings. And as contentious as it is, it is still the best system possible. And I have negotiated an awful lot of difficult public conflicts in my day. And you can never do that by sending letters back and forth and just using letters in lieu of public input because letters are by themselves a silo. They're not widely shared. You don't experience them. You don't feel them. You don't have the same impact as, as direct verbal contact back and forth as human beings. And so a lot is lost when you just use written word instead of shared conversation. At the end of the day, are we better off with this than what we have now? And we say clearly, no, we are not. And so we urge the committee to not move this bill forward. And with that, I'd end my comments and be glad to answer any questions if you, at this late time of day, would have any.

SANDERS: Mr. Hansen, thank you for your testimony. I do have 1 question. You said, you've testified for 49 years. Are you going for 50?

JOHN HANSEN: Well, I'm-- in my organization you sign up for a 2-year hitch. So there is a-- there's a fairly good chance I might make it to 50.

SANDERS: Awesome. Thank you for your service. Let me check to see if there are any questions. Senator Halloran.

HALLORAN: Thank you, Vice, Vice Chair Sanders. I've been seeing you in the audience not just here, but in many committee hearings and I saw you in this one and, and I was looking forward to listening to some sage wisdom from someone older than me. [LAUGHTER] But anyway, that aside, here's the conundrum. Aside from I don't disagree with you, I think public hearings are necessary. Sometimes there's a little bit of redundancy, but that's OK. But that being said, in, in, in my dream world we would go back to-- let's go back to the root conversation we're having here, primarily around CAFOs, right? In my-- in my ideal world, we, we, we would go back to small family farms, right? 160 acres, a couple beef cattle, a few dairy cattle, small flock of chickens, some hogs, and there would be a lot of them so we would be spreading out the, the waste naturally because of the small nature-- the small units of farms. But with low-commodity prices, you've been around this a long time, you've seen the evolution, good or bad, with low-commodity prices and the mechanization of agriculture, taking

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

labor out of the mix a lot, large farms are what we have. Sad reality. Not something I like, but it's a reality. So my question is, what's the solution? Right? Is, is there a way to live with these large, confined systems without upsetting people because people have to eat?

JOHN HANSEN: Well, Senator Halloran, such an easy, simple question late in the day.

HALLORAN: No, I'm not expecting at all [INAUDIBLE].

JOHN HANSEN: Gee, I-- and all these years I thought I was just a little younger than you which, you know, we're just going to have to compare a driver's license here. Well, the, the, the real proliferation of a lot of the conflict that, that happened in the late '90s, for example, with the development of a lot of the mega-hog operations, which to your point, that is what drove a lot of the counties to say we have to get planning and zoning set up. And we've tried to avoid it all this time, but if we're just going to have these big out-of-state operations coming in and locating, we have no control at all, we're way better off, all things considered, to have a local planning and zoning system and set up some standards and try to, you know, work out these conflicts in advance so that we also have some say. And, you know, at the end of the day, you're, you're, you're trying to be friendly to growth. And, you know, in, in my view, you either grow or you shrink. And so we have too many rural counties that are continuing to shrink. And so we have to be-- figure out a way to be open to growth. And so with the proliferation of sort of the, the industrialized model, it's really put a strain on kind of our old way of thinking about, you know, when, when I was milking cows and I was young there were 3,450 dairies in Nebraska, today there's 93, and we produce about the same amount of milk, but we have 5,000 and 6,000 head-- herds also. And so then how do we, as local communities, accommodate these massive operations who are not anything like the, you know, the, the dairies? When I was dairying, when I ran out of milk filters, I could find milk filters from one of my 4 neighbors that also milk cows in less than 5 minutes. And now there's, there's not 4 dairies in Madison County. And so that, that bigness really strains our, our, our process. And then, so then to me you, you have to recognize what it is you're dealing with and it's an industrial level that is when you have a 5,000-head dairy that's altogether different than a 100-head dairy. And so the potential for conflict with neighbors, and a lot of this goes back to the business of regardless of how big you are, you still need to figure out how do you get to the bottom line where you're still a good neighbor and, and that is a challenge.

HALLORAN: That's the challenge and I don't--

JOHN HANSEN: That is a challenge.

HALLORAN: --I don't have the solution. But I'm just suggesting that what-- we're probably not going to trend backwards on the size of farms.

JOHN HANSEN: I don't see that.

HALLORAN: No. So--

JOHN HANSEN: We encourage farms of all sizes. The biggest growth in my membership are the really small folks that have a very small amount of land and are able to do direct marketing, because the price of land today is just too high for average folks unless they come from a farm family.

HALLORAN: But you'd have to admit the bulk of food is not going to come from those.

JOHN HANSEN: That's right.

HALLORAN: All right. I'm, I'm not trying to make an argument here. I'm just trying to strike--

JOHN HANSEN: Nope.

HALLORAN: --some reality into-- I, I don't like the fact that it's gotten large. I would rather it hadn't, but we've got to find some way, and I don't know what that is, some way to accommodate it so that we're good neighbors and, and we can still produce food because we need food.

JOHN HANSEN: Yeah, and, you know, going back to what I said earlier in terms of public health and safety, that includes protecting the water, that includes protecting the environment. And all of those things still have to be done and you put your finger on, I think, one of the real conflicts of modern agriculture is how do we still accomplish all of those goals?

HALLORAN: I'll share my driver's license with you when we're done.
[LAUGHTER]

JOHN HANSEN: Thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: Are there any other questions for Mr. Hansen? See none. Thank you very much.

JOHN HANSEN: Thank you.

SANDERS: Are there any other opponents? Welcome.

EDISON McDONALD: Hello.

SANDERS: Good evening.

EDISON McDONALD: Are we already?

SANDERS: We are.

EDISON McDONALD: Wow. OK. Hello, my name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d. I'm here representing GC Resolve. We work on regenerative agricultural development. And, Senator Halloran, to your question, what is the alternative? It's not the complete answer, but part of the answer is regenerative agriculture, making sure that we are producing better yields, using some of those tools and a diversification of crops are 2 of the key components that I think are really significant. I know it's worked-- well, working on my farm so I think that's part of the potential solution. But really today we're not here to just talk about just CAFOs, while that may be the intent, this hits a wide spectrum of different types of projects. And conditional use projects or permits are the exception, not the rule. And from what I've seen, for the most part, conditional use permits typically are for newer types of projects, and projects that are very complex. One of the benefits of our current process is that it really allows for us to go through that and think about it and, and work on it. Folks have talked about how they're frustrated because they'll come in and they'll say, well, we're following the rules that are set. Well, the rules aren't created with them in mind. They're not meant to address some of these big new types of projects. And so we depend on our local county officials to operate in best judgment to think about these projects, think about the implications. I think in particular with CAFOs, especially across the eastern portion of the state, we have seen a huge evolution in how our counties have worked with them because as, in particular, Costco came in we saw so many hearings where these county boards had concerns, but the infrastructure wasn't there to go and address them. They hadn't thought through these types of projects. So ensuring that we have that opportunity to have that discussion and really be thoughtful. Also flip on the other side and talk about, not only have I opposed projects, I've also supported

projects. And there's so many things in here that just really break down the process. If you're coming in and you're trying to develop a complex new type of project, you need a lot of dialogue. You need to be able to have a lot of conversation. And that needs to be not only with your elected officials, but with the public at large and with opponents. As we see consistently throughout hearings, hearings make for better bills. They make for better projects. They make you think things through. And I think that's really why this process is here. It helps us to go and, and really think about how can we develop-- and I'm really surprised John Hansen didn't mention good neighbor policies, but it's important to make sure that we have those interactions. One of the things that we've really seen is, especially as you heard today, project developers who come in from out of state frequently with large corporations who, multiple shell companies, who have not worked with the local community, they have not developed the relationships. They have not addressed those issues or those questions, and they're not familiar with them. What I've really found interesting is I've seen this develop is that so many different angles, different ideas, concerns come to life, things that, you know, I think other folks, unless you live there, you wouldn't know. You wouldn't know that a certain road gets washed out. You wouldn't know that when a school lets out the high level of traffic that you would have to deal with. I want to hop to a, a couple of things I heard today. One, I think there's definitely been some debate as to whether this limits public hearings or not. I would point to section (4), and I am a little concerned that unless a county explicitly listed within their regs that they could have a public hearing, that section (4) might prevent that. But I'm not an attorney, I believe, there is one coming up after me. And I think that'd be a good question. Two, I've heard a lot of talk about written testimony and seeing how this might expand hearings to ensure written testimony. I wasn't aware that was an issue. I've sent in a lot of written testimony to planning commissions, and, and they've taken it and they've looked at it. So I, I don't know if that's an issue. If it is, that's something we'd be willing to talk about and work on because more public engagement is good. I just don't know if this is the language to do it. I'll also say that, you know, we really need to think about a large-- larger scale review of our planning and zoning standards throughout the state. And, Senator Halloran, has been in-- you've been in so many hearings I know where we've talked about these issues. We've had numerous bills that have come up because somebody hasn't liked the decision that happened at a local Planning and Zoning Commission. And I know you had an interim study in the past kind of hitting some of those, but I think having some more dialogue on some of these pieces

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

would be important. I think one of the things that we could definitely talk about is thinking about things like the order. This bill does create kind of an order for the process as to how it should go, but we think it's backwards. And really we need to get some of that NDEE information to the county and zoning board first. And I'm sorry my time is up.

AGUILAR: You need to respect the light.

EDISON McDONALD: Yeah, yeah. Yeah, I'll stop. Yep, yep.

HALLORAN: Thank you.

SANDERS: Thank you, Edison. Are there any questions? Thank you.

EDISON McDONALD: Thank you.

SANDERS: Are there any other opposition? Anyone in the neutral? Good evening. Thanks for sticking around.

ANTHONY SCHUTZ: You bet. I came all the way down here. My name is Anthony Schutz, A-n-t-h-o-n-y, last name Schutz, S-c-h-u-t-z. I teach at the law school. I work for the university. I'm not here on the university's behalf or anything like that, but I've taught land use, agricultural law, water law, state and local government for the better part of the last 20 years. So I thought perhaps it would be helpful for me to come down and give you some thoughts on zoning generally in Nebraska, how that's developed. And some of the interesting aspects of this bill to, to think about and then hopefully answer any questions that you might have. You have legal counsel and there's been a few lawyers that have spoken so maybe you don't have any legal questions. But county zoning in Nebraska has a long history. Mr. Hansen, I think, laid that out fairly well. A lot of the current-- or a lot of the enthusiasm for the adoption of county zoning had to do with sort of transformations in the hog industry. And that is kind of what I think in many ways brings us here today. The, the-- since the mid-1990s into the 2000s, I've been down here a number of different times talking about different bills that have sought to change county zoning. All of those have been efforts to kind of at least in some ways grease the skids for large confinement operations. Those changes are relevant to sort of what you see here today. And so one interesting aspect of-- well, one way of thinking about it is there's land use regulation and the way it's sort of operated on urban landscapes and, and sort of neo-Euclidean zoning and all of those sorts of things. But our county zoning is getting a little bit weird. In some ways we have greased the

skids for large animal confinement operations over the years. So one thing to think about is that a determination by the Planning Commission or the county board goes directly to district court, it doesn't go to a board of adjustment like you would have in many other sorts of land use schemes or a board of zoning appeals. Also, the current Nebraska statutes allow for a county, and it's sort of the baseline assumption is that if the county involves the Planning Commission in the issuance of a conditional use permit or a special exception, they have the exclusive jurisdiction to handle that particular question. So a county board has to affirmatively retain the ability to, to finally approve a conditional use permit or a special exception. And I'm not sure how many counties have done that sort of thing. The point is, is that if you eliminate the public hearing requirement at the conditional use permit level, or I'm sorry, at the Planning Commission level with regard to conditional use permits and special exceptions, it could be the case that in some counties you would never get a public hearing, that it would go directly to the district court from the Planning Commission. So I would encourage you to think about that. That would be weird. That would be a strange way to administer conditional use permits and special exceptions in the grand scheme of, of land use regulation and the administration of it. A few other things. You've heard a lot about the 90-day notion, you know, how much did you all get done last year with 90 days? Time, time can slip by pretty quickly.

SANDERS: Had to bring it up.

ANTHONY SCHUTZ: Right. So that's-- it's just one thing to think about. These can get pretty complicated pretty quickly. The importance of the public hearing, I think you've heard a lot about that and the difference between public testimony and written testimony. So, with that in mind, I've just got one last observation. So one of the other things that's happened over the years in this body is bills do sort of restrict a thing called a nuisance action, which is a, a cause of action that an individual has for harms that are occasioned by somebody who lives next door to them or down the road. Right? We've called those reforms, reforms to the Right to Farm Act. Right? Those-- that-- or that common law cause of action is the way to sort of operate as a backstop for bad land use planning choices. Right? So we've restricted that and that's put a lot of pressure on the land use planning process to get things right. And so this public hearing that's associated with the issuance of conditional use permits is a pretty important and even more important thing now that we've come with Right to Farm Act and made some modifications to it that have basically-- that basically mean that if county zoning doesn't get it

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

right, you're probably not going to be able to go to court to get a judge to make it right. So those are just some broader observations. But if you have any questions, I'd be happy to answer.

SANDERS: Thank you, Mr. Schutz, for being here. Let me check to see-- Senator Hunt has a question.

HUNT: Thank you, Vice Chair Sanders. Thank you, Anthony, for being here. I don't have any questions, but I might reach out to you and ask some later.

ANTHONY SCHUTZ: Sure.

HUNT: I just wanted to let you know.

ANTHONY SCHUTZ: That'd be great.

HUNT: Yeah. Thank you.

ANTHONY SCHUTZ: Thank you.

SANDERS: Thank you.

ANTHONY SCHUTZ: Thank you.

SANDERS: Any others? See none. Thank you very much. Any other in the neutral? I see none. Senator Lowe, would you like to close? Oh, we also have position comments, hearing record: proponents, there were 8; opponents, 87; neutral, zero. Thank you.

LOWE: First of all, I would like to thank the Government, Military and Veterans Affairs Committee for staying this long for my bill. I would also like to apologize to Senator Holdcroft for delaying his bill and thank all the proponents and opponents and those in the neutral who came to testify and stay through the whole event and, and those that probably had to go home and be with their families. The public hearing, we'll make sure that stays. We'll, we'll amend that back in. We thought by striking it out it, it just made it silent so it could happen. So for those of you who traveled all this way for, for that portion I'm sorry we scared the daylights out of you. And it was brought up that 90, 90 days is too short and how much did we get done last year in the 90-day session? We dealt with 800-and-some issues last session during our 90-day session. We, we got a lot done during a 90-day session. And maybe 90 days isn't the right amount, maybe it's 120, but I think we need to have a limit that we just can't keep on putting off businesses and ranchers and farmers and, and all those

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

that may be affected by this bill. So I think we do need a limit. And so we'll, we'll consider those and, and we'll listen. We've-- Patrick, my LA, has taken great notes on this and, and we'll consider things and our office will be open for comments. So thank you very much all for attending and, and, and staying for this, this bill.

SANDERS: Let's make sure we don't have any questions for you before you leave. Are there any questions for Senator Lowe? No. I, I just have a comment. You know, we heard it repeatedly here, the more comment time we have the more we learn from each other. And I kept hearing the word CAFO, and I'm like I don't know what CAFO is. So for background, I grew up in Hawaii. My grandmother had a little coffee farm. That's all I know about farming. And I thought they were saying capo, which in rock climbing those are carabiners. That wasn't it. And then I thought they were saying KYBOs. But that's not it. In the camping world, that's a bathroom, right? But I did learn it stands for concentrated animal feeding operation. So we learned something and I'm glad it was here tonight.

LOWE: I'm sad it doesn't mean rock climbing equipment.

SANDERS: Correct. So thank you for bringing this bill and thank you, everyone, for staying after and this closes our hearing on LB1375.

Unidentified: And. This is going.

Speaker 3: To make you more free speech. I suppose

SANDERS: If we can have you take the comments outside, we have one more hearing. Thank you. Mr. Holdcroft, ready to go?

HOLDCROFT: I'm ready. And, first, I want to thank Senator Lowe for the length of this hearing because it allowed me to sit through 6 hearings in Judiciary Committee. So good afternoon, Vice Chair Sanders--

SANDERS: Welcome. Good evening.

HOLDCROFT: --good evening-- and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t. I represent Legislative District 36, which includes west and south Sarpy County. Today, I'm introducing LB1175. I brought this bill on behalf of the Nebraska Association of County Officials to allow counties that sell their bonds using a competitive sale process to have a 10-year call, rather than the current 5-year call for all bond sales. There are 2 approaches to selling bonds: a competitive approach and a negotiated

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

approach. Under a competitive approach, underwriters submit bids to, to purchase the user bonds in accordance with the terms set by the user in a notice of sale. LB1175 would allow counties using a competitive sale process to use a 10-year call. A 10-year call is a-- is a customary provision in the national bond market where, where competitive sales occur. This flexibility is expected to help lower borrowing costs for counties that use this method. Counties that currently use a negotiated sale process would continue to be able to use a 5-year call. Negotiated bond sales for counties normally involve underwriters selling bonds to Nebraska bond purchasers who are accustomed to the 5-year call provisions. In addition to the call provisions, section (3) of LB1175 would modernize the statute-- statutory bond provisions to match current practice. A representative from NACO will follow and can explain the process in more detail. Vice Chairman Sanders and members of the Government, Military and Veterans Affairs Committee, thank you for your consideration of LB1175, and I will close.

SANDERS: Thank you very much, Senator Holdcroft.

HALLORAN: No questions?

HOLDCROFT: Oh.

SANDERS: Yeah.

HOLDCROFT: [INAUDIBLE]

HALLORAN: No, I don't have any--

HOLDCROFT: What are you doing with the gavel?

HALLORAN: --I don't have any questions.

HOLDCROFT: I thought she was the Vice Chair.

HALLORAN: I don't have any questions.

LOWE: We all have gavels.

SANDERS: Thank you. Proponents? Welcome. Good evening.

CANDACE MEREDITH: Hi there. So my name is-- thank you for having us here. My name is Candace Meredith, C-a-n-d-a-c-e M-e-r-e-d-i-t-h, and I am the deputy director of the Nebraska Association of County Officials, otherwise known as NACO. And here today, today, to testify

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

as a proponent of LB1175. Thank you for bringing this legislation on behalf of NACO. So basically, it's-- the goal is-- for LB1175 is to provide counties with the ability to respond more effectively to the market conditions, ultimately providing the best value and potentially saving taxpayer dollars. The added language aligns counties with other public agencies, but also enhances our competitiveness in the market so, again, NACO supports this proposed legislation, as it provides counties with a tool that adds flexibility to navigate the markets effectively. And we just have one other person behind me here today, too, to help with the more technical questions, so.

SANDERS: Wow. OK. Let me check to see if anyone has any questions. Are there any questions for Ms. Meredith? No questions.

CANDACE MEREDITH: OK.

SANDERS: Thank you for your testimony. Good evening and welcome.

MICHAEL ROGERS: Vice Chair Sanders, members of the Government, Military and Veterans Affairs Committee. My name is Michael Rogers, M-i-c-h-a-e-l R-o-g-e-r-s. I'm a bond attorney with Gilmore & Bell in Omaha. We represent many counties around the state and-- including Sarpy County. And I'm here to offer, offer testimony in favor of LB1175. LB1175 will allow counties to agree to more restrictions on when it can refinance its bonds, but only if the county issues bonds using a competitive sale process. This type of increased restriction is more common in the national bond markets, which is the market typically accessed in a competitive sale transaction as Senator Holdcroft explained earlier. LB1175 is a very narrow provision in the mechanics of how bonds are issued and the types of restrictions which are involved so we're very much down in the weeds here. So a long explanation might, might put people to sleep so I will stop there and see if there are any questions or if I can help explain anything further.

SANDERS: I think we look wide awake. Are there any questions for-- Senator Hunt.

HUNT: Again, I'll just say for the record, thank you for lending your expertise. And if I have questions, I'll reach out to you. But my brain is fried so I don't have one right now but that doesn't mean--

SANDERS: It doesn't look it, though.

HUNT: --thank you-- that doesn't mean there won't be one later so thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 7, 2024

SANDERS: Are there any other questions for Mr. Rogers? Seeing none, thank you very much--

MICHAEL ROGERS: Thank you.

SANDERS: --for your time. Any other proponents? Any opponents? In the neutral? No? Just audience. OK. Just wanting to-- and then for the record, position comments: opponent one-- proponent one, opponent zero, neutral zero.

HOLDCROFT: So I think this is a good candidate for the consent calendar and so I would appreciate a, a quick action by the committee to, to get it out and see if we can possibly move it into that, so.

SANDERS: Great. Let's check to make sure we don't have any questions.

HOLDCROFT: Yes, any questions?

SANDERS: There are no questions. Thank you. And this closes the hearing on LB1175. Thank you, Senator Holdcroft.

HOLDCROFT: Thank you.