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Natural Resources Committee January 22, 2025

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BRANDT: We have a new 1023 hearing room for, as far as I know, the first hearing ever. Mics are all hot, Sally, right? First hearing ever. So it's very well lit. We're going to find out how this goes. After the hearing is closed today, if you have any feedback on this room, I know Steve would appreciate that. We've identified a couple of things in here. We need a clock and, and maybe another microphone. But we're going to, we're going to stumble through this today. So welcome to the Natural Resources Committee. I'm Senator Tom Brandt from Plymouth, representing the 32nd Legislative District, and I serve as chair of the committee. The committee will take up the bills in the order posted. The public hearing is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the table by the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there is also a yellow sign-in sheet back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with the closing statement by the introducer if they wish to give one. We will, we will be using a 5-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have 1 minute remaining. And the red light indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard. It is just part of the process as senators may have bills to introduce in other committees. A few final items to facilitate-- facilitate today's hearing. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Appropriately, please silence or turn off your cell phones. Working on it. OK. Verbal, verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to

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Natural Resources Committee January 22, 2025
Rough Draft

be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position letters will be included in the official hearing record, but only those testi-- testifying in person before the committee will be included on the committee statement. I will now have the committee and members with us today introduce themselves starting on my left. Senator.

CLOUSE: Senator Stan Clouse from Kearney, District 37.

CONRAD: Hi, I'm Danielle Conrad.

DeKAY: Barry DeKay, representing District 40, which consists of Holt, Knox, Cedar, Antelope, northern part of Pierce, northern part of Dixon County.

BRANDT: We'll start on the end of this table. Senator.

JUAREZ: Margo Juarez, District 5, south Omaha. The best part of Omaha.

RAYBOULD: Jane Raybould, Legislative District 28 from Lincoln, and I represent the heart of Lincoln.

MOSER: Mike Moser, District 22. I represent Platte County and most of Stanton County.

BRANDT: Also assisting the committee today, to my right is our legal counsel Cyndi Lamm, and to my far left is our committee clerk Sally Schultz. Our pages today are Emma Jones, a junior at the University of Nebraska-Lincoln. Emma, raise your hand. OK. And Kathryn, a junior, an environmental studies major at the University of Nebraska-Lincoln. So thank you for helping us out today. And with that, we are ready to begin our hearing with LB20. Take it away.

J. CAVANAUGH: Good afternoon, Chairman Brandt and members of the Natural Resources Committee. My name is Senator John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in Omaha. Today, it's my pleasure to introduce LB20, which puts into place a consistent statewide policy that will allow agricultural producers who generate electricity for their agricultural

operation but do not net meter to be connected to their local electrical grid. LB20 was introduced last year in this committee as LB1369 and advanced unanimously with the committee amendment that, that has been incorporated into this bill. Unfortunately, we ran out of time to pass this bill last session. Farmers across Nebraska are discovering that they can make their operations more sustainable and more profitable by self-generating some of their electricity needed for their operations. If you can picture the number of solar panels that can be placed on the roof of an 800-foot-long dairy barn, then you can understand how livestock producers, in particular, have the opportunity to generate-- self-generate some of the energy needed to power their operations. But producers need more than just solar and wind to power their operations. When the sun isn't shining and the wind is blowing, livestock producers need electricity to power fans, feeders, waters, and other systems that are critical to their animals' health. In other words, they still need the reliability that comes from being connected to the electric grid through their local power suppliers. Unfortunately, the rules and requirements for interconnecting a self-generating agricultural operation vary from one public power district to another. What might be allowable in one area is not allowable in another. LB20 solves this inconsistency by creating one set of rules that will apply statewide. LB20 makes it clear that the public power district can charge rates to the special class of customers that will allow the public power district to fully recover their cost of service. It also sets limits on the amount of electricity, 100 kW, that an agricultural operation can self-generate. In short, I think this bill balances the need of Nebraska's agricultural producers and the need of public power. I want to thank both sides of this equation: Nebraska's ag industry and public power industry for working with me on this bill. I want to thank the committee for your time and I'd be happy to answer your questions. But as I promised Senator Brandt, Chairman Brandt, I'd try to be brief here today, but don't feel the need to ask if you don't.

BRANDT: Are there any questions for Senator Cavanaugh? Did you have a question? I guess I've got a couple of things. This is an ag-only application. Would that be correct?

J. CAVANAUGH: Right. It's ag as defined-- I can't remember the section in statute, but--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

BRANDT: 70-2002.

J. CAVANAUGH: No, 1359, 77-1359.

BRANDT: OK. And I guess the only other question I would have, the net, net metering is up to the local utility on, on what that looks like.

J. CAVANAUGH: Well, there is a state statute that pertains to net metering, but we're not touching it here. And my recollection is that it's, it's something like 1% of their generation. But maybe Al or James, who I think will testify after me, will remember that specifically, but this bill is, is purposely not addressing that.

BRANDT: OK. Seeing no other questions, we will go for proponents. Oh, wait. Excuse me. Senator Raybould.

RAYBOULD: Senator Cavanaugh, I, I was just reading some of the letters of support, and I, I guess one was recommending that, that the tribal communities can also participate in this type of legislation. I think that was one request that we add the tribal communities in addition to the ag.

J. CAVANAUGH: I'm not opposed to that. I think if there's folks who meet the kind of intention of this bill without undermining it or making it more onerous on the people we're trying to thread a needle in terms of the, the regulation we're putting on the local utilities and the interconnectivity that we're allowing for these producers. So I'm, I'm certainly not opposed to it. I think that might be a question the committee could take up in terms of a committee amendment or something, if that was deemed appropriate.

RAYBOULD: But if you're an ag producer in a tribal community you would certainly qualify.

J. CAVANAUGH: I would think you would still qualify. Yeah.

RAYBOULD: Thank you.

BRANDT: OK. Thank you. If you are a proponent. Welcome to the Natural Resources Committee.

AL JUHNKE: Thank you, Mr. Chair and members of the committee. My name is Al Juhnke, A-l J-u-h-n-k-e. I'm the executive director of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

Nebraska Pork Producers. But I'm also here testifying on behalf of the nine ag leaders working group members, which include Nebraska Cattlemen, Nebraska Corn Growers Association, Nebraska Farm Bureau, us Nebraska Pork Producers Association, Nebraska Sorghum Producers Association, Nebraska Soybean Association, Nebraska State Dairy Association, Nebraska Wheat Growers Association, and Renewable Fuels Nebraska. The reason we do that is to save time. We could have all nine of them come testify, but as you know on the sheet, we just want to list them. You'll see more of that during the year when we think it's appropriate to just do one testimony. So members, as Senator Cavanaugh said, this was a bill that was before you last year. There was no, no one against it to speak of. There were committee amendments. So it looks-- this bill was drafted as committee amendments were added. So it looks the same as what ended up on the floor last time. But it was late in, in the season. It wasn't prioritized. There were no committee bills or anything to put it in and so we brought it back. It's, it's an important bill and I think a start on a way that we should think about who is allowed to generate renewable electricity in the state. Again, as, as this bill mentions, this is for farmers, agriculture or horticulture as defined in our, in our statutes. I want to give credit to rural electric and public power and others. We've worked on these things for a number of years and, unfortunately, every once in a while-- it isn't the norm-- but every once in a while we'll have-- I've had farmers or want to put up solar rays on their swine facilities, pig barns, and they're all ready to go. They've got USDA grants, we've got grants coming in the state, perhaps, for a lot of these renewable things, and they get in and go to the public, the rural electric district they're at, and all of a sudden they said, no, you can't do it. And so as a farmer, you kind of go, wait a minute, explain this really slow. I grew up in the country. You're telling me I can't put any type of renewable energy on my own site behind the meter, no net metering, pay all the interconnect fees because I still need your power when the sun doesn't shine or the wind doesn't blow? And the answer was yes. Again, it doesn't happen often, but it's happened a couple of times over the last few years. I will credit those rural electric districts, and they now allow farmers to do it, but there was a time they said no. And so we don't want to run into that going forward either. We want our farmers to be able to put in their own renewable energy, self-generate if they'd like to. And it's, it's not only good for them and their bottom lines, which we know how important that is to farmers right now, is, is return on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

investment. And this, this returns a very good amount of money to the farm producing electricity for their own use. So, Mr. Chair, I'll end there. And if there's any questions from committee, happy to answer.

BRANDT: Let's see if there are any questions. Senator Clouse.

CLOUSE: Senator, thank you. And maybe I should have asked this to Senator Cavanaugh, but, you know, on a, on a swine facility you got a lot of hou-- a lot of barns and so forth. This is 100 kW. Is that-- can you have multiple connected 100 kW's because those are pretty good sized or is it just 100 kW per--

AL JUHNKE: Right.

CLOUSE: --per site or count?

AL JUHNKE: So, Mr. Chair and Senator Clouse, the, the bill is, is limited to 100 kW.

CLOUSE: [INAUDIBLE]

AL JUHNKE: Again, that's something we can talk about. I will answer yes, probably in a lot of your districts for cer-- certain, Senator DeKay, for certain. Senator Moser, there are sites that are larger needs than 100 kW. So do we allow them to do whatever up to their name-- or, you know, up to their-- the amount they need to generate on their own farm? Or do you just say you can generate up to, say, 80% of whatever you generate, but it has to be on that single site. So you can't hook up-- so I got to site here and I got to site 10 miles down the road, it's where that meter comes in and what that meter is running and you're the customer and that's the meter and that's the amount we're looking at.

BRANDT: OK. Senator Moser.

MOSER: So does the bill force the utility to buy excess electricity from the generator?

AL JUHNKE: Mr. Chair and Senator Moser, no. This only-- and it only allows, again, to generate what you use. Any excess-- so this is all behind the meter. We're not sending anything out through the lines. It doesn't preclude that. If you want to put in a system and your local electric distributor wants additional power, you could work on putting

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

in additional and do a power purchase agreement with them. But you can't-- so if your, if your site uses 70 kW, it would make no sense to build anything bigger than that because you would not be able to sell it back and you would not be able to use it and you would not be able to move it to the neighbors or to another site.

MOSEER: So why-- what would be the objection? Of course, maybe you're not the right person to ask, but what would be the objection of the utility if you're generating your own electricity? You're not requiring them to buy it. What, what-- what's their reasoning?

AL JUHNKE: I, I honestly-- we just-- we settled in on 100 to begin with. That was-- we, we started talking early on, maybe we should move net metering up to 100. We didn't do that.

MOSEER: But this does not have net metering.

AL JUHNKE: It has no net metering. In fact-- and, again, you'll hear from Rural Electric. I-- my understanding is you either do this or you do net metering, you don't do both. So net metering can't be part of 40 kilowatt cap on net metering, or whatever it is now, can't be under the 100 that you're doing, so you'll get 40 net and another 60 of the other. You can't do that either. It's either this as a farmer or you choose current law, which is net metering.

MOSEER: Thank you.

BRANDT: Other questions? Senator DeKay.

DeKAY: Thank you. Thank you for being here today. Question--

BRANDT: Are you close enough to a mic? Maybe--

DeKAY: Can you hear me?

AL JUHNKE: I can hear you perfectly,--

BRANDT: No, for the transcribers.

AL JUHNKE: --but I don't know if the people in the camera world can.

BRANDT: Yeah, it's for the transcribers.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

DeKAY: I'll be Senator Hughes for a second.

BRANDT: OK. We'll let you do that.

DeKAY: The question is, have you had conversations with the rural electricians and stuff not pertaining to net metering, but as far as maintenance costs for the line coming in?

AL JUHNKE: Yeah.

DeKAY: And, and in the times that they're-- you're-- the farmers aren't using those lines?

AL JUHNKE: And, Mr. Chair and Senator Hughes, yes. [LAUGHTER] And, and this bill, trust me, we, we talk about that and this bill addresses that kind of in the last language paragraph that-- so when you look at your electric bill, and you all get them, top part of the bill is your electric charge, right, so much for kilowatt hour and you have so many hours and that's your charge. The whole bottom part of the bill are those interconnection fees, line maintenance fees, taxes, all the other things are that bottom part. This bill has, has nothing to do with relieving a farmer of paying that. Because, again, the producer, the farmer is going to need electricity most likely. They're not going to self-generate all their own. Someday maybe with battery technology, we're getting there, but we're not there yet and we need the reliability of a backup. And that's where our rural electricians come in. So, yes, we will pay for the usual fees, just like all our neighbors do for line maintenance and pole maintenance and all the other things that we need to have people on duty, on call, ready to provide electricity to us when we need it.

DeKAY: Thank you.

BRANDT: Seeing no other questions, thank you for your testimony.

AL JUHNKE: Thank you, Mr. Chair and members of the committee.

BRANDT: Further proponents? Welcome to the Natural Resources Committee.

JAMES DUKESHERER: Good afternoon, Chairman Brandt and committee members, new committee members. My name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I'm the director of government relations for the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

Nebraska Rural Electric Association. We're testifying in support of LB20. The Nebraska Rural Electric Association represents 34 rural public power districts and electric cooperatives throughout the state. The more than 1,000 dedicated employees of our system serve 240,000 meters across nearly 90,000 miles of line. Since the inception of the state's net metering laws in 2009, NREA has consistently opposed multiple efforts to expand the statutes to include larger generators or allow aggregation or multiple meters on one account. Net metering, at its heart, forces ratepayers that do not own a personal generation system to pay some of the costs of service for those that choose to, to generate their own electricity. LB20, however, would allow agricultural self-generation facilities of 100 kW and smaller to be installed on the customer side of the meter in a way that need not impact all the other customers. Two key components of an agricultural self-generation facility are, first, that they're not able to back feed electricity onto the grid. Secondly, the power district is able to design a rate or fee that appropriately charges this customer for the services that they do receive. Under this model, the customer generator uses electricity they self-generate, therefore, offsetting their retail bill from the utility. They continue to be interconnected to the utility and receive the electricity they need when their generator is down or not producing as much electricity as they require. From the utility perspective, they'll simply not be using as much electricity as they once did. The utility will be able to design a rate for this customer that will ensure we're able to fully recover our costs to supply the customer with the electricity that they may require at a, at a peak moment. If the bill does move forward in the legislative process, our only addition would be a clear statement in the bill that the utility need to be made aware of the facility's existence to ensure that the generator does not pose any safety concerns to the utility or the ultra grid. And with that said, I would take any questions that you may have.

BRANDT: OK, let's see. Senator Moser.

MOSER: So would the utility typically have demand charges to cover the capacity when they're not using your electricity?

JAMES DUKESHERER: That's one way to do it. So the bill would allow the utility to set up the-- a, a rate or put a demand charge on them, whatever, whatever they thought was the best way to go about it. If

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

they had many customers, they might just go out and say, OK, we're going to do a rate for this class of customers.

MOSER: Because you need to have the systems to supply the power they need. But it's less likely that they're going to need that. So you can't make it up in margin on marking up your electricity and making that. So you need to make sure that you have a way to protect your other customers so you're not taking costs from one customer and spreading them out over everybody else. Is that fair?

JAMES DUKESHERER: Exactly. So I, I would say to, to put it in an example, let's say we have two pork producers that are, are identical in nature. One has the generation facility on it, the other does not. The one that has the generation facility is offsetting their own personal needs. They're buying less electricity from the utility. But let's say we get a cold day in the winter that comes, they need a lot of electricity on that day, it happens to be cloudy. They're not self generating at that moment. They both require a lot of electricity to be delivered and there's infrastructure that, that has to get it there. It's equal for both customers. Even though one customer is paying for a lot of kilowatts over a long period of time to recover those costs and the other one isn't. And so this would allow us to design a rate or put a demand charge on them and say we're going to, we're going to find a way to recoup that cost that, that both customers should be paying.

MOSER: Do you need this bill in order to charge customers, demand charges? That's constant-- that's available now, right?

JAMES DUKESHERER: That, that's true. I think there's a good argument to say that, that this bill reflects the current law, but it definitely makes it clear in statute how, how it should--

MOSER: What do you like about it?

JAMES DUKESHERER: Sorry?

MOSER: It doesn't really help the electric utilities. You're just doing it to get along or are you--

JAMES DUKESHERER: So there's, there's a couple of ways to look at this. A utility is required by federal law per the Public Utility

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

Regulatory Policy Act, we're required to interconnect with a customer.
So as such--

MOSER: Interconnect with a customer who generates or any customer?

JAMES DUKESHERER: A customer that generates. Yes.

MOSER: Oh, OK.

JAMES DUKESHERER: Up to 80 megawatts. So you could look at this and say, this person has a generation facility, OK, we're, we're required by law to interconnect with you and we'll buy that electricity from you.

MOSER: At a net rate, though.

JAMES DUKESHERER: At, at a rate that, that they wouldn't want. You know, [INAUDIBLE] cost rate. And so that doesn't work for them. That's one way to do this. This bill allows them to use that, that electricity. We're not entering into a buy-all, sell-all agreement and they're not being treated as a generator. They're generating electricity. They're using it and, therefore, offsetting their retail bill. They want to be able to do that. But they're doing it in such a way-- because we can set a rate, we can put them in their own rate class, we can recover the costs that we need to recover. Does that make sense?

MOSER: Why would they need your permission to generate electricity if they're not selling it to you?

JAMES DUKESHERER: I don't think they do.

MOSER: Is the bill necessary?

JAMES DUKESHERER: Again, it could be said that a utility would look at a customer like this and say, OK, we're required under federal law to interconnect with you, and that's what we're going to do. We're going to enter into a buy-all, sell-all agreement with you. I don't know where that lands. This bill makes it clear that they have another option.

MOSER: OK. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

BRANDT: Any other questions? Senator Clouse.

CLOUSE: Yes. Thank you, Senator. And this goes back to my, my previous point. And, and, James, if they had a large facility and they had multiple meters, this is a 100 kW per meter, that's, that's-- I don't see that-- and maybe, and maybe I missed it, I don't see that addressed. But because multiple barns and then separate meters based on how the layout is, are you'll, you'll OK with that if that's how that looked?

JAMES DUKESHERER: No, that's a good question. I need to go back and take a look at that because as we talked about it, it was, you know, per site, not per meter. And, yeah, I'd like to probably continue that conversation to make sure that, that we're safe there.

CLOUSE: I just wanted to make sure I wasn't missing anything on that. I think we need to address that.

BRANDT: OK. Senator DeKay.

DeKAY: Thank you. Thank you for being here. Quick question, and this might not pertain to you. Somebody will probably be able to answer it-- this. With the demand on low capacity in the future, how-- you know, there's a lot of projects out there that's been [INAUDIBLE], increased in load. Is there any data or any models out there with the amount of agricultural producers, how much-- how many megawatts or kilowatts we could save over the course of time with how many people are interested in doing this project?

JAMES DUKESHERER: Nothing specifically that I've seen. But it's a good point. In, in a time when we're looking for increased generation, my members are talking about, about this topic.

DeKAY: OK. Thank you.

BRANDT: I guess I just have one quick question and maybe the previous testifier is the one I should have asked. There is no fiscal note on this bill, but I would be curious what the ROI for an individual's project would be. I mean, if you're looking at 100 kW of, of solar, there's a cost to put that on. There's a payback over so many years, you know, what's the payback on that? I don't know. Do you have any insight into that?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

JAMES DUKESHERER: Really, none whatsoever, other than to say that some of the, the generators are able to get federal grants right now to put these in. Some of them, depending on their business, might be able to product-- market their product in a way that is seen as a more green product. They might get a premium for that product. So all of that would have to be taken into account when they decide, you know, if it's worth their investment.

BRANDT: OK. Thank you. I think that's it.

JAMES DUKESHERER: Thank you.

BRANDT: Next proponent. Any more proponents? Please come on up and have a seat. Don't be shy. Welcome to the Natural Resources Committee.

DEBRA NICHOLSON: Ah, thank you. My name is Debra Nicholson. What else do you need to know? Nicholson--

BRANDT: Debra, you need to spell your name.

DEBRA NICHOLSON: D-e-b-r-a N-i-c-h-o-l-s-o-n.

BRANDT: OK.

DEBRA NICHOLSON: All right. I was not planning to speak today, but I do want to lend my support to this bill. I am with the Citizens Climate Lobby, and I also sit in on the Nebraska energy call every week, every Monday morning. And so I'm not an expert, but I hear every week that we need more energy in the state. And so I think that's-- you know, any, any way we can get more energy sounds like a good idea to me, not just for ourselves, but also for economic development. I also know that we lack transmission lines. We, we don't have enough transmission. So it just sounds ideal that a producer can, can generate electricity for his or her own use. And thirdly, because I'm with Citizens Climate Lobby, we are proponents of clean energy. And so it seems like a, you know, a triple win. So that's all I want to say. Thank you for your attention.

BRANDT: Well, let's see if we have any questions. All right. Thank you for your testimony.

DEBRA NICHOLSON: Um-hum.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

BRANDT: Next proponent. Welcome.

SHIRLEY NIEMEYER: Welcome. Yes, thank you, Senators. And, respectfully, I'm Shirley Niemeyer, S-h-i-r-l-e-y N-i-e-m-e-y-e-r. And I'm from Ashland, but I grew up on a farm, and I understand agriculture somewhat. It's changed a lot since I was young. And so I wanted to support LB20 and partly because farmers face unstable economic situations every year. And certainly with climate change, they're facing unstable weather conditions and disasters. And we've seen that in the last couple of years with the downdrafts, the wind, the flooding, and I think they need options. And with solar, yes, the payback is an issue. But once that's provided, then you're not paying as much for the cost of production. And I think that's important. And you're not adding to the pollution as much. The other thing is OPPD, in support of what was just said about needing more energy sources, I think-- and I would have to go back and check this-- that they said they need-- and I thought they said double the amount of energy in the next years ahead. Double. And so as we look at that, we're going to have to have other sources. And the other thing that kind of relates to this is some HOAs are doing the same thing and saying you cannot have solar in your HOA area. So that's another issue that restricts our moving towards the-- which I consider intermediate sources of energy, solar, and wind. There will be more advances. There's research going on all the time. And we do have leads on very unique sources of energy for the future. I just wanted to say one more thing. I have a friend that has a fairly large cattle operation. Remember the hot days about-- was that last year or the year before? He lost 200 cattle, 200 because of the heat. So he was able to do-- I don't know what he did, but he was able to do some things that the next day he only lost 100. Because partly, extremes in weather and he was a very advanced farmer. So it's hard. I mean, you have to have electricity of some sort. And so if they have solar and something happens, they have to have some form of electricity in order to keep the animals from dying, whatever it is: chickens, turkeys, sheep, whatever it is, and whether even it's, it's a-- horticulture. So I think that this is a real responsible bill. And, yes, it's not perfect, but it's needed. And I support the senators that are proposing this and I support you all and I hope you'll pass this forward. And I thank you very much for listening. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

BRANDT: OK. Let's see if there are any questions. I see none. Thank you.

SHIRLEY NIEMEYER: Thank you.

BRANDT: Any other proponents? Opponents? Any opponents? Neutral? Anybody in the neutral capacity? Senator Cavanaugh, you're welcome to close.

J. CAVANAUGH: Thank you, Chairman Brandt. Thank you, members of the committee, for your attention. And thanks to everybody who came and testified. I'm due in the Judiciary Committee so I'm going to try and be quick. To answer Senator Moser's question, on page 2, there's a specific-- line 16 specifically states not to be used for net metering. To answer Senator Clouse's question, it is just one property, so it's not by meter, it's by property. And that's also on page 2 and it'd be basically-- lines 8 through 14 says that the land or the property under the control of the owner generator. And then I don't-- I think it was maybe Senator DeKay's question about recovering costs and that's on page 3, specifically says that they can recover all the costs to serve that customer owner generator. And Senator Brandt's question, I believe it's 1% of the, the generation capacity of the, the utility is what is required under net metering. And, ultimately, to Senator Moser's question, the need for this, as, as Mr. Dukesherer said, that there are requirements in purchase agreements that could be in place currently. This is just to make sure that the generator-- agricultural producer generator would have this option and not be required to engage in a buy-all, sell-all, that they could self-generate and then be connected in purchase. As opposed to, I think what Mr. Dukesherer was saying under the current system, they could certainly build this, but they would be forced to sell all of that energy at, I think, a wholesale rate and then buy it back at a retail rate. So it's just-- the ROI I think would be different and different consideration. So that's, that's the need for this bill, is a consistent approach to this option for agricultural producers.

BRANDT: OK. Any additional questions for Senator Cavanaugh? Senator Clouse.

CLOUSE: Yeah, I have one. Thank you, Senator. Just looking at this-- and we, we talk mostly solar, but we also have wind and geothermal. This doesn't override any local county control or NRD water use and

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Natural Resources Committee January 22, 2025
Rough Draft

geothermal a lot, but this wouldn't override that, this is, you know, there's other components to that other than just the electrical distributor.

J. CAVANAUGH: Right. Yeah. This is just eliminates that one hurdle of, of the nature in which you are connected to the generation.

CLOUSE: OK. And then the other question, go back to the premises doesn't make sense. Should we look at that by, by meter? Does that make sense to even open that discussion up?

J. CAVANAUGH: You know, this bill has been a long journey to get to this point, and it is a small step forward, but it is a step forward. And I would be-- I'm not opposed to expanding some of these other options. I think there are a lot of concerns that come into play when you get-- when you make it bigger, which are those demands, cost charges, and, and the other costs that could be borne by the other customers, as Senator DeKay pointed out. So I think this bill is a great compromise and gets us a step in the right direction after we implement it. I'd certainly be interested in taking looks at expanding it in other ways, but see how it works.

CLOUSE: Thank you.

BRANDT: OK. Senator DeKay.

DeKAY: Real quick. Does this just pertain to clean energy as far as wind, solar or would methane digesters come into play on this?

J. CAVANAUGH: Methane digesters, biomass. It's line 6 on page 2 would be-- thank you for the question, Senator DeKay-- Vice Chair DeKay, actually-- methane, wind, solar, biomass, hydropower, or geothermal. So includes all of those.

DeKAY: Thank you.

BRANDT: That looks like it's it. Thank you,--

J. CAVANAUGH: Thank you.

BRANDT: --Senator Cavanaugh. At this time, I'll allow Senator Hughes to introduce herself.

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Natural Resources Committee January 22, 2025
Rough Draft

HUGHES: Thank you, Chairman Brandt. I am Jana Hughes, District 24: Seward, York, Polk, and a little bit of Butler County, so. Had a bill in HHS.

BRANDT: OK. Thank you. For the record, LB20 had six proponents, one opponent, and zero neutral. I have the next bill up, so Vice Chairman DeKay will be running the show.

DeKAY: Are you ready? Good afternoon, Senator Brandt. You're here to introduce LB35.

BRANDT: OK. Good afternoon, Vice Chair DeKay and members of the Natural Resources Committee. My name-- I am Senator Tom Brandt, T-o-m B-r-a-n-d-t, and I represent Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. I am here today to introduce LB35, which is a technical modification to legislation we passed last year. This suggested modification ensures that renewable energy developers can meet the North American Electric Reliability Corporation's critical infrastructure protection requirements at the appropriate time when a facility reaches its commercial operation date. As it stands, these requirements are technically unattainable for developers prior to construction, as full compliance can only be demonstrated once a project is operational. By adjusting the phrasing, we provide a practical and realistic path for developers to certify compliance to the NPRB while maintaining our commitment to safeguarding critical infrastructure. With that, I would be happy to answer any questions.

DeKAY: Are there any questions from the senators? Seeing none, thank you. Will you be closing?

BRANDT: Yes.

DeKAY: First proponent. Thank you.

ERIC GERRARD: Vice Chair DeKay, members of the Natural Resources Committee, my name is Eric Gerrard. That's E-r-i-c, last name is G-e-r-r-a-r-d. I'm a registered lobbyist for a group called the Advanced Power Alliance. We are a regional trade association of developers, builders, operating wind, solar, and battery technologies. Our footprint is across the Great Plains. This was an issue we heard about this summer from a developer, and so we talked with Senator Brandt on it. He phrased it very well as to the technical change. So I

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Natural Resources Committee January 22, 2025
Rough Draft

just wanted to step up and support him in that. It was identified that certain projects can't become into compliance until they're commercially operable. I think you'll see that change on page 3, line 25 if you're looking at the bill. So hopefully it's as technical as we framed it to Senator Brandt. And with that, I'll close and see if there are any questions.

DeKAY: Are there any questions? Seeing none, thank you.

ERIC GERRARD: Thank you.

DeKAY: Next proponent. Any other proponents? Any opponents? Seeing none, anybody in the neutral capacity? Seeing none, Senator Brandt. Senator Brandt waives closing. For the record, for the record, from online, there were two proponents and no opponents to this bill. Thank you.

BRANDT: OK. The next will be LB43 by Senator DeKay. Welcome.

DeKAY: Thank you very much. Good afternoon, Chairman Brandt and members of the Natural Resources Committee. For the record, my name is Senator Barry DeKay, B-a-r-r-y D-e-K-a-y. I represent District 40 in northeast Nebraska, and I'm here today to introduce LB43. LB43 is an update bill to LB1370, passed last year by Senator Bostelman to deal with situations involving components and equipment manufactured by foreign adversaries being placed in electric infrastructure near sensitive military installations in Nebraska. That bill required that before any electric supplier, whether public or private, begin construction on any electric generation facility, transmission lines, or related facilities within 10 miles of a sensitive military installation, the owner must provide a notice to the Power Review Board certifying that the electric generation facility transmission lines and related facilities contain, contain no electronics, materials, or any other components manufactured by foreign government or a foreign nongovernment person determined to be a foreign adversary pursuant to the list developed by the federal government. LB43 would make several technical changes, clarifications to LB1370. First, the bill would better define what military installations are considered sensitive and pertinent to this legislation. The definition used in LB1370 referenced active duty military bases with fixed wing aircraft or strategic weapon assets. That definition caused a bit of confusion since to some people and organizations that there was ambiguity in

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Natural Resources Committee January 22, 2025
Rough Draft

what a strategic weapon asset meant. LB43, instead cites a couple of federal regulations and makes it more clear what military installations we are talking about in this bill. Offutt Air Force Base and the missile field out in the Panhandle and in a federally designated area defined by all portions of the counties of Banner, Cheyenne, Deuel, Garden, Kimball, Morrill, Scotts Bluff, and Sioux. I have handed out maps that describes areas of the state this bill covers. Second, LB43 would update the foreign adversary list used in LB1370. That was 15 CFR 7.4. Over the summer, the federal government reorganized some regulations and transferred 15 CFR 7.4 to a new title number, which is now 15 CFR 791.4. The list still just covers the People's Republic of China, Iran, Cuba, North Korea, Russia, and the Maduro Regime Venezuelan. Third, this legislation would clarify that this bill pertains to just electronic-related equipment and to electronic-related components manufactured by foreign adversaries. What we are really worried about is whether the equipment or component needs an electric current or electromagnetism to operate. There were some concerns that LB1370 applied to bolts, nuts, nails and screws, which are hard for electrical suppliers to get clear answers from their vendors that none of their procured equipment or components are tied to foreign adversaries since it is a bit hard to know if you have an American-made bolt versus a Russian-made bolt. By limiting the bill to just electronics, it will be a lot easier for electric suppliers to work with their vendors and then to work with the Power Review Board to ensure compliance with the provisions of this act. I will also add that I am bringing an amendment which has been handed out, AM11, that I would like to have considered before this bill is acted upon by this committee, which contains some clarifications to the existing bill that does not change the intent of the existing draft which-- with regards to electronic-related components. Fourth, LB43 would authorize electric suppliers affected by this bill to submit a one-time written notice to the Power Review Board certifying that the facility is continually operating in compliance with the requirements of this act. I say that if an electric supplier can work with their vendors to ensure nothing electronic comes from a foreign adversary, then I think one-time certification should be fine since it cuts down on paperwork for both the supplier and the Power Review Board. Fifth, LB43 would expand the bill to include reconstructions, alterations, upgrades, repairs, installations or maintenance of new or replacement electronic-related equipment and electronic-related components in addition to new construction. I think that if there is an electric

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

supplier can work with their vendors to get a one-time certification from the PRB, Power Review Board, this should not be a general issue. In case a situation does pop up with a vendor, there is a relief valve where the electric supplier can work with the Power Review Board to get approval for installing foreign adversary made electronic-related equipment and electronic-related components if there is no other reasonable option. I am aware that there may be testifiers behind me who have concerns on this primarily because it would give more authority over to the Power Review Board. If need be, I would be willing-- would be happy to try to work with those testifiers. In closing, this bill makes multiple updates to streamline what we passed last year and make it more workable for everyone. I worked with Senator Hardin and Senator Bostelman to give their expertise working on LB1370 last year. I also worked extensively with the Power Review Board and Nebraska Rural Electric Association during the interim to get to where we are today. I, I expect someone from both organizations to testify after me. I would be happy to try to answer any questions the committee has for me. Thank you.

BRANDT: All right. Let's see if we have any questions. Senator Clouse.

CLOUSE: Yes. Thank you, Senator. So, Senator DeKay, as, as I read this, substation transformers and large transformers, those type of things are hard to come by, and long lead times. So this gives a utility an out if they have to-- the only place they can get that particular transformer is from China, for example. Does this give that opportunity to get out of that, you know, that they can still get that transformer with a long lead time?

DeKAY: Yes. That-- where I talked about the release valve in there that would give them the opportunity to do that. Obviously, if we can have American-made products in there. The elect-- the electronics of this whole bill is what I'm concerned about, transformers, meters. If they're built in the United States or at least put together in the United States, it gives a little more assurance that we know what's inside those components so they're-- I don't want meters, transformers, or something come assembled that we could just slap on the pole and go. I, I want to know the inner workings of it.

CLOUSE: So they have an out?

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Natural Resources Committee January 22, 2025
Rough Draft

DeKAY: Yeah.

CLOUSE: They have ability to do that.

BRANDT: OK. Other questions? Senator Raybould.

RAYBOULD: Senator DeKay, thank you for introducing this. I have a question. It seems like you're, you're solely focusing on the electric industry and energy generation that way. You know, it seems like all the ag equipment nowadays is so high tech with all the electronic devices and bells and whistles and can communicate with your computers and really does it's, it's own combined without any or very little input from a, a driver. So is there a reason that you find the electric industry is more vulnerable, say, than some of the electronic components that are in some of the ag equipment?

DeKAY: Well, the-- what I'm focusing on is electric industry and focusing primarily on that 10-mile radius around the military installations where there could be surveillance or espionage equipment put in place to spy, alter what we're doing at STRATCOM or Offutt or out at the missile silos. Ag equipment, you're absolutely right. We talked-- I talked to people about that earlier with the chips and stuff and that, that's a different bill for a different day. So right now, I'm primarily focusing on trying to get this across the finish line to assure that we have the safety for on the state level and the national level considering what those, those installations deal with.

BRANDT: Go ahead.

RAYBOULD: So have you heard of any, like, incursions in other states in-- on agricultural land near military bases where this type of surveillance is going on or concerned with some of the products that are in elec-- electric used-- utilized by the electric industry primarily that lead to this-- the drafting of this bill?

DeKAY: Well, it's a little bit different than this, but out in Wyoming, there was a Bitcoin company called MineOne that was owned by the Chinese government within, I think, 11 miles of the missile silos. That had to be shut down. And with my bill last year, LB1301, through the [INAUDIBLE] process that shut-- we were able to shut that down. In the state of Nebraska, we could have done that from the statewide. Wyoming had to go to the federal government to get that done, so. And, obviously, over the years through some telecommunication bills and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

stuff that were brought, it showed that there was a chance of any surveillance equipment or espionage equipment being installed on poles on different-- not just, not just in the substation, but it could be a matter of different things. And we just wanted to keep it as clean and safe as we possibly can for security reasons.

RAYBOULD: OK. Thank you.

BRANDT: OK. Any other questions? OK. Thank you, Senator DeKay. We'll now go to proponents. Good to go.

JAMES DUKESHERER: Good afternoon, Chairman Brandt, committee members. My name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I'm the director of government relations for the Nebraska Rural Electric Association, NREA, testifying today in support of the amendment to LB43 makes to the current statutes. Nebraska Rural Electric Association represents 34 public power districts and electric cooperatives out in all of rural Nebraska. LB43 provides some needed alterations to LB1370, which passed last year dealing with the installation of electric facilities near certain military installations. We thank Senator DeKay for bringing the bill and AM11. As was already outlined by the senator, Senator DeKay, some of the noteworthy changes in LB43 include, first of all, the bill provides clarity which specific areas of the state are impacted. It's been nearly a year since LB1370 was adopted, and there's still confusion about where strategic weapons assets are stored in the state. As you might guess, this is not information that's readily available or easy to obtain. So LB43 clarifies exactly which power districts are impacted under the bill. LB1370 requires that facilities contain no materials, electronics, or other components manufactured by a foreign adversary. The overly broad language in the statute has caused some difficulty. The other components language can include anything from nuts to bolts as was said earlier. As an example, a member of mine has work to, to replace insulators on their system. Insulators, they keep the wires from touching the poles. They're usually made from porcelain, glass, or plastics. In this example, the ends of these large insulators contain metal brackets, and those metal brackets were sourced from, from China. The, the vendor-- the company was an American company, but they, they got those metal brackets from China. So although that was the case, these metal brackets on the end of these insulators, they're not an issue of national security. But it did, it did keep them from being able to move forward on a project.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

LB43 makes it clear that we're only regulating electronic components. Certification of the Power Review Board is also a problem under the current statute, LB1370, the bill called for before commencing construction, utility has to certify to the Power Review Board that materials being used do not contain anything from foreign adversaries. In our business, we have an outage repair, storm repair, emergency situations, ice storms. Under LB1370, we can't commence construction until we certify to the Power Review Board that we're not using these components. I don't think anybody wants to, wants to keep, you know, outages occurring and keeps the lights off. So LB43 allows us to cert-- to certify to the Power Review Board with a one-time letter working with our vendors to make sure that we sign a document stating that we're operating in compliance with the law and then we don't have to, we don't have to certify to the Power Review Board the next time there's an outage. It won't impede our efforts to keep the lights on that way. So with that, that's all I've got and I take any questions you may have.

BRANDT: All right. Let's see if we have any questions.

CLOUSE: Yes, Senator, I have one.

BRANDT: Senator Clouse.

CLOUSE: Just to your last comment, a one-time letter to the Power Review Board that just says here's the products we're using and so it doesn't-- you don't have to send multiple letters over time or how, how does that process work?

JAMES DUKESHERER: The letter says to the best of our knowledge and in, in cooperation with our vendors, we're certifying to the Power Review Board that we're in compliance with the law and we'll continue to be. So if that changed in the future, we would then be on the, on the hook to, to notify the Power Review Board and, and, and become-- change our-- change what we're doing so we could fall into compliance.

CLOUSE: Thank you.

BRANDT: Senator Raybould.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

RAYBOULD: The question I have is, does this expand the current, like, authority of the Power Review Board now to-- do they review as customary and normal in their oversight things like this?

JAMES DUKESHERER: It does expand Power Review Board authority. The projects that are captured under the existing statute and under the new bill often deal with projects that my members do not have to go to the Power Review Board for. If we put in distribution lines or transmission lines and it's internal to our system, it doesn't cross boundaries into another system or another state or anything, those are not projects that we have to go to the Power Review Board for. Well, now we have a requirement with the Power Review Board on those projects that we didn't have before. The current law, the Attorney General made a, a determination that it only applies to new construction. Meaning you're going out and building a, a whole new line, a whole new facility. That LB43 adds language that, that states that we're not talking about just new construction, we're talking about maintenance and repair in existing facilities. And, again, that would be an expansion of Power Review Board authority.

RAYBOULD: So can you tell me a little bit more about the Power Review Board and the process? I mean, do they meet weekly or, or does this add a, a time delay in your ability to respond timely for repairs and maintenance?

JAMES DUKESHERER: The person better able to answer that question is the director of the Power Review Board, which is in the room--

RAYBOULD: OK.

JAMES DUKESHERER: --and I'm confident he plans to testify after me.

RAYBOULD: All right.

BRANDT: I see no other questions. Thank you.

JAMES DUKESHERER: All right. Thank you.

BRANDT: Next proponent. Welcome to the Natural Resources Committee.

TIM TEXEL: Thank you. I've been referenced so I need to be next up, I think. Well, Chairman Brandt and members of the Natural Resources Committee, my name is Tim Texel, T-i-m, last name is T-e-x-e-l. I am

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

the executive director and general counsel for the Nebraska Power Review Board. The Power Review Board is the state agency with primary jurisdiction over electric suppliers in Nebraska. And the Board is the agency to which, as you heard, the notices and certifications in LB43 are submitted or provided. The original bill creating the requirement that electric suppliers provide certifications was passed in 2024. And you heard that, LB1370. Once the Board started implementing the bill's requirements, it became apparent there were some unintended consequences and shortcomings in the bill's provisions. I worked with Senator DeKay's office, Senator Hardin's office, the NREA, and then Senator Bostelman's office while he was still there, his staff, and I believe this bill addresses the difficulties and shortcomings in the original bill that makes the implement-- and it makes the implementation much more certain and workable than the current language. One major problem with the current requirement that turned out to be quite problematic for the utilities and the developers and, and my Board is the definition of term "military installation." We heard that once. The definition says it's a, quote, military base other than a National Guard base or fixed wing aircraft or strategic weapon assets are on a permanent or temporary basis assigned. And then it continues, closed quote. The problem is we found what exactly constitutes a strategic weapons asset? And I don't have a definition for that. My understanding and the intent to the original bill, based on my conversations with the senators that involved, was to include Offutt Air Force Base and the ballistic missile silos in western Nebraska. But it's not clear if there's any other military facility in Nebraska that would fall under that definition. So I contacted the Nebraska National Guard, they put me in contact with the U.S. Army, who gave me at least the area-- geographic area where the missile silos are. They gave me the maps. It took me several months, but I, I got maps to give to the utilities to say, are you by one of these? Most of them know if they're near a missile silo, but we have a map. Then they connected me to the U.S. Air Force dealing with the what's a weapon asset and are there any others in Nebraska? And for many months I've been working with them. I think-- I can't get an answer. I, I-- and I've been trying for a lot of months. So it's very difficult for me because I can't answer the utilities' questions, developers' questions, because I don't know if there's anything else that would be a strategic weapon asset in the state. So I kind of have to assume any other military facility could be a strategic weapon asset. And that frustrates some of the utilities because they're aware of the original

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

what we believe was intent for Offutt and the missile silos. So that means that every time an electric supplier installs any new facility or starts a new project, the certification is triggered. And that's frustrating to them. And as Mr. Dukesherer said, sometimes there's a timing issue with they have to do it prior to the project and, and if it's an emergency that can slow their project down. LB43, as Senator DeKay said through the code of federal regulations, clarifies that Offutt and the missile silos of the two involved and gives us the geographic counties that are involved. So I can give that list or they know that list for the suppliers. Another issue with the current language is the language is very broad and it requires electric suppliers to certify that no equipment came from a foreign adversary. That language being so broad, my understanding of the original bill's purpose was to make sure no foreign adversary could get equipment placed near the critical military assets. And, you know, under this language, if it's only the original construction, technically you could put something in a month later that would have what the Legislature was worried about. And that's one of my concerns. And, you know, whether it's-- I agree with Mr. Dukesherer, it's a, it's a major issue that this be electronic or magnetic because nuts, bolts, washers right now would be included because they're equipment or components. It's very broad, but they aren't going to monitor or jam communications or, you know, intercept communications or anything like that with our critical military assets. The bill also clarifies that certification requirements apply to any modifications to an electric supplier's facilities. Under the current language, the certification requirement is limited to only when a facility is initially built. That requirement-- that was clarified in an AG's Opinion, an Attorney General's Opinion we requested. And so with that, the-- technically the equipment from a foreign adversary, as I mentioned, could be put in a month later. Now, those are kind of policy issues for the Legislature. I'm acting on what my understanding of the intent was to include the later included assets, modifications, not just when something is initially built. That's within your purview and my Board doesn't take a stance on that particular policy. But if you want those modifications later to be included, then I think this bill, LB43, does a good job of addressing that issue as it does close that loophole. LB43 also provides a method to address situations where a utility might have no option except some equipment that's potentially made by a foreign adversary. That was lifted directly from the Pacific Conflict Stress Test Act to give a failsafe, I think it was called an

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

out if they can't get this equipment or some microchip or something and, you know, you have businesses or homes or something that can't get electricity because the utility can't hook them up because of this barring them. This gives an opportunity for the Board to say that this is an exception. Is that an expansion of power? It's more of a failsafe. I don't think it expands our power per se. It allows us to get an exception to this. And if you don't want to build that in, that's a policy issue. But this addresses that, you know, sole source type of activity that people might be shut off from electricity if we don't have a failsafe. It hasn't been an issue yet that I'm aware of, but it would provide that. Finally, I am aware of Senator DeKay's amendment that he mentioned would clarify two points: That electronic related deals with both the equipment and the components. I think the current language probably would, but this clarifies it very well and specifies that, that both equipment and components have to be electronic related. And regarding already existing facilities, the certification only applies to the modifications. They aren't going back and certifying something that was built decades ago and they don't know that there's Chinese parts in or something like that. Only the new parts they're putting in is what they're certifying. I think that's a fair clarification to put in. So we're in support of the amendment that Senator DeKay mentioned. I think AM11 was designation. So with that, I'm getting close to the end of my time and I'd be glad to answer any questions.

BRANDT: All right. Thank you, Mr. Texel. And I guess before we ask for questions, I spoke to you last night and you graciously agreed to give a training session to our members. I think we have five new members on this board about the Power Review Board maybe for a half hour before some time or maybe on a Friday and we will set that up after this. So now let's see what we've got for questions. Senator Moser.

MOSER: The prohibition to foreign products being used, does it extend to hardware like mounting bolts, mounting arms, backing plates, that sort of thing, or is it only electronic parts that could possibly transmit back to the mothership?

TIM TEXEL: Currently, it's what you said first. Currently, it would include the mounting brackets and the bolts because it talks about any equipment, any components, etcetera, it's very broad language. So

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

currently we have to read it as, yes, the nuts, the bolts, the brackets.

MOSER: So you go to Ace Hardware and buy flag bolts and they're made in China and then they could be in [INAUDIBLE].

TIM TEXEL: And, and sometimes the utilities are concerned. We're not sure where the bolts were made. You know, whatever, grade 9 bolt, the--

MOSER: They're not all marked with the company [INAUDIBLE].

TIM TEXEL: Right, they aren't marked and we're not sure, they go to the vendors and the vendors have to go to their vendors. And, and so it creates consternation on the utilities part. And I-- this addresses that and does the second part that you mentioned, so, and it says it has to be electronic related, needs a power source, something that's in there like a bolt in the washer isn't going to surveil or jam equipment or whatever the case may be. It's a bolt. It's, it's-- you know, there may be a financial concern about do we want to buy any Chinese product, but that's a policy concern for you guys at, at the-- at your level. But it's not going to communicate or provide information to the Chinese. I'm using them as an example, it includes Iranians and Russians under the CFRs, but, you know, that probably was broader than necessary in the original language and we didn't catch that. And now this bill trying to correct that and some of the other issues.

MOSER: Thank you.

BRANDT: Senator Raybould.

RAYBOULD: Just a couple of questions. So this bill is really drafted and tailored towards military bases and missile silos that we know of. And so the first question is, can you tell me, like, how often this has come up in the normal course of routine maintenance and servicing of some of the electric lines and, and power generators there?

TIM TEXEL: Well, for those, for those in the area, particularly out west near that, I mean, it comes up every time they need to build a new distribution line or something like that. They have to come to us and do this. So it comes up, you know, for Kimball and Sidney and, and those places and Roosevelt Public Power District, those, those out

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

there in the Panhandle, it comes up whenever they start a new project. For some of them, the utilities in the center of the state, I tell them, if you're not within 10 miles of anything military, send me a letter that says that and you're covered. You're good. The large utilities, Omaha Public Power District, Lincoln Electric System, Nebraska Public Power District have the out under this current law that says they comply with the NERC, North American Electric Reliability Corporation, critical Infrastructure protection standards. It's a mouthful. But if they meet that, then they can just say that. And we rely on the NERC CIP standards to be the protection instead of these certifications. So they don't-- they aren't covered by that provision that we're fixing right now because they get the exemption because they are compliant already with the NERC protection standards. So that's kind of the protection we have for them. Does that address your question?

RAYBOULD: Yep. And so the-- for those electric providers that aren't in compliance, and if they're not in compliance, what, what does the fine look like if they're not in compliance?

TIM TEXEL: Well, there's not a fine, but they can't-- we-- they can't build the project if they're-- if they'd have to say, yeah, we have Chinese components and we're going to put them in within 10 miles of a military installation and not a National Guard base, but the applicable military installations, they wouldn't be able to build it. I guess if they said, we're going to build us-- we're going to build it, try and stop us, we do have a provision under our statute that says if you're not in compliance with the provisions of the Power Review Board, it forces under Chapter 70, Article 10, we could go to the Attorney General's Office to ask for an injunction against the utility building it because they're in violation of that provision. I can't imagine that would happen. But that's the, that's the process we'd have to go through.

RAYBOULD: Then my original question that I asked earlier about the Power Review Board, how long-- or when do they meet, how often do they have to take time to review different projects that are within that 10-mile radius of a missile silo or a military base? And what type of delay? And is that for them to do the review necessary?

TIM TEXEL: Well, most of these reviews are done by me and, and my staff. The Board meets monthly, so if there would be-- come up

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

something like the exception that's built into this bill, they have to take up their monthly meeting where you pre-approve the, the part we lifted from the Pacific Conflict Stress Test Act, that part we'd address at our monthly meeting. My Board would have to act on it. I cannot. Whether the letter certifies-- you know, the certification, it's a notice that includes certification. And if-- when that comes in, I'm the one who reviews it, my paralegal gets it, she gives it to me, and then we review it and determine, yes, it meets all the, you know requirements. And we sent a letter back saying, you know, to the utility, you're good to go. You know, you filed the right certification letter and so they can build it. So that doesn't take up my Board's time. It takes up the staff time. That's what we're there for. And, and I review that so my Board doesn't review those letters. There's, there's no need, there's no action by the Board other than my determination that you certified that you don't have any foreign adversary parts, you're within 10 miles of a military installation. Like I said, we get those letters, you know, it's not every day, but from, you know, Sidney and Kimball and, and those areas because they're building stuff and it's-- I don't-- you'd have to ask them how often they run into it or if they have a project that got delayed. That's kind of the background I may not see, but I know it's been a frustration for them with these provisions and we kind of all agreed we need to go back and get this cleaned up. You know, I'm operating on the assumption, you know, with, like, the construction thing, the, the Legislature established the policy. And you'll probably hear from me many times, we don't get in-- we try to stay out of the policy side of it. The implementation side is ours. We, we, you know, do what you instruct. We don't get into whether it should be done or not. But if it's going to be done, how should it be done? I think, I think that's what this bill does.

BRANDT: OK. Let's, let's see if we have any other questions from any other senators. Anybody over here?

RAYBOULD: Got a couple more. So how many-- how often do you get these requests? Like, how many a month? How many a year? Are you looking at-- and it's primarily in the Sidney, Kimball area, correct?

TIM TEXEL: Yes, because the only two that are-- I'm aware they're close enough to Offutt right now is Omaha Public Power District and Nebraska Public Power District, because Omaha obviously-- OPPD surrounds Offutt and then Nebraska Public Power District supplies

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

Plattsmouth, and they're within 10 miles of Offutt's borders. So those two utilities, but they both did the NERC CIP requirement that I mentioned. So it tends to be the, the ones out west. Now it also captures the ones in the center of the state because if you're near anything military, that's the frustration for them. If you're near anything military, you have to give me the letter because I don't know if it's a strategic weapon asset, asset or not. So I'm telling them we have to assume it is until the military tells me it's not. And they haven't been able to tell me that. So they're doing it, too. So it's not just the people out west right now. That's who is targeted, was the missile silos to protect. But we don't know if there's anything in the center of the state. So I get these fairly regularly. You know, it's only been for a year. So how many a year would be hard because you passed-- the bill passed last year. But, you know, it, it kind of depends when they're doing a project. I mean, I wouldn't say we get them every week, but, you know, some weeks we'll get two of them and some weeks we won't get any. It kind of depends how much they need to build and it's-- can be sporadic.

RAYBOULD: And so the Power Review Board, have they ever denied any request for any of the projects that have been presented to them?

TIM TEXEL: Well, it's not an application process.

RAYBOULD: It's not an application process.

TIM TEXEL: So, like I said, my Board doesn't act on it. I would just review it and say, you know, you met the requirements. If they tell me we've got Chinese parts and you're within 10 miles of it, then I'd have a problem. But they know that. So it never gets to that point. We just work with them to make sure they get the right language in there and make sure they can certify what they need to. And if they can't, that's where the frustration comes in. So, so my Board doesn't actually vote on it in, in the sense that, like, a new generation facility would require.

RAYBOULD: So since the previous bill was enacted, I mean, has there been, I guess, any notices that, like, that they've had to switch parts to complete a project because unbeknownst to them where they purchased it from was a U.S. company, but digging into it deeper, they realized that some materials came from China or other nations?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

TIM TEXEL: We'd probably have to ask the-- I'm sorry.

RAYBOULD: Other, other nations on the prohibited list.

TIM TEXEL: We'd probably have to ask the utilities that because that's kind of in their background. They may not come to me if they know they have that problem, so I may not be aware of it.

RAYBOULD: Yeah.

TIM TEXEL: Yeah, the-- I mean, we had one example where there was a utility putting in some diesel generators and I said, well, you have to certify where they're from because they were out west within-- anyway, we had Sidney and Kimball that were putting in diesel generators. And I said, well, you have to be able to certify because they are within the 10 miles and it's a missile silo and I said so you have to be able to certify. They didn't have any idea that they were used generators they bought in Alabama and they didn't know if they had Chinese parts in them or not. So I said, well, you're going to have to go to Caterpillar that built them. It was a model 3516 diesel generator for 2000 kW. And they had to be able to certify that. And at first they, they kind of said, well, we don't know. So we went to the vendors and we, we worked it out so that they could say to the best of our knowledge and belief, our vendor said there's no parts. We believe that's true and will certify and this bill will allow that type of process to happen. We, we let it happen in that instance, they had already purchased the diesel generators by mistake. So it, it alleviates those types of issues a little bit. But without the vendors, they don't know the utilities.

BRANDT: We've got another question over here. Senator Moser.

MOSER: Well, for the benefit of those of us who aren't, you know, up on what this bill addresses. The worry is that things originating from adversary companies may not do just what we expect them to do. They may have surrep-- surreptitious things built into them. And so they could be surveilling military installations, they could be watching, they could be measuring electricity usage. They could-- I mean, you can't imagine what all-- I mean, it's kind of like looking at your Ring doorbell from afar. You know, you can look and see who's walked up to your door and brought mail or brought your newspaper or, or stole a package off your porch. Only this technology is so fantastic,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

there's no way of knowing what they might put into this stuff that's being supplied to utilities. And there is a certain level of paranoia involved in there. You know, you don't know what they're looking for or what they're seeing, but you just don't want them to have that information, so.

BRANDT: OK. Senator Clouse.

CLOUSE: Yeah, thank you, Senator. This might address your questions and my friends at NPPD and OPPD. Our materials people do it. They've got certified lists. They've got qualified standards, and it's all tracked for most of those so they can speak differently. But they are pretty detailed in their procurement practices to track all those things. So maybe the smaller utilities might have issues, but the NPPDs, OPPDs, the LES's, I feel comfortable that they've got the tracking [INAUDIBLE] to know everything that they were-- I speak from sometimes it's a pain to get something ordered because they go through that process, but it's protection.

TIM TEXEL: And they do have the exception I mentioned with the NERC CIP standards, but the villages and the small cities and the rural public power districts don't have that and so it's more difficult for them.

BRANDT: OK. Anything else? All right. Thank you.

TIM TEXEL: All right. Thank you.

BRANDT: Next proponent. Any more proponents? Opponents? Welcome.

SETH VOYLES: Thank you, Chairman Brandt, members of the committee. My name is Seth Voyles, S-e-t-h V-o-y-l-e-s, a registered lobbyist, and I'm testifying on behalf of the Omaha Public Power District. Thank you for the opportunity. I want to express OPPD's opposition to parts of LB43. OPPD is a political subdivision of the state of Nebraska, is a publicly owned electric utility engaged in the generation, transmission, and distribution of electricity. OPPD serves an estimated population of more than 855,000 in 13 counties and 5,000 square mile service area in southeast Nebraska. I want to start off, we agree with the intent of LB43. This was an update from LB120 of last year that turned into LB1370. We understand all that. The security of our facilities and those around Offutt Air Force Base is the highest importance to all of us. However, this bill has some

language that expands the jurisdiction of the Power Review Board beyond the intent of last year's bill. And I have to say, Mr. Dukesherer kind of chipped away a lot of my testimony, so I hope I'm not going to do too much of all of this stuff. It is a large departure from past, past PRB precedent, which is precedent established and codified in the form of guidance documents by the PRB itself. The PRB has a history of only having approval authority for new construction, and for that matter, construction of transmission lines outside of a utilities own service area. So this expansion of oversight and maintenance and those other issues is, is a little bit for, for, for the rest of us here. Maintenance repair has always fallen outside the jurisdiction of the PRB. To make a point, during the hearing last year, Senator Hughes asked Senator Bostelman, does this have an impact on existing facilities? And Senator Bostelman said, no, it's all new. It's only new. Anything that will be planned from here forward. Yes. So that's why we think this is a kind of an expansion of where we're going. Like I said, we all want to do what we can to protect Nebraska, our military installations and our critical assets. Just think, this is a big leap from what the intent would be for. The language that I'm referring to is on the top of page 6. It's talking about we don't want to have the components in there, those kind of things. When you look at that, it says: or expands, alters, reconstructs, upgrades, repairs, engages in maintenance on, or installs new or replacement equipment or components in such facility, transmission lines, or related facilities that will be or are located within a 10-mile radius of a military installation. So it still has the components in there. Those kind of issues. We still have our CIP out. Either way, it's a one-time out. So if you're putting stuff in later on, this still covers us with that part of it because we have the one-time CIP out. It isn't a recurring thing going forward, so when it comes to it having the PRB look at kind of into that more of a minutia is a big difference between new construction, what they normally do versus now all of this, you know, engages in maintenance on-- that could be on meters, those other kind of things. That's, that's what we're worried about some of these things. We think this could be the start of something going down-- going forward later on. And that's why the rest of the bill we're fine with. We, we want to make sure that the smaller utilities are covered because they, they absolutely need to be. But this, this little language is what we have an issue with, so. With that, I will try to answer any questions, but I may have to get you my technical people.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

BRANDT: OK. Let's see what we got for questions. Senator Moser.

MOSER: So does this cover remote read meters?

SETH VOYLES: It should. It's what I would suspect. And we have-- I mean, we have tens of thousands of meters around Offutt Air Force Base. But, again, we're covered with CIP standards. It's a--

MOSER: You're covered with what?

SETH VOYLES: With, with the CIP standards, NERC CIP standards. It's the American-- North American Electric Reliability Corporation CIP standards. It's the cybersecurity standard. So whatever it is on, like, any of those kind of components, we're already covered. This is just saying if you consult with a vendor for the smaller ones that aren't CIP compliant or don't have to be CIP compliant, that they have an out. We're-- and we are completely supportive of that language for them.

MOSER: OK. Thank you.

BRANDT: Senator Raybould.

RAYBOULD: Mr. Voyles, thank you for testifying, but I thought you just said it only applies to new construction. But, but this-- I think you pointed out, it talks about reconstructs, upgrades, repairs, maintenance or replacement parts. And so is that something that was new from what was originally proposed or--

SETH VOYLES: Yes, what it was before was just new construction going forward.

RAYBOULD: OK.

SETH VOYLES: That's-- Mr. Texel was talking about the, the Attorney General's Opinion on what construction meant. And that Opinion came back-- I think I got this right-- that construction means new construction going forward. And then this language popped up after that to [INAUDIBLE].

RAYBOULD: So how does that impact OPPD? Probably not so much because you have met or surpassed the initial, I guess, certifications.

SETH VOYLES: Yep. And a lot of this, what, what we're concerned about is now since this is a Power Review Board kind of issue that they can now look at or expands, alters, reconstructs, those kind of things. That's how we're interpreting it, is that this is kind of like a new standard that they can look at some of the things and that it could carry forward on other issues that we're looking at. And that's, that's the only concern we have with it.

RAYBOULD: So are you saying that because of the maintenance and replacement of existing components, that you now have to present that before the Power Review Board for them to review some of the materials or parts and pieces and equipment that you're using or--

SETH VOYLES: We wouldn't have to because we've already supplied our, our letter-- certification letter saying that since we comply with CIP standards, we have our out.

RAYBOULD: OK.

SETH VOYLES: But it just shows that this is kind of now the, the way it's going to trend for others, another, another thing like that. And if we end up-- something happens, we expand something else, you know, we still feel if it's a one-time certification, we should be good. But if not and it comes up later, we have to go into this minutia, this could be tens of thousands of meters and other equipment that we have and making sure that all that is there. And that's, that's just what we're not-- that we're just a little uncomfortable with that side of it.

BRANDT: Go ahead.

RAYBOULD: Thank you. Is there language that would give some of the larger producers, you know, certainly around Offutt Air Force Base, in addition to the precertifications you already have with your suppliers on routine maintenance or, or is that some of the language in this bill that you would like to see stricken just for, for your comfort or obstacles you'd have to go through?

SETH VOYLES: We just think this language here, if we got rid of that language there, it just makes it easier because either way we're going to comply with CIP standards. And since we're the ones around Offutt Air Force Base and NPPD with around Plymouth there too, we've already-- we already have our, our CIP out on that, so. This is, this

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

is for future issues of just that expanded jurisdiction of what they can look at. It's not future construction now, it's expands, alters, reconnects [SIC], upgrades, repairs, engages in maintenance on-- you know, that language is, is for here. But we're just worried that it's going to bleed into other issues.

RAYBOULD: OK. Thank you.

BRANDT: OK. Any other questions? Seeing none, thank you, Mr. Voyles. Next opponent. Any more opponents? Anybody in the neutral capacity? Senator DeKay, you're welcome to close.

DeKAY: Thank you. Just to clear up one thing, I had a little bit of misinformation to a question that Senator Raybould asked. And it isn't pertinent to this bill, per say, but mine one was a Chinese home company. It was within 1 mile of Warren Air Force Base, not the missile silos out in Wyoming. So just to clear that up. And, again, LB43 is an update bill to LB1370 passed last year by this committee to try to deal with situations involving components and equipment manufactured by foreign adversaries that are being placed in electric infrastructure near sensitive military installations in Nebraska. My intention with LB43 is to make updates to better streamline the existing law and make it more workable for the public and private electric suppliers, as well as Power Review Board to comply with. Now, if there are any further questions, I would be happy to try to answer them.

BRANDT: OK. Senator Hughes.

HUGHES: Thank you, Chairman Brandt. Thank you, Senator DeKay. You heard what Mr. Voyles had mentioned, where last year the bill was just mostly on new things going forward. And now clearly we've added the maintenance and things like that. Thoughts on that or you don't think that should change or not? I, I don't know.

DeKAY: Absolutely. Last year's bill had language in there to deal with new construction. Obviously, if there's a power outage, Senator Moser alluded to it too with meters and stuff. So if there's a situation that comes up and, and it does all the time, storms, whatever, equipment needs to be changed out. Whether it's a transformer, whether it's a meter, I want to know what the guts are of those electronics. So I don't want them to be-- if they're a foreign adversary, I don't

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee January 22, 2025
Rough Draft

want them to just get them, put them on the pole and go with it. I want to know that there isn't surveillance or espionage equipment involved in those. So that's, that's the intent of this bill. And with new construction and reconstruction, you're replacing-- regardless, you're replacing electronics in most cases. So just to make sure we're in compliance that we are having the same type of equipment going forward as what the new construction is.

HUGHES: OK. Thank you.

BRANDT: Any other questions? If not, that will be the end of our hearing for LB43. And where is my sheet I'm looking for? Oh, right here in front of me. And letters we received two proponents, no opponents, and one neutral. And with that, that ends our hearings for the day in the Natural Resources Committee. Thank you.