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Natural Resources Committee  
February 01, 2018

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[LB1054 CONFIRMATION]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, February 1, 2018, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1054 and gubernatorial appointments. Senators present: Dan Hughes, Chairperson; Bruce Bostelman, Vice Chairperson; Joni Albrecht; Suzanne Geist; Rick Kolowski; John McCollister; Dan Quick; and Lynne Walz. Senators absent: None.

SENATOR HUGHES: It's 1:30, so if we could find our seats, we'd like to get going. Welcome to the Natural Resources Committee. I am Senator Dan Hughes. I am from Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is part of the process. 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. Please move to the reserved chairs when you are ready to testify. They are the first couple chairs in the front row next to the aisle. Introducers will make...the introducer 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 sign-in sheet. There is one on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print, and it is important to complete the form in its entirety. When it is your turn to testify, please give the sign-in sheet to the committee clerk or to a page. This will help us make a more accurate public record. If you do not wish to testify today but would like to record your name as being part of the hearing, there is a separate white sheet on the tables that you can sign in 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 to testify. They will be distributed to the committee. 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 we get an accurate record. We will be using the light system for all testifiers. How many folks are planning on testifying today? Can I see a show of hands? Okay, quite a few. So we will be using three minutes for your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining, and the red light indicates your time has ended and we would like you to wrap up. Questions from the committee may follow. No displays of support or opposition to a bill or a person who is coming for a confirmation, vocal or otherwise, is allowed at a public hearing. The committee members with us today will introduce themselves, beginning on my left.

SENATOR KOLOWSKI: Senator Rick Kolowski, District 31, southwest Omaha.

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SENATOR GEIST: Suzanne Geist, District 25, which is the east side of Lincoln and includes the town of Walton and Waverly.

SENATOR QUICK: Dan Quick, District 35, Grand Island.

SENATOR HUGHES: And on my right?

SENATOR ALBRECHT: Good afternoon. Senator Albrecht, District 17, northeast Nebraska, Wayne, Dakota, and Thurston Counties. Welcome.

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

SENATOR BOSTELMAN: Bruce Bostelman, District 23, Saunders, Butler, and majority of Colfax Counties.

SENATOR HUGHES: To my left is committee legal counsel, Laurie Lage, and to my far right is the committee clerk, Mandy Mizerski. Our page for the committee today is Lee-Ann Sims from Lincoln. She is a junior at UNL studying political science and global studies. With that, we will begin our hearing for today. We have some individuals who are coming before us for Environmental Quality Council. So, Mr. Lance Hedquist, is that correct? [CONFIRMATION]

LANCE HEDQUIST: That is correct, Mr. Chairman. [CONFIRMATION]

SENATOR HUGHES: Welcome, Mr. Hedquist. Give us a little background on yourself. And I see it's a reappointment to the Environmental Quality Council. Kind of fill us in on what you do. [CONFIRMATION]

LANCE HEDQUIST: (Exhibit 1) I'm the city administrator of the city of South Sioux City. I've been administrator since 1980. I think our city has been extremely dynamic, very innovative in terms of lots of activities, many of which are very positive in terms of the environment. We have a paperless city council; we have a paperless school board; we have put in the world's first "eco" path in our city. We'll be 56 percent renewable energy by the end of next year. We'll have the state's first gasifier plant in our particular location. We have 21 acres of solar panels, 15 megawatts of electricity come from wind, and we're very positive in terms of industrial development. We have probably \$100 million worth of projects underway right now, and that will be duplicated again next year, so we come with a very positive attitude and one that wants to protect the environment but also wants to see solid industrial growth across the state. [CONFIRMATION]

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SENATOR HUGHES: Thank you, Mr. Hedquist. Are there questions? Senator Albrecht.  
[CONFIRMATION]

SENATOR ALBRECHT: You know, I'd just like to thank you for coming and thank you for serving. How long have you been on this board? [CONFIRMATION]

LANCE HEDQUIST: This will be my third term, so. [CONFIRMATION]

SENATOR ALBRECHT: Third term, and he's...he probably could sit here all afternoon and continue to tell you about the great things that are happening in northeast Nebraska and I appreciate all of your service. [CONFIRMATION]

LANCE HEDQUIST: Thank you, Senator. [CONFIRMATION]

SENATOR HUGHES: Are there additional questions? Senator Kolowski. [CONFIRMATION]

SENATOR KOLOWSKI: Just from a statement aspect, I've known Lance for about 14-15 years now with NRD work in the past and does a great job up in northeast Nebraska and really an excellent member of this particular committee. I think he'll give a great deal to it. Thank you.  
[CONFIRMATION]

SENATOR HUGHES: Okay. Thank you, Senator Kolowski. Are there other questions or comments? Seeing none, thank you, Mr. Hedquist. [CONFIRMATION]

LANCE HEDQUIST: Thank you. [CONFIRMATION]

SENATOR HUGHES: We appreciate your willingness to serve. [CONFIRMATION]

LANCE HEDQUIST: All right. [CONFIRMATION]

SENATOR HUGHES: Is there anyone wishing to speak in support of Mr. Hedquist's nomination? Is there anyone wishing to support...or to speak in opposition to his nomination? Anyone wishing to speak in the neutral capacity? Seeing none, we will move on to our next appointee, Mr. Robert Hall. He is also a reappointment to the Environmental Quality Council. Welcome, Mr. Hall. [CONFIRMATION]

ROBERT HALL: Thank you. [CONFIRMATION]

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SENATOR HUGHES: Same thing, give us a little background of why you want to do this job again. [CONFIRMATION]

ROBERT HALL: (Exhibit 1) My name is Robert Hall and I'm a lifelong resident of Saunders County, Nebraska. I grew up on a farm by Memphis, Nebraska, and we still have that family farm. It was homesteaded in 1869 by my great-grandfather. I currently reside in Wahoo, Nebraska. And in 1974, the farming was tough so I became a union pipe insulator. I'm an old asbestos worker, Local 39, spent a lot of time in Omaha, Grand Island at the power plant when they built that, and just traveled around quite a bit covering pipe, dealing with asbestos. And in '96 I was elected business manager of the union there in Omaha and I served in that capacity until 2000...the end of 2007; 2008 I was appointed to the international by our general president, which I still sit as an international representative for the...we don't use the term "asbestos worker" but it kind of goes along with DEQ, so that's why I threw that back out there. So I've been with the insulators for 42-43 years and part of their initial involvement was...I as appointed--I believe it was 2004--by then-Governor Johanns. And I started dealing with asbestos regulations in 1986, I believe, is when Nebraska adopted them. And that was my connection with the regulations and so forth, so Governor Johanns appointed me in 2004 and I've served ever since. [CONFIRMATION]

SENATOR HUGHES: Thank you, Mr... [CONFIRMATION]

ROBERT HALL: So that's a little background on myself. [CONFIRMATION]

SENATOR HUGHES: Thank you, Mr. Hall. Are there questions? Senator Quick.  
[CONFIRMATION]

SENATOR QUICK: Thank you, Chairman Hughes. And thank you for wanting to be reappointed to the committee. I just wanted to... [CONFIRMATION]

ROBERT HALL: Well, you're welcome. [CONFIRMATION]

SENATOR QUICK: I just wanted to express you to that, that I worked at the Grand Island...for the city of Grand Island for 28 years... [CONFIRMATION]

ROBERT HALL: Okay. [CONFIRMATION]

SENATOR QUICK: ...at the power plant, both Burdick station Platte Generating Station. And I'm also an IBEW member,... [CONFIRMATION]

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ROBERT HALL: Oh, okay. [CONFIRMATION]

SENATOR QUICK: ...so I just wanted to thank you for your service there, too, so...  
[CONFIRMATION]

ROBERT HALL: Yeah. No, it's...I was there when they built that plant. [CONFIRMATION]

SENATOR QUICK: Yeah. [CONFIRMATION]

ROBERT HALL: Yeah. [CONFIRMATION]

SENATOR HUGHES: Okay. Other questions or comments? Seeing none, thank you, Mr. Hall.  
We appreciate your willingness to serve. [CONFIRMATION]

ROBERT HALL: Thank you for your time and thank you for allowing me to serve. Thank you.  
[CONFIRMATION]

SENATOR HUGHES: Very good. Is there anyone wishing to come up and testify in support of  
Mr. Hall's appointment? Seeing none, is there anyone wishing to come up and testify in  
opposition to Mr. Hall's appointment? Seeing none, is there anyone wishing to come up and  
testify neutral on Mr. Hall's appointment? Seeing none, that will close the appointment of Robert  
Hall and we will ask Ryan McIntosh to come forward, please. And he is an appointee to the  
Nebraska Environmental Trust Board. Welcome, Mr. McIntosh. [CONFIRMATION]

RYAN McINTOSH: (Exhibit 1) Thank you, Mr. Chairman. My name is Ryan McIntosh. I'm  
from Syracuse. I was appointed to the board in September to fill out a partial term, so that will  
expire in March 2019. I grew up in Unadilla, went to Syracuse High School, graduated from  
UNL with a BA in political science, graduated from UNL College of Law. I currently work for  
Mattson Ricketts Law Firm here in Lincoln, although mostly in our Nebraska City office. I'm  
also a member of the Nebraska National Guard. I'll have ten years of service in April. My  
connection to the Environment Trust Board began with Pheasants Forever. My dad was the  
Pheasants Forever president of our chapter for...throughout the '90s at various times. I've been  
the Otoe County chapter president for the last four years. Through that, I've had exposure to the  
Environmental Trust Board. Several grants are put in each year by Pheasants Forever for habitat  
share programs and for cost sharing of purchasing drills and various equipment, so that's my  
connection to the Environmental Trust Board. Additionally, the Environmental Trust Board  
funds the Nebraska Water Leaders Academy, which is something I was fortunate to participate in  
last year and just completed in November. This year I'm on the grants committee, so we had our

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first...my first board meeting was in November, and then we've had meetings about every two weeks since then to review the 100-or-so grants that were put in. Just published those and we have our next...our first quarter board meeting next week. So with that, I would be happy to answer any questions. [CONFIRMATION]

SENATOR HUGHES: Thank you, Mr. McIntosh. Thank you for your service to our country and our state. Are there questions for Mr. McIntosh? Seeing none, thank you very much. We appreciate you coming. [CONFIRMATION]

RYAN McINTOSH: Thank you. [CONFIRMATION]

SENATOR HUGHES: Are there any...is there anyone who wishes to speak in support of Mr. McIntosh's appointment? Seeing none, is there anyone who wishes to speak in opposition to his appointment to the Nebraska Environmental Trust Board? Seeing none, anyone wishing to speak in the neutral capacity? Seeing none, that will close our appointment section of the committee meeting and we will open the hearing on LB1054. Senator Brewer, welcome to the Natural Resources Committee. [CONFIRMATION LB1054]

SENATOR BREWER: (Exhibits 1 and 2) Thank you, Chairman Hughes and fellow senators of the Natural Resources Committee. I am Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r. I represent the 43rd District of western Nebraska. I am here to introduce LB1054. This is my priority bill. This bill gives people affected by wind energy projects a voice, and it makes their voice matter. It's that simple. After working extensively with all three power utilities and the Power Review Board, I have two amendments to this bill. One is on file that I introduced a few day ago which is a correction and a clerical error and it is now made moot by the second amendment to be dropped, which is AM1727, corrects the unintended consequences from the language in this bill. Language in the original bill affected the definition of the term "public convenience and necessity," which turned out to be a very problematic issue for the public utilities. This was unintentional. As amended, I believe two of the three public utilities will testify in neutral position on this bill. Almost two years ago, LB824 was passed. Among other things, this bill exempted wind energy from the Power Review Board--the PRB--process. This took away the voice of the people. I want wind energy to go back into the PRB process so that the Power Review can review that work. Simply put, this is the only way to get people with legal standing a voice in the process. Let me explain why this is the case. Some will argue the best way to give people a voice in the process of wind energy development is through local control. I agree with this. Whenever possible, the more local government, the better. The problem is the wind energy, wind business model seeks to sign up or affect local elected officials in the wind projects. I don't blame them. This is a smart business model. Unfortunately, if county commissioners and members of planning and zoning boards stand to benefit financially from a

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wind project, now can they...how can they have an unbiased and objective opinion and look out for everyone's private property rights, particularly the nonparticipating landowners? I was surprised to learn elected officials with a conflict of interest will report to the Nebraska Accountability and Disclosure Commission but will still be able to vote on it. They simply need to report it. Some will choose to abstain from voting, but the NADC encourages them not to do so. But Nebraska law does not prevent them from voting. This set of circumstances may play out in Cherry County in just a few days when their county board votes on a wind energy zoning ordinance. Ordinarily, the county government would be the place for people to be heard, but we've seen, time and time again, in many of the counties in Nebraska where the circumstances I described are happening. And today, there will be a number of individuals that testify after me that will explain in more detail their circumstances at different counties. County government with elected officials that have influence...have conflict of interest just cannot provide a venue for the fair and free debate on issues and have an open forum for the people. In some states, the public service commission, the "PSC," has oversight over private wind energy development but not in Nebraska. In some states, the public utilities commission, "PUC," has oversight over private wind energy development, but we don't have a PUC in Nebraska either. Besides county government, the only other agency of the government capable of providing a venue for the public to address issues concerning private wind energy development in Nebraska is the Power Review Board. Unlike the wind energy bill I brought last year, LB504, this bill does not stop wind energy development in Nebraska. This bill does nothing to infringe on someone's choice to participate in a wind energy project on their land. As I said to begin with, all this bill does is to put wind energy back into a process that affords members of the public the legal standing and opportunity to be heard and have their concerns considered by an agency of the government. Obviously this bill means wind energy companies would have to make application to and go through the Power Review Board process. They will follow me today and they will testify that requiring them to do so will be a setback for wind energy in Nebraska and serve to harm them or their industry. I disagree. When you hear that, ask yourself, if that's true, how did all of the wind energy that was built in Nebraska before LB824 come about, how did that happen? If electrical generation is what wind energy...excuse me. If electrical generation is what wind energy is all about, why shouldn't they face the same requirements as other electrical generation? How come the rules have to be different for wind? Those rules are applied to natural gas, to coal, to nuclear. All seem to get along just fine with the Power Review Board process. I'm pretty sure that wind energy companies and their lobbies are not going to testify against people having the right to have a voice. What they are going to object to is protecting their special status that insulates them from the public comment in the first place. Members of this committee, I want you to remember that when you hear this opposition to the bill, it has nothing to do with generating electricity for Nebraskans. They are opposing this bill because it might threaten their ability to make money. The objection to the bill is about dollars, not kilowatt-hours. A select few landowners making money and a few big companies making federal tax credits from wind energy do not want to explain to the Power Review Board why we need to build additional

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electrical generation in Nebraska when we already have a surplus of electrical generation. The statutory requirements of the Power Review Board require them to assess whether a project is in the public convenience and necessity, whether it is the most economically feasible way of making electricity, and whether the project is redundant. Wind energy developers know this will not be...this will be a tough sell to the PRB, the Power Review Board. That's why they pushed so hard for LB824 two years ago, so they could avoid trying to explain why we build excess electrical generation in Nebraska. A great example of what happened last summer: when the city of Beatrice wanted to build its own power, natural gas power plant. Before the Power Review Board could issue a ruling, the application was pulled because the project didn't meet the necessary public convenience and necessity and was most likely not going to meet the economic feasibility way to make electricity, and it was clearly redundant because the city could buy the power wholesale from NPPD. Wind energy industry doesn't want to face this sort of scrutiny in the Power Review Board. They didn't want the same three sets of rules or pillars applied to every other electrical generation system. Like I said, they are not interested in making electricity for Nebraskans efficiently. We're being asked to pay for two electrical generation systems in Nebraska, one that applies to reliable 24/7 electrical and the other is a supply...one that supplies federal tax credits to the owners of private wind. Attitudes toward wind energy have changed in the last two years. Exempting wind energy from the Power Review Board process has led us to a situation where people without a voice are up in arms across the state. Again, there will be a number of them to come and explain this after me. This issue is beyond the reach of the counties to resolve. If we do not act in the Legislature, the two sides of this issue will become more fractured and harder feelings will develop in the communities because of the inaction. I urge you to let all 49 senators decide this issue. I think we owe all of...all concerned, the most consideration that we can on this issue. At last, win, lose, or draw, we can say that the Unicameral gave the people of Nebraska a full measure of diligence on the very important subject. The bottom line: Do you think the people affected by wind energy projects should have a voice in the process, or is it more important to make sure it's an easy...it's easy for people to build and make money on the wind machines in Nebraska? Subject to your questions, that concludes my comments for opening. [LB1054]

SENATOR HUGHES: Thank you, Senator Brewer. Are there questions for Senator Brewer?  
Senator Geist. [LB1054]

SENATOR GEIST: Thank you, Senator Brewer. I'm curious. You made reference to this, and I might have missed it, but could you tell me what, as you understand it, what the process of the Power Review Board is for someone who's a company that's under the purview of the Power Review Board? [LB1054]

SENATOR BREWER: Well, they need to go before the Power Review Board and they're looking at the three issues that have to be met for the project to be approved where LB824 simply

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exempted...it wouldn't be just wind, but solar and others, but the bill simply scratches wind out of that, so it would put them in a category that they would have to go before the Power Review. [LB1054]

SENATOR GEIST: What are those three? Would you... [LB1054]

SENATOR BREWER: Oh, you would ask me that, wouldn't you? [LB1054]

SENATOR GEIST: (Laugh) Oh, sorry. I can wait, refer my question to them if they're testifying. [LB1054]

SENATOR BREWER: Well, there we go, let me look back and find my paragraph on that. Okay, public convenience... [LB1054]

SENATOR GEIST: (Inaudible.) [LB1054]

SENATOR BREWER: ...and necessity, economically feasible, and redundancy. [LB1054]

SENATOR GEIST: Okay, thank you. [LB1054]

SENATOR HUGHES: Are there additional questions? Senator Bostelman. [LB1054]

SENATOR BREWER: Bostelman, good call. [LB1054]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Thank you, Senator Brewer, for being here today and bringing LB1054 before this committee. Could you...you talked a little bit in your opening about Cherry County Commissioners, those type of things. Could you explain a little bit more to us, since this has been something that you've been passionate about for some time now, I'd like to hear a little bit more of your thoughts along those lines. [LB1054]

SENATOR BREWER: Well, understand that part of the reason for the passion is I've got over 1,000 signatures on a petition in my office that are asking me that I make an attempt to figure out a solution. We tried with LB504, but, you know, it may be that LB504 was too much to ask because we were asking all wind energy to be stopped in Nebraska...or actually in the Sandhills. We looked at expanding that to the entire state but, again, that would be an extreme option. It's not that we're trying to stop wind energy. What we're trying to do is make them responsible and to justify. What happened in Cherry County is there will be...some maps will be passed around

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as we go here and in that map you'll see how much of Cherry County is being designated for wind energy. It's sizable. Keep in mind Cherry County is by far the biggest county in the state. The board will meet next week and the general feeling is that it's going to be split, that one will sit on the fence and not vote because her family has committed to having wind energy; one is in support of wind energy because he's invested in it; and the third will vote against it. But when that happens, then the county will have to revert to an old policy which will open it up to wind energy. So as we go through today, there are a number of people here from Cherry County who actually are part of that process that can explain it in more detail, but that split vote on the county board will probably allow wind energy to come in to Cherry County and wind was directly able to influence that by simply finding those on the board who would vote in favor of it. [LB1054]

SENATOR BOSTELMAN: Thank you. [LB1054]

SENATOR HUGHES: Any additional questions for Senator Brewer? Senator Albrecht. [LB1054]

SENATOR ALBRECHT: Thank you, Chairman Hughes. Senator Brewer, if your area of Cherry County, where most of these folks we've heard from are from that area, would this bill be too late? [LB1054]

SENATOR BREWER: Well, if...I believe...and again, that might be a good question for some of those who are in the trenches. I believe that they think that they're able to continue the fight for a while longer into the spring. But it is probably at a critical time on whether or not we're going to be able to affect what's happening in Cherry County. But, you know, Cherry County is just a drop in the bucket. There will be others actually from northeast Nebraska and from central Nebraska that are going to talk about some of the challenges they have and some of the issues. [LB1054]

SENATOR ALBRECHT: So if I'm...if I have this right, 2016 they would have had to...a wind company would have had to go before the Power Review Board? [LB1054]

SENATOR BREWER: Before, LB824, then they would have had to go before Power Board. That was part of what LB824 was all about was exempting them so they didn't have to be a part of that process, so you could move forward without having that stop along the way for review. [LB1054]

SENATOR ALBRECHT: Thank you. [LB1054]

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SENATOR HUGHES: Okay. Additional questions for Senator Brewer? Seeing none, you'll stay for closing? [LB1054]

SENATOR BREWER: Thank you, sir. [LB1054]

SENATOR HUGHES: Senator Brewer, will you stay for closing? [LB1054]

SENATOR BREWER: Yes, I will. [LB1054]

SENATOR HUGHES: Okay. Judging by the amount of letters in support and opposition to this bill, and just taking a look at the crowd, I think we're going to allow three proponents to testify and then we will take three opponents to testify and move back and forth. That way, if someone has to go earlier, because I think we're going to be here for a while, if you have to go early, get up in the queue right away. But three opponent...three proponents, three opponents, then back to three proponents until we get through one side or the other, then we will finish up with whoever is left and we will save neutral till the end. So we will begin with proponents. If you're a proponent of LB1054, welcome. [LB1054]

CRAIG ANDRESEN: (Exhibit 3) Got a copy there for everybody--thank you. Want to tell you I was so excited to come here for the third time to testify in front of this committee, I got somebody to drive my wife to work because we're down to one car. It costs \$5 so I could get ten hours of windshield time today to come here. My name is Craig Andresen, C-r-a-i-g A-n-d-r-e-s-e-n, and I am from Wood Lake, Nebraska, in Cherry County. I'd like to thank the committee for their time this afternoon. There's no doubt in my mind that alternative energy companies--specifically, wind energy companies--and their paid lobbyists will try to couch this proposal as a roadblock to economic benefits through tax collections, monies to local school districts, and the creation of jobs. Their objections are baseless and employ a false narrative. In short, those objections are lies. The tax collections related to the construction of industrial wind developments are negligible, at best, and only surface while construction is underway. Any money given to local school districts by wind energy companies is taken out of what those districts receive from the state of Nebraska, dollar for dollar, and those monies from the state are then reallocated to other districts. Once the wind facility goes out of business, and eventually all of them do, the money is gone, never to return. And as for job creation, an industrial wind facility generates one, perhaps two, permanent full-time jobs, and that number comes directly from the wind energy companies themselves. Another primary component of the wind energy companies and their paid lobbyists against this proposal is that it removes local control from county governments. The reason they will be intent on making an argument like that is because it goes toward preserving their primary business goal: getting those on county planning and zoning boards, as well as county commissioners, in their pockets by signing them on as investors in their

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scheme to rake in taxpayer dollars via tax credits at the expense of taxpayers. What LB1054 is really about, much to the dismay of the wind energy companies and the legislators who are the recipients of their lobbying efforts, is the most basic, fairest local control possible. It's about the voice of the people directly affected by industrial wind facilities. Two years ago, as Senator Brewer told you, the Nebraska Legislature, on behalf of wind energy companies, their agenda, and their business model that I have previously spoken about, silenced the voice of the people by removing those wind energy companies from the full review of the Power Review Board. In effect, that decision two years ago removed one of the most important layers of due process: the right of those who would be so negatively impacted by massive industrial wind facilities from having any voice whatsoever in that process. Now let me pose a very simple question to this committee. How does removing the voice of the people, whose health, property values, enjoyment of their property, their ability to promote tourism, and their stewardship of the land, mesh with the term "Nebraska nice"? LB1054 will give the people back their voice. It will allow those directly and negatively impacted the opportunity to have their voices truly matter, and it will restore the very essence of local control. In closing, I would urge this committee to move LB1054 to the full legislative floor without delay, and I would add that any vote against restoring the voice of the people by any member of this committee or by any legislator on the floor--i.e., a vote to keep a muzzle on the very people who elected them--deems that member of this committee or any such member of the Legislature unfit for the office they hold. [LB1054]

SENATOR HUGHES: Thank you, Mr. Andresen. Are there questions? Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Thank you, Mr. Andresen, for being here today. Could you speak a little bit to your meaning of how this is going to give people a voice that it does not already? [LB1054]

CRAIG ANDRESEN: By going to the Power Review Board, the people that are directly affected by an industrial wind situation will have the ability to testify before that board, to tell their stories, to talk about the impact that it will have on them, to talk about the...not only the property value situations that these facilities thrust upon them but also the health concerns and other concerns. Right now, that voice is silent because of what happened in the Legislature here two years ago. Right now, those people can only go to their county commissioners or their planning and zoning boards. And as we see in Cherry County, we've got two members of the planning and zoning committee that are investors in wind, and all three of the county commissioners have a conflict of interest. One is a direct investor. One is...her family, her parents are investors. And the third, his mother is an investor, has land that's in the investment area, and his wife is the secretary in the office of the wind company. So when we go in Cherry County to speak before the planning and zoning folks or the county commissioners, our voices are falling on deaf ears. Their minds are already made up. They're financially invested in the project. On the 7th of this month, there

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will be a county commissioners public hearing in Valentine, and on that agenda are the new proposed regulations for wind industry. We expect that vote to be, as Tom Brewer said, 1-1-1. One will vote in favor of the new regulations which propose larger setbacks; one will vote against it; and the other will remain silent, as he has not voted on any wind because his land will actually be directly making money from the wind project itself. That will force a draw. There is no tiebreaker there. And it will revert to old regulations that have virtually no setback, no public safety concerns for people with adjoining properties. It would virtually open the door for whatever the wind companies want to do, wherever they want to put these massive structures, and we're talking about wind turbines--most people call them a windfarm--but turbines that are well over the height of the building we're sitting in today. If wind energy had its way in the Sandhills--I'm not just talking about Cherry County but I'm talking about the Sandhills of Nebraska--there would be virtually, literally, no road you could drive in the Sandhills without seeing wind turbines. Now the question was asked of Senator Brewer whether this bill comes too late. We don't know and that's why I'm asking that this committee move this to the floor as quickly as possible. But each time a wind energy company decides they want to put up one of these industrial complexes, they would have to go before the Power Review Board, so this isn't a one-off as far as we're concerned, or as far as I'm concerned. This is going to be an ongoing thing. But the idea that the voice of the people was silenced two years ago, with respect to the Power Review Board, is appalling and I think this committee today needs to endorse LB1054 and move it to the floor to give the people back their voice. That is the fair thing to do and it puts that local control back to the people. [LB1054]

SENATOR BOSTELMAN: Thank you. [LB1054]

SENATOR HUGHES: Any additional questions for Mr. Andresen? Seeing none, thank you for your testimony. [LB1054]

CRAIG ANDRESEN: Thank you very much for your time. [LB1054]

SENATOR HUGHES: An additional proponent to LB1054? Welcome. [LB1054]

JOHN STANNER: (Exhibit 4) Thank you, Mr. Chairman and senators. My name is John Stanner, J-o-h-n S-t-a-n-n-e-r. I live at 3049 "W" Road in Brainard. I'm an electric utility ratepayer. I'm representing myself and I wish to speak in support of LB1054. The benefits of public power to individual ratepayers like me are evident through the low rates we pay for electricity in Nebraska. Prior to the introduction of renewable energy sources, all aspects of electricity generation, distribution, and management within the state were owned and administered by public power. According to the Nebraska Power Review Board's orientation manual, which is available on-line, the Power Review Board, which was created in '63, was an

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entity that could oversee the public power landscape and, among other functions, and I'm quoting here: regulate construction of generation and transmission facilities in Nebraska. This authority was granted so that the board could restrain suppliers from building generation capability when it was not truly needed, thus avoiding a surplus of electrical power, and unnecessarily raising the electric rates for the power supplier's consumers. So 40 years ago it was well understood that surplus power raises the rates for the consumers. Clearly, the Power Review Board cannot perform that function if they do not have regulatory authority over all the generation and transmission facilities in the state. It's important to note that we are currently a surplus power state and all new generation adds to that surplus. Without question, any new generation facility connected to the electrical grid, regardless of who owns it, who operates it, it adds to the cost of Nebraska Public Power. The 2016 exemption for renewables from the Public Power Review Board oversight created the situation where a private entity can build an energy-generation facility without regard for the impact on Nebraska ratepayers. The only one who can sit in the middle of that is the Power Review Board. That's their function. Wind energy is clearly a well-established technology and can be deployed rapidly, creating a significant impact to the cost and rate structure in the state through, as stated above, the generation of surplus electrical power, unnecessarily raising the electrical rates for public power customers, the owners. I could go on at length about how surplus power raises the rates for consumers, but that's not really necessary. It was recognized over 40 years ago, and it remains the responsibility of the Power Review Board today, to make sure that we don't impact the ratepayers by generating excess energy. LB1054 removes the exemption for wind energy generation facilities and reestablishes the authority of the Power Review Board with the interest of Nebraska ratepayers in mind. I believe this is an appropriate action and that's why I fully support LB1054. Finally, if it's possible, I would recommend that the Power Review Board be granted the authority in the future and at their discretion to remove the exemption for any other renewable technology listed in the current statutes should that technology reach a maturity level where it can also create a significant impact. Thank you for your time. [LB1054]

SENATOR HUGHES: Thank you, Mr. Stanner. Are there any questions? [LB1054]

JOHN STANNER: Thank you. [LB1054]

SENATOR HUGHES: Seeing none, thank you for your testimony. Okay, we will have one more proponent and then we will go to three opponents. Welcome. [LB1054]

VICKIE MAY: Good afternoon. Thank you, Chairman Hughes and senators. My name is Vickie May, V-i-c-k-i-e M-a-y. I am here today to urge you to vote in favor of LB1054. This bill is simply to give all persons affected by industrial wind a voice. We are not asking for special treatment but merely a chance to have our voices heard and somewhat level the playing field. As

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you are aware, these projects start years in advance of the actual permitting process or before being brought before the local planning and zoning boards and supervisors for approval. As in our case in Holt County, relationships with officials were already formed and leases signed before the public became fully aware. Our planning and zoning board was never supplied a final site map for the project or final turbine locations before they were asked to vote on the conditional use permit. This bill would ensure that all citizens impacted by the project would have a clear idea of where the project was being put. As a nonparticipating property owner, my rights would be considered, as well as a participating member. I have lost my viewshed forever, the ability to look at the night sky without red blinking lights, a certain decrease in my property value as it is common practice now on realty disclosure statements to ask if you can see a wind turbine from your property or is there a proposed wind project in your area but, most of all, the ability for a good night's sleep in my own home. Night after night of little sleep due to the noise of the turbines under certain wind condition takes a toll. A review process would give us a chance to have input on the siting of turbines, especially when our local boards are heavily influenced by the wind companies. I am not anti-renewable energy. I am for responsible renewable energy that doesn't strip property rights of some for financial gain of others. Let us not be fooled. This is about money, big money. Wind developers always hit us with the economic impact to our communities, but have you stopped to consider how much money they are raking in? Grande Prairie Wind produced 792,184,483 kilowatt-hours according to statistics provided by the Nebraska Department of Energy for the first six months of 2017. OPPD purchased this power to supply 120,000 homes in Omaha at a residential price of 10.12 cents per kilowatt-hour, the cost of \$80,169,068 for the first six months. After exhaustive research, the wholesale price of electricity seems to be the holy grail but estimates by local REA officials guess it to be 7-8 cents. At a wholesale price of 7.5 cents per kilowatt-hour, the income to BHE would be \$59,413,836. Additionally, the production tax credit, our money, paid to BHE for the first six months would be \$19,012,426 at 2.4 cents per kilowatt-hour. Our county receives \$730,600 in nameplate capacity tax for that six months and \$260,000 in property tax; BHE's \$78 million to less than \$1 million for Holt County, or \$1.3 percent of the pie. Something is seriously wrong with this picture. The whole wind turbine sales pitch was wind turbine income would offset our taxes. It takes roughly 50 percent of our on-farm income to pay our property taxes, which rose another 13 percent this year and, according to our supervisors, are not going down. Even without knowing the exact wholesale price, if projections were cut in half, it's still a totally unfair profit-to-tax margin. [LB1054]

SENATOR HUGHES: Ms. May, your red light is on. Could you wrap it up, please? [LB1054]

VICKIE MAY: Please move this legislation forward so the whole picture can be examined and not merely one side. Thank you. [LB1054]

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SENATOR HUGHES: Thank you, Ms. May. Are there any questions? Seeing none, thank you for your testimony. We will move to opponents of LB1054. Welcome. [LB1054]

THOMAS BUDLER: Good afternoon, Chairman Hughes and members of the Natural Resources Committee. My name is Thomas Budler, T-h-o-m-a-s B-u-d-l-e-r. I'm president of BHE Wind and I appear before you today as in opposition to LB1054. BHE Wind is a subsidiary of BHE Renewables, which also is a subsidiary of Berkshire Hathaway Energy Company and a sister company with Iowa's largest regulated utility, MidAmerican Energy Company. Berkshire Hathaway Energy serves 11.4 million customers worldwide and BHE Renewables owns more than 4,800 megawatts of wind, solar, gas, geothermal, and hydroresources in operation or under construction, and has invested more than \$10 billion in energy resources throughout the United States. In 2016, BHE Renewables completed a 400-megawatt windfarm in Holt County, Nebraska, which is the largest wind energy facility in the state's history and it constituted an approximate \$600 million investment in the state of Nebraska. The project created approximately 350 temporary construction jobs, 25 full-time, on-site, permanent jobs, and is now generating over \$2 million in landowner lease payments and approximately \$1.8 million in new property tax payments every year annually for Holt County. Over two-thirds of the new revenue was supporting the Holt County Schools. This leads me to LB1054. To date, the Grande Prairie Wind Farm is the only investment BHE Renewables has made in Nebraska, and since late 2011 we've reviewed hundreds of projects across the United States and developed throughout the country and Grande Prairie is the only investment that we've made in the state of Nebraska. This is primarily due to the regulatory barriers that LB824 removed in 2016 and which LB1054 threatens to reinstate only for wind energy in 2018. In particular, under the pre-LB824 regulatory regime, the Power Review Board mandated a power purchase agreement be in place as the only available business model for a determination of public convenience. With such a review and in the future, it would undercut LB824's removal of this competitive barrier and again would place the state at a significant competitive disadvantage, just as it was under LB1048. The open market of the Southwest Power Pool provides a great opportunity for Nebraska to welcome private investment, economic development, and property tax relief from wind energy, but a regulatory requirement--LB1054--would effectively prohibit a public...a privately developed wind energy facility from fully and freely participating in that open market. Nebraska moved away from this in 2016 and you've seen the benefits with our project and with others. We remain interested in additional large investments in Nebraska. However, the window for investing in Nebraska is finite. As you all know, the federal production tax credit was extended at a full value through 2016 but declines through 2020. This means investment decisions must be made today and the uncertainty LB1054 would impose and the fact that the committee is even considering the bill that would undo the important regulatory relief the Legislature passed previously and the Governor signed just two years ago with LB824, creates a significant cloud over investing in Nebraska. I encourage you to indefinitely postpone LB1054 and to clear the way for additional renewable investment in Nebraska. [LB1054]

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SENATOR HUGHES: Thank you, Mr. Budler. Are there any questions? Senator McCollister. [LB1054]

SENATOR McCOLLISTER: Yeah. Thank you, Mr. Chairman. Testimony this afternoon indicated that retail rates have gone up because of wind development in Nebraska. Is that correct? [LB1054]

THOMAS BUDLER: I don't know about the retail rates in Nebraska specifically. I'm an Iowa customer. What I can tell you is that actual wholesale rates, and that's the rate that we are paid from OPPD, have continued to decline with the investment and the additional wind generation that's being built. [LB1054]

SENATOR McCOLLISTER: Okay, thank you very much. [LB1054]

THOMAS BUDLER: Okay. [LB1054]

SENATOR HUGHES: Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Thank you, Mr. Budler, for being here today. I believe last...another committee hearing we had here at...that you came here and testified at, I asked you a question and I don't remember the answer, so let me see if you recall. What is the decommissioning cost of a turbine? Do you know a roundabout? [LB1054]

THOMAS BUDLER: It really depends. I mean the costs that we've seen have been somewhere in the \$15,000-20,000 range as we've looked at putting decommissioning plans in place, so the actual, real cost to decommission would then also depend upon what salvage value of, say, scrap iron is. So in total you might even see that cost be completely offset by the salvage value of the windfarm. [LB1054]

SENATOR BOSTELMAN: How much does it cost to move a crane to a site? It takes about 13 semis, correct? [LB1054]

THOMAS BUDLER: It actually takes about 32-34, depending on the... [LB1054]

SENATOR BOSTELMAN: Thirty-two? Yeah. [LB1054]

THOMAS BUDLER: ...crane size. Yeah, it can cost up to \$250,000. [LB1054]

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SENATOR BOSTELMAN: Okay. Thank you. [LB1054]

THOMAS BUDLER: That's for new installation. Decommissioning, you may actually be able to use a smaller crane because you're taking it down in different size pieces. [LB1054]

SENATOR BOSTELMAN: Sure. Sure. Okay. Thank you very much. [LB1054]

SENATOR HUGHES: Senator McCollister. [LB1054]

SENATOR McCOLLISTER: Oh. Thank you, Mr. Budler. Does Nebraska have decommissioning statutes in LB824? [LB1054]

THOMAS BUDLER: I don't recall if it does. [LB1054]

SENATOR McCOLLISTER: Okay, thank you. [LB1054]

THOMAS BUDLER: Yeah. [LB1054]

SENATOR HUGHES: Okay. Additional questions? Senator Geist. [LB1054]

SENATOR GEIST: I know we have a short time period here for you to say what you need to say, and so... [LB1054]

THOMAS BUDLER: Sure. [LB1054]

SENATOR GEIST: ...I want to ask you if you would take some time and explain in depth why, if the...if wind energy is put back under the Power Review...excuse me. I'm having trouble talking. If it's put back under the Power Review Board, why does that inhibit expansion of wind? Could you explain that? [LB1054]

THOMAS BUDLER: Yeah. So previously under the Power Review Board and under LB1048, under LB1048 specifically, there was a requirement that I believe it was 90 percent of the facility actually be contracted with the utility. And under the Power Review Board process, to meet that public convenience and necessity, they also effectively would have required that a power purchase agreement be in place. And now Nebraska is in the Southwest Power Pool. It's a liquid market. There's the potential to sell, you know, into the market without that power purchase agreement, and so it stifles it from that standpoint, number one, but then also, number two, the

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prior Power Review Board process was quasi-governmental and didn't allow necessarily for the public comment, and so it's really twofold with what this bill does. [LB1054]

SENATOR GEIST: Okay. Are you saying it didn't allow public comment when it was... [LB1054]

THOMAS BUDLER: That's my understanding, yes. [LB1054]

SENATOR GEIST: Okay. So you're not opposed to the public comment itself. It's...it would be the whole governmental... [LB1054]

THOMAS BUDLER: Well, the public...well, we have public comment at the local level. And so to go through that twice is effectively a double permitting-type process that has to go through public comment twice, which is very problematic for developers. [LB1054]

SENATOR GEIST: Okay. Thank you. [LB1054]

SENATOR HUGHES: Okay. Additional questions? Senator Kolowski. [LB1054]

SENATOR KOLOWSKI: Thank you, sir. Could you...we talk about decommissioning price. What would be the normal lifespan of a turbine with general maintenance on a yearly basis? About how many years could you get out of one before you had to do major whatever it might be? [LB1054]

THOMAS BUDLER: Yeah, so we expect our turbines to operate 20-25 years at this point. Now that having been said, technology has increased significantly and actually after about 10-12 years with some of the operating projects at MidAmerican Energy Company, we're actually repowering about 2,000 megawatts of turbines in Iowa at this point in time. And so, you know, while the turbines themselves may last 20-25 years, you know, it may be economic with the increases in efficiencies to repower sooner than that. [LB1054]

SENATOR KOLOWSKI: Thank you. [LB1054]

SENATOR HUGHES: Additional questions? Senator Albrecht. [LB1054]

SENATOR ALBRECHT: Thank you, Senator Chairman Hughes. Can you answer just a couple quick questions? How many projects do you have in Nebraska in your company? [LB1054]

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THOMAS BUDLER: We have one. [LB1054]

SENATOR ALBRECHT: Just one? [LB1054]

THOMAS BUDLER: One. [LB1054]

SENATOR ALBRECHT: Looking for others? [LB1054]

THOMAS BUDLER: We would and we are at this point in time, yes. [LB1054]

SENATOR ALBRECHT: And when you go into these areas, do you come in as one name and stay that name on the contracts with all of the folks that you do business with or have you found that you change names halfway through or midway through, for whatever reason? And to that I would also ask, if you do change names and somebody wants to try to sell their property, who would they go find? [LB1054]

THOMAS BUDLER: Yeah, so a number of questions. [LB1054]

SENATOR ALBRECHT: Yes. [LB1054]

THOMAS BUDLER: So BHE Wind will not change its name and we, when we...we don't do greenfield development, so when we come into the state we're looking actually for projects that have, you know, at least have a development in place, and so there's a project company and there may be an original developer that we would buy that project company from. The name of that company would not change, but we would come in as a new owner and we will own and operate that project for the life of the project. [LB1054]

SENATOR ALBRECHT: So if I wanted to sell my ground... [LB1054]

THOMAS BUDLER: Yes. [LB1054]

SENATOR ALBRECHT: ...and I needed to let the buyer who is coming in take a look at the contract, do I go to you (inaudible)... [LB1054]

THOMAS BUDLER: You would...yeah, you would work directly with us. We can...we've released...under confidentiality agreements we've released lease information and we can make that available to buyers and we can... [LB1054]

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SENATOR ALBRECHT: And obviously I have been watching the Cherry County process and what does concern me is the fact that, you know, it's been going on for some time. And to all of the folks here from the Cherry County area, you should probably thank your county board and your planning board for going the extra mile to find out all the questions that we're even here to ask. So that's probably why you're sitting here today and probably why this bill has been brought forward, because we do owe it to the people of Nebraska. No matter where you plan to do business with us,... [LB1054]

THOMAS BUDLER: Sure. [LB1054]

SENATOR ALBRECHT: ...we have to make sure that we're right with them, as well, so I appreciate your time. [LB1054]

THOMAS BUDLER: No, appreciate your time also. [LB1054]

SENATOR HUGHES: Additional questions? Seeing none, thank you, Mr. Budler. [LB1054]

THOMAS BUDLER: Thank you. [LB1054]

SENATOR HUGHES: Next opponent to LB1054. [LB1054]

JOHN HANSEN: (Exhibit 5) Good afternoon, Mr. Chairman, members of the committee. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union and appear before you today as our president and also our lobbyist. We have been involved in the wind development industry and this economic development opportunity for some considerable time. We've been involved in all the major legislation and we've been involved in all the efforts to try to help counties develop appropriate planning and zoning standards so that they can do that which represents their interests and the way they want to do it. We are a longstanding component and proponent of the local control efforts. I don't think there's any organization in the state that's actually spent more time working with counties longer, more consistently, to try to help support their local control efforts. Nebraska has two new rural economic development kids on the block that are renewable energy based. They're ethanol and wind. So I tried to capture in very conservative terms those benefits to agriculture and rural communities. And if you have been, and most of you have, of course, you've been following the fact that we're in the middle of a farm crisis, we're in the middle of very difficult time, we are struggling to diversify our revenue bases, looking for new ways to bring in income, so when we capture the advantages of wind so far in the state...ethanol is the bigger, older, more established entity. When you look at those numbers, they're huge. So when you look at wind in the short

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time we've been doing this, we have about \$5.3 million new income to family farmers and ranchers and landowners. We've got about \$8.6 million--these are very conservative numbers--for tax revenues annually, 130 new jobs, \$2.3 billion of new capital investment, new tax base. This is outside money that comes in and says, here, we'd like to do business with you. So we have supported LB824 and its efforts and in order to try to make things more competitive with what other states are doing, we do not support efforts. There are now currently before the Power Review Board people that are directly impacted, have standing to come before the Power Review Board. We do not support changing the criteria that the Power Review Board makes, uses to make decisions. We think we were very protective to make sure that those were protected when we did LB824. So we are familiar with the Cherry County project and a lot of other projects and these are spillovers from local decision-making process and, yeah, it's...that's where the decision should be made is at the local level. So my red light is on, Mr. Chairman. [LB1054]

SENATOR HUGHES: Any questions for Mr. Hansen? Seeing none, thank you for your testimony. [LB1054]

JOHN HANSEN: Thank you. [LB1054]

SENATOR HUGHES: Okay. One more opponent and then we will switch back to the proponents. Welcome. [LB1054]

GWENDOLEN HINES: Good afternoon, Chairman Hughes and members of the Natural Resources Committee. My name is Gwendolen Hines; it's G-w-e-n-d-o-l-e-n H-i-n-e-s, and I'm testifying on behalf of the social justice committee of the Unitarian Church of Lincoln. Making up more than 36 percent of the state's generated electricity, Iowa is a leading U.S. state in wind-power generation. By 2020, wind power will make up 40 percent of Iowa's generated electricity. Wind power is considered a renewable energy resource in Iowa. The state of Iowa encourages development of renewable energy sources through a 1-cent-per-kilowatt-hour tax credit. Also, generation equipment and facilities receive property tax breaks and generation equipment is exempt from sales tax. Wind power should remain classified as a renewable energy source in Nebraska so that it can get the breaks that other renewable energy sources do. Wind energy has great potential in Nebraska. Nebraska has enough wind that we, too, could produce 40 percent of our electricity by wind, just like Iowa. That should be our goal. Thank you. [LB1054]

SENATOR HUGHES: Thank you, Ms. Hines. Are there any questions? Seeing none, thank you for your testimony. Okay, we'll switch back to proponents of LB1054. Welcome. [LB1054]

MELANIE COFFMAN: Thank you. My name is Melanie Coffman, from Halsey, Nebraska, M-e-l-a-n-i-e. Last time I was here to...I'm sorry? [LB1054]

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SENATOR HUGHES: Could you spell your last name, too, please? [LB1054]

MELANIE COFFMAN: (Exhibit 6) I'm sorry. C-o-f-f-m-a-n. Last time I appeared before you, I was concerned that there would be a quorum to hear my testimony. My husband and I traveled eight hours round-trip to get here, so I thank you for hearing me today. I'm speaking on behalf of my husband, Mickey Coffman, as well as myself. I'm here in support of LB1054. Things have gotten out of balance and tilt way too far in the favor of big wind companies. We need to get back to basics and elected officials need to do some serious listening. The rural people of Nebraska have concerns and these concerns need to be heard not only on a local level but a state level as well. Now I have always believed that local control is the best, but local control is not possible to operate fairly when county elected officials are investors in big wind; or when appointing zoning members write and set the regulations while being wind investors themselves; or when local newspapers/radio stations are owned by investors and choose to give one-sided reports; or when county attorneys who sit in the zoning committee meetings advise committees that they must allow wind development in their zoning regulations to avoid possible lawsuits against the county--I tell you, the zoning committee just...that freezes them up--or when leased school ground can be used for wind development; or when state elected officials have wind ties as well. Now do you see a pattern here? Are these scales balanced? If Nebraska had a public utilities commission, such as other states, we wouldn't have to use the Power Review Board to give the people a voice. Therefore, we, the rural people of Nebraska, need a Power Review Board to hold large wind companies accountable. The rights of rural people affected by these enormous projects need to be heard and we deserve action by an agency of state government. Nebraska is the good life. Now I pray and I said a prayer before I came up here that you truly listen, not only with your ears but with your hearts. Now do what is right and balance these scales and vote in support of LB1054 and get this out of committee. I thank you. Mick and I are both proud Nebraskans and we're registered voters. [LB1054]

SENATOR HUGHES: Thank you, Ms. Coffman. Are there any questions? Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Thank you for coming and testifying today. [LB1054]

MELANIE COFFMAN: Thank you. [LB1054]

SENATOR BOSTELMAN: You live in Halsey. Is this near the forest out there? [LB1054]

MELANIE COFFMAN: Yes, we're in Thomas County. We're right next to...we border Cherry. [LB1054]

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SENATOR BOSTELMAN: And how does that...is the project in and around that forest area, the national forest area? [LB1054]

MELANIE COFFMAN: Are you talking the wind turbines or are you... [LB1054]

SENATOR BOSTELMAN: Yes. [LB1054]

MELANIE COFFMAN: They are coming right next to the Cherry County line, not particularly right next to the forest, but the R-Project is coming right through our area, which could very well open up development there. [LB1054]

SENATOR BOSTELMAN: Okay, thank you. [LB1054]

MELANIE COFFMAN: Does that answer your question? [LB1054]

SENATOR BOSTELMAN: Yeah, my question was, was if it...if you knew if wind projects were next to the national forest. There's a map here. It looks like it might be, so (inaudible). [LB1054]

MELANIE COFFMAN: It would be like in the Brownlee area, which is not...is just north of Thedford. [LB1054]

SENATOR BOSTELMAN: Okay, thank you. [LB1054]

MELANIE COFFMAN: Um-hum, you bet. [LB1054]

SENATOR HUGHES: Any additional questions for Ms. Coffman? Seeing none, thank you for coming and testifying today. [LB1054]

MELANIE COFFMAN: Thank you. [LB1054]

SENATOR HUGHES: Additional proponent? Welcome. [LB1054]

LEROY BECKER: I'm Leroy Becker, L-e-r-o-y B-e-c-k-e-r. I'm from Antelope County. I live in the southwest part of that county. Antelope County has one of the largest windfarms in the state. We call it the red light district up there. I used to be a member of Farmers Union. I am not now. The intentions seem to be to cover up the rest of Antelope County, including the area where I

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live which isn't covered up yet. Out of concern, I looked around a little, observed what was happening when people closer than a mile, perhaps, from their homes, especially, have multiple towers around them. Found out that one small farmer there--and I'm not a large farmer myself, although maybe we have property worth about \$5 million, but that's not large up there at all--this one particular farmer that I visited, he had absentee landowners all around him. He would not lease his land. Nobody in that immediate area would except the absentee landowners. He got surrounded--within...maybe five or six towers within a quarter to three-quarter of a mile from him. I stood on his property, visited with him, with his wife. I could not live there where he lives. And he told me also that when he leaves--he has a nice house and everything there--when he leaves nobody will live there. His complaints and everything have fallen on deaf ears locally there, bought and paid for, perhaps. So these wind towers are noisy. They sound like a super freeway right over the bridge someplace, but that depends on the weather. Sometimes they're not. But while I stood on the lot, on his yard, a strange sort of a thing, his towers weren't real noisy at that time but there was a pressure which you could feel more than you could hear that was...you could feel it. You could feel it. It will undoubtedly produce long-term health problems, and there's literature out there to that effect also. So shadow flicker is another problem. There's a long-time farmer out there, lived there all his life, nice house. When the sun is right, he gets shadow flicker right across his living room. He's had a stroke. Whether that's a part of it or not, I have no idea. Even with his shades pulled, terrible, terrible shadow flicker right across his living room, ridiculous, ridiculous. So emptying out the countryside in the name of economic development seems like a rather strange way to go, especially when we've...I've seen in my lifetime a tremendous amount of that already. And the people that farm with the 20-furrow equipment--there's at least one of those out there in the middle of that red-light district--would not lease to them, did not want to farm around them. So economic development, what is it? Thank you. [LB1054]

SENATOR HUGHES: Thank you, Mr. Becker. Are there any questions? Seeing none, thank you for your testimony. [LB1054]

LEROY BECKER: Thank you. [LB1054]

SENATOR HUGHES: One more proponent and then we'll go back to opponents. Welcome. [LB1054]

KEITH MAY: Thank you, Mr. Chairman and senators. My name is Keith May, K-e-i-t-h M-a-y, and I'm a member of the Holt County Planning and Zoning Board and I'd like to tell you about some of the events that took place concerning the industrial wind project in Holt County. Companies such as BHE, Invenergy, and others target areas in rural America with weak zoning or no zoning at all. These large companies will start years in advance with a handful of

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landowners and just a few of the county officials pushing their agenda to this small group. They will get one or two landowners to recruit others for the sign-up period, making sure that they, the landowners, keep quiet on the projected project. The wind project manager or officials will target a certain few county supervisors or commissioners, befriending them with gifts such as jackets or sponsoring coffees or other functions. Activities like these are where the wind officials start to give all the reasons why a project like this will benefit the county with tax relief, economic development, and new jobs. As a planning and zoning board member, I have personally experienced the pressure to approve these projects for the good of the county, without adequate time to research or investigate the pros and cons. We need a bill such as LB1054 to have a voice for all impacted parties. In Holt County there was little consideration for the nonparticipating landowners. Attempts by our board, the zoning board, to revise the current zoning regulations concerning industrial wind have been met with stiff resistance from the wind companies and our own supervisors. I feel strongly that this bill would be a step in the right direction to give everyone a voice in this difficult and complex process. Thank you. [LB1054]

SENATOR HUGHES: Thank you, Mr. May. Are there any questions? Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Thank you, Mr. May, for being here today. Can you...was...can you speak to any communications you had between your board that you sit on and the wind companies, or whoever the developers are? Was there any type of communication between the two, the planning commission, and then what was that like or what was that about? [LB1054]

KEITH MAY: Well, I had personal...I'm affected. I'm a mile...I live on the north side of the project myself and I have had conversation with the officials. [LB1054]

SENATOR BOSTELMAN: I understand. But was there, as there's been talk about county commissioners and that, and my question is, as a planning commissioner sitting on that board, was your board contacted by any developer? And what that communication was about, what was that like? [LB1054]

KEITH MAY: Yeah, they didn't contact me. There was a couple that on our board that was contacted. [LB1054]

SENATOR BOSTELMAN: So the board...so I'm just...the board wasn't...did not have direct contact with it. [LB1054]

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KEITH MAY: Not as a group, no, sir. [LB1054]

SENATOR BOSTELMAN: Okay. Okay, thank you. [LB1054]

KEITH MAY: Yes. [LB1054]

SENATOR HUGHES: Additional questions? [LB1054]

SENATOR WALZ: I have. [LB1054]

SENATOR HUGHES: Okay, Senator Walz. [LB1054]

SENATOR WALZ: Thank you, Senator Hughes. Thank you very much. Can you just explain that process of the public hearing, how that happens? Is there public notice? I just need to get an idea of how that process... [LB1054]

KEITH MAY: For changes in the zoning or...? [LB1054]

SENATOR WALZ: Yes. [LB1054]

KEITH MAY: Is that what you're asking? [LB1054]

SENATOR WALZ: Um-hum. [LB1054]

KEITH MAY: Yes. Well, we have...we had a meeting of changes that were proposed. Okay. We voted on them and then we had to go to another public hearing after those proposed changes were made, and then they were actually cut up from what we had first originally wanted to change in our zoning. And if I'm...is that what you're meaning? [LB1054]

SENATOR WALZ: Yeah, just keep going. That's (inaudible). [LB1054]

KEITH MAY: Okay. All right. Well, then...and then so we had our chairman of the board, of the zoning board, ask questions directly to the wind people on different things, which, I mean, it just seems like the...our commissioners and some of our zoning people have just given them the green light without any public concern. [LB1054]

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SENATOR WALZ: Was the public invited to... [LB1054]

KEITH MAY: Oh, yeah, yeah, yeah. [LB1054]

SENATOR WALZ: Okay. And how does that happen? I mean, how do they get notice? I'm just curious. [LB1054]

KEITH MAY: It's in the paper for two times, printed; it's in the notice in the paper for two times, two weeks, that there's a public hearing on a meeting for the planning and zoning and then anyone is available to come. [LB1054]

SENATOR WALZ: And was there a good...was there a lot of people there? [LB1054]

KEITH MAY: Quite a few. [LB1054]

SENATOR WALZ: And the wind developers were there? [LB1054]

KEITH MAY: Oh, they're always there, absolutely. [LB1054]

SENATOR WALZ: Okay. [LB1054]

SENATOR HUGHES: Senator Albrecht. [LB1054]

SENATOR ALBRECHT: Thank you, Chairman Hughes. So, Mr. May, I remember when you were here last time. You said sitting as a member of your planning board, someone asked if you could let them know where these turbines would be placed and you said you had a blank piece of paper. [LB1054]

KEITH MAY: We had a blank. We were given a book on the final siting plan and there was nothing there. [LB1054]

SENATOR ALBRECHT: So, I mean, how did you feel about that, knowing that, you know, people...I would just feel like if I'm sitting on a county board or a planning board and the people are asking questions and you have no answers for them, you know, what could happen to a county later on when these turbines come in and no one has an answer to why did you let these things happen? How did you... [LB1054]

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KEITH MAY: Right, well, absolutely. [LB1054]

SENATOR ALBRECHT: ...not answer the questions? How did the board...it's kind of like a blank check: How much do you want? I mean... [LB1054]

KEITH MAY: Absolutely. We failed as a board. [LB1054]

SENATOR ALBRECHT: Yeah. And, you know, there's...that makes me pause to think that all counties, that they even don't even have a planning board. If you're a county commissioner, you know, you need to be asking the questions for your people. And I know when they come in and they talk about how grandiose everything is going to be and the economic development is going to be so wonderful. We have some ground in Holt County and our taxes have not gone down. [LB1054]

KEITH MAY: No, they won't. [LB1054]

SENATOR ALBRECHT: So, you know, I caution people, and again I'm going to say to the Cherry County residents, just be glad they haven't flipped the switch on you already, because they have pushed back, they have asked more questions, because of the Mays coming forward to do your due diligence to let folks know that there's an issue out there that...and not to jump the gun on things like this. So I appreciate the testimony and thank you. [LB1054]

KEITH MAY: Thank you. We were just uneducated, uninformed--I shouldn't say educated--uninformed at the time. [LB1054]

SENATOR ALBRECHT: Understood. [LB1054]

KEITH MAY: And we were pressured and it was a mistake and we're trying to correct it now and we're still running into opposition. [LB1054]

SENATOR ALBRECHT: Appreciate that. Thank you. [LB1054]

SENATOR HUGHES: Any additional questions? Senator Geist. [LB1054]

SENATOR GEIST: Back to the public hearing, you said that there were a lot of people that attended. Did their attendance...were they for the wind company? Were they against it? [LB1054]

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KEITH MAY: Well, we had a lot of people against and then there were the wind officials were there speaking for, and there was a...just a couple people that were proposed leasees in this new project proposed in southwest Holt County talking for it, but they had...when asked when...where do you...where is the turbines going to be located on your farm, she had no idea. They were looking at the dollar signs and... [LB1054]

SENATOR GEIST: So if people voice against, was that taken into account by your commissioners? [LB1054]

KEITH MAY: It was, but then, you know, they still made it way too easy. You know, we proposed a two-mile set back from a property line and just to protect the nonparticipating landowners, but we left it open-ended that they can negotiate with their neighbors that wanted it to, if they wanted closer, that could be done. They wouldn't get it. We couldn't get it done. [LB1054]

SENATOR GEIST: You couldn't get that agreement,... [LB1054]

KEITH MAY: Yeah, no. [LB1054]

SENATOR GEIST: ...that negotiation? [LB1054]

KEITH MAY: No. [LB1054]

SENATOR GEIST: Okay. Thank you. [LB1054]

KEITH MAY: Um-hum, thank you. [LB1054]

SENATOR HUGHES: Additional questions from the committee? I guess I just have a couple. You're on the planning, planning and zoning or... [LB1054]

KEITH MAY: Yes, sir. [LB1054]

SENATOR HUGHES: It is a planning and zoning board? [LB1054]

KEITH MAY: Yes. [LB1054]

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SENATOR HUGHES: Okay. How did you get that position? [LB1054]

KEITH MAY: I was appointed by our supervisor. [LB1054]

SENATOR HUGHES: Okay, so Holt County has supervisors... [LB1054]

KEITH MAY: Correct. [LB1054]

SENATOR HUGHES: ...rather than commissioners? [LB1054]

KEITH MAY: Yes, sir. [LB1054]

SENATOR HUGHES: How many supervisors are in the county? [LB1054]

KEITH MAY: I believe there's nine...or seven, seven or eight--excuse me--seven or eight.  
[LB1054]

SENATOR HUGHES: Okay, and they...are they at-large or do they have specific districts?  
[LB1054]

KEITH MAY: They're in districts. [LB1054]

SENATOR HUGHES: And they are elected officials? [LB1054]

KEITH MAY: Yes, sir. [LB1054]

SENATOR HUGHES: Okay. Thank you. Okay. Any additional questions? Seeing none, thank you, Mr. May. We will switch back to opponents of LB1054. Welcome. [LB1054]

DAVID LEVY: (Exhibit 7) Thank you. Good afternoon, Chairman Hughes, members of the Natural Resources Committee. David Levy, D-a-v-i-d L-e-v-y, Baird Holm Law Firm, registered lobbyist for BHE Renewables, Geronimo Energy, and Sandhills Energy, appearing before you today in opposition to LB1054. LB1054 would stifle wind energy development by creating uncertainty and delay. It would take us backwards in a regulatory sense from where we came just two years ago to simplify our regulatory process with this Governor's signature. The claim underlying LB1054 is that we need a public process for wind energy. You have heard from

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proponents of this bill about the public processes that are available to counties through the county zoning process for wind energy projects, just like every other land use project that might come along in a county. But also, you've heard from proponents of this bill that if the wind projects have to go through the Power Review Board it's going to create this great public process where the people can be heard. That's simply not correct. The Power Review Board hearing process is a quasi-judicial process. It's like a trial. The people who get to participate are the parties and people with legal standing. It's not a county board hearing. In fact, the Power Review Board's standing rules and their implementation of those rules are pretty narrow, so really it's the parties and the Power Review Board who participate. I'm not saying that's right, wrong, or indifferent. I'm just saying the idea that putting wind projects back to the Power Review Board through a discretionary hearing process, which would take us all the way back to prior to 2010 and LB1048, is not going to create this public hearing, county board, second look-type of process that the proponents of this bill claim it will create. It simply will not; as a legal matter, it will not. Moreover, the counties in this state have shown that not only do they have the legal tools, but they have the wherewithal to regulate wind generation in their counties. It's not that their eyes all get big at the dollar signs and the property taxes, although those are certainly important things to consider and I know you all wrestle with property taxes here every day. Stanton County, for example, just adopted zoning regulations that prohibit commercial wind development countywide. They know how to do that if they want to do it. Pierce County is considering new regulations right now. About two years ago, Lancaster County adopted very restrictive regulations on wind energy. The counties have these tools legally. Practically speaking, they know how to do it and they do it. I'm running out of time. Three minutes goes fast. I do want to touch briefly on property taxes. You have a report in front of you that we put together a few years ago with a client that talks about the property tax benefits of wind energy. An average wind energy project in the state these days might be about 200 megawatts. A project like that is going to generate about \$1.25 million in brand-new property tax revenue every year of that project's life for that county in which it's located, similar amount in landowner payments. Landowners pay income tax on that income, etcetera. The red light is on. I'd be happy to answer any questions. [LB1054]

SENATOR HUGHES: Thank you, Mr. Levy. Are there questions from the committee? I do have a question. So the revenue that's generated, you said property tax and income to the landowner. Is that static or is that declining through the life of the contract? [LB1054]

DAVID LEVY: Sure. Both tend to increase over the life of the contract. Many wind leases will have an escalator provision in them so that the lease payment keeps up with inflation, more or less, so those payments are going to increase a little bit. Remember that the property taxes that a windfarm pays are...there are two parts to it. One is the nameplate capacity tax which is a static number set in statute per megawatt of nameplate capacity, \$3,518 per year. About another \$2,000-2,500 per megawatt, as it works out, per year is paid by the projects in regular locally

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assessed property taxes. So as a levy rate might go up or as the assessor might value those roads and those buildings and those foundations at a higher level, those property tax payments or receipts to the county could go up as well. I know my property taxes on my house in Douglas County certainly are not going the other direction. May not be a great analogy, but the property taxes, locally assessed property taxes, tend to go up I think more frequently than they tend to go down. So, you know, absent something else like a big influx of new property tax revenue that might let the levy rate go down, the property taxes would tend to creep up over time. [LB1054]

SENATOR HUGHES: I guess my question is, does the tower and wind generator itself depreciate and does that lower the property tax over time, the value of it? [LB1054]

DAVID LEVY: Sure. It does depreciate and that was the reason for the nameplate capacity tax in 2010 because the...simply put, maybe oversimplified, anything above the ground is personal property. The federal government has classified the wind turbine as personal property and so it depreciates like any other personal property. And what we saw with the first wind project is that those property tax payments for that project were going to start very, very high, which was a burden to the developer, and then they were going to go down, which wouldn't be good for the county. It's hard to budget when revenues are moving down. And so the nameplate capacity tax is an excise tax that replaced the personal property portion of that tax. So although that does depreciate, in terms of Nebraska property tax payments and receipts to the county, that part stays the same for the life of the project. [LB1054]

SENATOR HUGHES: Okay. Thank you for explaining that to me. I did not understand that. [LB1054]

DAVID LEVY: Sure. [LB1054]

SENATOR HUGHES: Any additional questions? Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Yeah. Thank you, Chairman Hughes. Thank you, Mr. Levy, for being here today. Clarification for myself, I don't think I heard you right and...on the contracts, does the owner of the property, does that increase over time, that payment? [LB1054]

DAVID LEVY: It tends to. It's different in every contract, but many do have an escalator in it, essentially, at least to keep up with inflation. [LB1054]

SENATOR BOSTELMAN: I would like to see one of those. Could you provide me with one of those to see what that looks like? [LB1054]

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DAVID LEVY: I can see if I can do that, sure. [LB1054]

SENATOR BOSTELMAN: Okay. The other question I had is you mentioned that several counties are setting up zoning regulations. Does the wind companies honor those or are they going to come back and sue those counties and force them into court to change their zoning regs? Is there...I don't know how that works. [LB1054]

DAVID LEVY: Sure. You know, to your first question, yes, the wind companies honor those zoning regulations. They're private businesses. Like any other private business--an ethanol plant, a feedlot, anything else--they're subject to local zoning and they have to comply with the law. I can tell you, as somebody who has practiced land-use law and land-use litigation for about 20 years now, it is very, very difficult to successfully challenge zoning regulations. Courts give lots of deference to local governments. You may have heard the phrase "all land use is local." It's an appropriate phrase, I think, for this discussion today. It would be very difficult to successfully challenge a county's zoning regulations as being too restrictive. Courts will tend to defer to the county's discretion to kind of...Stanton County decided they don't want commercial wind turbines in their county. That's a pretty extreme regulatory position to take. Unless they didn't...as long as they followed the notice and hearing procedures that state law sets out, that would be a tough lawsuit to win. [LB1054]

SENATOR BOSTELMAN: Okay, thank you. [LB1054]

DAVID LEVY: Sure. [LB1054]

SENATOR HUGHES: Any other questions? Senator Kolowski. [LB1054]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Are locations for a turbine sold by a farmer or rancher to the company or are they all leased? [LB1054]

DAVID LEVY: In my experience, they're always leased. [LB1054]

SENATOR KOLOWSKI: I've never heard of a sold piece of land. I just wanted to hear that from you and get that clarified because we were kind of talking back and forth and I think some might have thought there was an "own" (inaudible). [LB1054]

DAVID LEVY: And there...the one little distinction that may have caused some of that, frequently, most of the time, there's a substation involved with the project and there's an operation and maintenance building involved with the project that might be on site. Those

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parcels may be purchased in fee. But the turbine sites, in my experience, I've never, I don't think, seen one that's done any other way than leased. [LB1054]

SENATOR KOLOWSKI: And are those leases a yearly issue or five-year issue or how do they usually get cut? [LB1054]

DAVID LEVY: They're a long-term lease because, you know, that lease is a critical part of the project. You don't have a wind project without willing, participating landowners. [LB1054]

SENATOR KOLOWSKI: Sure. [LB1054]

DAVID LEVY: And so you need that lease to last at least as long as your power purchase agreement. You heard Mr. Budler talk about turbines that last 20 or 25 years. If you're going to make that investment, you want to know that you can have that turbine there on that site for at least that long, and many times the leases will go even a little bit longer. You also heard Mr. Budler talk about repowering turbines. You've got the cables, you've got the relationship with the community, you've got the roads, etcetera, so those leases tend to be long term. They're a very valuable, important part of the project. [LB1054]

SENATOR KOLOWSKI: Thank you. [LB1054]

DAVID LEVY: Sure. [LB1054]

SENATOR HUGHES: Additional questions? Senator McCollister. [LB1054]

SENATOR McCOLLISTER: Yeah. Mr. Levy, thank you for appearing. Do you have personal knowledge over wholesale electric prices? Has wind energy had the effect of raising or lowering wholesale wind prices? [LB1054]

DAVID LEVY: Wholesale electric prices? You know, I can tell you for certain that wholesale electric prices in the Southwest Power Pool are trending downward. I can tell you that wind energy power purchase agreement prices in the decade that I've worked in this industry have gone down. I think it's a complicated thing, but fundamentally it's supply and demand. So the more electricity you put into the Southwest Power Pool market, the cheaper that electricity is going to get. And I think it's important to look at this on that regional market perspective. It's a very different situation even than what it was when I first sat in this chair on this topic a decade ago, because we have this open regional market to participate in and so that market reacts like any other market with supply and demand. [LB1054]

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SENATOR McCOLLISTER: Thank you, Mr. Levy. Thank you, Mr. Chairman. [LB1054]

SENATOR HUGHES: Okay. Additional questions? Seeing none, thank you, Mr. Levy. [LB1054]

DAVID LEVY: Thank you. [LB1054]

SENATOR HUGHES: Next opponent to LB1054. [LB1054]

DONNA ROLLER: (Exhibit 8) Hi. Good afternoon. My name is Donna Roller and it's D-o-n-n-a R-o-l-l-e-r. I'm opposed to this bill. LB1054 will add additional unnecessary revenue (sic) and approval by the Power Review Board for windmill development in Nebraska. Public comment is singled out and relegated to those with legal standing. The definition of who has legal standing is not defined in this bill and would create an intended loophole for interpretation. In addition, a petition must be filed for public comment and approval for the Power Review Board. The petition requirements are not outlined in this bill. Public comment in a democracy is never subjected to the conditions of approval for testifying. Three largest campaign donations for Senator Brewer is A. C. Musgrave for \$20,000; Tom Brewer himself, \$6,720; and Pete Ricketts for \$5,000. A. C. Musgrave is an owner of Petra Chemical Company located in Dallas, Texas. This company makes sodium hypochlorite, which is a chemical used in hydraulic fracturing. Petra Chemical sells its product to petroleum fracking companies. I question why a Texas chemical company would be donating to a state senator's election in Nebraska. The Power Review Board consists of five members appointed by the Governor and approved by the Legislature. The bill will eliminate a community's ability to decide what's best in creating local energy needs by subjecting these projects to outside, unelected board members' approval. This is undemocratic, giving indirect power for the Governor to decide. The Governor could fire anyone on this board who does not agree with him. This bill gives the Governor an increase in authority over citizens' rights. Finally, the bill eliminates the word "wind"--I don't understand that, personally, but--as an option for considering of a renewal energy source. This wording would remove wind energy...wind generation from being considered at all. This small one word would just eliminate wind energy entirely from Nebraska by saying it is not considered renewable. Wind is one of the four elements needed for life to exist on our planet. The wind never stops moving. It pollinates our plants, powers ships on water, moves the weather and the rain, it is the stuff we breath. Wind does not stop at the Nebraska border. To suggest that wind is not a renewable source of energy is ludicrous and it will essentially kill wind energy in Nebraska. This state is faced with a budget deficit and this bill would kill many jobs for a growing industry and it would eliminate billions of dollars in revenue to the counties. LB1054 will destroy an important revenue source. I understand the concerns of citizens in the Sandhills divided about wind energy development. Our state is bigger than just the Sandhills and different conditions for

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construction exist in other areas of the state. I raise the question of transparency of intent, considering large disproportionate amount of campaign funds that were injected from outstate by a company who's private interests involve fracking. I oppose this bill and it must not move forward to the floor. And may I say one more thing? [LB1054]

SENATOR HUGHES: Quickly, yes. [LB1054]

DONNA ROLLER: I feel for the landowners. I could sit in this chair and say the very same...I have sat in this chair and said the very same things when I opposed KXL. We have the same concerns. But because it's dirty oil, it gets jammed down our throats and I'm one of those landowners that was close to it. And to sit here and watch TransCanada write a bill and the legislators not even read the bill that introduced it and jammed it down our throat and cost us years of legal battles. I just...I don't know what all the answers are, but I think we should hear the landowners and their concerns, but we have to find solutions here. And I want all citizens' voice to be treated equal, because I've been there, done that, and I don't think we were treated with the same respect for our concerns on KXL by this Legislature. [LB1054]

SENATOR HUGHES: Thank you, Ms. Roller. Are there any questions? Seeing none, thank you for your testimony. [LB1054]

DONNA ROLLER: Thank you very much. [LB1054]

SENATOR HUGHES: Next opponent of LB1054. Welcome. [LB1054]

PHILIP CLEMENT: Thank you, Mr. Chairman. Members of the committee, my name is Philip Clement, P-h-i-l-i-p C-l-e-m-e-n-t, and I represent NextEra Energy. I'm the project manager for renewable energy here in Nebraska. The first thing I'd like to say is, NextEra Energy, we are very much in favor of public comment. We work with communities extensively over years. I don't know how many zoning board hearings I've been to, commission hearings, permit hearings. You go back to those all over the county...different counties that we're in, literally for over a year straight and we're always getting public comment and we do extensive public engagement. Our whole purpose and our business model is to build these windfarms, to operate them, and to be a member of the community for decades. So it is in our best interest to have a good relation with the county, with the members of the county, both the participating and the nonparticipating and to have an amicable relationship with everyone. So that really is our goal. We've received community input throughout the entire process and I want community input because that makes me a better developer. I want to do...make things right. I don't want to make enemies within the community, because that makes my job harder, frankly, and it just makes for an acrimonious project. That's not what I want. I just want to say, before LB824 was passed, we had just one

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project in the state that was about a \$80 million investment. And then since LB824 was passed, we had about \$375 million worth of investment. We had to pay about \$1.3 million a year annually in taxes; about \$2 million annually in landowner payments; and that's all going right to those counties. People have talked about property taxes going up or down. I mean, that's what the county commissioners are...they can choose to use that money how they see fit. County commissions in some of my project areas, they used that money to spend on schools or spend on roads or essential services. So that's a county issue. But like I said, our goal is to be a good member of the community, we're going to be there for decades and we really want to get input. And I really just think that input at the Power Review Board, it seems like it's taking power away from the other local officials. Thank you. [LB1054]

SENATOR HUGHES: Thank you, Mr. Clement. Are there any questions? Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Thank you for being here today, Mr. Clement. Do other states have processes, permitting process, review process they have to do through? [LB1054]

PHILIP CLEMENT: Yes. [LB1054]

SENATOR BOSTELMAN: Okay. So why shouldn't Nebraska? [LB1054]

PHILIP CLEMENT: Well, Nebraska does. [LB1054]

SENATOR BOSTELMAN: How? [LB1054]

PHILIP CLEMENT: Well, at the county level with the zoning boards, the commissioner meetings, and permit hearings. [LB1054]

SENATOR BOSTELMAN: I guess a question I have with that is some testimony we've heard before from other people. They're saying that companies come in and...I don't want to use the word "buy out" the commissioners ahead of time. So if I was or you were the person that was opposed to a situation like that and you knew you were sitting in front of a board where all the members of the board had an investment in that business, whatever that business, it doesn't have to be this, it could be any business. [LB1054]

PHILIP CLEMENT: Sure. [LB1054]

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SENATOR BOSTLEMAN: Do you...I'm not so sure that I would feel that my voice was being heard fairly. And I understand when you say that a PRB right now, that's not part of that process, there is a different...there's three other things there. But I guess my question is, is if other states have a public utility commissions, public service commissions and that and what we're hearing here today from different people is they just don't feel comfortable because they feel that the county commissioners or those who are making those decisions have...already have investments there and they just don't feel like their voice is heard. I'm just kind of curious how you perceive that as being a good fit for that community or for that county. (Inaudible.) [LB1054]

PHILIP CLEMENT: Sir, quite frankly, that's not been my experience. My experience has been at the local level the individual landowner has an incredible voice. I mean, they know these county officials. My experience has not been that the county officials are bought and paid for. Any time any county official that I've met has been part of the project, they've abstained from any vote, so their vote does not even count. So really we're only dealing with people who have no interest directly in the project. [LB1054]

SENATOR BOSTELMAN: Okay. [LB1054]

PHILIP CLEMENT: So I found the just the opposite, that the people on the local level have a great influence over the zoning board and the county commission. [LB1054]

SENATOR BOSTELMAN: Okay, thank you. [LB1054]

SENATOR HUGHES: Senator McCollister. [LB1054]

SENATOR MCCOLLISTER: Thank you, Mr. Chairman. With passage of LB1054, would that have a negative effect on wind development in the state? [LB1054]

PHILIP CLEMENT: Yes, sir, I believe it would. And the reason I say that is, the one thing-- which after reading the bill I'm not sure--I mean, can anybody go before the Power Review Board and then complain about that one project, because if that's the case then it seems like if you were in whatever county, somebody can come from a county where they don't even live and possibly pose a problem to that project. But also, you know again like I said, we're not opposed to public comments, but what was my understanding before LB824 was passed, there was no real...it was almost a capricious nature of the board or a...not a defined nature of the board as to what a wind company had to do to get approval, and so that just creates a lot of uncertainty. Right now, we know exactly what we need to do for the Power Review Board. There's a list, it's listed out in LB824 and we have to accomplish each one of those steps. And so we know exactly

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what we need to do and so we abide by the law, we do each one of those things. And many of those items are: abiding by the county roads agreements; having a decommission bond in place; all those things that protect the local communities. And so we know exactly what we need to do, because we're making a huge investment and so we need to have some certainty before we invest that money in the state. [LB1054]

SENATOR McCOLLISTER: Thank you. [LB1054]

SENATOR HUGHES: Any additional questions? Seeing none, thank you, Mr. Clement. And we're back to proponents of LB1054. [LB1054]

TERRY MADSON: Thank you for the opportunity. My name is Terry Madson, T-e-r-r-y M-a-d-s-o-n, I live in Nuckolls County about 20 miles north of the Kansas border. Nuckolls County is one of two counties in the state--I believe this is correct--only two that are not zoned. The other one is Butler County. My testimony earlier, I'd intended to talk about the authorities and the reason that the Power Review Board was formed in the first place under LB220 back in 1963. But John Stanner's earlier testimony said it quite a bit better than me. I guess I would say, though, that relative to their responsibility for being able to restrain excessive building because of the concept of excessive production not being good for the ratepayer in the state, that concept I think is coming home to roost since LB824 taking effect. And the reason that I believe that is, is that the Southwest Power Pool publishes a thing, they call it their "Market Monitoring Unit" and they report, I think, it's quarterly. And the last reporting period that I'm aware of ended in November of 2017 and in their report, their words, express "concern about the frequency of negative price intervals." And I'm not smart enough to explain how it all works, but basically they go into the market, quote the next day's bid, if you will, and then people buy and sell and speculate on those, much like grain futures and so forth. But the point here is that they've expressed concern about the increasing frequency of these negative price intervals. In 2015, there were only 2.6 percent in frequency and in the last reporting period, as I said November of 2017, they're up to 7 percent, indicating an increase in a surplus of energy. So I would refer back to the concept of the Power Review Board having responsibility to all ratepayers to sort of manage how much production there is in the state, because in the end if you over produce it's not sustainable. If you underproduce, prices are artificially high. I'd point out that what this bill does, the LB824 did, it's like asking the Power Review Board or your hired man, asking your hired man to go out and irrigate efficiently and then putting somebody else on the throttle of the pump. So I'm very much in favor of LB1054 and I ask that you move it out of committee. Thank you. [LB1054]

SENATOR HUGHES: Thank you, Mr. Madson. Are there any questions? Wait, please. Could...kind of off the topic a little bit, but why does not Nuckolls County have zoning? [LB1054]

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TERRY MADSON: In the year 2000, they approached the planning and zoning process, appointed a committee, and they had a plan ready to go forward. Two hundred and fifty citizens signed a petition and said that they didn't want planning and zoning in the county. And it's a commission system, there are three commissioners, and so based on more opposition to the planning and zoning plan than support of it, they backed away. [LB1054]

SENATOR HUGHES: So can wind development come? Is there nothing to stop wind development or livestock development or anything in Nuckolls County? [LB1054]

TERRY MADSON: Well, that's an excellent question and the answer is, there are no rules. In fact, one of...there's a proposal to install a 130-turbine, 300-megawatt installation... [LB1054]

SENATOR HUGHES: Could I have you slide up to the mike, please? I'm sorry. [LB1054]

TERRY MADSON: Sure. Sorry. There's a proposal by Apex Clean Energy to install a 300-megawatt, 130-turbine program in Nuckolls County. It basically parallels U.S. Highway 4 from west to east and butts up to Webster County where NextEra has, I believe, it's an 85 tower project. And so, yes, one of the reasons that Apex--at least according to an Apex representative that was soliciting leases--chose Nuckolls County is the absence of zoning. [LB1054]

SENATOR HUGHES: So is there concern now from the citizens of the county... [LB1054]

TERRY MADSON: Absolutely. [LB1054]

SENATOR HUGHES: ...to maybe look at implementing some zoning regulations or is that a bit too late? [LB1054]

TERRY MADSON: I'm one of a group of roughly a hundred citizens that are formulating a plan to oppose the Apex project and that's one of the things on the table. [LB1054]

SENATOR HUGHES: As putting in countywide zoning? [LB1054]

TERRY MADSON: Zoning in place. Uh-huh. [LB1054]

SENATOR HUGHES: Yes. [LB1054]

TERRY MADSON: Countywide. Yeah. [LB1054]

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SENATOR HUGHES: Okay. Thank you. Any additional questions? Thank you, Mr. Madson. Next proponent, please. Welcome. [LB1054]

BOBBI McCORMICK: (Exhibit 9) Thank you. Senators, Chairman, my name is Bobbi McCormick, it's B-o-b-b-i M-c-C-o-r-m-i-c-k. My family and I have been living on an acreage in Wayne County for six years. We moved there to get away from town, the noise, the crowded feeling, and to raise our kids to appreciate the wide open spaces that country life can provide. We found an affordable acreage where I would still be able to be a stay-at-home mom and our kids could run and play to their heart's content. During the summer, we can sit on our back porch and not see another house. We have beautiful sunrises and sunsets and at night the stars shine so brightly that we can't help but be in awe. However, we are in Wayne County and Wayne County is another one that also does not have any zoning. And when we found out that industrial wind turbines were coming to Wayne County, to say we were disappointed would be an understatement. We did as much as we could to raise awareness of the drawbacks of the turbines, but without zoning in our county there wasn't much we could do. I even spoke to our senator on the phone at length about what our options might be and it was recommended that we would get out of the county while we could and while our property would still retain its value. Well, we don't want to move and we shouldn't have to. We should have rights as nonparticipating landowners to protect the very things we moved to the country for. If any of you have looked up information about the wind turbines, outside of what the energy companies have given you, you would see that the quiet rural atmosphere of the counties will be heavily damaged and the quality of life people enjoy in the country will be dampened. All one has to do is type in "shadow flicker" into You Tube and you will find many examples from families who have been forced to live under the shadow of turbines. The proposed setbacks for our area will be anywhere from 1,400 feet to approximately 1,600 feet, depending on the company building them. I know these won't directly affect those who live in town but town folks aren't the ones who will have to live by them, those of us in the country will. We are being forced to choose between moving or living with shadow flicker, infrasound, bright red lights blinking nightly, possible health issues, and many other problems. While everyone has the right to do what they want on their own property, what happens when those rights infringe on your neighbors? As a nonparticipating landowner, what protections do we have for our rights? There's more to it than just eyesores scattered across our landscapes and shadow flicker. This will also affect people's property values and more. Nebraska is known for its rolling fields, the Sandhills, the beautiful sunrises and sunsets. And do we really want these littering our landscapes, tearing apart neighbors, and wind energy companies using our counties as dumping grounds for giant turbines? I support this bill so that local people like me can have a voice, since we are not being heard at the local level. I have attended multiple county commissioners' meetings for the last year and a half and it's like beating my head against a brick wall. There is absolutely nothing they can do without having zoning in our county. And I had brought up with other farmers who didn't want us to bring zoning and so we've respected their wishes not to bring that forward, because they fought in the

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'90s not to have zoning. But I think that there is nothing "Nebraska Nice" about industrial-waste-filled sunsets. [LB1054]

SENATOR HUGHES: Thank you, Ms. McCormick. Are there any questions? Seeing none, thank you for your testimony. One more proponent and then we'll be back to opponents. Welcome. [LB1054]

MERRIAL RHOADES: (Exhibit 10) Good afternoon, Chairman. Senator Hughes and the senators of the Natural Resources (Committee), thank you for serving our state. I am Merrial Rhoades, that is M-e-r-r-i-a-l R-h-o-a-d-e-s. I'm here to give my testimony for LB1054, relating to the Nebraska Power Review Board. This bill I hope will bring fairness not only to the people in the Sandhills, but all over the state. We, the people of Cherry County, don't see much fairness in our county level. When we go to the county level we're told, well, we can't help, go to the state level. So we call, we write, we send emails to the state level, to the Governor, to the Attorney General and their answer is, sorry, you have to go back to your county level. I have truly tried to find fairness at the county level. Since May 16, 2016, I have attended county commissioners meetings twice a month. Since November of 2016 I have started to videotape all the meetings. I have only missed five meetings since 2016. The reason I started attending the commissioners meetings was due to the large activity of industrial wind talk in Cherry County. Cherry County definitely has a conflict of interest with all three of our county commissioners. Commissioner number one, father, mother, brother, sister, uncle, aunt are all wind investors. Does that seem like a conflict? Not according to the state attorney. If she doesn't receive financial income from the wind industry, she can vote on anything that comes up. Commissioner number two, has 100 percent of his land invested into the wind industry. Would that warrant a conflict? Again, we are told he needs to pay a fine before voting, but he should really abstain. Really? Commissioner number three, our most recently elected official, he purchased 11 acres to build his home from his mother's ranch, which is invested in the wind, which he manages. His wife testified at the LB504 here in this room. At that time she had just been appointed as the secretary of Cherry County Wind. Commissioner three assures us, his wife won't receive any pay from the wind company. Isn't this a conflict? In my eyes, as well as many other Cherry County taxpayers, all three commissioners have a conflict of interest; yet our state laws do nothing about it. Our planning and zoning have the same issues. We have members on the board that are investors or the family members are invested in the wind. These zoning members are writing our guidelines and make regulations. In just the last few days, our group "Preserve the Sandhills" has compiled a list over 500 names of people who opposed wind development in the Sandhills. These names include people from across the state of Nebraska, as well as people living coast to coast. "Preserve the Sandhills" members, have taken these names from e-mails, phone calls, text messages and we have compiled this list and sent it to be published in our local newspaper in a 100-mile radius it will cover. A few of the newspapers say it's a political ad, so we are charged double to put it in our papers. Is this fairness? When it comes to the wind industry, our local

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radio station seems to only report one side. KVSH manager is a board member of the wind. Fairness? Is that fair to us? We do have a radio station 90 miles from Valentine but it doesn't reach out to our whole Cherry County. We are so pleased that KSDZ The Twister in Gordon is freedom of speech and gives us fairness. We just want freedom of speech and to say, no industrial wind in the state of Nebraska. I ask you to vote for LB1054. In God we trust. We want fairness. [LB1054]

SENATOR HUGHES: Thank you, Ms. Rhoades. Are there any questions? [LB1054]

SENATOR ALBRECHT: Thanks for coming. [LB1054]

SENATOR HUGHES: I guess I have a question. When are the county commissioners elected in Cherry County? [LB1054]

MERRIAL RHOADES: We have two... [LB1054]

SENATOR HUGHES: That are up for election? [LB1054]

MERRIAL RHOADES: ...that are up for election. [LB1054]

SENATOR HUGHES: This cycle? [LB1054]

MERRIAL RHOADES: Yes. [LB1054]

SENATOR HUGHES: Do they have opponents? Has anybody filed to run against them? [LB1054]

MERRIAL RHOADES: Yes, we do. [LB1054]

SENATOR HUGHES: Okay. [LB1054]

MERRIAL RHOADES: But they're for the wind, too. We have as of...on Tuesday in our zoning, I went sit there. During the commissioner's meeting they were to appoint...we have three zoning (inaudible) coming up. They sat there. I sat there and listened to them. They didn't say anything. We'll reappoint two of them, one of them is for the wind, the other one isn't. The third one said, I do not want to run, but if you can't get anybody I will run. We have a person that put his resume in and they will not even recognize it. The guy called me as I was sitting here in this room and

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said, I went to the county clerk and asked why it was not given to the commissioners. Well, we don't know. We don't know. What do we do? What are we to do? He should be recognized just as well as anybody else. Why don't they want him? Because he used to live around the wind in Minnesota. He knows what it's like. What do we do when we are fighting? [LB1054]

SENATOR HUGHES: And I'm not being flip with you, but if it's local officials making the decisions, become a local official. [LB1054]

MERRIAL RHOADES: Believe me, we will. [LB1054]

SENATOR HUGHES: That's all I'm asking. That's all I'm asking. Any additional questions? Okay, thank you for your testimony. [LB1054]

MERRIAL RHOADES: Thank you. [LB1054]

SENATOR HUGHES: Next proponent. Proponents. I'm sorry, it should be opponents. Go ahead, you're already up. Okay, I'm sorry. Opponents. My apologies. Welcome. [LB1054]

FRANK COSTANZA: (Exhibit 11) Thank you. Senator Hughes, members of the committee, I appreciate the opportunity to speak to you today in opposition to LB1054. My name is Frank Costanza, F-r-a-n-k C-o-s-t-a-n-z-a, I'm executive vice president for Tradewind Energy, Inc. We are a developer of renewable energy projects headquartered in Lenexa, Kansas. We are the developer of the Rattlesnake Creek project that's currently under construction in Dixon County. I'm going to deviate from my prepared comments. I think Mr. Budler, David Levy, Mr. Clement have covered the landscape of many of the reasons, in fact, principally all the reasons, major reasons why we oppose LB1054. A few facts about Rattlesnake Creek. It's a \$450(million) investment into Dixon County. It will employ, when it's built, 10 to 15 full-time employees, high paid, \$50,000 to \$60,000 a year. We will make property tax and nameplate tax payments on the order of about \$1.7 million per year, which represents roughly, if we did our math right, of the Dixon County budget of some \$3.5 million for the county and \$4 million for schools, somewhere in the vicinity of 15 to 20 percent of the revenue stream that comes in, so not an insignificant number. In addition, we will pay our landowners over \$1 million a year in landowner payments. I mention these because we started developing the Rattlesnake Creek project in 2008. We didn't put a spade into the ground to start building that project until last fall. And the reason simply was the red tape regulation that existed, including the PRB process. I was in a position to negotiate a power purchase agreement. And to be clear, we don't build wind projects without an off-taker to buy the power. We don't dump the power into the markets. We needed a large utility like OPPD, NPPD, or somebody like Facebook who we are selling our energy to from the Rattlesnake Creek project. So there's a double impact on the state from an economic development standpoint. We

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do not build projects where we're not wanted. If there are zoning regulations, we abide by them. If there's setback regulations, we abide by them. So in the case of Rattlesnake Creek, when we couldn't get that to the goal line--I was negotiating an agreement to sell that energy in 2010--we simply moved that project and moved that contract to one of our projects in Kansas to the loss of Nebraska at that time. Thankfully, we are able to build that project today and but for LB824 I think LB1054 will have a chilling effect on wind development going forward and economic development in the state at the very time, I know that at least the Governor and his administration are seeking to reduce property taxes. I see the red light on. I'll stand ready for questions. [LB1054]

SENATOR HUGHES: Thank you, Mr. Costanza. Senator McCollister. [LB1054]

SENATOR McCOLLISTER: Yeah. Thank you, Chairman Hughes. I think I misheard the amount of investment Tradewind has made in Nebraska. [LB1054]

FRANK COSTANZA: It's...the Rattlesnake Creek project is approximately \$450 million new investment, 320 megawatts. [LB1054]

SENATOR McCOLLISTER: Any...I see. If LB1054 is adopted, do you see that having a negative impact on continued wind development in Nebraska? [LB1054]

FRANK COSTANZA: I do. Again, I think I would note that all wind developers, Tradewind and others, this is an expensive process that we go through. We spend millions of dollars to develop projects. If we're not welcome and if the process is going to be too cumbersome, too lengthy, and strewn with uncertainty--which is where we were before LB824 was passed--we simply will build in another part of the SPP footprint. We can still serve customers in Nebraska, but the investment may be made in Kansas or Oklahoma or another state. [LB1054]

SENATOR McCOLLISTER: Thank you. Thank you very much. [LB1054]

SENATOR HUGHES: Additional questions? Seeing none, thank you, Mr. Costanza. [LB1054]

FRANK COSTANZA: Thank you. [LB1054]

SENATOR HUGHES: Additional opponents. Welcome. [LB1054]

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JANECE MOLLHOFF: (Exhibit 12) Good afternoon. My name is Janece Mollhoff, J-a-n-e-c-e M-o-l-l-h-o-f-f, I'm here on behalf of the League of Women Voters of Nebraska. I represent nearly 400 members of the League of Women Voters of Nebraska and we support wind energy as a part of a comprehensive policy that encourages the use of renewable resources. Wind is a renewable source of energy and trying to change that definition through legislation does not help us to have a reasonable conversation about wind energy production. I struggled a little bit with this testimony because the League really supports open and transparent processes at all levels. And what we feel is that our elected public officials on both...in the public power districts and at the county supervisor level and our commissioners already provide a forum for public hearings. Wind energy has economic benefit by providing income to landowners, property taxes, and struggling rural counties. Wind energy doesn't pollute our air and water, it doesn't cause black lung disease, COPD or asthma, or contribute to the preterm births that coal does. You talk about people have complained about the noise from wind energy. I live in Ashland and we have coal trains running through Ashland 24 hours a day seven days a week. I wake up at night with coal trains running by my house and they're not that close. If the health effects of wind turbines were as bad as some would like us to believe, all of Iowa and much of Texas and Kansas and Oklahoma would be on disability and the towers near Lincoln would be causing thousands of Lincoln residents to be ill. Wind is sustainable, unlike fossil fuels, which will eventually run out. I don't see that Kansas and Texas are using up the wind before it gets to Nebraska. But, seriously, without renewable wind energy, Facebook would not be building their new data center in Cass County, bringing jobs and businesses to that part of Nebraska. LB824 gave OPPD the flexibility to respond quickly to that opportunity. LB1054 would put significant roadblocks to that flexibility. Grain elevators, ethanol plants, center pivots, and windmills have become a part of our Nebraska landscape. I think that we can also make room for wind turbines with careful siting and the precautions that are already in place through federal, state, and local regulations. I thank you for your time and I would take any questions. [LB1054]

SENATOR HUGHES: Thank you, Ms. Mollhoff. Are there questions? Seeing none, thank you for your testimony. [LB1054]

JANECE MOLLHOFF: Thank you. [LB1054]

SENATOR HUGHES: One more opponent and then we'll be back to proponents. Welcome. [LB1054]

CHELSEA JOHNSON: (Exhibit 13) Thank you. My name is Chelsea Johnson and I'm the deputy director of the Nebraska League of Conservation Voters and we are opposed to LB1054 for three primary reasons: It reduces the ability of communities to... [LB1054]

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SENATOR HUGHES: Excuse me. Could you spell your name, please? [LB1054]

CHELSEA JOHNSON: Oh, I'm sorry. C-h-e-l-s-e-a J-o-h-n-s-o-n. [LB1054]

SENATOR HUGHES: Thank you. [LB1054]

CHELSEA JOHNSON: NLCV is opposed to LB1054 for three primary reasons: It reduces the ability of communities to make their own decisions; it targets only wind energy; and it is insincere in its true intent. It's not about helping to protect the environment and it's not about improving the public process. While the alleged purpose of LB1054 is to provide a more robust public process for the permitting of wind projects, it is fairly transparent that this bill is primarily about hurting the wind industry in Nebraska. Counties currently have a public process for determining whether or not a wind project should be built within its borders. As a result of this public process, several counties, including Holt, Kimball, and others, have approved wind projects and are currently benefiting from the revenue they bring to their counties. Other counties, including Lancaster and Stanton, have prevented wind energy from being developed within their borders. We have a public process for these projects in Nebraska and we have examples of that process yielding varying results for wind projects, depending on the overall needs and desires of local communities. The bill sponsors say that the reason why wind energy needs to be removed from the list of renewable energy sources listed in Nebraska Statute, Chapter 70-1001 is to allow for a sufficient public process. But if this public process provided by local government is not sufficient for wind energy, as LB1054 dictates, then why would it be sufficient for solar, geothermal, biomass, landfill gas, and biogas, the other renewable energy project sources that we currently entrust local communities to permit. If the public input process is broken, then why doesn't the bill sponsor want to fix it for all of these renewable energy sources? This bill isn't really about providing a more robust public process. It is about targeting the wind industry and reinstating the hurdles to its development that existed prior to LB824 being passed in 2016. These hurdles were a major barrier to wind development and putting them back up is the purpose of this bill. As a conservation-focused organization, we are opposed to singling out the wind industry and we believe that there are better ways to protect the environment from potential negative impacts of any sort of development than by saying we will just try to stop all the development from occurring, period. Roads, transmission lines, and other types of development that we rely upon for modern civilization all come with their negative environmental consequences and we as a society work to address these impacts by putting in place siting and zoning restrictions or requiring consultation with conservation agencies. LB1054's approach is a disservice to the environmental concerns expressed today. While there are places that may be determined unsuitable for wind development, there are also many places where wind development is acceptable and desired by the local residents. Seeing as I'm on red, I will just skip to the end where we advocate that we should be thinking about ways that we can develop this wind energy potential in as responsible a manner as possible rather than thinking of

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ways that we can stop it from developing altogether. And I did give a list of signers of a petition that we put out on Monday this week that nearly 800 people signed opposing this bill. So that's quite a number in just a couple of days who are opposed to LB1054. Thank you. [LB1054]

SENATOR HUGHES: Thank you, Ms. Johnson. Questions? Senator Albrecht. [LB1054]

SENATOR ALBRECHT: Thank you, Chairman Hughes. Tell me again who you're with. [LB1054]

CHELSEA JOHNSON: The Nebraska League of Conservation Voters. [LB1054]

SENATOR ALBRECHT: And would these folks be rural folks or urban people who signed this? [LB1054]

CHELSEA JOHNSON: On the list of the petition signers, there is a city included next to it. [LB1054]

SENATOR ALBRECHT: So you would say that the majority would be from where? [LB1054]

CHELSEA JOHNSON: I'm not sure. [LB1054]

SENATOR ALBRECHT: You haven't looked at it? [LB1054]

CHELSEA JOHNSON: I didn't do a percentage breakdown of where everyone is from. [LB1054]

SENATOR ALBRECHT: I see a lot of Omaha and Lincoln and Omaha and Lincoln probably are not going to have a wind turbine in their city, so we're talking about the rural areas and just the people being able to have a voice. I know that I didn't hear from these folks in my office, but I appreciate your testimony. [LB1054]

CHELSEA JOHNSON: Sure and can I respond to that? [LB1054]

SENATOR HUGHES: Sure. [LB1054]

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CHELSEA JOHNSON: I would just say that, again, this bill removes a layer of that local input actually, so I mentioned before about certain counties like Lancaster and Stanton have put in restrictions that prevent wind energy from being developed. Other counties can do the same thing and so that is really the main point of this is that this bill would remove a layer of that local control rather than trying to help it as many folks believe. [LB1054]

SENATOR ALBRECHT: Thank you. [LB1054]

SENATOR HUGHES: Okay. Additional questions. Seeing none, thank you, Ms. Johnson. Okay, we will switch back to proponents of LB1054. Welcome. [LB1054]

CRAIG MILES: Hello, Mr. Hughes. Thank you, Natural Resource Committee members for being here, I truly appreciate it. My name is Craig Miles, C-r-a-i-g M-i-l-e-s, and I'm a supporter of Senator Brewer's LB1054. Going back to you members being here today, you have no idea how much that means to me to see you all seated in your seats and hearing us out. We travel a long ways. I'm personally from southeast Cherry County. I'm a fourth-generation rancher. I've been sitting here today and I'm just a common man, but as I sit here and watch these testimonies today, it's the suits that are representing the wind companies. And we got common people like myself sitting here asking for a voice for us. And, you know, my great granddad came to the Sandhills of Nebraska in 1888, traveled here in a covered wagon. There's a lake out by...southeast of Alliance, 16 miles southeast of Alliance, called Miles Lake to this day. Anyhow, we ended up in the Brownlee community. But back then they had a...there were wolves in the Sandhills and today in the new "millennia" there is a predator in the Sandhills and it's called "Big Wind." And they're taking advantage of the common man, like me. I don't understand it. It's a money deal, it's a land grab. You take Berkshire Hathaway, they're going to probably sell it to someone else. It's going to be changed multiple times and probably some German company is going to end up being the owner of a site of an industrialization park, wind park and they don't care what people say. They're not going to care what people feel. As far as being environmentalists, we've got to be...ranchers got to be predacious with our land. That's the only way we make a living off the Sandhills. And if the Flint Hills of Kansas can have a moratorium put on them, why can't the Sandhills of Nebraska have a moratorium put on them? And I'm not talking just the Sandhills, I'm concerned statewide. It's a concern statewide. I've visited with Frank Keating, former Oklahoma Governor about 20 years ago in Oklahoma, I don't know if you're aware of him. He tipped his hand to big wind. And I visited with former Oklahoma Governor, Frank Keating, via e-mail multiple times and he has said himself, I made a mistake. He said, it's cost the taxpayers of Oklahoma billions of dollars. And that's what we're doing, we're robbing the American taxpayer of billions of dollars tipping our hand to big wind. Thank you for your time. [LB1054]

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SENATOR HUGHES: Thank you, Mr. Miles. Are there any questions? Seeing none, thank you for coming and testifying today. Next proponent. Welcome. [LB1054]

DOUG HALL: Doug Hall, Neligh, D-o-u-g H-a-l-l. I'm just going to give you some firsthand experiences. I feel for the people that have had commissioner meetings that they've sat through, zoning and planning commission meetings that they've sat through. Antelope County is zoned. It was zoned when the big hog people came in--and some people could call me a big hog person, that's fine. The wind deal, I think there's some things that you need to understand. The tax deal is here to stay for another year or two, and these guys are in a dead heat race trying to get ahead of it. I have been witness to getting started before the end of the year two years ago on a wind project down in Antelope County. I saw what they did. They come in, they excavated, poured a concrete pad, covered it up just after the IRS agent was there. Those things are in place these people are doing. In Antelope County we had 168 wind turbines proposed. Me and a few other people hired an attorney out of Lincoln just to try to get them to get them out of the flight plane of the Antelope County Airport. They wouldn't hardly let the attorney talk. I have a...I've been to Pierce County. They say Pierce County has zoning and they're working on it. Most of the conversation in Pierce County amongst the commissioners, three of them, was after almost everybody left. Just before the chairman closed the meeting the county attorney said a few words, they brought back in the zoning person, they decided what they were going to have for proposals to maybe appease some of the setback stipulations. They did not discuss not having it, they just discussed what they propose for the setbacks and the attorney warned them to notify the public. That was after almost everybody left. Currently, in Antelope County I have a tower that's on a leased piece of ground for 99 years. The wind company came in and moved in right beside me. When I say moved in, they poured a mud pad within 390 foot of me, did not contact me until after they had the mud pad poured. They have thrown in front of me three leases...three pieces of paper that say I will not necessarily walk away, at first I would relinquish any of my rights there. Now they say if they cause me any problems, they will fix it. I said, yep, you're going to tear down a \$2 million wind tower to fix a problem that you may have with me. They moved in on me. That's the way they do it. [LB1054]

SENATOR HUGHES: Okay. Thank you, Mr. Hall. Are there any questions? Seeing none, thank you for your testimony. One more proponent and then we'll be back to opponents. Welcome. [LB1054]

DOUG NELSON: (Exhibit 14) Thank you. My name is Doug Nelson, Wayne, Nebraska, D-o-u-g N-e-l-s-o-n. First of all, Wayne, Nebraska, implies Wayne County. We don't have zoning. Historically, our residents have done a good job of being good, responsible citizens, making good decisions on behalf of themselves and the county and we've had very little problem requiring zoning. Zoning boards can be infiltrated, bought, or otherwise coerced as there are wind turbines in many counties that haven't been zoned. Moving on from that, an earlier speaker

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mentioned negative electrical rates and the potential exists for negative electrical rates with wind energy because of the 2.3 cents per kilowatt hour production tax credit. Imagine a hypothetical situation where you have very low electrical demand but a very, very high wind. So there's power being generated now that the demand doesn't exist for. So there is potential for a wind company to pay somebody to take the energy that they're producing to get it through their meter out onto the grid so they can collect their production tax credit. So as long as they're not paying somebody more than the production tax credit, the rest of it is still income for them. Everybody follow that? This, however, creates unfair competition for our conventional power producers who have to compete with somebody that can actually afford to pay somebody to take the electricity. We don't want to enter...end up like Germany. The consumers over there are paying 2.3 cents to 2.7 cents a kilowatt. What would that do to the economy in Nebraska, folks? The windfarms, how can they financially exist? It's a lot, a lot of government tax credits. To start with, it's 2.3 cents per kilowatt hour production tax credit; 30 percent investment tax credit; and 30 percent Treasury grant on the property value, qualifying property value. And these numbers came from a Nebraska state extension agent in Wayne, Nebraska, when he presented a information program to a bunch of farmers as a program with a farmer appreciation banquet. Anyway, number four is a process called tax equity financing. And to shorten that up in a roundabout way, to me, tax equity financing gives a wind developer a 90 percent discount on his project. For instance, if you make \$120,000 investment in a wind project, in five years you can receive \$100,000 worth of investment tax credit; \$90,000 worth of depreciation; \$24,000 as a preferred return; and you have the option then of selling out your investment for 10 percent on your original money, \$12,000, you can sell it back to the developer for and you're out. After five years you have recovered 88 percent return on your original investment. If the developer buys you out for \$12,000, then he basically gets a 90 percent discount on his project, as I see it. I say, folks, this is better than robbing banks and so far it's legal. In summary, we're headed for higher electric rates, higher taxes and/or debt, and a higher cost of living, just like Germany. So I am in favor, I'm a proponent, and I would hope that this Nebraska Review Board, this Energy Review Board would look out for things like that. We don't want to break our conventional power producers. Thank you very much. [LB1054]

SENATOR HUGHES: Thank you, Mr. Nelson. Are there any questions? Senator Geist.  
[LB1054]

SENATOR GEIST: Thank you for coming. I would just ask, would you say again where you got your numbers? [LB1054]

DOUG NELSON: The 2.3 cents per kilowatt hour... [LB1054]

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SENATOR HUGHES: Would you speak into the mike? Mr. Nelson, would you speak into the mike, please? [LB1054]

DOUG NELSON: The 2.3 cents production tax credit came from a guy named John Hay, Nebraska state extension agent. He was a...he presented this wind program to a group of farmers in Wayne, Nebraska, at a farmers' appreciation banquet. And he also had on a slide show the 30 percent, in addition to this production tax credit, the 30 percent investment tax credit, and also he mentioned a 30 percent Treasury grant on qualifying property value. And then so a windfarm has all these tax credits, but they don't necessarily owe that many taxes to be able to utilize the tax credits, so they monetize the tax credits through a process called tax equity financing. And this is all legal and most people don't know this is going on. [LB1054]

SENATOR GEIST: And, sir, where does that come from? I mean, how do you know that information? [LB1054]

DOUG NELSON: How do I know that information? Well, I looked up tax equity financing as it refers to renewable energy on the computer and I found an example on solar energy; solar being renewable, just like wind. So you can look that up yourself, key in tax equity financing and go ahead and research it. [LB1054]

SENATOR GEIST: Okay, thank you. Thank you. [LB1054]

SENATOR HUGHES: Any additional questions? Seeing none, thank you, Mr. Nelson. Appreciate it. Okay, we're back to opponents. Welcome. [LB1054]

LUCAS NELSEN: (Exhibit 15) Well, thank you, Mr. Chairman. My name is Lucas Nelsen, L-u-c-a-s N-e-l-s-e-n, and I'm a policy associate at the Center for Rural Affairs. We're based in Lyons, Nebraska. The Center believes that LB1054 represents a rollback of important steps that the Legislature took in 2016 with LB824, which helped clarify and streamline our process for developing wind energy in the state and really helped put us on a level playing field with other states. I think it's really important to note...and I know you've heard a lot about numbers today and so I don't want to just reiterate all these numbers at you, but those benefits to rural communities from wind development are real. And when we talk about 13 permanent operations jobs for say an 80 megawatt windfarm, it isn't just the fact that there's 13 new jobs there, it's the fact that it's new jobs that are in one of the fastest growing industries in the nation. Those are good paying jobs. Those are often jobs that go to people who come from training programs in the state. I'm from the city of Norfolk and our little community college there has a wind tech training program and they know that they have a pretty good success rate with placement of students. Those students come from rural areas that are looking for ways to go back to rural

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areas. And a wind technician position just represents a unique opportunity to return to a rural community where you may not have other opportunities. And, additionally, the new tax revenue, whether it be the nameplate capacity tax or the total real property tax paid by a wind facility, it has the opportunity to lower those levies in counties, but it also has the opportunity to help address longstanding issues, whether it be funding local schools, whether it be funding emergency services, or making road improvements, all problems that we know about in rural communities. And finally, I just want to really reiterate the issue of local control. We have zoning in this state; counties have that option. And I have been in many of these proceedings, whether it be at the planning and zoning board or whether it be at the actual county commission. These are not single-hearing procedures oftentimes. These are multi-meeting procedures where new standards are examined, where suggestions are made, where final decisions are submitted to a county commission. The commission then has a hearing and then they make a final decision. This is a process that has a lot of opportunities already for someone's voice to be heard and I don't believe that the Power Review Board really represents that same opportunity to have local citizens' voices carry the same weight as they do in that local process. And so for those reasons, the Center is opposed to LB1054. [LB1054]

SENATOR HUGHES: Thank you, Mr. Nelsen. Are there any questions? Seeing none, thank you for your testimony. [LB1054]

LUCAS NELSEN: Thank you. [LB1054]

SENATOR HUGHES: Next opponent. Welcome. [LB1054]

RICHARD LOMBARDI: (Exhibit 16) Thank you very much. Good afternoon, my name is Richard Lombardi, I'm the registered lobbyist for a group called The Wind Coalition, which is a trade association that operates out of the Great Plains and is into development of the wind and renewable energy capacity that is bountiful in the Great Plains. I am passing out to you a... [LB1054]

SENATOR HUGHES: Mr. Lombardi, would you spell your name, please? [LB1054]

RICHARD LOMBARDI: Sure. L-o-m-b-a-r-d-i, Richard, R-i-c-h-a-r-d. Actually, the Nebraska Legislature...I am passing out to you kind of a chart of legislation that has been enacted since 2007 that's a goal and involvement of the citizens of this state have had a dramatic impact on growing economic development in rural areas that wind provides. There...Nebraska, as everyone knows, is probably the most bountiful, most efficient wind that comes across the Great Plains. The capacity factor for wind and the utilization of the technologies that have evolved very rapidly over the last decade is extremely attractive. Wind companies want to come here and do

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work and they have come here. The Legislature has been the lead in drafting legislation to balance the interests between the public power industry and a private energy industry. It's been quite innovative. There's been a lot of people participating. It has been hugely successful. And if there's any question about whether or not legislation has an impact on economic development, evidence here for you is that it has, that we are now approaching over with projects that are in the \$3 billion of investment. And you're absolutely right, you don't build wind towers in urban areas. This is one of the few areas of economic development that this Legislature has been involved with that is targeted to rural areas. And I daresay that it is probably the most democratic process that there is out there for any energy siting that goes on in this state. The other side of this thing that I provided for you, our firm has done an analysis of the economic impacts that have occurred across the state. And this is...we have a much larger report, but we went into each wind project in the state and took a look at the various components of it and we've refined this. This is not...these are not soft numbers here, these do not contain indirect costs, these are real jobs, real people. And what this doesn't capture, it doesn't capture downtown Broken Bow. When you go in there and to see how the lease payments for the wind project out there, one of the earliest wind projects, have turned around and it has generated things in this economy. It doesn't tell the stories about the Nebraskans that are able to live in the state because they've gone through the wind technology program in northeast Nebraska and are now on-site in various locations. It doesn't talk about the stories in Elgin, Nebraska. I really invite you to go to those places. Notwithstanding the very legitimate concerns that have been expressed here today and the really difficult land use decisions that people have to go through at the local level. [LB1054]

SENATOR HUGHES: Mr. Lombardi, your light is on. [LB1054]

RICHARD LOMBARDI: Oh, I'll shut up. [LB1054]

SENATOR HUGHES: Wrap up, please. [LB1054]

RICHARD LOMBARDI: I'll shut up, sir. Just...that's it. [LB1054]

SENATOR HUGHES: Okay. Thank you, Mr. Lombardi. Any questions? Senator McCollister. [LB1054]

SENATOR MCCOLLISTER: My question of the day, will passage of LB1054 have a dampening or a negative effect on wind development in Nebraska? [LB1054]

RICHARD LOMBARDI: Yeah, I think it is. First and foremost, I think that people need to know, we're not exempt from the Power Review Board. The wind companies aren't exempt. There are

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52 separate permits, 15 federal permits, governmental permits that you have to do, including getting interconnection agreements with the regional transmission organization. All those have to be in place as well as consulting with the Game and Parks Commission, as well as decommissioning plants, as well as those all have to be in place because...and then the Power Review Board gets notice before the construction goes on. So all those have to be in place. So it's not like there isn't there. What my interpretation is, is--and this was one of the challenges that we had in the early years of developing--is that public convenience and necessity and feasibility, those were standards that were used to regulate the public power industry where you had public ratepayer dollars engaged there. When you're dealing with primarily private investments, the public inconvenience and necessity and economic feasibility, that really adds a convoluted nature if that's what the result of this is. And let me just say, the LB824 was a process that actually came to fruition because the previous members of this committee had a study conducted by The Brattle Group that came in as a third party to take a look at what are the unnecessary types of duplicative, anticompetitive types of things. And so in all fairness LB824 and those works were a result of the work between the people that do electrical energy in the state. So, yeah. [LB1054]

SENATOR HUGHES: Okay. Additional questions? Seeing none, thank you, Mr. Lombardi. [LB1054]

RICHARD LOMBARDI: Thank you. [LB1054]

SENATOR HUGHES: One more opponent and then we'll be back to proponents. [LB1054]

JOSH MOENNING: (Exhibit 17) Good afternoon. Chairman Hughes, members of the committee, my name is Josh Moenning, J-o-s-h M-o-e-n-n-i-n-g, I am the mayor of Norfolk. I have a personal interest in rural community development and in renewable energy development. I am strongly opposed to LB1054 or any attempt to unreasonably regulate or restrict opportunities for wind energy development in our state. Northeast and north-central Nebraska are the most wind-rich areas in a state with the third highest wind energy potential in the country. We're seeing hundreds of millions of dollars of development happening in our counties, bringing construction jobs and permanent jobs: 25 permanent jobs in O'Neill; 15 in Allen, for example. We're seeing our counties reap the benefits of nameplate and property tax revenues to the tune of more than \$2 million a year in some counties, revenue that is allowing counties to lower property taxes for farmers. Northeast Community College in Norfolk, as you heard Lou state just a minute ago, is home to the only wind energy vocational training program in the state of Nebraska. Wind technician is one of the fastest growing trades in the nation. It makes no sense to me that we would send our northeast graduates across the country when we have more than abundant opportunity for them to work and live right here. The Plains states are called the "Saudi Arabia of wind." Iowa, South Dakota, and Kansas each use wind to generate nearly a third of their

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states' energy needs. And Texas, a gas and oil state through and through has fully bought into its wind resource, leading the nation with more than 21,000 megawatts in production. These are not radical states. They're conservative states, with Republican governors and legislatures and they found a way to make wind work. I'm from a farm family. A key life lesson passed down from my father and grandfather was this: Don't waste anything. If it's useful, use it. This stewardship lesson easily applies to wind. With ever-advancing technologies, we can now produce a valuable commodity like energy as efficiently as we do food. To dismiss this opportunity or to make it unreasonably burdensome is wasteful and shortsighted. For these reasons, I urge you to oppose LB1054. Thank you. [LB1054]

SENATOR HUGHES: Thank you, Mr. Moenning. Are there any questions? Seeing none, thank you for your testimony. Okay. We'll be back to proponents. Welcome. [LB1054]

GARY PHIPPS: Thank you. My name is Gary Phipps, G-a-r-y P-h-i-p-p-s. I have no prepared statement, I just kind of took some notes here. I'd like to...we need to have this in place or what Senator Brewer is putting in. I'm a fifth generation. Our family come there in 1886. I'd like to...they say that this would shut down wind power. Well, if that's true, then the argument doesn't hold water because if that was true, when they had that LB284--what that the number beforehand? [LB1054]

SENATOR HUGHES: LB824. [LB1054]

GARY PHIPPS: LB824, then there wouldn't be any windfarms before that. And I think their argument that this would shut down wind power doesn't hold water on that part. We need that. I live on the far side of Cherry County. I grew up...130 miles to the county seat is how far we have to drive. And I grew up...it's got a lot better the last few years, but I grew up...when Valentine area got gravel, we got a promise of gravel. We've never had much representative there. We've never had much representative from the western part of the state to down here, from here to Washington, D.C., it's always been the same. I thank Mr. Brewer because he's the first senator that's ever come up and shook my hand. (Weeping.) I'd like to also talk about the decommissioning. Those turbines, they have rare earth minerals in them. And the decommissioning, there are states or places where they've decommissioned them supposedly and they just sat there because those fiberglass...the fans, themselves, I understand are fiberglass and fiberglass is nonrecyclable. So what are we going to do with all those fans when they decommission these things? And the dirt that they take out, they say, well, it'll spread out and go...the sand doesn't grow back. I can show you places it was plowed 100 years ago and it's just as deep as this and this. It was where it was plowed and where it wasn't. It doesn't grow back; that's a simple fact. There was renewable energy, they talk about it's always renewable. Wind is, but there's been studies that say it costs more to produce...wait a minute...to make and install a

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turbine than what the electricity that it will ever produce. Whether that's true or not, I've seen studies of that. Then nothing has been brought up about the eminent domain today. You know? The wind turbines cannot be put up by eminent domain, but the power lines can be and they're a health hazard also. And also something that hasn't been talked about is they talk about the economic development. Well, I can't remember the year and I should have done it because we left last night about 7:00, it's 333 miles down here, that I think around 1990, '92, our taxes...our land taxes on our place was \$7,000 give or take. Last year it was \$77,000. Gambling was supposed to reduce our taxes. It did not. Every time we hear about economic development we kind of think, oh, shit, here it comes again. And that's just our thoughts out where we are. And I'm for new stuff, don't get me wrong. But there's a right way and a wrong way to do it and this is the wrong way of putting in turbines. I guess there ain't much else to say. [LB1054]

SENATOR HUGHES: Thank you, Mr. Phipps. Are there any questions? We appreciate you coming to Lincoln and testifying. Additional proponents. Welcome. [LB1054]

ZYGMUNT ORLOWSKI: Thank you. I guess it's afternoon now, so good afternoon. My name is Zygmunt Orłowski, that's Z-y-g-m-u-n-t, last name is O-r-l-o-w-s-k-i, and I am a Stanton County resident. I'm down here in support of this bill today and the reason being is that we have heard a lot of testimony about having local control. But my question to you is, local control, does that incorporate the ability for these individuals that are supposed to represent us, not actually representing the interests of the people who they've been elected to do so? And some of you may know from my previous testimony here, I was the leader of the opposition to wind development in Stanton County from April of 2017 up until the hearing in November of 2017 where the commission had voted to ban wind development within Stanton County. What I'd like to point out is that during this time, it has been dug up by my opposition group and myself and information that was passed along to us that several of the elected officials within Stanton County had been approached, had been offered monetary contracts, had been offered other perks or other benefits in return for their vote. What we uncovered was a modus operandi of county officials within Stanton County to attempt to silence individuals who would speak out in opposition to their agenda. This is something you're not going to hear, obviously, because they had attempted to silence me, as the opposition of wind development. I was, up until October 2017, the emergency management official that was in line to take over for emergency manager for Stanton County; I was being trained to do so. And I was told outright by two county officials--which did not realize that an audio recorder was going at the time--that if I do not step down and keep my mouth shut for quote unquote pissing off the county board, that I would not advance at all in the county and I could kiss my dreams for emergency management goodbye. Well, because I am an individual who sees fit to lead other people and represent them and actually put their needs before my own, I told them that, well, not even the National Guard is going to stop our fight so do what you must. As a result, I paid the price. So my question here is, why is it that it takes the threat of releasing audio information to get the Stanton County officials

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to actually bend and acquiesce to the citizens' demands and ban wind development? We have more than enough incriminating evidence and it was made known to them the morning of their hearing that we would go public with that evidence, very damning evidence against two county commissioners, if they chose to not listen to the demands of citizens within their county. That is the only thing that got them to acquiesce. So my question here is, why is it that we cannot have an added layer of protection for individuals such as myself who may voice concerns that are not in line with the status quo of a county's agenda and offer those protections and offer them to all the residents that this county and this, their state, would otherwise purport to equally represent? So I realize that proponents of wind, they want to make money. You know, it's the goal of everybody, make money. That's capitalism at its finest. But I also realize that ruthless capitalism or the ruthless pursuit of capitalism without the constraints of morality and ethics, basically relegates them to nothing more than proponents of unbridled avarice. So what kind of legacy does that leave behind for these individuals? What kind of legacy does that leave for individuals who would allow it on a governmental level? It's a legacy that's cold, it's a legacy that's empty, and it's a legacy that's soulless. Thank you. [LB1054]

SENATOR HUGHES: Thank you, Mr. Orłowski or Orłoski (phonetically)? [LB1054]

ZYGMUNT ORŁOWSKI: Orłowski, actually. Orłoski (phonetically) is the American pronunciation. [LB1054]

SENATOR HUGHES: Okay. Any questions? Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Thank you, Chairman Hughes. Thank you for coming here, Mr. Orłowski. Did I hear you correct that you were fired from your position because of your stance against the wind? [LB1054]

ZYGMUNT ORŁOWSKI: I was told--and this information is in the possession of a civil litigation attorney here in Lincoln--that I would be...I would not advance within Stanton County and my dreams of emergency management would be terminated if I did not keep my mouth shut, because I was pissing off the Stanton County board. And, specifically, this information was relayed by my then boss, the Stanton County emergency manager and the Stanton County Sheriff and by a third party from one of the Stanton County commissioners themselves. And there are audio recordings. There is written correspondence. And it's very damning, indeed. [LB1054]

SENATOR BOSTELMAN: Thank you for your testimony. [LB1054]

ZYGMUNT ORŁOWSKI: Thank you. [LB1054]

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SENATOR HUGHES: Any additional questions? Seeing none, thank you, Mr. Orlowski. [LB1054]

SENATOR GEIST: Could I ask one real quick? [LB1054]

SENATOR HUGHES: Oh, I'm sorry. Senator Geist. [LB1054]

SENATOR GEIST: Thank you for your testimony. I would just ask if you've heard of that happening with anyone else? [LB1054]

ZYGMUNT ORLOWSKI: I have not to this extent. I realize that a lot of individuals, when the heat is brought down on them, they will back down for fear of reprisals. In my case, I was brought up to face adversity head on. And, frankly, if they don't want to allow me to advance there, well, it's just a loss for the county, because at the point they fired me I was one of the most, if not the most qualified individual for emergency management and disaster response within Stanton County. [LB1054]

SENATOR GEIST: Thank you. [LB1054]

SENATOR HUGHES: Okay. Thank you, Mr. Orlowski. Next proponent. No more proponents? Are there any more opponents? Welcome. [LB1054]

TOM RICHARDS: (Exhibit 18) Chairman Hughes, members of the Natural Resources Committee, my name is Tom Richards, T-o-m R-i-c-h-a-r-d-s. I'm the manager of governmental community relations for the Omaha Public Power District. OPPD is currently opposed to the bill. We're opposed to the original, LB1054, because it created a new criteria for public power entities to get approvals for their projects in the Power Review Board. An amendment was filed yesterday and the amendment removes public power from a new process from considering the public input before the Power Review Board. So it eliminates...the new amendment filed eliminates the requirement for public power districts to come before the Power Review Board for their projects as it relates to the public need and convenience. The amendment now leaves wind projects subject to the same standards and approval for utility generation, which is not appropriate for privately developed resources, in our opinion, and does little to provide public input for the process. I have a letter from Tim Burke, the president of OPPD, that I'd like to submit to the committee. It outlines, particularly, our economic efforts, our economic development efforts with wind projects and customers that are coming to Nebraska. And I have a couple of copies for Tom...for Senator Brewer and for Tony Baker and I'll hand them to you when we get done. So that's my testimony. [LB1054]

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SENATOR HUGHES: Okay. Thank you, Mr. Richards. Are there any questions? Seeing none...oh, I'm sorry. Senator Walz. [LB1054]

SENATOR WALZ: Can you just explain...thank you. Can you just explain that amendment again, please? [LB1054]

TOM RICHARDS: So the original bill created a new criteria for public need and convenience before the Power Review Board, which included privately developed renewable energy sources and it also included public power districts in it. The amendment now strikes that language and puts back into place the standards for private wind development to be developed pre-LB824, meaning they have to meet the criteria for not duplicating services, meets the public need and convenience, and is the least-cost option. So it's basically undoing LB824 at this point. [LB1054]

SENATOR WALZ: Thank you. [LB1054]

SENATOR HUGHES: Okay. Additional questions? Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Thank you. Thank you very much, Chairman Hughes. Mr. Richards, could you tell me what the investment OPPD has in power generation in the state? [LB1054]

TOM RICHARDS: In what kind of...like just total? [LB1054]

SENATOR BOSTELMAN: What's your investment? [LB1054]

TOM RICHARDS: I cannot tell you that. [LB1054]

SENATOR BOSTELMAN: \$100 million, \$200 million, \$1 billion, \$2 billion? [LB1054]

TOM RICHARDS: It would be in the billions. [LB1054]

SENATOR BOSTELMAN: Can you tell me what a stranded asset is? [LB1054]

TOM RICHARDS: I can. A stranded asset is when a source cannot compete with another source in the market. [LB1054]

SENATOR BOSTELMAN: Do you see that we have stranded assets in this state? [LB1054]

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TOM RICHARDS: The potential for stranded assets, if action is not taken, can happen, yes, I agree. [LB1054]

SENATOR BOSTELMAN: So do you see that there are stranded assets in this state? [LB1054]

TOM RICHARDS: Presently? [LB1054]

SENATOR BOSTELMAN: Yes. [LB1054]

TOM RICHARDS: I don't see stranded assets presently in the state. [LB1054]

SENATOR BOSTELMAN: Why was Fort Calhoun closed? [LB1054]

TOM RICHARDS: Fort Calhoun was closed for a number of reasons. One of them being some of the rules that were put in place by the NRC regarding Fukushima. It was the smallest nuclear reactor in the United States. And probably one of the most reasons is it wasn't clearing the market in the Southwest Power Pool. [LB1054]

SENATOR BOSTELMAN: And what's the decommissioning on that? [LB1054]

TIM RICHARDS: Pardon me? [LB1054]

SENATOR BOSTELMAN: What's the decommissioning cost on that? [LB1054]

TOM RICHARDS: I'd have to get that for you. I don't know that off the top of my head. [LB1054]

SENATOR BOSTELMAN: I think about \$1.2 billion. And how much does each ratepayer have to pay for that decommissioning over the next seven years? [LB1054]

TOM RICHARDS: I do not know the answer to that. [LB1054]

SENATOR BOSTELMAN: I can tell you that. That's \$30 per person per month, in addition. So I think that part of what happened with Fort Calhoun, I believe, is a stranded asset and the renewables and other generation capacities, natural gas, specifically, prices was a part of that process of closing that (inaudible). [LB1054]

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TOM RICHARDS: I might not disagree. [LB1054]

SENATOR BOSTELMAN: So I would say that what we're looking at, potentially, as Fort Calhoun could have been, I would consider this a stranded asset. [LB1054]

TOM RICHARDS: And I would not disagree with you on part of what you said. The other part I would say is, the regulatory environment made it so difficult to operate the smallest unit in the United States that that's a major contributing factor as well. [LB1054]

SENATOR BOSTELMAN: Thank you very much. [LB1054]

TOM RICHARDS: So we're taking steps to respond. In our power generation we've lost Fort Calhoun and it's a constant process to replace that power. We have long-term contracts, short-term contracts, wind contracts, we have a variety of different ways that we're replacing it. [LB1054]

SENATOR BOSTELMAN: Is...could you tell me, on the federal level is nuclear power considered green energy? [LB1054]

TOM RICHARDS: I do not believe it is. [LB1054]

SENATOR BOSTELMAN: Okay, thank you. [LB1054]

TOM RICHARDS: I don't do a lot of federal work, so take that... [LB1054]

SENATOR BOSTELMAN: I think it is. I think it is classified as green energy, because there is no CO2 production out of it... [LB1054]

TOM RICHARDS: I would agree with you. [LB1054]

SENATOR BOSTELMAN: ...so there is no pollution in that sense that comes out of that. [LB1054]

TOM RICHARDS: If you're looking...yes, I would agree with you in the sense that if you're looking for emissions...from an emissions standpoint, has no emissions. From a fuel standpoint, there's a lot of requirements and probably one of the biggest requirements is the fuel that's in Fort Calhoun Station and how we're going to dispose of that. [LB1054]

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SENATOR BOSTELMAN: Right. And that's got to stay there for a long time. [LB1054]

TOM RICHARDS: That we have a central repository in the United States, yes, it will be on-site for a long time. [LB1054]

SENATOR BOSTELMAN: I understand. Thank you, sir. [LB1054]

TOM RICHARDS: Thank you. [LB1054]

SENATOR HUGHES: Senator McCollister. [LB1054]

SENATOR McCOLLISTER: Yeah. Thank you, Chairman Hughes. I've had an opportunity to talk to a number of OPPD officials. It's my understanding that the primary reason Fort Calhoun was closed was because the operating costs were so high. Is that a correct characterization of that? [LB1054]

TOM RICHARDS: Going back to Senator Bostelman's question, operating costs were high and there were a number of factors that went into that from the marketplace to regulatory fears to Fukushima to a variety of different things. That's the overall arching answer to the question--the operating costs were high, but that contributing factor is that he and I were just talking about were the major contributing factors. [LB1054]

SENATOR McCOLLISTER: OPPD has been very successful in attracting companies that use a lot of electricity. I think you recently worked a deal with a company that provides services for the "Cloud." Can you describe what you...how that whole process worked out? [LB1054]

TOM RICHARDS: That process, not for...if LB824 was not in place the way it currently exists, that project probably would not have gone forward, so we're using that process in the attraction of that customer. And we have other customers in the pipeline that want to use that ability as well. There are people lining up to...the rate 2.61 that we've currently structured for OPPD, there are a lot of international and national companies that are in the pipeline that are still interested in that. [LB1054]

SENATOR McCOLLISTER: So those projects could be materially changed if we adopt LB1054? [LB1054]

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TOM RICHARDS: Yes, I would agree with that statement and in depending when you would put it into place and how it...when it would actually...when the clock would start ticking. [LB1054]

SENATOR McCOLLISTER: Thank you. [LB1054]

SENATOR HUGHES: Additional questions. Senator Kolowski. [LB1054]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Mr. Richards, what was the duration of the Fort Calhoun production? How many years was it in operation, please? [LB1054]

TOM RICHARDS: So Fort Calhoun was built in the early '70s, I believe, and decommissioned starting a year ago, two years...somewhere between a year and two years ago. It had been relicensed and it could have gone on for a period of time longer, but those things that Senator Bostelman and I were talking about made it unfeasible, infeasible for it to continue. [LB1054]

SENATOR KOLOWSKI: So 40-some years? [LB1054]

TOM RICHARDS: That it was in existence? [LB1054]

SENATOR KOLOWSKI: Yes. [LB1054]

TOM RICHARDS: Close to that, yeah. [LB1054]

SENATOR KOLOWSKI: Thank you. [LB1054]

SENATOR HUGHES: Additional questions. Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Thank you, Senator Hughes. Just one final question. I appreciate you being here and your testimony, I really do. Are there...what wind projects are in OPPD's territory, your service territory? [LB1054]

TOM RICHARDS: In OPPD's service territory? [LB1054]

SENATOR BOSTELMAN: Yes. [LB1054]

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TOM RICHARDS: I don't know the answer to that question. The majority of the wind projects that OPPD has are not in their service territory, I can answer it that way. [LB1054]

SENATOR BOSTELMAN: Okay. [LB1054]

TOM RICHARDS: There may be one or two in the southern part of the district that might be...that are in OPPD's territory. [LB1054]

SENATOR BOSTELMAN: Okay. Thank you. [LB1054]

TOM RICHARDS: The majority of them are not. [LB1054]

SENATOR BOSTELMAN: Okay. Thank you. [LB1054]

SENATOR HUGHES: Any other questions? Thank you, Mr. Richards. Appreciate it. [LB1054]

TOM RICHARDS: Thank you. [LB1054]

SENATOR HUGHES: Additional opponents? Any...no more opponents? Are there anyone who is a proponent who didn't get a chance? Okay, yes. Absolutely. Welcome. [LB1054]

JOY MILES: Thank you. I apologize for my dress, I didn't realize I was going to speak today. But you all have been so, so kind to stay and listen to us and we appreciate it so much. My name is Joy Miles and that is J-o-y M-i-l-e-s, I live near Brownlee, Nebraska, where a large wind turbine industrialization park is proposed to start and also where large transmission lines would have to feed out of there. I think a lot of times we forget that it would be nice if we could just shoot that electricity up into the air and it would catch it, right? But there's got to be a way to take that electricity from each of those towers and take it to where it is needed. In visiting with a gentleman who was an engineer at a electrical power plant, a coal power plant, he said that because they were hooked up to the wind turbines they have to when they have a windy day and a lot of wind comes through, they have to shut off their big, huge magnets so that the wind energy can come through. But it takes an extreme amount of energy to get those big magnets to start back up again and, therefore, it is very inefficient for the use of that wind energy because you're having to shut down the big magnets that are feeding the constant energy, where wind energy is not constant. The other thing I would like to visit about is that the money to the counties is very questionable. Ainsworth, for example, has gone down in the number of pupils, even though they have had turbines for a while. And we can't blame it all on Amazon, although there's a lot of times we'd like to. The protection tax credits, I fear they will end. Our country is

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in major debt and there will be a point where there will no longer be funding for the amount of energy that they're trying to buy from the wind turbines. Also, it costs \$250,000 to decommission each one. The amount of energy it takes to tear down and break up...those wind turbines are at least an inch thick at the base and it takes a very special thing to cut those with and they have to get it in such a small piece and then you have to haul it away. And our Sandhills are so fragile we have gone...we try to not even use pickups in the Sandhills, because it tears the Sandhills up and we try to just use our four-wheelers. And the thought of having these huge trucks and the cranes go in and out of our land and in our country and the roads that they would have to build would be very detrimental. So thank you. [LB1054]

SENATOR HUGHES: Thank you, Ms. Miles. Are there any questions? Very good. You did a good job. Thank you for coming. [LB1054]

JOY MILES: Thank you. [LB1054]

SENATOR HUGHES: Okay. Any other proponents? Okay. [LB1054]

JUDITH RATH: I apologize. I wasn't... [LB1054]

SENATOR HUGHES: Welcome. [LB1054]

JUDITH RATH: ...actually going to speak, but I've got a few notes, so I don't have anything to turn in to you. My name is Judith Rath, J-u-d-i-t-h R-a-t-h. I am from Thomas County, Nebraska. I live in Thedford. I am a zoning member in Thomas County. As a zoning member during the last 14 months we have attempted to create regulations, to play catchup with the wind energy that's coming in through Cherry County. This windfarm--they like to call them farms--they are far from it. We know what farms are. They involve crops. These are not crops. They propose 147 turbines right up to the county line, thinking they can sneak in. They range from 429 feet to a proposed 696 feet. You mentioned Halsey National Forest, ten minutes away. Imagine that by the way a crow flies. You're going to go to that lookout tower and imagine what you're going to see when you look to the northwest. It will eliminate that view that...I mean, if you've been to that lookout tower, you know the vast expanses of land that you can look out across and how beautiful it is. We've got a lot of history in the area. I grew up in north Omaha. I moved to Thedford to raise my sons in open country away from the concrete jungle and to raise them in a good area, teach them values that I believe all decent human beings should possess. Being on the zoning board, we are ranchers, okay? We know cattle. You want help calving? You can trust any rancher out there. You want us to make regs for wind energy that we don't have the education to. We don't have the backgrounds. I mean we are playing catchup trying to do research and homework to give us that education so we make the accurate decision for those people in our

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communities. Having one more step to guarantee that isn't going to hurt anyone. For them to go in front of the Power Review Board, as anybody else should, taking one extra precaution instead of just laying it in our lap and having us make a decision we are not completely positively comfortable with, that is hazardous. We can create detrimental harm to an area that will be irreversible. All we ask is one extra step. They look at it as another hoop. I mean, if it's that big of a problem, then why consider it? They shouldn't even consider it. They should want that one extra step also for the good of the community they're going to enter. I'm done. Thank you. I appreciate it. [LB1054]

SENATOR HUGHES: Thank you, Ms. Rath. Are there any questions? Senator Albrecht. [LB1054]

SENATOR ALBRECHT: Thank you, Chairman Hughes. I really want to thank you for coming all this way and for the position you hold. We're here, obviously, for Cherry County but for a lot of other counties in our state. [LB1054]

JUDITH RATH: Definitely. [LB1054]

SENATOR ALBRECHT: There's always a bad player out there. [LB1054]

JUDITH RATH: There is. [LB1054]

SENATOR ALBRECHT: And I have got the phone calls, whether anybody else on the committee has or not, but I've gotten the phone calls to say, can you help us because we can't stop the train, it's left the track, and it's coming. So to everyone here, I did have another engagement but I'm here to listen to you... [LB1054]

JUDITH RATH: Appreciate that. [LB1054]

SENATOR ALBRECHT: ...because...and to...and the public powers throughout our state, listen up here. I mean we own the public power. We should be able to help these people figure out what they can do. But for someone to come before us and oppose a simple step of listening and trying to understand and slow that train down is so important and that is our role as a state senator. So I appreciate you and everyone else that has taken the time to travel as far as you have, because I know how far out it is. [LB1054]

JUDITH RATH: Thank you. [LB1054]

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SENATOR ALBRECHT: And I'm just here to say that for your testimony and the testimony before you, that, to me, speaks volumes to have somebody...I mean I love the openness. I used to live within the... [LB1054]

JUDITH RATH: Yeah. [LB1054]

SENATOR ALBRECHT: ...cement walls for a long time and I've been up in the open country for eight years and there's... [LB1054]

JUDITH RATH: I don't miss the concrete jungle. [LB1054]

SENATOR ALBRECHT: ...there's no comparison to... [LB1054]

JUDITH RATH: Yeah, there isn't. [LB1054]

SENATOR ALBRECHT: ...the beauty and the peace and tranquility, for the animals and for us. [LB1054]

JUDITH RATH: Exactly (inaudible). [LB1054]

SENATOR ALBRECHT: So thank you for coming and no questions. [LB1054]

JUDITH RATH: And one other thing I did not mention. We, too, have conflicts of interest on the zoning board. I mean it's not just Cherry County. It's statewide. I mean can we eliminate it? Highly unlikely. That's, you know, that's why I see no harm in one extra step. It was there before and it didn't stop them before. [LB1054]

SENATOR ALBRECHT: Correct. Thank you very much. [LB1054]

SENATOR HUGHES: Any additional questions? Seeing none, thank you, Ms. Rath. [LB1054]

JUDITH RATH: Thank you. [LB1054]

SENATOR HUGHES: (Exhibits 19-42) Is there anyone else wishing to give testimony as a proponent? Anyone else wishing to give testimony as an opponent? Okay, we have letters for the record. These are proponents who sent in testimony: Philip Brockman, Lawrence, Nebraska;

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Glenda Phipps, Whitman, Nebraska; Kelsie Kathman, Lawrence, Nebraska; Rose and Richard Stehno, North Platte; David McPhillips, David City; Caleb Miles, Thedford; Craig Miles, Thedford; Deanna Schmit, Nenzel, Nebraska; Ann Warren, Thedford; Wanda and Pat Simonson, Seneca; David (sic--Dan) Schmid, Dwight; Lori Hankinson; and Carolyn and LeRoy Semin of Kilgore. Those submitting letters in opposition to LB1054: Marilyn McNabb, Lincoln; Byron Hermsen, Lincoln; Gloria Soliz; Mark Welsch, Nebraskans for Peace; Ann DeVries, Cortland, Nebraska; James Cavanaugh, Nebraska Sierra Club; Carol Windrum, Omaha; Tim Fickenscher, Omaha; Rebecca Seth, Lincoln; Marjorie Willeke, Lincoln; Alex Houchin, Lincoln. With that, we will open it up to neutral testimony. Welcome. [LB1054]

TIM TEXEL: Chairman Hughes, members of the committee, my name is Tim Texel, T-i-m, last name is T-e-x-e-l. I'm the executive director and general counsel for the Nebraska Power Review Board. The board takes no position regarding the policy of this bill. You've probably heard me say before that the board is a policy-implementing body or agency and not a policy-making body, and we take that role seriously so we normally avoid getting into the policy positions that we would be implementing and we try very hard not to do that generally. The board did review LB1054 and directed me to ask two points of clarification regarding at least the green copy, the introduced version of the bill without the amendments that are in there. First of all, the board would appreciate a definition of the term "member of the public." We discussed that and the board was asking me what it means. I would be the hearing officer in those hearings if there were one, and we could not find a definition in statute or case law to this point that gives a term...that defines that term, "a member of the public." So we want to make sure we were interpreting it correctly to what Senator Brewer wants, and so what the committee wants, because my understanding initially was it would be an individual person and I think Senator Brewer would like that to be more expansive to corporations. So any definition that would accommodate us making sure we get it right, we'd appreciate. Secondly, the board wanted to make sure that my understanding was correct when they asked me what the second part of the Section 2 means when it dealt with the public convenience/necessity, and we talked about that term has a specific legal meaning. Supreme Court has addressed it. We've addressed it in our previous orders, and this, I think, would change the definition as it appears or as it pertains to the Power Review Board. So to that extent, we want to make sure that was the intent that that normal meaning of that term, "public convenience and necessity," that applies to agencies that to us that would be a different meaning because it would incorporate under Section 2 of the introduced bill. It would give any party with standing the ability to present testimony on that issue, so we want to make sure that's the correct interpretation. The board is aware of the amendments. One of the amendments would be to strike Section 2 from the bill. That would obviate or eliminate the need to address the two issues I just brought up, so it depends how it would be promoted if the committee put it out, so. But the board did ask me to ask for those two clarifications, and that would be the only testimony that I would have and I'm open for questions. [LB1054]

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SENATOR HUGHES: Thank you, Mr. Texel. Senator Albrecht. [LB1054]

SENATOR ALBRECHT: Thank you, Chairman Hughes. Can you tell me, what was the position of the board when they decided to do away with wind energy being a part of... [LB1054]

TIM TEXEL: On LB824? We were neutral on that bill also. [LB1054]

SENATOR ALBRECHT: They didn't have a position? They didn't really... [LB1054]

TIM TEXEL: Well, again, it's a policy change and the board normally gets involved...in LB824, as in this one, I would help with the technical aspects, try and identify any constitutional problems, any unintended consequences, so I do help draft language when the senators ask me to or I would point out issues about a bill, as I would about any bill within my expertise and within my jurisdiction. So typically I would get involved in a bill that would have issues or unintended consequences dealing with the electric industry or my board. Sometimes with the Administrative Procedures Act I will help and offer comments. [LB1054]

SENATOR ALBRECHT: Let me ask you, have you had many comments in the last or any phone calls in the last 16 months from any of these counties, whether it be their planning and zoning board or their commissioners or their whatever they call the other...what's the other word, the commissioners or the... [LB1054]

SENATOR HUGHES: Supervisors. [LB1054]

SENATOR ALBRECHT: ...supervisors? [LB1054]

TIM TEXEL: I don't recall any of those entities contacting me. I've had a lot of contact about this bill recently. I don't remember any county commissioners or supervisors contacting me about it specifically. [LB1054]

SENATOR ALBRECHT: And what I find funny is a lot of them don't even know where to call, they don't know who to contact, and that's sad. [LB1054]

SENATOR HUGHES: Other questions? Senator Bostelman. [LB1054]

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SENATOR BOSTELMAN: Thank you, Chairman Hughes. Thank you, Director Texel, for being here. A couple questions for you. The role, a historical perspective for me, I think it was...was it LB1048 preceded LB824? So could you... [LB1054]

TIM TEXEL: Yes, for this bill or for this statute, yes. [LB1054]

SENATOR BOSTELMAN: So could you...right, right, right. Could you talk a little bit about LB1048? What was cumbersome? What was costly? What was that process like? [LB1054]

TIM TEXEL: It was a negotiated bill and there were a lot of parties involved. Again, I was involved, but it was to make sure there weren't unintended consequences and such. My board didn't take a position on that other than those issues. But to address your question of what was cumbersome, it was a very long statute. The developers oftentimes didn't understand it. They had a particular problem with the power purchase agreement requirement and the 90 percent and there were some requirements about that that they didn't understand, so there were...it...there was a lot of parts to it and that made it somewhat cumbersome. I'm trying to remember the exact parts to it. But we only had one applicant under that statute and that didn't go to hearing. They did the initial conditional approval and never went to final, so there obviously wasn't a great deal of interest from the developers to proceed under that statute. [LB1054]

SENATOR BOSTELMAN: And I believe Mr. Richards spoke to this, testified to this a little bit earlier, I believe, and really it was really for public power. It really wasn't for private generation. And really it didn't... [LB1054]

TIM TEXEL: LB1048? [LB1054]

SENATOR BOSTELMAN: I mean that LB1054...that LB1048 was really for working our public power and not... [LB1054]

TIM TEXEL: Well... [LB1054]

SENATOR BOSTELMAN: ...necessarily for, and that was part of the problem. [LB1054]

TIM TEXEL: It was certified renewable export facilities, so it had limitations. It was for export and it had to be renewable and those types of things, so I think it was...it wasn't the more open-ended certifications under the current bill...or under the current statute, sorry, that makes it much easier because it's not...I would clarify. The current 70-1014.02 I would not characterize as an approval process. I receive a notice. I make sure that the certain certifications are in there, that

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it's done 30 days prior to, and then I have to send a letter back acknowledging that they're exempt from our normal hearing process, approval process within ten days. So I wouldn't...that's not, to me, an approval process, because I don't actually approve it. I review it to make sure the notice is adequate. [LB1054]

SENATOR BOSTELMAN: You just make sure that they say that they're doing this. [LB1054]

TIM TEXEL: Correct. They have to make the certifications and they have to do it 30 days prior to and then... [LB1054]

SENATOR BOSTELMAN: Sure. [LB1054]

TIM TEXEL: And then I can acknowledge that they're exempt. [LB1054]

SENATOR BOSTELMAN: All right. Do other states have a process for power generation? I've heard reference today if the public...PUC and a PSC, there are different ways...are there other states that have models out there where power generation, whether it be public or private, have to go through? [LB1054]

TIM TEXEL: Well, they have... [LB1054]

SENATOR BOSTELMAN: Permitting process, review process? [LB1054]

TIM TEXEL: They have permitting processes. It would be different. I mean one thing with Nebraska, since we have all consumer owned or what's typically called public power, we have a different process. It's one of the reasons for the Power Review Board. I think for something like this, whether it's a...there's a lot of names: public utility, commission, Iowa Utilities Board, there's a corporation commission. Whatever they're called, Public Service Commission, if they had a statute to implement, it would be the same issue as us. We fill the role of that for electricity in Nebraska because we have public power. But they...most states, yes, they have a state-level authority and we're that state-level authority in Nebraska. In a lot of those states, they have rate-making authority is their big issue because they have to approve the rates because they have private entities at the retail level, which we have public power at the retail level, so it's a big difference from other states. [LB1054]

SENATOR BOSTELMAN: But there would be a possible way to streamline a process to where all power generation could potentially go through some type of a permitting or review process so it's equal across the board for all generation producers,... [LB1054]

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TIM TEXEL: That would be up to the Legislature. [LB1054]

SENATOR BOSTELMAN: ...I mean, and where it would be...where it would not be a cumbersome, overburdensome-type process, but a process which they all would utilize through your board or similar. [LB1054]

TIM TEXEL: Certainly I don't want it to be cumbersome and difficult for the entities... [LB1054]

SENATOR BOSTELMAN: Sure. [LB1054]

TIM TEXEL: ...that come before us. Each state has their own different process. I'm not real familiar with the particulars in the other states. They have a process, but I'd have to look at them to see if they have these same issues about being cumbersome or not. [LB1054]

SENATOR BOSTELMAN: Sure, and I understand, too, as others have testified, that there's three areas really that your...that the PRB really looks at and it's not some of the other...outside of that, it would not be within your purview of...and they're pretty specific of those three areas that they look at and that was been...I think that's been testified before, stated before. [LB1054]

TIM TEXEL: Yes, and if you'd want me to clarify on that, when you come before the board, our review is that you meet the public...that the application meets the public...well, I guess it would be the project, but the application meets the public convenience and necessity, that the applicant can most economically and feasibly supply the power resulting from the application, and that it doesn't duplicate existing facilities. So it's a three-part test where we say, do we need it under public convenience and necessity, does society need it? Second, then, is this the applicant that can most economically and feasibly do it because in the past historically we didn't want two utilities building on each side of the road. [LB1054]

SENATOR BOSTELMAN: Sure. [LB1054]

TIM TEXEL: So we were...my board was there to avoid that conflict of competition and say which one should build it. This one applied, this one is protesting. We decide which one should build it to avoid duplication. And if there is, if it would duplicate existing line, that last leg would kick in and we have to make that finding that it's far enough apart or it's a different voltage or whatever, that it's not duplication. [LB1054]

SENATOR BOSTELMAN: Okay, thank you very much. [LB1054]

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SENATOR HUGHES: Senator McCollister. [LB1054]

SENATOR McCOLLISTER: Yeah. Thank you, Mr. Chairman. That third test that you just spoke of, isn't that primarily directed toward transmission lines? [LB1054]

TIM TEXEL: The statute doesn't make that distinction. I think originally it probably was to avoid having a transmission line--that's the classic example--a transmission line on both sides of the road to serve an area. It applies to both, though, under the statute. It doesn't draw that distinction of transmission...or limit it to transmission. [LB1054]

SENATOR McCOLLISTER: What kind of evaluation would you do if a project, we'll say a wind project or even a gas turbine, were to come before you and, as it's been stated in the state or by many speakers, you know, we have a surplus of energy. Would that project necessarily fail because of that? [LB1054]

TIM TEXEL: Well, I can't prejudge and say it would necessarily fail. It might be that that would make it more difficult on the first stage, too, the public convenience and necessity. Does society need this? Does the area need it? It's a standard that's used for critical infrastructure, and the public convenience and necessity is a lot of times used for banks and hospitals, things that the Legislature believes are critical for society to have. Utilities, therefore, are one, too. So it might create a problem if there's a surplus and you're building another one under the public convenience and necessity, and then it could be duplication. The duplication, I think, lends itself more to transmission, but it certainly applies to the generation. If a utility was building two gas plants, does one duplicate the other? You know, if one was built recently, I think that would be an example that you could find that. [LB1054]

SENATOR McCOLLISTER: Wouldn't you agree that that's a pretty vague standard and pretty...doesn't get, give much definition. If it has been primarily transmission, do you see a need for us to clarify that standard? [LB1054]

TIM TEXEL: I think my board knows what it means. We've had quite a few years with it. I mean it was one of the original standards, to my knowledge, back in 1963 when we were created, so I think my board has a pretty good understanding of what it means. Certainly, if the Legislature believes it needs to be clarified, I think we understand what the term means for that, just because we have so many years of history, that and...so I guess that's always up to the prerogative of the Legislature. I don't think my board has a difficulty with that standard. I mean the...certainly the public convenience and necessity is a subjective standard. I know the Supreme Court has said that too. It's necessarily a subjective standard. Duplication hopefully would be less. There would

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be some example. I mean you're going to have infrastructure that it duplicates or it doesn't, but there's some subjectivity in it, yes. [LB1054]

SENATOR McCOLLISTER: Thank you. [LB1054]

SENATOR HUGHES: Any additional questions? Seeing none, thank you, Mr. Texel. [LB1054]

TIM TEXEL: Thank you. [LB1054]

SENATOR HUGHES: Additional neutral testimony? Welcome. [LB1054]

SHELLEY SAHLING-ZART: Good afternoon, Senator Hughes, Chairman Hughes and members of the Natural Resources Committee. For the record, my name is Shelley, S-h-e-l-l-e-y Sahling-Zart, S-a-h-l-i-n-g-hyphen-Z-a-r-t. I am vice president and general counsel at Lincoln Electric System here in Lincoln and I'm testifying today in a neutral capacity on behalf of Lincoln Electric System and on behalf of the Nebraska Power Association which represents all of Nebraska's publicly owned electric utilities, including municipalities, public power districts, public power and irrigation districts, rural public power districts, and cooperatives, with the exception, of course, of Omaha Public Power District, which you heard from previously. We are here in a neutral capacity. First of all, I would like to thank Senator Brewer and his staff for working with us to discuss this bill and its consequences and ramifications, as well as Mr. Texel, in trying to understand the intent and focus of the language. I will tell you that we've had some misunderstandings or some different understandings about Section 2 of the green copy of the bill. And in talking with Senator Brewer and his staff, understanding that the focus of this was really on these privately developed generation projects, so we appreciate the amendment that was introduced, AM1727, which puts us in a neutral capacity because it basically focuses the bill on those privately developed generation facilities and takes out some of the unintended consequences for public power and the generation and transmission applications that we frequently go to the Power Review Board with. So with that, I'd be happy to answer any questions, but at this point, with that amendment, if it's adopted, we would be neutral. [LB1054]

SENATOR HUGHES: Okay. Any questions? Senator Bostelman. [LB1054]

SENATOR BOSTELMAN: Thank you, Senator Hughes. Thank you very much for being here today. [LB1054]

SHELLEY SAHLING-ZART: You're welcome. [LB1054]

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SENATOR BOSTELMAN: One question for you, I think, and it deals... [LB1054]

SHELLEY SAHLING-ZART: Just one? [LB1054]

SENATOR BOSTELMAN: Expected...deals with negative pricings and unexpected consequences, could you talk about that, what that negative consequences does? [LB1054]

SHELLEY SAHLING-ZART: Sure. I mean right now, if you look, I mean, it's no secret we've discussed this for the last couple of years with this committee that in the Southwest Power Pool we are now selling all of our energy into the Southwest Power Pool and we buy out everything that we need. And there has been an increasing amount of generation in the Southwest Power Pool footprint such that today there's about 87,000 megawatts of capacity in the footprint and there is a peak demand, at least for last year, I believe peak demand in the SPP footprint was a little over 50,000 megawatts, so there's a great excess. When you build in that excess, and particularly when you build in wind, as you...as we've discussed, wind energy, not dispatchable, meaning you utilize it when the wind blows and it's a more on-demand resource and the fuel price is zero. So in an energy market which is based on those kinds of things, it will be a first taker. So when the wind is blowing, that energy gets taken first. In the meantime, you've got all of this traditional generation throughout the footprint that is also being offered into the market and sometimes those resources are being offered in at negative prices, meaning we aren't covering our costs on all of the generation. That's a dilemma and an ongoing concern throughout the footprint. Did that answer your question? [LB1054]

SENATOR BOSTELMAN: Yes. Thank you. [LB1054]

SENATOR HUGHES: Additional questions? Seeing none, thank you for your testimony. [LB1054]

SHELLEY SAHLING-ZART: Thank you. [LB1054]

SENATOR HUGHES: Anyone else wishing to testify in the neutral position? Anyone else wishing to testify in the neutral position? Senator Brewer, I believe you're up. [LB1054]

SENATOR BREWER: Thank you, Mr. Chairman. I have a prepared closing but I think after everything that we've heard, this is not something that we need to burn up much more time on. The facts are out there. What I would ask the committee, this is the third time that many of this group have been back here and it will continue until we sort this out. So this issue is not going to go away. The simple fact is we're asking the people to have a voice. We're not shutting down

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wind. And remember that you have paid suits who come here getting paid to do nothing but defend wind and the big money that comes with it. And you have people who come here and give their heart and soul, who drove across the state of Nebraska to try and share their situation and their concerns. All we're asking is to let this bill move forward onto the floor and give it fair debate. I think this committee will probably decide that by one vote, so one vote is going to decide whether thousands of people are going to get to have a voice or not, because it ain't just the district I represent, it's the whole state. So think about that as you guys move forward and decide this. All we're saying is, is it necessary, is it economically feasible, and is it redundant? That's all that we're asking of this. But the issue is not one that I can let go of. I will be back as many times as it takes. I represent a district that is in the middle of a horrible dogfight and next week some of this is going to come to a head. So I'm asking you to help me give them a voice. With that, sir, I'm ready for questions. [LB1054]

SENATOR HUGHES: Thank you, Senator Brewer. Additional questions for the senator? Senator Walz. [LB1054]

SENATOR WALZ: Yes, thank you. After listening to all the testimony, first of all, I'm really troubled about the decisions that are made on the local level, and I really feel that it should stay at the local level. If it does go to the Public Power Review, I don't...after what I've heard, I don't really know if that's even going to be a place where the public is going to be heard anyway. Is that...my understanding... [LB1054]

SENATOR BREWER: Well, why would they not be heard, I guess would be the question. I mean that is... [LB1054]

SENATOR WALZ: It's not really a public hearing. [LB1054]

SENATOR BREWER: No. They would be able to have a public hearing. That's the idea of the bill... [LB1054]

SENATOR WALZ: I see. [LB1054]

SENATOR BREWER: ...that they would be allowed to have a public hearing and that's... [LB1054]

SENATOR WALZ: With certain...only certain people would be able to... [LB1054]

SENATOR BREWER: No, I don't think that we would restrict who could present. [LB1054]

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SENATOR WALZ: I thought it was somebody with legal standing or something. [LB1054]

SENATOR BREWER: Well, if you're a landowner, wouldn't you...I mean if you pay taxes and you're a landowner, wouldn't you have legal standing to be able to address the issue? [LB1054]

SENATOR WALZ: All right. [LB1054]

SENATOR BREWER: Right now the system is broke. This is a way to fix it. And Tim has been great with the Power Review Board and I got...I've been very impressed with NPPD and LES. They've come in. They've coached. They've helped us to understand how the power works. You know, I thought LES did a great job explaining the situation with power and how, you know, we're producing way more power than we need and what we're going to do is go out and spend billions of dollars on wind energy and put it in places where the people don't want it and we already have too much power? I mean there's a point we have to step back and say this is ridiculous, this is so wrong for us to force this issue. At least give it to the Power Review Board who understands the issues and can address whether or not we're meeting the "criterias" (sic). [LB1054]

SENATOR HUGHES: Additional questions? Senator Geist. [LB1054]

SENATOR GEIST: I have a thought and maybe would like to hear your input on what I'm hearing is not so much about the issues that the Power Review Board bring to the table with public power and what they typically review. What I'm hearing from the individuals who have driven across the state is they want to be heard, so maybe there is a way to allow them to be heard through the Power Review Board without the wind company having to conform to the requirements of the public power. Could you comment on that? [LB1054]

SENATOR BREWER: Well, again, when we were discussing this coming in, this...I guess we worked more on the legislation and trying to make it look right. But the Power Review Board, there are probably parts of what some of this testimony was about that doesn't apply specifically, but they're going to go back to those three pillars and see if they meet it or not. And it may be that they're...got to meet that. You still can have a local board. It's not like you're taking away all ability for the county to not have any oversight. All we're trying to do is have a level that determines whether or not there's even a need. Why was it even being discussed or forced down the throats of the people in whatever county if they can't meet that first standard? [LB1054]

SENATOR GEIST: Okay. Thank you. [LB1054]

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SENATOR HUGHES: Additional questions? Seeing none, thank you, Senator Brewer. Thank you to the committee for staying around. Thank you to everybody who came here today.  
[LB1054]