

Natural Resources Committee February 7, 2019

HUGHES: [00:00:01] It's 1:31, so let's maybe get ready to go. Oh, OK. Very good. Welcome to the Natural Resource Committee. I am Senator Dan Hughes. I am from the Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of the 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 opinion, your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is just part of the process as we have bills to introduce in other committees. Please silence or turn off your cell phones. If you wish to testify, please come to the front row and be on the end, on deck so you can move into the testifier chair quickly. Introducers will make initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print and it's important to complete the form in its entirety. When it is your turn to testify give the green sign-in sheet to a page or to the committee clerk. If you do not wish to testify today but would like to record your name as being present at the hearing, there is a separate sheet for that on the tables. It is the white sheet. This will become part of the official record as well. If you have handouts, please make sure you have 12 copies and give them to the page [INAUDIBLE] be distributed to the committee. Go ahead and answer. Hello. Mr. Mercure?

RICHARD MERCURE: [00:02:06] Yes, it sure is.

HUGHES: [00:02:08] We're just beginning our hearings, so if you would bear with us for just about another 45, 60 seconds, then we will get back to you.

RICHARD MERCURE: [00:02:17] Absolutely.

HUGHES: [00:02:17] OK. Thank you, sir. 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 today for how many, for all testifiers. How many people are wishing to testify today? OK. We will be, you will have five minutes to make 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. Questions from the committee may follow. No displays of support or opposition to the bill, vocal or otherwise, is allowed at a public hearing. The committee members with us today will introduce themselves beginning on my left.

MOSER: [00:03:06] I'm Mike Moser, District 22, Platte County, part of Colfax County, and most of Stanton County.

HALLORAN: [00:03:14] Steve Halloran, District 33, which is Adams County and parts of Hall County.

QUICK: [00:03:19] Dan Quick, District 35, Grand Island.

GEIST: [00:03:22] Suzanne Geist, District 25, which is here in Lincoln on the east side of Lincoln and Lancaster County and includes the town of Walton and Waverly as well.

HUGHES: [00:03:33] And on my right.

GRAGERT: [00:03:33] Tim Gragert, District 40, Cedar, Dixon, Knox, Holt, Boyd, and Rock.

ALBRECHT: [00:03:39] Joni Albrecht, District 17, Wayne, Thurston, and Dakota Counties in northeast Nebraska.

BOSTELMAN: [00:03:45] Bruce Bostelman, District 23, Saunders, Butler, and the majority of Colfax Counties.

HUGHES: [00:03:49] OK. To my left as committee counsel, Lauri Lage. And to my far right is our committee clerk, Mandy Mizerski. Noah Boger is, our pages for today are Noah Boger, who is a freshman at UNL with a double major in political science and French. And Hunter Tesarek is a sophomore at UNL with a double major in history and political science. So with that, we will open our hearing for the day. First up we have a reappointment to the Niobrara Council, a Mr. Richard Mercure. Welcome, Mr. Mercure and thank you for your patience.

RICHARD MERCURE: [00:04:28] Absolutely. Thank you.

HUGHES: [00:04:29] If you'd like to open and give us just a little bit of background of yourself and why you would like to be reappointed to the Niobrara Council.

RICHARD MERCURE: [00:04:38] Sure, absolutely. So my name's Rich Mercure.

[INAUDIBLE]. Live here in Valentine, Cherry County. I own and operate a canoe rental business on the Niobrara River, the Little Outlaw: Canoe, Tube and Kayak Rental. I have a partnership with Berry Bridge Campground with my brother. I purchased another canoe rental, Supertubes Outfitting a few years ago, just trying to run that simultaneously. And then we just bought another 400 acres down along the river that we're, it was originally a campground and we're trying to work that out and make it a little bit nicer campground area. It's got a little pasture and grazing and stuff like that with it, too, so. So I have been currently and, and hopefully in the future but the recreation

representative for the Niobrara Council. Seems like a pretty important job. I probably along the way would relay kind of what's going on through the meetings back to the recreation industry, which is mostly comprised of canoe outfitters, campgrounds, things like that along the river. So that's kind of what we've been doing.

HUGHES: [00:05:53] OK. Questions from the committee. Senator Bostelman.

BOSTELMAN: [00:06:00] Thank you, Chairman Hughes. Mr. Mercure, can you tell me since you're the representative, there's one position on the board or on the council for the recreational representative. How many other recreational businesses are there in the area that, that could be a part, that could be representative on this?

RICHARD MERCURE: [00:06:21] You know what? We have I suppose maybe nine canoe outfitters in the area that would potentially be, all could be candidates.

BOSTELMAN: [00:06:31] Sure. And what type of things do you normally go over and what are part of your meetings? What, what's the discussion and what are the main areas that you're looking at now?

RICHARD MERCURE: [00:06:41] So our, the canoe outfitters don't have a real organization per se. We did years ago, but it's kind of fell by the wayside. But, I mean, I'm willing to take the task to, you know, call people in and kind of get on the stick and ask them, you know, what the feeling is if we have some sort of situations or something that might affect mostly the outfitting business and things like that as it progresses along the way. And I think that it seems like most of the stuff that happens in the Niobrara Council and on the agenda, a lot of it will directly affect the river recreation and stuff like that. So I think it's a pretty important, pretty important position.

BOSTELMAN: [00:07:25] How do you feel that the council has functioned, I guess, with landowners and others along the areas, a lot of that into a scenic area or is there a lot of landowners that connect in through that area?

RICHARD MERCURE: [00:07:36] You know, as far as the landowners are up and down the river corridor, you know, that it is primarily all private land. You know there are some bigger holdings, you know, that we have a nature conservancy [INAUDIBLE] whatever. And of course we have the Fort Niobrara National Wildlife Refuge up near Valentine for the first seven miles. You know, it's 76 miles. Predominantly the, the, it seems like a lot of what we talk about and what comes across the table is probably all in the first 30 miles. We don't really, I mean, it seems like the other miles remaining beyond that 30 miles, you know, it gets a little bit of attention but it's mostly the stuff that happens on the agenda is all relevant to the first 30 miles, which is probably the most popular part of, part of as far as canoeing and the recreational things like that on the river, so. But, like I said, it is mostly private land held. I don't think there's any ill feelings with any landowners and things like that along the river. Seems like it's pretty [MICROPHONE MALFUNCTION] now and I think everybody is glad that there is such a thing as the Niobrara Council so we have a little bit of local control and local voice in some of the issues that come along.

BOSTELMAN: [00:08:47] All right. Thank you.

HUGHES: [00:08:49] Senator Gragert.

GRAGERT: [00:08:51] Thank you, Senator Hughes. Yeah, I would just like to ask, is this your first appointment?

RICHARD MERCURE: [00:08:58] No. Actually, this will be a renewed. I was, I filled the position probably for two years that was a vacated position and then I was appointed for a term after that and then this would be the, I guess, going on the third term or the third appointment, so.

GRAGERT: [00:09:16] My interest is, is have you come across any conflict of interest serving on the council being an owner? And if so, how did you handle it?

RICHARD MERCURE: [00:09:29] You know I don't think that there is. It's a really diverse group of people, that council. You know, it's got some, it's three or four counties, it's got some landowners, it's got recreation industry, it's got timber industry, there's a few government agencies that sit on the board. They're nonvoting members or whatever. But it's a pretty diverse group of people in my, you know, there's not a lot of room to get in sort of a confrontational or anything like that I guess.

GRAGERT: [00:09:57] OK. Thank you.

HUGHES: [00:10:00] Senator Albrecht.

ALBRECHT: [00:10:02] Hi. I'd just like to ask, how often does this board meet and what are some of the items that are, that are rolled over and you continue to talk about? What are some of the topics?

RICHARD MERCURE: [00:10:17] So when I first came on Niobrara Council I think, you know, by statute we were, I think they have to meet six to seven times annually or something like that. And we have been meeting prior to that possibly, you know, like ten times annually. Our budget has been kind of a shortfall in the last couple of years and so we've actually weaned the meetings down

to I think six or seven of them annually, depending upon, you know, we could arrange it or whatever. But, you know, a lot of the issues are, is, you know, we're just getting some reports from the government agencies on what they're up to and what's in their future and coming down the pipeline. And then also, you know, we have a committee member from the Lower Natural Resource Niobrara NRD and the Upper NRD and they're pretty good about giving their, what's on their plate and what they've been doing and then just, you know, the routine business. One of the biggest things we probably had a year ago or so was they were trying to acquire some property along the river. And I don't know maybe, we never really got it out of the bag far enough to find out what exactly was going to happen. But it was a, it was a piece property called Rocky Ford and I don't know if you're familiar with that. At the end of the day the council didn't approve to go forward to try to make an acquisition of that. But, you know, just a lot of being available I guess for local people to give their input mostly.

ALBRECHT: [00:11:49] So you're saying that the Niobrara Council is wanting to acquire some?

RICHARD MERCURE: [00:11:53] Well, at the end of the day, there was a proposal that the Niobrara Council would actually own the property and then work with another agency to manage it, but it never, I mean, to be honest with you, that ship has sailed and that's--

ALBRECHT: [00:12:06] OK. Thank you. Thank you.

HUGHES: [00:12:09] Any other questions? Senator Moser.

MOSER: [00:12:14] Over the years there have been quite a few times when I've read about Niobrara and the way that things are, how people are getting along there. And I was just curious if you see any issues coming up that you think are going to be contentious or do you think that things

are relatively at rest among the members of the council and then the operators on the river?

RICHARD MERCURE: [00:12:41] I think that I don't really see anything that is going to be contentious or confrontational at all. I think what's going on in the room right now, everybody seems pretty happy with what's going on. You know, the Park Service here, you know, I guess our big task at the Niobrara Council is to comanage along the side of the National Park Service the operation of the scenic Niobrara River, I guess. And you know so a lot of what we see is you know what maybe what the, what the National Park Service has on their agenda and they don't seem to have a whole lot going on other than just the day-to-day management and nothing that's real, real--

MOSER: [00:13:23] Contentious?

RICHARD MERCURE: [00:13:24] Yep.

MOSER: [00:13:25] Thank you very much.

RICHARD MERCURE: [00:13:26] OK.

HUGHES: [00:13:28] Any additional questions? Seeing none, thank you, Mr. Mercure for your willingness to serve in this capacity. And we will, unless you have anything you'd like to add to, to end this appointment confirmation process. We thank you for your time and keep warm.

RICHARD MERCURE: [00:13:50] Absolutely. Thank you so much. You guys all have a great day.

HUGHES: [00:13:53] Thank you.

RICHARD MERCURE: [00:13:53] Bye.

HUGHES: [00:13:58] OK, we're off? OK. The committee will stand at ease for a short time.

Senator Brewer is, pardon? Oh I'm sorry. Yeah. Sorry. Never mind. Are there anyone wishing to ask or speak as a proponent for Mr. Mercure and his appointment to the Library Council? Anyone wishing to speak in opposition to Mr. Mercure? Anyone wishing to speak in the neutral capacity for Mr. Mercure? OK, that will close our hearing for the confirmation to the Niobrara Council for Mr. Richard Mercure. Now we will stand at ease for a short time. Senator Brewer is introducing bills in multiple committees today. So until he gets here to introduce LB155, we will just take a break.

[00:14:53] [BREAK]

HUGHES: [00:17:45] Welcome to your Natural Resources Committee.

BREWER: [00:17:52] Thank you, Chairman Hughes, and good afternoon, fellow senators of the Natural Resource Committee. I'm Senator Tom Brewer, that's T-o-m B-r-e-w-e-r. I represent 13 counties of the 43rd Legislative District of western Nebraska. I am here today to introduce LB155. LB155 will be my priority bill. Next to property taxes there is nothing more important to my district than the ongoing adverse effects of wind industry and wind energy is having with my constituents. This bill strikes one sentence out of Nebraska law. So we all have the same understanding, please refer to page 4, line 23, 23, on your copy of the bill. Removing this sentence from Nebraska law is all this bill does. I don't think we have to be a lawyer to be surprised to see what you read in that one sentence. Something the law very clearly defines as private is then called public in the same sentence. This baffles me. It should baffle everyone. Calling something that is very clearly private a private thing public is wrong because it gives the power of the government to private people. Here's

how it works. Let's say I'm a rancher and I love wind energy. I invite the private, privately owned wind energy companies on my place and I sign a land lease agreement with them. For every turbine that they build, I receive upwards of \$10,000 or more. Now the reality is, no one really knows how much these contracts are. All of that is kept within nondisclosure agreements and no one really knows what that is, as with much of wind energy. Given how tough it is to make a living in agriculture today I don't blame the landowners who choose to do this. They have to make the ranches pay in any way they can. And if this is the path they choose then that is what they should have the privilege of doing as landowners. I see no problem with that. The wind farm on my place needs an interconnect for a feeder line that connects it with the main power grid. The lay of the land forces me to run this line across my neighbor's property. This neighbor, who hates wind energy because he doesn't benefit from it, refuses to grant me a voluntary easement on this feeder line. I get out my Nebraska statutes and go to Chapter 70, Section 1014.02, paragraph (5) and ask NPPD to build me a feeder line and use the power of eminent domain against my neighbor on my behalf. This law I'm trying to repeal with this bill allows private citizens to use this power--normally reserved only for government--against their neighbors so that they can make money. That's the bottom line here and it's wrong. Senator Hughes was a second, second-year senator on the Natural Resources Committee in 2016 when this law was created. The problem was passed as LB824 and voted out of this committee with a white copy committee amendment that was drastically different from the bill that was originally introduced. This is how terrible law is made. Senator Hughes can tell you about the fight that was led on the floor after this deceptive tactic was used. The problem back then was that wind energy was still this shiny, new object that everyone considered, that everyone considered a good issue to support in the Legislature. The problem now is, all of the easy places to build wind energy in Nebraska already have turbines or they're getting them. Now the only place to build new ones is closer and closer to people who object and do not want to be made neighbors to these massive industrial facilities for a host of very good reasons. The vast majority of the people in my district feel this way, so I am here today to ask once again to speak on their behalf

on the issue of wind energy. To my knowledge, this immoral law has not yet been used, but I will be followed by people who will become its first victims very soon. Planned wind energy development in my district will make the use of this law necessary. Despite my strong opposition to wind energy, I do not actually support this law if people trying to use it, if the people try to use it was the actual government. Let's say NPPD built and owned a wind farm. They are a subdivision of state government. If it would be appropriate under the law for them to use eminent domain, I would support that. They are about to do just that for nearly 100 miles of the impending line known as the R-project power line that they are trying to build through my district. As much as I don't like the power line, I don't think anyone on this committee would support me if I was to ask you to take the power of eminent domain away from the government entities. I'm not asking for this. Public power in Nebraska doesn't own wind farms. I'm asking you to take this power away from private citizens using it against their neighbors. I could possibly understand how a privately owned wind energy facility could be considered in the law as some special species of public thing if Nebraska actually needed the electric, the electric, the electric, electricity that these things occasionally produce. That's not the case because we have over 400 megawatts of excess generation in Nebraska. Nebraska doesn't need the electricity made from these wind towers. In closing, let me stress a point my constituents and I have tried to make over the several times that we have met before this committee. Wind energy is not about one thing, is about one thing and one thing only, and that is making money. As Warren Buffett said, if it wasn't for the federal subsidies he would never have built one. I don't blame anyone for trying to make money, especially farmers and ranchers of my district. Lord knows that they can use it. That said, your private property rights end where mine begin and vice versa. Private citizens shouldn't be able to use the power of government against their neighbors so that they can make money. That concludes my opening remarks. Thank you. Are there any questions?

HUGHES: [00:26:21] Thank you, Senator Brewer. Are there any questions for Senator Brewer on

LB155? Seeing none, that, you'll stay for closing?

BREWER: [00:26:30] I'll be back and forth, but I'll try and be close when you need me.

HUGHES: [00:26:33] OK. Thank you. OK. So that will open up the testifiers for proponents of LB155. And if you wish to testify come populate the front row so we can get in and out of the chair. We know it's a long ways home for a lot of you, so we'd like to get you in and out as quickly as possible. Welcome.

MIKE YOUNG: [00:26:57] Thank you. My name is Mike Young. I'm from Valentine, Nebraska, and I'm here to testify in favor of LB155. This here is a picture of my back yard.

HUGHES: [00:27:12] Excuse me. Mr. Young, would you spell your name, please?

MIKE YOUNG: [00:27:14] Y-o-u-n-g.

HUGHES: [00:27:15] OK. Thank you.

MIKE YOUNG: [00:27:18] This is where I live. I live on the Niobrara River. And I am really close to the Kilgore project, which would be west of me about 15 miles and I would be able to see 24 blinking lights at night if that happens. And right now, I just see nothing but the sun setting. But anyway, I wanted to show you guys that picture and I sent in to all the major networks. I had an idea for a reality TV show. I'm going to, the setting is the Nebraska Sandhills. The Sandhills are under attack by large wind developers and power companies. At stake is the largest intact grassland in North America. Cherry County, Nebraska, is home to more mother cows than any other county in the United States. That's why it's been coined "God's Cattle Country." It is also Nebraska's

playground, 3,814,000 acres of it: three professional golf courses; float trips down the Niobrara; lots of hunting and fishing. It is home to the darkest skies east of the Rocky Mountains; seven different ecosystems converge here; and it's Nebraska's premier tourist attraction; and home to the nation's largest underground fresh water supply. So that's the setting. Here are your players. Here's, here, here are your players in this as I think: Ted Turner, one of the largest landowners in the United States and the largest landowner in Cherry County; Senator Deb Fischer, a wind advocate, a wind investor, and a landowner in Cherry County; Pete Ricketts, Governor Nebraska; an advocate of wind development; Tom Brewer, state senator, opposed to wind development in the Sandhills, also a war hero now fighting the battle in the Nebraska Legislature; also have U.S. Fish and Wildlife, the permit issuer, protecting the endangered birds and animals against the proposed R-line that is needed to haul the power out of the Sandhills; we have the Southwest Power Pool involved; the Little Rock, Arkansas, power conglomerate backing the efforts of NPPDs efforts to build the \$400 million R-line through the Sandhills; we've got wind turbine investors who are the area ranchers looking to cash in on the windfall; we have the Preserve the Sandhills--which I'm a member of this group--grassroots organization of ranchers, neighbors, concerned citizens, and businessmen fighting the wind development in the Sandhills; we also have the Save the Sandhills group, grass roots rancher fighting the R-line and the power of their eminent domain on their properties; we also have the Cherry County Commissioners involved--three member board--with first-degree relationships to families of the wind investors; we also have the threatened species, the mass migrations of waterfowl, songbirds, bats, which include the whooping crane and the American burying beetle. I haven't heard back from any of the major networks yet, but I'm still hopeful. But this is in your hands. You guys could probably be a part of this story, too. I thank you for your time.

HUGHES: [00:30:57] Thank you, Mr. Young. Are there any questions for Mr. Young? Seeing none, thank you for your testimony. Next proponent. Welcome.

BRENT STEFFEN: [00:31:18] I'm Dr. Brent Steffen, B-r-e-n-t, Steffen, S-t-e-f-f-e-n, from Kearney and Thedford. I'm here today to provide testimony in support of LB155 and I thank you for this opportunity. Property rights and eminent domain are both very serious issues. Property rights are the foundation of capitalism, free governments, and free men. Property is mostly paid for with the blood, sweat, and tears of those who toil to secure their financial future and provide for the well-being of their families. And in my estimation, if you do not truly own your property you are property. The great English philosopher and reformer, John Locke, whose tenets were utilized by the drafters of our Declaration of Independence said that quote: Government has no other end but the preservation of property. He also said that the reason why men enter into society is the preservation of their property. Additionally, he said that all mankind, being all equal and dependent, no one ought to harm another in his life, health, liberty, or possessions. Eminent domain is the domination of the individual by government. It usurps the property rights of the individual for public use. This is an action of government that bears intense scrutiny. The Nebraska Public Power District, a subsidiary of state government and the largest power producer in Nebraska, frequently states that the vast majority of their easements are obtained voluntarily. This is blatantly dishonest. There is absolutely nothing voluntary about eminent domain. It's either sign or be condemned. Either way, the result is the same and property rights are usurped. To take this action to benefit another individual or private entity should be morally repugnant to each and every one of us. LB155 is not about whether or not you support business development. It's not about whether or not you support wind energy development. LB155 is about scrutinizing the action of government as it pertains to free men and their property. Nebraska has very Draconian laws regarding eminent domain. LB155 allows the opportunity to modulate one of these laws to a reasonable level, thereby protecting and supporting the constituents of your state. I hope that you will give support of LB155 serious consideration. Thank you.

HUGHES: [00:34:26] Thank you, Dr. Steffen. Are there any questions? Senator Moser.

MOSER: [00:34:31] I apologize for not knowing the answer to this question. My district is all kind of rectilinearly set up, you know, we've got mile roads everywhere. In your part of the state are there a lot of access roads where these lines could go along or are you all kind of driving over each other's property to get to your farm faster?

BRENT STEFFEN: [00:34:51] Extremely limited and we, we, you know, we have a lot of good neighbors in the Sandhills and we frequently drive and trail cattle across the neighbors from, from one destination to another and that works very well. But as far as power line placement, you're talking about placing lines that are significantly distant from established roads. Most of the roads in the Sandhills are fairly minimally utilized to track trails through the pastures.

MOSER: [00:35:27] And your objection in this bill is to the eminent domain, but you are not in favor of having wind power anyway? Or you're only limiting your objection to the use of eminent domain to have private people here?

BRENT STEFFEN: [00:35:46] Well, LB155 is strictly about eminent domain. It doesn't really address wind energy, it addresses eminent domain. So in this setting my objection is the use of eminent domain to support private individuals, private enterprise. That's not an appropriate action of government in the use of eminent domain.

MOSER: [00:36:11] OK. Thank you very much.

HUGHES: [00:36:14] Any additional questions? Seeing none, thank you for your testimony. Next proponent. Welcome.

ANN WARREN: [00:36:35] Thank you. My name is Ann Warren, A-n-n W-a-r-r-e-n, and our address is Rural Thedford, Nebraska. And I've already e-mailed you each a copy of my testimony and I invite you to follow along if possible. When we left home this morning to travel the 250 to 300 miles to get here our wind chill factor was a minus 26 degrees below zero. Besides the feeding and chopping of the ice, many of us are starting our calving, our annual crop. And, as you know, in agriculture it's very lucrative. We have no clue what our cash crop, crop is gonna bring come fall. But what we do know is our private property rights, the God-given, constitutional, private property rights that we have been given. And we don't look kindly on infringements and you would neither on your property rights. My family have been standing with friends and neighbors who are living today with the threat of eminent domain because of the R-line going through country it shouldn't even be placed in. This is fragile Sandhill ground. Because of the rumored wind towers that are going to follow, most of us in the Sandhills sit and wonder when we, too, will be informed of what is going to be crossing our property in the form of feeder lines. Wind turbines in themselves are private property right entities. We do not, we who do not want any part of this vision should never be forced to have our private property rights infringed upon for the personal and financial gain of another. And that would be forced upon us by NPPD. We believe that LB155 would address this issue of eminent domain feeder lines and therefore we support it. And I ask that you to do the same also. Thank you.

HUGHES: [00:39:12] Thank you, Ms. Warren. Are there any questions? Seeing none, thank you for your testimony.

ANN WARREN: [00:39:17] Thank you.

HUGHES: [00:39:18] Next proponent. Welcome.

MARJORIE MANNING: [00:39:30] Thank you. I am Marjorie M-a-r-j-o-r-i-e, Manning, M-a-n-n-i-n-g. I am up here speaking for Cleve Trimble and you should have a copy that he e-mailed you yesterday, I believe. I and hundreds of others would prefer to attend this hearing in person but cannot do so due to weather, a 14-hour road trip, overnight needs, and finding someone to manage the home chores. When hearings are not held at the site of impact those who are locally available to speak in opposition attain an inappropriately dominant voice. Cleve and I and many others support LB155. Inequity and mayhem has come about because the Legislature enabled NPPD to assign its authority of eminent domain to a private pro-wind entity operated by a family unburdened by competitive bids or measures of accountability otherwise usual to endeavors of supposedly public purpose. By the way, I have condensed this to go through the whole thing. It is obvious that a cause supposedly founded in environmental sensitivity is allowed to error, error, okay, irreparably harm the environmental, environmentally sensitive Sandhills in the state, like destroying a village to save it, wholly and solely attributable to "malassignment" of eminent domain. The 43rd District has about a fifth of the state's landmass but only one-forty-ninth of its voice. Please listen to our elected representative at last. NPPD is being allowed to sell out the Sandhills. Thank you for your service and for your consideration of this vital matter.

HUGHES: [00:42:10] Thank you, Ms. Manning. Are there any questions? Seeing none, thank you for your testimony.

MARJORIE MANNING: [00:42:15] Thank you.

HUGHES: [00:42:28] Welcome.

WAYNE EATINGER: [00:42:29] Thank you. I'm Wayne Eatinger, W-a-y-n-e E-a-t-i-n-g-e-r. I'm a fifth-generation rancher from Cherry County and wish my testimony of support of LB155 be

entered into the public record. I'm amazed at the people here today in spite of minus 30 degree wind chill up in our country and the problems that causes with ranching in general. The vast majority of Sandhills residents and landowners disapprove of industrial wind energy development and feel this type of very heavy industry will cause irreversible harm to the unique character of the area. With this amount of apprehension in opposition the possibility of abuse of eminent domain is unacceptable and Tom Brewer's bill would, would fix this problem. The Sandhills is an iconic natural marvel, the largest sand dune formation in America in terms of unspoiled area of growing tallgrass prairie. Very few exist. Also with a fantastic hydrology, 1 billion acre feet of water with wetlands and lakes strewn all throughout as well as river systems driven by sheer water pressure. Much of this is a municipal water, bear in mind. We don't think about that, that those river systems are very consistent. In all, this provides a mecca for plant species and wildlife. What once was referred to as the Great American Desert is now of the most famous grazing lands in the world. The cattle man has made it that way. What we have in the Sandhills is becoming more unusual and sought after, called by many the last great frontier. I'm afraid powerful forces would forever change this rich legacy. It's well to remember that the world food is produced by one-thirty-second of the earth's surface. Let's don't destroy any more than we have to. The people here today produce millions of pounds of beef for the nation and never in their life thought about testifying at the State Capitol. I've never seen anything like this where a chord has been struck and so many people have been motivated to speak out about something. And the legacy runs really deep. My ancestors drove cattle upon open range in the '70s from the valley where we live. The sand blew on the ridges and you could track a wolf from North Loup to the Middle Loup, and the, the wolves were bad. The, the Indians would come down from the north and do some butchering. And I don't have to tell you that what I think of the industrial possibilities that could happen in the Sandhills. And so I, it's a great hope of mine that you folks will hear today and I thank you very much for your time.

HUGHES: [00:46:07] Thank you Mr. EATINGER. Are there any questions? Senator ALBRECHT.

ALBRECHT: [00:46:12] Thank you, Chairman Hughes. Mr. Eatinger, thank you for coming off the ranch today to share your story.

WAYNE EATINGER: [00:46:20] You're very welcome.

ALBRECHT: [00:46:22] Can you tell me, so for the last two years that's all we've heard about is wind in this committee. And can you tell me where Cherry County is on wind energy at this point?

WAYNE EATINGER: [00:46:35] Well, with the meetings, you know, practically everybody there is, is against the industrial wind development. I would say it's, it's somewhere about 90-10 against percentile, somewhere like that. It's very decidedly not in favor.

ALBRECHT: [00:46:57] It appears to me that they've been asking a lot of questions. They've been taking a lot of the testimony of all of the folks that live around the area. But are they still looking at like in the planning stages of it or do you see that it's, do you feel like it's--

WAYNE EATINGER: [00:47:17] You mean the wind companies wanting to go ahead?

ALBRECHT: [00:47:20] Yes.

WAYNE EATINGER: [00:47:20] Very much so, yes.

ALBRECHT: [00:47:21] Yes. OK.

WAYNE EATINGER: [00:47:24] Yeah, they, they, you know, they don't want to give in. They,

they're very serious about it. They really are, in spite of the overwhelming opposition.

ALBRECHT: [00:47:39] I mean, of all the years I've spent in the political arena I've probably heard more in the Sandhills about people not wanting to see it come. And, and I do believe in a lot of cases the more you speak out, the more press you get and the more people hear your heart on it, because in the two years that I've sat here on this committee, in my particular district, I can sit out on my porch today and, and look from Dixon County to Madison County. Madison's next, but I can see all the red lights in the view over the, you know. And I can, I can feel your pain, I hear it because I do know in cattle country and, and in the Sandhills, once that's disturbed it's very hard to get the grass back. So. I appreciate all of you taking the time to come down and tell us about it. I know there's some new commissioner, excuse me, not commissioners, new senators that are sitting here today that they truly do need to hear what you have to say and I appreciate you coming down. Thanks.

WAYNE EATINGER: [00:48:49] Thank you for your comments. Thank you very much.

HUGHES: [00:48:52] Any additional questions? Senator Moser.

MOSER: [00:48:56] Are there already windmills operating in your area or is this line required for construction of them?

WAYNE EATINGER: [00:49:03] Yes, it is required and there is a proposal, oh, west of Valentine where there is some power out that, that approvals are pending for a wind farm there. And so, and there's been a lot of opposition to that, without which there would be one turbine.

MOSER: [00:49:28] Yes. What I was kind of wondering is if this is going to be preemptory if this

bill goes through or if some of them all are already being constructed and it's too late to--

WAYNE EATINGER: [00:49:43] No, it's not too late, sir.

MOSER: [00:49:49] The horse isn't already out of the barn, so to speak?

WAYNE EATINGER: [00:49:52] No, I don't think the horse is out of the barn. I, I, this would mean a lot to us. It would help us a lot in the course of our project is coming up through the rough, softest hills of the Sandhills. Ever been up through the Dismal?

MOSER: [00:50:12] I haven't been up through that part, but I've been out in the Sandhills further west and south of where--

WAYNE EATINGER: [00:50:18] From Stapleton to Thedford?

MOSER: [00:50:18] Yeah.

WAYNE EATINGER: [00:50:18] You would wonder why anybody would want to put a huge, 150-foot tall towers through there, carry a power line; roughest, softest hills in the Sandhills. And it's for one reason and it's to try to tie onto wind.

MOSER: [00:50:38] Yeah. I think, and I think Ainsworth was about as far west as I've gotten up that way and that's not too far.

WAYNE EATINGER: [00:50:42] Well you should come up some time. We'd show you around.

MOSER: [00:50:45] Thank you for that offer. Thank you for your testimony.

WAYNE EATINGER: [00:50:47] All righty. Thank you folks.

HUGHES: [00:50:49] Any additional questions? Seeing none, thank you, Mr. Eatinger.

WAYNE EATINGER: [00:50:53] You bet.

HUGHES: [00:50:54] Next proponent.

BARBARA WELCH: [00:51:10] My name is Barbara Welch, B-a-r-b-a-r-a W-e-l-c-h. and I support Senator Brewer's bill, LB155 when I was in high school about 15 years ago--OK, 20--my two best friends and I got into trouble. We got caught for pulling a joke on a teacher and had to visit the principal. And then the worst part, I had to go home and tell my mother. I stood in the kitchen and told mother what we'd done. And she asked me to sit down and she told me something that I've never forgotten and fallen back on it many times and I bet you've heard the same thing. There's a time and a place for everything. You did something bad and now you have to face the fact that it will be told with glee in certain circles and sympathy in others. From now on when you are tempted to do something that's wrong or disruptive or just kind of stupid,. I want you to stop and think if this is the time and the place for it. She never raised her voice and I never forgot those words. There's a time and a place for everything and we in the Sandhills have been accused of being behind times, not wanting to keep up with progress, and against green energy. This is a lie. The ranchers in the Sandhills have protected that land and been good stewards for many years. It's their lifeblood, our lifeblood. We know the time for green energy has come. We need it in this world to help clean up our earth. It's time for it, this is the time, but it is not the place. The unique area that belongs not only to a you Nebraskans, us, it belongs to the world. We have visitors from all over the world

come to see the prairies there, the fragile hills an endangered species that would be damaged beyond repair and they can never be replaced or rebuilt. We are against eminent domain being used on our ranches, our homes, and our lives. We have the cleanest water, the greenest grass, and the purest air in this nation. The Sandhills should be a protected place, not a pitiful area of sand dunes and miles and miles of transmission towers and wind facilities. How would you like to go to see the Statue of Liberty and see a 600-foot wind tower looking down on her or visit South Dakota to Mt. Rushmore and see wind towers in every direction? We live in the most unique area in the world. This is not a place for this project. We have pointed this out and proved other routes that would be less costly and better for all involved. We have to change eminent domain laws in this state. An NPPD representative was quoted in a recent news article in the Lincoln Journal. Wind projects are private companies and they can't use eminent domain or landowners. This is a half-truth. They can't use eminent domain on us landowners. What they do is request NPP to do it, and they do. This is not the place for this project. Please consider this bill and change the harshest eminent domain laws in the United States; that's in Nebraska. I want this put in the public record. And then the best thing I did in my life was to choose the right heroes, Mr. Dan Welch and Tom Brewer. And I hope someday that every one of you will be on my list for that. Thank you.

HUGHES: [00:55:12] Thank you, Ms. Welch. Are there any questions? Senator Halloran.

HALLORAN: [00:55:16] Thank you, Mr. Chairman. For a recent graduate from high school you did very good.

BARBARA WELCH: [00:55:20] Well, thank you, sir. I appreciate it.

HALLORAN: [00:55:22] Well, what's so difficult for a lot of people to understand--I'm a fifth generation farmer, we have multiple generation farmers here amongst us--what's so difficult for a

lot of people to understand about land is that it's family. I, mean you, mentioned lifeblood, that's a good description. It's in your blood. It's, it's, it's part of your being. And when you separate or challenge that lifeblood, it's a challenge to you personally. And we respect your testimony. And whatever, if you're thinking about going on to college I would encourage you to go on to the university or something.

BARBARA WELCH: [00:56:00] In the next few years?

HALLORAN: [00:56:01] Yes, that's right. Thank you.

BARBARA WELCH: [00:56:05] Thank you. Thank you for your words, too.

HUGHES: [00:56:06] Are there any other questions? I do have one.

BARBARA WELCH: [00:56:07] Oh, I'm sorry.

HUGHES: [00:56:08] Since the statute of limitation has probably run out, what did you do to get in trouble in high school? If you want to share, you don't have to.

BARBARA WELCH: [00:56:17] There was this terrible teacher. And every time we'd walk in the room you couldn't say, hey, what did you do last night? Did so and so, he would say, sit down, open your books, and take dictation. He made you learn all kinds of crazy things that you'd never use in life, like spelling words and all this. So it came time that, we had him the last year and he was going to retire and we decided to give him a gift. So we sneaked into the auditorium with a beautiful package. Oh, it was bows and just gorgeous. We fixed it so all you had to do is lift the lid off. We thought we sneaked in, but we were seen by several people. And when he opened the box we had

gotten 20 mice out of the labs.

HUGHES: [00:57:05] Oh.

BARBARA WELCH: [00:57:06] And when we opened that he jerked back, turned the box over, they went everywhere. He had a phobia of mice and we were in bad trouble. Anyway.

HUGHES: [00:57:20] Thank you, Ms. Welch for sharing that with us. Go ahead. Another question?

ALBRECHT: [00:57:22] Yeah, just real quick.

HUGHES: [00:57:22] Senator Albrecht.

BARBARA WELCH: [00:57:22] I'm sorry. I'm just going to park here.

ALBRECHT: [00:57:32] So here's your testimony, but you have a couple other things stapled to the back. Can you tell us what that is?

BARBARA WELCH: [00:57:37] Oh, yes. I sent you the letter that we got December the 20th. Our lawyer received it earlier than that and it got passed to us the week of Christmas that NPPD would come onto our property the first couple of weeks in February to condemn it and use eminent domain to put the towers up. So sometime this month they'll be coming to condemn our property. You have to condemn it first before you can use eminent domain.

ALBRECHT: [00:58:16] OK. So then that would indicate to me that your county board has

already given them permission to do so?

BARBARA WELCH: [00:58:21] That we're what?

ALBRECHT: [00:58:23] Did your county board give them permission to start doing this?

BARBARA WELCH: [00:58:28] No.

HUGHES: [00:58:31] County board no position to do that.

ALBRECHT: [00:58:32] Well, if they're putting it in to put the wind turbines up.

MOSER: [00:58:37] No, it's the transmission line.

ALBRECHT: [00:58:37] Just the transmission line. Oh. Isn't that part of the wind? OK. Thank you.

BARBARA WELCH: [00:58:49] Thank you.

HUGHES: [00:58:49] Thank you. Next Proponent. Welcome.

DAN WELCH: [00:59:05] Hello, sir. My name's Dan Welch, I'm from Thedford, Nebraska. I raise cattle and horses for a living. I live in the Sandhills and I'm here to support Senator Brewer and his bill, LB155. There are people throughout the Sandhills that do not like the eminent domain laws. The law--

HUGHES: [00:59:29] Excuse me, Mr. Welch. Would you spell your name, please?

DAN WELCH: [00:59:32] OK. It's Dan, D-a-n, Welch, W-e-l-c-h.

HUGHES: [00:59:36] Thank you.

DAN WELCH: [00:59:40] The people in the Sandhills that don't like the imminent domain law, you know. And the law, the way it's written is a deadlock with no consideration for anything. For example, your human health, the environment, your animals' health, the aquifer, or the one of the last pristine prairies. None of this is taken in consideration because when they use the eminent domain, you know, and we have been through the process of condemnation. I want, you people, now I'm not, I'm talking for you people, too, if you're a property owner. So I'm talking about your property rights. And you're right, sir, you're right. When you take away a man's land or a lady's property rights you take away their dignity. We're close to our land. You know, we're real close. And then when you take away our rights, and there's a terrible thing happening in the state of Nebraska right now, you know. And we need to come out of the fog or get our heads out of the clouds, you know, and figure out do we really believe in our property rights or do we not? You know, we can't look the other way on these property rights. Let me get to this. There are people in this room here, you know, that we fought for property rights, there are people fought for proper rights all over the world. Our National Guard, the Nebraska National Guard or whatever, you know. And right now, you know, what's happening is we've got a Arkansas company, Southwest Power Pool, who's paying NPPD, Nebraska public company, to build an R-line across the Sandhills in Nebraska. And to use my tax dollar to do eminent domain on me and hire a Canadian company to build the line to ship the power out of the state. Now is that right? No, that's not right, but that's what's going on. And they're using this eminent domain, you know, and they've held this cloud over our head for four years. They've used it like a big stick. The first letter I ever got from these people

of these power people--I've got a copy of it and I'm going to leave it with you--it explains eminent domain. That's the first letter. What, you know, at least you could get an introduction. No, no. Four years ago we get this letter here, eminent domain, showing you the process, showing how your neighbor will appraise your property and assign a value. It explains all this. Well, these people are in the process of this right now for the Nebraska property owners. If you're a property owner you should be concerned. Any property owner in the, in the state, not just the people in the Sandhills that will be affected, you know, by these laws. Now, OK, you know, you know, they still, you know, the railroad come through here a hundred and some years ago and, you know, used eminent domain. Things have changed since then. It's different, you know. And, I'm going to put yourself in this situation: You go home tonight to your house. You own your house your farm or wherever. You go home tonight and when you get there, there are eight to ten people standing in your driveway with a sheriff and two highway patrol and they have a letter. Mr. Welch, we have a letter here. Would you like to accompany us to go over your property and see what it would cost to condemn your property? That was the option I had. What's it gonna cost to condemn my property? You know, and you go home tonight if you had that, you know, they're going to take those trees down that you planted over the years there in your yard, too. You know, what would you say? What do you think, you know? And behind all this, behind all this is what we have is a public company doing business with private companies and the public company using their power of eminent domain to take our land. The laws for eminent domain the way they are written now are a pathway for socialism. We have expressed our concern about eminent domain to our local, state, and federal government. And it's been given that deaf ear until Senator Brewer.

HUGHES: [01:04:26] Mr. Welch.

DAN WELCH: [01:04:26] Yes.

HUGHES: [01:04:26] Red light's on. Could you wrap it up, please?

DAN WELCH: [01:04:29] I'll wrap it up. You know, here representing a group of Nebraska citizens whose number may seem small in population, but in terms of tax-based contribution to this state we represent the top 1 percent in property and taxes paid. During the past four years we've been hassled, bullied, threatened, stonewalled, violated, and our land molested. We have witnessed corruption, crony politics, and greed. To simplify this problem, we're dealing with a for-profit company using the law against the citizens for the return of their shareholders. This law is being used in a fashion that is not representing the spirit of law.

HUGHES: [01:05:12] Mr. Welch, I'd ask you to wrap it up, please. We have several other people who want to testify.

DAN WELCH: [01:05:15] I'll wrap it up. First, and all for the-- first and for the most it is not a matter of public need. This is a matter of shareholder greed, protected past investments in wind and unneeded tax credits. The role of the government is to protect the lawful citizen. And at this stage the victim is the Nebraska landowner. This makes all Nebraska citizens possible victims. There are some rights that get violated [INAUDIBLE]. Taking private land for profit of shareholders in the name of eminent domain is one case that the people of Nebraska will not stand passively.

HUGHES: [01:05:54] Mr. Welch, please. Are there any questions?

DAN WELCH: [01:05:58] You know, I drove 200 miles and you're not interested, you know, in my problem and it's your problem, too. That's not right, sir.

HUGHES: [01:06:09] Mr. Welch.

DAN WELCH: [01:06:10] With all due respect, I respect all you people and thank you for your service, but you should let me finish.

HUGHES: [01:06:15] Mr. Welch, there are several other people who drove a long ways in bad weather to get here. I want to give them their opportunity as well.

DAN WELCH: [01:06:23] Yeah, but you don't want to hear what I'm going to say you.

HUGHES: [01:06:26] I, you had your time. Next proponent. Welcome.

DEAN SMITH: [01:06:28] Thank you. I'll apologize in advance. I'm gonna ad-lib a little bit to try to burn up my five minutes.

HUGHES: [01:06:52] You're fine.

DEAN SMITH: [01:06:56] Mr. Chairman, members of the committee, thank you for this time. My name is Dean Smith, D-e-a-n S-m-i-t-h. LB155 strikes eminent domain from privately developed, renewable energy generation. I think by striking this it gives back local control. If a developer needs access, he can negotiate with the local landowners. They do not need to use state-regulated eminent domain. Just last week I testified at LB373 and the opponents to LB373, the wind lobby, stated that we need to keep local control. So let's stay with that philosophy and eliminate eminent domain. In Antelope County, Invenergy, the wind develop, has over 60 percent of the agricultural land under easement. As a recently elected county commissioner in Antelope County, this concerns me when one entity has that much easement control over privately owned land. I think that holdings that they have should give them enough of a local foothold. They do not need eminent domain. The

developers like to persuade landowners to allow access for underground line. Leaving eminent domain as an option only adds to their ability to take away from the landowner who has the right and desire not to enter into a 50-year easement agreement. Thank you, Senator Brewer, for introducing LB155. I hope the Natural Resource Committee will advance this bill for further consideration. The landowner should be able to use and enjoy their property without fear of the wind developer using eminent domain for its benefit. Thank you.

HUGHES: [01:08:56] Thank you, Mr. Smith. Are there any questions? Senator Bostelman.

BOSTELMAN: [01:09:01] Thank you, Senator Hughes. Thank you, Mr. Smith, Commissioner Smith, for being here.

DEAN SMITH: [01:09:04] Thank you.

BOSTELMAN: [01:09:05] How many other commissioners are on your, is on the county--

DEAN SMITH: [01:09:08] Five.

DEAN SMITH: [01:09:09] There's five?

BOSTELMAN: [01:09:10] How many of those have won contracts?

DEAN SMITH: [01:09:12] One.

BOSTELMAN: [01:09:15] One other than your, of the five?

DEAN SMITH: [01:09:19] Of the five, yeah. There's, there's, we have five commissioners. There were three new ones elected this cycle.

BOSTELMAN: [01:09:23] OK. Am I, I don't want to put words in your mouth so I want to understand or explore a little bit more what you said. So are you saying, with eminent domain that those landowners that have not signed a contract that the company is saying, you can either sign the contract or we're going to use eminent domain, so you don't have a choice? Is that what you're saying?

DEAN SMITH: [01:09:46] That has not been used to my knowledge in Antelope County.

BOSTELMAN: [01:09:48] OK. Thank you.

DEAN SMITH: [01:09:49] But, but, but with that, as I understand it the way it is, they could.

BOSTELMAN: [01:09:52] OK. Thank you.

HUGHES: [01:09:54] Any other questions? Senator Moser.

MOSER: [01:09:57] Do most of the counties in western Nebraska have zoning, so the wind towers have to get permission from the county to build a tower or do the most of them not have zoning laws?

DEAN SMITH: [01:10:12] Well, Antelope County, we do have zoning and we do have a wind ordinance in the zoning regulations, so they have to go through the, get a conditional use permit. We are on our fourth conditional use permit now for our fourth construction.

MOSER: [01:10:32] So you've, you've approved three different projects?

DEAN SMITH: [01:10:36] Previous commissioners have. I'm new to the board since January 1. We have now approved, I have not been part of that board that has approved any.

MOSER: [01:10:44] And were they multiple tower projects or--

DEAN SMITH: [01:10:47] Yes. The last one, the Upstream project, I believe is 82 towers that just got completed and started generating electricity in December. We have close to 300 towers, I believe. Yeah. I believe we're close to 300 towers right now in Antelope County. And Antelope County as compared to Cherry County is a small county.

MOSER: [01:11:12] Cherry is the biggest county in the state I think, isn't it?

DEAN SMITH: [01:11:15] Yes. Yes. And so I can't speak for, the counties around us I guess do, that, that border and Antelope County do all have zoning with, with wind ordinances.

MOSER: [01:11:27] Have, have, has Antelope County turned down any developments?

DEAN SMITH: [01:11:32] No.

MOSER: [01:11:35] Do they have better access to the main line?

DEAN SMITH: [01:11:37] I believe that is the case. There is a substation built north of Neligh, that's just newly built, built within the last three years. And that feeds over to Hoskins over to the

Nor-- Norfolk-Hoskins area. And like the last project of 82 towers, that's where that all tied into. And the proposed new project, which is 132 towers, that is in the southwest corner of the county. As we understand it, there possibly could be a new substation being built in the Holt-Wheeler County corner with Antelope County that, that power then would be going to. But I don't know that for sure, but that's kind of what I've been told.

MOSER: [01:12:23] What are the soil types in Antelope County? I mean, are they similar to the Sandhills west of you or--

DEAN SMITH: [01:12:30] No, no. We, we, we have some, you know, we have a lot of irrigated corn and soybean ground in Antelope County. There's some pasture, but the irrigated corn and soybeans, soybeans would outweigh it. And we have a sand that we can farm. The Sandhills, I just know from driving through and having acquaintances that, that ranch out there and so on. That's a different, fragile soil that can never be reclaimed.

MOSER: [01:13:02] More prone to blowouts?

DEAN SMITH: [01:13:04] Yes. And we can have that in Antelope County and did have it in Antelope County. But once irrigation kind of came in and you can put enough water on your soil and grow corn, you, you know, you can eliminate some of that, but.

MOSER: [01:13:18] Thank you for that information.

DEAN SMITH: [01:13:20] OK. Thank you.

HUGHES: [01:13:22] Any additional questions? Senator Albrecht.

ALBRECHT: [01:13:24] Thank you, Chairman Hughes. So, Commissioner Smith, 300 towers. Was that before you were elected?

DEAN SMITH: [01:13:33] Yes.

ALBRECHT: [01:13:33] And how long has, had those been in, two or three years, five or six?

DEAN SMITH: [01:13:36] The Prairie Breeze I project, I believe I was reviewing some of that information because we're gonna have to start looking at conditionally or decommissioning in the near future on zone. The first one was 2014.

ALBRECHT: [01:13:51] 2014.

DEAN SMITH: [01:13:53] And then there was Prairie Breeze I, II, and III that came about 15 months apart. And then this Upstream one that just got completed in December of '18.

ALBRECHT: [01:14:03] And how large is Antelope County?

DEAN SMITH: [01:14:04] Eight hundred fifty-seven square miles.

ALBRECHT: [01:14:07] It's a lot of turbines.

DEAN SMITH: [01:14:09] Yes.

ALBRECHT: [01:14:10] So you're a new commissioner.

DEAN SMITH: [01:14:12] Yes.

ALBRECHT: [01:14:12] And three of them went out.

DEAN SMITH: [01:14:14] Yes.

ALBRECHT: [01:14:14] Did they just choose to all decide to throw in the towel or did, was there-

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DEAN SMITH: [01:14:22] No. We, they, all are, the three new commissioners were all, we ran against the existing commissioners.

ALBRECHT: [01:14:27] Because, was wind of a big reason?

DEAN SMITH: [01:14:32] For my reason to run it was, the other two probably not quite so much. And it wasn't the, I felt that there just needed to be a change for other reasons in our county government and the one that I run against was not like, he didn't have a wind easements or anything like that, no. He was not a--

ALBRECHT: [01:14:56] So the, how are the roads and the conditions of those when all of this construction came into play?

DEAN SMITH: [01:15:07] It is chaotic.

ALBRECHT: [01:15:09] Are you making enough money to improve all those roads and take care

of everything?

DEAN SMITH: [01:15:15] They, honestly, they do. And that the one thing that I will say that I feel that Antelope County was maybe ahead of on, on the one development or had an understanding of, they've always had a very strict road use agreement that the developer has to enter into. And they really, a lot of the roads end up being in real good shape by the time they're done. They improve the roads. It's, it's chaotic, it's terrible while construction is taking place. But--

ALBRECHT: [01:15:57] But you're here from the eminent domain for this bill. Did any of the folks that ended up having a turbine placed on their property, did they have any issues with, did they come to your board much to ask about problems with them?

DEAN SMITH: [01:16:14] Oh, I wouldn't say, not, not the people that were getting a wind tower. There was an, and honestly, my mother was one of them. My mother did not sign a wind lease easement on her property and the landowners all the way around did. And we actually had to call the county sheriff because the developer had told all their contractors and everyone that they could put the underground line across. They had mapped it out and they had incorrectly mapped it. And we were telling them, no, you can't go across here. But, you know, if it had been some reason that we were gone for a week or my mother was gone, I think we could have ended up with a feeder line going across her quarter section.

ALBRECHT: [01:17:13] So, so the feeder line, did they actually come and negotiate a price with you?

DEAN SMITH: [01:17:18] No. They ended up rerouting it, you know, they had to rerouted onto this property they already had easements on. But if they would have wanted to, I'm sure, you know,

if this eminent domain is available they could have if it, it wasn't a large move for them. It was actually kind of just probably a few hundred yards, you know, and then they got onto land that had the easement. So then they could go ahead and do it. But, you know, there are situations in Antelope County where if they can go across a piece of property it can save them four miles a feeder line. And those individuals that are not wanting to sign the easement. And I know them, they're, they're, they're good friends of mine, they get pressured really, really hard because they want to be able to save four miles of feeder line. And--

ALBRECHT: [01:18:14] But do they negotiate with a price? [INAUDIBLE] try to shorten things up?

DEAN SMITH: [01:18:17] They attempt to. They will, they will. They will, but those that don't want it, there's no price that is enough.

ALBRECHT: [01:18:31] Right. Gotcha. OK, thank you.

DEAN SMITH: [01:18:34] And would like to keep it that way, I guess, you know, being able to maintain that.

HUGHES: [01:18:38] Any other questions? Seeing none, thank you for your testimony.

DEAN SMITH: [01:18:40] OK. Thank you very much.

HUGHES: [01:18:41] Additional proponents. Welcome.

DOUGLAS NELSON: [01:18:57] Thank you. My Name is Douglas P. Nelson, I'm from Wayne,

Nebraska. To begin with, I want to start with a hypothetical example so--

HUGHES: [01:19:04] Mr. Nelson, could you spell your name, please?

DOUGLAS NELSON: [01:19:06] OK. Douglas P. Nelson, N-e-l-s-o-n.

HUGHES: [01:19:07] Go ahead.

DOUGLAS NELSON: [01:19:07] Thank you. I want to start with a hypothetical example as per how the law exists today. And then I want to give you a little brief on myself, personally, and then state the foundation of my position being in favor of LB155. To start with, as the law exists today let's take Senator Moser here and let's say the front half of his desk was a hamburger grill. And he's grilling some of the best hamburgers you've ever had. They're, you know, they're dripping with grease off this side and they've got ketchup dripping off the other side. And his customers are those two guys that were sitting right over there. There they are, there's the customers are sitting over there. So to get to his customers he needs to pass these hamburgers around the table here to get to the customers. And you're obligated to take them around there through the process of eminent domain, in spite of the fact that he's a little private business. And they pass their cash back across the table and he makes the change and passes it back to them. The transaction is completed. Folks, the barn door is never so far open that we can't fix a poor law. This thing needs to be addressed. Now, personally, about ten years ago I was interested in the windmill business and I was gonna buy one myself. I didn't want a developer, because I'm a private property rights guy. This turbine was going to be in the irrigated corner or the dryland corner of an irrigated farm, right next to a high voltage transmission line on a hill. I had a perfect situation. I want the whole enchilada. There's not gonna be a developer involved. I'm going to be the guy that decides where the road's gonna go to get to this thing, see, so we're not going to have any private property problems. You get the idea?

When I took a look at the numbers on this thing, even though I had the opportunity to hook onto the power line on a net metering arrangement and 80 percent of my, the cost of this thing was covered with grants and tax credits, it would not cash flow, not even close. I gave up on the project. I can't go to the bank with numbers like that. Forget the whole thing. That was ten years ago. I've been doing research ever since and here it is. If anybody wants to know give me a call, give me a chalkboard, I'll put you on a nice demonstration. Call me up, my numbers in there or in this. OK. To begin with, folks I'm in favor of LB155. But to tell you why, I have to first lay out the basis of my position. That involves numbers, so please focus a minute and take note. To begin, do you know what a megawatt hour is? Anybody on the board know what a mega, megawatt hour is? Well, the megawatt hour is 1,000 kilowatt hours. We deal in kilowatt hours when we pay our light bill, so I converted it to that. Next, do you know the general efficiency factor for a commercial wind turbine? Anybody? It's about 40 percent, so they say. I don't think it is, but that's what the guys say. So one megawatt hour being 1,000 kilowatt hours is reduced to 400 kilowatt hours using a 40 percent efficiency factor. So moving on, do you know the wholesale value of wind energy? Anybody? OK. In my area, it's 1.5 cents a kilowatt hour. Now we can calculate the hourly production value of one megawatt of wind generating, wind generating capacity. Easy, 400 kilowatt hours on the average at 40 percent efficiency times 1.5 cents. That's \$6 an hour, folks, \$6 an hour worth of revenue. Finally, what are the operating costs per megawatt? Well, that's kind of hard to find, but you, using generally accepted guidelines that fit IRS percentages and parameters, I personally have calculated this to be about \$84 an hour. Six dollars an hour revenue will not offset eighty-four dollars an hour worth of operating expense without massive subsidies in the form of grants and tax credits; details in your file. You would have to raise the wholesale price electricity 14 times just to break even. These tax credits, the tax credits paid for by you and me make up the difference. As I've just shown, the wind energy industry would not exist if not for tax credits. Taxes that are paid with tax credits or simply taxes that are not paid. This creates a tax vacuum that must be filled with taxes paid by the remaining cash paying taxpayers, thus increasing their legitimate tax liability. Therefore, a

landowner is paying the taxes to cover the credits that allows the existence of a private industry, an industry with unfounded economics which seeks domain to cross his land, not for the benefit of public use, but for private gain. I'll repeat that. A landowner is paying the taxes to cover the credits that allows the existence of a private industry, an industry with unfounded economics which seeks eminent domain across his land, not for the benefit of public use, but for private gain. LB155 addresses this problem and simply eliminates it. Thank you very much. Douglas B Nelson. Any questions?

HUGHES: [01:24:43] Thank you, Mr. Nelson. Are there any questions? Seeing none, thank you for your testimony. Next proponent. Welcome.

SHAYLEE SCRANTON: [01:25:07] Hello. I'm Shaylee Scranton, S-h-a-y-l-e-e S-c-r-a-n-t-o-n. And I'm probably gonna be a little bit of a change of pace compared to most of the other people who have spoken today. I'm in support of LB155, took a couple of, actually, a lot of hoops to jump through to get here, out of class and out of the events, but I made it. I'm kind of an interesting case, because I actually am an environmental studies minor. I go to Crete and I'm currently pursuing degrees right now. And it was 2014 when I first like heard about the R-project coming and like affecting my home. I came home, I was having a great day. Came home, my whole family was just depressed is the best way I can put it. And it kind of like, the whole situation is kind of symbolic and like, you know, growing up you start to become an adult. And when this whole stressful thing and worrying about like the laws and stuff, it just kind of, and in the end it kind of comes back to like things you're taught when you're little, like don't take things that aren't yours. And it's just kind of unfair to me that something like this can be forcibly forced upon you. But that's like that's the actual R-project to not like be the lines running through your land based on somebody who comes from like a wind farm. And like that I think it's like, I just think that's terrible that somebody else, like some other people have said, the personal gain from one person can just go across you. My

parents were talking about how like they said, well, maybe the neighbors to our, as of the law right now they said, the neighbors to our west, if they wanted a wind farm they could get one and then they could just have eminent domain, come and put more powerlines through our land coming through and I just thought that was just completely unethical. But as a whole, like just because of the fact that, you know, I'm younger I'm concerned about the environment. I think that just our take on like renewables and stuff needs to be kind of reform because I'm not against wind energy when it's done correctly or like as it is, I don't think it's a very good practice because like think about your phones. If you pull out your phone it's a little thing that fits in your pocket. Sixty years ago that took up a room bigger than this. So why it, like I just think that wind energy needs to be more efficient before we can like reinstate it on a large-scale basis. And also, I've been wondering why like new [INAUDIBLE] subdued, subsidies and stuff for large wind farm projects, whereas what if we were to focus more at the residential level. Granted, it wouldn't be profitable for the big electricity companies, but if we were more interested in say getting photovoltaics cells for your houses, geothermal energy for your heating and cooling, or like just small, little residential turbines for your own house as opposed to like abusing other people's land clear out in the most isolated part of the country to get you power to your house at a completely different area. And then like when you, also when you start doing things like your own power for yourself you have less need for these necessary power lines for that reliability because you're more self-reliant, which is something that I think is important. And then, yeah, I think that's pretty much all I've got here. And it's just important I think to preserve the Sandhills and a lot of ecologically sensitive areas like that, because it is designated as an ecoregion. It's distinct from other grasslands on the Great Plains. Eighty-five percent of it is intact and it's designated as a natural, natural landmark. And that, which basically means that it encourages the conservation about standing examples of U.S. natural history. And I think things like that are just really important to keep in mind. Thank you.

HUGHES: [01:28:33] OK. Thank you for your testimony. We appreciate you skipping class to

come see us today. Any questions? Seeing none, thank you for your testimony.

SHAYLEE SCRANTON: [01:28:42] Thank you.

HUGHES: [01:28:45] Other proponents. Welcome.

SAM SAMPSON: [01:29:00] My name is Sam Sampson, S-a-m S-a-m-p-s-o-n. I don't reside in the Sandhills. I developed a real love for it through my hunting habit. I spend many days there and I was called by Marilyn Rhodes yesterday to come to the hearing and we've hashed this over. She has a bed and breakfast in Brewster. That's the only facility in that county I know of. Maybe there's some there in Halsey or Dunning but nonetheless they're the most wonderful people on earth. They're in their 80s and they won this. She gets up 5:30 in the morning, fix our breakfast. But we sit at this round table and we visit with people from all over the county, but more so all over the world, and this issue. When they first talked about the power line I said, well, that's kind of fishy. I think they're probably thinking about some windmills. They said, oh no. I have to have it to get the power from somewhere, Atkinson, that was the only way they could do it was to take that trail. Well, it's all came out now. I really think the public needs to attend some hearings. First hearing I've ever been to, I've really learned a lot. I really know why everybody needs this bill. I've been in business dealings in my life. If I don't read the small print and it ends up being a bad deal. This to me is some small print that just needs to be clarified. I think the bill is very simple and forthright. I couldn't agree with it more. It's, it's, something that for private is going to benefit from the taxpayers. And that's not necessarily the right thing to do. Years ago I asked some LES people what this power out here by our landfill cost a kilowatt to generate. It was 29 cents. We have property in Minnesota, which is a real green state. They've got these windmills all over. Their power is about 12, actually 22 percent higher than it is in Nebraska. A friend of mine interviewed a Kawasaki lawyer--I guess you might know him--why they located in Lincoln. And he said, two or three reasons. A key reason

was every Monday morning they started 500 welders. The best price on power in the United States. Second reason was there was somebody there to run them every Monday morning. They didn't get that in the South. So I just take my hat off to the way the state runs. And it's a Unicameral and you know this is kind of contrary to the whole discussion of the country, of which I guess I'm a libertarian because I can't take either side because they both nauseate me. But when they talk about breaking California into 30 states so they get 60 senators or more representatives. And we've got that in Nebraska. It works. I don't want to tell anybody that, about the Unicameral, because I think whoever set up this country back in the day, Thomas Jefferson, John Adams and those people, they realized that you had protect some of us from the tyranny of the majority, because sometimes a majority doesn't. And I got in an argument over Christmas with a man way more intelligent than I, been all over the world, practiced medicine in Saudi Arabia. He said, the problem with Nebraska-- because first he's trying to tell me they were illiterate. He got away from that pretty quick--but that we weren't informed, well informed. I informed him I just came from the Sandhills. I saw people at 6:00 in the morning fighting snow and ice and everything to feed their cattle. And he tried telling me those people are uninformed? I got news for him. I've sat across a table from most of those people. They pretty well know what's going on and I'm just proud that I can testify to this, that I was given the privilege by people out there to come and represent them. And I appreciate what all you do. And when I had property in town, people want to put campaign signs. I let anybody put them up, because anybody that's willing to serve has my full support whether I agree with them or not. And I really appreciate what you're doing and I think you'll do the right thing and clean up this mess with this simple bill. That's all I have to say.

HUGHES: [01:33:36] Thank you, Mr. Sampson. Are there any questions? Senator Albrecht.

ALBRECHT: [01:33:40] Thank you, Chairman. Can you tell me again who you came to represent?

SAM SAMPSON: [01:33:44] Walt and Marilyn Rhodes, they've been ranchers out there for a long time and they both grew up in that county and their daughter has a, is running the ranch now and their children will be operating it so they have roots. And if you've never been to Uncle Bucks, please go there because it's one of the most beautiful places I've ever stayed. She built this in the mid-'90s and she designed it and built it. She was a contractor. It's just [INAUDIBLE.] And that's the smallest county seat in the world, I believe. They have a population 17. So you can see a minority could trample them pretty easily. Okay?

ALBRECHT: [01:34:30] Thank you so much.

SAM SAMPSON: [01:34:30] Sorry about the phone. That's the third Apple I've had in my life. And the switch isn't in the same place. And I'll be the next one on my flip phone.

HUGHES: [01:34:40] I was going to penalize you a minute for that phone ring, but I decided not to. Any other questions?

SAM SAMPSON: [01:34:45] You should have.

HUGHES: [01:34:47] Thank you, Mr. Sampson. We appreciate you coming and testifying. Come back and see us again.

SAM SAMPSON: [01:34:53] I will.

HUGHES: [01:34:53] That's great. Other proponents. Going once. Don't be shy. Welcome.

AMY BALLAGH: [01:35:09] Thank you, Senator. My name is Amy, A-m-y, Ballagh, B-a-l-l-a-g-

h. And I sent in my testimony yesterday because I was afraid it might not make it because of the weather and then overnight I kind of condensed it a little bit, so I'm just going to switch back and forth. So when you get my handout there, I'm kind of pulling pieces from both sides. I came to hear the hearing on LB373 last week. And I thought it was interesting that those who came to support wind energy were commending the senators for the input that they'd had during the last many years of developing a legal system in such a way that it was easy and inviting for wind energy. And I'm not testifying today to debate the merits of renewable energy. I am testifying in support of LB155 because I believe it is important to make sure that in Nebraska's haste to develop renewable energy we take care of the residents of Nebraska first, particularly the rural residents who are most susceptible to bearing the burdens of these industrial projects because of the open land that they own. I understand that both the United States Constitution and Nebraska State Constitution allow eminent domain for public use. But as I've been studying the eminent domain law I find that Nebraska has been expanding the authority through these different bills that have been passed through the years that allow loose interpretation and therefore perhaps an unintended abuse of landowners' property rights. Renewable energy companies are coming into Nebraska for the sole purpose of expanding their companies' financial profit. They find willing landowners to sign easement contracts for their generation facilities. And since the ultimate financial profit is going to a private corporation, I believe that they should also go about finding willing landowners to host the rest of their facilities' necessary requirements such as the feeder lines in order to function as intended. Eminent domain is the right of a government or its agent to expropriate private property for public use. The sentence that LB155 would like to strike, just to review, reads this way: The exercise of eminent domain to provide needed transmission lines and related facilities for privately developed renewable energy generation facility is a public use. That seems to suggest that taking away Nebraska landowners' private property for a privately developed renewable energy generation facility--which really is often owned by out-of-state companies or even out of country corporations--is a quote public use. I don't know how this sentence got into the Nebraska law in the first place,

other than I do remember well LB824. Evidently, the Legislature was convinced at one time that since the energy these private companies would produce and will be sold into the general electrical system that the public ultimately draws their electricity from this produced energy. Of course, this is all at the energy companies' profit, but therefore the companies deserve a special favor. It seems silly to me. I don't know how to explain it except I was thinking it was like, we as ranchers, we produce food that everybody ultimately is going to use. So the public use could be part of that and we should have eminent domain rights also. I don't think that would be right. LB155 gives the Legislature a chance to review a portion of a law that's been shown to be flawed and make the correction to get it right. There should be no eminent domain for private gain, no matter what sector or business we're talking about. I appreciate your attention to this matter and I had a couple comments I'd throw in since I still have a green light. That's really unusual. Usually I talk too long. Someone had mentioned the soil in Nebraska in the Sandhills where we're talking about being concerned about. We had some soil tested when we went to the Power Review Board way back when. And when that came back, I'm not good with numbers so I'm not going to try and give you the exact amount, but it was less than 10 percent organic matter in the sand that we submitted. And we just went out to the pasture and got some sand. So it's a very thin layer, a very fragile soil, and it is definitely a concern. And there's a lot of confusion with the R-project and wind energy and if you would talk to NPPD they will insist that that's only a possible benefit. But if you look at the beginning when the Nebraska Transmission Advocacy Group was still in effect, we have pictures that will show that as early as 2011 they were already showing where the biggest area wind is and where that R-project could go. So it definitely has been a connection and we are definitely concerned that there is an overreach there with eminent domain and the authority that is there. But sticking to just this bill, I think removing the sentence would clean it up and make it a more appropriate law. Thank you, Senator, for the time.

HUGHES: [01:39:53] Thank you, Ms. Ballagh. Are there any questions? Thank you for coming to

see us again.

AMY BALLAGH: [01:40:00] Thank you.

HUGHES: [01:40:00] Next proponent. Welcome.

JAMES DUCEY: [01:40:19] Thank you, Senator. My name is James Ducey, J-a-m-e-s D-u-c-e-y, and I'm from Valentine. And I would immediately like to have you to please look on the back of the handout that I provided. This is a map graphic showing Cherry County. What we have done is we've taken this large map here and colored in all the parcels of property where we could determine somebody's position on wind turbines. So on the front of the page the colors are listed there for your reference. There's also a little bit of information on how we got the information. Some we got from public testimony, others we got from people we've talked to, and there are people in this room that made phone calls to property owners so that we could understand what their position was or is. The obvious thing on this map that I would appreciate your understanding is the color red. And red is the color I used to indicate those people which are not in favor of the wind turbines in Cherry County. And if you extrapolate on the map, as it's been mentioned, there's 3.8 million acres in Cherry County, we're estimating that we have on this map addressed land use for about 1.5 million of those acres. And, again, red predominates. And the key thing in regards to the bill as proposed by Senator Brewer is that if you look up in comparison of the brown to the red--brown being again those people that want wind turbines--most of them are completely surrounded by red. So they may want to put turbines on their property, but their neighbors do not want turbines. And it could be extrapolated that they would not want an industrial power line across their property. You know because you've got several key large areas which they wouldn't require to put in turbines because they, like there's a place up near Wood Lake, 640 acres, they're not going to put a wind turbine facility there, but they're an enrolled member and those kinds of things. Other key features are that,

for example, the big green area in the center, upper center, that's McKelvie National Forest. And we have done a separate map, which I didn't bring today, where we drew a circle on those primary wind turbine facility or potential primary wind turbine facilities that we drew out at twelve-mile diameter circle from them. So would be a 24-mile, 24-mile diameter, 10-mile radius and we use that figure--which we think is underestimating--to indicate that if I'm 15 miles away. I'll be able to see that wind turbine. Then there's one wind turbine currently west of Valentine and if somebody lives in Kilgore, they're 20 miles away. And they can walk up top of their hill and they can see it as clear as day and we've taken pictures. And so that's destroyed their night sky. At McKelvie if you look at the one at the upper center, there's brown, they actually want to put in 17 turbines. They currently have a CEP application in for that, although it has not been addressed yet. They're west of McKelvie, they're south of McKelvie, and they're east of McKelvie. And if you draw that 24-mile diameter circle there, there are, it completely obliterates the dark skies at McKelvie Forest. And that's one of the darkest spots in the Sandhills and in the whole region. And there has been some consideration given to having that established as a dark sky reserve and that and so in recognition of that, because you can go into McKelvie Forest and I think there's like one light, and that's 126,000 acres. And that one light is at the Ranger Center, Ranger Headquarters. And those kinds of things. So again the key message indicated by this map--and we'll continue to work on this map because we, we've gotten a majority of the large landowners--you notice the purple in the middle? That's kind of the largest land owner in the county, but he won't say whether or not it's for pro or against turbines. So he's kind of wishy-washy I guess so he kind of gets his own color. But the brown is surrounded by red. They would have to use eminent domain to put in a transmission line in many respects. So, again, the property rights of a few are trying to trample on the private property rights of their neighbors. And I think by passing Senator Brewer's bill it would give those people in red a voice to prevent destruction of their property. So thank you.

HUGHES: [01:45:27] Thank you, Mr. Ducey. Are there any questions. Senator Albrecht.

ALBRECHT: [01:45:31] Thank you, Chairman Hughes. OK. Are you familiar with Mrs. Welch?

JAMES DUCEY: [01:45:36] Uh huh.

ALBRECHT: [01:45:37] Do you live anywhere near her?

JAMES DUCEY: [01:45:39] She lives kind of in the, they're kind of in the south part of the county and I'm kind of up in Valentine.

ALBRECHT: [01:45:44] South. Down here?

JAMES DUCEY: [01:45:44] Right.

ALBRECHT: [01:45:46] Where would you say that R-line is already going?

JAMES DUCEY: [01:45:51] OK. The R-line would go down and it would not go into Cherokee County.

ALBRECHT: [01:45:55] Would not go into Cherry County?

JAMES DUCEY: [01:45:56] No. But it would go up to Thedford and then go east. But if you notice in the bottom right where that big black blotch is, that's a proposed turbine facility. They would, they're proposing 147 turbines there.

HUGHES: [01:46:12] Flip it around.

ALBRECHT: [01:46:16] Mine's upside down? Thank you. Well, I don't see any of the, OK, very good.

JAMES DUCEY: [01:46:20] Dan and Barbara kind of live north of there, kind of up near Brownlee as well as near Thedford.

ALBRECHT: [01:46:25] OK. So this particular note that she brought along with her said that 75 percent of the landowners on the R-project have signed easements on a voluntary basis.

JAMES DUCEY: [01:46:42] Right. But that, again, I think the estimated figure is, there are property owners that have not signed an easement and that includes 80 miles of the proposed route right-of-way, so that's significant there. Their numbers may not be high in count of ownership but in considering the property an extension of mileage for the proposed line, it would be 80 miles.

ALBRECHT: [01:47:05] Eighty miles. I--

JAMES DUCEY: [01:47:06] And that's probably what, 25 percent of the entire length of the R-project.

ALBRECHT: [01:47:14] Thank you for doing this. Senator Hughes my touch on one thing really quick.

JAMES DUCEY: [01:47:21] Senator Hughes, may I touch on one thing real quick?

HUGHES: [01:47:25] Sure, go ahead.

JAMES DUCEY: [01:47:25] When Mr. Eatinger was speaking, I want to kind of fess up on something that he's been involved in regards to regulations regarding wind turbines in Cherry County. We have introduced a referendum and we've gone through the public process to planning and zoning, public hearings, and all this. And he's correct in saying that each of these hearings people that speak are unanimous, unanimously against turbines. So that amendment was just, oh, at the zoning meeting last month was voted out by consensus of the zoning board. So that was then presented to the county commissioners and it specifically would outlaw wind turbines with the height more than 80 feet within Cherry County. So people don't want turbines in Cherry County. That was given to the county commissioners a week ago Tuesday and they reserved, returned it to planning and zoning. So what we're really fighting in Cherry County is that we follow the rules, we go through planning and zoning, we have hearings, we get this all done, and this is the third time that we did. The planning and zoning has submitted something to the commissioners and then they either they had a public hearing and they didn't follow the rules, so it was an illegal public hearing and they won't reschedule it or they return it back with Wayne Eatinger's request. They said, well, we need to have more information. So we had, everybody had presented all this information at the public hearing, but then they said, well, we want more information. And the point being that when they have, when they get that referendum they also have to have a public hearing before they vote on it. So that would be their chance to hear what people have to say on that. So we're really facing a situation where we try to move ahead, try to have local control, try to take advantage of what we can locally, but we keep getting stymied. So there again my final comment, Senator Brewer's bill would be a great help for us and maybe not directly related to wind turbines in Cherry County, but it would help address things like the R-project and future turbine projects and that kind of stuff, because you've heard all the reasons why we want Cherry County to remain cattle country.

HUGHES: [01:49:52] Senator Gragert.

GRAGERT: [01:49:52] Thank you, Senator. So I just want to clarify now, Cherry County does have a planning committee.

JAMES DUCEY: [01:49:58] Yes, they do.

GRAGERT: [01:49:58] OK. Thank you.

JAMES DUCEY: [01:49:59] You. We've had problems getting keep, we keep getting new people, we have to keep educating them, but we keep, keep plugging and chugging.

GRAGERT: [01:50:05] OK. Thank you.

HUGHES: [01:50:06] Senator Bostelman.

BOSTELMAN: [01:50:06] Thank you, Mr. Chairman. Looking at your map here, it's my understanding the brown areas are where existing or proposed ones. Are there high voltage power lines run near those on this map, do you know?

JAMES DUCEY: [01:50:20] The only one that we can see that would have a power line, a feeder line would be the one in the upper, upper center and that's near Kilgore. And they've sited that to where it goes right along a current power transmission line. And most of the other places, especially in the western part of the county, that big swath, there's none there. Where Senator Fischer's ranch is there's none. A lot of these places there are not. But, again, the Cascade project, and I also want to indicate real quickly there for that Cascade, the black indicates Bureau of Educational Lands and Funds projects or land, properties. So we're also facing a situation where if you notice where the

black is, it's associate, almost always associated or within brown. So there had to be some kind of communication between the wind developer and Educational Lands and Funds so that they would know what parcels they could pick to fit right in with their projects. And we haven't been able to get that information, but there again it's a public agency being used to provide land for the benefit of private, you know, energy developer.

HUGHES: [01:51:32] OK, thank you. So any other questions? I do have one. There are three county commissioners in Cherry County?

JAMES DUCEY: [01:51:39] Yes.

HUGHES: [01:51:40] Was there any turnover at this last election?

JAMES DUCEY: [01:51:42] Right. We got James Ward came on after Jim Van Winkle left.

HUGHES: [01:51:45] OK. So there was, and that, he was the only person on the ballot?

JAMES DUCEY: [01:51:49] Right.

HUGHES: [01:51:50] OK.

JAMES DUCEY: [01:51:51] And Tanya Storer was elected in, reelected in last time and then election before that was another new Commissioner, Martin DeNaeyer.

HUGHES: [01:52:03] OK. But There was only one up on the ballot?

JAMES DUCEY: [01:52:04] Well, it was Tanya Storer and James Ward, but Tanya was reelected.

HUGHES: [01:52:09] OK. So one was returned and one was new.

JAMES DUCEY: [01:52:12] Right.

HUGHES: [01:52:13] OK. Thank you. Any other questions? Seeing none, thank you Mr. Ducey.

JAMES DUCEY: [01:52:18] Thank you.

HUGHES: [01:52:18] Other proponents. Welcome.

TERRY MADSON: [01:52:20] Thank you. My Name is Terry Madson, T-e-r-r-y M-a-d-s-o-n. I'm not a Sandhills resident, I live in Nuckolls County, but I would like to make a comment about this committee. I've not been to lots of hearings, but I sure do like the way you guys are paying attention and the kind of questions you're asking because it appears like you're pretty interested. And that's, that's what we're asking for here. And I'm gonna talk a little differently than the Sandhills people are, I guess. But I want to make it clear that every time I'm around these folks I'm, I'm just tickled to death that we have people like them that settled here in the 1800s and stuck it all out and have contributed so much. And, quite honestly, I would be, I'm, I'm at awe as to how they keep a lid on their temper on some of these things, because if you've ever been through the Sandhills, the true Sandhills, you'll come away thinking there is a grand plan. And these folks have got a big part of it and they're taking good care of it. So Nuckolls County is about 4,000 people and it's located, the drainage of the Republican River is on the south and near the north border is Little Blue River. And in the center is a high, they call it the Mount Clare Ridge. There used to be a little town called Mount Clare. Today it's a grain elevator that's privately held and maybe a house or two, but, but it

is, the topography is, is that that ridge runs east and west and it has a substantial elevation advantage over the rest of the county because of those river drainages. Apex Clean Energy from Virginia is proposing 120 turbines built along at that high ridge. Well, Nuckolls County has no zoning. And, you know, you might say, well, they were shortsighted, they should have zoned it. But the thing is, we have no water either except when you get pretty close to those rivers. And so the reasons that zoning usually happens is chicken farms and pig farms and those kinds of things and those all require a lot of water. So, so it's difficult to develop it per se like the, like you could if you're up in Clay County where they've got a good sand and gravel aquifer. So, so that's at least part of the reason that the zoning never seemed to be necessary. So now shows up Apex and they come in and they, there's, there's a thing called the safe harbor rule in wind development. And you can, if you're at one company and you say that you've safe harbored, what that means is you've spent 20 percent of the cost of the project and that constitutes starting date as far as IRS is concerned. Well, a \$400 million project, 5 percent or excuse me, yeah, 5 percent of that's what, \$20 million dollars. It's not hard for somebody to go to a laydown yard and point to an IRS agent and say, these are our turbines, they're headed for Nuckolls County. So that's why they want in there so bad, because they can capture the full production tax credit. So you're gonna hear from wind proponents here shortly and they're going to tell you how good of a boon this thing is to the counties. And I'd like, I hope somebody asked that question. It looks like we should have, as a state, should have picked up \$4.5 million, \$6 million in nameplate capacity tax in 2017. What we really got was \$3,000, \$3,065,000. I don't know where that other million and a half is. I doubt if it's residing in anybody's pocket, but somebody's not getting it collected. I don't know what the reason is. But here's, the eminent domain thing is the issue. Let's, I have a place on the north side of this project. And I have a-- where I grew up is on the south side. There's a line runs east-west near Superior that could handle a percentage of the voltage. There's the, what do we call the Pauline line, 345 kilowatt or 3.45 kilovolt line, and that's would be the preferred one to go to. Nonparticipants are blocking access to that. So what happens is, there's no zoning, then go build, they've got it built, and now they go to NPPD and say,

Southwest Power Pool said they'd take it. And so guess what. We'll pay for the line but you gotta, you know, you got to do eminent domain so we can get our product out and that's what will happen unless this bill is changed or unless this bill or unless this bill is passed. I ask you, please listen to Senator Brewer. He's done a good job.

HUGHES: [01:58:13] OK. Thank you, Mr. Madson. Are there questions? Senator Gragert.

GRAGERT: [01:58:16] Thank you, Senator Hughes, Chairman Hughes. I've had this question ran down for quite a while and I'm waiting for the right person. Don't know if you're the individual or not. But, so, what if the windmill was built without a power line going to there? Say in Cherry County there's no power lines, they build this windmill. Does Nebraska Public Power have the right now to come in and lay in a transmission line with eminent domain?

TERRY MADSON: [01:58:41] In the case of, well NPPD cooperates as part of, state of Nebraska, as part of the Southwest Power Pool. And how it works is, power generators propose a certain megawatt of power to provide beginning on a certain date. And Southwest Power Pool's job is to say, yeah, we can handle it or no, we can't. And in the case of, I don't know where it is in the Sandhills. In the case of Nuckolls County, Apex Clean Energy has, has filed and I believe it's, I believe it's in the second stage, preliminarily accepted as a go for 305 megawatts. And that's, so 120 towers is 2.5 megawatt towers. And so if the Southwest Power Pool goes to NPPD and says we've got this power agreement and we're going to need you to build the line because your part of this big 14-state cooperative, then they may well be forced to just go and say, we're going to declare eminent domain. But it's at the behest of a private company that's in the business of making money. Did I get close to the answer?

GRAGERT: [02:00:17] I don't know if I asked it real close to you, to tell you the truth. But I'm

thinking I don't know if anybody would do this in their right mind, a very business man. But if I was one to take that chance and go out and build a windmill farm with no power lines coming to it right now and I guess I'd have to make that deal with Southwest Power Pool. But then I'm just asking because NPPD transmits all this power. They don't necessarily own any of the land you know or any of the wind, would they or could they then possibly come in and use eminent domain to get to that, to get to that windmill farm?

TERRY MADSON: [02:01:01] I believe that's, the answer is, yes. And that's why the high level of concern in my county.

GRAGERT: [02:01:07] So what's taking out this sentence or even messing with this sentence isn't going to stop that. I mean, not that you should--

TERRY MADSON: [02:01:16] OK. Well, because the definition of public use comes under scrutiny here.

GRAGERT: [02:01:24] Thank you.

HUGHES: [02:01:25] If I might, a point of clarification, that you cannot build wind generation without a contract for its ultimate use because there is more generation capacity within the SPP footprint than what there is demand. So if you want to build a wind farm you have to have--I suppose you could build it--but you have to have a home for that power before you will get permission for it to be placed on the grid. And NPPD also is in the generation, but more importantly they are in the transmission, NPPD, OPPD, so they, you know, they will charge that power between from generation to get on, onto the grid so there is that issue as well.

GRAGERT: [02:02:20] Thanks.

HUGHES: [02:02:20] Any other questions? Seeing none, thank you, Mr. Madson.

TERRY MADSON: [02:02:25] Thank you.

HUGHES: [02:02:25] Any additional proponents? If you wish to testify, would you come up front?
That would be great. Welcome.

DAVE HUTCHINSON: [02:02:56] My name's Dave Hutchinson, H-u-t-c-h-i-n-s-o-n, I ranch at Rose, Nebraska. Regards to follow up what you were just talking about, you know, 27 years ago they were gonna build a nuclear waste dump site in Boyd County. Seven states had signed that, and we finally got that defeated. Lately I had a reporter, kind of famous guy, said, asked me, why does everybody want to trash the Sandhills? He says, everybody--and this was a reporter that writes articles--kind of surprised me. You know, tourism is the third largest industry in Nebraska, bringing in \$4 billion. And the two top reasons that people come to this Nebraska is the Sandhills and to see the Sandhill cranes and the whooping cranes. They do not want to see wind farms, believe me. whooping cranes have eyes on the side of their head. I don't know, you know, whether you know this or not. They have a seven-foot wingspan and their legs are about three and a half foot tall. So they don't see these wind farms. They don't see these big power lines in it. And where they're going to build this R-project, the 225 mile area, there's 600 feeding sites that have been documented through transmitters. The 600 feeding sites and 225 miles. They stay there two or three weeks and they'll be flying over this transmission line and it will decimate the wind or the whooping cranes. You know, we have three fancy golf courses in the Sandhills, but they built up and they kept all the native grass intact. And people fly in here to golf. They come from all over. They don't want to see wind turbines, believe me. Charles Bessey in 1902 had a vision about a national forest at Halsey

and it's intact today because he was a visionary. It's one of the nice things about the Sandhills is Halsey National Forest. Tom Kent two years ago--he's the vice president NPPD--I was at a wind conference and he said, we built a 345 transmission line through the Sandhills. I said, where did you build that? I got up and asked him a question. I said, where'd you build that? He says, west to Sydney. I said, well, Mr. Kent, west to Sydney is not in the Sandhills. That's how naive some of these people are. He had an open house in Burwell and they had their engineers there. And I saw this engineer, lead engineer and he said, I said, well, you were at my daughter's wedding. He said, yeah. I said, have you ever been in the Sandhills? He said, no. No boots on the ground? No. How did you design this? He said, I was given a map and told it where to put it. You know, they've only ever hired one consultant that I know of and his name is Jim Stubbendick. Most of the other consultants are always hired from out of state. And two years we talked to him about how are you ever gonna restore this? Said, they're going to damage it. It will be damaged forever. When they come in with their big trucks, their cement trucks there, it'll be damaged. And after two years he finally admitted. He said, Dave you're right. We won't be able to put it back together. We'll just kind of do what we can. There is a line that they tried to put going from Stapleton on up to Thedford, along that line, and there was dead birds under it when we walked it. And it was real sandy and they put big boulders there to keep the sand from blowing. The only problem is that's pretty hard on beef, those big boulders. Also, Tom Kent, when he had the Power Review Board meeting he said that the Fish and Wildlife okayed that route and they didn't. And the Fish and Wildlife--you have a copy of that letter that I put in this packet--denied that. And that letter is in there. You know, all these wind turbines, besides the site being, you'll see him for 50 miles. Now they're talking about building 400 to 600 feet tall. Blinking lights in World War II, that was for torture. Well, what do you see at night? You can you go outside and have peace. We have a lot of people come to our ranch because we don't have lights. And they say, you know, it's kind of funny. They say you have more stars here. Well, they can see more stars. But they want that calm. These people come from Germany and Holland and all over to see the quiet peace of the Sandhills.

HUGHES: [02:08:24] Mr. Hutchinson, your light's on. Could you wrap it up, please?

DAVE HUTCHINSON: [02:08:26] Yes, sir. In 1890, my grandfather came to the Sandhills and we have four generations there. You know, bats kill mosquitoes and the government thought they were going to be smart and breed all one-sex mosquitoes and ended up with Zika virus. We need bats to kill mosquitoes that kill up to 5,000 a night. Rick Edwards--he's the head of the Great Plains Studies now--and there was a copy of that letter in there also. He said, it would be terrible to build this in the Sandhills. I would be like destroying Yosemite Park.

HUGHES: [02:09:06] Mr. Hutchinson, could you please wrap it up? We have lots of other people want to testify.

DAVE HUTCHINSON: [02:09:11] Well, I think I'm the last one, but that's all right now.

HUGHES: [02:09:14] No, there are several other people.

DAVE HUTCHINSON: [02:09:15] You've probably don't know about the artesian water. You can drill down five, ten feet--and there's pictures of it in there--just comes right out of the ground. Another thing you probably don't realize that we have a geothermal energy under the Sandhills. Matt Joeckel, the geologist at the University of Nebraska, can prove that the water temperature is anywhere from 110 to 155 degrees.

HUGHES: [02:09:39] I need, I need you to finish up, please.

DAVE HUTCHINSON: [02:09:42] Thank you.

HUGHES: [02:09:43] Thank you. We appreciate you coming. Are there questions for Mr. Hutchinson. Seeing none, thank you for your testimony. Are there additional proponents for LB155? Additional proponents. OK. We will switch to opponents of LB155. Welcome.

RICHARD LOMBARDI: [02:10:34] Thanks very much. Members of the committee, my name is Richard Lombardi, R-i-c-h-a-r-d L-o-m-b-a-r-d-i. I am here representing the Advanced Power Alliance. Advanced Power Alliance was formerly known as the Wind Coalition. It is reflecting what's happening in the industry that in the renewable electric area that many of the companies-- and you will have received a letter in opposition from Geoff Clark who's our executive director. And on the back of that you will see the various members that we have in our organization. But we do work in wind and solar and in incorporating rapidly storage technologies in the development of renewable energy projects. The, we are in opposition to LB155 for a number of reasons. First and foremost, to be clear, I am passing around to you a look at legislation that has been engaged in over the last seven to eight years that the Legislature has worked on with regard to renewable energy development. And almost all that legislation has to do with removing unique barriers because we're in all public power state. The statute that is looking to be amended here was language that was contained--if you go down to the bottom there--in LB1048. LB1048 was an incredible stakeholder engagement inclusive process that the predecessors of, of this committee were engaged with that involved not only industry representatives, environmental representatives, agricultural, but most importantly the public power industry and how do we structure the integration of renewable electric energy into a public power system. So much of the language had to do with ensuring first and foremost that any renewable electric development in the state of Nebraska would not be supported by ratepayer money, that it would all be, it would be cost that, that would be absorbed by the industry. So subsequent to the statute that you're looking at, there was language with regard to joint, joint transmission agreements and how those were to work and how they would be paid for and

permitted them. There's language with regard to decommissioning. What's been interesting is that this was a great personal experience for me. I've learned an awful, awful lot and I think we came up with a very impressive document. And if there's any question of how impressive that was, you can see the fact that the goal was is to increase economic development in rural areas. And, in fact, this was part of many pieces of legislation that increased the investment in rural areas of approximately \$3 billion. What's interesting is after you look back historically, when the language that's been struck here was part of a number of changes in the statute. And it's interesting to look back at that, because that's been used by opponents of renewable electric development as the real boogey man statute that somehow gave power to private renewable electric companies to do condemnation proceedings. Let's be clear. Private renewable electric companies don't have the power of eminent domain. They don't have it now. And even after this bill, they won't have it. The interpretation at the time of why that language was put in there is because a number of the public power districts rendered public power purchase agreements. They also were involved in the future as to charging various companies to connect with their transmission lines that had to be paid for by renewable electric companies. And there was a concern that because it was so visible that private renewable electric companies were engaged, that you would want to make sure that when you were doing public use you were part of the-- as soon as you put energy into the transmission system you're providing a particular public good. So the-- at least at the time when we were doing that we didn't realize that this would be used as, as something to say that somehow that we use eminent domain. The nature of renewable electric business, solar and wind, we can only exist in those, in those arrangements where we have landowners that sign leases. So there's not a wind project in the state that is on-- that has bought land that is just on, that it's all with private landowners. There are 52 different federal, state, and local and regional permits that have to be exercised before a project is built. I do not know whether or not this language is--and I think it's been pointed out by some people in committee--whether or not this gets to the, the, the concerns that some of people that testified. Now our industry is concerned that specific legislation would discriminate against us,

because we're a renewable electric, but wouldn't discriminate against, and I think the fear from our standpoint. Again, I don't know if it materializes. We have our fear. I'm sure we've heard a lot of the fears of, of, of, of various landowners here. But whether or not--

HUGHES: [02:16:31] Mr. Lombardi, can you wrap it up?

RICHARD LOMBARDI: [02:16:32] Yes, I will. Our concern is that, that, that, that transmission capabilities would be denied the renewable electric projects and would, that we would be treated differently than the other energy sources that are utilized in the generation of electricity. Thank you, Senator. I'm sorry I went over.

HUGHES: [02:16:53] OK. That's fine. Questions for Mr. Lombardi. Senator Bostelman.

BOSTELMAN: [02:16:58] Thank you, Senator Hughes. Mr. Lombardi, question for why, why is it the NPPD, OPPD, LES, do not own and build wind turbines or solar arrays? You know what I mean.

RICHARD LOMBARDI: [02:17:54] Right. Historically, the way we had to change the laws with the, the, as you know, the federal production tax credit was not something that was available to publicly owned entities. And that was a national political decision. So some of the early legislation that you saw in that graph that I gave you worked on the fact that you could enter into power purchase agreements and that the public power districts would receive the benefits of the production tax credit in the rates that they would pay.

BOSTELMAN: [02:17:58] So if and NPPD, OPPD, or LES wanted to build wind turbines they could. They just wouldn't get the production tax credits because that's only allowed for private

companies and not a public entity. Is that correct?

RICHARD LOMBARDI: [02:18:07] Which will be gone.

BOSTELMAN: [02:18:09] Sorry?

RICHARD LOMBARDI: [02:18:11] Which will be gone within the next year and a half, two years.

BOSTELMAN: [02:18:14] Actually, no, it's not, because I just saw on-line where there is a request for a five-year extension for projects of PTCs.

[02:18:21] Well, if that goes through then, then that would change. I'm just trying to understand a little bit more, you know, the difference because we're talking public use, so public, we're a public power state and we have private industry in building facilities and we're talking about connecting those private facilities to a public transmission system. So I'm just trying to continue to go down the path of understanding the differences between the two and why one builds it and why one doesn't. And then why within this bill itself and as we're looking at public use, why we don't have public power building it and why we have to connect to it? Why they just don't go ahead and build them, because if they did--as has been testified before, I think, said before--then they could use them and demand to go ahead and connect those turbines or solar, whatever it might be. But in this case, what we're talking about is if it's a public use or not. And that's really where we're coming down to the crux of those two words. Would you agree?

RICHARD LOMBARDI: [02:19:22] I, yeah, I, I, I think that the public power districts, speaking of Lincoln and Omaha in particular, up to 40 percent of their power is now coming from renewable energy and they did that because of pretty sound business decisions in that, that, the, the fact of the

matter is, is that they have a fixed cost resource locked down for 20 years. I think both utilities would make a fairly strong justification of how many hundreds of millions of dollars they have saved ratepayers they, the, the, amount of management required from them after a PPA is limited rather than having the, that. But I agree with you that they certainly have the capability of doing that if they would so desire, and they may do in the future.

BOSTELMAN: [02:20:08] Well, do you think that they'll go to 100 percent renewable?

RICHARD LOMBARDI: [02:20:12] I think things are happening a lot quicker than even my optimism.

BOSTELMAN: [02:20:21] So if that happens we no longer need public power.

RICHARD LOMBARDI: [02:20:24] No, I don't think that's true. Actually, I think what, what public power has shown is that it has been able to turn on a dime. Most utilities couldn't turn as quickly as they have in adapting and integrating renewable energy, fixed cost resources into their power mix.

BOSTELMAN: [02:20:38] Sure. And maybe, maybe I need to reclarify what one of my statement or question was. We don't need public power generation anymore. We would still make public power for transmission distribution, perhaps our rural electrics and that can still exist. But if we're not-- if, if OPPD shuts down all our base load generations, they don't need public power on the generation side. Maybe we do just need public power to transmit and distribute; the generation comes from renewables. Would that be fair? Wouldn't it? Potentially, I mean.

RICHARD LOMBARDI: [02:21:09] Yes, but I think that, that, that, that's all facilitated by public

power because I think that you, you-- the relationships of public power are unique to their citizens. And I think that we're seeing a lot of partnerships that are developing, public-private partnerships, which is basically what, what we see with power purchase agreements and how we know that the development is taken here. But I think the utility scale dynamics, the relationships the public power has the community has been has adapted quickly in a, in a, in a, in a, in an industry that is not known to be able to move as quickly. But I think because we've had public power we've been able to take advantage in a rapid, rapid fashion.

BOSTELMAN: [02:21:52] OK. Thank you.

RICHARD LOMBARDI: [02:21:53] Thank you, Senator.

HUGHES: [02:21:54] Senator Albrecht.

ALBRECHT: [02:21:56] Thank you, Chairman Hughes. I have an article that-- I wonder if you could help me out here. Do you represent Trade Winds or the Enel?

RICHARD LOMBARDI: [02:22:07] Enel. Yes. They are members of our organization, Senator, yes.

ALBRECHT: [02:22:09] OK. So here's my question. In this article about the Facebook wind farm that costs \$430 million, what does it mean when it says that this updated version of the project came about due to a partnership with Facebook, Trade Winds, and Enel formed with the OPPD to create a tariff that provides companies access to renewable energy sources. What does tariff mean? What are they talking about?

RICHARD LOMBARDI: [02:22:37] Tariff is, is a, is a, is a type of rate that is charged to, in this case, large industrial customers. But you, you have a tariff. I mean, basically, it's the ratepayer is a farm or ranch or residential. Basically, the rates that you're paying is, it, it, it is a tariff but--

ALBRECHT: [02:22:58] So what does a tariff mean in relation to--

RICHARD LOMBARDI: [02:23:02] Rates that are paid for electricity delivered. And in that particular situation, and this is where most of the requests are happening is the, the, the, the Fortune 500 companies, Fortune 100 companies that have goals of 100 percent renewable and carbon free. And Facebook is one of those companies that they wanted to have assurances that, that their, their data center was going to be fueled by, by a, by 100 percent renewable. So the, the, the, the people that run the transmission, the local, the local public utility developed a rate that for them which was a-- you have to be a pretty large user of it, but that they were able to assure them that, that, that the power for their data center is accounted for by the project that Trade Wind and Enel had built.

ALBRECHT: [02:23:59] Thank you.

RICHARD LOMBARDI: [02:24:00] Thank you, Senator.

HUGHES: [02:24:01] Senator Gragert.

GRAGERT: [02:24:03] Thank you, Senator Hughes. I have just a quick, quick question? I know this is about eminent domain but we had a gentleman that broke down the cost. What, what exactly, how much is wind, is wind generation subsidized federally?

RICHARD LOMBARDI: [02:24:17] Well, I think, as Senator Bostelman had said, there is a,

there's a, a, a production tax credit that is, is ending. I do think in the whole scheme of things that every energy source is subsidized. OK, so you're not really in a typical free market system. And I guess that for us to advocate for our industry that our subsidy is, is a lot smaller than coal and nuclear and oil. That said, the, the, the production tax credit has been a significant encourager of development and as, as a result the actual costs of wind and solar have dropped precipitously since it. But I will, let me, let, let me, I will be happy to provide you that information and all the, the specifics as well as the, as the comparisons with other sources. So I'd be happy to get back to you.

GRAGERT: [02:25:16] So with the tax credits that-- OK. Thank you.

RICHARD LOMBARDI: [02:25:20] No. Thank you, Senator.

HUGHES: [02:25:24] OK. Additional questions. Senator Moser.

MOSER: [02:25:25] What's, what is your background? I mean, and have you been in the renewable industry your whole career? I mean, what makes you the expert on these things?

RICHARD LOMBARDI: [02:25:40] Well, thanks. Senator, clearly I'm not the expert. I am, I'm incredibly bullish on it. I started my career in this building in 1974 and I worked on legislative staff and was involved in writing the State Energy Office legislation. And renewable energy legislation, I've gotten to participate in over those 40 years. I have a lobbying firm that actually lobbied to get a contract so I can advocate on behalf of the renewable energy industry. And I got to meet you several years back when we were doing a wind tour that, that visited your community.

MOSER: [02:26:15] So Katana Summit, was it?

RICHARD LOMBARDI: [02:26:17] Yeah, right. The Katana Summit when they were evolving, yes. But we had a, a, a, a wind tour across the state and you were a very kind host. Thank you.

MOSER: [02:26:24] Thank you very much.

RICHARD LOMBARDI: [02:26:25] Thank you.

HUGHES: [02:26:30] Additional questions. Senator Bostleman.

BOSTELMAN: [02:26:30] I'm sorry, I was wanting follow up on Senator Gragert's question there. I would like you to provide me a document that shows that wind energy gets less in tax credits than all the other fuels going.

RICHARD LOMBARDI: [02:26:44] Oh, I would be happy to, Senator. Absolutely.

BOSTELMAN: [02:26:44] I think that, I think you're wrong because--

RICHARD LOMBARDI: [02:26:47] Oh, there's a lot of documentation on that. I'd be really happy to do that.

BOSTELMAN: [02:26:49] And compare that to the other fuels, especially how that may apply. I just would like to see that. Thank you.

RICHARD LOMBARDI: [02:26:56] I would be happy to.

HUGHES: [02:26:57] Any other questions? I guess I just have one question. So you mentioned

Facebook. And they wanted to be 100 percent green energy. How, how does that happen after dark when the wind's not blowing?

RICHARD LOMBARDI: [02:27:13] Well, they can be pretty well assured and they enter into agreements that the, the grid itself that they're pulling off of has, that they can show on an accounting basis, that, that it's green. But--

HUGHES: [02:27:29] Exactly.

RICHARD LOMBARDI: [02:27:29] And once, and actually, you know, once the, you know, once the electrons get on the transmission you can't tell really a coal electron or others, so.

HUGHES: [02:27:41] Exactly. Thank you for making my point.

RICHARD LOMBARDI: [02:27:43] Yes.

HUGHES: [02:27:44] It's an accounting and an advertising gimmick. [INAUDIBLE].

RICHARD LOMBARDI: [02:27:48] Well, it's actually, it actually though is a multimillion dollar investment that, you know--

HUGHES: [02:27:54] I don't know disagree with that, but it is an accounting and advertising gimmick.

RICHARD LOMBARDI: [02:28:01] Well, I don't know.

HUGHES: [02:28:02] Thank you. Any other questions? Seeing none, thank you for your testimony.

RICHARD LOMBARDI: [02:28:05] Thank you.

HUGHES: [02:28:16] Welcome.

LUCAS NELSEN: [02:28:18] Thank you. Chairman and members of the committee, 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. I'm before you because the Center for Rural Affairs is a supporter of renewable energy because of the benefits that it brings rural communities. And we're opposed to your LB155 because of the potential that bill has to limit development in the state of Nebraska. I just want to do a quick rundown of some of those benefits to rural communities that were mentioned before. I think it's a, it's, it's a much larger impact than what the numbers show, but the numbers are impressive nonetheless. In 2017, the nameplate capacity tax alone generated about \$3 million for counties in the state with \$1.8 of that million going to, of that \$4 million going directly to local schools. And that doesn't account for additional property taxes that are paid from a wind operator on associated facilities. The industry also supported numerous jobs in operations, maintenance, construction, and various parts manufacturing. And landowners received about, again, contracts differ but the industry average is about \$6,900 per turbine, which makes a significant impact when that's an annual figure for landowners that may struggle to make ends meet, especially in rural communities. And it allows for a lot of farm families to be able to pass on the farm without relying on just the business that they have alone. And I think maybe a key point and something I don't want to be lost here is that Nebraska is not an island when it comes to electricity. We may have public power, but it's not as though every watt of energy that's generated in the state goes directly to members of Nebraska, ratepayers in Nebraska, customers in Nebraska. We're part of the Southwest Power Pool. That's an

important fact here. And having this larger multistate grid has enabled us to have cheaper electricity on the whole. And a big part of that cheaper electricity is due in part to wind. An overview of rates within Southwest Power Pool found that wind energy alone in 2014 saved customers about \$1.2 billion dollars in electric rates. And that's notable because in 2014 there were only about 9,000 megawatts of wind in SPP and currently I believe that number is at 19,000 and megawatts and we have about 37 gigawatts that's currently in various stages of development. And that's for the whole of SPP and I can-- that also concerns Nebraska ratepayers. That saves us money in the state and that's through having wind generation connected to the grid in Nebraska, in other states that are part of SPP. And that's on top of those benefits that go directly to rural communities, to rural residents, and are a great help to rural areas of the state. And I stand open for any questions you might have.

HUGHES: [02:31:15] OK. Thank you, Mr. Nelson. Are there any questions from the committee members? I guess I missed it when you started out. I'm sorry, I just missed it. Now you're talking about \$3 million dollars somewhere. Could you, could you go over that? I just missed it.

LUCAS NELSEN: [02:31:29] Yeah. That was in 2017 according to the Legislative Fiscal Office. And that came from the nameplate capacity tax alone.

HUGHES: [02:31:35] For the state?

LUCAS NELSEN: [02:31:35] For the state.

HUGHES: [02:31:36] OK. Got it. And part-- I guess the other question, follow-up question with this, and, is here again kind of got to it off to a different area, but we're talking about the eminent domain on connecting an existing facility or projected facility to a public power line and that eminent, and eminent domain used by the public power to lay that line. Do you know, are there any

facilities that we have currently in the state of Nebraska, wind facilities or solar facilities that have had to use, NPPD, OPPD, whomever, have had to use eminent domain to connect those, those facilities? I don't know, so I'm asking.

LUCAS NELSEN: [02:32:15] Not that I'm aware of. I think a concern for us would be the effect on larger projects. I think the R-project has been mentioned numerous times here in this hearing. I know that something that concerns me is that the R-project-- one potential benefit would be the ability to provide interconnection for wind throughout the region, but that's not the sole purpose. And I, I wonder, you know, would this affect other transmission that maybe would benefit winds or would provide wind energy or would provide an interconnection for wind. But that's not the sole purpose. So I don't have an answer for you off the top of my head, but.

HUGHES: [02:32:47] Thank you. I didn't know either, that's why I asked the question. Are there any other questions? Senator Gragert.

GRAGERT: [02:32:52] Could I just ask, yeah, thank you, Senator Bostelman. Quick question. Something came across my desk, so I'm sorry I can't remember where I read this. But Germany, are they high in wind, are they in wind generation?

LUCAS NELSEN: [02:33:06] That's my understanding.

GRAGERT: [02:33:07] They evidently spend \$362 for electricity in Germany. Have you seen anything like that?

LUCAS NELSEN: [02:33:16] I don't know a lot about what [INAUDIBLE]--

GRAGERT: [02:33:18] Compared us in the United States, at \$120 in [INAUDIBLE], Nebraska, \$109 a month.

LUCAS NELSEN: [02:33:25] I, I'm not quite sure what they pay for electric rates in Germany. But, again, I would just go back to what that analysis is for the Southwest Power Pool, which we're a member of. You know, we have pretty low electric rates and we have pretty low electric rates in the SPP region. And I believe if you actually would approach SPP the, the lowest rates typically are in the northern part of that region, which is also where we have most of our wind development, so.

GRAGERT: [02:33:47] All right. Thank you.

HUGHES: [02:33:49] Are there other questions from committee members? Seeing none, thank you, Mr. Nelsen.

LUCAS NELSEN: [02:33:55] Thank you.

HUGHES: [02:33:55] Next opponent, please. Welcome.

JOHN HANSEN: [02:34:03] Good afternoon. Members of the Natural Resources Committee, the newly reconstituted Natural Resources Committee. Welcome to wind. I am John Hansen, J-o-h-n H-a--n-s-e-n. I am the president of Nebraska Farmers Union. I am also the chair of the Nebraska Wind and Solar Conference. So we have been putting on conferences since 2008 where we bring the latest and best information on a whole, wide range of topics and also have a lot of panels and discussions on the issues of the day so that we can share the latest, the best information with a wide range of stakeholders. I obviously represent landowners in agriculture. The packet that I've given you is a backgrounder which is based on my later research right before I came today. It's obsolete and so it

will be updated and when we get the new quarterly numbers in. But the first is just, it's kind of an interesting thing because it puts a lot of information on a front and back piece and that's the AWEA piece, the wind energy in Nebraska. So if you kind of flip it over to page 2: The installed wind capacity in Nebraska at 1,452; that number is now 1,972. So that's the new number, so we've added 520 megawatts of wind on-line in Nebraska since August. And so we're no longer 17th in wind, we're now 14th. And so because of that being added you also go down a few spaces, the wind capacity under construction I suspect is probably also reduced from 855 probably to 335. But so, so because we, we, we completed part of it and then you take part of the bottom in the wind capacity in advanced development 796, you move some of that up because it's moved up because it's all moving in the process. And so it's, it's now far enough along in the process to move forward. So we are, we're headed, we were just, four years ago we had 459 megawatts of wind so we're now 1,972, so we've had a lot of wind put on the line. And so it kind of gives you a bit of an idea of kind of what the size is and kind of what's going on. And then the map that was, that we put together for the Wind and Solar Conference with the Nebraska Energy Office is on this side where you have all of the projects. And so some of the questions that were asked today about some of the projects, Senator Moser and others, this is helpful because you can go look at that project and see when it was built, what size it is, how many turbines there are, all of that stuff. So I just, I thought you would appreciate that. And then this map gives you the idea of how we fit into the neighborhood in the other states, so this is the one that looks at the bigger picture. And then, again, I worked with the Nebraska Energy Office to crunch these numbers. And they're very conservative numbers, the growing the rural economy with wind, and so that was done ahead of the Wind and Solar Conference. So these are like September-October numbers and so we'll need to go through and we'll update these again. But these are pretty large numbers when you look at economic development, when you look at new farm income, when you look at new tax base. We're over \$3 billion of new tax base. So we've got three counties now that are over 10 percent of their total tax base comes from wind projects. So this is moving forward. It's going to continue to move forward. And then ethanol,

my, my favorite is on the back. Midland Voices is the David Broad [PHONETIC] article that was the World-Herald that uses really all the numbers that were put together in the other. So I have had the opportunity to be a part of all of the discussions and all of the major bills that we've done to get to where we're at. I believe that the language that's being struck was actually put in, if my memory serves me right which sometimes is the case, was in actually LB1048 and I think that was in 2010. And part of the reason that we did that was because we needed to help make certain kind of the rules of the road in this very new venture that we had in our state, which was to create the private-public partnerships between wind and, and public power so we could take advantage of the federal production tax credits which cut the production, which cut the cost of projects about in half. And so because of that cut then we have, we have lowered, because of wind energy we have lowered the price of energy on the grid. It's about a third today of what it was in 2008.

HUGHES: [02:39:26] OK. Thank you. Your light's on.

JOHN HANSEN: [02:39:27] Yes. Thank you.

HUGHES: [02:39:29] OK. Senator Albrecht.

ALBRECHT: [02:39:31] Thank you. Thank you for being here. How many members does the Farmers Union have?

JOHN HANSEN: [02:39:38] We certify 3,541.

ALBRECHT: [02:39:43] And of those, what is, I'm sure because you have these conferences on wind, what is their stance on eminent domain on private property?

JOHN HANSEN: [02:39:50] Well, it all really comes down to what we're using eminent domain for and how it's being used. So I, so we have a lot of policy on eminent domain. And so we are, we want to use the higher standard for the use of eminent domain. And we are a higher standard state as the criteria goes. And so we have, we have been in the middle of a lot of issues down through the years relative to the use of eminent domain for a whole variety of things from NRDs to certain kinds of private use, a lot of those things.

ALBRECHT: [02:40:37] So what do you do for your members when a situation like this comes up? Do you have many members up in the Sandhills?

JOHN HANSEN: [02:40:44] We have, we have some members about everywhere, so they're kind of spread across the state. We have obviously some parts of the state where there's a lot more than others. And so our policies developed by our, our members through a representative process at state convention.

ALBRECHT: [02:41:00] Thank you.

HUGHES: [02:41:03] Senator Moser.

MOSER: [02:41:04] I'm just going to kind of follow the same question I asked one of the earlier testifiers. What's your background in this? What makes you motivated to be so involved in solar energy? I mean, you know, do you have technical background or political background or how do you-- how did you get started in this?

JOHN HANSEN: [02:41:29] Well, the smart aleck answer would be to say that if I used my grandfather, Carl's, definition of what an expert is, which is a darn fool 50 miles from home. And he

always told me, with me, it was always a matter of miles. So I'm, I'm, I'm not, I'm not sure I'm an expert but I've been at this a very long time. When I came back to the farm in 1973 after college I was very much involved in ethanol. And I started with helping do a lot of stuff on ethanol, both at the state and the national level. It just seemed to make a lot of sense to me. It was renewable energy. It was value added. It was taking control of your own destiny, using the resources you already had to maximize the benefits. And so I, I was, before I became president of Farmers Union in '90, I was, 1990 I was kind of on the national stage in a lot of renewable energy issues, mostly biofuels. And so that's really kind of how I cut my teeth, but as a farmer I could see that my future was clearly tied to being able to utilize grains in a more constructive kind of way so that we could create more base draw through a dependable demand that we also got the economic benefits up. And so it seemed to me as time went on and I became president of Farmers Union in the early '90s I could, you know, we started working, we started working on cellulosic ethanol in '91. We started working on wind and solar--wind especially--in the mid-'90s because it seemed consistent with our renewable energy background.

MOSER: [02:43:19] Now what part of the state is your farm in?

JOHN HANSEN: [02:43:22] Madison County. I'm in the west end of Madison County.

MOSER: [02:43:25] Oh, yeah. Pretty close to me.

JOHN HANSEN: [02:43:27] Yes, I drive through Columbus back, I've been back and forth to the farm and gone through Columbus. I would hate to guess, but it would be a lot of times during the last 40 years.

MOSER: [02:43:37] To follow up on a question that Senator Albrecht asked, do you find that your

members are pushing you to support wind energy or do you find that you're having to try to influence them to support it?

JOHN HANSEN: [02:43:50] Well, we, we are very supportive of all things renewable and that's not--

MOSER: [02:43:57] We, the organization?

JOHN HANSEN: [02:43:58] The organization, the membership is. And that's not to say that all of our, we do not have, when you have 3,500 farmers not everybody agrees on anything and everything. You have opinions all over the board. And so we, we certainly have people in our organization that do not support our position on wind, but they support a lot of the other stuff we do like on property taxes and those things. And so--

MOSER: [02:44:26] You going to come testify when we get to the property tax?

JOHN HANSEN: [02:44:29] You betcha.

MOSER: [02:44:29] All right.

JOHN HANSEN: [02:44:30] That's my favorite subject.

MOSER: [02:44:32] All right. Thank you very much, I appreciate it.

HUGHES: [02:44:34] Other questions from committee members. I have two. One on your growing the, the rural economy with wind. You have on here \$9.39 million dollars of new local tax revenues

annually. How did, where's that number come from? What's that derived from? Is that based off of nameplate capacity tax or--

JOHN HANSEN: [02:45:00] It was, it was, yeah. It was a calculation based off of how much of what goes local, how much goes to state and then there's also some additional other taxes that come to the local level that we didn't capture.

HUGHES: [02:45:15] So we-- go ahead.

JOHN HANSEN: [02:45:17] So I didn't, I didn't use those, but I tried to do a very conservative measuring of these things to kind of give some kind of idea what does this mean in dollars and cents.

HUGHES: [02:45:29] Sure. I, I obviously made a mistake, because I've gone out on the state's Web site and took down the numbers from what production has been, nameplate capacity and IU come up with about half as much, about \$4 million dollars.

JOHN HANSEN: [02:45:44] OK.

HUGHES: [02:45:44] I may be missing something and you can help me figure that out if you would. Not right now, but that would be fine.

JOHN HANSEN: [02:45:47] Great. That would give me just another opportunity to talk to Tony Fulton.

HUGHES: [02:45:53] There you go. Question, the question I had asked before to Mr. Nelsen,

Nelson was, do you know are there any projects out there that I've had to use eminent domain to connect? Is that, does that, and I don't know, I'm just asking.

JOHN HANSEN: [02:46:08] Well, I, it's, it's, it's possible that I may have missed something but not likely. But there has not been any use of eminent domain so far as I know ever relative to the acquisition of either the use of eminent domain for any of the connector links between projects and substations and the primary transmission. I've, I've been in several where we've had issues where it's been, you know, willing, willing, willing buyer, willing seller type of arrangement with the easements. But, but eminent domain has never been used in that fashion. And it's never been used to acquire an easement from a landowner.

HUGHES: [02:46:59] OK. Thank you. Are there any other questions from the committee? Senator Halloran.

HALLORAN: [02:47:02] Quickly, thank you Senator Bostelman. Thank you, John, for your testimony. Looking through the Farmers Union policy, and there's-- you're in a tough spot really, in a way, because you could have a member on one quarter that wants to have a wind generator and then adjoining quarter you could have a neighbor, also a member maybe of Farmers Union that doesn't want a line going through his property. And that kind of puts you between the rock and the hard spot, I suppose a little bit. I don't know which side you would support in that.

JOHN HANSEN: [02:47:37] Except that in the case of a wind project to the substation and the primary transmission, that is going to be done by finding Willie, willing landowners and a path from where they're at to where they need to go. There's not going to, you're not going to force a neighbor to have-- there's not-- eminent domain has not ever been used to put a power line on, on the, on the neighbors' land. So we, we kind of would, you know, what, in the discussions that we

have it's kind of like my right to have a wind turbine has to be respected at the same rate as your right not to have one, if that makes sense.

HALLORAN: [02:48:32] I understand the theory on that. You also, your policies also say, we oppose use of eminent domain without the developer putting into place environmental safeguards and assuming liability for damages. Now, I may not be deeply enough familiar with the R-line project to know whether or not that has been something that's in place where there are put in place environmental safeguards. In the long-term liability I don't know how you can predict, predict that liability and what that might be. But you know as well as I do how fragile--we've heard people testify in that regard--how fragile the Sandhills are. So at some level I guess I'm asking if your organization would be looking for that safeguard, I would assume.

JOHN HANSEN: [02:49:21] We, and we, we've made that desire known to public power saying, go, go the extra mile. If it costs more money, do what you have to do. Be as sensitive as you possibly can. Be as sensitive to landowners as you possibly can. And when there's issues or problems you have to be aggressively following up and making sure that it gets taken care of. So that's been our input into that process.

HALLORAN: [02:49:48] OK. Thanks.

HUGHES: [02:49:50] Other questions from the committee? Seeing none, thank you, Mr. Hansen, for your testimony.

JOHN HANSEN: [02:49:58] Thank you very much. Good luck.

HUGHES: [02:50:00] Are there additional opponents to LB155? Welcome.

DONNA ROLLER: [02:50:13] Hi. Good afternoon. My name's Donna Roller, D-o-n-n-a R-o-l-l-e-r, and I'm going to approach this from a little bit different angle, because I'm just a person. And I owned a farm in York County and I had to sell it because my sister had dementia; a long story. I understand everybody's concern by the citizens up in the Sandhills and I agree with them. And I agree with, against the R-line and all of those bad things. But I'm going to hold you--I know that you're not the same people on this committee that once was--I'm going to hold this Legislature accountable for its past. And that is, you've allowed all of these same concerns to be overlooked when it comes to KXL pipeline and fossil fuels. So my next question is, you're singling out renewable energy. Let's not do that. Why are we doing that? Isn't, isn't my land or my neighbor's land that was threatened by KXL just as important as the land up in the Sandhills? And I think what we're looking for here is to protect Nebraska. I am all for protecting the Sandhills. I'm all for protecting the Ogallala Aquifer. I believe it's under extreme threat. But you're singling out renewable energy so I, I want us to look at what kind of energy do we, how are we going to move forward as there's a hole in Antarctica and the glaciers are dropping? You know, I'm not going to argue climate change, but we need to move forward with sustainable energy, so what is this going to look like? How are we going to do this? And I don't want to single out sustainable energy, because there was, there's an oil leak in KXL-1, OK? It's in Kansas, it's in St. Louis. So we're under threat, I get it. But I don't want to see us singling out one form of energy and NPPD is also in the Sandhills building feeder lines to that pipeline. And so you're discriminating against one former energy and giving priority to another. And the other, the next thing that's gonna come up, you want to kill wind energy, fine. Are we ready for fracking to come into the Sandhills? What about the roads and all the eminent domains and all the air quality and everything else that's gonna come in. So the Sandhills is under attack, but it ain't just wind, it's gonna be fracking, it's gonna be everything else. And somebody mentioned the Sandhill cranes. There was an extensive report written to the State Department about the Sandhill cranes and threat of it to KXL-1, the KXL. So

that is my opinion and so I'm agreeing with the landowners, but I also don't want you to single out sustainable energy because we need to find some solutions that work for everyone.

HUGHES: [02:53:20] Thank you, Ms. Roller. Are there any questions? Seeing none, thank you for your testimony. Are there additional opponents to LB155? Seeing none, is there anybody wishing to give neutral testimony on LB155? Seeing none, Senator Brewer, Brewer, you're welcome to close. We do have several letters that came into the office, several in as proponents to LB155 and several also came in as opponents to LB155. They will be part of the record. Senator Brewer.

BREWER: [02:54:07] Thank you, Mr. Chairman. It's hard to follow the last part of this testimony here. I struggle with those that you hit, heard in opposition. Let's, I guess, for the first part focus on the very issue we're talking about here and that is the changing of the one sentence. All the opposition here today showed up because they know that they're in trouble. If they can't force people to accept their massive industrial facilities, they're not going to be able to get no new negotiate with their neighbors. And as a result, these issues that we're talking about here, such as the R-line--which reminds me I have handouts--I didn't realize that not everyone, not everyone knew where the R-line was. The reason it's critical you understand where their line is, is because that map that you were given earlier with the colors doesn't mean a lot if you don't have that reference. So I got that so that you could see where it sits. I also had a line drawn which was pretty much as the crow flies from the Gerald Gentleman station to Clearwater. So you can see that there was a purposeful dogleg made up into the Sandhills. If you stay south, along where that southern line is, you go through a lot of soil that's clay base, it's not sand base. So you have to ask yourself, why did they make the dogleg? Well, they made it to meet big wind. NPPD will never admit that, but common sense says there's no reason to do that, especially if you can look and see that, that, those areas you see in pink there, that's the general vicinity of where the wind farms are going to go. These feeder lines are gonna be long and major feeder lines. Now if what Mr. Hansen and

Lombardi and all said, the, this isn't going to be of any value or mean anything. And guess what. It won't hurt a darn thing to pass it. But I think you're being given a bad bill of goods on that one. The reason I prioritized this bill is because it is gonna be effective in helping those people. And the hat and cane routine that you got when you ask questions--and I thought Senator Albrecht asked a great question and Senator Moser followed up--the question that nobody seems to want to answer or wants to do a dance around is, what gives you the right to impact on your neighbor? And that's the part that we've struggled with this whole thing. If you take a look at the R-line itself, why do all these people come here? I mean, we didn't get near the turnout that we have in the past. And part of that is they're calving, we've got winter conditions, and it's hard to move people a thousand-mile round-trip to come here for a hearing. But the ones that did are passionate and if I didn't come and do what I'm doing then shame on me, because they didn't, they didn't hire the right guy for this job. But if you look at the R-line in that swath that it will cut through the Sandhills-- they like to say, well, this will be very, very little impact on the environment. But what it's going to do is it's gonna cut a swath. You got to go there with vehicles. They talk about how they're using helicopters, they're going to move all this stuff. Well, I'll tell you what. I'm a helicopter pilot and I know what it's going to require, and so does Senator Gragert, to move that much equipment by helicopter. So a lot of what you hear is smoke and mirrors from big wind right now to try and sell you on something that's gonna cost a lot more than they're saying. It's for the sole purpose of meeting wind. And there's nothing green about big wind. I mean, people want to come in here and tout that, but the reality of it is every one of those towers cost horribly. Get rid of the tax subsidies for this, the production tax credit and there wouldn't be a wind tower anywhere. So, again, I, I priority, I prioritized it because this is the only way that we can affect what they're trying to do in the area of the Sandhills that I'm trying to protect here. But it's really across the state that this is an issue. Now they're saying it's never been used. I'd like to put that to question, but we don't have the ability to do that right now. So with that said, sir, I'm available for questions.

HUGHES: [02:58:37] Thank you, Senator Brewer. Are there questions? Senator Moser.

MOSER: [02:58:40] As you're "denoueing" the committee after three and a half hours or whatever it is, the reason I asked those questions about the earlier testifiers and how their members support the positions they're taking, it's 'cause I'm trying to handicap this bill to see how the support is for or against it and this is your, kind of in your territory. And so two questions, kind of technical. This R-line, how long is that about? It's 300 miles or something?

BREWER: [02:59:16] It's short of 300.

MOSER: [02:59:17] That's close enough.

BREWER: [02:59:17] I believe in the 250 range.

MOSER: [02:59:22] Yeah. OK. And how do you handicap the support for it out in your, your district? Do you think it's 50-50 for and agin it? Do you think it's--

BREWER: [02:59:30] Well, as far ahead as--

MOSER: [02:59:33] Not, not, not handicapping the passion. I think I got all the passion figured out.

BREWER: [02:59:38] Well, don't get me wrong, there are folks along the route that have agreed to it. And, and that percent I think you need to distinguish between the percent of landowners that are affected and the natural amount of land that is, is under contract. But they're gonna be using a lot of intimate domain on the R-line, but they're gonna be using 100 percent right of eminent domain to

get the wind there. And I'm sure there's folks within NPP that are looking back on this now saying, you know what, if we dogleg this an extra 100 miles up into the Sandhills to meet wind and then this guy goes and ends our ability to push those, the power from those wind farms down to that R-line, that probably wasn't a very good investment in the R-line. Now, we're not arguing the need for a backup line. The issue is the route. And then, to then use that right of eminent domain to bring from all those wind farms that you saw in that colored map. So if I can give you a number it would probably be pretty out of balance. Now maybe the ones that want the wind farms aren't as vocal and the ones I hear are the ones that don't want it, but this is a huge issue. And when I have a town hall the people that show up are the ones that are here to tell me why they don't want it there and the impact it's gonna be in the Sandhills and I don't see how you can look at this-- I mean, I struggle with the decisions that U.S. Fish and Wildlife have made. I've done it, I've struggled so much with it that we have a meeting with the new Department of Interior director and we've filed a formal Inspector General complaint because the folks in Denver lied to us about issues with the R-line and unbeknownst to them provided the very documentation to show that they are disregarding the biologists and are pushing forward with this R-line. And, and the, I think the IG is going to have a, an opportunity to inspect some of what's happening and find out really what's going on. But there are so many layers to this that it's hard to explain the reason these people are so passionate. I mean, we're gonna put wind towers and we're gonna put R, this R-line along a route that is a flyway for the endangered species, endangered species of the whooping crane, but we're not going to worry about the whooping crane, we're going to worry about something called a burying beetle. And why do we do that? Because we don't want to talk about something that might make it a forced issue of doing an incidental take permit and stopping the construction. And so it's easy just to ignore it and not let that be the reason why you do it. And so, you know, you have plenty of people that want to tout how they love green, but in reality what this is, is cutting a swath through the most beautiful place that we have in Nebraska all for money or stupidity in the case of the R-line. I'm sorry.

MOSER: [03:02:24] I know. I appreciate your passion for it and I admire you for wanting to wade into it.

BREWER: [03:02:29] Well, I've been wading in for two years now. I'm just glad to have a friendly committee--hint, hint.

HUGHES: [03:02:36] Senator Gragert.

GRAGERT: [03:02:36] Thank you, Senator Hughes. Senator Brewer, are you, are you aware, have you heard anything about the U.S. Fish and Wildlife Service releasing their findings this Friday on the R-line?

BREWER: [03:02:48] I did. And I wasn't happy about it. So you understand, too, I've done multiple meetings, I went to Denver to meet with the director out there. The heartache I have is that we have two excellent biologists here in Nebraska and they made the recommendation that we do a incidental take permit on the whooping crane. Because Denver-- and Denver is under pressure from lobbyists, especially from NPPD lobbyists, to approve R-line because they've got so much invested in it. They've got to muscle somebody. They've got to figure out a way to shove this thing down our throats one way or the other. So as a result of that pressure they are disregarding the biologists and they are at their level saying that that's bad science because what we had was tracking information from the whooping cranes that told us the routes they flew and that determination was made that it would it, would it kill or cause it to become extinct, the whooping crane. So Denver disregarded it, went with the full-speed-ahead plan, shoved that to D.C. and that's what D.C. has now. It's in that 30-day window. And it may be approved and this may start. I will tell you that the Inspector General for the Department of the Interior has said if he finds out that they have disregarded actual data, that that's going to change things. So this fight is not over, but it's, like I said, it's very

complicated.

GRAGERT: [03:04:13] Thank you.

HUGHES: [03:04:14] Senator Albrecht.

ALBRECHT: [03:04:17] Thank you, Chairman Hughes. So, Senator Brewer, obviously, you've had many talks with NPPD. Did you ask them to please not come today, because we didn't get to hear their side of it. My concern--

BREWER: [03:04:32] That was their choice.

ALBRECHT: [03:04:33] I know. I'm just, I'm just making a note that they're not here. But, again, with Mrs. Welch's papers that were served to them and within two weeks they're going to be on their property. And within that letter it said with 75 percent of the people are already in. Do you feel like we're, we're here, but a little too late?

BREWER: [03:04:56] Well, let's, let's--

ALBRECHT: [03:04:58] I know where you were [INAUDIBLE].

BREWER: [03:05:00] Well, let's take a look at this. We still have the fight that, with the Department of Interior Inspector General. So that, that fights on, we're still going to work that. And I think that is, is a critical thing that is being overlooked. NPPD wants to move forward. If that's, that's the way they want to do it then, you know, go ahead. But it's going to be my purpose in life to make sure that if there's any way possible to stop the R-line. If I can't, then guess what. You've got a

great big R-line tucked way up into the Sandhills and I'm gonna make sure that they don't run those [INAUDIBLE] lines and benefit the, the power companies that not, are not public power. So the very question you asked, you want to build a wind farm up there? You go ahead, because if you can't get the power out of there it ain't gonna do you much good. And, you know, we, we have struggled with this, this wind energy for the last two years that I've been here and the effects of it. And so, you know, we, we have strong feelings in Sandhills. The idea of building a 600-foot tower in sand is almost biblically a bad decision.

HUGHES: [03:06:13] Additional questions?

ALBRECHT: [03:06:15] Uh-huh. Thank you.

HUGHES: [03:06:16] Senator Moser.

MOSER: [03:06:16] Don't frown at me. How-- you brought this up. How close does this R-line get to like the South Dakota border? Is it still another 80 miles or 40 miles?

BREWER: [03:06:29] Yeah, that would probably be ballpark. I mean, you're running Highway 2 where you make the dogleg there at Thedford. And then you'd have to head north about 70 miles to get to Valentine and then you got to go north of Valentine to get to South Dakota. So it's a pretty good jaunt.

MOSER: [03:06:45] What's, what's the highway that goes through Broken Bow? Is that 2 or is that--

BREWER: [03:06:50] Yes, that's 2 that runs east-west.

MOSER: [03:06:53] OK. I've been up there.

BREWER: [03:06:55] Yeah.

MOSER: [03:06:56] So are we going to allow other, say there are other developments up in South Dakota. Would they be able to hook onto this line and have the NPPD transmit power by it?

BREWER: [03:07:08] Well, we, we opened Pandora's box when had become part of this, the Southwest Power Pool. And I think there will be a day that public power looks back on the day they did that and regrets it, because I think we will at some point no longer be public power. What we've done is put ourselves in a position where the Southwest Power Pool is going to control much of the decisions and much of what happens here in Nebraska. We prided ourselves on public power for all these years but it's been wind energy that has caused this death spiral that we've had of, of support for public power. And nobody's fighting with us over, over solar energy. I talked last week about how that's a very common thing we use on windmills now, but it's a completely different story when we start talking the wind part of it and the fact that we have excess energy. Why are we building more towers if we have excess energy. Well, we're going to sell to Southwest Power Pool. If we, if it's Nebraska Public Power let's have enough power for us. You need to have some in reserve, but there's nothing, nothing that's sustainable about a power source that when it's dark or the wind doesn't blow that neither one of them is giving us anything. You still have to run a power plant. You still have to have it ready because the wind can stop at any moment.

MOSER: [03:08:28] You need something to shave your peaks and supply [INAUDIBLE].

BREWER: [03:08:30] Well, get rid of the peaks and don't worry about it.

MOSER: [03:08:37] No. I'm saying--

BREWER: [03:08:38] We have, we have plenty of wind energy as it is, I guess is my point. We're starting this nightmare to cut a swath through the Sandhills and put up hundreds and hundreds of towers for what? To sell it to some other state. Take away our only true natural resource and no Sandhills so that why? We don't have the tourism that is, is the heart of the Sandhills?

MOSER: [03:09:00] Yeah, I wasn't trying to disagree with you but shaving the peaks of it. I was just talking about the, the other power sources are necessary to balance the wind because the wind doesn't blow all the time.

BREWER: [03:09:14] Well said.

HUGHES: [03:09:17] Any additional questions? Seeing none, thank you, Senator Brewer.

BREWER: [03:09:22] Thank you.

HUGHES: [03:09:22] That will close our hearing for today. I would like--