

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 15, 2023

BREWER: Good afternoon and welcome from the Government, Military and Veterans Affairs Committee. I'm Senator Tom Brewer, representing the 43rd Legislative District, and I serve as the Chair of this committee. The committee will take up bills in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your positions on the proposed legislation before us today. Committee members may come and go-- some have already gone-- during the hearing. It's just part of the process. We've got bills being introduced in other committees. I ask you abide by the following procedures to better facilitate today's meeting. Please silence or turn off any cell phones or electronic devices. Still looking for someone who knows how to run iWatch to shut mine off. Please move to the reserved chairs when it's time for you to testify, Shouldn't be a big problem today. Doesn't look like there'll be a big fight to get there. Introducing senator or their representative will make the initial statement, followed by proponents, opponents, and those in the neutral. Closing remarks will be reserved for the introducing senator. Normally, if the senator has someone introduce for them, we don't-- we don't make them close unless they absolutely want to, and then we're always willing to hear you out. If you're planning to testify, please pick up one of the green sign-in sheets on the table in back and please fill it out complete, in a legible way. If you wish to record your presence and not speak, there is white sheets back there that you can fill out and indicate whether you're pro, opposed, or neutral. If you have handouts, we'd ask for ten copies. If you don't have ten copies, we can have the pages make copies for you. When you come up to testify, please speak clearly into the microphone. Tell us your name and then spell both first and last name. We'll be using a light system. I think it's pretty clear. We can use the five-minute today, so it'll be four minutes of green, one minute of amber, and then the red light. No displays of support or opposition to bills, vocal or otherwise, will be allowed in the hearing. Committee members that are with us here today, I will start on my right with Senator Conrad.

CONRAD: Good afternoon. Danielle Conrad, north Lincoln.

RAYBOULD: Good afternoon, everyone. Jane Raybould, Legislative District 28, the center of Lincoln.

SANDERS: Good afternoon. Rita Sanders, District 45, the Bellevue/Offutt Community.

AGUILAR: Hi. I'm Ray Aguilar, District 35, Grand Island.

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

HUNT: I'm Megan Hunt from District 8 in midtown Omaha.

BREWER: Steve Halloran darted across the hall to do a presentation there in a committee. Dick Clark is the legal counsel. Julie Condon is our committee clerk. And our pages are Logan and Audrey. With that, we will welcome up Senator Machaela Cavanaugh to open on LB408. As a matter of fact, we're going to get to see a lot of you today.

M. CAVANAUGH: You are. You are. I think it won't be too painful, so long--

BREWER: No.

M. CAVANAUGH: --of hearings.

BREWER: Welcome to the Government Committee.

M. CAVANAUGH: Thank you so much. Chairman Brewer and members of the Government Communit-- Com-- Committee. Sorry. I'm Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, representing District 6, west-central Omaha, Douglas County, and today I am introducing LB408. LB408 adds a number of non-elected governmental bodies to the conflict-of-interest sections of the accountability and disclosure law. It would apply to nonelected governmental bodies, like planning commissions and some airport authorities, and other bodies in cities, mostly outside of Lincoln and Omaha. In Lincoln and Omaha, these governmental bodies are elected and are already subject to the accountability and disclosure laws and regulations. Other bodies, like library commission, in all cities across the state would be affected by this change. Why do I want to have all nonelected bodies to declare conflicts of interest? Because conflicts of interests don't have geographical boundaries. A conflict of interest is still a conflict of interest, no matter whether it's in Omaha or Ogallala. The size and scope of the conflict might be different, but then again, it might not be. The handling of the Omaha Library and the amount of money involved demands more accountability. That is my focus in the series of bills that we will be hearing today, but it's time to include other nonelected bodies that can also have big budgets and affect the lives of residents. An example would be a zoning committee. Being refi-- required to file a conflict of interest and abstain from voting isn't a large burden. It won't keep Nebraskans from serving on boards and committees. It does, however, provide de-- a decent amount of accountability that doesn't currently exist. The member with the

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conflict of interest has two options under the accountability and disclosure law. They can file the conflict with their local record keeper, like the city or county clerk. They can stop there and-- they can stop there, or they can file it with the Accountability and Disclosure Commission for a determination on whether it is a conflict or not. If it is filed with the local record keeper, they will need to abstain from voting on that issue. If it is determined by the commission to be a conflict, they need to abstain from voting on that issue. Doesn't sound too onerous, does it? You're going to notice a theme in the bills today. And I just-- I don't know. Chairman Brewer, you are a master, or your staff is a master scheduler. Based on the conversations we were having today on the floor, I would say that if you want to say one thing about me, you probably can say that I am consistent in my vigilance and a oversight hawk of the state of Nebraska and all of the business that we are doing. I am happy to take any questions.

BREWER: All right. Thank you for that opening. I got just a quick question. So if we were to, say, take this bill and put it into play out in my neck of the woods, it would affect-- if you had a planning and zoning board and say they were looking at a hog confinement facility, this would--

M. CAVANAUGH: Oh, I'm sorry, a what facility?

BREWER: Like a hog confinement facility.

M. CAVANAUGH: Oh, OK.

BREWER: Sorry, get the mic back down here. If they were making the recommendation to the county commissioners on whether to go yes or no on that confinement facility, the-- the law would force those who would be able to have a say in approving or disapproving that project, they would have to indicate if, say, they were invested in the very company that was building the hog confinement facility.

M. CAVANAUGH: Yes. So they would have to make it public. The-- the intention is to make it public when you have a financial interest in something that you would be voting on and then to recuse yourself from voting in that interest.

BREWER: Now it would just be the individual. So say if--

M. CAVANAUGH: Yes.

BREWER: --if your brother--

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M. CAVANAUGH: I have several.

BREWER: --owned the facility that was-- just an example here, not-- not John-- you wouldn't have to indicate that. It would only be if you had some type of a financial interest in the business.

M. CAVANAUGH: That is an excellent question. I believe you are correct. However, we have Frank Daley here today--

BREWER: We'll ask him.

M. CAVANAUGH: --so he could probably answer that question--

BREWER: Yeah, that's--

M. CAVANAUGH: --putting him in the hot seat of it.

BREWER: Well, that's why he gets the big bucks. OK. Let's-- questions on LB408? Senator Raybould.

RAYBOULD: Thank you, Senator Cavanaugh. Could you summarize it again? So basically, if I have a conflict of interest and I am on the planning commission, I have to state the conflict of interest. I file it with the pol--

M. CAVANAUGH: With the record-keeping office.

RAYBOULD: Office, so like the clerk in that--

M. CAVANAUGH: Yep.

RAYBOULD: --political subdivision. And then they can or cannot make a determination? There's no determination on their part?

M. CAVANAUGH: If you have-- I-- I believe, and-- and Mr. Daley can correct me if I'm wrong, but I believe that if-- if you do not believe that it's a conflict but you have-- it's a question for you, then you would file it with Accountability and Disclosure. If you know that it's a conflict, you would just file it with your local and then abstain from the vote.

RAYBOULD: OK, so--

M. CAVANAUGH: It's whether-- if it's a question, if you're unsure and you need a determination, then you would file it, I think--

RAYBOULD: OK.

M. CAVANAUGH: --with Accountability and Disclosure.

RAYBOULD: All right. Thank you.

BREWER: OK. Additional questions? Senator Lowe.

LOWE: Thank you, Chair. And thank you, Senator Cavanaugh, Machaela Cavanaugh--

M. CAVANAUGH: Yes.

LOWE: --making sure.

M. CAVANAUGH: "McCavanaugh."

LOWE: "McCavanaugh." So would you say you would file it and then you would abstain, you could not vote?

M. CAVANAUGH: I believe so.

RAYBOULD: Yes, it says--

M. CAVANAUGH: I believe you cannot vote. I have not conf-- yeah, you would abstain from voting.

RAYBOULD: Abstain from participating or voting.

M. CAVANAUGH: I-- I-- I'm willing to have a conversation over whether or not that's appropriate, and I would also welcome the input of Mr. Daley on that as well. My intention with this bill is to ensure transparency in government, and I understand if we have like a three-person zoning board and two of them abstain.

LOWE: We-- we have some counties with small population.

M. CAVANAUGH: Right, right, so--

LOWE: And they're all intertwined like this, so--

M. CAVANAUGH: Yes.

LOWE: --we may come up with a problem.

M. CAVANAUGH: We may come up with a-- I think we're very likely to come up with a problem, so I would-- I would happily entertain amending that. I would, of course, want to counsel with the

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Accountability and Disclosure Office on that, but I would happily entertain that change.

LOWE: Thank you.

BREWER: Yeah. And just for the record, on page 4 of your bill, line 20, it has abstain from participating or voting on the matter in which the member has a conflict of interest, so.

M. CAVANAUGH: Yes, so that's the question at hand that we can--

BREWER: You had it tucked in there nicely. All right. Other questions? All right. I'm assuming you're going to stick around since you're also the--

M. CAVANAUGH: I am.

BREWER: --the highlight of the show for a couple more of these.

M. CAVANAUGH: I am. We might be having a quorum issue again across the hall, so--

BREWER: OK.

M. CAVANAUGH: --I might pop in and out, but I am here and so is my staff.

BREWER: We'll-- we'll wait if we need to, no worries.

M. CAVANAUGH: Thank you.

BREWER: OK. So we will now go to proponents to LB408. Frank, welcome back to the Government Committee.

FRANK DALEY: Thank you very much, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission, and I'm appearing here today as a proponent of LB408. LB408 realistically does one thing. It applies the conflict-of-interest provisions to members of unelected government bodies. And in my mind, and in the mind of the commission, that's a good thing, because the conflict-of-interest provisions provide a method for dealing with conflicts of interest. And so those government bodies that are subject to the conflict law have a method for dealing with those conflicts. Those government bodies that do not, that are not subject to the conflict-of-interest laws, really do not

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have a method for dealing with them and it gets kind of awkward at times. Probably the best way to describe this bill is to illustrate based upon a question that Senator Brewer asked. So let us say that you've got a wind energy project in the makings in a county, and they need a special-use permit in order to proceed. Well, when it gets before the county board, if a county board member has an interest in that project, he or she is required to file a potential conflict-of-interest statement describing what the matter is before the county board, how they will be affected financially, either in a positive way or a negative way; and if the commission determines that actually is a conflict, then they're required to abstain from participating or voting on that matter. However, before it gets to the county board, it goes to the county planning commission, where the conflict-of-interest provisions don't apply. And so if you've got a planning commission member who has the same interest in the project as the county board member, he or she has no obligation to disclose it. The conflict of interest laws do not apply and it's-- there's just no process there. So I think the idea behind this bill is to plug that hole, to plug that gap so that folks that are on unelected boards or bodies that are making significant decisions have an obligation to disclose potential conflicts. Now, just so you know, because I know you're considering this, a conflict of interest under state law occurs if you, as a public official, are faced with taking an official action or making an official decision that could have a financial effect, either positive or negative, on you, a member of your immediate family, or a business with which you're associated. And the term "immediate family" is a defined term and includes your spouse, children living in your household, or someone you claim as a dependent for federal income tax purposes. It's kind of a narrow term. It doesn't include your adult children, it does not include your parents or grandparents unless they also happen to be dependents. A business association, you have a business association with an entity if you're an officer, director, partner, limited liability company, member of an entity, or if you hold stock with a certain value or representing a certain equity interest. So that's kind of how the whole thing works. So at any rate, I do want to thank you for giving me the opportunity to testify and to thank Senator Machaela Cavanaugh for her interest in this area and introducing LB408. Thank you, folks.

CONRAD: Thank you, sir.

BREWER: All right. Well, you-- you answered that question I was going to hit you with, is immediate family. So technically, your brother could own the company that you're hiring to do a project and that would not be a conflict of interest because it's not immediate family.

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FRANK DALEY: That's correct if you're-- now, if there's a contract between the county and the company, there's a somewhat different standard. It still doesn't apply to your brother, but would apply to parents and children regardless of connection.

BREWER: Good. All right, made that clear. All right, questions for Frank? John Lowe.

LOWE: Thank you. And thank you, Mr. Daley--

FRANK DALEY: Yes, sir.

LOWE: --for being here. And is there anything stopping people from filing a conflict of interest at this time?

FRANK DALEY: There is not.

LOWE: So they could voluntarily do that now?

FRANK DALEY: They could. But again, because there's no real process and they're not required to do it, I just don't think it enters into the thought process because there's no requirement. Certainly, if someone who was on a planning commission wanted to call us and ask what accountability and disclosure laws apply to him or her in a specific situation, we'd be happy to give advice. But I think some of the things we're seeing, particularly when you're talking about planning commissions and you're talking about wind energy projects and solar farm projects and hog confinements and chicken houses, is that you've got the citizens that are unhappy because they think a member of the Planning Commission has some sort of interest, but they have no obligation to disclose it. I think that's part of the concern.

LOWE: What would happen if a majority of the members had interest in a project that was coming down the way?

FRANK DALEY: The same thing as would happen now when it would happen with a county board that is subject to the conflict-of-interest provisions, and that is that all would disclose and then all could participate in the vote. I think the concept is that if-- conflicts of interest cannot stop a government body from governing. It can stop an individual from participating in an action, but if everyone with a conflict prevents the action from taking place-- now let's just say we have a five-member board and one has a conflict and the other four split 2-2. The exception doesn't come into play. But if you have a five-minute-- a five-member board, you need three votes and three people have a conflict of interest, that would prevent the action from

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taking place, and so then all would be required to disclose and then they could vote. And then if the public was unhappy, they at least knew what happened and they could express their unhappiness at the ballot box.

LOWE: All right. Thank you for clarifying that.

BREWER: Actually, there's been counties where that has happened, so--

FRANK DALEY: I'm aware of those.

BREWER: --I know it works. When you make people angry, they remember you at the ballot box, so.

FRANK DALEY: I am aware of those, so.

BREWER: All right. Additional questions for Frank? All right, thank you, sir.

FRANK DALEY: Thank you very much.

BREWER: All right. We're going to continue with proponents to LB408. All right. Any opponents to LB408? Anybody here in the neutral? Senator Cavanaugh.

M. CAVANAUGH: Brought up my binder for the next bill. Thank you so much. And thank you to Mr. Daley for answering the questions. And I think it is clear that we-- striking the language on the not participating in the vote is probably a good move to make if we are to move this forward. With that, I will answer any questions.

BREWER: I don't have any. I just need to-- for the record, you had no one in the neutral and you had no opponents and you had no one testifying, so right now we've got proponents and that's it, hint, hint.

M. CAVANAUGH: Wow. It's amazing.

BREWER: All right.

M. CAVANAUGH: A Machaela Cavanaugh bill that has just proponents?

BREWER: I was just-- just trying to coach a little bit here. OK. Any other questions? All right. Why don't we go ahead and have a quick transition to our next bill, which will go to LB410-- oh, well, yeah, three-- three letters as proponents, none in opposition and none in the neutral.

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M. CAVANAUGH: Sorry, I had them in chronological order, LB410.

BREWER: That's all right. We've--

M. CAVANAUGH: All right.

BREWER: --shuffled the deck a little for you there. All right, LB410.

M. CAVANAUGH: LB410. Good afternoon. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, representing District 6, and I am introducing LB410, which requires members of the Omaha Library Board to declare possible conflicts of interest with personal interests or that of family members or their business, so this one is a little bit more specific. The submission of the conflict has two levels. The first is submitting the report to the record keeper, and so probably the city clerk, and then the member would abstain from voting on the issue in conflict. This is very specific to the Omaha Library Board. Not everyone here is-- might not be familiar with this. The Omaha Library Board pushed forward what they would say is not quickly, but what the public would say was quickly, as far as the public view was, the decision to sell, move and demolish the downtown library this past year. So we move-- we-- we moved our downtown library to a temporary location, sold the-- the land to Mutual of Omaha. It has now been demolished and it has been TIFed and will be rebuilt as a new corporate headquarters for Mutual of Omaha. Our Library Board is appointed by the city, by the mayor, I believe, and is not a elected board, and there are members on the library board who may have made financial benefit to a very extreme degree in all of this process, and so this is an attempt to provide more clarity and transparency in the work of the Omaha Library Board. I think it is unfortunate that they conducted themselves in the way that they did, but I think it's important to learn lessons when things like this happened and it is incumbent upon those of us in these positions to create greater transparency. And of course, as pretty much every time I'm in front of this committee, I am here to create greater transparency for the people of Nebraska. So with that, I'll take any questions.

BREWER: All right. Thank you. Senator Raybould.

RAYBOULD: So, Senator Cavanaugh, would your earlier bill, LB408, include the Library Board as well?

M. CAVANAUGH: It would; however, if we were to make the change that we discussed, they would not have to abstain from voting, and I would want them to abstain from voting, the Omaha Library Board. Our library

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system is very robust in Omaha and it is-- most of our libraries reside on what I would say is valuable land. And so to have that land sold privately to private entities without transparency and without-- and with those that are financially benefiting from it, we don't have that problem of-- of it being too small of a board. So I-- I want to ensure that when these types of transactions are happening, that those that are directly financially benefiting are not voting for them.

RAYBOULD: OK.

BREWER: OK. Additional questions? So your first one was general.

M. CAVANAUGH: Yes.

BREWER: This one's very specific.

M. CAVANAUGH: This one's very specific.

BREWER: Gotcha, with--

M. CAVANAUGH: Yes.

BREWER: OK. Well, let's see if we have some testifiers.

M. CAVANAUGH: Not sure that we do.

BREWER: All right. We're looking for proponents to LB410. Opponents to LB410? Those in the neutral for LB410? Frank, welcome back.

FRANK DALEY: Thank you so much, Senator. Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, my name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission, and I'm appearing on behalf of the Commission in a neutral capacity as to LB410. As you heard, LB410 extends the application of the conflict-of-interest laws of the Accountability Act to members of essentially the Omaha Library Board. And while we applaud the extension of the conflict-of-interest laws to unelected board members, we think that the more global, comprehensive application of LB408 is to be preferred. Nevertheless, I thank you for the opportunity to testify today and appreciate the fact that Senator Cavanaugh has a real interest in the ethics provisions of the act.

BREWER: All right, thank you. Let's see if we have questions. Questions? Senator Hunt.

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HUNT: I had to step out for the introduction, so this was maybe already mentioned. But just to be clear, if the previous bill we just heard, LB408, passes LB410 would kind of be encompassed in that.

FRANK DALEY: Yes.

HUNT: Correct? OK. Thank--

FRANK DALEY: Yes.

HUNT: Thank you very much.

BREWER: All right. No other questions. Thank you, sir.

FRANK DALEY: Thank you.

BREWER: OK. Anyone else in the neutral? All right, Senator Cavanaugh, come back up, and I have more numbers to read in here.

AGUILAR: She waives close.

BREWER: You waive close? OK, well, then all the more reason I need to do some quick reading here. All right, so: proponents, two; opponents, zero; neutral, zero. So that will close the hearing on LB410 and transition to LB409.

M. CAVANAUGH: Thank you, Chairman Brewer. I'm sure you all were like, oh, goodness, we have three Cavanaugh bills back to back to back, and look at this, lickety split. My name is Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, representing District 6. And I am introducing LB409, which makes the library board of a metropolitan class subject to accountability and disclosure that the members of the board file annual financial statements. I-- seriously, Senator Brewer. Chairman Brewer, your committee, just excellent timing on the scheduling of these bills. I talked about the C-1 form this morning on the floor.

BREWER: You did.

M. CAVANAUGH: I talked about conflicts of interest on the floor. I-- and I actually did that not even thinking about the afternoon, so I guess it was just kismet. So this bill would just extend the filing of the C-1 form to include library boards. I think we're catching onto a theme here, that I think that the library board, specifically in Omaha, needs greater transparency and oversight. And to Senator Hunt's question on the previous bill, LB410 also had the provision that they

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could not vote on conflict of interest. I would love to move forward that provision for specifically the Omaha board. However, I will take any version of any of the three of these bills. I think all of them would provide greater oversight and transparency. I will definitely waive closing on this one. So I just would like to say thank you to Mr. Daley for coming in on all three of these bills. Well, he might not be-- I don't know if he's coming in on this one or not, but coming in today. And also, I would like to thank Mr. Daley for always taking my-- my calls and my questions, because, believe me, probably a shock to no one, I have called Mr. Daley numerous times over the last four years with accountability and disclosure questions.

BREWER: That we all have.

M. CAVANAUGH: With that, I will take any questions you have.

BREWER: All right. Thank you, Senator Cavanaugh. Let's see if we have questions. Senator Halloran.

HALLORAN: Hello. Thank you. Thank you. Thank you, Mr. Chairman. Thank you, Senator, for bringing this bill. Can you give us some specifics about the Omaha Library board that spurred the interest in the--

M. CAVANAUGH: Oh, I would love to talk about this again. Thank you so much, Senator Halloran.

HALLORAN: You're welcome.

M. CAVANAUGH: Well, the Omaha Library Board pushed through a sale of the downtown library, and then they moved the-- the downtown library, which is really the central library in Omaha, to a temporary facility. I don't believe we even have a permanent facility yet for our central library. They might even be decentralizing it and privatizing it. But the down-- the Library Board voted to push all of this through without really any public input or transparency, and it is still unclear to me what financial interests members of the library board have in this project. So we-- they sold the building, the property, to Mutual of Omaha. It's been torn down. Mutual of Omaha is building there. We've TIFed the land, which I would love to have a robust conversation about TIF. I think I have some bills on that in another committee. We TIFed the land, and this also is kind of in conjunction with-- you may have heard about a streetcar in Omaha.

HALLORAN: Street call-- car called Desire.

M. CAVANAUGH: Yes, or "Undesirable"--

HALLORAN: OK.

M. CAVANAUGH: --to some of us. So we TIFed the land. And this-- obviously a project of this magnitude involves a lot of different entities, a lot of different construction problem-- people and developers, etcetera, and it is unclear if there are any financial interests from the members of the Library Board in all of this.

HALLORAN: OK.

M. CAVANAUGH: So that is what spurred this.

HALLORAN: That's very helpful. Thank you.

M. CAVANAUGH: You're welcome. Thanks for the question.

BREWER: OK. Additional questions? All right.

M. CAVANAUGH: And I will waive closing.

BREWER: We'll-- you will waive closing?

M. CAVANAUGH: Unless-- unless you want me to come back.

BREWER: No, I--

M. CAVANAUGH: But I feel like you probably have gotten your questions answered.

BREWER: OK, just remember my--

M. CAVANAUGH: --and I might be the only one testifying, so.

BREWER: --remember my hint on that first bill, OK? All right.

M. CAVANAUGH: I thought your hint was that you like a short bill.

BREWER: Well, I do.

M. CAVANAUGH: Well, there you go.

BREWER: I like the ones that don't have a lot of opposition, too; it speeds up the afternoon. All right. Are there any in, let's see, proponents for LB409? Opponents for LB409? Those in the neutral for LB409? Just remember, we-- we're trying to help you be more efficient by scheduling all these on the same day.

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FRANK DALEY: And I appreciate the help. And by the way, Senator, I really need the help at this time of year, so thank you. So, Chairman Brewer and members of the Government, Military and Veterans Affairs Committee, my name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission, and I'm here on behalf of the commission in a neutral capacity. As you've heard, LB409 would obligate the nine members of the Omaha Library Board to file annual statements of financial interest. We're taking a neutral stance because we're not really quite sure we understand why we want to add these folks. But I do want to state that if this bill were to pass, the Commission could, nevertheless, easily administer and enforce the law, so there is that. I guess that's about all I have. So, again, thank you, committee, for the opportunity to testify. And once again, thank you, Senator Cavanaugh, for your interest in this area of the accountability and disclosure.

BREWER: OK, Questions for Frank Daley? You're going to get off easy. Now, let's see.

FRANK DALEY: Thank you, Senator.

CONRAD: Thank you.

BREWER: You still have a couple more rounds to go?

FRANK DALEY: I do.

CONRAD: OK. All right.

BREWER: Just double checking. All right. Well, Senator Cavanaugh waived the close. Is there any more neutral? All right. And just so we got it in the record, we have two proponents, no opponents and no one in the neutral in the letters. All right. Now we're going to switch to LB569, Senator Bostelman, and we may have to hang on just for a little. Since we went so fast, they may not be quite ready to-- to key up here. Yeah. Normally if you're fourth, you're not up at 2:00, so good on us. We went a little quicker than expected. Sorry about that. We-- but we-- we're ready for you whenever you want to start.

BOSTELMAN: All right. Thank you. Good afternoon, Chairman Brew-- Brewer and members of Government, Military and Veterans Affairs Committee. My name is Bruce Bostelman; spell that B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I'm here today to introduce LB569, which would prohibit members of any county board or planning commission or members from their immediate family from having a financial interest in any new contract for the siting,

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development or construction of any-- any new electric generation facilities. The bill would not prohibit-- prohibit anyone from ins-- installing facilities, say such as solar panels on their own house or property for their own personal use. I want to be clear this bill does not affect any current existing contracts, as this bill only applies to any signed on or after the operative date of this act. I'm bringing this bill after several instances across Nebraska in which elected county officials have voted to approve electric generation contracts that happen to be on their land or the land of one of their immediate family members. In 2021, the Saunders County-- the Saunders County supervisor was recalled and removed from office because her son was a main party to a contract involve-- involving a large energy generation project. In Cherry County, of the three commissioners, two of them had family members who were directly involved in new electric generation contracts and own property where these facilities are scheduled to be erected. Both of these commissioners voted to approve these projects. As elected officials, we have a duty to be impartial and not to enrich ourselves or our family by using the capability of our offices. Just as last year the Leg-- just as last year the Legislature has prevented employees of the Department of Natural Resources from having financial interests in the Perkins County Canal Project and the lake project, we should not elect county officials-- we should not pre-- we should prevent county-- elected county officials from having financial interest in new electric generation contracts. If a county board member would like to have an electric generation facility sited on their property or their family's property, they can simply resign. I believe this is an important issue to take up, and I ask for the committee's support of LB569 and its advancement to General File. Be glad to answer any questions you have.

BREWER: Thank you, Senator Bostelman. All right, just for the record, on the Cherry County, the Planning and Zoning Board recommended not to move forward with the project after a year and a half of research, and then the county board made the decision to go forward with the project, which is what kind of generated the opposition from the public and the hoopla that came with that. So there was a Planning and Zoning Board. They made a unanimous, I think, recommendation not to move forward with the project and then the county overrode. OK, questions on LB569? Yes, Senator Hunt.

HUNT: So would an example-- thank you for being here. Would an example of this be like voting on like a wind energy development and then the turbines are put on the land of a person on the commission?

BOSTELMAN: Exactly, yeah.

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HUNT: OK. Thank you.

BOSTELMAN: Um-hum.

BREWER: And this would-- no, and you-- this is solar and--

BOSTELMAN: This would be solar. This would be wind. This would be hydro. This would be natural gas. This would be nuclear. This would be any-- any generation. And specific, you know, we're talking about Cherry County, since that land was locked up as it is now, signed in contracts, now that the solar project wants to move in there, they can't. There's no land available. They can't have enough ground to do something like that. So it's really to-- to ensure that we have the availability to do those and if they do want to sign those, that they, you know, they can resign their office and someone else can sit in or-- or pass. We did this same thing last year. This was Senator Machaela Cavanaugh's bill, so we did the same thing last year on the Perkins Canal and on the Ashland.

BREWER: Oh. OK. I did not know that. I guess I did, but I didn't. All right. Any other questions? All right. You-- yes--

RAYBOULD: Oh.

BREWER: --Senator Raybould.

RAYBOULD: Thank you, Senator Bostelman. The one question I have, I know in Senator Machaela Cavanaugh's bill, LB408, that she presented just a few moments before, said, if you're a county commissioner or on the Planning Board, you-- and you have that conflict of interest, you just can't vote on the matter.

BOSTELMAN: Yeah, so--

RAYBOULD: Is that--

BOSTELMAN: So that happened in Saunders County.

RAYBOULD: OK.

BOSTELMAN: And then there was a recall election. That person was removed. So if we go to Cherry County, there's three commissioners. Two of them voted. If they both recused themselves--

RAYBOULD: Yeah.

BOSTELMAN: --that project couldn't go forward no matter what.

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RAYBOULD: Oh, I see.

BOSTELMAN: So the thing is, it's just trying to eliminate that-- those situations from arising. So either way, you know, one person did recuse-- did recuse, did not vote. Recall election removed. The other case, three commissioners, two voted for-- it was the commissioners, I believe. Two voted for, so if they would have recused themselves, you wouldn't have a majority vote anyway on the board, so that's an issue.

BREWER: OK. Any other questions? You'll stick around for close?

BOSTELMAN: I will.

BREWER: All right. Thank you. OK. We will start with proponents to LB569, LB569, proponents. Anyone here in opposition to LB569? Welcome to the Government Committee.

JON CANNON: Thank you, Chairman Brewer. Members of the Government, Military and Veterans Affairs Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of the Nebraska Association of County Officials, also known as NACO, here to testify today in opposition to LB569. First, thanks to Senator Bostelman for bringing this issue to the committee's attention. We think it's a good discussion to have about what accountability and disclosure requires of all of us as elected officials. I do appreciate him clarifying what happened in Saunders County. The delightfully named Doris Karloff, she abstained from the vote because her son had an interest in a project that was on his land, and even with that abstention, she was removed from office. Senator Brewer, you've already ably discussed what happened up in Cherry County, so I won't go into that. I want to note that our opposition is not related to the merits of wind, solar or any other kind of-- of power. Strictly, logistics is why we're here. The broad definition of immediate family is something that is terribly concerning to us. My portfolio is for 93 counties across Nebraska, and I think most of you are-- are acutely aware that a lot of them, they're losing population. I can tell you that in Sioux County, in the middle district of Sioux County, there are 17 families that own every parcel of property. And between them, you've got all generations represented, father, son, grandparent, sisters, all that good stuff. And if you were to preclude people from having an interest, there's-- there's not going to be able to any-- to-- to have anybody that's able to actually run for that board. And so if you could narrow the definition that we have to what we have in 49-1425, that certainly would be in line with how we're already doing things. Another possibility is to have a population break for sparse counties-- for

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sparsely-- for sparsely populated counties. The other issue that we have is that this seems to encompass the entire state from the language of the bill. So I-- I know for a fact that there is a Keith County resident that has grandparents that live in Holt County. In Atkinson, they've got a solar farm, a community solar farm, a 180-- 80-kilowatt. With a population of around 10,000 people in Holt County. you might presume that someone might have a financial interest in an electricity generation facility up in Holt County, and that means that that person that's a resident of Keith County can't run for a board or be on the Planning and Zoning Commission. That seems to be way beyond the scope of what was intended here with this bill. We recognize there are always going to be conflicts. We've got a very able Accountability and Disclosure Commission. Frank Daley does a tremendous job, as you alluded to, Senator Brewer. He's taken calls from, I think, everybody in this room, probably, at one time or another, and has certainly has demonstrated unceasing patience with county officials when they call him. We think that this bill is over broad and we also think it can be accomplished through, frankly, through disclosure of some sort, something that's adequate for the public to know or be adequately informed on-- on who's receiving what benefits. With that, I'm happy to take any questions you might have, and I appreciate that this is my first appearance in front of the Government Committee this-- this year.

BREWER: All right. Thank you. Let's now see if we have some questions for Jon. Senator Hunt.

HUNT: Thank you, Chairman Brewer. Good to see you, Mr. Cannon.

JON CANNON: Good to see you, ma'am.

HUNT: You. You spoke to sort of a question that came to mind during the opening, which was, in some of these counties-- first of all, like totally for transparency, 1,000 percent, conflicts of interest, if-- if they must exist, should at least be disclosed, like people ought to know these things for sure. But could it be that there are some counties where it's just hard to find people to serve on boards and commissions and elected positions that aren't big landowners or--

JON CANNON: That is a constant issue. And like I said, with-- with Sioux County and the middle district, 17 families own everything, and it's hard to get-- it's going to be really, really hard to find someone that's-- that's not really somebody that has an interest in an electric generation facility. And so if we're going to preclude any member of those-- any one of those 17 families from serving on a board

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or a commission, we're going to start running out of people that are able to run real quick.

HUNT: So. I'm just looking at the-- the bill here. No member may have a financial interest, so it's not saying that they have to disclose the financial interest, but that they can't be on the board or commission at all.

JON CANNON: Yeah. I believe in Senator--

HUNT: OK.

JON CANNON: --Bostelman's opening he said, you know, if they have an interest, they can just resign.

HUNT: Yes, that's right. And then it defines a family member as a spouse, child, sibling, parent, grandparent or grandchild. And you cited 49-1425, which would define it as a child residing in their house, a spouse, or anyone that's claimed as a dependent. And that's a definition that you would prefer?

JON CANNON: That-- it's a much narrower definition, and it's one that we already have in existence, and we could certainly live with that.

HUNT: OK. Thank you, Mr. Cannon.

JON CANNON: Yes, ma'am. Thank you.

BREWER: That was kind of where I was going to go with this is, when we get to the dependents, we talked about it being dependent children or the spouse. If we narrow it to that, then it wouldn't matter if you had 17 or however many families. You're narrowing to it a pretty small group then, wouldn't you?

JON CANNON: That's correct, sir.

BREWER: OK. All right. More questions? Senator Raybould.

RAYBOULD: Thank you very much. So that-- I believe, and we discussed it with Frank Daly here, that any elected official is already under that umbrella of disclosure--

JON CANNON: Yes, ma'am.

RAYBOULD: --including the county board, so they have to file-- just like the example of the county commissioner in Sanders County, she disclosed it to everyone that her son would benefit from the solar

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farm or wind farm, and that then she was still recalled. And I think-- I guess our-- our voters have that absolute right to recall anybody they want.

JON CANNON: They-- they-- yes, ma'am, they absolutely do, and I would add-- and-- and perhaps this is where the angst-- and it's not for me to judge the intentions of the people in Sanders County. They-- that's why we have elections. But I-- I will note that, in that situation, she did not need to recuse herself, you know, because he was not a dependent child living with her. She felt it was best for her to abstain from a vote just because of the appearances.

RAYBOULD: Right, and it sounds like she was trying to do the right thing, but still got recalled no matter what. But I know in-- in Senator Machaela Cavanaugh's, in LB408, she talks about planning boards that are appointed boards would still be beholden if they have a conflict of interest, but it's based on that narrow definition of a family member that would be the beneficiary. It doesn't in-- it only includes a child who resides or is a dependent, so--

JON CANNON: Yes, ma'am.

RAYBOULD: And I-- I see where the conundrum is with this one.

JON CANNON: Yes, ma'am. Thank you.

BREWER: And just so you guys know, on the-- in the Cherry County one, the issue was brother and father invested and the issue was, OK, so if the father was to pass, then you could directly benefit from the financial gain by being a part of that. So it got very muddy and then, of course, when the people sue the commissioners and it becomes an expensive, painful process, that's kind of how that got to where it was. So if you have immediate family and it's just the children, if they're dependent, or the spouse, you could be surrounded with a lot of people who directly benefit from what you're about to make a decision on, and that goes back to, you know, refusing to make the vote, but-- all right. Other questions for Jon? All right. Thank you.

JON CANNON: Thank you, sir. Much appreciated, everyone.

BREWER: Justin, welcome to the Government Committee.

JUSTIN BRADY: Chairman Brewer, members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as a registered lobbyist for the concerned property owners of Sioux County. Mr. Cannon laid a lot of that out ahead of time. Every county is

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unique in their own way. Sioux County is unique in the way of a very limited population. Put in perspective, there are about 1,100 people in Sioux County. That's about 200-300 less than there were five to eight years ago. It's unfortunately been trending at about 15 to 17 percent negative. I looked up some statistics. You've got about 30-- 28 to 30 percent of those people in Sioux County are under the age of 18, so, again, you'll take those people out. I mean, so you start to get down to start-- to start with before anything like LB569, you already have a very limited pool of individuals to be able to run for county boards or county planning commissions. I should back up and say I've had discussions with Senator Bostelman. The property owners of Sioux County are not at all opposed to what he's trying to get at of disclosure and-- not just disclosure, but does not want-- my words, not his-- deals to be cut in the middle of the night, to then turn around the next day and people vote on them. They are not-- I mean, that is not their intent to be here; their intent, that this bill cast a wider net that puts counties like Sioux County in trouble of being able to find people that will serve on their boards and planning commissions. And so with that, I can stop and try to answer any questions.

BREWER: Well, since I'm out in Sioux country, if you have someone and there are large landowners and he decides that there is financial gain by saying put as big a solar farm as you want on my land, and he happens to also be on that, say a commissioner, or say it's his brother, because then this actually would apply-- or wouldn't apply as far as him directly or his immediate family. How do you keep them honest so that that doesn't happen and they benefit immensely from a major project? I mean, I can see how there has to be some type of a check or else, if you were the guy that was designing these solar farms or whatever, wouldn't you purposely try and work to find that person who could be the-- the touchpoint for you to be able to get in and get your project?

JUSTIN BRADY: I think there's-- obviously, yes, there's the incentive for companies to come in and say, I want to work with the people that eith-- either (A) making decisions or (B) are around the people that are making decisions. I think a lot of that can be solved by disclosure. I'm going to-- I don't know if Mr. Daley is going to testify or not. I think there are-- there are some punishments that the Accountability and Disclosure has as far as individuals that don't disclose and move forward financially. I presume there's also some civil actions that could take place. I do think there are procedures in place. Whether or not we need to tighten those procedures up, Senator, I-- I'm willing to look at and see how to do that. But as far

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as casting the net this wide, and I'll give you an example, I mean, on yours. So say I've lived out in Sioux County and my brother lived-- take the other side of the state, was down in Senator Slama's district way at the other corner of the state, and he was-- had some sort of interest. He had land that somebody-- or a concrete company that somebody hired to help with a generation facility. I, all of a sudden, am precluded in Sioux County from serving in the way this is currently drafted, because it says if there's any connection in the state, so it doesn't even have to be to the project that may be going into my neighbor's land or my land. It can be anywhere in the state. It also says if any of these immediate family members have a direct or indirect, and I don't know where that-- I mean, I think we can all define what direct is. I think you start getting into indirect, does that mean my daughter or sister who owns a mutual-- who invests in a mutual fund and benefits from solar companies, because that's an indirect benefit and, therefore, am I precluded from ever signing a contract or am I precluded and have to leave the county board if a wind farm shows up on my farm or ranch? So I get it, the spirit of it, of what Senator Boswell is trying to do, absolutely understand. It's just, like many things you do, these logistics of how do we-- how do you take the concept and put it on paper and then be able to enforce it that doesn't have all these unintended consequences out there?

BREWER: That is a challenge we have here every day.

JUSTIN BRADY: Yes.

BREWER: All right. More questions for Justin? All right. Thank you for coming and testifying and enlightening us.

JUSTIN BRADY: Thank you.

BREWER: OK. Next opponent to LB569. Welcome to the Government Committee.

JOHN HANSEN: Chairman Brewer, members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union, our state's second-oldest, second-largest general farm organization. So I am passing out my care package of background materials that-- that is probably more than you want or need or can use, but it does have the basics of the sources for wind energy, solar energy, and it also has several pieces that also help identify the-- the economic impacts of those two different sources of renewable energy. And it also has, because this also gets wrapped around this issue every time it comes up, is also the growing

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impact that we're already absorbing relative to extreme weather and extreme climate changes, and these are very substantial financial things, and so there's two articles in the-- that have come out just in January from NOAA describing that damage. So relative to this issue, we are understanding, I think, what Senator Bostelman is trying to get at here. But the umbrage that we take is that, when you single out one thing, which we consider an agricultural activity, and that's wind energy development, because we obviously can't put wind projects in city areas, that would be inappropriate and irresponsible, so if you can't put them in city areas, they go to country and rural areas. So landowners across the state of Nebraska are-- are taking advantage of the opportunity to diversify their income streams and put in wind projects. So we're singling out one new form of agricultural activity and giving it a really heavy dose of conflict of interest, and I would suggest that those standards are higher than we have for other public entities, including state senators. And so if you think about what county planning and zoning folks do and what county commissioners vote on, if you were to apply the same standard to a whole lot of other things, well, everybody has an interest, directly or indirectly, to an awful lot of things that those two entities vote on. And so in-- in a lot of counties, for example, you know, there's just not that many folks that provide feed or that provide supplies or supply other things, so you look at livestock entities, you look at all of those things. So if you single out one kind of thing for agriculture and then one kind of activity, then, you know, are we also going to then at some point on down the road, are we also going to put in the same kinds of standards relative to folks that, instead of harvesting wind, for example, harvest corn, wheat, soybeans, grain, sorghum, sugar beets, dry edible beans, all of those other things? Well, if you apply that standard, that doesn't make any sense because we don't have anybody left to serve. So we think that, if we had our druthers, if you're going to go down this road to try to prevent conflict of interest, that, as I sat in the hearing today, that LB408 makes a lot more sense in that it applies to a whole host of things. It doesn't single out any one area, but it also sets up a process that-- that appears to us to be more fair and reasonable relative to identifying conflict of interest and then how do you deal with it when it comes up, and we think that that would be a much preferable way to get at the issue at hand. And is it an issue? Yes, it is, and it's also an issue, quite frankly, for livestock operations and a whole bunch of other things that we do at the local level. And it's not a-- not-- it's not an issue that I'm not unfamiliar with and that I've been actually thinking about and grappling with ever since I first got involved in the-- the business of helping set up planning and zoning

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in Madison County in the mid-1970s. So you want interested-- you want interested and capable people to step forward and yet in a lot of our counties, we struggle to find the people that we need to be able to do that. So with that, I would end my testimony and answer any questions if I could. Thank you for your time and attention.

BREWER: All right, thank-- thank you, John. OK. Questions for John? All right. Thank you for your testimony.

JOHN HANSEN: Thank you.

BREWER: Next opponent to LB569.

AL DAVIS: I'm coming.

BREWER: OK. Are there any other opponents? OK. Welcome to the Government Committee.

AL DAVIS: Thank you, Senator Brewer. My name is Al Davis. A-l D-a-v-i-s. I'm the registered lobbyist for the Nebraska chapter of the Sierra Club, here today to oppose LB569. LB569 is an example of legislative overreach by a senator who wants to sabotage one industry over another by disqualifying any individual who has an interest in that industry from public service, however remote. Let's remember that the renewable industry is a legal industry which has provided millions of dollars in income to Nebraska's farmers and ranchers, millions of dollars in tax relief, and provided a number of good-paying jobs across Nebraska. It's basically a pollution-free industry, unlike the coal and natural gas industry which do contribute to global warming. It is well known that the senator's family members are engaged in other energy sectors over time, one-- at one time, which can be interpreted by many as a conflict of interest on the part of the senator himself. Restricting board membership based on ownership or interest in a legal industry is a slippery slope and an insult to the democratic process. Every county supervisor is elected by the voters in his or her county. It is the duty of the county supervisors to appoint members of the planning and zoning committee in an elected position. But the voters have the ultimate say about who serves on both planning and as a supervisor by the voters cast-- by the votes cast for that position at an election. Banning individuals with a remote interest in the legal industry from service on a board is punitive and undemocratic. So what is ownership? For example, I own shares in NextEra. Would I be disqualified from board membership based on that investment? The bill reads that way when it calls for anyone with an interest, which is a party to a contract relating to operation of an

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electric generation facility. What about investments in my 401(k) which I don't manage but own? And how do you define siblings? There are siblings who have never met. Are their actions construed-- construed as justifying disqualification? Rural Nebraska is not blessed with an abundance of individuals who are willing to serve on county boards, let alone planning and zoning boards. Limiting the pool of individuals in this way only weakens the authority of the boards themselves, because in many counties across the state, 20 percent or more of the population may be disqualified from serving based on the rules laid out in this bill. The bill addresses conflicts of interest. Couldn't it be said that every senator serving in the Legislature who owns a home has a conflict of interest when voting for property tax relief and, under the terms of a bill like this, should be disqualified from serving in the Legislature, if we applied the intent of this bill to all legal extremes? By these standards, that would certainly be the case. There is already a process by which conflicts of interest are vetted. It is called the Accountability and Disclosure Commission. A few years ago, it ruled on three commissioners in Cherry County whose extended family members have an interest in the renewable industry. These individuals complied with the actions of the commission, just as they should have. The bill should not be advance-- advanced and should-- in fact, it should be de-- indefinitely postponed as bad for business and a black eye for democracy in Nebraska. Thank you.

BREWER: All right. Thank you for your testimony. Questions for Mr. Davis? All right. Thank you for your testimony.

AL DAVIS: Thank you.

BREWER: All right. We'll make one more run at the opponents. Anybody here in the neutral? Come on up. Welcome back, Frank.

FRANK DALEY: Thank you. Chairman Brewer and members of the Government, Military and Veterans Affairs Committee. My name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission, and I appear in a neutral capacity as to LB569. The text of LB569 does not make clear if this is intended to be part of the Accountability and Disclosure Act or if it is to be part of Chapter 23, applicable to county officials. There is some indication that the-- from the Bill Drafters that the intent is that it goes in Chapter 23, in which case I guess I don't have to worry about it. But just in the event that it ends up in the Accountability and Disclosure Act, I think I have to tell you that the bill probably needs a little bit of work. By way of example, the bill

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uses the term "immediate family member" and defines that term. The Accountability and Disclosure Act also has the term "immediate family member" and defines that term. But the definitions are different, and so there would be some harmonization which would need to take place. My thought would be that if this were to end up in the Accountability and Disclosure Act, perhaps the language in the bill could be changed to use a different term, such as "designated family member," and then you could define it any way you wanted and it wouldn't conflict with what's in the Accountability and Disclosure Act, and it wouldn't event-- essentially throw out several decades of advisory Opinions and Opinions that the commission has issued based upon the current definition. It's sort of unclear, if this were to end up in the Accountability and Disclosure Act, what the commission's role would be if a commissioner has such an interest, a county commissioner has some interest in a energy project, energy-generation project. It doesn't really say what it is we're supposed to do with that, so that might be something that would need to be addressed. At any rate, just wanted to alert you to a couple of these issues. Again, it may not end up in the Accountability and Disclosure Act at all, in which case it would probably end up in Chapter 23 and we would have no jurisdiction over the matter. Thank you for the opportunity to testify today.

BREWER: All right. Well, thanks for helping us to understand a little bit more. Senator Raybould.

RAYBOULD: Thank you, Mr. Daley, for helping us sort through these issues. Senator Bostelman in his opening gave one of the examples where there were two commissioners that had a conflict and then they-- I guess they recuse themselves from it. But then you also gave an example in your-- the first bill that we were dealing with by Senator Cavanaugh, LB408, where you talked about the functionality of government. Could you rehash that one again, please?

FRANK DALEY: I think you're talking about a situation which maybe multiple members of the governing body--

RAYBOULD: Yes.

FRANK DALEY: --have a conflict of interest?

RAYBOULD: Correct.

FRANK DALEY: Sure. So let's just say we're talking about a county board because that's easy. If there's something coming before the county board which may have a financial effect on a member of the

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county board, they're required to disclose that matter in writing to the Accountability Disclosure Commission. We examine it and determine if they have a conflict of interest as defined in the Accountability and Disclosure Act. If-- if so, they're advised to abstain from participating or voting in that matter. However, if the number of people on a board with a bona fide conflict of interest means that even if those eligible to vote could not form a quorum, then the disclosure is required, but then they can go ahead and participate and vote as they see fit, and the idea being that conflicts of interests cannot essentially stymie government action. So if it's a case of one or two but the remaining members could still take action, the people with the conflict abstain, the people without the conflict can vote as they see fit.

RAYBOULD: But when a case comes before them, if there are so many that have the conflict of interest that they disclose, but it wouldn't allow any vote to go forward, that is where they all can participate.

FRANK DALEY: That is correct.

RAYBOULD: Thank you so much. I appreciate it.

BREWER: All right. Additional questions? Senator Halloran.

HALLORAN: Thank you. Chairman Brewer. Mr. Daley, it's always a pleasure to have you here. You're one of the fairest people I know.

FRANK DALEY: Thank you, Senator.

HALLORAN: And I'm not just patronizing you because I want to stay on your good side. So I probably [LAUGH]-- I probably missed it, the testimony. Was Accountability and Disclosure Commission drawn in on the Cherry County issue or-- or did their re--

FRANK DALEY: It was. It was.

HALLORAN: OK.

FRANK DALEY: I know we issued a number of Opinions in connection with that, though, to be honest with you, it was long enough ago that some of the details escape me.

HALLORAN: Well, there goes the rest of my question.

FRANK DALEY: But why don't you ask the question and, to the extent it's generally applicable, perhaps I can explain.

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HALLORAN: Well, I was hoping you could give us a little bit of detail on-- on what your decision was on that case. In other words, were their fines imposed or-- are-- did-- did you require them to--

FRANK DALEY: No, I think in that-- I think in those matters there were county board members and others who were asking for Opinions as to whether or not they had a conflict of interest. And if I recall, there was a county board member who was an adult living on her own land with her spouse and, presumably, children, and her father and at least one of her brothers had an interest in some wind energy project on other tracts of land. And the issue arose whether or not she had a conflict of interest when some zoning matter came before the county board which was either going to facilitate or impede the wind energy project, and we took the definition of conflict of interest-- you have a conflict of interest if you're faced with taking an official action or making an official decision which could result in a financial benefit or detriment to you, a member of your immediate family, or a business with what you're associated. The definition of immediate family does not include siblings and parents unless they happen to be dependents for federal income tax purposes. And so under those circumstances, we did not detect that she had any particular interest in this project, she didn't have an ownership interest in the land, I believe there might have been some LLC or corporation involved and she didn't have an interest or ownership interest in that, and so we determined she did not have a conflict of interest as to that matter.

HALLORAN: OK. Thank you very much. And I repeat, it's good to see you.

FRANK DALEY: Well, thank you. It's good to be seen.

BREWER: All right. Additional questions for Frank? All right. Again, thank you for your time.

FRANK DALEY: Thank you, Senator.

BREWER: All right. Any additional neutral testifiers on LB569? If not, get to my list here and I'll read in on LB569. Go ahead and get set up for your close here. We had two proponents, no opponents, and none in the neutral. Senator Bostelman, please close.

BOSTELMAN: Thank you. Thank you, Senator-- Chairman Brewer. I'm having a page handout AM2647 to LB1015 and AM2496 to LB1023. I thank Mr. Daley for being here and things he said, as well as the other testifiers. This is the exact same language that you're seeing before you now. So if we have a problem with this language, we've got a

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bigger problem in the statutes. We've already passed this exact same language. So I want to-- I think that's something the committee will need to perhaps take up. But the language that we've used is the same language that we've already put into statute last year with those two amendments. So a couple things. The-- when we vote on bills, whether it be income tax, property tax, whatever, that doesn't just apply to myself, to you or to your immediate family members; it applies to a broad stroke of people across the state. I think there's a big difference what we're talking about here. Here it's a very narrow, focused group of people. It's not-- it's not providing that same relief, that same financial gain, to everybody in that county. It's a very narrow group of people. So I think there's a big difference in when we vote on specific bills, especially something like tax relief, because it is very broad. Now if it was something specific that I had maybe to myself or my land, my community, that I would benefit from, then, yeah, then there's a conflict of interest there. And in fact, the first year I was in session, we were in session here six years ago, there was a bill, and I don't remember what it was, that dealt with Fort Calhoun and limiting the size around-- the-- the emergency area around-- I re-- I-- I didn't vote on that, and I didn't speak on that bill because I felt at the time there may-- I may have had a conflict at the time, so I didn't vote on it. It did not really affect me directly, but the industry at that time when my wife was involved with that industry, so I just stayed away from that, so I do believe there's a huge difference there. I think the Sierra Club would probably have a different opinion on this if we're talking about a gas well, a oil well, a coal plant. I think it would be a difference. This bill is not specific to any one type of generation source. This is any generation source, any-- coal, nuclear, gas, wind, solar, hydro, any, biomass, any is what applies, so it's not a single one-- one type of generation. I want to say that, as well, as I disagree with Mr. Hansen. Wind turbines or solar panels or other generation source is not an agriculture function. It's a power generation facility. That wind turbine or that solar panel or that nuclear plant or that coal plant is a commercial generation facility of electricity, of-- of power, so I think there's a little bit of difference there. I want to thank both Mr. Brady and Mr. Cannon for their comments. Quite frankly, I think they brought some really good points, and we had actually talked about some of this before yesterday and this morning about this. And I think there is some need to do, you know, some changes, some narrowing, maybe some other thoughts on what we could do with this bill, because, really, the-- the thing is, is, once again, is ensuring that those-- any facility that's built-- that's going to be built out, there's public knowledge of it, public's involved with it,

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and that we don't have people-- in the case of Cherry County, those out there, there was \$8,000 per turbine that they were getting and however many turbines they put on the property. So there's signi-- some significant gain, financial gain, they could get, so I think this is an important thing for us to discuss. I think it's important thing for us to talk about. I think, like I said, both Mr. Brady and Mr. Cannon had good comments and things will continue to-- I think we can look at and work on, on this bill. So with that, I'll be glad to work with the committee, work with others, on a potential amendment if we need one for the bill. I'd be glad to do that, and I'll answer any other questions. Thank you, Chairman Brewer.

BREWER: All right. Thank you, Senator Bostelman. And I sent a message because what I was trying to find out is, in the case of Cherry County, the people sued the county, so there was a cost to the county and a cost to the people to actually sue the county. And, you know, it's been years' worth of lawsuit back and forth. And as close as I can tell, we're well over \$100,000 that is being spent by the county and by the people of the county in suing each other over this. So, you know, this-- this is an issue that has happened in the worst-case scenario, so, just so you have situational awareness, that's-- that's still an ongoing issue. All right. Questions for Senator Bostelman on LB569? Yes, Senator Raybould.

RAYBOULD: Thank you, Senator Bostelman. I-- a question that I-- I don't know if I asked this before, when you did your opening, but have you looked at LB408 from Senator Machaela Cavanaugh?

BOSTELMAN: No, I have not.

RAYBOULD: I think that conduit, or her bill, might suffice--

BOSTELMAN: OK.

RAYBOULD: --for your purposes in this case. And-- and this is-- you know, thank you for this. I mean, this is very interesting, as-- as I read this, with Perkins, because it uses the language "directly or indirectly," but it specifically calls out any elected official in the executive branch of state government, so I thought that was pretty interesting that you-- that--

BOSTELMAN: Um-hum, sure, and-- right, and I think when-- when that was passed, when that was included as an amendment, I think the comments that Mr. Cannon brought up, we probably didn't think about-- about, you know, who has the concrete plant, the cement plant, or the rock

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plant, or who has the, you know, the earth-moving equipment. How does that play into that? I think that's-- those are questions, good questions to ask and questions we need to think about, perhaps.

BREWER: All right, good question. Additional questions for Senator Bostelman? All right, thank you. And that-- well, let's see, we've read in-- yeah, two opponents, no opponents, no neutral. That will close the hearing on LB569 and we will set up for LB2-- LB302. OK. Senator Linehan, welcome to the Government Committee.

LINEHAN: Thank you. Good afternoon, Chairperson Brewer and members of the Government Committee. I am Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n, and I am from Legislative District 39, Elkhorn and Waterloo. Today I am introducing LB302. LB302 will amend the Public Accountability and Disclosure Act. The bill will harmonize language to include "political subdivisions" as a descriptive term. Also, for the committee's knowledge, my staff and I are currently working on an amendment-- I guess we got it done, actually-- [INAUDIBLE] to LB302. These changes will clarify what "all public employees" means. We're also adding a provision to clarify that public employees only need to report these disclosures if their salaries and benefits are over \$150,000. LB302 would extend disclosure reporting to all-- to public employees whose compensation is over \$150,000, whose decisions might distinguishably benefit or cause detriment to their family or other associations. Simply put, the Accountability and Disclosure Act only applies to elected officials or members of public subdivisions. LB302 will amend the act to expand disclosure requirements. The procedures would extend to all public employees of public subdivisions and include all nonelected employees whose salary and benefits exceed \$150,000. Public employees would have to follow the same disclosure rules and procedures as elected officials. Consequently, they would have to prepare written statements for public record about potential conflicts and abstain from activities that could be a conflict of interest. I am concerned about the number of things that I read in the paper where it looks like conflict, but there's no-- like there's no record keeping. And I think in decades before, we had a more robust press. Every little town had a paper, lots of weeklies, lots of daily papers all over the state. Our press corps was much more robust. And now we've got a lot less press, who are working really hard, but they can't possibly follow all the trails that look like they should be followed. So I think we need to get a little more robust in what we ask people to disclose. And this is like the-- what I hope it is, and Mr. Daley's here so he can tell if I'm right or wrong, what I'm trying to do here. It's not that you can't have a conflict. You just have to report it and tell people that there's a conflict here. So I hope Mr.

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Daley is going to testify as a proponent, but it might be neutral, might not be opponent. But I think any technical questions would be better with him. I know he's been very kind and very helpful to our staff in trying to put this together.

BREWER: All right. Thank you for that opening. Let's see if we have any questions. Questions for Senator Linehan? All right. Thank you. You'll stick around to close?

LINEHAN: Pardon?

BREWER: You'll stick around for close?

LINEHAN: Yeah, I think Revenue's done.

BREWER: All right. There you go. We'll-- we'll take that offer. All right. We are now looking for proponents to LB302. Don't be scared. Come on up. I think it's safe-- safe to say, for the last time today, welcome to the Government Committee.

FRANK DALEY: Well, thank you very much once again, Senator Brewer. Members of the committee, my name is Frank Daley, D-a-l-e-y. I serve as the executive director of the Nebraska Accountability and Disclosure Commission, and I am appearing today in support of LB302. LB302 does two things. First, it applies the conflict-of-interest provisions of the Accountability and Disclosure Act to the elected members of all political subdivisions. Currently, those provisions apply to the elected members of some political subdivisions, but not others. The second thing it does, it provides-- it applies the conflict-of-interest provisions to all public employees. Currently, the Accountability and Disclosure Act applies to public employees in the executive branch of state government but no others. And I guess my thought here is that when the conflict-of-interest provisions apply, there is a process for a public official or public employee to deal with the conflict of interest, which includes disclosure; and in the case of board members of some sort, abstaining from participating or voting when they do have a conflict of interest; or in the case of an employee, getting some advice from some source so they can take themselves out of the situation in which they have a conflict of interest. And typically, what happens if the commission receives a statement disclosing a conflict of interest, we examine the statement and the facts, determine if the person actually has a conflict of interest, and then we provide advice to them as to how to handle that conflict. Typically, if there's a conflict, they're directed to abstain from participating or voting on that particular matter. Let me

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give you the types of examples that will show you what this bill does. So an elected school board member is subject to the conflict-of-interest provisions; an elected member of an educational service unit is not. A member of a public power district board is subject to the conflict-of-interest provisions; a member of a board of a natural resources district is not. A member of a county board is subject to the conflict provisions ; a member of a township board is not. And so you can see it creates some differences of standards and application and so forth, and I think it would simply be more consistent if everybody were treated the same way. Now, I know that Senator Linehan has distributed a-- an amendment. I actually haven't seen the amendment, though her staff was very kind in discussing with me what they kind of had in mind. And I guess the suggestion I make is that, if you are-- if the amendment doesn't already do so, you might want to apply the conflict-of-interest provisions to public officials in political subdivisions that are not elected. So that would mean it would apply to, for example, a city administrator who's a public official, maybe not a public employee, but not a member of any board; would apply to a police chief or folks of that nature. So that's-- that's part of the process you may want to give some consideration to. At any rate, thank you very much for the opportunity to testify today, and I really do want to thank Senator Linehan for introducing LB302. It really does go a long way to closing some gaps in the application of the Accountability and Disclosure Act.

BREWER: OK. Well, thank you for that explanation, because I definitely understand it better now. All right. Questions for Frank? Yes, Senator Raybould.

RAYBOULD: Thank you again, Mr. Daley. I know Senator Lenihan had put the caveat on. I-- I think the public official whose salary and benefits exceed \$150,000, I'm assuming that would probably encompass a city administrator, or you're-- could you say that--

FRANK DALEY: It depends upon the city.

RAYBOULD: OK. So could you say that again about--

FRANK DALEY: Sure.

RAYBOULD: --the difference with that classification, please?

FRANK DALEY: If the conflict-of-interest provisions are applied to the members holding elective office in political subdivisions, then, well, you already have the villages and the cities and so forth, but it

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would apply to ESUs and a number of other situations. Another provision of LB302 essentially brings all public employees under the conflict-of-interest provisions. But here's the thing where there's a level of interpretation that maybe could be clarified in advance. Is a city administrator an employee or an official? I could see where some people might take the position he's not, strictly speaking, an employee because he is appointed to that particular position. Is the police chief an employee or an official? Again, we're not quite sure. What about a city clerk or a village clerk? Are they an employee because they hold-- they have statutory duties and they're appointed by a body? So that could be clarified in the bill. On the other hand, we could just stick with the idea that maybe they're employees, but I think that at some point might generate some litigation or advisory opinions and things of that nature.

RAYBOULD: OK. Thank you very much.

BREWER: All right. Additional questions? All right, thank you, Frank.

FRANK DALEY: Thank you, Senator. Thank you, members of the committee.

BREWER: OK. Additional proponents to LB203? Opponents to LB203?

DICK CLARK: LB302.

BREWER: It's LB302. Listen up. He's here to correct me. He does that a lot. All right. Anybody in the neutral for LB302? All right, Jon, welcome back.

JON CANNON: Thank you, Chairman Brewer. Members of the Government, Military and Veterans Affairs Committee, my name is Jon Cannon, J-o-n C-a-n-n-o-n. I'm the executive director of NACO, here to testify today in a neutral capacity on LB302. I want to make-- I got that right, right?

BREWER: Yeah, the--

RAYBOULD: Yes.

JON CANNON: OK. Thank you. I got the--

BREWER: My lawyer keeps it straight.

JON CANNON: --right in front of me, but-- thanks to Senator Linehan for bringing this. We think that having a-- a clear process for accountability and disclosure is-- is important for all of our elected

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officials and people that occupy offices, if they're appointed or if they're employees. One of the-- the things that we always are concerned about is, you know, if we have something that requires employees to file the exact same public disclosures as public officials, as elected officials, we struggle, particularly in our rural areas, with-- with attracting and retaining folks. And-- and sometimes this is the sort of thing that could be dissuasive to them. And so-- but I-- I believe that perhaps the amendment clarifies most of their concerns and-- and frankly, I haven't seen the amendment, but we certainly could move to supporting this in its entirety. Not that our neutral testimony really moves the needle very much, but we're hap-- I'm-- I'm happy to take any questions, and-- and especially if there's anything that-- that any-- anyone in this room can do or say to make Frank Daley extend his retirement by at least one more year, that'd be great.

BREWER: I think we'd all agree with that, but--

LOWE: Except for Frank.

BREWER: --I think he's realizing that life's short and he wants to enjoy it, so. All right. Questions for Jon? All right, thank you for your testimony.

JON CANNON: Thank you, sir. Thank you, members of the committee.

BREWER: We are still on neutral testifiers. All right. Seeing no neutral, we will see if we have-- yes, there she is. And letters, we have-- get to my page here. OK, so zero the neutral, one in opposition, zero in proponents. Senator Linehan, you're welcome to close.

LINEHAN: Thank you again. I really want to thank Mr. Daley for being here. And I thank Mr. Cannon too. And I would ask, if possible, if the committee could just work with Mr. Daley and figure out how to do this right, that would be wonderful, and kick it out. I just think it's fair to treat everybody the same. And I think when we have situations where we're-- we're not asking people to disclose conflict, it could cause them trouble, too, because you don't want to get in a conflict that later is all over the front page of your local paper and you didn't know that you had a conflict. I-- so I'd ask that you kick it out.

BREWER: All right. Questions for Senator Linehan? All right, Lou Ann, thank you.

LINEHAN: Thank you. Have a happy weekend.

BREWER: All right. That will wrap up our hearings for the afternoon.
If we could clear the room, we'll go ahead and give an Exec.