

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

SANDERS: [MALFUNCTION] Veterans Affair [SIC] Committee. I am Senator Rita Sanders from Bellevue, representing District 45. I serve as chair for this committee. The committee will take up bills in order posted. This public hearing is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets; they are on the table in the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets on the back table. These sheets will be included as exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name, and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by the proponents, then opponents, and finally, anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer, if they wish to give one. We will be using a three-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When you're-- when the light is yellow, you have two minute-- one minute, and the red light indicates your time has ended. Questions from the committee may follow. Also, committee members may come and go during the committee hearing. That has nothing to do with the importance of this bill being heard. It is just part of the process; Senators may have bills to introduce in other committees. A final item to clean up today's hearing. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. If you do not have enough copies, the page will make sufficient copies for you. Please silence your cell phones. You may see committee members using their electronic devices to access more information. Verbal outbursts or applause are not permitted in the hearing room; such behavior may cause for you to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. I will now have committee members with us today introduce themselves, starting at my far right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

GUERECA: Good afternoon. I'm Dunixi Guereca. I represent LD7; that's downtown and south Omaha.

J. CAVANAUGH: John Cavanaugh, District 9, midtown Omaha.

LONOWSKI: Hello. Dan Lonowski, District 33. That's Adams county, Kearney County, and rural Phelps County.

McKEON: Dan McEwen, District 41, central Nebraska, eight counties.

SANDERS: Bob-- Senator Bob Andersen is testifying in another committee, is the vice chair of this committee. Also assisting the committee today, to my right is our legal counsel, Dick Clark, and to my far left, committee clerk Julie Condon. We have two met-- two pages for our committee today, and the pages will introduce themselves.

LOGAN WALSH: I'm Logan Walsh. I'm a junior econ major at UNL.

ARNAV RISHI: Hi, I'm Arnav, a junior political science student here at UNL.

SANDERS: Thank you. With that, we will begin today's hearing on LB334. Welcome, Senator Hughes.

HUGHES: Thank you, Chair Sanders, and members of the Government, Military and Veterans Affairs Committees [SIC]. I'm Jana Hughes, J-a-n-a H-u-g-h-e-s, and I represent District 24: Polk, Seward, York and the part of western Butler County. I am here to introduce LB334. LB334 was brought to me by the Nebraska State Court Administrator's office. Their office oversees the administrative operations of our state's court system. When sitting judges file to be retained on the ballot, their residential address, mailing address, and phone number are included on the filing form with the Secretary of State's office. This information is needed for a variety of administrative reasons. However, this information is also currently accessible by the public. Judges have been frequently targeted by individuals convicted of crimes, or family members of those convicted. This information readily accessible to the general public, can be problematic. Current law allows judges, along with the members of law enforcement and the National Guard, to withhold similar information from the county assessor and register of deeds websites. As the members of this committee recall, I recently introduced similar legislation to this committee with LB166. LB166 would include the county treasurer on the list of county officials that withhold addresses of judges, members of law enforcement, and the National Guard who apply to have this information held for five years. LB334 complements current law, and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

simply requires the Secretary of State to withhold addresses and phone numbers of our sitting judges. After further review of LB334 as drafted, we identified an issue with the language. Judicial retention forms are not really candidate fly-- filing forms as referenced by 32-607. The more appropriate section of statute for this is 28-814 [SIC]. I shared a copy of AM142 with you all. This is a white copy amendment that was developed by the Secretary of State's office, along with staff from the Supreme Court of Nebraska. I want to clarify that LB334 does not restrict the public from voting on whether or not to retain judges; this simply restricts the access to personal information included on their application to be retained on the ballot. Corey Steel, our state court administrator, is here behind me to answer various-- to answer any specific questions on why this bill is important to protect the safety of our judges and their families. He can also answer any technical questions about the language of the bill. Thank you for your time and consideration, and I welcome any questions that I, perhaps myself, could answer.

SANDERS: Thank you, Senator Hughes, for introducing LB334. We'll check with the committee to see if there are any questions. See none. Will you stay to close?

HUGHES: You bet. It's not nice out at all. Nobody wants to go outside.

SANDERS: Thank you for doing that. Are there any proponents on LB334? Good afternoon. Welcome.

COREY STEEL: Good afternoon. Thank you, Senator Sanders, members of the Government, Veteran and Military Affairs Committee [SIC]. I'm sorry, I'm a little-- I'm usually not in here. It's Judiciary. And so, I will be heading there next. My name is Corey Steel, C-o-r-e-y S-t-e-e-l, and I am the Nebraska State Court Administrator. I want to thank Senator Hughes for working with us on LB334 and the amendment, AM142, that's been provided to you. We've worked with the Secretary of State's office, and I believe Secretary Evnen has submitted a letter of support for this. They understand the need for judicial security, and so I want to thank them personally for taking the time and working through this with us. As recent as just Tuesday this week, there was a judge that had a threat, a threat, and the individual was arrested for terroristic threats and placed in jail. This is not a national-- just a national issue; this is a local issue. I could sit up here for a long time and talk about the threats to our judiciary in the state of Nebraska. Serious threats to our judiciary. As I've said before, judges don't always make people happy with their decisions. They have a right-- they have to make a decision, and sometimes there's a winner

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

and sometimes there's a loser. And sometimes, the public does not appreciate the decision that was made. We've worked hard in the judicial branch to eliminate the possibility of finding judges outside of the courthouse. We've worked with this Legislature to have judges added to the treasurer's office and the register of deeds, so that their address is confidential at the county level. We've worked with Senator Hughes to have judges in LB166, as well. For another, another loophole to have their addresses not public-facing. And this is just one more attempt. We know this isn't the catch-all to be all, but again, everything we can do to provide safety for our judges is paramount in the judicial branch. So, with that, I'd be happy to answer any questions that the committee may have.

SANDERS: Thank you, Mr. Steel, for your testimony. Check to see if there are any questions. Senator Cavanaugh--

LONOWSKI: Thanks.

SANDERS: Senator Lonowski.

LONOWSKI: Thank you, Chair Sanders. And thank you for your testimony. I just-- I have one question, like-- so, their entire address will be off of everything, including voting ballots, or no?

COREY STEEL: Correct.

LONOWSKI: And so-- I guess I'm thinking, like, when I'm voting back home, I want to see where-- if they're from Phelps County or Kearney County or, or Adams County, but--

COREY STEEL: It'll say their judicial district in which they represent.

LONOWSKI: OK.

COREY STEEL: It's just their home address. So, when they file currently with the Secretary of State for retention-- and I think that's why in working with the Secretary of State, they moved it out of this section it curly-- currently is in, because it's in the section that you're running for office. Judges aren't running for office; they're appointed, and then it's a retention election. So, they moved it completely out of that section, which we agreed with. It'll still have their home court and the counties that they serve, so you will know where they're serving, but it's-- won't have their home address with the Secretary of State's office that could be requested.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

LONOWSKI: Perfect. Thank you.

SANDERS: Thank you. Senator Cavanaugh?

J. CAVANAUGH: Thank you. Thanks for being here, Mr. Steel. I just want to make sure. It-- so, this is automatic. They don't have to request that it not be published.

COREY STEEL: Correct. This is a little bit different. The, the law would make it automatic that the Secretary of State would not have that as a public record. Currently, anybody running for office in this section-- the, the 32 section that, that all the officials that are running for office have to fill out a form and your-- place your residence on there, like you have to,--

J. CAVANAUGH: Yeah.

COREY STEEL: --and that is a public record. Anybody can request that at any time, and the Secretary of State would turn that over as a public record. This would remove the judges out of the 32 statute and put them in-- since they are-- it's a retention election-- not running for office. And then, they would still fill the form out the same, but the Secretary of State would not be bound by statute, as it is with elected officials, that they release that as a public record.

J. CAVANAUGH: Seems like a good idea. And I would note this section hasn't been amended since 1963, so they're taking the opportunity to add that there are women judges now, as part of this. This-- it-- the drafters add things in sometimes to fix up when you open up a section, so "his or her." So, they finally are going to recognize the statute that there are female judges. So, that's a great thing.

COREY STEEL: Yes, yes.

J. CAVANAUGH: Thank you.

COREY STEEL: We're about-- I think we're pretty close to about half and half. [INAUDIBLE] it's about 50%.

SANDERS: Good catch, Senator Cavanaugh. I see no other questions from the-- oh, we do. Senator Guereca.

GUERECA: Thank you for being here, and for your testimony. I certainly will be supportive of, of this bill. I think it's a good idea. Do judges fill out the C-1 Statement of Financial Interest, Interest forms?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

COREY STEEL: Yes, they do.

GUERECA: Are-- their home address could appear there?

COREY STEEL: Those are, those are held, though, I think, in our office. And those are not considered a public record--

GUERECA: OK.

COREY STEEL: --I believe by court rule, though. I don't-- I-- but they do a financial interest statement, yes.

GUERECA: OK. Just, just wondering, because we have to-- these are due on Monday, so I just thought of it, one, one other place that would have to go look for them, so.

COREY STEEL: They are public record, but their address-- how the court has-- the Supreme Court has determined that is they don't put their actual address; they put the county in which they, they reside in.

GUERECA: Gotcha. Thank you so much.

SANDERS: Thank you. See no other questions. Thank you, Mr. Steel, for your testimony.

COREY STEEL: Thank you.

SANDERS: Are there any other proponents? Good afternoon.

TIM HRUZA: Good afternoon, Chair Sanders, members of the Government, Military and Veterans Affairs Committee. My name is Tim Hruza, last name spelled H-r-u-z-a, appearing today on behalf of the Nebraska State Bar Association in support of LB334. I want to thank Senator Hughes for introducing this. We also supported her prior bill that you may recall from several weeks ago. I don't have much to add from what Mr. Steel or what Senator Hughes introduced, except maybe to say that, as we are concerned about judicial security, I think this is also one of those very interesting segues of where our judicial nominating system corresponds with sort of the election system. So, timely that you all are looking at filing your required documents, as you're candidates for office. But as Mr. Steel said, judges don't run for office. And I think that's a good thing, right? It's good that we aren't-- we don't have judges serving in a directly political capacity in Nebraska. But it is also good that we allow the public an opportunity to vote on member retention, right? I think that's the good compromise system that we have in Nebraska, in terms of how we

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

structure those judicial appointments. It makes sense then, because they aren't really candidates for the bench, but they are subject to retention on a regular basis and, and need to file these. It's good for us to go through this process, but I think it's important and valuable, and it shouldn't change things drastically to allow them that additional layer of privacy and protection when they're doing these sorts of things. So, with that, I'm happy to answer any questions. I thank the committee for, for its support of the bill, and ask that you move it to General File. Thank you very much.

SANDERS: Thank you, Mr. Hruza, for your testimony. Are there any questions from the committee? See? In and out.

TIM HRUZA: Thank you.

SANDERS: Thank you. Have a good weekend. Any other proponents on LB334? Any opponents on LB334? Good afternoon. Welcome.

KORBY GILBERTSON: Good afternoon, Chairwoman Sanders, members of the committee. For the record, my name is Korby Gilbertson; it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a lobbyist on behalf of Media of Nebraska Incorporated. Media of Nebraska is a nonprofit group comprised of both print and broadcast media, but they do not focus on the media aspects; they focus on First Amendment issues, open meetings, and public records. For the-- we realize that, yes, this is not very much to ask, and the arguments for it, and we're not arguing against that. I think for the benefit of those of you who haven't been around and haven't heard all of the different variations of this type of legislation, our argument against it is that criminals generally aren't looking at the Secretary of State's website or the assessor's website to get addresses. They look at Google, and these addresses are still going to be out on Google, they're still going to be accessible, and we oppose any further attempts to take things out of the public purview that have been determined to be a public record before. So, that's our primary objection to the legislation, and I'd be happy to answer any questions.

SANDERS: Thank you, Ms. Gilbertson, for your testimony. Any questions from the committee? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. Thanks for being here, Ms. Gilbertson. Where does Google get the information?

KORBY GILBERTSON: Have you-- I was going to be-- I actually googled all of your-- some of your names today, but I thought, I'm not going

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

to do that because you're not supposed to use props anyway. There are numerous little-- there-- address.coms, or other address things that you can enter your name, and you will find your personal information in a variety of places that have nothing to do with the public records you have filed. I mean, I can find my personal information on all sorts of things. And I'm assuming-- you know, I didn't have to go to the Accountability and Disclosure website or the assessor's website to get any of that.

SANDERS: Scary.

J. CAVANAUGH: Thanks.

SANDERS: Any other questions? Senator Andersen.

ANDERSEN: Thank you, Chair. I want to thank you for being here. You know, I had-- used to have an old boss in the Air Force, and he'd tell me to, to dominate my airspace. Right? Understanding the left and right margins, stay within there. But, you know, they dominate that space. And, and I think about this, and it's like-- we can't dominate everything, right? We can't govern everything. We can't be responsible for Google or Yahoo or anybody else. So, why would that mean that we shouldn't put in the restrictions or prohibitions in the places that we can control? Why not-- why wouldn't we?

KORBY GILBERTSON: Our argument is that it's-- heretofore, it's been a public record. If you look at these statutes that have to do with the assessor's website, if you go in in person and make a written request for those records, they're still given to you; this does not allow that. So, you're not just taking the one step to take it off of a public website, you're taking a second step to make it completely unavailable. So, that, we believe, should be available for-- you know, if, if someone's willing to go in and sign their name and say that that's why they're getting the address, generally, it's for a good purpose. And so, we just oppose making more records that have been public not-public.

ANDERSEN: Oh, so you don't think that we should make it more restrictive and more comprehensive?

KORBY GILBERTSON: Oh, definitely-- no. Yeah, you're correct. We don't.

ANDERSEN: Thank you.

SANDERS: I have a question, Ms. Gilbertson.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

KORBY GILBERTSON: Mm-hmm.

SANDERS: Have you seen the amendment, AM142?

KORBY GILBERTSON: I did not. Just--

SANDERS: OK. OK. I believe it's addressed in there that [INAUDIBLE]

KORBY GILBERTSON: That you can still make-- you can make a request for them? OK.

SANDERS: Any other questions from the committee? See none.

KORBY GILBERTSON: Great. Thank you.

SANDERS: Thank you for your testimony. Any other opponents for LB334? Any testimony in the neutral on LB334? See none. Senator Hughes, you're welcome to close. While you're coming up--

HUGHES: All right.

SANDERS: --online position comment hearing record. Proponents, 2; opponents, zero; neutral, zero.

HUGHES: So, Chairman Sanders and members of the committee, appreciate your time today. I do want to address one thing that was mentioned. I did not know that there was going to be opposition, so I was a little unprepared. The court administration in Nebraska hires today-- for all judges, they hire a, a place called DeleteMe, and they scrub the judges' information from the Google and the websites. So, they do their best on that end. So, I would argue-- I mean, if you're persistent enough, you can probably dive deep and find it, but we are already providing that services for our judges, so I don't know that that testimony on opposition makes sense when they are doing that, if, if that makes sense, so. I think this is common sense to further protect the judges that are in our courts. Again, it doesn't impact the ability of us to vote on these retaining judges; it's just another step to protect them and their families from those who might intend to do them har-- harm. I urge your support to carry this on, and I welcome any questions.

SANDERS: Check to see if there are any questions from the committee. See none.

HUGHES: OK. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

SANDERS: Thank you for introducing LB334. Have a good weekend.

HUGHES: I'm last up in revenue today, so. Maybe I'll go sun myself on the deck.

ANDERSEN: At least it's not judiciary.

HUGHES: Yeah, I know. I-- that's going to be a tough day. Thanks, guys.

SANDERS: Good afternoon and welcome, Senator. [INAUDIBLE] introducing LB663.

STORER: Good afternoon. I always appreciate being in any committee when you can still stay "afternoon."

ANDERSEN: Yeah, no kidding.

STORER: Good afternoon, Chair Sanders, members of the committee. My name is Tanya Storer, T-a-n-y-a S-t-o-r-e-r, and I represent Legislative District 43. I'm here today to introduce LB663, which establishes a clear, streamlined process for reviewing conditional use and special exception permit applications that are reviewed by county boards, ensuring fairness, transparency, and accountability for both counties and applicants. This legislation respects and protects the county boards, permit applicants, and proponents-- and both proponents and opponents of any application. The bill protects applicants' interest in the-- in an expedited and thorough process, and provides county boards with mitigation against potential actions after any decisions are made. Nothing in this proposal changes the opportunity for the public to weigh in as proponents, opponents, or those in a neutral perspective. LB663. Ask, but decisions are based on facts and evidence, with applicants receiving a reasonable assessment timeline. The objective approach promoted in the bill removes subjective concerns from the process. The county's regulations determine application results, and the board is asked to focus solely on their regulations in decision-making. Personal beliefs of the commissioner, passionate testimony from proponents and opponents, and fears of reprisals must be left at the door. There are no what-ifs; only the objective requirements of the county's regulations and the applicant-supplied information. Both the planning commission and the county board must presume applicants will comply with all applicable regulations, unless factual evidence proves otherwise. The bill also reinforces government efficiency we're all on board with-- right?-- by preventing unnecessary delays. It establishes a timeline for decisions

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

on complete applications, which we'll come back to. The zoning administrator or planning commission-- and I do have, I have just remembered that I have a white copy amendment for you. Sorry about that. This is one of the things you'll find in the white copy amendment that we, we worked with, with NACO in particular on. The zoning administrator or planning commission has 30 days to assess an applicant's completeness. If an application is incomplete, the applicant must be notified. And when you're done, I'm going to make you make two trips. I have a sec-- I have a second handout. If an application is incomplete, the applicant must be notified within ten days, which would restart the timeline until the required information is provided. And what's being passed out there is just sort of a visual of the timeline that I'm going to walk you through. Once deemed complete, the zoning administrator or planning commission has 90 days to either approve, deny, or forward a recommendation to the county board. The same timeline then applies to the county board. Now, for, for a little bit of context there, there are some counties-- I believe only two in the state of Nebraska; any county has the ability to do this, but a county board can delegate the authority to the county planning commission to approve or deny permits. I think that's only the case in two counties in the state of Nebraska. So, we, we have provided each with their own 90-day timeline to make sure there's not any crossover or confusion with that. The same timeline applies to the county board in those counties where the county board makes that decision, with 30 days to review the application and make a determination if it's complete-- again, ten days to notify the applicant if it's incomplete-- and a full decision 90 days after the complete application is received. This total process provides for up to 240 days for an application to either be approved or denied by the county. And just to give some reference for that timeline, an NDEE permit timeline with the state is 110 days, so this is more than twice the amount that the state is currently turning around permits. If the county board has not granted or denied a conditional use permit or special exception by the end of 90 days, the application is automatically deemed to be approved. That is also not, not a new concept; that's actually a very similar provision that's already in zoning regulations regarding conservation easements. This ensures government accountability and preventing unnecessary bureaucratic gridlock, protecting applicants from in-- infinite delays, and reinforcing the need for timely government action. To promote informed, efficient decision-making, LB663 also requires each member of the planning commission and county board to complete two hours-- actually, I believe that's only relevant to the planning commission; that may be a, a mistype-- to complete two hours of education per

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

term. The education may be developed and presented by the county attorney, or a designee of the county attorney, offering some flexibility to each county while maintaining the integrity and relevance of the training. And there were some questions on why the county attorney, and, and it really comes back to the fact that if that county ends up in court, it's the county attorney who's going to be representing them. And so, so providing them the opportunity to do that training or the-- or them to decide who to designate that training to. This is a mitigating factor for county boards that may face potential lawsuits from any decisions made. You will hear testimony today that some people believe this diminishes local control, and this is simply not the case. I am a huge proponent of local control. Counties, under LB663, continue to develop, approve, and implement their zoning regulations. There is nothing in this bill that is, that is changing or forcing a specific zoning regulation. No new zoning regulations are being added. LB663 simply establishes objective standards for reviewing those applications, a fair and generous timeline for application review, and a requirement that planning committee members and county board members learn more about the process to be prepared to make informed decisions. Local control is not only about the county board, it is also about representing the taxpayers and experiencing a fair and expedient government process. The bill safeguards applicants' rights, the rights of those who support, the rights of those who oppose any application, and government efficiency. It fosters transparency and reduces the risk of costly lawsuits by ensuring that decisions are rooted in evidence and fairness. And I, and I have framed it this way: much of what we've put into this bill is simply putting into statute what courts have already determined, in terms of zoning decisions. As an addendum, there is an amendment that denotes the need for a designee for the education in partnership with the county attorney, and solidifies the presumption that an application is deemed approved if either the commission or board do not make a decision within the allotted time, and that's what was passed out. I ask the committee to support LB663. Happy to answer any questions now or, or at close.

SANDERS: Thank you, Senator Storer. Are there any questions from the committee? Senator Lonowski.

LONOWSKI: Thank you, Chair. Senator, Senator Storer, will you please give me an example of, like, something that you're talking about from-- I don't, I don't want that whole long explanation, but an exception permit, from beginning to end?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

STORER: Sure. So, any, any county that is zoned that has a planning and zoning commission has a-- not only a county land use plan, but they also-- or comprehensive plan, but they also have zoning regulations. So, they get to determine sort of what the parameters are for a variety of things that may be a special use permit or a conditional use permit. So, let's-- we'll just use an example. District 43 is largely agriculture country, right? So, there are-- if, if someone wants to come in and build a feedlot, they're going to have to go apply for a conditional use permit if it's over a certain number of head. And that's in Cherry County. Now, different counties can have, have some variation to that.

LONOWSKI: OK.

STORER: But we'll use the example of a feedlot. They come in, they make an application, the county has laid out what they require for that applicant. And so, Joe comes in and says, "hey, I'm going to build a feedlot," county zoning administrator should give them the paperwork, and, and they then come back and provide what the county has required of them for their application. Once that appli-- under, under our, under our bill, once that application is, is deemed complete, which the county zoning administrator or the board-- the county planning board-- they can decide if they want to get their whole board together to review the application, or if they want to let their zoning administrator make that determination-- says yes, you have provided us with all the information that we require of you. At that point, they-- the zoning board has to review that application, they have to advertise-- I believe it is two weeks. I should have had that in my notes. I think it's two weeks-- in a, in a publication of general circulation, the hearing. So, zoning board has a, has a public hearing. At that time, the zoning board makes either a recommendation to approve or deny. They, they generally-- I think only two counties have the author-- the zoning board has the authority to approve or deny the permit. Most of our rural counties that are zoned, they don't have that authority; they're only there to make a recommendation. So, they're, they're supposed to sort of gather the data, do the research, and kind of do that legwork on behalf of the county board to then forward that on and say, yes, this either meets our zoning regulations or no, this does not. Then, it-- then, it is forwarded to the, to the county-- your county commissioners or supervisors, whichever the case may be. They then have to have a hearing, a public hearing. Again, advertised ahead of time. And, and then, they oftentimes-- sometimes, decisions are made at the same meeting, depending on how in-depth the application is. Generally, most boards will say we're going to take another two weeks or a week, whenever the next time they meet is, to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

make a decision; to vote as to whether or not to approve or deny that permit. That's basically the process. What is-- what has happened sometimes is-- a) these things can get very personal in small counties, which puts a lot of pressure on county planning board members as well as commissioners, you know, to get-- nobody wants to make a decision because they're going to make somebody angry, and they-- there's lots of emotions sometimes involved. What this bill really does is puts it into statute what the courts, in cases that have been taken to court, have already determined, which is counties make decisions on applications based on their individual county zoning regulations. So, it's really trying to help, help those county board members and the planning board members, as well as-- honestly, I served eight years as a county commissioner; we dealt with a lot of these contentious issues. They, they ended up going to court, the county prevailed in them, but, but the goal in this-- and part of it is from lived experience, that we are going-- we're helping keep counties out of court. That is good for no one. That's not good for the taxpayer; that's not good for the applicant; that's not good for the county; that's-- that doesn't-- isn't helpful to anyone. So, in the case of-- this isn't going to prevent anybody from, you know, going and filing a lawsuit, necessarily, but it's putting the county in a good position to provide them those parameters. Again, for, for-- to stand on their decision based on what the courts have really already said.

LONOWSKI: Thank you very much.

STORER: That's a long-- that's still a long explanation. I'm sorry, Senator Lonowski.

LONOWSKI: No, no. Clear as mud. Thank you so much.

SANDERS: Senator McKeon.

McKEON: Senator Storer, how many-- all the counties have a zoning board? There's some [INAUDIBLE] right?

STORER: Only if they are a zoned county. So, there are some-- I think it's nine counties. Don't quote me on that. I can get that answer for you. But there are some counties in Nebraska that are not zoned. They-- there's no requirement that you be-- that you have zoning. But if you are a county who has opted to have a zoning process, then you would have a zoning board, yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

McKEON: And on the zoning boards, they're all-- they're not elected, they're just-- they're all selected?

STORER: They're-- they are appointed by the county commissioners or supervisors.

SANDERS: Thank you. Any other questions from the committee? See none. Thank you. Will you stay for closing?

STORER: I will.

SANDERS: Thank you. We'll now ask for any proponents on LB663. Good afternoon. Welcome.

DEAN SETTJE: Welcome. Thank you, and I appreciate the opportunity. My name is Dean Settje, S-e-t-t-j-e. I reside at 4700 West Rock Creek Road, Raymond, Nebraska. And today it's my privilege and honor to, to talk to you all today a little bit about what this means and, and to put more context to the conversation that you just held with Senator Storer. We've had the opportunity to work on a lot of these types of programs throughout the country that, quite frankly, the system is broken many, many ways. County zoning is a good thing when it's done right, and it's not a very good thing when it's not. And we're going to get into a couple specifics of that. A little bit about ourselves. Settje Agri-Services and Engineering is a company that I founded 29 years ago, and we have the opportunity to help livestock producers, site-- pick sites, site selection, if you will. Design, engineering, do all the permitting-- county level, state level, federal level permitting through the Department of Environment and Energy and EPA, things of that nature. And then, construction and, and regulatory compliance once we build these facilities. Our experience is very broad. We work on poultry facilities, swine facilities, dairy facilities, and a lot of beef cattle feedlots. We have a list of about 1,600 customers today throughout the Midwestern United States, and we're making 22 different states today and, and six different countries. And Nebraska is one of the most difficult places to get permits approved for livestock producers because of our zoning processes that we have today. Zoning, again, done right, can be very, very good. But done incorrectly, it can be very cumbersome and, and quite honestly problematic, and forces people to look elsewhere or find a county that's not zoned. We don't want that to happen, obviously. The experience level that we've had in, in county zoning is, is one that is, is quite honestly a little bit gut-wrenching. We've had the opportunity to represent livestock producers in over 500 zoning meetings in the past 29 years. And I would, I would venture to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

say that over half of those are contentious, over half of those are very poorly run, and, and quite honestly, do nothing but cause problems locally and, and give everybody a gut ache about how this process has taken place. They simply don't have the professionalism and the leadership that you all have in this room, as an example. And some do, and they are run very well, and we'll talk a little bit more about those. As, as we look down the road and we try to figure out the two steps that are usually in these processes that Senator Storer described, do we know that-- for example, we have quite a few that do it right because they've been trained, they understand it and they follow the process correctly. They remain objective; they don't get subjective about things, and they keep the emotion out of the room. This bill does a couple of things for us that get us to that point. The, the continuing education, I think, is highly important for people to understand what it is that they're looking at and deciding on. We end up having to be that teacher in many, many cases; that shouldn't be our job. We simply need to be able to get that back to somebody else that is, is objective, obviously, and professional and creates that environment that we're after.

SANDERS: Mr. "Settetje" [SIC], I, I just want to bring-- your time has run out.

DEAN SETTJE: Oh, I'm sorry.

SANDERS: However, I do want you to finish your, your thoughts.

DEAN SETTJE: Thank you. I appreciate that, Senator. The, the really-- the next step is, is, is how do we-- how do we stop these problems from occurring? Obviously, education is one, and if we can create some type of system that this bill introduces in terms of continuing education, I think that could be tremendous in terms of helping in this process. The second part of it is really keeping the county out of trying to manage or, or administer things that are done at the state level, and basically allowing the county to focus on setback distances, things that are important for nuisance, flies, dust and odor, and not worry about those things that are regulated by another agency. So many times, we get caught up in these boards thinking that they've got to do both jobs, and that, quite honestly, never, never works. They need to focus on what their job is and what their regulations talk about, not specifically the Department of Environment and Energy or some other condition that they try to place on these permits. It wastes time and it's just not efficient. The timelines that were discussed in my mind are something that's very important. We've had instances in, in Cherry County and other counties around the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

state where it's taken us a year to a year-and-a-half to get a permit approved. Quite honestly, that's-- it's ridiculous. So, putting some kind of a shot clock, if you will, on that process is very much needed. I would contend that the one that's, that's drafted is, is probably too long, even in my mind. I think that decision process can happen much quicker if people stay objective, they're educated on what's going on, and they understand those processes that need to happen. It shouldn't be an emotional decision; it should be a decision based on science and based on facts, if it's complete or not complete, and move on. So, I highly encourage this, this board to look at that and-- or, this committee to look at that and, and do what you can to advance this bill, because it starts to repair some of the serious problems that we have with county zoning today. Thank you for allowing me to continue a little longer than I should have, Senator, and I'd be happy to answer any questions.

SANDERS: Thank you for your testimony. I have a real quick question. What's the average time to have a project approved in counties? Depends on--

DEAN SETTJE: I'm going to give you two--

SANDERS: --the size, I think.

DEAN SETTJE: Yeah. It is-- it's based on size to some extent, because that gets to be more controversial. But I'll give you two examples. One, on a county that is prepared, educated, and understands the process, we can be out of there in two months. Two hearings, two months; done, gone, move on. It's, it's very simple and it's black-and-white. We have counties that it's taken a year-and-a-half. And so, the average is somewhere in between, but, but the, the, the difference between those two is so dramatic that it's even hard to comprehend. And, and we know which counties were good, and we know which ones aren't, and it just-- we got to fix this problem.

SANDERS: OK. Thank you. Let me check to see if there are any questions. Senator Lonowski.

LONOWSKI: Thank you, Chair Sanders. Just a quick question. Can a, a zoning board approve a project and say everything's perfect, the-- you know, the water drains, the air, the distance, and then the county board can say, we don't like it? I mean, legally?

DEAN SETTJE: Certainly can, and as, as Tanya mentioned earlier, the, the recommendation of the zoning and planning is simply that: a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

recommendation. And then, the county board of supervisors or, or commissioners must make that final decision, and they can go either way. That rarely happens, and, and the two-step process usually is a waste of time, quite frankly. But it, it, it, it is what it is.

LONOWSKI: But it can happen. OK.

DEAN SETTJE: It can, yes.

LONOWSKI: Thank you.

SANDERS: Senator McKeon.

McKEON: Dean, good to see you.

DEAN SETTJE: You here as well, sir. Been a while.

McKEON: Yeah, just a few years. Going back to my question, when I asked Senator Storer about the zoning. I know that-- I'm just kind of curious about why some of these counties aren't all having zoning.

DEAN SETTJE: It's, it's a, it's a county-by-county prerogative, and, and, you know, zoning is really put into place to create some type of order in terms of development, right? Where things should be, and, and where do we put houses, where do we put humans, where do we put cattle, and so on. And that order is, is-- done correctly is, is needed and is good, right? But there are certain counties, Platte County, Butler County as just a couple that quite honestly have chosen to, to let people do what they want to do, and you'll see a pretty heavy concentration of livestock in those counties for that reason. But it's a county choice, and, and they, they get to do whatever they want. Butler County had several meetings two or three years ago trying to decide whether they wanted to be zoned or not, and they inevitably decided not to again, so. It's a, it's a local decision, which is-- I'm all about local control is a good thing.

McKEON: I think you hit-- to me, I think you hit a pretty key about just the education part of it. If everybody can be on the same page, then everything can flow along [INAUDIBLE].

DEAN SETTJE: Yeah. It should not be our job responsibility to walk in and help the members of that board understand their rules and regulations. That's just not good for anybody, right? And we've-- we got to solve that problem and get information to the people so they can make good decisions.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

McKEON: Thank you.

DEAN SETTJE: Thank you.

SANDERS: Thank you. Any other questions from the committee? See none. Thank you very much for your testimony.

DEAN SETTJE: I appreciate your time. Thank you.

SANDERS: Thank you. Any other proponents? Welcome.

GREG HOEGERMAYER: Thank you. Good after [SIC], Chairwoman Sanders, and members of the Government, Military and Veterans Affairs Committee. My name is Greg Hoegermeyer, G-r-e-g H-o-e-g-e-r-m-e-y-e-r. I farm and raise livestock along with my family near Herman, Nebraska, which is approximately 40 minutes north of Omaha. We have the-- I've had the pleasure of serving on the Washington County planning and zoning commission for over three years. I also serve on the Nebraska Farm Bureau state board of directors, but today I'm testifying on behalf of myself and our family. I appreciate Senator Storer for bringing LB663 as a means for improving the special use permitting process within our county board system. The process is an important-- in promoting growth and development in animal agriculture. There are many challenges Nebraska livestock producers encounter, whether starting or expanding their operations. LB663 addresses many of these challenges and helps with streamlining in a process of acquiring a conditional use permit and through the county planning and zoning process. This bill supports the accountability for all parties involved. The applicant bears the responsibility of developing a complete application for consideration. The county planning and zoning commissions and county boards must objectively make a decision to be fair and impartial, and follow all established rules and regulations within a reasonable bout [SIC] of time. The timeline provided is generous, with nearly eight-and-a-half months for the entire process just to go from approval to completion by the county board. LB663 does not take away from the respects of local control of counties, and allows counties to adopt and follow their specific zoning regulations. It also allows them to have the final approval or denial of all conditional use permits. What LB663 simply ask is that the decisions are objective, outside of the what-ifs often presented by proponents and opponents during arguments. I have personally seen hearing rooms nearly empty, and conversely, I've had meeting halls at three times the max capacity. Public hearings are vital and an important part of an objective decision-making process, but it's important that commissioners and zoning members remain objective, and this requires that approach. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

have never received any formal training or backgrounding when I started on our county zoning board; you're simply are immersed in it, and you drink from a fire hose as the process goes. I think that this training and education would be beneficial to all parties interested, and this would be a great way to help Nebraska to continue to expand our economy and to keep agriculture clean and healthy. I urge you to advance LB663. The county official education, I think, is an important piece of this, and the fair application review is critical for our citizens of our state. I would be glad to answer any questions if you have any.

SANDERS: Thank you, Mr. Hoegermeyer, for your testimony. Check with the committee to see if there are any questions. See none. Oh, McKeon.

GREG HOEGERMEYER: Yes, Senator McKeon.

McKEON: Thanks, Greg, for your testimony. Kind of going on the same-- since you've been there on the zoning, why wouldn't we recommend for all the counties to be-- have a zoning?

GREG HOEGERMEYER: Our county is a little bit unique because on the southern edge of Washington County, we near the Omaha metropolitan area. Quite often, we're dealing with a lot of lot splits; we have a lot of 10.1 acre lots that want to get split into two. That's not the place to put in a four-barn system for poultry; it's not the place for a feed yard because there's going to be too many complaints, even if it's done right. Washington County looked at doing a county use matrix to create intensive housing zones, intensive industrial zones along the highway, the housing zones near the population centers, and to keep the northern half in strictly ag use, where we can build such feed yards and confinement operations. So, our county is one where that would make sense. I think if you were in a very large rural county, maybe it's just not fitting for them, or it's cumbersome where they have-- don't have the population. So, that's just my view of how it would be in our county. We also operate in two other counties, and every county is different. Dodge County is pretty simple to get a conditional use permit; Burt County, I make one call. They don't have a planning and zoning administrator; the roads department lady calls the president of the zoning board, and he says, oh, it's you, it's OK. That's the extent of it. So, that's not fair to all people. And what we're doing's not offensive, that was just to spread a gypsum product. That was not to build a large animal livestock unit.

McKEON: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

SANDERS: Thank you. Any questions from the committee? See none. Thank you for your testimony.

GREG HOEGERMEYER: Thank you, Senators, for your time.

SANDERS: Any other proponents on LB663? Good afternoon. Welcome.

MATTHEW ERICKSON: Good afternoon, Chairwoman Sanders, and the rest of-- the other members of the Government and Military and Veteran [SIC] Affairs Committee. My name is Matthew Erickson, M-a-t-t-h-e-w E-r-i-c-k-s-o-n, and I am here to testify in support of LB663 on behalf of myself and my family. My family has been a part of the Johnson County community near Sterling, Nebraska for 150 years. My parents, my brother and sister and I, and our families want to remain in the area as agricultural producers as it becomes more and more difficult for young farmers to start out. We have looked to diversifying our production as a way to keep three young families going. I want to thank Senator Storer for introducing this bill, as it is a good first step in fixing the problems with applying and granting special and conditional use permits. This bill will be beneficial to producers and county officials during the permitting process. My family and I just received a special use permit to build chicken barns in Johnson County on January 17, 2025, a process that was started almost 14 months prior. I don't have time to go into all the details about how long and cumbersome this process was, but I will say that if this bill had already been in statute, we probably would have our barns up and chickens in them by now. We had multiple hearings that were delayed because our county officials failed to inform us about the different items we were potentially missing from our application. This bill would have given them a timeline to tell us that our application is incomplete in a timely fashion. We also had a hearing that ended up-- we had a hearing that ended up having to be redone because our planning and zoning commission didn't adhere to the Open Meetings Act. Something else that would have been addressed with this bill is the education given to the zoning board members by the county attorney or its designated person. Currently, the commissioners are in need of more information to make decisions based upon facts and be objective. I do not believe that this bill will take away local control; it simply gives the county boards a time-- timeline so that permitting can be done in a timely manner. And when you were trying to build livestock facilities to expand your operation, time is important. The change in, in time involved-- in interest rates, building costs, fuel costs, and other expenditures is truly mind-bending. When we are at the whim of a county official that doesn't have the proper training and it could end up affecting our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

operation, it is disheartening and costly. I urge you to advance LB663 and provide these county officials with the education they need in the timeline the producer needs, so that the permitting process can be a pop-- accomplished in a fair and timely manner. Thank you, and I would be happy to answer any questions.

SANDERS: Thank you, Mr. Erickson, for your testimony. Are there any questions from the committees [SIC]? Senator Guereca.

GUERECA: Thank you, Mr. Erickson, for coming in today, for your testimony. So, you showed up to a planning meeting, and they just told you "here are all the problems you have;" they didn't warn you ahead of time of issues with your permit?

MATTHEW ERICKSON: We didn't even find out until after the meeting. And, and there, there was multiple-- kind of multiple times that happened. The first one, back-- December of '23, we had, had a meeting scheduled. It was posted in the paper. Well, the zoning coordinator came and said, oh, you, you didn't get the signature to-- from someone saying that you're OK to do this. Like, no, you-- we thought we could do it afterwards, you didn't tell us we needed it. So, we had to cancel that one. And months later, I mean-- that, that-- last January was pretty cold, and the guy we needed a signature from cattle and we had hogs, and we were just trying to keep animals alive at that point. So, we, we, we took a little bit of time there. But then the one that had to redo because of the, the Open Meetings Act, we had a full-on three, four-hour long meeting, and we got done 10 p.m. at night, and they denied us at that point because there was a lot of people screaming, hey, this is not what we want in this area. But we followed all the guidelines and came back and went to the attorney general, and they're like, they didn't acknowledge the Open Meetings Act at the beginning, so that hearing is now null and void, and you had to do it all over. So, it just-- it's instance after instance like that. And there was one part in our zoning handbook that says we required a nutrient management plan, which is just kind of like, what are you going to do with the nutrients from your, your chicken barns after you get done. And we asked them time and time and time again, like, what do you want with that? How, how detailed does it have to be? And they never told us, so we went and-- out and got this-- spent a decent chunk of money to get this good nutrient plan that falls NDEE regulations, everything we would need to go by the letter of the law. And then when we submitted it to them, they're like, well, this is too much information, we got to table this. Which I understand that-- you got to, you got to go through and look at everything so you're making

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

a good decision, but we asked multiple times, like, "what do we need?" And we just never heard. Sorry for the long-winded--

GUERECA: No, no.

MATTHEW ERICKSON: I could talk for hours about this.

GUERECA: Thank-- well, thank you for coming, and for your answer.

SANDERS: Any other questions from the committee? See none. Thank you very much for your testimony.

MATTHEW ERICKSON: Thank you.

SANDERS: Any other proponents? Good afternoon.

BRUCE RIEKER: Good afternoon. My name is Bruce Rieker; it's B-r-u-c-e R-i-e-k-e-r. I'm the senior director of state legislative affairs for Nebraska Farm Bureau, and I'm here on behalf of Farm Bureau and the Nebraska Agricultural Leaders Working Group testifying in support of LB663. For your reference, our ag leaders group consists of the following nine organizations: the Nebraska Cattlemen, Corn Growers Association, Farm Bureau, Pork Producers, Sorghum Producers, Soybean Association, State Dairy Association, Wheat Growers, and Renewable Fuels Nebraska. The ag leaders have been and continue to be advocates for responsibly growing the state's livestock industry. Doing so strengthens our economy by creating jobs and bolstering the property tax base that pays for such things as county roads, infrastructure, and schools. For instance, these barns that the Ericksons were working on-- and somebody else had mentioned a 4-barn complex-- those barns are somewhere in the neighborhood of \$900(,000) to \$1.1 or \$1.2 million a piece. So-- and many people say that we can solve our tax problems by growing our way out of it; we see this as one of the ways to do this. I know we're talking about the process, but the property tax-- the average property taxes on one of these barns-- not all four of them, but just one of them-- is well north of \$12,000 a year. So, it can produce more revenue for counties, schools, and so on and so forth. There's been a lot of talk about the shot clock; I'm not going to talk about that right now. Also, about the objective standards. It requires findings of fact, not subjective decisions, but findings of fact to deny an application. We believe that the education portion has been touched on quite a bit, and that-- so people understand what their roles are and what they're not. The jurisdiction of the planning and zoning committee and the county board is whether or not you comply with the zoning regulations. Once they get done with that, then the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

Department of Energy and Environment [SIC] steps in, and they go through all the process of deciding whether or not you meet air quality, water quality standards, whether it's constructed correctly, whether it's operated correctly. That is not the jurisdiction of the planning and zoning commission or the, the county board. Unfortunately, they step into those territories, which we watched when I was watching what happened with the Erickson family. So, those are a couple of things that I wanted to draw your attention. And just to, to add to the timeline, what goes on right now is because so many of these things get drug out that the Department of Energy and Environment [SIC]-- oh, I'm sorry.

SANDERS: Please finish your thought.

BRUCE RIEKER: OK. So, we talk about the efficiency of government. The Department of Energy and Environment [SIC] has pretty much told almost all of the applicants that enter into this process that they will not begin the process of permitting any of these facilities until they are permitted by the county. So, we have to go through that whole process, then they have 110 days to issue their decision. And I can't blame the Department of Energy and Environment [SIC] because they waste a lot of state money going through the process of permitting the construction and operation of these facilities only to have it get derailed by something other than an objective finding of fact. And so, that-- you know, that's one of the things that we wanted to point out as well. So, you know, with that, I'll conclude my comments. I'll be happy to try and answer any questions you may have.

SANDERS: Thank you, Mr. Rieker, for your testimony. I was thinking, you know, we hear all the time how regulations get in the way of progress.

BRUCE RIEKER: Mm-hmm.

SANDERS: And this is more like our-- we are in our own way. People are in their own way of--

BRUCE RIEKER: Yes.

SANDERS: --getting progress done in our communities.

BRUCE RIEKER: Yeah, it-- I agree. It's unfortunate that sometimes local control forgets to take into account the expense that producers go through to help grow their county and the resources there. And their economy, creating jobs. You know, we're not going to create any more farmland, and that's why we are so focused on growing the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

livestock industry. Nebraska is the third-largest ag complex in the country. We are an ag state. If we're going to get more people to locate or relocate in rural areas, we have to create opportunities like this. And yeah, it's a sizable investment and it takes a lot to, to get into that, but these are some of the few opportunities that, that exist for bringing young people back into rural Nebraska, and we would hope you would see that from a macro perspective as well.

SANDERS: Thank you. Let's check to see if there are any questions from the committee. See none. Thank you for your testimony. Are there any other proponents for LB663? Any opponents for LB663? Good afternoon. Welcome.

NANCY MEYER: Hi. Well, hello. Thank you, Government Committee and Chairman Sanders. My husband grew up in Nebraska. 26 years ago, he convinced me to drop my career and move our young family across the country to the-- a home in the middle of cornfields. I was reluctant, but I soon came to really--

SANDERS: Excuse me. I need your first and last name, and please spell it.

NANCY MEYER: OK. To finish my sentence, to really love living here. My name is Nancy Meyer, N-a-n-c-y M-e-y-e-r.

SANDERS: Thank you.

NANCY MEYER: I'm sorry. I should have done that. So, we returned to Nebraska for the good life, and some of the most important values embodied in the good life are local control, keeping young people in the state, and prioritizing Nebraska businesses over outside interests. These values are all threatened by LB663. My husband, a born and raised Nebraska farm boy, now wants to move out of the state. He does-- he and I do not want to be trapped by living on property while its value is steadily diminished by out of-- out-of-state industrial facilities taking over our countryside. LB663 is an outright attack on local control because it restricts what local agencies can do to make their areas livable and inviting to young families whose parents would like to see them stay in Nebraska. Now, I'm a big fan of local control. I've served on a local school board in North Bend, and I've served on an NRD right here in Nebraska. So-- and so, those of you who have served in local government know these bodies understand their geographies and their constituents best. Local authorities are beholden to local residents who count on them to preserve the good life. In fact, I believe more policy ought to be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

enacted that preserves the rights of local residents and the powers of local government bodies, not restricts them. LB663 not only impairs local control, but local accountability as well, and I put in my testimony that I have to wonder what the authors of this bill don't trust. Now, I've heard already what they don't trust, they-- I think they believe that these counties don't know what they're doing. I will say that I am not against training; I believe-- I do agree that some of the county zoning and even the supervisor boards, their processes could be streamlined and they could be more-- they, they could miss-- they could be better at not making mistakes, like not doing public notices. But without local control and local accountability, Nebraskan citizens' power disappears. LB663 will make Nebraska irresistibly attractive to out-of-state and foreign interests who wish to invest in nuisance industrial operations that are located as far as possible from their own homes and shores. That's not just anti Nebraskan, that's anti-American. Now, I think our Unicameral system is brilliant, and I was under the impression that it's supposed to make our citizens the second house.

SANDERS: Sorry, Ms. Meyer, your time is up.

NANCY MEYER: OK.

SANDERS: But we'll let you go ahead and finish your thought.

NANCY MEYER: OK. I, I am concerned that this kind of bill, which is actually known as a pre-emption bill-- pre-empt the local authorities-- would make us so much more attractive to outside interests that those entities would become our second house. I thank you for your time, and I want you to know that most of your constituents, citizens of Nebraska, they live outside the cities. And so, this is going to affect them the most. So, do you have any questions?

SANDERS: Thank you for your testimony. Are there any questions?
Senator Lonowski.

LONOWSKI: Thank you, Chair Sanders. Thank you for your testimony. So, you see this as, as taking more local control away?

NANCY MEYER: Yes. Yes, I do.

LONOWSKI: So, I, I see it as giving more local control.

NANCY MEYER: Huh.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

LONOWSKI: And by, by that, I mean the actual farmer is the most local control you can get. And if somebody is expanding to six months, they've taken his control away from building a chicken farm or,--

NANCY MEYER: Mm-hmm.

LONOWSKI: --or a pig farm. And so, I think what this is doing is kind of restricting that timeline to help that very most local person.

NANCY MEYER: Yeah, and I appreciate that perspective because I see-- I understand why you would think that. The, the thing is that the local farmer isn't the one who is necessarily behind this; it's be-- the people who are doing-- to-- are bringing in these chicken barns are from out of state. They're, they're funded by financiers in North Carolina and other states. And I, I, I don't think that they mostly have Nebraska's best interests at heart. I have nothing against my local farmers; I think they're great, I want them to make money. This isn't farming, by the way; this is industrial animal production. My, my husband calls it "factory meat." It's what he calls it. Meat-- factory meat production. Meat plants. Meat factories.

LONOWSKI: OK. Thank you. Thank you very much.

NANCY MEYER: Yeah.

SANDERS: Thank you. Any other questions from the committee? See none. Thank you, Ms. Meyer, for your testimony.

NANCY MEYER: I-- can I just add one more thing? I--

SANDERS: Sure.

NANCY MEYER: OK. I, I really just want to point out here that I'm a rural citizen. That's all I am. OK? I was looking at the proponents who came up, and, you know, a couple of them were representing the Farm Bureau, and one was representing a business that was-- you know, benefited financially from these industrial facilities being built in the-- in-- across our countryside. But I'm just a local citizen. Nobody's paying me. I have no financial interest, other than maybe preserving my home value. And I, I just think we want-- you really need to listen to us and not people who are being paid to come here today, or who have a financial interest in that. You know, I came here, I-- it, it was a two-hour trip for me to drive here. I got a lot better things to do. I-- it's a beautiful day. I don't need to be inside with these folks. I want you to understand that the zoning boards are there for a reason, and there's-- just, just leave it the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

way it is. But do train them to be a little, a little better at following the rules. OK?

LONOWSKI: Thank you very much.

NANCY MEYER: Thank you.

SANDERS: Thank you, Ms. Meyer. Any other opponents to LB663? Good afternoon. Welcome.

JANE EGAN: Good afternoon, Senator Sanders, and the committee. My name is Jane Egan, J-a-n-e E-g-a-n. I live at 7001 West Old Cheney Road, Denton, Nebraska. I've been there for 35 years, and it's five acres in a nice rural setting. Here we are again. I testified against LB1375 last February. That bill, introduced by Governor Pillen, attempted to take away local control from county planning and zoning boards and county commissions with regard to land use permits. There was overwhelming opposition to the bill, and it never made it out of this very committee. There were over 87. We testified, I think, for three-and-a-half, four hours that day. Never made it out. We knew that it was going to come back in a different iteration, and here it is, LB663. Another attempt by the governor to weaken and pre-empt local control over land use zoning. LB663 threatens local decision-making, limits public engagement, and rushes-- rushes critical zoning decisions. It places the sole authority on county attorneys to determine the curriculum. Who's, who's controlling that? Who's monitoring that? Who's putting that together? By doing so, they exclude key planning experts and stakeholders. The county attorney's going to step up and say to the local boards, "approve this change of zone to avoid the threat of a lawsuit," if they don't pass it. County boards are elected officials responsible to their constituents who bring their own judgment. This bill seeks to limit their ability to engage with thoughtful actions and protect their own community. It also weakens the role of the planning and zoning commission, as somebody earlier testified as proponents of the bill, that, gee, why do we even need planning and zoning commissions? They're just an appointed board that make recommendations, and it is a two-step process that maybe isn't necessary. But I think that it is. The bill restricts county boards from requiring additional permitting processes and weakens local governance. Democracy is under assault at the federal level, and I'm very emotional about that. State lawmakers are following suit by imposing undemocratic constraints on citizens to gover-- govern their own communities with bills like LB663. This bill does nothing to improve the ability of citizens to address their local officials. Instead, it is another blatant attempt by our governor to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

make siting of confined animal feeding operations easier for him to expand his own hog operations and that of his friends and big ag corporations that are rapidly proliferating and taking over our family farms, extrant-- extracting our water and soil resources, and lobbying our state representatives to pass bills that favor their aims. I oppose this bill, and plead with this committee to preserve the rights of citizens to control their own land use decisions.

SANDERS: Thank you, Mrs. Egan, for your testimony. Let's see if there are any questions from the committee. See none. Thank you very much.

JANE EGAN: OK. Thank you.

SANDERS: Any other opponents? Welcome.

ELAINE MENZEL: Thank-- or, good afternoon, Senator-- Chair Sanders, and members that the Government-- excuse me-- Military and Veterans Affairs Committee. For the record, my name is Elaine Menzel-- that's E-l-a-i-n-e M-e-n-z-e-l-- here today on behalf of the Nebraska Association of County Officials, otherwise known as NACO, in opposition to LB663. First and foremost, we would like to extend our appreciation to Senator Storer for working with her. I believe we're getting very close to coming to agreements onto-- more of-- all of the parts, rather than just a, a couple components at this point. As, as I started to allude to, there's still a couple of areas that are unresolved with respect to things that we have reviewed. I-- hope-- hopefully, it's-- since AM439 that Senator Storer's referring to-- I'm not certain of the number. I-- she, she didn't reference it, but that's-- OK, thank you. That, that is the one that saw late this morning, so have not had a great deal of opportunity to share it with everybody that are impacted, meaning zoning administrators and those types of things, for their input. But I can comment on a couple of items that we are supportive of those concepts and agreeable to them. One relates to the county attorney being the specific individual, and appreciate the language that it could be his-- his or her designee to provide education to planning commission members and, and county board members. We are hoping that they could work with NACO or NPZA, which is the Nebraska Planning and Zoning Administrators, that provide educational opportunities for individuals who do this type of work with respect to zoning. With respect to the shot clock, I think we're getting closer to agreement in terms of times that we would consider to be perhaps reasonable for purposes of that. I have a couple of thoughts on-- with respect to-- I'm not sure if it's just one reference to a ten-day reference, but if it is related to the zoning "adminniner"-- administrator's involvement, perhaps that be ten

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

business days, because some of those positions are part-time and they wouldn't necessarily be in the office in time to get all of that responded to. And then also, with respect to the 30-days referenced in page-- on page 6, line 22, I would recommend it be extended from 30 to 45 days because, again, that gets into some county boards that have-- I see my time has expired.

SANDERS: Please finish your thought.

ELAINE MENZEL: Thank you. Some county boards meet only once a month rather than more often than that. Also, if you will allow me one quick comment. You had ask-- or, some members of the committee had asked how many counties are zoned, and at this point, there's 83 of the 93 counties are zoned, so. With that, I'll respond to questions if I can. I-- we do have a county board member here that will also perhaps be able to respond to some additional questions that may have arisen.

SANDERS: OK. Let's check and see if there are any questions for Mrs. Menzel. Yes, Senator Guereca.

GUERECA: Thank you for your testimony and for being here today. Looking through the online commentary, the, the common theme was that it took away the public hearing process. Is that-- is-- so, is, is there a standardized process in ev-- or does every county have their own process for approving permits?

ELAINE MENZEL: I, I don't know that there's the-- I, I guess I'm not certain what the hearing process is that would be removed. I think it would-- well, I'm-- perhaps it's the shot clock decision-making that would be automatic if they didn't respond within a certain time frame. Counties are going to have their-- it's not entirely uniform with respect to what they're doing. With that said, they're going to all have a plan-- all but two, perhaps, have a planning commission. They're going to have to adhere to open meetings requirements, as was stated, with respect to time frames and that type of thing. As Senator Storer indicated, I believe it's a 14-day time frame for notice and that type of thing, for holding those hearings and stuff, so.

GUERECA: OK. [INAUDIBLE] the hearings are still a part of the process.

ELAINE MENZEL: That's my belief.

GUERECA: OK.

ELAINE MENZEL: I, I don't-- I-- if, if it's omitted, I've missed that provision.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

GUERECA: Thank you.

ELAINE MENZEL: And I've never gotten the impression from the senator that that was her intent, but--

GUERECA: Thank you.

SANDERS: Are there any other questions from the committee? See none. Thank you, Ms. Menzel,--

ELAINE MENZEL: Thank you.

SANDERS: --for your testimony. Are there any other opponents? Good afternoon.

EDISON McDONALD: Good afternoon. Hello. My name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, and I'm here on behalf of GC Resolve. We're an organization committed to regenerative agricultural development and education. I've sat on both sides, both as a proponent for zoning actions and opponent, and I know it can be frustrating. Ultimately, though, we have a good process that ensures everyone has a voice at the table. We're here in opposition to this bill because we believe that this bill undermines the pres-- the principles of local "government"-- local governance, diminishes public engagement, undercuts previous agreements with local communities, and compromises the integrity of zoning decisions. Out of respect for the committee, we have not organized as many opponent testimonies as we have in previous iterations of the bill, like LB1375, but I would encourage committee members to look at that bill. It does have the pre-- previously-mentioned section that absolute-- that completely removed the hearing process, but this still has a lot of the same problematic aspects. First off, it severely limits local control; it restricts the ability of county boards to use their own best decision-making ability. Ultimately, that's why they're there: they're trusted in order to have their own discretion and to know their local community. Second, the shot clock creates a forced and rushed decision-making process that imposes an often unrealistic deadline on planning commissions to make decisions on zoning applications that can be tremendously complex. This expedited process does not allow for sufficient time or for thorough analysis, community consultation, or reflection on long-term impacts. And conversely, I think it could also force the committee to want to jump to approving a, an application too quickly, or to denying it too quickly. Next, this focuses on a reduction in public engagement, and I think it creates some inadequate requirements around education. I see I've got the yellow light, so

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

I'll skip ahead. The areas where we do see some space where we could agree: number one, on the training, although we do think that it should be decided by NACO what that training looks like. And then number two, as I was listening to one of the testifiers talking about the lack of clarity in documents that they had submitted, then not realizing they didn't have any of the requisite documents, we'd be happy to work with the Senator on that. Beyond that, though, this absolutely removes local control, removes the ability of those local decision-makers to, to exercise their authority. And I think creates, really, some problematic issues, especially as we look back. This has been, you know, something that I've engaged in a lot, and I have seen these local agreements come together, and they each look different for their own local community. For the Legislature to override that authority is a bad call. Thank you.

SANDERS: Thank you for your testimony, Mr. McDonald. Let's check to see if there are any questions from the committee. See none. Thank you. Have a great weekend. Any other opponents?

MISTY AHMIC: Hello.

SANDERS: Hi. Welcome.

MISTY AHMIC: Thank you. My name is Misty Ahmic-- that's spelled M-i-s-t-y A-h-m-i-c-- and I'm a Seward County commissioner. Before I was a commissioner, I was on our county's planning commission. I'm here today partially opposed to LB663. I'm fine with the continuing education; it's a great idea. And I'm also OK with the timeline; I think that that is more than enough time. Where my troubles lie are that, that-- this bill says that when a conditional unit-- or, a conditional use permit is brought before me, I cannot act on anything other than regulation. And while I agree that regulations are where our decisions should start, they finish with the public hearing process. What is the point of a hearing if nothing is said by others can be considered? I have been elected by local constituents in my county who trust that I will represent their wants, needs and opinions in my decision-making. For me, I cannot in good faith base a decision only on regulations if someone presents reasonable concerns for their well-being, property, business, or safety. So, another portion of this bill states that we cannot require any additional permitting before making a decision. So, someone before me mentioned findings of facts; we have 14 questions that determine the eligibility of a project in Seward County. These include the use shall have adequate water, utility, sewer and drainage facilities if they will use any-- or, if the use will endanger public health, safety or welfare. If the use

will produce any pollution by fly ash, dust, vapor, or other substance which is harmful to health, animals, vegetation, or other property. There are some instances where I cannot answer these questions without seeing a plan or permit from another entity. Additionally, how would a constituent at a hearing be able to do it either without having seen a plan or a permit from the state? LB663 goes on to say that we should just assume that an applicant will receive required permits, and I guess I'm not really in the business of basing my decisions based on assumptions. A few years ago, we had an ad-- an ag-based fertilizer facility apply for a permit, and the concern from the neighboring property owners was that the potential drainage could seep into a creek. The applicant did not have a permit with the state, and no plans had been shared with the neighbors despite their request. Under LB663, they would have no basis to share their concern at the public hearing, and commissioners and the board would not be allowed to require proof of this information before approving. So, I will echo what others say. I do believe that a portion of this bill goes against local control. In Seward County, we have 44 chicken farms, and I was a part of that [INAUDIBLE] Lincoln Premium Poultry when I was on the planning commission. They got through with no problems. Great discussion at the public hearing with the planning commission, great discussion at our board meeting, and I feel like our county is very ag-friendly. A lot of what you have heard is ag-based, but there are other instances where this could be a problem as well. I'd also say a CUP gets through our county about 60 days on average, unless there are-- you know, there's a need for more information, or something like that. So, it is done right. Are there problem-- are there problems in the state, are there problematic areas? Absolutely. But it's not all of us. Thank you.

SANDERS: Thank you for your testimony.

MISTY AHMIC: Sure.

SANDERS: Let me check to see if there are any questions from the committee. See none. Thank you very much.

MISTY AHMIC: Thank you.

SANDERS: Are there any other opponents on LB663? Any neutral testimony on LB663? Good afternoon.

KRIS BOUSQUET: Good afternoon, ma'am. Senator Sanders, members of the Government, Military and Veterans Affairs Committee, I really appreciate the opportunity. My name is Kris Bousquet, K-r-i-s

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

B-o-u-s-q-u-e-t. I'm the executive director of the Nebraska State Dairy Association, and am here representing our state's Nebraska dairy producers. Just wanted to, to come up here and talk about a couple things that came up with some of the, the testimony. I think-- I really appreciate Senator Storer for bringing this bill, and echo Dean Settje's comments about the system needing to be accountable to everybody involved. I think right now, the, the process is way too open-ended, and, and there needs to be some accountability for everybody in-- involved in the, in the conversation; specifically, the applicant. You know, the applicant has rights, too, and they're trying to conduct business and, and move their business along, and so that's something that's really important to us. You know, there's a lot of discussion today about local control. There is nothing in this bill that changes the county zoning regulations. The county has every ability to be able to make their zoning regulations how they see fit and make decisions how they see fit; this is just bringing accountability to the timeline. And something that I think is very much so needed and could be debated as well is-- as-- my opinion is that the timeline is actually too long. If you look at it, eight-and-a-half months is a long time, and, you know, I think our government needs to work for us and, and be a little bit quicker with some of these decisions and understanding that there are situations that need to be considered. But outside of that, you know, the county has complete and total control over their comprehensive plan, their zoning regulations, and the decision on whether to confirm or deny an application, which I think is something that's very important. This, this bill also does not take away any public hearings. That's something that's very important and has been extremely important to Senator Storer, so I want to make sure that that's very clear. The process really stays the same, with exception to just making it more accountable and quicker. And the other thing is, I think that the coun-- the continuing education is the most important piece of this bill, as I've been involved in numerous county hearings that really could have been fixed and, and gone a lot smoother if everybody in the, in the process was appropriately educated and understanding of their responsibilities. There's a-- I personally think that the county attorneys need to be involved with administering it, or at least partaking in that continuing education, because I think that the county attorneys-- noticing my light, ma'am.

SANDERS: Please continue your thoughts.

KRIS BOUSQUET: The, the reason why I think that is because it's my opinion that the "accounty" attorneys could step in more and keep the county out of trouble. You know, for example, I know of hearings where

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

planning and zoning members have left a public hearing, went out in the hallway and conversed on a decision, and then came back in, and that could have been stopped. And county attorneys, in my opinion-- if, if everybody's on the same page of how the process is supposed, supposed to work and educated and understanding of that timeline, I think that's probably best for everybody involved. And, you know, I know that attorneys are extremely educated, but they've got a lot on their plates, and I think the refresher would definitely be helpful for them.

SANDERS: Thank you for your testimony.

KRIS BOUSQUET: Yes, ma'am.

SANDERS: Could you say your last name again?

KRIS BOUSQUET: Bousquet.

SANDERS: Bousquet.

KRIS BOUSQUET: Yes, ma'am.

SANDERS: Thank you very much, Mr. Bousquet. Senator Guereca.

GUERECA: Thank you for being here, for your testimony. That sounded like a proponent testimony. Where's, where's the neutrality in that?

KRIS BOUSQUET: No, this is, this is definitely a, a, a neutral with supportive comments. I completely respect Senator Storer and, and a lot of the, the structure of this bill, and, and so, I just wanted to come up here and offer some suggestions on potentially changing-- shortening up the timeline--

GUERECA: Gotcha.

KRIS BOUSQUET: --and then keeping the county attorney piece in there, because I think that's really important.

GUERECA: Thank you for your testimony.

KRIS BOUSQUET: Yes, sir.

SANDERS: Any other questions from the committee? See none. Thank you, Mr. Bousquet--

KRIS BOUSQUET: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

SANDERS: [INAUDIBLE] testimony. Other testimonies in the neutral? See none. Senator Storer, would you like to come up and close? While you're doing that, position comments for the hearing record. Proponents, 16; opponents, 21; and 1 in the neutral. Welcome back.

STORER: Thank you, Chairman Sanders. Again, thank you for the-- all of those who came to testify. This is a, a great-- all of our hearings are a great example of our ability to exercise our opinion and our freedom of speech. A couple of things that I just jotted down, some of the concerns that I heard that I do want to come back and address. And as, as anticipated, you heard a lot of things about local control, and I just want to reiterate to you again, there is nothing-- we are taking nothing out of the current process. Nothing is being removed. We are, we are simply putting a time frame on it, and we are adding the component of education and clarifying what the courts have already said in terms of what basis a county makes decisions on. I love freedom, and I think we can all say that; we're here serving as, as-- serving the, the people that we were elected to represent, and, and I'm very passionate about the reality that freedom that we all enjoy in the United States of America is rooted in one primary thing that was very different from any other country organized before us, and that is individual rights. We are the first, the first form of government that really took that to a new level, to recognize and protect our individual rights, and those individual rights really are based in the rule of law. The comment, the comment that I heard from the county zoning board member was, was, was-- troubled me because of the neglect of recognizing that, and I believe she said that she was concerned about being limited to making a decision based on the regulations that her county developed and improved. If not-- if you're not making decisions on the regulations that your board approved, what are you making a decision based on? When things become subjective, there is no parameters, and it becomes very dangerous for everyone's individual rights. The counties still have the authority to develop their own zoning regulations. This changes none of that. So, if we as elected individuals told our constituents, you know, that, that we-- we'll decide-- you know, we're going to make-- we're going to make decisions based on how we feel that day, what the public pressure is, with disregard to the rule of law, I don't think that would be received favorably, nor should it, quite frankly. So, again, one other thing I want to, want to just touch on in relationship to the comments about needing of all other levels of applications to be approved before the county could make a decision-- for those that aren't familiar with the zoning, the zoning process, the county has a level of zoning regulations that is required to be approved; the state, for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

most, most of these conditional use permits, have a certain regulation and, and application process that has to be approved. And in many cases, there's federal permits that have to be approved. A project cannot move forward if any one of those are denied, if they don't meet all of the, of the regulatory requirements at local, state, and federal. So, one does not depend on the other one. I understand that sometimes that information is good to have, it's, it's-- there's, there's nothing wrong with wanting more information, but what's needed for a state permit to be approved is separate from what a county permit is requiring for approval. And so, they are distinctly individual but yet all required to be approved before any, any project moves forward. And it is very possible a county approves a project and they fail to meet the state's requirements. Or, or vice versa. With that, I'm happy to answer-- I did find, by the way-- I, I think it's 23-174.08 that identifies the amount of time for a hearing to be advertised, which is five business days. That's actually less than I thought it was; I thought it was 14. So, so, with that, you know, most county boards are meeting your-- [INAUDIBLE] definitely your county commissioners or your board of supervisors are, at the bare minimum, meeting once a month. And zoning boards may have less frequency, but this is providing, again, a 90-day window for that meeting and that hearing to take place, to make a decision for a recommendation. There was a question-- I was a little-- I'm-- we did meet with NAC-- representatives from NACO. I was clearly under the impression we'd met all of their concerns, which is reflected in part of what you see in your amendments. We added zoning administrator to-- we said zoning administrator and/or-- I think it's and/or-- zoning board to approve the application as being complete, so that gave counties flexibility; if they didn't want to bring their whole board together, their zoning administrator could do that. We also added county attorney or designee of; that was a reflection of that conversation as well. I don't think we were ever offered any recommendations for extending-- specifically extending the shot clock. So, so I, I felt good about that amendment, the-- that that was a reflection of, of our discussions with NACO. I felt like there was one additional thing that may, that may or may not come to me later. But with that, I'm happy to answer any additional questions. I know if you haven't been involved in the zoning process, it can feel a little bit-- as Sen-- Senator Lonowski said, over, over-the-head, but this changes-- this does not remove anything that's currently in, in our zoning process, the, the authority that counties have; just sort of putting some accountability into it for counties to make a decision. I think we would all agree that if we were a business owner or needed a permit for anything, quite frankly, if we had to wait for an extended period time to get our driver's license-- I mean,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

we can think of a long list of things that if we had to wait for some unending, indefinite period of time, it-- that's not accountability. That's not government being accountable to the citizens that they represent. So, that's what we're trying to put in place here. With that, I'm happy to answer any questions.

SANDERS: Thank you, Senator Storer. Senator Lonowski.

LONOWSKI: Thank you, Chair Sanders, and thank you for this testimony. Probably just a-- more of a recommendation. I would like to have you talk with, with Miss Ahmic, and just either ensure her where you can show the piece of people being able to speak or, or an amendment if, if that's not in there.

STORER: With-- and I'm sorry, I didn't understand. With who?

LONOWSKI: Miss Ahmic, the county commissioner. I think that's how you, you say her name.

STORER: Oh, OK.

LONOWSKI: Yeah. So, just-- I mean, we want to make sure people still have [INAUDIBLE]

STORER: Yeah. There's, there's nothing in the bill that removes any of the hearing process.

LONOWSKI: OK. Thank you.

SANDERS: Any other questions for Senator Storer? Senator Guereca.

GUERECA: So, I guess the-- big fan of the continuing education. I, I agree that the, the time, that the shot clock is needed because, I mean, the year-and-a-half we're hearing that that's, that's unreasonable and that's not fair to the citizens. I think the part that has me a little tightened up is when we heard from the county board of supervisors. We, we-- we're representatives. We represent the, the-- our constituents. If I get 400 letters from my constituents saying "I don't like that," it's my duty to at least consider that when I make a decision. Right? You were, you were a Cherry County commissioner. If someone wanted-- if the-- there was, I, I don't know, a nuclear dump site, but it met every parameter of the zoning code, you wouldn't be able to stop that from coming in, even if every one of your constituents said "please don't allow that."

STORER: Right. I, I-- and I understand that, which is why it is-- the burden is on the county when they develop their zoning regulations. They, they have the opportunity for that-- their voice to be heard about their concerns and sort of what parameters they want, and they can go back and re-- "re-add" or take away from their zoning regulations; there is no limitation to what can be done there. So, there is a process for that. But, but when an applicant comes in and they look at the regulations and they're like, well, I think this is a good fit for my business-- there-- for whatever reasons, in addition to the fact that the, the county zoning regulations appear to fit what I can or am willing to do, and then they're denied for-- after they've expended thousands of dollars, often, with no, with no reason other than someone doesn't like them--

GUERECA: Right.

STORER: It is not-- is, is not protecting individual rights.

GUERECA: And I think that's where I'm kind of caught up with it, because I think, I think there's a difference between the listening to your constituents and the, and the, and the voices of those you represent, and then being petty and, you know, making it a personal thing.

STORER: Right.

GUERECA: So.

STORER: So, yeah, that-- the, the county zoning board is-- ultimately, then, is voted on by your county board, has the ability to, to make their zoning regulations unique to the desires of their, of their constituents.

GUERECA: OK. Thank you.

SANDERS: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chair. Thanks for being here, Senator. So-- well, I guess my first question is, could a county make one of the requirements that you get those other permits from the state and the feds first?

STORER: I mean, I suppose if you-- under this bill, they certainly could not. I think the courts would have some, some challenge with that, if it ended up in court, if something was denied for no other reason other than a state permit had not been obtained. I think there,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Government, Military and Veterans Affairs Committee February 28, 2025

there could be a challenge with that. But I guess they-- and you're, you're-- what you're asking is, could they write that into their zoning regulations?

J. CAVANAUGH: Right.

STORER: Today? I suppose they could. I don't--

J. CAVANAUGH: But they can't under this bill?

STORER: I gotta think about that.

J. CAVANAUGH: I thought that we weren't taking away local control to make a determination about what your zoning requirements are.

STORER: If that, if that is-- what you're saying is, could they add that to their regulations?

J. CAVANAUGH: Well, you said that they could make whatever zoning requirement they want. I'm asking if one of those could be that you get the other permits approved first.

STORER: I think the question to that would be the-- you can do a lot of things, and then the courts may determine that that's not-- because in that case-- I guess this would be my contention-- is that if you required a, a-- permits that you actually had no authority over to be complete, and before you, there-- you have no impact on those. Does that make sense?

J. CAVANAUGH: Well, you also don't have an impact on how much water there is, or how much air there is, or how close they are to something else, right?

STORER: Right. But those are generally not part of county zoning. So, by and large, county zoning has a lot to do with-- primarily with siting, setbacks, and, and as you heard, creating order within your county, right? Kind of determining generally where housing or intense housing is, commercial, how close you want an agricultural operation to residences. So, it's-- by and large, it has to do with siting.

J. CAVANAUGH: So, they can do whatever they want as long as it is only about siting?

STORER: I'd have to go back and read, read the statutes, you know, as they're written. But I don't-- and none of us can do whatever we want. We still operate under constitutional provisions.

J. CAVANAUGH: OK.

STORER: Right.

J. CAVANAUGH: I-- I'm just trying to wrap my head around how much local control we're leaving if we're saying that they can't-- they can do whatever they want except for whatever we don't want them to do, I guess, is what it sounds like.

STORER: Right. So, the-- if they-- here, here's part of the challenges. If we're-- if we talk about-- we talk about property tax relief, for example. Right? We talk about efficiency in government. If local units of government are going to start duplicating what state level of government is already doing, that is not efficient, nor is that cost-effective. So, a county board does not have an engineer on staff; a county board does not have a water specialist on staff. Most of our county zoning rate-- the zoning board members are volunteer. The only hired individual really typically is your zoning administrator, who oftentimes is part-time. Most counties don't have enough permits for that to even equate to a full-time position. And so, if you're going to regulate something, you should also be expected to have the resources to monitor and audit and follow up on that, I would presume.

J. CAVANAUGH: OK. But I guess my question was could-- if there is a necessity for a NDEE permit for whatever facility it is, why could they not put that into their zoning that you get the NDEE permit first?

STORER: They could. I mean, I suppose they could put it in there, but it would be very clear upfront before the applicant applied, so they knew to go do that. But what's happening now is applicants get into the process and that's not being told to them upfront, and then they're being denied because they didn't have it. So, I suppose they could put it in there upfront.

J. CAVANAUGH: OK. Thanks.

STORER: Yeah.

SANDERS: Any other questions from the committee? See none. Thank you for your testimony on LB-- or, introduction on LB663. This closes the hearing on LB663, also the hearings for today in Government, Military and Veterans Affairs.