

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 5, 2025

BRANDT: OK. Is everybody, everybody seated? Please. OK. Welcome to the Natural Resources Committee. I am Senator Brandt from Plymouth, Nebraska. I represent the 32nd District, which is Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties, and I serve as chair of the committee. The committee will take up the bills in the 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 that are on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify, but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name, and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer, if they wish to give one. We will be using a five-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining, and the red light indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard. It is just part of the process, as senators may have bills to introduce in other committees. A few final items to facilitate 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. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may be 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 letters will be included in the official hearing record, but only those testifying in person before the committee will be included in the committee statement. I will now have the committee members with us today introduce themselves, starting on my left.

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CLOUSE: Stan Clouse, District 37, Kearney, Shelton and Gibbon in Buffalo County.

CONRAD: Hi, I'm Danielle Conrad from north Lincoln.

HUGHES: Jana Hughes, District 24, Seward, York, Polk, and a little bit of Butler.

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

MOSER: Mike Moser from District 22. It's Platte County and most of Stanton County.

RAYBOULD: Jane Raybould, Legislative District 28, which is the center of the city of Lincoln.

BRANDT: And Senator Juarez is as unable to be with us today. Also assisting the committee today, to my right is our legal counsel, Cyndi Lamm, and to my far left is our committee clerk, Sally Schultz. Our pages today are Emma Jones, a junior at the University of Nebraska. Kathryn, a junior majoring in environmental studies at the University of Nebraska-Lincoln. With that, we will begin today's hearings with LB489. Our esteemed vice chair, Senator DeKay, will take over.

DeKAY: Thank you, Senator Brandt. You're welcome to open on LB413 [SIC].

BRANDT: Good afternoon, Vice Chair DeKay, members of the Natural Resources Committee. My name is Senator Tom Brant, T-o-m B-r-a-n-d-t. I represent Legislative District 32, Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. I bring to you today LB489, to clarify which entities may construct, own, operate, and maintain future transmission lines in the state, and that the authority to regulate those lines lies with the Nebraska Power Review Board. Nebraska law provides that the Power Review Board has jurisdiction over only those transmission lines in the state that supply electricity to Nebraska customers. While well-intended, the law left open a significant loophole that, in practice, allows out-of-state utilities to construct, own, maintain and operate certain transmission lines in the state of Nebraska without the approval authority or oversight of the Power Review Board. This situation has come up twice, most recently just last year. In 2024, the Power Review Board concluded that the agency did not have jurisdiction to rule on an application made to it by an out-of-state utility proposing to own,

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build, maintain and operate a transmission line that would merely traverse a part of northwestern Nebraska. They came to this conclusion from an Attorney General's opinion from 1974. The end point of the line would be in Wyoming, and it would supply electricity to customers only in Wyoming, not Nebraska. As a result, the Power Review Board dismissed the application for lack of jurisdiction, since the utility was not an electric supplier to Nebraska customers under state law. It is worth noting that the bill will not negative-- negatively impact those transmission lines currently constructed, owned, operated or maintained by non-electric suppliers in the state. I have a proposed amendment that was worked on by many of the affected parties, but there may be still some tweaks to make. I believe this amendment will be a good start. There will be expert testimony behind me to answer any technical questions, and I anticipate there will still be opposition testimony. We are willing to work with the parties involved to try and come up with a compromise. With that, I would take any questions from the committee.

DeKAY: Thank you. Just for a correction, for the record, it's LB489 rather than LB413. Do we have questions from the committee? Senator Hughes.

HUGHES: Thank you, Vice Chair DeKay. Thanks for bringing this bill. Can you-- what is the proposed amendment you're talking about bringing? What would that do?

BRANDT: It's probably easier to explain the loophole, and there will be others after me explaining this.

HUGHES: OK.

BRANDT: The Nebraska Power Review Board regulates construction of transmission lines and, and ownership and maintenance of transmission lines used for public power in the state of Nebraska. This particular line is neither. Black Hills Energy is proposing to construct a seven-mile transmission line to connect their operations in South Dakota with that in Wyoming, and they have already started construction, is my understanding, on a seven-mile-long transmission line way up in the corner of the state of Nebraska to connect those utilities. It is not a public power entity; it is privately-owned, and the transmission line doesn't serve any customers in the state of Nebraska. Henceforth, the Nebraska Power Review Board has no jurisdiction over this. While I don't know if, if that particular line is a problem, the bill anticipates that down the road, instead of maybe cutting the corner of the state, if you had somebody else wanted

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to just cut across Nebraska with a, with a private line, about the only entity that would have jurisdiction is probably your county planning and zoning boards, and it probably should be the Power Review Board.

HUGHES: So then, the Power Review Board could-- they would have to-- the project would have to come to them, and they would either, like, up/down, they could do it? Or is it more it has to be built to these specifications, et cetera?

BRANDT: I think testifiers behind me could--

HUGHES: OK.

BRANDT: --answer that question better.

HUGHES: Perfect. Thank you.

DeKAY: Any other questions from the committee? Yes. Senator Clouse.

CLOUSE: Thank you, Senator DeKay. The 700 volts-- is that-- do you know where that number came from? Or?

BRANDT: I do not.

CLOUSE: OK.

BRANDT: I think one of the testifiers can clarify that.

CLOUSE: OK. That, that's not much.

BRANDT: And I know in the proposed amendment, there's a different number proposed in that.

CLOUSE: OK.

BRANDT: We did not hand out the, the proposed amendment because it wasn't done yet, and we don't know if it's acceptable to all parties yet. We're still working on that. And this-- I think the hearing will help clear the air on some things.

CLOUSE: Thank you.

DeKAY: Any other questions? With that, thank you. Now we will open with our first proponent. Will you be here to close?

BRANDT: I certainly will.

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DeKAY: Thank you.

ROBIN SPADY: Good afternoon. Hello. My name is Robin Spady, R-o-b-i-n S-p-a-d-y. I am the director of Energy Regulation at Omaha Public Power District. I appreciate the opportunity to provide this testimony today to the committee, and to thank Chairman Brandt for introducing LB489 and the opportunity to describe OPPD's support for this legislation. OPPD is a public corporation, political subdivision of the state of Nebraska. OPPD serves a peak load of approximately 2,810 megawatts, and serves a population of approximately 885,000 people in thirteen eastern Nebraska counties, including the Omaha metropolitan area. OPPD's service area extends across 5,000 square miles. Nebraska is set up as a public power state on purpose. Public power entities own, operate transmission lines across the state, and the Nebraska Power Review Board is responsible for approving transmission lines located outside an incumbent or transmission-owning power supplier service area. Last year, a loophole was identified in the law, allowing an out-of-state entity to own, construct, and operate transmission lines in Nebraska without being subject to PRB's jurisdiction or approval authority. Additionally, the out-of-state entity was not required to work with the public power provider operating in the service territory. This loophole was found to exist as long as the line ends in another state and does not supply power to Nebraska customers. Nebraska law should be amended to ensure that the current loophole is closed. This fix will not only provide the PRB-- Power Review Board-- with the appropriate regulatory authority, but it will also strengthen the integrity of Nebraska's public power transmission system. As alluded to, we are working on amendments, both-- with other utilities within the state. We have been working with Black Hills, and provided amended language to them. Really, when we boil down the purpose of this bill, it is to address that issue where an out-of-state transmission-owning company tries to build transmission through the state of Nebraska with no either oversight by the Power, Power Review Board or any kind of cooperation, coordination with the public power utilities in the state. We're not trying to change anything that currently exists, and we've been working diligently with Black Hills to make sure that we get the right language, excluding what has been or is being currently constructed. Our intent is not to impact this private line, which was Cheyenne Power and Light, the seven-mile line that you've heard reference to. It's just to close this loophole and ensure public power participation in projects going forward. But it sounds-- rather than reading the rest of the testimony over that amendment, I would like to take questions, because it sounds like there are some.

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DeKAY: Are there any questions for-- Senator Hughes.

HUGHES: Thank you, Senator DeKay. Thanks for coming in, Ms. Spady. So, so back to-- if, if all lines would fall-- if, if we would make this a change, and say all lines fall under the Power Review Board, can the Power Review Board give a thumbs up, thumbs down on the whole project as a whole? Can they-- or is it more regulatory, like, it has to be built to this specification, et cetera? And then also, is-- will the Power Review Board-- because you said-- you mentioned you want them working with the public utilities like an NPPD, OPPD, et cetera. Is that through that Power Review Board, or is that also additional language that maybe needs to be in on-- from an amendment?

ROBIN SPADY: Well, I'll answer that in--

HUGHES: I'm sorry, that was a [INAUDIBLE] questions.

ROBIN SPADY: --two, two phases. So first, hopeful to work closely with Tim Texel on what that looks like in the future as we're trying to clues up-- close that loophole. But the way that the current amendment is written is, if an entity-- a private transmission entity-- were to try and put it just through the state, under this loophole, they would not be allowed to do that. They would go to the Power Review Board,--

HUGHES: Yes.

ROBIN SPADY: Power Review Board would have jurisdiction and would deny that. There's nothing that would change the process working with an incumbent power-- public power entity, co-ownership, any of that. In that case, that would go before the Power Review Board. We would ensure that there was a Nebraska purpose that made sense for the ratepayers, and then, that project could move forward as appropriate under the PRB process at that point, so. Not all the details figured out on that, but, trying to get there.

HUGHES: Thank you.

MOSER: All right. Other questions for the testifier? OK. Seeing none. Are there other supporters for LB489? Thank you. Other supporters? Proponents? OK. Are there opponents of this bill? People to speak in the negative? Welcome.

NICK WAGNER: Good afternoon. Do I need to push a button, or is this on?

MOSER: No.

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NICK WAGNER: OK, we're good. Good afternoon, Mr. Chair, members of committee. Appreciate the opportunity to be here today. My name is Nick Wagner, N-i-c-k W-a-g-n-e-r. I'm vice president of regulatory for Black Hills Energy. Black Hills provides natural gas and electric service to approximately 1.3 million customers in eight states, including Nebraska, where we serve about 300 customers-- or 300,000 customers natural gas. Just a quick background. Prior to joining Black Hills, I did do what you did; I was a member of the Iowa House for about four years until the voters got tired of me and kicked me out. It's OK. I ended up in a good place. But then also, I spent some time on the Iowa Utilities Board, so I have a lot of familiarity with transmission. Part of my job there was to actually site transmission, which-- most commissions in the United States, state commissions, have is siting authority, as does the Nebraska's Public Service Commission. So, again, very familiar with what we're dealing here. So, we do have three subsidiaries that provide electric in three states, Colorado, Wyoming and South Dakota, and also a little bit in Montana, I-- so I guess we have four states. From a transmission perspective, those are also under the jurisdiction, not only of the state commissions, but also the Federal Energy Regulatory Commission, or FERC. So, we, we do have, and own/operate currently today, a transmission line in Nebraska. It's about 90 miles that was constructed in around 1975, went through the process with the power board and everything to get that approved. It originates in Rapid City, South Dakota, and connects to the grid near Scottsbluff, Nebraska. Again, that was approved by the, the board in 1975. And that line does help support public power and other entities here in Nebraska. Currently, a subsid-- another subsidiary of Black Hills, Cheyenne Light, Fuel, and Power is constructing another line. We call it our Ready Wyoming lines, approximately 260-mile transmission line that will connect to the existing 90-mile line in, in Nebraska down to Cheyenne and then, further west for some renewable projects and, and other, other opportunities to help serve our growing load in, in Cheyenne. The portion of that project in Nebraska is only seven miles. And again, it connects from the existing-- will connect to the existing line we have today near, near Scottsbluff and then down, down to Cheyenne. We followed all processes that were required with both the Nebraska Public Service Commission, the Power Review Board, and other entities that are required for crossing permits, and, and, and, and the like, so. We have also received all of our needed rights-of-way from landowners. So, while this line will primarily serve loads outside of Nebraska, there are certainly opportunities for Nebraska because it will reduce transmission congestion, which increases costs, and will provide options for new generation within the state of Nebraska. As a

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FERC jurisdictional line, we are required to provide open access as long as there is capacity, so if there is a generator or an entity in Nebraska that would like to take service off that line, we have to offer that from a, from a FERC perspective. We do have major concerns with the bill as it stands today. I understand there is an amendment; we have not had an opportunity to look at that in great detail. But in other states, similar laws have been proposed, passed, and then also then struck down with, with the courts because of legal challenges both with constitutionality, both state and federal. So, just wanted to make sure you guys are aware of that. There could be some issues there. Generally, ownership and operation of transmission is a FERC jurisdictional piece in the-- in, in the U.S., and so, this could create some conflicts between the state and the FERC with respect to transmission, ownership and operation. And then, to the extent that the law-- that this could be interpreted to impact currently-owned transmission-- and I understand that we're, we're trying to get past that, but if that does not happen, certainly, there are other legal issues that could arise, given, given that we have moved forward with construction of this line, given that we have been provided with all of the necessary permits, requirements and regulatory options. So, one of the key things for us is, again, we-- we've went through the process, begin construction, and so, our concern is making sure that we can continue this. Not only is it just continuing the, the construction of what we have today, but should we need to expand, routine maintenance, other things like that that are very common with transmission lines, we want to be able to continue to serve this line and operate this line without being in violation of the law. We are not in any way threatening public power's right to serve retail customers in Nebraska. We are not going to have, and do not plan to have retail electric customers in Nebraska. And so, an outright ban on anybody but public power having transmission is just not good policy. So again, we think this is overly broad, raises significant legal/jurisdictional concerns. It should be rejected for, for the, the reasons I've stated before. We do look forward to-- as I said, we're, we're in, we're in Nebraska and we can-- and look forward to continuing to work here.

MOSER: All right. Do we have questions for the testifier? Senator Hughes.

HUGHES: Thank you, "Vice-vice Chair" Moser. Is that what we're going with?

MOSER: Previous vice chair.

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NICK WAGNER: I wasn't--

HUGHES: Who's next after you?

NICK WAGNER: I wasn't sure how to respond either.

HUGHES: Thanks for coming in, Mr. Wagner. So, I'm going to back up. You said the line you put in, in, in '75-- 1975-- you did go to the Power Review Board and FERC and whatever. But that's because it was a line that serviced customers in Nebraska, right?

NICK WAGNER: So we do have partners-- and I--

HUGHES: And the PSC you mentioned too, so.

NICK WAGNER: Yes. Yeah. We do have partners, and I-- off the top of my head, I, I don't remember who those partners are.

HUGHES: OK. But then, the seven-mile, the new one, you didn't have to go to the Power Review Board, right?

NICK WAGNER: Our--

HUGHES: Or you went there, and they said, "We have no jurisdiction over you anyway. Go away."

NICK WAGNER: Yes, both of those.

HUGHES: OK.

NICK WAGNER: So, we, we were under the understanding we would-- we did not need to go to them.

HUGHES: Right.

NICK WAGNER: Out of an abundance of caution, we did go to them, and the-- and their ruling was we do not have jurisdiction over this.

HUGHES: And then, I'm sure you've seen it, but at lines 27 to 30, basic-- it has the grand-- if something's already built or being built, it's-- so we're not talking about that. I mean, that would be protected, I guess. So your-- the end of what you said, I don't-- doesn't count, because that's already in there. But I guess my question is why-- what's the concern with going to the Power Review Board? Are you worried that they would say you just can't do the line at all? Is that kind of where it's at?

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NICK WAGNER: No, it-- by no means. We are, we are, we are not opposed to doing that at all. In fact [INAUDIBLE]--

HUGHES: And so, if that amendment comes, that's something that could be worked through.

NICK WAGNER: Yeah. We, we-- yeah, we have, we have no problems following regulatory environment. In fact, we do it very frequently in, in all of our states. As I mentioned, I'm VP of Regulatory, so we-- anytime we file a rate review, anytime we ask to change our rates, we have to go before the commission. So, we are very familiar with, with following those regulatory processes and have no, no concerns from that standpoint.

HUGHES: Thank you.

MOSER: Other questions? Senator Raybould?

RAYBOULD: Yes. Thank you so much for testifying. Can you tell us a little bit-- is Cheyenne Light and Power-- is that a private entity, or is that a public power in Wyoming?

NICK WAGNER: No, it is, is a private entity. It's a subsidiary of, of Black Hills Corporation.

RAYBOULD: OK. And then-- so tell me, what power pool would Black Hills be operating in? Like, is-- are you on the Southwest Power Pool? Or?

NICK WAGNER: Oh, gotcha. Yeah. So currently, we do not belong to any regional transmission organization or independent system operator. We operate on bilateral contracts. All utilities are required to have a balancing authority or be part of a balancing authority. And so, in the West, we are, we are part of a balancing authority. So, in, in Colorado, it's, it's different than where we are in, in Wyoming. In, in South Dakota, we're actually creating our own balancing authority. But there's bilateral contracts by which we buy/sell transmission energy to get the needs for our customers, along with-- we have, we have our own generation and transmission that we own and operate in all, in all three of those states.

RAYBOULD: So, to the best of your knowledge, is Black Hills the only entity that has these-- that's a private entity that has electrical transmission lines? Like, do data centers have electrical transmission lines as well?

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NICK WAGNER: If-- and, and Senator, you asked about the 700 volts. Yes. If, if the 700 volts remains, and you were a data center or a, or a large industrial, many times their electrical systems are above 700 volts. And, if it is a private company, they would then be precluded from building that line, or something of that matter. As far as the high-voltage transmission lines, I am not aware of any other companies that are owning and operating today. However, I do know there are-- and I think there's probably other testifiers-- that, that do this work, that will build a, a transmission line and then sell it-- or, renewables development. Any time you build a, a wind turbine, it requires that you build a gathering line, and that gathering line is over 700 volts, so that would preclude that from happening, potentially. So, I think-- yeah, those are, those are all concerns. And I, and I should point out, too-- even though our line does not serve any customers in Nebraska, we pay property taxes on that line. So, in a sense, Nebraskans are getting benefit without having to bear any of the cost.

RAYBOULD: Yeah. So one of-- other concern. Do feel like you're in competition with the public power districts in any way, shape or form? Are your-- your, your market and customers are so totally different than they probably never will cross, or?

NICK WAGNER: Yeah I, I would, I would not consider us competition. As I said, we do not have any retail electric customers in Nebraska; we do not intend on having any retail electric customers in Nebraska. This line will primarily assist in getting generation from our northern utilities down to the Cheyenne area where we're seeing extreme load growth. And so, again, we don't anticipate having any, any competition whatsoever. And in fact-- again, because it's FERC jurisdictional and we have to have open access, it, it potentially provides benefit that, if there is a customer in Nebraska that wanted access to transmission and we have the capacity, they can, you know, they can hook up to our system and then be provided with that transmission. Again, the more transmission we have, the, the less congestion, and the cheaper that-- those transmission costs are.

MOSER: Yes?

RAYBOULD: It's me. So, in the other states that you operate in, you, you follow FERC, right?

NICK WAGNER: We, we do, yes.

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RAYBOULD: All the, the regulations there. But do they have, like, this confusing quandary that we have? Like, the Public Power Review Board said, well, we really don't have the authority. How do they do it in other states? There has to be-- like, who has the authority to review things like this?

NICK WAGNER: I would, I would love to say that it's very clear cut and dry in other states as well. Nebraska makes it a little bit muddier just simply because of the public power component. In other states, your utilities are also-- you know, they're, they're private utilities that are, that are providing retail electric load. But then you've also got the compounded-- component of, as you mentioned, SPP, which is the Southwestern Power Pool. That's a regional transmission organization that does-- it's a FERC jurisdictional entity that does transmission planning, system operation. And so, they're operating the transmission grid, and within that, there are transmission owners such as MidAmerican Energy or, you know, any, any other of those utilities that, that might exist out there. You know, down in the south, you've got Duke, you've got Florida Power. You know, any, any number of large companies that you hear about are in, usually, a regional transmission organization such as SPP.

MOSER: We have a strict six-question limit.

RAYBOULD: Six-question limit. OK. So, you know, you have pipelines. You have pipelines everywhere, I imagine,--

NICK WAGNER: We do.

RAYBOULD: --for natural gas. So, is this a different type of commodity? I mean, you know, there-- aren't there other natural gas pipelines in our state of Nebraska besides Black Hills?

NICK WAGNER: There are, actually. And similar-- similarly, FERC has jurisdiction over some of those, which are the large transmission pipelines. And, and I'm not going to-- it's been too long since I've actually looked at what the requirements are. It's over a certain, certain pressure that it has-- that it's considered a transmission line, but-- yes. And, and then-- so, the FERC also has jurisdiction over those transmission pipelines. So companies like Northern Natural Gas, Kinder Morgan, Tallgrass, those are companies that do primarily transmission, but we also do-- within our, within our utility here in Nebraska, have some transmission ownership as well, as well as gas storage-- natural gas storage. So, they, they are similar in the sense that one is carrying the gas to the retail customers. On the electric

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side, the transmission line is carrying electricity to the retail customers and whoever's providing that, that electricity to the retail customers.

RAYBOULD: OK. Thank you.

NICK WAGNER: You're welcome. Thank you.

MOSER: OK. Other questions from the committee?

NICK WAGNER: I would point out I handed out-- or, the, the page handed out-- thank you-- two pictures there. One, the-- that is a very high-level view of Nebraska shows-- I think it's in red-- the existing 75-mile line, and then yellow is the new line that we're talking about. And again, there-- there's only seven miles of that that is in Nebraska. And then, the more detailed map, if you look at the-- I believe it's black and yellow line-- that would be the new transmission line in Nebraska. And then, on that map is also the existing-- other existing transmission lines here in Nebraska.

MOSER: OK.

NICK WAGNER: Thank you very much. Appreciate your time.

MOSER: Yes. Thank you for your testimony. We received 4 proponent, and 1 opponent, and 1 neutral--

CONRAD: Mike?

MOSER: --comment.

CONRAD: Senator, I think you might want to call up for other testifiers.

MOSER: Oh, yeah, we're not done. I just, I just neglected to mention the online comments. So, are there other opponents?

DAVID LEVY: Good afternoon, Senator--

MOSER: Welcome.

DAVID LEVY: Ope. Good afternoon, Senator Moser, and members of the committee. David Levy, D-a-v-i-d L-e-v-y, Baird Holm Law Firm in Omaha and Lincoln, here testifying in opposition to this bill, LB489, on behalf of BHE Renewables, Ranger Power, and the American Power Alliance. The first thing I would say is, just listening to the, the discussion so far, the stated purpose for the bill to close a very

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specific loophole of something needing to go to the Power Review Board for approval, and the language of the bill prohibiting private construction and ownership of transmission lines across the entire state-- those two things don't seem to match, to me. I, I understand the loophole, I understand the concern. My clients are also regulated by the Power Review Board. If that's the concern, it seems to me that that should be the bill, rather than prohibiting private property taxpaying investment in the state. So, really just an observation since I have the opportunity and I've been listening so far. My clients are developers of utility-scale renewable energy. And one of the things you do when you develop a utility-scale wind farm or, or solar farm is you build what's called a generation tie line. So, the wind turbines or the solar panels generate electricity; that's collected through a series of underground collection lines to a project substation, and then they build a, a line, a transmission line that connects that project substation to the utility substation. Sometimes, those lines are 100 feet over a fence, literally, and sometimes they're five or ten or fifteen miles. The practice has been, in this state, that when they build those lines, they then convey them at no cost to the interconnecting utility, and that becomes part of their transmission grid. So, that's a private investment that becomes a benefit to the, the public transmission system in Nebraska. The bill, as introduced, would prohibit the construction of those generation tie lines. I believe that's an unintended consequence of the bill from talking to OPPD and from seeing the amendment that has been drafted; I was able to get a copy of that late this morning. What I handed to the page and passed out to you is my first go at a red line of that amendment to try and make it more explicitly exclude or, or exclude my clients from this broad prohibition, which again, I think is different than explained as trying to close this loophole. That aside, an amendment like what I, what I passed out would, would protect our clients' ability to build these generation tie lines. And I think the prohibition of that would have been an unintended consequence of that-- of this bill. So, appreciate Senator Brandt's willingness to work with us, and the amendment that was, was drafted. And with that, I'm happy to try and answer any questions the committee might have.

MOSER: OK. Are there questions from the committee? Senator Clouse.

CLOUSE: Yes. Thank you, Senator Moser. David, we got the 60,000 in here now.

DAVID LEVY: Yeah.

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CLOUSE: We go from 700 to 60-- do we-- should we even mention a voltage? I think what you're trying to talk about is primary metering coming from an elec-- from a generation facility, is it primary metering?

DAVID LEVY: So the lines that our clients build are anywhere between 115kV lines and 345kV lines. So, these are really--

CLOUSE: Right.

DAVID LEVY: --transmission lines that-- you asked about the 700 volts, and, and I wasn't involved in drafting this bill. That, that number, that level is already in statute as a threshold level for Power Review Board jurisdiction.

CLOUSE: Oh, OK.

DAVID LEVY: So, just to try and answer your earlier question, I, I assume-- I'm guessing that's where that came from. But I do appreciate that, in, in the amendment, it goes to 60,000 volts. That alone still wouldn't protect our clients, because when they build these lines that can be many miles long, it can be as much as a 345kV line.

CLOUSE: So, so this is your amendment-- in blue? Or, this is--

DAVID LEVY: The-- my-- the blue is my changes to the amendment that I understand Senator Brandt and OPPD had worked on.

CLOUSE: No, the cross-through.

DAVID LEVY: The cross-through is my--

CLOUSE: Is your amendment.

DAVID LEVY: --change. Yes. Yes. Thank you.

CLOUSE: OK. Thank you.

MOSER: OK. Other questions? OK, seeing none. Thank you for your testimony.

DAVID LEVY: Thank you very much.

MOSER: Are there other opponents? Other opponents to LB489? Is there anyone here to speak in the neutral on LB489? Welcome.

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JOHN McCLURE: Good afternoon, Senator Moser, members of the committee and staff. My name is John McClure, J-o-h-n M-c-C-l-u-r-e. I'm executive vice president and general counsel for Nebraska Public Power District. I appreciate there appears to be a spirit of "can we work this out and work on language that can get everybody to yes," and that's really where we are. We think the, the language needs attention. The current statutory language is not adequate. The loophole that's been identified certainly needs to be addressed. As originally introduced, we had a number of concerns that the bill would not work, and OPD has been working on that; they've been receptive. As was pointed out by an earlier witness, there are situations where large industrial customers own some of the electric facilities that are well over 700 volts. And so, that, that change, I think, to recognize that, is going to be made; obviously, how we work with the private interests needs to be better addressed. I believe, in the case of what happened with Black Hills, with this small project in the Panhandle, the law actually changed over some course of time and no one, maybe, was thinking about it, but the way it was written, it ended up clearly excluding that project from PRB jurisdiction. I would just say that I think it's appropriate that the Power Review Board does have jurisdiction over transmission facilities in the state, especially those outside the service territory of, of a utility, which is the practice now. I would say one other thing just to add a little context, especially with, with new committee members this year. While Nebraska is unique as a public power state with public power districts, municipal utilities, cooperatives, joint action agencies, Nebraska is not unique with public power. And when I say public power, I'm referring to all of those. 49 other states have public power. The difference is, in Nebraska, all retail service comes from a consumer-owned electric utility. Anyway, I just wanted to add a few comments like that for context. Again, we appreciate that Chairman Brandt and others involved are willing to work to try to get to a solution that can make better public policy here in the state of Nebraska. I'd be happy to answer any questions.

MOSER: OK. Questions? Seeing none. Thank you for your testimony.

JOHN McCLURE: Thank you.

MOSER: Are there other neutral testifiers? Welcome.

TIM TEXEL: Senator Moser. Go ahead and start?

MOSER: Yes, please.

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TIM TEXEL: Members of the committee, Senator Moser, my name is Tim Texel, T-i-m, last name's T-e-x-e-l, and I'm the executive director and general counsel for the Nebraska Power Review Board. You've heard our name mentioned a number of times today, so I guess I'm the embodiment today of that agency. And we are the agency with primary jurisdiction over electric suppliers in Nebraska. I did want to make one minor correction. I think Mr. Wagner said that the-- these go to the Public Service Commission. They go to the Power Review Board. The Public Service Commission's jurisdiction over transmission lines is when they cross highways and railroads, and they-- compliance with the safety code. We do the-- what would be called siting, approval of generation, transmission, service areas, things like that. So, as you've heard LB49-- LB489, at least in its, in its green copy form, would prohibit any entity other than what is known as public power utilities-- consumer-owned utilities-- from constructing, acquiring or operating a transmission line over 700 volts in Nebraska. And I would say, the 700 volts was in our original statutes from 1963. I was not around yet. I've been around for quite a while and got gray hair to prove it, but not back then. And it was in the original statutes. Back then, they probably used 700 volts. I don't-- it's not really used anymore; it's too small, but there's a number of statutes that have it in there, I think just for continuity. If the Legislature would want to update that, we probably could at some point, but that's the reason. It's, it's in, I think, some other statutes I know of, too. Recent bills. So, I'm going to address the green copy of the bill. I did see one version of a draft amendment. I can talk about it at the end if you'd like, but I don't know where that is or where it's going to go, so I'll deal with the green copy. Dealing with the lines in Nebraska, there's two current lines, and then the one under construction owned by private entities in Nebraska of which I'm aware. The one under construction is the seven-mile one that Cheyenne Light, Fuel and Power-- I'll refer to it as Black Hills, because it's a wholly-owned subsidiary, subsidiary of Black Hills, so I'll just use Black Hills as, as the name, if that's all right. The two existing lines were built in the 1970s; I think Mr. Wagner said they built theirs in '75. Black Hills had one, and then Basin Electric Power Cooperative has the other. So, there are two examples, and the Power Review Board did have jurisdiction and approved both of those. I'll go through the caveats of that in a little while. So, the bill that this deals with, and this-- what's called a loophole rarely occurs, that a private entity builds at least the bulk transmission lines; the inner tie lines and stuff is-- it's much more common. One technical issue with the bill is that the last sentence in Subsection (4) at the bottom of page 3 would grandfather all existing lines constructed,

acquired or operated prior to enactment of the bill. I, I would ask that either the word "lawfully" or "legally" be added following the word "lines" on page 3, line 28, because we don't want to grandfather any other line that we find wasn't properly approved, and then we have no jurisdiction because the statute grandfathers a line that didn't come to us and should have. So I'd, I'd prefer that it say "lawfully" or "legally" in that particular instance. Also, point out an other unintended consequences. I think this one was, was mentioned already, but it's a common practice, when a private developer builds a wind or solar generation facility. In particular, the developer builds the line that interconnects. I think Mr. Levy covered that. And then, they typically-- what I've seen, they build it to the specification of the utility they interconnect, and then they turn it over-- before energizing the line, they turn over ownership and operation to the utility, because they aren't in the business, is what the developers told me, of operating lines; they want to operate solar and wind farms. And so, this bill and its green copy would end that. I'm running up against my time frame, but I wanted to address the context of the application that maybe spurred this with Black Hills, that seven miles. Black Hills filed an application with the board to build the seven miles. In 1981, there was no definition-- or until 1981, there was no definition of what a power supplier-- or electric supplier, rather-- in Nebraska was. And so, our decision was based on that definition. The other two lines that were built in Nebraska, the definition didn't exist yet, so the board assumed it had jurisdiction over all of them. In 1981, that changed, because the definition that we used to base our decision and dismiss this particular application was created. So, that kind of changed the playing field, obviously. So, I'll just be very brief since I only have those, those seconds left. I think-- Senator Hughes, you asked about the up or down approval, and we-- have not exactly siting authority, because the Supreme Court has said we don't tell them where they can put it, but we evaluate it with where it is. So, if they put it in a place that would create congestion or create duplication, we could say no, but ours is an up or down vote. We don't get into the technical aspects of it; they bring it to us, and we look at it as it is. We can't tell them where they have to put it, we can just tell them they can't put it where they-- where it is proposed because it would create-- not meet the criteria. And I addressed the 700 volts question. So, I think I'm out of time. And unless you have questions, then that's my testimony.

MOSER: Senator Clouse has a question.

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CLOUSE: Yes. Thank you, Senator Moser. My question was, do you still have anything to add?

TIM TEXEL: Well, I, I, I did have one on the amendment. I mean, right now, the amendment that I got this morning, or I saw this morning, it talks about the 60,000 volts level, which is, is fine. But I would point out that, by implication, I think, since it authorizes that-- or prohibits that, rather, specifically, I think it might imply that it's authorized to build sub-transmission and distribution lines, because the, the two would make sense. So, with rules of statutory construction, you might be authorizing distribution lines and sub-transmission lines. So, I'm not going to take a position on that; my board is neutral. But I wanted to point out that implication, if it is followed the way that the amendment that I've seen would word it. So, kind of getting into the weeds, I realize. But some of these issues are important to my board because the dismissals and such [INAUDIBLE] are what result if I don't deal with the weeds now. So, I think that was the main point I wanted to touch on, [INAUDIBLE], so. Any other questions for me?

MOSER: Any other questions?

TIM TEXEL: All right.

MOSER: All right. Thank you for your testimony.

TIM TEXEL: Thank you.

MOSER: Is there anyone else to speak to us in the neutral? Welcome.

DAVID BRACHT: Welcome. Thank you, Chairman Moser, and others on the committee. And thank you to Senator Brandt for introducing the bill. My name is David Bracht, spelled D-a-v-i-d, last name spelled B-r-a-c-h-t. I'm an attorney with Kutak Rock, and here with-- representing Catalyst Public Affairs as a registered lobbyist, and representing, in this case, NextEra and also other renewable energy developers that we represent in the state. I'm testifying neutral today, and won't restate a lot of the things that would have been or were in my original testimony that have already been stated. But just want to point out that the, the transmission tie line aspect is a really critical component. I agree, and I'm glad to hear that the amendment is being worked on, because, as initially written, it would have-- unless something else is done, would have prevented what is the common occurrence and an important one for being able to develop renewable energy facilities with the state. Prior to my background, I

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spent four years as Nebraska Energy Director during the Ricketts administration, and that was a time when we saw our wind development grow from, if I recall correctly, about 400 or maybe 600 megawatts to where we're at today and 3.5 gigawatts. And all of-- almost all of those projects, to my knowledge, require some level of a tie line to connect to the main transmission line. One of the other things that's not often seen is-- or maybe thought about, I think, by those that are outside of the industry-- is the complexity of developing a renewable energy project. And each time you interject another level of uncertainty, and certainly, to have to somehow work-- and, and what happens today is the renewable energy development company has the specs that it knows the utility needs to have, and it takes care of the construction for that with the intent, as prior testifiers have said, is that, on commissioning, that then generally gets transferred over to the utility, and the utility gets in the business of what they do day-to-day, is maintaining that. In the absence of that, we would have had to have-- my clients would have had to have planned, what are we going to do three and four years in advance to make sure that our tie line gets on-- the right spot on the schedule for this public power entity to construct that tie line. And again, it would just be another level of, of uncertainty that would make Nebraska less attractive to develop its resources. And at a time when every one of the major utilities in the state is looking for more power, it seems to me it would be not a good idea to, to provide additional barriers; even if they were unintended, that's one that would have very clearly been there. So with that, I would finish, to not take more of your time, but would be very happy to answer any questions.

MOSER: Questions? Senator Hughes.

HUGHES: Thank you, "Vice-vice Chair" Moser. I'm pretty sure I know this, but when you guys-- when-- like, a NextEra does a tie lot-- tie-in line from a renewable source, that goes before the Power Review Board.

DAVID BRACHT: As a matter of fact, it does not, because--

HUGHES: Does not.

DAVID BRACHT: Yeah, so, the, the normal regulatory process for that is that-- for a renewable energy project in general, it's to maybe just tick through that.

HUGHES: OK.

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DAVID BRACHT: And this was most recently updated in, in 2016 and 2017, which was while I was at the Energy Office. Section 70-1014.02 within Nebraska statute allows renewable energy generation facilities-- privately-owned-- private renewable energy generation facilities to be constructed. And what we have to do is provide a series of-- meet a certain series of requirements that we submit and certify to the Power Review Board. One of those is that we have entered into a joint transmission agreement-- I think it's "joint transmission development agreement" is what it's called in the statute-- with the utility that will be taking the power. So, that's the-- we have a legal agreement with the utility.

HUGHES: Mhmm.

DAVID BRACHT: So from a policy standpoint, from the Power Review Board's standpoint-- and I think it's important--

HUGHES: Those utilities fall under the power-- like, they've gone to the Power Review Board.

DAVID BRACHT: Yeah. And I think it's important too, even when you're developing-- and, and actually this-- I should have went ahead of Mr. Texel, because he would be a better answer for this-- is-- in most cases, what the Power Review Board is really there is to avoid stranded assets or duplication. So, particularly in our public power state, we have publicly-elected boards of the public power entities that are there to make sure that the assets are being built properly. And so, the Power Review Board doesn't typically get into the very nuts, nuts and bolts; they'll ask questions, but there's not a technical staff that's reviewing the technical specs of that, that transmission line, in this case. So, back to how this fits together, the important point from the-- from, from a policy standpoint that the Power Review Board considers is this new asset is going to be here in Nebraska. Is it properly connected so that it's not disrupting the other electric service within the state? And that was the basis for adding that as a requirement for LB824 back in 2016 and-- 2015, 2016, I think it was. So--

HUGHES: OK.

DAVID BRACHT: Did that answer your question, Senator?

HUGHES: I think so, yeah. Thank you.

DAVID BRACHT: I might have taken you around a little bit, but--

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MOSER: OK. Other questions? Seeing none. Thank you for your testimony.

DAVID BRACHT: Thank you.

MOSER: Are there others that want to testify in the neutral capacity? Other testifiers in the neutral? Seeing none. Senator Brandt, you're welcome to close.

BRANDT: I'd like to thank all of the people that testified: for, against, and in the neutral capacity. We're close to an amendment on this. We didn't present one today for obvious reasons; there's two or three things in here that we need to work out. Maybe we take the voltage out, or identify where that voltage number should be. The current seven-mile line, because it's already been sited, will go forward under existing. But you can see, probably, why we need to define this for the future. Probably need to add some, some certain words in there to provide-- like "legally," and things like that. So, I can tell you, we will work with everybody in the room that testified to try and put out a good product and bring an amendment before this committee. So, with that, are there any questions?

MOSER: Senator Hughes?

HUGHES: Thank you, "Vice-vice Chair" Moser. So, just for my own clarification, this will change; it's not necessarily that we want to completely ban this from happening, it's just that we want to make sure it goes through the proper channels, that we're not duplicating, or-- I mean, all the things. Is that the intent?

BRANDT: The intent, yes, is to, to get it inside the rules. And if the rules are such that the Power Review Board review this. That's probably where it, where it needs to be reviewed inside our structure of 100% public power. But we have levers inside there that allow public power to work with private entities now. And, you know, we think that would probably work.

HUGHES: Thank you.

MOSER: Any other questions? Thank you.

BRANDT: OK.

MOSER: So, that will "ender"-- end our hearing on LB489.

MOSER: I think.

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BRANDT: Here we go. Senator Moser.

Unidentified: Where you get paid well.

BRANDT: After terms.

Unidentified: Over. I get on with it.

BRANDT: It kills me every time I can get through it.

BRANDT: I know.

BRANDT: Senator Moser, welcome to your Natural Resources Committee.

MOSER: Well, thank you, Senator Brandt, and fellow members of the committee. LB593-- well, my name is Mike Moser, M-i-k-e M-o-s-e-r. I represent the 22nd Legislative District. LB593 aligns Nebraska with recently modernized gasoline specifications for ASTM D4814, which is the Standard Specification for Automotive Spark-Ignition Engine Fuel. In December 2023, ASTM International approved changes to the gasoline specifications, which were published in April of 2024 with a modification in July. These changes were necessary, as the old standard was based on data from the 1950s to the 1970s, and the updated standard is based off more recent data. The revisions included changes to the volatility of fuel in many states, as well as a change to the evaporated distillation temperature requirements for gasoline-ethanol blended fuels and wintertime fuels. Overall, these updates are technical in nature, and will allow more efficient refinery operations, slightly higher gasoline volume, and less risk of refinery noncompliance, without affecting the consumer's vehicle's performance. Most states adopt the latest specification via reference to the ASTM standard by a reference to the National Institute of Standards and Technology-- that's the NS-- NIST Handbook-- 130 automatically. But Nebraska needs to make this update legislatively, which will ensure Nebraska's standards are consistent and uniform with the rest of the marketplace. I thank the members of the committee and the chair for the opportunity to bring this bill, and I'll try to answer questions if you have questions.

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

CLOUSE: Thank you, Senator Brandt. Senator Moser, we had this letter from Sherry Vinton talking about the authority of the Department of Agriculture and it does fall under their purview. It was under their purview. Can you address that?

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MOSER: I, I did read that, and she offered that at-- I believe in a neutral testimony-- that she felt that the Department of Agriculture was not required or able to police the standards. I'm not sure the import of that. I think we'll have to leave that for some subsequent testifiers, because--

CLOUSE: Because that didn't change; that was always in here.

MOSER: Yes. Well,--

CLOUSE: It's a different state that's.

MOSER: --that's a little bit beyond what I know about this subject, so.

BRANDT: OK. Other questions? You'll stick around to close?

MOSER: Sure. Thank you.

BRANDT: OK. Let's go with proponents. Welcome.

MIKE KARBO: Good afternoon, Mr. Chairman, and members of the committee. My name is Mike Karbo, K-a-r-b-o, and I'm the Midwest region director for the American Petroleum Institute. API represents all segments of America's natural gas and oil industry, which supports more than 11 million U.S. jobs. Our nearly 600 members produce, process, and distribute the majority of the nation's energy. Thank you for the opportunity to speak today in support of LB593. API was formed in 1919 as a standard-setting organization, and is a global leader in convening subject-matter experts across segments to establish, maintain, and distribute consensus standards for the oil and natural gas industry. In its first hundred years, API has developed more than 800 standards to enhance operational safety, environmental protection and sustainability across the industry, especially through these standards being adopted globally. API and its members work closely with ASTM International, formerly the American Society of Testing Materials, commonly abbreviated as ASTM, to ensure the public that standards are consistent, uniform, and of the highest quality; a product meets the highest levels of performance and safety, defines the specific manufacturing process of a material, and determines the exact chemical composition of a material. As, as stated in the previous testimony, in December 2023, ASTM approved changes to the gasoline specific-- specification D4814, the Standard Specification of Automotive Spark Ignition Engine Fuel, and they were published in April 2024 with a modification of-- in July. Most states adopt the latest specification either through a direct adoption of the latest

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version of the standard, or through the adoption of the NIST Handbook 130 automatically, but 18 states reference older versions and need to adopt rules or make legislative changes to adopt the latest version, which includes the Nebraska, along with neighboring states of Iowa and South Dakota. South Dakota already completed their rulemaking in November, and Iowa's will be finalized on February 12 of, of this month. APM revised the gasoline specification, and included a change to the volatility in the fuel in many states, as well as a change to the evaporated distillation temperature requirements for gasoline-ethanol blended fuels. Changes to these volatility tables have not happened in several decades, and the temperature data supporting their original requirements was from the 1950s to the 1970s. The recently adopted changes are based on temperature data from across the country from 1996 to 2015. Additionally, the specific-- the specification includes revisions to the evaporated distillation temperature requirements for winter fuels, which is T50. It is a minimal-- it is a technical requirement that allowed more efficient refinery operations, slightly higher gasoline volume, and less risk of refinery noncompliance without it impacting the performance of-- consumers' vehicle performance. We thank the Senator for his leadership on this issue, which ensures Nebraska has consistent and uniform standards across the Midwest region and the country. Thank you again for the opportunity to testify, and I stand for questions.

BRANDT: Let's see what we've got. Questions? I guess I've got a question. So, is this simply an update of, of standards, ASTM to ASTM International? Or, is this a switch of standards to make refinery operations more efficient?

MIKE KARBO: Thank you for the question. It, it is a-- the-- it is a broader update to the, the fuel volatility tables, and also the winter fuels aspects that has been agreed to nationally, and just brings Nebraska along with what the majority of the nation is, is at, or in the process of doing so. And most-- 32 states automatically adept-- adopt those changes when they're approved in the ASTM standards; 18 have to either do it through rule or legislatively, and Nebraska is one of those 18.

BRANDT: OK. Thank you. OK. I don't see any other questions. Next proponent. Any more proponents? Opponents? Any opponents? Neutral? Anyone in the neutral capacity? Senator Moser, would you like to close? Senator Moser waives closing. And, on this bill, on online comments, we had 1 proponent, 0 opponents, 1 neutral. And that concludes our hearing for LB593. We now move to LB489. No, excuse me.

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LB413. LB413. Senator Clouse. Welcome to the Natural Resources Committee.

CLOUSE: Thank you. Thank you, Senator Brandt and fellow senators. The bill that I bring before you is LB413, and, as Senator Brandt mentioned on LB489, there is-- there's some work that needs to be done and some things we'll continue working with the interested parties and the committee to provide some clean-up and some better definition, just to work through the process. This bill was presented to me by the Nebraska Public Power District. And a little background on this. Talked a little bit about how-- rate design, and, you know, as a former NPPD employee for a number of years, I can tell you that, when you start talking rates, they have week-long seminars and classes, and you still don't understand it. Because ratemaking is very challenging, and you do the best you can to try to meet the needs of every classification. This particular bill, if you look at the history of the state and how it's grown over the years, we used to get, you know, a half-a-megawatt load, or a one-megawatt load, and that was a big deal. And so, we had plenty of rates to cover that. And so, what we've seen over the years is, with the large-- and I'm talking about extremely large-- whether it's a biofuels plant, whether it's data centers, whatever it may be-- significant large load with different risks and different load factors and sizes, and just a lot of things there that, that you have to pay attention to as a public entity, because you have to manage that risk. And so, with this bill-- the, the plan or the intent of this bill is to provide some flexibility when you're addressing those large loads. And I'll talk a little bit about rate design, kind of-- and I always have to dumb it down so that I can understand it. But when you look at rates, you look at the generation piece of it. What's it cost to generate? What do [INAUDIBLE]-- so you take, maybe your low-cost coal, and then you add, maybe, a higher-cost nuclear, wind, say-- and you run all those together, and you create a single wholesale rate, which is a blended rate, and your wholesale customers basically get that, that same rate. Then, you start adding to that your sub-transmission costs, transmission costs, and then you get to the, the distributors; then they have to add their cost to it. So, for example, if it's a, a five cent wholesale power rate, by the time you and I pay it, it might be eight, nine cents by the time-- and that's just a typical market of any type of commodity. And that's pretty standard. So, when you're looking at these large loads, when we set the rates-- or, excuse me, when NPPD sets the rates, they, they look at the rate classes, how does it fit. But then, when you try to manage these risks, then that becomes a little problematic. And so, what this bill-- the intent is

to say, OK, how do we manage that risk and still do economic development and still bring in these projects? And it could be-- and I, and I was-- I had a misunderstanding. I thought I was strictly wholesale, but it does also affect retail and wholesale, because you'll get some large loads at retail. And so, how do you manage that? And I-- we have a model on NPPD with the, the community solar. So for example, when a community wants to put a solar array in their community, and we have our rates established, and community solar comes in-- say, if that's your five-cent wholesale rate, and they come in at six cents, there's a delta. OK? So, who pays that delta if somebody wants to put in, say, the solar array? So the way that that's handled on the retail community solar is, if you-- if you're a supporter of that, you pick up that delta. And if Senator Ibould [PHONETIC][SIC] wants it, she can pay that; doesn't impact me, because I'm not interested in having the higher rates. And so, whoever is interested in covering that cost-- and if nobody does, then it's the community, the city itself. And I'm going to use Kearney as an example. City of Kearney is the one who's at risk for that, because the city of Kearney is the one that wanted it, and the rest of the ratepayers across the state don't pay that. So, what this does, it looks at a larger project, very similar. If a project comes in and-- say, for example, it's a large biofuels project, a project that-- their view is, we want to be in Nebraska, we have the other resources we can use, the rates are, are competitive, but we also want to have, say, a large solar array or wind farm that we want to buy that power from, because that power-- and being green, we can market our end-use product and make substantially more money, maybe, in another state, for example, California. So, for them, they're willing to pay a higher price, because they'll make it up on the other end, on the marketing. That-- that's just a scenario. I'm not saying we have anything like that, but that's how I would see this working. I don't want to pay him-- them, putting that large generation on my bills because I'm perfectly fine without public powers and the rates that are established. So, what you would do is you would look at that particular project from an economic development perspective. How do we make this work? Who's going to pay that delta? And then, that's what this does, is give them the opportunities. Now, obviously, if they have to invest a lot, the utility has to invest a lot, the risk is higher. It's different. So, they might even say, well, we're going to have this payoff-- payback come a lot quicker. Or, you know, just very things. And that's what the the questions that come in here, as you read through this, some of the criteria-- it could be load factor, firm, non-firm service, the technology risk, you know "dot com today, dot gone tomorrow" type thing. And, and what's their-- what are they

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willing to commit to? So, if some of that can come into practice as far as the rate that they're going to design and work with that end-use customer. And not all customers are the same. And that's why, when you look at some of these various size loads, you might want to have something a little different. And with public power, it's fair and nondiscriminatory pricing. So, it's very difficult to say, well, we have this customer, and we, we need to treat them different. For some of the reasons mentioned below, there are-- mentioned below-- mentioned in the, the bill as opposed to, you know-- we can't just give them a standard rate because they don't fit the profile. So, that is really the intent of this. And I know that there are some questions, and we actually did have an economic development rate at one time, and that was a rate that was specifically designed to recruit businesses into Nebraska, and actually give them-- there was a time that they could have a lower rate for a set time, and then, the understanding with the company was-- and then it was going to go back up to whatever the prevailing rate was on the rate schedule. So, that's what this is about. I know that there will be numerous testifiers, and they can also, as I said, correct things if I have misspoken. And so, that's what I have before you.

BRANDT: OK. Let's see what we've got for questions. I guess I've got two.

CLOUSE: OK.

BRANDT: So, does this remove the nondiscriminatory clause out of existing law? I--

CLOUSE: Yes, I believe--

BRANDT: --or is that-- will that still be in force?

CLOUSE: Well, that, I don't know.

BRANDT: OK.

CLOUSE: Yeah.

BRANDT: And I guess, then, the second question is one we've discussed ahead of time. When you look at this bill, it's basically two lines, and I'm going to read them. And the new language says "rates and charges may be differentiated based on loan size, load factor, firm and non firm service, technology risk, length of service commitment, and other objective criteria," which are six different things. And typically, typically, in a lot of the bills that I bring, the first

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section will define each one of those. And I know I've talked to you about the possibility of defining those six things so those that have heartburn with this know what's happening here, that we don't have just a utility out there that will define this one way, and then another utility defines it another way. So, I don't know if-- do you have an opinion on that?

CLOUSE: Well, I do. I think we do need to define that a little bit. And there will be speakers behind me that will talk about the objective criteria. And then, to go back to the nondiscriminatory, I don't think you can eliminate that. I mean, there-- that-- there's a real reason why we have fair and nondiscriminatory. I think this just tries to break that out to say we have some specific instances where this is how we need to apply it. So, again, if I've misspoken, hopefully they can-- but, but you're right. Some of this can be defined a little bit. For example, you're looking for load factor means this, and load size, you know, and talk about different-- those types of things. That, that shouldn't be too difficult. Firm and nonfirm service-- there's probably a lot of people in the industry that can't define some of these, so.

BRANDT: OK. We will-- wait. We've got a couple of questions now. Senator Raybould.

RAYBOULD: Thank you very much. The question I have is, [INAUDIBLE] I'm a little perplexed, because it sounds like you just want to create a different rate class. Because you already have rate classes, and it sounds like your-- the language is designed to maybe target, I don't know, the data centers or the crypto miners, or something like that because of their usage. Or-- help me understand why--

CLOUSE: Yeah--

RAYBOULD: --this came about.

CLOUSE: And some of that-- thank you, Senator. Some of that is, is kind of driving some of this, because you're really-- in the last few years, we've had this just total influx of all these types of things that we weren't really prepared for. And so, some of them may be a little different. They're all a little different than others. And, and I would tell you that on, on crypto, it's easier for them. And I'm not suggesting they would-- it's easier for them to move than it is for a data center, but yet, they use a, a significant amount of load. And so, your risk is different. And when we analyzed the risk to the community, we said, well, OK, so if they move, what we'll do is we'll

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just take the land back, and we'll do something else. But it's a little different when you're building substations and, and they pay for all that. So, you just have to analyze each project-- and we're talking big ones. I, I just don't really this applying to a lot of the smaller ones with the amount of risk associated with those.

RAYBOULD: OK. Thank you.

BRANDT: All right. Senator Hughes.

HUGHES: So, it will-- like, will these different rates, and-- will they be online for people to see? How do you--

CLOUSE: Yeah, that, that I don't know. We'll have to ask that question.

HUGHES: OK.

CLOUSE: Yeah. Because, as I said, the other rates are all published, and it's--

HUGHES: Yeah.

CLOUSE: --books and codes, and--

BRANDT: All right. Will-- you will stick around to close?

CLOUSE: I will.

BRANDT: OK.

CLOUSE: Thank you.

BRANDT: Let's go to proponents. Welcome.

JOHN McCLURE: Thank you, Chairman Brandt, members of the committee. My name is John McClure, J-o-h-n M-c-C-l-u-r-e. I'm executive vice president and general counsel for Nebraska Public Power District. I'm here testifying in favor of this bill. We certainly appreciate Senator Clouse introducing it. It has rather recently generated a lot of conversation. I don't know if there'll be any behind me as proponents, but you'll-- you will likely hear from some folks that are opponents. I want to make a few points and, and maybe anticipate some things you might hear. As you mentioned, Chairman Brandt, it's one sentence. And it's not an exclusive list. In fact, today, NPPD has 35 different retail rates, and we have 14 different wholesale rates, and those are all designed for specific applications. We have rates that pertain to

irrigation pumping, because that's a unique category of service. The purpose of this list was to add a little more framework in the statutes to make it clear that for public power districts-- and I can say that this statute only applies to public power districts. I'll let other utilities speak for the standard to which they set rates, but I think it's effectively comparable. They want to be fair, reasonable and nondiscriminatory. Why are we asking for this? Well, the real key to me is the last phrase we put in, which would apply to anything, I think, that's out there for rate-setting, and it, it has to be based on objective criteria. That's how rates are set today. So, to talk a little bit about rates and why we're doing this. Number one, as you've heard, we have unprecedented load growth in this industry. We are looking-- we're having customers, primarily larger customers, approach us, and asking for different kinds of flexibility or a unique type service. They may want renewal-- a renewable energy package. And so, how do we price that? The whole point of ratemaking is to make sure that the service that's being provided to a particular class of customers, whether they're residential or commercial-- a grocery store, for example, or to an irrigator that has a lot of horsepower and multiple wells on their farm-- that the costs for that service are tied to what the rate is. So, there's a lot of work done by utilities to determine what are the unique characteristics of this customer, what are the unique characteristics of the assets that serve them, and let's make sure the prices that they're charged reflect what the costs are. So, that's a lot of what this is about, is it-- and, and we already are required to do that. And we already-- as I said, NPPD, between our wholesale and retail business, we have 49 different rates that can apply. We're just-- we were seeking to add some additional framework in the statute. Again, it's not an exclusive list. And, and we are very open to working on the language to get to something that people are comfortable with. You may hear from some proponent-- opponents that we're out to penalize particular customers. That's not the case at all. And, and Chairman Brandt, you asked, is the requirement that our rates be fair, reasonable and nondiscriminatory still in the statute? Yes, it is. And it's right above the section where this was added. We, we cannot charge one set of similar-situated customers a different rate. We can't say we don't like Burger King, but we love Runza, and so we have different rates for them. Because the characteristics of those operations are identical, and they're both going to have a similar commercial rate-- an identical commercial rate. In fact, for our retail division, we serve 81 communities from one corner of the state to the other. The rate classes are the same. They are online; they can see exactly what the rate is. We want to get the best rate for the customer, but we also want to make sure they're

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paying their fair share and that we're not subsidizing the other customers. So, those are some general comments I wanted to make. Again, we appreciate Senator Clouse putting this in, and we are more than happy to talk with folks, and hopefully get to a, a, a point where everybody can agree with, with language. With that, I'd be happy to answer your questions.

BRANDT: All right. Let's see what we've got. Senator Moser.

MOSER: So, in a more normal time of growth for electrical utilities, you can predict your load growth, or changes in your load over time. With this new technology that's come along, you can have kind of exponential growth, and then if something suddenly changes in the marketplace, you could have just this quick evaporation of that load?

JOHN McCLURE: Certainly there's no guarantee that any particular business continues to operate, but as we're seeing much larger loads come on than we've ever seen before, there's certainly significant costs to putting the service in place to serve them. And you'll always have to determine what can properly be charged to them specifically, such as connecting them to the grid and, and other things. But, but you could lose that in a hurry, and that would have a, a significant revenue impact on a utility,--

MOSER: So--

JOHN McCLURE: --and you'd have to spread those costs back to all the other customers.

MOSER: Yeah, that's just what I was going to say, is-- you want to protect the existing customers against adverse action that-- you know, you might take on a big customer and give them a really good rate, and then, all of a sudden, their business model is not relevant in the current electrical or technological world. And then, you'd be stuck with transmission lines going somewhere that you may not have a load there. I mean, you could have expenses that you wouldn't be able to recover.

JOHN McCLURE: I, I think every utility, especially with large expansion, is looking for ways to minimize the risk of a stranded investment, because it's all the other customers that will pay for that. But that's not what's driving us here; it's actually more tools to meet customer needs, large customers. Can we, can we do things that will result in a rate that is helping meet their needs? Again, it's part of adding that objective criteria to have some flexibility. We

listed in the statute examples of differentiation that's used today. A firm versus a nonfirm load. I know-- if you're an irrigator, that's a service that most irrigators like to have is the option for-- being subject to an interruption. I can't just ask for the electricity 24/7 and-- but if I agreed to not take power at times, I can pay a lower rate. We have large industries that do that. We do those kinds of things today. And, and again, that's not unique to NPPD. Utilities are doing that everywhere.

MOSER: Who's-- who determines whether a load is firm or not firm? Is it-- the-- is it a requirement that they don't use a certain amount of electricity when it's a peak time? Or is it that they, they use a certain minimum all the time?

JOHN McCLURE: Typically, an interruptible rate is designed to where the customer will agree, when there's peak load conditions-- which typically means you're running your highest-cost power plants-- that they'll drop off. And how that's priced depends on how long they decide to drop off. But that's a tool that is used by many utilities. Benefits the customer, it benefits the utility.

MOSER: OK. Thank you.

BRANDT: Senator Raybould.

RAYBOULD: Do you have anything right now that prohibits NPPD from adjusting their rates with objective standards that are being applied to all the different classes of rate structures?

JOHN McCLURE: I don't know that there's a, a prohibition. Like I said, we already have 49 different rates.

RAYBOULD: Mmhmm.

JOHN McCLURE: We just felt like the statute that applies to public power districts-- 70-655-- all it says is rates have to be fair, reasonable and nondiscriminatory. So again, it's-- do-- we have to-- the folks who create our rates look at our costs, look at particular classifications and categories of customers, and say let's create a rate that, that is fair for them. And, and again, what we've seen over time are more rates than we used to have. It used to be kind of one-size-fits-all, and, as we've become more sophisticated, as metering is sophisticated-- I mean, today, a residential customer can get a time-of-use rate because the price of power in the Southwest Power Pool is changing every five minutes. And if somebody wanted to tie themselves to that market, there's options to do that. Maybe not

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at the residential level, but certainly at a larger customer level. So, I don't know that we're restrained today, but we thought-- and maybe I should have had second thoughts based on reactions-- that having some additional examples in the statute might be beneficial.

BRANDT: Go ahead.

RAYBOULD: So, I'm a Lincoln state senator, and we have Lincoln Electric System. So, what does it do for Lincoln Electric System?

JOHN McCLURE: It-- Lincoln Electric System is not subject to that statute. It applies-- that particular section applies to public power districts. I don't speak for LES. I don't know that there's a specific statute for municipal utilities that says fair, reasonable and nondiscriminatory, but I know that LES and almost every other utility in the state brings a cost-causation philosophy to setting rates. How does this particular load impact costs, and let's set a rate accordingly that fairly treats that customer but is also fair to all the other customers who are not on that rate.

RAYBOULD: [INAUDIBLE] Thank you.

BRANDT: Senator DeKay.

DeKAY: Thank you. You said earlier in your testimony that this applies just to the public power districts. Does it also include the co-ops in, in the state?

JOHN McCLURE: Again, the-- it's in Chapter 70, article 6. Article 6 is a statute that applies to public power districts primarily. There are some individual statutes, such as Subsection (2) of 70-655 is the economic development rate that was actually authorized by statute. The process for doing that-- my recollection is, at the time that was put in a number of years ago, the other public power utilities, co-ops and municipals asked to be subject to that particular section. But that's in section [SIC] 2; section [SIC] 1 is what we amended, and section [SIC] 1 is where it talks about fair, reasonable and nondiscriminatory.

DeKAY: Thank you for the clarification.

BRANDT: Senator Conrad.

CONRAD: Thank you, Chair. Thank you for being here, Mr. McClure. Can you tell me, because I'm just not familiar with the context for this section of statutes, just kind of writ large, but is nondiscriminatory

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defined any place? Or are you relying upon commonly-utilized and understood bases like sex, gender? I mean,--

JOHN McCLURE: Well--

CONRAD: What do you mean when you say "nondiscriminatory?"

JOHN McCLURE: Well, it-- we have one case at retail from 1983--

CONRAD: OK.

JOHN McCLURE: --involving the Wheat Belt Public Power District interpreting that statute, and basically, what the Nebraska Supreme Court said-- and it's what we follow-- is that you have to have the same rate for the same customers who get the same conditions of service and characteristics of service. If, if you do something different-- in that particular case, there was load growth and the utility attempted to create a, a higher rate because their costs were going up. They had to add generation to serve the growing load, and they said if you're served before this date, this is your rate, and if you're served after that date, your rate was much higher. And the Supreme Court said, but you can't differentiate. These were irrigators; you can't differentiate the size of their load, the characteristics of when they use electricity, so you can't treat them differently. So, in discriminating, at a-- at the Federal Energy Regulatory Commission, the, the standard for rates is "just," "reasonable," and "not unduly discriminatory." And in some ways, I like "unduly discriminatory" better. And, as we work on language, you know, maybe that will end up getting proposed. But I hope that's helpful.

CONRAD: It is.

JOHN McCLURE: So, that's a retail case. And then, there was a, a, a wholesale case that also took on that language and involved NPPD in, I believe, 2018. And, and again, this notion that you have to treat similarly-situated customers the same. So, my, my analogy before that--

CONRAD: It's--

JOHN McCLURE: --a Runza restaurant--

CONRAD: Yeah.

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JOHN McCLURE: --and a Burger King-- you couldn't have a different rate for that class of service, because it's the same.

CONRAD: Yeah. It kind of follows more like an equal protection kind of thinking. OK. I would be interested-- that is helpful information, and kind of interesting to know exactly what we're trying to get at with that, that term there, if there is, perhaps, a better definition. I know when I started my career I did just a little bit of work on things like LIHEAP and Cold Weather Rules, and some of those issues that interface with utilities and power, and impact low-income families and seniors and folks that are on fixed incomes. I know it's long been bandied--about whether or not it's permissible under existing statute, or if there would need to be statutory change-- and I kind of flagged this little bit for Senator Clouse before-- if there could be a different rate in regards to household income or age to provide, perhaps, a break for, for folks that were, were struggling, or on a fixed income. Do you have any feedback about that from your chair, or how this measure may impact that kind of conversation, or if it's already permissible under existing statutes? And this may not be the right vehicle to raise it on, but-- just wanted to get it in the record, there.

JOHN McCLURE: We have not done that; in a number of jurisdictions, it is done. I, I believe, in many cases, there's fairly express language that, that allows that, because-- again, to my example. If you're a residential customer, you're getting residential--

CONRAD: Yeah.

JOHN McCLURE: --service, whether-- if, if, if you have a 1,200 square foot home and your annual income is \$25,000 because you're retired and you're on Social Security, or if you have a 1,200 square foot residence and your income is \$60,000, the service to the residence--

CONRAD: Mmhmm.

JOHN McCLURE: --is the same, in my opinion.

CONRAD: Mmhmm.

JOHN McCLURE: It's a similar type of service. I think the-- how you deal with low-income is a separate but important question.

CONRAD: Appreciate that. Thanks. Thanks.

BRANDT: Other questions? Senator Moser.

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MOSER: At one time, big users of power could buy their power on the open market, and then the local utility just delivered it. Is that still the case? Or is that--

JOHN McCLURE: Well, like I said earlier, there's, there's a rate-- OPPD has one; NPPD offers it-- but no one's taken it-- where a, a large customer that wants to play in the market can-- they'll have to pay certain fixed costs to make sure there's generation to serve them capacity and infrastructure costs, but they can then tie their rate to whatever that energy market rate is. And--

MOSER: They would pay so much a kilowatt to the utility to deliver it, and then they'd pay for the actual energy beyond that?

JOHN McCLURE: Right. They're buying the energy strictly where that market ply-- price fluctuates. And the, the challenge with that is that market price, as I said, it can-- it changes every five minutes in the Southwest Power Pool, and it can fluctuate from negative-- which is pretty unusual that you have a negative price. But when there's a glut of excess energy, the price in the market goes negative, and that's the signal for generators to shut down because there's too much energy. But it can, it can go way up, too. And, and so, when you do that, you're at the-- you're at the risk of the market, when you have a utility--

MOSER: But you have a class of rates to address that.

JOHN McCLURE: Yes. Yes. Yeah. For, for a large industrial customer, they can do that.

MOSER: And then, the question of how you treat people of different economic conditions. The retail utilities have Heat Helper Funds, or they have policies to address people-- people's problems where they can't pay their utilities.

JOHN McCLURE: Right. As, as Senator Conrad mentioned, there's a program called LIHEAP, which is a federal funding program that assists low-income. Many utilities, including NPPD, have a program that employees and customers can donate to that, that then is given to third-party agencies to distribute to people who need --

MOSER: Yeah.

JOHN McCLURE: --help with their electric bill.

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MOSER: Because we had a bill here a couple of years ago along that line, to help people who couldn't pay their utility bills. I remember. Thank you.

BRANDT: OK. Senator Hughes.

HUGHES: Thank you, Chairman Brandt. So, I'm looking through this again. You said you already have 49 different rates? Like, does this need to be a bill? Or couldn't you do-- as long as you're being consistent. I mean, if we're-- and I understand what Senator Clouse is saying with the high-- we've got these high-volume users coming in, data centers, crypto, whatever. But if you're setting the same rate for them, and it's equitable for type of business, whether it's a load factor, or-- "Do we need this?" is my question.

JOHN McCLURE: That's-- you've asked a very good fundamental question. Do we absolutely need it? Probably not. In my opinion--

HUGHES: Because you could set that rate, and as long as you justify it and that it's reasonable, fair, nondiscriminatory, same across like entities--

JOHN McCLURE: Yes. And, and there was a question earlier that I think-- this helps respond to what you've asked. For all the public power entities in this state, rates are set through a public process.

HUGHES: Right.

JOHN McCLURE: They're, they're out, transparent. Our elected boards ultimately approve them, or city councils for municipalities. And, and so, it goes through a, a very public process. And again, the whole purpose is-- the customers-- we're here to serve the customers, and we want to make sure we have the right options for all the customers based on their needs, and that we're setting rates that are fair and that reflect the cost of the service, and that don't shift costs to other customers. If-- to the extent we can--

HUGHES: Right.

JOHN McCLURE: There aren't subsidies, if you will.

DeKAY: One quick question.

BRANDT: Senator DeKay.

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DeKAY: Thank you. With anticipated load growth and the demand for electricity, there's probably going to be a lot less of a chance of the-- what am I trying to say? The-- we're not going to have the, the less charges coming because the load growth is going to be caught up and catching up, and so, we're going to be behind the eight ball trying to get that power out there-- to produce that power to get it out there anyway. Am I correct?

JOHN McCLURE: Well, I'm not-- you know, all, all the utilities in the state are committed to making sure that we have the infrastructure in place to serve the load as it comes. And so, we're all-- a number of us are in a building mode. OPPD has been adding significant amounts of generation, and we are in the process of, of adding additional generation because we're, we're seeing load growth that, again, is unprecedented.

DeKAY: So, but the load growth probably isn't going to keep up with the demand. So, we're going to have to reach into Southwest Power Pool more, more, and that's gonna--

JOHN McCLURE: Well, we-- every load-serving entity has an obligation to, to be able to demonstrate within SPP that it has the deliverable capacity to serve its load. Fill out something called a workbook each year to show that we have sufficient capacity in place to serve that load, and then we can buy the energy, you know, from the market if that-- and, and we really-- we sell all our energy into the market; we buy it all back for our customers.

BRANDT: That answer your question?

DeKAY: Yes.

BRANDT: OK. Excellent. I've got a couple of things. So, as an irrigator, yes, I-- there's four or five different rates that I can use. But I appreciate that. But with this bill-- and I'll use irr-- an irrigator as an example. But there is a fear among customers that this bill would allow you to move the goalposts after the fact. So, for-- using irrigation as an example, could you, after an, an entity-- let's say an irrigator signs up for a Rate 13 Anytime interruptible, which is your highest rate, and you anticipate that there's going to be a drought this summer, and the exact opposite happens and we don't use any electricity on irrigation. Does this allow you to charge a customer-- and that's kind of fabricated, but does this allow you to charge a customer more later, based on load commitment?

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JOHN McCLURE: No, I, I, I wouldn't see that at all. Rates are set prospectively. We review all our rates and approve them each year, because costs can change within rates as they do studies. So, rates are set prospectively based on anticipated costs. And so, you set rates to bring revenue in to offset those costs. In the next rate period, if you really miss something, you know, there might have to be shifts in that rate category to recover costs that weren't picked up in the previous year.

BRANDT: OK.

JOHN McCLURE: But you're not going to go back and retroactively change your rate.

BRANDT: OK. Shifting gears. Of those six or seven different things you're asking for, what is technology risk? How would you define technology risk? Do you have a definition? Or, we can--

JOHN McCLURE: I don't have one. I know you, you asked for a, a definition. I do know there have been cases around the country where there's been a need to put in substantial investment for an emerging technology. So, something that's completely new, and the perception of the utility is it's not clear if this technology will, will survive, and so-- and we put a premium in the rate. But again, what we're looking at is not so much about that; it, it, it can be done, and I think it, maybe, can be done now, under the existing law. We're looking at more flexibility as we deal with customer needs and how can we make sure we have a rate that is fair, reasonable, nondiscriminatory for their particular use and application as we're seeing all these new applications.

BRANDT: So when the Southwest Power Pool goes to a negative number, do you actually have to pay them for that?

JOHN McCLURE: If, if, if you're-- if you're taking the energy, you get paid. If you're selling the energy, you're paying someone to take your energy.

BRANDT: How do I get some of that as an irrigator?

JOHN McCLURE: I-- I always said I'd like to go into a gasoline station and have them say, "Oh, the gas is on us."

BRANDT: Yeah, here's free gas. OK. Seeing no other questions. Thank you, and we'll go see if there's any more proponents.

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JOHN McCLURE: Thank you.

BRANDT: Yep. Proponents. Anybody? Seeing no proponents, let's go to opponents. Any opponents. Going once. No opponents? Neutral. Who do we have in the neutral capacity? Welcome.

TRACI MENKE: Thank you. Good afternoon, Chairman Brandt, and members of the Natural Resources Committee. My name is Traci Menke, T-r-a-c-i, last name M-e-n-k-e, representing Renewable Fuels Nebraska and the Ag Leaders Working Group. For your reference, the Ag Leaders Working Group consists of the following nine organizations: the Nebraska Cattlemen, Nebraska Corn Growers Association, Nebraska Farm Bureau, Nebraska Pork Producers Association, Nebraska Sorghum Producers Association, Nebraska Soybean Association, Nebraska State Dairy, Nebraska Wheat Growers, and Renewable Fuels Nebraska. We appreciate the opportunity to provide testimony on LB413. Nebraska's public power system is a cornerstone of our state's economy, ensuring that all residents and businesses have access to reliable, affordable electricity. Public power has been a long model of efficiency and local control, allowing Nebraskans to benefit from cost-based rates rather than profit-driven pricing. We also want to express appreciation for the dedication of our public power districts in maintaining fair and equitable rates. Ensuring that electricity remains accessible for all Nebraskans-- urban and rural, residential and industrial-- is a shared priority. The affordability and reliability of our energy systems support economic development, agriculture operations, and household budgets across the state. As we consider LB413, it's important to ensure terms like "fair," "reasonable," "nondiscriminatory," and "objective" are clearly defined in statute and applied in a way that truly supports all stakeholders. Without clear guardrails, there's a risk of creating an uneven playing field where some businesses may gain an advantage over others. To maintain a strong and balanced marketplace, LB413 should include thoughtful protections that uphold fairness for all businesses, both new and established. We appreciate the conversation around this issue, and look forward to working together to find a balanced approach that supports both economic growth and Nebraska's long traditions of affordable, reliable public power. Thank you.

BRANDT: OK, let's see if we have questions. I see none. Thank you.

TRACI MENKE: Thank you.

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BRANDT: Anyone else to testify in the neutral capacity? Senator Clouse. While he is coming up, we had 0 proponents, 2 opponents, and 0 neutral on the online comments.

CLOUSE: Thank you, Senator Brandt. And I need to give a shout-out to Senator Hughes for giving a "whatever" to my bill.

HUGHES: Oh! I didn't mean it mean.

CLOUSE: I do-- I-- while I was sitting here, I was thinking about a, a real-life example of how we didn't have the right rate structures. And I just want to share that with you as I was thinking about it. We have a rate called a, a Large Industrial Service-- LIS rate-- and one customer was on that, and they were a large customer, Nucor Steel. OK? I'm not going to go into details.

HUGHES: That is a large customer.

CLOUSE: That's a large customer. OK? So, what happens then is I get another customer, a crypto customer, the same load. There's a very different appearance on those two types of customers, so how do you handle that? What's the risk of, of this customer as opposed to the risk of that customer within a rate design? So we're trying to figure that out. So, those are the types of real-life things you have. And I had multiple customers that would say, how do I get on the LIS rate? And I go, "Grow. Get bigger." It's pretty simple. And-- so, you have some challenges there, and a lot of times we try to find a rate that fits instead of saying, OK, this is perfect for your particular business or industry that you're bringing in, so. We're left scrambling a lot of times, because we have this schedule we're trying to fit into it instead of having the flexibility to see what works best for that customer. So, with that, I appreciate your support, and there will be more work coming on this to clarify some of these things. Any other concluding questions?

BRANDT: Let's see if we have questions. Do you have any idea how this will impact economic growth in the state?

CLOUSE: Well-- and, and part of the reason that I brought those up was because when you're working economic development, that's part of the-- they want to know, well, what's my rate going to be? And that's some of the challenges you have. You know, they, they look at, well, here's the location we want to be, here's all the other things, but what's my power rate going to be? And they look at those schedules, they're published. There-- well, which one is it? You know, is it this one or

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is it this one? You know, well, we want this one. Well, no, it doesn't fit. So, it-- economic development does play a role in that. And every utility goes through this, whether it's a, a rural power district, OPPD, LES, NPPD-- always trying to figure out what's the best rate for that customer so that-- we want them in Nebraska, be that-- it's a risk management so they're not impacting the rest of our customers. So.

BRANDT: OK. Any questions? If not, that will conclude our hearing--

CLOUSE: Thank you.

BRANDT: --on, on LB413 today, and the Natural Resources Committee hearings. I would ask that the committee stick around for a real quick meeting afterwards. So, thank you, everybody, for coming today.