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Natural Resources Committee
February 07, 2007

[LB636 LB652 LB705]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, February 7, 2007, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB636, LB652, and LB705. Senators present: LeRoy Louden, Chairperson; Carol Hudkins, Vice Chairperson; Tom Carlson; Mark Christensen; Annette Dubas; Deb Fischer; Gail Kopplin; and Norman Wallman. Senators absent: None. [LB636]

SENATOR LOUDEN: Okay, we'll start the hearing of the Natural Resources Committee today and to start with, I'm LeRoy Louden, I represent District 49, and I'm chairman of the Natural Resources Committee. To my right is Norm Wallman, from Cortland; next is Senator Tom Carlson, from Holdrege; next to him is Senator Gail Kopplin, from Gretna; and Jody Gittins is our legal counsel for the committee. To my left is Senator Carol Hudkins, from Malcolm; and next to her is Senator Deb Fischer, from Valentine; and next is Senator Mark Christensen, from Imperial. And the committee clerk is Barb Koehlmoos. Our pages today are Erin Frank, from Bassett and Steve Scharf, from Lincoln. And with that I would ask that your turn off any cell phones or at least put them on silence so that there is no disturbance in the hearing room. Those wishing to testify on a bill should come to the front of the room when the bill is to be heard. As someone finishes testifying, the next person should move immediately into the chair at the table. If you do not wish to testify but would like your name entered into official record as being present at the hearing, please raise your hand and the page will circulate a sheet for you to sign. This list will be part of the official record of the hearing. This year we are using a computerized transcription program and it is very important to complete the green sign-in sheets for testifiers prior to testifying. They are on the tables by the doors and need to be completed by all people wishing to testify, including senators and staff introducing bills, and people being confirmed. If you are testifying on more than one bill you need to submit a form for each bill. When you come up to testify please place the form in the box by the committee clerk; do not turn the form in before you actually testify. Please print, and it is important to complete the form in its entirety. If our transcribers have questions about your testimony they use this information to contact you. As you begin your testimony state your name and spell it for the record even if it an easy name. Please keep your testimony concise and try not repeat what someone else has covered. If there are large numbers of people to testify, it may be necessary to place time limits on testimony. If you have handout material give it to the pages and they will circulate it to the committee. If you do not choose to testify, you may submit comments in writing and have them read into the official record. No displays of support or opposition to a bill vocal or otherwise, will be tolerated. If you need a drink of water, please ask the page. And with that we will begin the hearing on LB636. [LB636]

JODY GITTINS: Good afternoon, Chairman Louden, members of the Natural Resources Committee, my name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I am committee counsel for

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the Natural Resources Committee and introducing this bill on behalf of the committee. LB636 adds a minor exception to the current sealed bidding requirements in an attempt to afford public power districts additional options for acquiring equipment and supplemental labor in a cost-effective and timely manner. Similar to other statutory exceptions to the sealed bid requirement, the decision would require a two-thirds approval of the board of directors and require that the conditions be advertised so that others interested in providing the equipment or services, have an opportunity to contact the public power district to express such an interest. The bill also modifies the current law providing that the board of directors must also determine that a sealed bid is either impractical or not in the public interest. John McClure will speak after me and be able to answer any questions that the committee has on this bill. [LB636]

SENATOR LOUDEN: Thank you, Jody. [LB636]

JODY GITTINS: You're welcome. [LB636]

SENATOR LOUDEN: I would like to point out at this time that Senator Annette Dubas from Fullerton has joined the committee. [LB636]

JOHN McCLURE: (Exhibit 1) Good afternoon, Chairman Loudon, members of the committee, my name is John McClure, J-o-h-n M-c-C-l-u-r-e. I am vice president and general counsel for Nebraska Public Power District. We are the largest wholesale power supplier in the state and provide nearly 50 percent of the electricity consumed in the state. I am here today in support of LB636. The bill adds an express exception to the sealed bidding process imposed upon the public power districts. Under current law public power districts must prepare an estimate of the cost of certain projects involving construction, repair, maintenance, and other similar activities. If the project is estimated to cost more than \$100,000 the public power district must utilize a sealed bidding process. Conventional wisdom would suggest that sealed bid processes generate the best and most competitive proposals. While that is true for some projects, our experience and that of other public power districts is that sealed bids are not always the best alternative for acquiring goods and services. The statutes currently allow for several exceptions to the sealed bidding process. Legislative Bill 636 adds new exceptions which may be implied within existing exemptions, but we thought it would be prudent to add these as express exceptions. This bill would allow an exception to the sealed bidding process for the procurement of equipment and supplemental labor from another electric utility or through an electric utility alliance. Nebraska Public Power District currently belongs to a group known as the Utility Services Alliance which is an association of nuclear utilities who work together to share resources and use joint procurements to save money. Although one can interpret current statutory provisions to allow such activities, this bill would be more specific, authorizing this exception which can enhance the acquisition of certain services and may also reduce costs. If a public power district's board determines that it wishes to pursue such an option, there are

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several strict requirement that must be met. An engineer must certify that it is either impractical or not in the public interest to follow a sealed bid process which must be approved by a two-thirds vote of the board. The district must also advertise that it intends to acquire the equipment or services and provide the information so that all parties can contact the district and express interest in providing the equipment or services. Public power districts remain committed to providing reliable service at the lowest cost consistent with sound business practices. We believe this exception enhances our ability to continue that tradition. I urge you to support passage of LB636 and would be happy to attempt to answer any questions you may have. [LB636]

SENATOR LOUDEN: Any questions for Mr. McClure? Senator Carlson. [LB636]

SENATOR CARLSON: Senator Louden. John, just out of curiosity, obviously this didn't fit with all the money that had to be spent after the ice storm. How does that, where does the bidding process enter there? [LB636]

JOHN McCLURE: Well, with respect to the ice storm, we moved very quickly on that. Under the sealed bidding law that applies to public power districts, one of the exceptions is an emergency and the situation we faced with the storm was an emergency. That began as I think I told you once before when I had a chance to visit with the committee, about 1:30 in the morning. It actually began before that on Sunday, December 31. By 10:00 Sunday morning we had convened an emergency board meeting of our board and had I think, all but one board member present. And at that board meeting management was authorized to take whatever action was necessary to make the emergency repairs. Obviously, had we had to go through the traditional competitive bidding process we would have had to gather all the information about generally what was damaged, design a scope for that, put it out for bid, advertise it, open those bids, and twiddle our thumbs until then which certainly would not have been satisfactory. So under the existing public power district procurement statutes, there is an exception to the process where there is an emergency such as the ice storm was that allows us to procure materials and services as expeditiously as we can which is what in fact we did. [LB636]

SENATOR CARLSON: Well the emergency procedures were very appropriate and worked well and coming from that area, we appreciate very much all that was done. [LB636]

JOHN McCLURE: Thank you. [LB636]

SENATOR LOUDEN: Senator Dubas. [LB636]

SENATOR DUBAS: Senator Louden, thank you. Mr. McClure, thank you for being here today. Is there a specific problem right now that you're dealing with that you are wanting

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to address through this legislation and then kind of, a second part of that question would be, are you experiencing things differently than maybe other state agencies are that do have to go through this same process? [LB636]

JOHN McCLURE: Well first of all, we're not eliminating the sealed bidding process. We have several exceptions right now but this is adding an exception. To your point about challenges, the electric industry today is facing significant challenges in terms of procurement of services at times and products for the following reasons: there's been tremendous growth and demand internationally for electrical equipment. Our industry is being hit differently with costs than the general population. Steel for example, has gone up tremendously, we're seeing...copper, metals in general. So we're seeing extremely high costs for materials. We are seeing situations where unlike the state, because we are a public power district state and somewhat unique, we're competing to get these goods and services against a lot of entities that are not public entities going through a public bidding process. And so for example on the nuclear side, there are only three nuclear plants in this country that are a public power owned plant excepting the Tennessee Valley Authority. The rest of them are all the private sector and that's true in most of the world. And the nuclear service providers are providing services worldwide. There is a huge boom in the nuclear industry. So a lot of times some of the requirements of our competitive bidding process may make it less appealing for a firm to go through all the work to submit a bid, and this would be an interesting separate discussion. But I know there are instances where we go through all the process to get sealed bids and we'll get one bid and you don't really know if you have a good deal then. And we do an engineer's estimate and many times we find out we don't have a good deal, or they take exceptions to technical terms or they take exceptions to financial requirements. And so there are challenges that the electric industry faces increasingly in terms of the procurement process. [LB636]

SENATOR DUBAS: I appreciate that; thank you. [LB636]

SENATOR LOUDEN: Any other questions for John? Seeing none, thank you, John, for testifying. [LB636]

JOHN McCLURE: Thank you. [LB636]

SENATOR LOUDEN: Next testifier? Proponents for LB636? Go ahead. [LB636]

JAMES OVERCASH: (Exhibit 2) Good afternoon, Chairman Louden, members of the committee, my name is James Overcash, last name is O-v-e-r-c-a-s-h. I'm an attorney here in private practice, a firm by the name of Woods and Aitken, we do a lot of construction law, related assistance to entities and owners. One of the owners that we do represent is an owner called the Public Power Generation Agency. We refer to it in a shorthand manner as PPGA. Public Power Generation Agency is an interlocal agency

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under the laws of the state of Nebraska. It has five members. Those five members are MEAN referred to MEAN in shorthand it's actually the Municipal Energy Agency of Nebraska which is a collection of Nebraska cities. There are also, another member is the Nebraska City utilities, the city of Hastings utilities, Grand Island utilities, and then the final member of PPGA is the Heartland Consumers Power District from Madison, South Dakota. I'm here today in support of LB636. Those five entities I described that are members of PPGA serve about 177,000 customers in the Midwest. Public Power Generation Agency was formed to construct a 220 megawatt electric plant that's called the Whelan Energy Center Unit 2. It's located next to an existing power plant in the city of Hastings. This project will cost about \$500 million and the permitting process has been substantially accomplished. The actual physical construction in terms of actually digging the ground and starting footings will start in the spring of 2008 and power will be generated from that plant in 2011. Again, I want to tell you that PPGA supports LB636. Why I am here today is to offer two amendments to LB636 for your consideration in committee. The first amendment makes the bill, LB636, not only applicable to public power districts but also applicable to the entities...the entity I represent, an interlocal agency, as well as to entities formed under the Municipal Cooperative Financing Act and one of my members, MEAN, is one of those types of entities. As interlocal agencies, and MEAN, our agencies are created and they provide public power but at the same time they are not public power districts. At the same time the flexibility that's provided by LB636 I believe, would be helpful to these other two entities and so I'd ask for your consideration to include them in this legislative bill. The second amendment I've offered and I handed out a sheet to you, the first amendment would be on page one, the second amendment, my request, is on page two, is an amendment that directly addresses a bidding requirement for a payment bond requirement. There is an issue in the payment bond statutes in the state of Nebraska and that's 52-118 for the record, regarding the purchases of equipment. And the question really comes to when you purchase equipment is that material or it not material? And as you get to a project that I'm describing that PPGA is involved in, that can become a rather large financial matter and also it can be difficult to obtain a payment bond for some of the types of equipment. And let me give you an example. The plant in Hastings is a coal fired power plant. There is a steam turbine as part of the electric generating process. That steam turbine in this plant is actually a prepackaged, separate assembled unit, it's been bought from a company called Toshiba, from Japan. It in effect comes delivered as a piece of equipment to the plant but is actually incorporated into that plant and so the question becomes as to whether or not it's covered by the payment bond provisions of the Nebraska statute. Although we as a law firm, our opinion is that it arguably is covered and so when we're advising public agencies as to whether they should obtain a payment bond, our advice is yes, you need to obtain a payment bond. But that becomes somewhat problematical when you change large pieces of equipment. Again, when we are talking about a piece of equipment like this that's actually being brought in from Toshiba, it's not something that I believe the payment bond provisions of the requirements are there to address in terms of we're not protecting a local materiel

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person because there's no material being supplied locally to go into this. This talks about steel which is probably coming from another country. We are not talking about a laborer that constructed the turbine because it's constructed in a plant and it's just a piece of equipment that's put into that power generating facility. So our solution to that issue was to provide an additional exception to the requirements to provide a payment bond and that goes to a prepackaged and off-site equipment. So it takes out from the potential that it is covered to having to make sure that it's not clearly covered. Now all of this is interesting from the standpoint of impact because in a \$500 million coal power plant we believe that this is about a \$2 million dollar issue, that being the PPGA paying for bonds that are supplied on just equipment only will raise the cost of the plan about \$2 million. I did want to read specifically an addition that we are asking for the one statute is the provisions of 52-118, are not applicable to prepackaged and off-site assembled equipment purchased under a separate contract and installed in a new or existing electric generating facility or related facilities. So we tried to craft something for this amendment that's very narrow in terms of it doesn't affect any other public job other than an electric generating facility. It's very narrow from the standpoint it's prepackaged and off-site assembled equipment, so we're not talking about the steel that's erected or the concrete that's poured. So we think from that standpoint we would ask that you consider our amendment to that statute. Additionally, we've added in that amendment a request for an emergency clause because of the time frames that have been involved, that we're talking about under construction, the power plant in Hastings. It would save additional money if there was a E-clause attached to this amendment into the bill. With that testimony and being in support of the bill, I'd be happy to answer any questions that I could, Senators. [LB636]

SENATOR LOUDEN: Any questions for James? Senator Wallman. [LB636]

SENATOR WALLMAN: Senator Louden. Is there nobody in the United States that makes that equipment, or? Or is this sealed bids, or? [LB636]

JAMES OVERCASH: Well actually that was a bid in terms of a sealed bid in the process in terms of getting the turbine. I cannot tell you exactly how many bids were received for that turbine, I do not...I know it was either two or three. One of the problems that they're experiencing right now in power generation as I'm sure you are well aware of is the lack of electrical power generating facilities there are. With nuclear power coming back on line as well as the addition of more coal fire power plants, and for example there was an article recently in the paper that a private utility in Texas is building ten plants in Texas right now as well as five outside of Texas. The point being is it is very difficult to find that type of equipment, so in terms of that piece of equipment if there was anybody in the United States, I don't know the answer, but I know it was a public bid concept in the (inaudible). [LB636]

SENATOR WALLMAN: Okay, thank you. [LB636]

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JAMES OVERCASH: Thank you, Senator. [LB636]

SENATOR LOUDEN: Other questions for James? Senator Fischer. [LB636]

SENATOR FISCHER: Thank you for being here Mr. Overcash. [LB636]

JAMES OVERCASH: Thank you, Senator. [LB636]

SENATOR FISCHER: I'm wondering on your plan at Hastings, are you adding on, is this new construction or what is this? [LB636]

JAMES OVERCASH: No, it's a second unit out of an existing facility. It's a separate complete power plant. There is a Unit 1 that's out there, I believe it's...I've not been to the site, I believe it's east of town and there will be in effect, the same plant that's there, there will be one that's looks like a little bit of a bigger brother for lack of a way to say it. But the reason it's located in Hastings is that there are some good economies from the standpoint of having one coal pile for example. And there's also two rail spurs that go into Hastings so that's a good reason to build it at that site. [LB636]

SENATOR FISCHER: If your amendment would not be adopted would the plants still be built? [LB636]

JAMES OVERCASH: I believe so, yes. [LB636]

SENATOR FISCHER: Thank you. [LB636]

SENATOR LOUDEN: Any other questions for James? This, I think I probably discussed this with you a little bit on these amendments here...at the present time if the bill is passed like it is, it would still affect the people you represent without the amendments? Or would this... [LB636]

JAMES OVERCASH: It would...the way the bill is currently crafted it would not apply to interlocal agencies or MEAN which is a municipal financing agency. The way the statutes are in the state of Nebraska, public power districts are really at a separate set of statutes. Interlocal agencies for example and an example in Lancaster County there's a lot of interlocal agencies in terms of the city and the county getting together to do a specific function. Well this interlocal agency, the specific function is power generation. So it's more of a kin to a public power district although it's not created as a public power district under the Nebraska statutes. But the functions in terms of generating power and providing power to the municipalities and the other customers that it serves, is similar in nature. And so from the standpoint of having the flexibility that LB636 offers, we believe that that is as applicable to a public power district as it would be to an interlocal agency

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or a municipal financing agency although it's not handled in the same statutory scheme. So for example if LB636 passed just the way it is, it would not apply to my client. [LB636]

SENATOR LOUDEN: Okay. In other words what I'm wondering is you have got to have this one...this first amendment has to be passed for the second, or the second one doesn't do you any good anyway? [LB636]

JAMES OVERCASH: Correct. I believe that's correct. [LB636]

SENATOR LOUDEN: Okay, thank you. Any other questions for James? Seeing none, thank you for testifying. [LB636]

JAMES OVERCASH: Thank you. [LB636]

SENATOR LOUDEN: Next proponent for LB636? Are there opponents for LB636? Anyone wishing to testify in the neutral on LB636? Seeing none, we'll close the hearing on LB636 and now open the hearing on LB652. Welcome, Senator White, and you may proceed. [LB636 LB652]

SENATOR WHITE: Thank you, Senator, my fellow senators, thanks for the opportunity to come today before the Natural Resources Committee to testify with regard to LB652. This is a very straightforward bill. This bill would ask that all agencies in the state government, subdivisions of government, perform an energy audit. The purpose of this is to save money. Energy audits, especially with the increased costs of both electricity and gasoline and increases in technological advances, things like compact fluorescent lightbulbs, offer us a substantial opportunity to save taxpayers' money without cutting services. I would ask that you take a look at the fiscal note. There is no fiscal note, there are estimates. Some of them were surprisingly high to me and especially from the university indicating that they believed it would be in the nature of \$1,213,000 to find out how much energy we are wasting. I would suggest to you that if we cannot afford to find out if we are wasting money, we will never get better and I would ask your consideration in requiring all agencies to use the resources of the state in an appropriate and fiscally prudent manner and ask them to assess themselves and see what we can do to save money. People who will follow me to testify will indicate to you that there have been even small, limited studies, such as the lighting in this building that would have resulted had they had been followed, in very substantial savings for the taxpayers. Thank you. I would be happy to try to answer any questions that the members of the committee may have at this time. [LB652]

SENATOR LOUDEN: Questions for Senator White? Senator Christensen. [LB652]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Senator White, in this bill

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how often is this to be done? [LB652]

SENATOR WHITE: Well the bill states only that they should do it. I would be satisfied if we did it once and if it became, you know, once every five years or so, that would be fine. There are going to be subdivisions who I believe will testify that they have already done this. Some of the school districts have done this and that has resulted in substantial savings. I would submit that that would meet...if they've already done it they certainly needn't do it again. It's just those agencies that have not done it and if you need a time point I'd have no problem if it would be done on an every five year basis or a reasonable amount of time. [LB652]

SENATOR CHRISTENSEN: Another one. Do you have...you know, the costs, like you said, were very shocking, they were shocking to me when I went through this. Do you have examples of a percent it saved or anything in other audits to use as a comparison? [LB652]

SENATOR WHITE: Well I cannot give them to you personally but my understanding is those that will follow might be the Fremont school district. There may be other districts who have found substantial savings that more than paid for audit costs, but also then paid for the improvements and resulted in substantial savings. I know that the state of Washington and others who are more informed than I, will follow me, saved a substantial amount of money when they required this kind of activity. And I would urge you to note that the savings that they will relate to from two or three years past do not reflect the really inflated costs of energy that we are facing today. So the savings are likely to be far more substantial than the numbers actually brought forward to you. [LB652]

SENATOR CHRISTENSEN: Thank you. [LB652]

SENATOR LOUDEN: Any other questions for Senator White? Senator Carlson. [LB652]

SENATOR CARLSON: Senator Louden. Senator White, may I ask you a question? If you know the answer I'll be surprised. [LB652]

SENATOR WHITE: All right. (Laughter) So probably will I. [LB652]

SENATOR CARLSON: But to try and get a little better concept of what this cost figures means because it is an estimate. We all know it's an estimate. [LB652]

SENATOR WHITE: Yes. [LB652]

SENATOR CARLSON: Do you have any idea what the total amount of money is that we spend on energy? [LB652]

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SENATOR WHITE: No, I don't. There are those who will follow that will talk to you for example, in context of just this one building, the State Capitol, on lighting, and I think the number they were talking about and they will correct me if I'm wrong, is \$40,000 a year could have been saved just by changing our lighting fixtures. So the numbers are truly potentially astronomical. And it wouldn't be limited to just that, Senator. It could be more efficient automobiles for the state patrol, different ways of saving energy across the board. Generally, it's accepted in this area that by far and away the cheapest way to save, to generate new electricity, is conservation. It's so much cheaper than building new generating power plants and so those economic rules should clearly apply to state government too. And I would submit that a number of businesses do this just as a matter of good business practice. [LB652]

SENATOR CARLSON: Thank you. [LB652]

SENATOR LOUDEN: Senator Kopplin. [LB652]

SENATOR KOPPLIN: Thank you, Senator Louden. Senator White, it's probably in here somewhere but I haven't seen it. When you speak of an energy audit that could bring to mind lots of different things. When you talk about an energy audit are you talking about a visual audit by persons or are you talking about like, infrared audits, what? [LB652]

SENATOR WHITE: I think all of the above and it would depend agency to agency. You know an agency that doesn't run automobiles of course would have no interest in looking at more fuel efficient vehicles. An agency that doesn't heat a lot of buildings but has space in one building wouldn't be particularly interested in looking at the windows in that section of the building that they operate because they wouldn't have control of it. So it would move from thing to thing. For example the Department of Administrative Services may very well want to look at infrared studies, the University of Nebraska infrared studies which most utilities, certainly MUD and other utilities, will have anyway. And they look at that and they see and then they would take things like, okay we have major leakage and if we invested in insulation and new windows, what's the cost and what would be the savings? And this bill is intended just to force them to look at where they spend money on energy and then evaluate where can we save money? It doesn't tell them that they have to do anything other than think about the problem and report on it. [LB652]

SENATOR KOPPLIN: Okay, thank you. [LB652]

SENATOR LOUDEN: Okay, Senator Hudkins. [LB652]

SENATOR HUDKINS: Senator White, I apologize for missing your introductory remarks but upon reading the fiscal note the Department of Correctional Services for example, it

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says that it will cost them because of the number of buildings and the square footage and everything, it would cost them upwards of \$300,000. That's just to do the audit. And then if they were to implement any changes that they found, then that's over and above. I'm just kind of going back and forth with this. I received an e-mail saying that if we did this and we made the recommendations that were suggested, it would take us 13 years to recoup the costs of the audit. And then...I'll let you think on that one and then going back to the correctional services, would you be opposed if we advance this bill to changing that December 31, 2007 deadline? [LB652]

SENATOR WHITE: Oh, no. I mean, we can always work...what's possible, Senator. So certainly that deadline, we need to work with the agencies and see what is feasible for them to do and do it. In terms of the 13 years, I find that difficult to accept as accurate since they don't even know how much energy they're wasting nor do they know how much they can save, nor can they really tell us how much it will cost to look into it. I will tell you as a person who has run my own business and represented many, many businesses, the worst and most expensive thing you can have is ignorance. We don't know how much money we are wasting, we don't know what could be saved. And to not know that given what we've seen, 200 and 300 percent inflation in energy prices, is not prudent government. I think that we at least owe it to the citizens and to ourselves as Senators, to know what's out there, what are we spending, what is feasible? As far as implementing the changes, I think the hallmark on what we change should be what can we save money on. Replacing incandescent lightbulbs with compact fluorescent lightbulbs has been established to be a significant money saver in a home. Those economics won't change here. So there clearly is a lot of savings we could make and we're just not thinking about it because we are government, we don't have to, you know, unless we tell them they have to. [LB652]

SENATOR HUDKINS: Thank you. [LB652]

SENATOR LOUDEN: Are there other questions? [LB652]

SENATOR CHRISTENSEN: He answered it. [LB652]

SENATOR LOUDEN: Okay. Senator Dubas. [LB652]

SENATOR DUBAS: Thank you, Senator White. I'll preface my questions with I agree with what you are trying to do here wholeheartedly. [LB652]

SENATOR WHITE: Thank you. [LB652]

SENATOR DUBAS: I am a recycler and everything else so I understand what we need to do, but I guess some of the questions as I read through the bill was we're including all political subdivisions, correct? [LB652]

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SENATOR WHITE: Yes. [LB652]

SENATOR DUBAS: Could this be considered an unfunded mandate? [LB652]

SENATOR WHITE: On some levels it would be and absolutely. But what is in the nature of the study if you look at the language, is pretty simple. Let's take a very small school district, they run one building. They get an infrared photograph from the local utility. They check the windows, they look at their light fixtures, and they're finished. Really what we're telling all of our subdivisions are that tax dollars are hard to come by for all of you and that as a matter of state policy, energy is not going to get substantially cheaper; it's only going to get more expensive and you must start thinking now. We're not telling them what they have to do and that they have to take any steps, you know, you have to replace incandescent lightbulbs with compact fluorescents. We are not doing that. But certainly we are telling them yes, it is a mandate that you examine your own house and make sure you're running it well. We do fund all of these entities on some level or another and so... [LB652]

SENATOR DUBAS: So you would allow the latitude of them to find whoever they wanted to, to help conduct these audits. [LB652]

SENATOR WHITE: Oh, absolutely. I mean I think the bill is written broadly and simply. It doesn't tell them they must hire somebody or this group must do it or the report must take this form. We ask them in general terms to look at this, look at these things, see what you can find. And I think and I hope that the people who will testify following me will tell you that many of them, school districts for example, are doing this on their own and they're finding substantial savings. So I guess I would look at this no different than we would require them and often do, to have their books audited--that they have basic, solid business and accounting practices employed because they are stewards of the public money. [LB652]

SENATOR DUBAS: So if they do these audits and recommendations are made and for whatever they decide they can't or won't follow through with the recommendations, are we looking at any type of enforcement issues here, or... [LB652]

SENATOR WHITE: Not this bill. I mean, nor would I think that would be necessarily appropriate, I mean, if you have a school district that's hard pressed to pay their teachers for example, and can't afford to put in new windows and insulation, even though at current heating costs that might be paid back in three years? Those are kinds of things that I would hope we gather. They come back to the Legislature, we look at them and say, look, we need to make money available. Because one of the things that happens in poverty situations or any kind of tight fiscal situations, people won't spend the money to save money two years down the road because they are under immediate

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pressure today. And that's just bad, bad business. This doesn't force them to do anything but it will tell us, as any business person would want to know, okay if I have the capital available how can I get the most savings if I expend it? [LB652]

SENATOR DUBAS: So if they do these audits are they required to send in reports to some agency at the state level? [LB652]

SENATOR WHITE: At this point they have to...it's just really I think, as I read the bill, and this is my understanding is they only have to do it themselves and then look...it forces only self-awareness. [LB652]

SENATOR DUBAS: So we're not, as a state government, we're not going to be made aware of whether they're doing or not or what they are doing with it, it's... [LB652]

SENATOR WHITE: No. We assume they'll obey the law, you know, these are public entities that are elected... [LB652]

SENATOR DUBAS: But if they decide not to do it we don't have any way to... [LB652]

SENATOR WHITE: No. And nor do we necessarily need big brother, I mean, doing that. On the other hand, I'd hope that they would be savvy enough that if they did these audits and they need money to save money, I'd expect that we will see these back, coming back from my district, from each of your districts saying, you know if we only had \$100,000 to invest in the school building we could save the public a quarter of a million dollars over the next five years, you know. I would expect that's how we will see the responses. [LB652]

SENATOR DUBAS: Thank you, Senator White. [LB652]

SENATOR LOUDEN: Senator Wallman. [LB652]

SENATOR WALLMAN: Thank you, Senator Louden. Thank you, Senator White. I think that's a tremendous bill. As a school district we did this ourselves and we saved a lot of money, load management, all this stuff, and it's run out of Omaha. I'm not going to mention any companies but so we saved...the first year it paid for itself. [LB652]

SENATOR WHITE: That's wonderful to hear and that's what we hope we can find. [LB652]

SENATOR WALLMAN: Thank you. [LB652]

SENATOR WHITE: Thank you. [LB652]

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SENATOR LOUDEN: Senator Hudkins. [LB652]

SENATOR HUDKINS: Senator White, did someone specifically bring you this bill? [LB652]

SENATOR WHITE: Yes, this was brought to me with the Sierra Club and some of the conservation groups brought it. And I got interested in it more from the fiscal soundness of it. These are the kinds of things that I would do in my business and we have done. [LB652]

SENATOR HUDKINS: Thank you. Well I'm sure that my office is doing its part to save the state money because it's only about 60 degrees in there (laughter). [LB652]

SENATOR WHITE: Well now if we just had better windows (laughter) and that is important and there will be people who will testify that actually, an energy efficient building is going to be much more comfortable, believe it or not, as well. So again it's just to get the information so we can make start making choices on whether we want to spend money and if we do spend it, what return we will get. [LB652]

SENATOR HUDKINS: Thank you. [LB652]

SENATOR LOUDEN: Other questions for Senator White? I have one. It'll probably be the toughest one, Senator, because my wife is allergic to fluorescent lightbulbs. [LB652]

SENATOR WHITE: Absolutely. [LB652]

SENATOR LOUDEN: And a lot of people are. [LB652]

SENATOR WHITE: Yes, they are. [LB652]

SENATOR LOUDEN: And you'll notice that a lot of...very few restaurants have fluorescent lightbulbs in their restaurants because of people... [LB652]

SENATOR WHITE: Yes. [LB652]

SENATOR LOUDEN: They're selling food in there and they don't want anybody to be nauseous. When you have this audit in here there should be whether you are going to save on lights or you are going to save on heat or whether you're going to save on maintenance or something like that. So I would think there was places where you have to be very careful with some of these audits. If you put in all fluorescent lights say, in this room here, how many years then will it be before you have to redo the fabric on the seating because the fluorescent lights bleach it out that much faster? I didn't know that until we got in on this and WalMart I understand, rotates their stock every three days so

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that the fluorescent lights don't bleach their stock. And I'm wondering if, the way I read the bill I don't...this is mostly just an energy audit and it's kind of a blanket deal...if that should be more specific if we are going to do that and if this should be more or less something that comes down from the director rather than in statute? [LB652]

SENATOR WHITE: Let me try to address it on a number of different levels. Incandescent lightbulbs are much more pleasant to work in and under and I very seldom turn on my fluorescent but I put my lamp on. And those are the kinds of choices that people need to make. But the cost of running incandescents versus fluorescents should be a factor that we should be aware of. In terms of mandates from the director, I get worried about that. I much prefer to allow the local school, for example, to examine all the options and then decide what makes sense. They can take into account and they're going to be more responsive to concerns. For example if your wife had a concern about that, the local school is going to be much more effective at accommodating that I'd hope than the director would be, who would just see a statewide energy savings number that would knock him over. That's why I think that the proper place to start is an audit. Ask yourself, okay, what are we saving? Then we look at what can we do with the money that we save and then we start going into issues like, well, is this really where we should go? Should we put that type of lightbulb in or is that not going to help us be productive? So, you know, there are different kinds of costs and that's why an audit is the first step, it doesn't mandate anything being enforced. It doesn't say the director must do it; I'd rather have it handled locally and on a basis closer to the community. [LB652]

SENATOR LOUDEN: Maybe I should be more clear, I meant such as the director of Game and Parks, would be the one to...for his agency. The director of the Department of Roads could go through their agency. Your school districts then is altogether something different, that would be your local school board to decide for themselves, and I thought they went through that. I was on REA Board and several years ago we were giving some type of energy credits or we were giving them something if they would go out and they would seal up their windows and they'd blow air in there and find out where it was going out. And a lot of school districts took advantage of that, just had different window casings so this is the reason why I wondered, do we need it in statute to do that? Or can that, is that being done and can it be done on your agency level and your director of your agency? [LB652]

SENATOR WHITE: Well certainly I think any of them could do it and like Senator Wallman points out that his school district did it on their own. There's nothing that I'm aware of in the law to impede them from doing it. The question is whether they will do it. You know that saying about when you get into a swamp and you're up to your neck in alligators, it's kind of hard to forget your original objective was to drain the swamp, you know? It's hard to remember that. And that these guys get under pressure and they respond to what they have to do and I would submit to you, Senator, as we look at

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funding education, as we look at funding cities, as we look at funding these different things, sometimes I think we need to direct them--you have to look for savings, here is a big potential savings. At least do a self-audit and let us...examine whether or not you can save some money this way. [LB652]

SENATOR LOUDEN: Okay, thank you. Any other questions for Senator White? Thank you, Senator, do you wish to close? [LB652]

SENATOR WHITE: I will reserve it if I might and if something comes up and thank you for your courtesy. [LB652]

SENATOR LOUDEN: Next proponent for LB652? How many people wish to testify in favor? Okay. Anybody wishing to testify against? Okay, go ahead, Sir. [LB652]

CECIL STEWARD: Senator Louden, members of the committee, my name is Cecil Steward, C-e-c-i-l S-t-e-w-a-r-d. I am dean emeritus of the college of architecture at UNL and currently am president of the Joslyn Castle Institute for Sustainable Communities. I think this is a much needed bill, the first step. I think it relates much more broadly than just to state government. Ultimately it would set an example for other businesses and commerce throughout the state. As has been widely reported in the local press recently, proclaiming that the argument over global warming is over. And the use of energy and the waste of energy is a major part of that circumstance of global climate change. We know that approximately 65 percent of all the electricity consumed is through buildings, approximately 35 percent of all energy operates through buildings. So there is in every circumstance I think, and as Senator White mentioned, it has been proven that conservation can save capital investment costs to a very great extent. From our opinion, this bill would be a win-win on at least three different levels. First of all its cost-savings potential, secondly its impact on our environment, and third, the opportunity for each jurisdiction, agency, and political entity to become much more self-conscious of their energy consumption. The audit is only information; it is necessary information to begin with. We think that this bill is a good first step to a broader state energy policy and would hope that we could see advantage from taking this step with some other energy statutes. I'd be happy to try to answer any questions. [LB652]

SENATOR LOUDEN: Any questions for Mr. Steward? Senator Hudkins. [LB652]

SENATOR HUDKINS: Mr. Steward, welcome, it's nice to see you again. [LB652]

CECIL STEWARD: Thank you. [LB652]

SENATOR HUDKINS: Would you tell the committee about what you did in your renovation of the downtown business a number of years ago? [LB652]

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CECIL STEWARD: Well 13 years ago I bought a two-story commercial building, it was known at the time as the Nebraska Typewriter Building on 11th Street and turned it into my home, an office, and two apartments. I set out to be as conservative as possible to demonstrate what I was trying to teach students at the university. I, on about 6,500 square feet, pay less energy bills on that building than I did in a freestanding house in Piedmont shopping area. We took special insulation measures, we used double or triple paned windows, we doubled the skylight availability to reduce the use and requirement for natural lighting. We were conscious of buying energy efficient heating and air conditioning equipment in the remodel. And it's been a very successful living laboratory, if you will. [LB652]

SENATOR HUDKINS: Thank you. [LB652]

SENATOR LOUDEN: Any other questions for Mr. Steward? [LB652]

CECIL STEWARD: Thank you. [LB652]

SENATOR LOUDEN: As an architect... [LB652]

CECIL STEWARD: Yes... [LB652]

SENATOR LOUDEN: ...I guess, I'd like to ask you in the Capitol building here, as you go around and you look at those fixtures hanging up down the hallway that have been there since the thing was built, you know, I had a friend here and a while back I showed him around the Capitol. He was from Phoenix and he was...that's all he could look at was the fixtures and all this stuff, I mean this is what he did for a living too. How would you change that because as he told me, the way those fixtures were back in the '30s when this this was built, to see a lightbulb was really a badge of wealth because a lot of people didn't have lightbulbs, so you showed off your lightbulb. How would you change something like that to make it more energy efficient on lighting like that, or is that possible without changing the whole architecture design? [LB652]

CECIL STEWARD: I think we have both opportunity as well as responsibility with this building. Over the years the stewards of the building have been very careful to preserve the historic character of the building and yet at the same time to bring in modernization where possible. I think they've done an outstanding job of that but any state building that's on the National Register for Historic Places, I think doing an energy audit it is even more important for that purpose so that you know what you can change and what you cannot from a historic and aesthetic point of view. I am afraid we are stuck with those fixtures in the hall from an aesthetic perspective and a historic value perspective. But on the other hand, when offices are renovated or remodeled then the energy issues should be studied. [LB652]

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SENATOR LOUDEN: Okay, thank you. Any other questions? Senator Wallman. [LB652]

SENATOR WALLMAN: Senator Louden. I'd like to ask you a question too? Like these windows with the steel frames and everything there, you couldn't change them very easy then, or could you? [LB652]

CECIL STEWARD: Well I think it would be possible to double glaze these and end up with a similar appearance. The question would be the cost for the net benefit. And until you really studied what was available from manufacturers to do that, I think you'd just have to go through the study. [LB652]

SENATOR WALLMAN: Because I like the looks of those windows. [LB652]

CECIL STEWARD: Sure, it's an intrinsic part of the original building. These are trade-offs for every building that should be made. But this again, I think gives an example of why energy audits are important, so that you know what you can change and what you cannot. [LB652]

SENATOR WALLMAN: Thank you. Thank you, Chairman Louden. [LB652]

SENATOR LOUDEN: Any other questions? Thank you, Mr. Steward. [LB652]

CECIL STEWARD: Thank you very much. [LB652]

SENATOR LOUDEN: It looks like to me that you're going to have to stay cold, Carol (laughter). Well we're only going to put so much heat in your office and you... [LB652]

SENATOR HUDKINS: I'll bring a blanket. [LB652]

SENATOR LOUDEN: Go ahead, Ken. [LB652]

KEN WINSTON: (Exhibits 3, 4) Good afternoon, Senator Louden, members of the Natural Resources Committee, my name is Ken Winston, last name is spelled W-i-n-s-t-o-n, and I'm appearing on behalf of the Nebraska Chapter of the Sierra Club. So your office is cold? When I worked here my offices were always hot, but so, anyway, they've changed things evidently. Well I wanted to point out some things following up on the testimony of Senator White and I wanted to thank Senator White for introducing this bill and for engaging people with this discussion. I guess the first thing that I want to say is that we think that we're on the same page with everyone in this room in one regard and that is we'd like to save tax dollars. I don't think anybody is going to stand up and say they don't want to save tax dollars and I'm quite sure that even the opponents of the bill will say they want to be efficient with tax dollars too. And so...we think that energy efficiency is one of the easiest ways of achieving that and some of the points that I want

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to make is that usually if you're going to reduce government spending, you also have to reduce services. But if you are more efficient with the heating costs, you don't have to reduce services. You can provide the same services or perhaps even more services with the money that you've saved. Oftentimes, as Mr. Steward indicated, when you improve the quality of the building you also improve the quality of services that people provide. For example there's studies of school buildings that indicate that the students do better, they perform better in a better insulated, better lighted, better heated building than in one that's drafty and there's all sorts of air that's flowing in and out. And so that you can often improve things on a number of different levels and then of course there's the environmental benefits of reducing energy consumption. So how much can we save? Well there was a study in 1993 of lighting in the State Capitol and I guess I want to indicate that I'm probably as big a fan of the State Capitol as you are going to find around here. I mean I think it's a wonderful building, I'm just enthralled by the beauty of this building and I've walked up and down the halls thousands of times and I'm still never tired of being in this building. I think it's a wonderful building; I think it's one that we are rightfully proud to say that we have one of best state capitols in the country. And so I would be the first person to say I don't want to do something that's going to degrade the historical significance of the Capitol. But if there's ways that we can make changes to the Capitol that are consistent with that as Mr. Steward indicated, and for example these light fixtures in this room are not Capitol originals; if they can be changed in such a way that they can save money, then by all means we ought to look at that. And there was a study that was done in 1993 that indicated there would be like a \$20,000 up-front cost to put in new light fixtures and they projected by the year 2007 there would be \$40,000 a year in electricity savings. Of course that was at energy costs in 1993. It would probably be more significant than that by now. Similarly, the state of Washington has done these kinds of studies and is doing a lot of work with energy efficiency work and they estimate that they saved \$11 million on state buildings in energy costs last year. They also estimate that they reduced the production of carbon dioxide by 127,000 tons which is equivalent of taking 17,000 cars off the street or planting 34,000 acres of trees. And then I guess I wanted to talk a little bit about the fiscal note and I have another handout here. The state of New York, their energy office generates a form that they send out to school districts or school districts can access it on line and it allows them to provide information to the state energy office and they're able to do a computer model based upon this information and then they can tell them, okay, based upon this information we think the following areas are some areas you should look at in terms of energy reduction. The fiscal note indicates that there is some fairly high numbers that they're indicating to determine how much energy they use. Well I'm surprised at that. I'm guessing they probably have people on staff who could tell you how much energy they use and right now, and there are probably some computer models that could be generated, I hardly think that the people at the University of Nebraska need to take a back seat in terms of the computer generation of models to anyplace in the country. As a matter of fact, I believe they have some grants from Nebraska Public Power District specifically to look into this issue...into the issue of energy usage. And actually I think it's

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OPPD that's providing funding to UNO specifically to look at energy conservation. So I don't know why they couldn't develop some computer programs that could examine these issues. There's a couple of other points that I wanted to make and then I wanted to respond to a couple of things...questions that were asked. Last fall the Sierra Club was part of the coalition that opposed Initiative 423. And one of the things that a lot of the entities that supported, that opposed Initiative 423 said was, okay, we're going to oppose Initiative 423 but we want to make sure that government is operating efficiently. And all of the agencies and people that were working with, through the government entities, we are, we are, we're being efficient. Well I think that the next time something comes down the pike, they're going to want something...the people who came in and said, we want to know that you're being efficient, they're going to want some evidence to support that. And the next time that an entity comes before the state of Nebraska Legislature and says, we want a budget increase because we need more money to operate, well are they operating as efficiently as they can? And that's a hard question, but I think those questions deserve to be answered. A couple of things that I wanted to point out, there was a question about how long these programs take to pay themselves back. And Senator Wallman indicated that his school district had a program that paid for itself in a year. I was on the, I know several of you have been on school boards and I had that experience myself. I was on the Lincoln School Board for a while and my recollection was that when we did retrofits of buildings those typically paid for themselves within three years and it may even be a shorter time period now. And there's some statistics that indicate that new construction that will...I had the statistic right in front of me a few minutes ago. Typically, new construction costs and median payback time is 4.8 years; this is from a study that was done by Washington State University. So if people say that it's going to take 13 years, I don't, I would be very surprised at that conclusion. Then finally, I wanted to talk a little bit about the idea that this can be done, I mean the actual changes to buildings themselves, can be done without capital outlays by the state of Nebraska. And I know this bill doesn't address that or by political subdivisions, but there are several states that have programs where they have private financing of construction entities that come in and they do the energy efficiency work and they pay it, it's paid back through the savings. And the state or the political subdivision doesn't pay a penny. In the long run they reap the benefits but they don't have to lay out any money for the capital construction costs and I'd be glad to get the committee information on these programs. Washington State has one, the state of Iowa has one dealing with schools. And so this can be done without capital outlays and I guess I'm just saying that there's...this can be done and it ought to be done and we would encourage the committee to advance the bill. And I guess, as I've indicated in previous discussions with the committee, I would be glad to work with the committee and with any interested parties regarding this bill and with the introducer if there are technical changes that need to be made to make this so that it's more effective. I would be glad to answer questions. [LB652]

SENATOR LOUDEN: Any questions for Ken? Senator Kopplin. [LB652]

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SENATOR KOPPLIN: Thank you, Senator Loudon. Ken, I do have a few concerns on this bill that I'd like to ask about. First of all, an audit could be your head custodian in the school going through and saying there's a cracked window, there's a lightbulb that's staying on all the time, and you can fix those things and your payback is quick. But if you're really going to do an energy audit it's going to involve engineers and so on. Because you may have to increase the thickness of the insulation under your roof covering or cover your steam pipes with new insulation, or lay new layers of insulation above attics. Most people can't tell what they're going to do. Or you could get into, yeah, we've got this steam boiler here, it sure keeps us warm but if we had a heat pump we could cut our energy costs which again would take you to a 13-, 15-year payoff for some of these things. I guess I'm just not comfortable with what you mean when you say everybody needs to do an energy audit. The second thing that I am not comfortable with is saying, okay, you all need to do an audit but if you're going to do an audit, doesn't that indicate you are going to do something about it? Which for many entities that is capital improvement, it is huge expenditures. And I'm not sure about this anymore, but I think the energy grants long ago disappeared in this state. So it is a local question, can they even afford to do those things? But if you do an audit aren't you just about committing yourself that you'd better do something about it? So these are some of the things that concern me and I guess I'd like to hear your comments because you said payback could be in three years. Well it can on some things, but... [LB652]

KEN WINSTON: Sure. Okay. Well I guess I will respond in terms of does this need to be defined more clearly so that everybody's on the...doing the same kind of thing? I guess I would be glad to work with the committee, work with the introducer if there is a definition that you want to say that it's done a certain way. Certainly I'd be glad to work on that so that we have a definition that people understand what they're being asked to do. But I guess similarly, there are some areas, I mean, for example there are situations where you can...I mean there's some things that you can do to improve energy functions simply by having a suggestion box. I mean, sometimes people, school districts, sometimes will just ask for suggestions from students and faculty and oftentimes they've got good suggestions because they are in the buildings every day, they spend six to eight hours a day there; they know what it's like. And they're looking at it and they're going...oh, you know, there's a bunch of wind coming through this window and I know it because I sit right next to it. And sometimes simple things like that can be a real cost savings. In terms of should this lead to action? Yes, definitely. I mean a report that is just a report and goes and sits on a shelf is worthless and I mean, you all know, you've seen lots of those reports and there's probably some that are cluttering your offices or are ready to be recycled. So yes, we would want this to be an initiative for action. But I believe and as I indicated earlier, there are ways of funding this so that it's not a capital outlay and I think we need...that's the next discussion that needs to happen is how do we fund this in a way that does not bankrupt the local school district, does not cause a great cost to the Department of Corrections, for example, but improves the efficiency.

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And there are ways of doing that; there's private funding methods and it can create jobs, it can improve the quality of the building and at the same time reduce the energy usage. And so I guess I would respond affirmatively to both of your questions. [LB652]

SENATOR KOPPLIN: Okay, thank you. [LB652]

SENATOR LOUDEN: Senator Dubas. [LB652]

SENATOR DUBAS: Thank you, Senator Louden. Thank you, Ken. You have given us some good information to think about but I think I'll go back to some of my original questions. We're looking to put this into law; we're looking to create a statute. And so I think someone has told me in the past that if you're making a law, not putting an enforcement mechanism with it, you are merely making a suggestion. And I guess I'm feeling right now that that's what we're doing, we're strongly suggesting that our political subdivisions do these things which again, I'm not going to disagree with. I'm just questioning this as statute and are we putting any kind of an enforcement mechanism in it? Are we creating any accountability through this statute? Who is going to be in charge of overseeing this to see what's happening and how it's progressing. I guess I'm just feeling like maybe it's still way too vague or we're taking a big bite out of something that we're not going to be able to follow through on. [LB652]

KEN WINSTON: Well, the first thing, and I appreciate the question. The first thing is we want to find out what's being done. How much energy are we using? And while we are looking at that, is there a way of figuring out better ways of doing things? I mean, and I think we all feel like we have an obligation to figure out, are we using the best practices? And while we are in that process we ought to...that should spur people on to do something. That is the thought is once you look at it and you say, well gee, we can save money here, then that tends to motivate people. I mean, if I were on the local school board and I got a report back saying that we could save a quarter million dollars a year by doing some energy efficient stuff, I'd probably want to jump on that. And I imagine that the heads of agencies would want to do that too because they would say, well gee, I don't have to cut back staff here, I can maintain my budget, I can provide more services because I can provide these services without cutting back the...I can...I have more money to run my operation and provide a better service for my clientele. So is there an enforcement mechanism? No. Would that make some sense? I'd certainly be willing to look at it but the idea would be to, in a way, provide sort of an incentive for people to take action because of the information that they would have. You know, hopefully when we are confronted with good information we make good decisions. [LB652]

SENATOR DUBAS: Thank you. [LB652]

SENATOR LOUDEN: Senator Carlson. [LB652]

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SENATOR CARLSON: Senator Louden. Mr. Winston, in listening to you as well as Senator White, it makes sense to me that we evaluate what we're doing on energy. But it doesn't make any sense to me unless it's done in a professional basis so that the results mean something. And if that's going to be the way it is, then it needs to be professionally done. [LB652]

KEN WINSTON: And...are you done with your question or do you have a question specifically or you just asking me to respond to that? [LB652]

SENATOR CARLSON: Well, before I lose my thought here... [LB652]

KEN WINSTON: Okay, excuse me, go ahead, I'm sorry, my apologies, I didn't mean to interrupt you. [LB652]

SENATOR CARLSON: It needs to be professionally done. That costs money. And so let's take the school system. So now they've got a...we've passed this, put this law into effect and there is a mandate to do this. And we talk, well it's not going to cost much...and results are going to be worth it because it's meaningful and we all need to know what we are wasting and if we're wasting and if we don't find out what we're wasting, that's not good; I agree with all that. It still costs money to have a professional evaluation done that's going to be meaningful... [LB652]

KEN WINSTON: Sure. [LB652]

SENATOR CARLSON: ...and if we're so sure that that's going to bring good results, then why don't we fund it? [LB652]

KEN WINSTON: Well, I would love to fund it (laughter). I mean, so...and I don't mean to, I'm not meaning to make light of what you're saying. I'm just saying the concern is to...if you put large numbers in a fiscal note, that tends to have a negative impact on the chances of the bill advancing. One of the things and I think Mr. McClure is still sitting right behind me, but I believe the power districts have expertise on staff that can be used to do these kinds of things and there may be some ways of working cooperatively with the public power districts to have these kinds of audits done. [LB652]

SENATOR CARLSON: And they may be a good source of information, but the whole time I'm sitting here thinking, okay, now you're putting up a pretty good argument for why this ought to be done, the power companies are sitting back there and we're in an economy that's based on consumption and so we cut down consumption, what's that do to them? [LB652]

KEN WINSTON: I believe that and obviously I'm not going to speak for them, but I've

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heard a presentation actually by Mr. McClure in which he indicated that the public power districts were strongly in support of conservation and they would like to see more conservation and that it's beneficial to them. And he can obviously speak much better for himself but it's my understanding that it's beneficial for them to reduce the energy consumption within the state of Nebraska because of their own energy generation abilities and ability to sell power on the open market. And so it...in the long run it helps the power districts to be more energy efficient in the state of Nebraska as well. And so, I mean, they may not support this bill but I'm sure they support energy conservation. [LB652]

SENATOR CARLSON: Okay, thank you. [LB652]

KEN WINSTON: Thank you. [LB652]

SENATOR LOUDEN: Any other questions? Senator Hudkins. [LB652]

SENATOR HUDKINS: Ken, in your testimony earlier you talked about a 1993 study of the Capitol lighting. Do you know if any of those suggestions or whatever they found were actually implemented? [LB652]

KEN WINSTON: I believe they implemented...the only one that they implemented I believe was one of the upper hallways. They put some new lights up there and the rest of it has not been implemented at all. [LB652]

SENATOR HUDKINS: Because? [LB652]

KEN WINSTON: Well, I don't want to speak for the participants but it was my understanding that it was related to historical significance. [LB652]

SENATOR HUDKINS: Historical significance, yes. All right. Thank you. [LB652]

SENATOR LOUDEN: Any other questions for Ken? Seeing none, thanks, Ken. Other proponents for LB652? Welcome, Senator Schmit. Go ahead. [LB652]

LORAN SCHMIT: Chairman Louden and members of the committee, my name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I remember when Ken and I didn't always agree on things and it seems like over the years, Senator, we're getting closer and closer together on our ideas and I don't know if he is improving or I am, but (laughter) in any instance, you know there are not many advantages as I have said earlier, to becoming older, but one of those is that there is never such a thing as a new idea. And we've talked about energy efficiency for more than 30 years in this Capitol. And each time we have talked about it, we've heard some of the same questions that were raised here and they're legitimate questions. But it only seems right to me that what we insist we do in our own

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homes and our own farms and businesses, is impossible in state government. I live in a hundred-year-old farmhouse and it's sort of like heating a corn crib, you know we tried to insulate it and it's not easy to do that. And then when we were raising ten children they had the doors open all the time and that didn't help matters either. But we learned after a while that when you walked out of a room you turned the light switch off. You turn down the thermostat, you did those things that ordinary normal people do to conserve their own resources. And in public buildings we don't do that. We walk out of the room or out of the building and the lights are on, the doors are open, and things that are ordinary common sense or practices are not followed. I was not surprised by the proposal or the concerns the university would cost \$1,300,000 to do a study. I had a good friend a few years ago who was CEO of an organization that hired 700 people. He became concerned with energy costs and so he charged each division head with doing their audit and suggested that each division head give each employee certain responsibilities. Some of those individuals came back and said, we don't have time to do that. His response was, if you don't have time and your employees don't have time to do it, we will find those people who will. And strangely enough they found the time to do the audit, they reduced the costs substantially and he said the same employees are there today that were there. I'm not saying we have lazy employees in state government, I'm just saying that we used to have a saying when Frank Rall worked for NPPD, everybody wants to put it on a light bill and to a certain extent that is what we have done. We've just let costs accumulate, as the costs of energy has increased we've just added onto the light bill. And I notice that the university is coming to get an increase in their budget and I think that some of those things ought to be considered and discussed when they come in to ask for more money. What are you doing with the money that you've got? Why haven't you done this, and what is so difficult, as the gentleman Mr. Steward can point those things out, certainly there are other people in the most prestigious institutions in the state who can find ways to save on energy. I also suggest and I remember many years ago we suggested that perhaps the state could take a second look at the cost of automobile travel. Well there were all sorts of individuals that rolled their eyes and looked at the ceiling and crossed their arms and said, we can't do that. It's always interesting to me when necessity demands it, we find a way to reduce costs. But as long as someone pays the bill, we don't do it. What Senator White is proposing over here is not new, but it's a restatement of something which we should done a long time ago. I would suggest, I don't have the numbers that Ken had, or Mr. Steward, but I would suggest that if this committee were to put this bill on the floor and say, okay, you folks have got some time, this is what we're thinking about, there needs to be some cost concerns addressed that you talked about, engineering costs. If you do that, as Senator Kopplin has said, there are many times small savings that can be implemented that don't cost much. Major costs have to be reassessed, but there isn't any agency in state government that couldn't reduce their energy costs by 10 percent if they just decided to do it. And this Legislature needs to do it. We were never able to do it; we didn't have the backbone I guess. But the facts are that in our own homes, in our own businesses, we do those things that are

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energy-saving. We don't make that extra trip with \$2.50 gasoline that we used to do with 29 cent gasoline. Some of you can't remember that but I can. And so today unless we take it very seriously and follow through with what Senator White and Senator Priester have suggested, it's going to get worse. We are going to have to build more generation facilities, more transmission lines, more oil lines, more gas lines, that we'll all have to increase because we like to be comfortable but it does not mean that we need to be wasteful. So Mr. Chairman, I would suggest that I would hope the committee put the bill to the floor, add those amendments, do those things you need to do to provide for the questions that have been raised here, examine the questions, but do not kill the bill because if you kill the bill you are giving a green flag to every agency in state government to go full speed ahead and that will be that. And so that's my suggestion. Thank you very much and I'll answer any questions. [LB652]

SENATOR LOUDEN: Any questions for Loran? Senator Carlson. [LB652]

SENATOR CARLSON: Senator Louden. Senator Schmit, I remember when gas was 21.9 cents (laughter) and I remember I had some friends that drove from Holdrege to Kearney because it was 20.9 and they put it in buckets in the back of their station wagon and it was on the floor by the time they got home (laughter). [LB652]

LORAN SCHMIT: That was probably false conservation wasn't it? (Laughter) [LB652]

SENATOR CARLSON: Well, yeah, that sure was. Thank you for your common sense. [LB652]

LORAN SCHMIT: Thank you. [LB652]

SENATOR LOUDEN: (Exhibit 5) Thank you. Are there other proponents for LB652? Are there opponents on LB652? Okay, we have the Nebraska Association of County Officials opposing this bill because they see it as an unfunded mandate, the time frame is too short, and it is signed by Larry Dix, executive director. Any other opponents? Is there anyone that wishes to testify in neutral? [LB652]

CORY FUEHRER: (Exhibit 6) Mr. Chairman, good afternoon, my name is Corey Fuerhrer, that's C-o-r-y F-u-e-h-r-e-r. I am the technical solutions supervisor for Nebraska Public Power District. Today I am representing Nebraska Public Power District as well as the Nebraska Power Association. The Nebraska Power Association represents all of the publicly-owned electric utilities in Nebraska to include public power districts, municipalities, cooperatives and joint action agencies. Today I'm speaking of a position of neutrality on LB652. Nebraska Public Power District and the NPA support the efforts to improve how the electric ratepayers of Nebraska utilize the energy we provide. The intention of LB652 to advance the efficient use of energy by the various public buildings across the entire state, we feel, is an excellent endeavor. This includes the

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city, county, public school buildings as well as other buildings utilized by public entities. However as the bill is currently written, there are several concerns that have been unidentified that we would like to see addressed before this legislation is advanced. First, with an undertaking of this magnitude, identifying a coordinating entity would greatly enhance the success of these efforts. We would ask that this bill consider identifying an agency such as the Nebraska Energy Office to guide those efforts across the entire state. Second, so that we could have some uniformity applied to conducting the audits, we would ask that some form of standardization be utilized. By utilizing a consistent approach we would be better able to compare what measures would produce the greatest gain from implementation. Third, we would ask that the bill identify the qualifications required for the individuals performing the audits to help assure quality. Fourth, we are concerned that the delivery time in which the audits would need to be on file with the Clerk of the Legislature which currently as written in LB652, is December 31, 2007. We feel that this is not sufficient. We also believe that the quality of those audits could potentially suffer if there is not sufficient time to conduct them. Currently the electric utility industry offers a number of energy-efficiency services. We would encourage all of you to check the various utility web sites to see what services are provided by each electric utility. I personally supervise a team of ten certified energy managers from NPPD. I would calculate in NPPD's case that because we're already dispersed across the state, that it takes one of our team members an average of three days to first of all, travel to and from an audited facility to collect the relevant information from that facility and then to return to the office to produce a written final report that distinguishes the energy efficiency opportunities in that facility. I've heard a couple of estimates related to LB652 that this bill would be applicable to over 1,200 facilities statewide. A fifth point I'd like to make is that we'd like to see this bill identify how this information gathered will in turn be used to continue energy efficiency efforts in those audited facilities. This would include implementation plans and the means to sustain and verify implementation on an ongoing basis. A final point I would make is I would raise the question of how this undertaking would be financed. Depending on the degree of complexity, an energy audit from a private consultant may cost \$500 for a high-level facility review to several thousand dollars for an in-depth analysis. Again, I applaud the intentions of this bill to lead the way in increasing energy efficiency on a statewide basis. As this is given further consideration, NPA would be willing to work with Senator White and Senator Preister and their staffs to refine the scope of the bill if desired. I thank the committee for the opportunity to speak today and I would be happy to address any questions that you may have. [LB652]

SENATOR HUDKINS: Thank you, Mr. Fuehrer. Are there questions? Senator Christensen. [LB652]

SENATOR CHRISTENSEN: Yes, what kind of services are available through like, NPPD and stuff? Is it something that actually can be utilized like on a public building, or is it only private enterprise? [LB652]

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CORY FUEHRER: No, not at all. Our services are available to all the ratepayers that we serve. With that, energy efficiency audits are one of our more popularly requested services. [LB652]

SENATOR CHRISTENSEN: So am I safe to assume that we could line up with NPPD to go through the state buildings and universities and things and just start having audit reports done, or am I overstepping bounds? [LB652]

CORY FUEHRER: I think the capability of at least, and I can speak only on behalf of myself and my staff that I supervise, that the scope and the magnitude for us to handle it as an individual entity is currently probably beyond our capacity. It's going to take more than just ourselves. [LB652]

SENATOR CHRISTENSEN: Can you give me--take a 2,000 square foot home or something that way, what would be an average cost for a 1,000 square foot home? Would you have an average cost of an average audit for Lincoln applicable? [LB652]

CORY FUEHRER: Senator, I might ask that you also take into consideration that not all audits are created equal. You can go onto the Internet to NPPD.com and find a checklist for a homeowner to take around themselves that would be a cost-free audit to look at various points within their home and improve their own efficiencies. If a homeowner were to request something more sophisticated such as a home energy rating, they would need to line up a consultant. A private entity would probably charge \$500 to \$700 for the service. It would take a few hours to set up the testing equipment. The house would be placed under a negative pressure and then those sources of air leaks identified as well as the rate of air infiltration into the home. Much more sophisticated, but some of the analyses would allow you to fine-tune and pinpoint exactly where as it especially relates to heating and cooling costs, where some of those losses are occurring. [LB652]

SENATOR CHRISTENSEN: Thank you. [LB652]

SENATOR HUDKINS: Are there other questions? Senator Dubas. [LB652]

SENATOR DUBAS: Thank you, Senator Hudkins. Thank you, Mr. Fuehrer, for being here. So you said you have received requests for energy audits from private citizens I'm assuming, or... [LB652]

CORY FUEHRER: Yes, certainly. Myself, I have been involved in providing energy audits and other energy efficiency requests and services over the past ten years with NPPD. [LB652]

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SENATOR DUBAS: So exactly what is the scope of what you are able to do? [LB652]

CORY FUEHRER: I guess it can be rather broad, all depending on what the customer is requesting assistance with. The primary focus is, usually they'll relate it to efficiency--how can I make a process less expensive, how can I reduce my heating and cooling costs, are there things a facility can do on lighting? That's a frequent request here lately. We also have had numerous requests from agricultural producers, especially as it relates to irrigation systems. What can I do to reduce my irrigating costs? [LB652]

SENATOR DUBAS: Is there a charge, do you charge a fee for doing this? [LB652]

CORY FUEHRER: The fee or the cost for our services is currently embedded in our electrical rate so there are no additional costs or fees assessed to the customers of NPPD or the customers of our wholesale customers. [LB652]

SENATOR DUBAS: Okay. Thank you very much. [LB652]

SENATOR HUDKINS: Other questions? Seeing none, thank you very much for coming today. [LB652]

CORY FUEHRER: Thank you. [LB652]

SENATOR HUDKINS: Any other neutral testifiers? Mr. Krumland, welcome. [LB652]

GARY KRUMLAND: Senator Hudkins, members of the committee, my name is Gary Krumland, it's spelled G-a-r-y K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. We're appearing in a neutral position today. We do support energy audits. We think they do create deficiencies and save money and cities and villages are doing those now. The concern we have about LB652 and the reason we're doing neutral, is just as you heard, is the timing. There are 532 cities and villages across the state and we just don't know if there are enough people available to do the full-blown audit for them without a lot of costs, and we think that the December 31, 2007, deadline just may be too much. There are over 100, maybe 125 cities who do have their own electric systems. Many of them do offer energy audits for their customers the same way that NPPD does and they'd be available but with just the amount of cities and villages and all their buildings and things, we just think that the timing may be just a little bit too quick to handle all of this. I say this all and we always do get heartburn when there is a mandate, but we do understand the importance of energy audits. Also one other thing I might mention is that as our other political subdivisions, cities and villages are under both a restricted fund lid and a levy limit. The costs of the study, if they have to hire a contractor to do it and any improvements they would make other than maybe any major capital improvements, would be under the lid and levy limits. So it would take time for a

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city or village to work that into the budget and work that under the lid, but I guess so. But so the main concern is just the timing of it in the bill. I'd be happy to answer any questions. [LB652]

SENATOR HUDKINS: Thank you. Are there questions? Senator Carlson. [LB652]

SENATOR CARLSON: Senator Hudkins. Gary, being new in the Legislature and sitting and listening to this testimony today, it's kind of easy to get in the frame of mind that this is kind of new and not a whole lot has been done, but what estimate would you have of the percentage of municipalities that are currently doing this on a regular basis in a thorough manner? [LB652]

GARY KRUMLAND: I don't have an estimate, I don't have a guess. I know many of them are doing it just because...I think that part of them are doing it because they just want to become more energy efficient but over the last actually, 11 years, there have been lids and levy limits on cities and villages. They're looking for savings anywhere they can do it and if there are energy savings that help them with their budgets, they are looking at those too. But I just don't have any...we haven't done any studies or surveys so I just can't tell you a percentage. [LB652]

SENATOR CARLSON: Okay. [LB652]

SENATOR HUDKINS: Are there other questions? Seeing none, thank you. Is there anyone else who wishes to testify in a neutral position? [LB652]

TIM TEXEL: Senator Hudkins, members of the Natural Resources Committee, my name is Tim Texel, T-i-m T-e-x-e-l, and I'm the executive director and general counsel for the Nebraska Power Review Board. I'm testifying today in a neutral capacity on LB652, not on the policy aspects, I think we can probably all agree that energy efficiency is important and necessary, but more on a technical provision that deals with smaller agencies like mine. The Power Review Board is a state agency and we're located in the Nebraska state office building and we have three employees including myself so we are a pretty small agency. Under LB652 the board and all other agencies and political subdivisions would have to conduct an audit of its energy usage and submit the report to the Clerk of the Legislature. I wanted to testify to point out that at least as far as my board, like I think many agencies in a building such as the state office building, don't control the energy's heat, the lights, the electric bills; we don't get statements on those, we pay a certain set rate. So conducting an energy audit may not be difficult but then again, we don't control most of the aspects that I would think the bill is probably getting after. We don't even have light switches in our offices, for example. It's a centralized...for banks of light switches for the building for each quarter section of the floor. So it would be difficult for us to do much of an audit because we simply don't control even the lightbulbs that go in, whether it's fluorescent or whether it's

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incandescent. We don't make that decision, the Department of Administrative Services makes that decision for us. So I would submit that perhaps in the bill there could be some type of aggregate energy audit for agencies such as myself submitted by the Department of Administrative Services that actually manages the building for us and we simply pay them rent. I don't think any of the agencies like myself would have a problem with the audits, it's just that we need it to be by somebody who could implement those changes, and we really aren't in a position to do that. In the current version, as I read it, of LB652, doesn't allow for some type of aggregate audit or to not have a small agency like myself that doesn't have any control over the situation, to not do an audit. Like I said, it may be a very short audit, it may not be difficult, but I see it as perhaps unnecessary if DAS can do that type of audit on our behalf and really address the situation it sounds like most of the comments have been geared towards that we can't address. So that's the testimony I wanted to bring up and ask that maybe that be considered for, and I'm only speaking for my board, but I think many smaller agencies that probably share that concern. I'd be glad to answer any questions. [LB652]

SENATOR HUDKINS: Senator Wallman. [LB652]

SENATOR WALLMAN: Senator Hudkins. There is something I'd like to ask, or, and I'm not familiar with, how we get charged here at the state. But are we charged a demand charge that the number one usage every month is what we pay the rest of the month? [LB652]

TIM TEXEL: You know, I'm not sure since we don't deal with that either. We simply pay an amount to the Department of Administrative Services so we don't deal with demand charges. We don't get a bill for our power usage or lights or anything, we simply pay a set amount. Sometimes that goes up or down but we simply have it in our budget and we don't know those types of things. And that's why I submit that maybe DAS would be the one to address it because I think they could address whether there is a demand charge and those types of factors. [LB652]

SENATOR WALLMAN: Because if we do have that then I think we should really almost immediately get some kind of a metering system that we control our demand. I mean that should almost be done immediately. That's all I have. [LB652]

SENATOR HUDKINS: Are there questions? Thank you, Mr. Texel, I appreciate your testimony. Anyone else? [LB652]

TIM TEXEL: Thank you. [LB652]

JACK CHELOHA: Good afternoon, Senator Hudkins and members of the Natural Resources Committee, my name is Jack Cheloha, last name is spelled C-h-e-l-o-h-a, registered lobbyist for the city of Omaha. I wanted to testify just briefly on LB652 in a

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neutral capacity. As a general rule of thumb, the city of Omaha is continually searching for ways to increase energy efficiency and cost reduction. Just some simple examples on that in terms of motor vehicle fuel to run our fleet of police cruisers or fire trucks, we try to, you know, bid that out and buy it in bulk so that way we get a lower cost and that helps save the taxpayer money. In the meantime, I know this Legislature as you enact international energy codes and building codes and things along those lines, we try to, as soon as you act, implement it locally by local ordinance so we've got the state-of-the-art building codes in place, to be energy efficient on new structures that go up in terms of private residences or commercial buildings, but likewise we adhere to those ourselves as the city renovates buildings. In terms of actually looking for cost savings, some of it may occur on a kind of pay-as-you-go type mentality as we do capital improvement projects. For instance, we replaced the fire station that may have been in existence for maybe up to a hundred years even in south Omaha, some of them. Obviously as we go out and find a new site and build, that it's going to have the latest standards in terms of windows and energy efficiencies etcetera. And so for those reasons we're on the same page. We think this is a great idea and then now comes the but part, the but part for us if you will, is the time line on the bill in terms of getting the audit back to you. We think it would be tough to do that by the end of the year just because the city has at least four major golf courses which all have clubhouses on them. We have parks that have meeting rooms on them or clubhouses, whatever you want to call them. Facilities where you can have picnics etcetera, in addition to all of our various police stations and fire stations and so on, and city all itself if you will. And so we think that it would take a while to do that. Likewise, I would also mention the unfunded mandate but being the good lobbyist I have the answer for you. I think somehow if we could come up with maybe one of these state cash funds to set up pilot programs to offer grants to local governments, or if you wanted to start out a pilot program through one of your state agencies or even the state colleges. Maybe that would be good way to start; we could actually get a measure to see what kind of efficiencies are out there and then maybe move forward with that. So for those reasons I just wanted to testify and tell you our thoughts on the bill and try and answer any questions. [LB652]

SENATOR HUDKINS: Thank you. Are there any questions? Senator Kopplin. [LB652]

SENATOR KOPPLIN: Yes. Thank you for appearing because I would understand Omaha's difficulty because I am not even sure you can tell how many buildings you have (laughter). [LB652]

JACK CHELOHA: That's probably true...(laughter) [LB652]

SENATOR KOPPLIN: But that's true throughout the state. Now if this were to be, would you then gather all of these into one report which you would send to the Clerk of the Legislature? [LB652]

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JACK CHELOHA: I think so. As we read the bill, Senator, I think we would have to analyze each and every facility that the city of Omaha and its taxpayers own, and then compile it within that report and get it back to the Legislature. [LB652]

SENATOR KOPPLIN: So the Clerk of the Legislature would come up 300, 400 school district reports plus every city report plus the university report, the state colleges report, the community colleges report, I'm just thinking what is the Clerk supposed to do with these? [LB652]

JACK CHELOHA: (Laugh) Maybe, I don't know what the...wait for the closing may be if you, well, I'm not sure what we, you know... [LB652]

SENATOR KOPPLIN: Okay, thank you. [LB652]

SENATOR HUDKINS: Are there questions for Mr. Cheloha? Thank you, Jack. [LB652]

JACK CHELOHA: Thank you. [LB652]

SENATOR DUBAS: Are there any other testifiers? Senator White, would you like to close? [LB652]

SENATOR WHITE: I would. Thank you. Fellow Senators, I first want to correct a misstatement. I said that there was wasn't a required report. What I meant to indicate is that we didn't have the administrative service or somebody there saying get a report if you didn't, getting on them, or fining them, or anything like that. The point of it going to the Clerk of the Legislature, Senator Kopplin, is this: the report should be indexed and kept as part of a library. And when they come to us for money and they will, one of the things I can assure you I will do is I will ask if they did an energy audit. And if they identified any savings and if they haven't I'm going to ask them about that before I give them any more money. Senator Carlson, you said should we have enforcement? It seems to me we do enforce, we give them money, and I'm not inclined to give a subdivision more money whether it's direct school aid, whether it's aid to cities, whether it is road and county money, unless they demonstrate to me that they are doing something that every business in the state that is well-run, is doing now. What you heard here, the most compelling testimony is, this is so much a part of the fabric of proper business that it's imbedded in the electrical rates and NPPD has a dozen consultants itself to service without additional charge its business customers. And anytime you put in any kind of substantial factory, anytime you put in any type of substantial energy consumer, business takes advantage of that. This bill is deliberately vague because it should be. If that is available to a school district that NPPD can run the audit, they shouldn't have to hire somebody. And there's a philosophical difference on how we govern and it's important in environment. There is a theory we tell everyone, you will do this and that is, you set regulations. For example, you reduce carbon dioxide

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emissions from this power plant and you'll do it by putting the scrubber in. You'll do the scrubber. That's one way. Another way is to say, I don't care how you do it, drop them. And this is really philosophically designed not to tell the local governments what they need to do, not to tell them how to do it, but tell them that they better look at it. And the reports come back to the Legislature not because we're going to turn them over and have some bad guy from Lincoln beat them up. But if they come up here and they haven't done their homework, are you going to look at them the same way when they ask you for more money? Now with regard to the bill, there are a number of good points here. The bill clearly can use some work. One is the date is unrealistic and that should be corrected; another one is we could phase in if we wanted to ease the problem. Do lights first, do heating, do gasoline consumption. The coordination of agencies. Again, why we didn't tell them what you have to do? We just heard from a small agency; their report literally should be one line that says, we don't have control of any of these things or nothing we can study or change, see DAS' report. That's their report, that's fine with me, that's adequate. DAS has a report that they need to file. And we leave that flexibility there. Also with regard to a standard approach, I prefer guidelines. I prefer to let the various areas decide what makes most sense in their situation rather than trying to fit them to one set of rules; I'm just not that skilled at it. As far as qualifications, if we set a series of qualifications but then that disqualifies NPPD's free assistance, and by the way, the state is a major, major consumer of power, and if we can't get the same status from them for free that they are providing to other private people, I want to know why. Our money is just as good as private industry's and it's just as hard to come by. So I don't want to set qualifications because it may put some free source out of reach and that's why I'd rather tell the local agency, give me the quality of a report. Now if we need more guidelines, I'm great with guidelines but not requirements. Let them be flexible, let them govern, the people elected them to use their own common sense. Those are the main points and I would like to thank the committee very much for your time and looking at this, but truly this is nothing more than business has been doing for more than a decade and it is long past due that we act equally responsibly. Thank you. [LB652]

SENATOR HUDKINS: Thank you for coming today. That will close the hearing on LB652 and I would like to open the hearing on LB705. Is Senator Dierks here? He is. Welcome, Senator Dierks. [LB652 LB705]

SENATOR DIERKS: Thank you, Senator Hudkins. Greetings from the 40th Legislative District. Vice Chairman Hudkins and members of the of the committee, I'm Cap Dierks, that's spelled D-i-e-r-k-s, and Cap is like you wear on your head. I am here to introduce LB705. This bill expands the cap on what's called a special general application. They go before the Nebraska Power Review Board. I think it's helpful to have some background on the issue. All applications for construction or acquisition of an electric generation facility must be filed with the Power Review Board. That board is authorized to approve the application if it finds that one, the application will serve the public convenience and necessity, and two, the applicant can most economically and feasibly supply the electric

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service resulting from the proposed construction or acquisition without unnecessary duplication of facilities and operations. In 2003 the Legislature created in statute, a special class of facility application that is treated as a special generation application for purposes of review and approval by the board. A special generation application is defined as an application from a government entity, in other words public power, for a renewable energy generation facility that would generate not more than 10,000 kilowatts of electrical energy. A special generation application that meets these requirements can be approved by the board if the board determines that the application will provide public benefits even though it may not constitute the most economically feasible generation option. Legislative Bill 705 would expand the size of renewable energy facility that is eligible for treatment as a special generation application from 10,000 kilowatts to 25,000 kilowatts. Increasing the size to 25,000 kilowatts provides further encouragement to our public power utilities to develop renewable energy facilities, especially wind energy. I would like to just tell you that I am a proponent of wind power and this bill, as written, will help public power companies develop wind energy. Actually as far as economies of scale are concerned, sometimes larger projects are more economical and we think this gives them the authority to provide for a little bit larger project. With that I would be willing to try to answer any questions and I'll have to tell you I'm somewhat limited in my knowledge but I'll try. [LB705]

SENATOR HUDKINS: Are there questions for Senator Dierks? Senator Dubas. [LB705]

SENATOR DUBAS: Thank you, Senator Hudkins. Thank you, Senator Dierks for being here today. Did we just pick the number 25 kind of randomly or is there some basis on that number, and... [LB705]

SENATOR DIERKS: I think it's something that's just manageable? [LB705]

SENATOR DUBAS: Okay. [LB705]

SENATOR DIERKS: And I don't think...we probably could have gone larger but we think that's a manageable figure. [LB705]

SENATOR DUBAS: I guess that's where I was coming from, would it have been better to go a little higher, 50, 75 or that's kind of the starting point and build on that? [LB705]

SENATOR DIERKS: I think so, yeah. [LB705]

SENATOR DUBAS: Thank you. [LB705]

SENATOR DIERKS: Sure. [LB705]

SENATOR HUDKINS: Other questions? Senator Christensen. [LB705]

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SENATOR CHRISTENSEN: Thank you, Senator Hudkins. And Senator Dierks, I guess just to ask you a question why you like wind generation so much? You know, I love the renewable energies, the methane, the hydro, things this way but I somewhat struggle personally with wind generation from the standpoint it is unreliable and we have to double-build facilities, meaning if there's no wind running, we have to have coal power or nuclear power, something else to cover it; whereas if you use methane, it's a steady supply. Hydro's a steady one as long as there is water, I realize that...flexible there, but it's not a fast-changing one. Because after touring some power plants and I see them firing up the coal powered plants and how slow it is to necessarily, to bring it up to full steam, and then back it off, wasted energy, and the wind can start and stop. I see the wind a perfect match with hydro because it's easier to shut off the water when that's an easy one. I know you said you liked that specifically. I see here at the end a lot of them are listed, but does that concern you with having to double-build capacity with wind? [LB705]

SENATOR DIERKS: I'm sorry...to double-build the facilities? [LB705]

SENATOR CHRISTENSEN: Every time you build more wind generation you still have to have the other generation systems to back it up if the wind isn't blowing. Is that a concern to you? I guess I've always wanted to ask somebody. [LB705]

SENATOR DIERKS: Not really. I think that wind energy certainly has a place and I know that there's some difficulties that people have with it, but once you get up and running it's a fairly economical system, you know. And the care of the system is not that difficult. I've been through several of these wind farms and I've visited with people who have built them. And the fact is I took a van load of people up to Minnesota to go through one there a couple of years ago. It's a great facility and actually there isn't a lot of down time in Nebraska. We have wind generating capacity a large percent of the time. It would be an excellent adjunct to coal-fired power and water power. [LB705]

SENATOR CHRISTENSEN: Okay. Thank you. [LB705]

SENATOR HUDKINS: Other questions? Senator Wallman. [LB705]

SENATOR WALLMAN: Senator Hudkins. Cap, I'd like ask you a question. I, too, am a wind energy proponent for many, many years. I tried to get some for schools and Minnesota has some as you know, for Is, motels. And what's your thing on these towers if I want to put one on my farm? Would it be...would they condemn it, the power company, or is this for public? Or would you put private? [LB705]

SENATOR DIERKS: This can be used by anyone but we think that it would encourage public power companies to be using it as well. Wind power, it's an interesting concept

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and this committee has heard testimony before by people who have built these plants. I think you'll have some again; we'll have some here in a couple of weeks when I bring another bill to the committee. And I think that you will hear from people who have built these plants. There are some people coming in from Minnesota again to give a presentation that's very impressive I think. So there's an opportunity for us to learn, an opportunity for us to take a look at other types of power and I think we need to have all that information available to make right decisions. [LB705]

SENATOR WALLMAN: And I think the technology is going to be there just like the tower hikes they've been through in San Diego, California. And if we in Nebraska, you know, if we put our towers up a little higher I don't think we ever have to worry, Senator Christensen, about the propellers turning because you get so high and there's always wind; the university will tell us that. And so there's interest. I agree with you, go for the wind. [LB705]

SENATOR DIERKS: Yes. [LB705]

SENATOR HUDKINS: Are there other questions? Thank you, Senator Dierks. [LB705]

SENATOR DIERKS: Thank you, Senator Hudkins. [LB705]

SENATOR HUDKINS: Are there people who would testify in support of this bill? [LB705]

JERROD HABERMAN: (Exhibit 7) I'd like to thank Senator Hudkins and the rest of the Senators for giving us the opportunity to speak today on wind energy. My name is Jerrod Haberman, J-e-r-r-o-d H-a-b-e-r-m-a-n. I'm with the Panhandle Area Development District in Gering, Nebraska. First, I would just like to stay on in answering the concern of the senator's excellent question. But there has been studies done about the reliability of wind because it is variable. A study by PacifiCorp found the concerns about wind's value being eroded due to increases in overall system operating costs are unfounded although they do increase costs somewhat. And GE Consulting has found that at a 10 percent generation level, the loss of wind is not a credible concern; system stability was actually enhanced by wind. There has also been several other studies that have shown you can go upwards of 20 percent without any significant problems with very little backup generation has to be built to say that you have to double the backup capacity is just simply unfounded. And even with a nuclear power plant or a coal-generating plant, there will be times where that has to shut down for maintenance and whatever, and you don't have to, nobody proposes that you backup megawatt for megawatt with a coal plant and I'd just simply...not be necessary because you're dealing with such a large power pool that the variability factors really are saving the spinning generation is what it's doing. It's not like you have to start it up from scratch and power up and go from there. But there's people that can probably answer that technicality questions a lot better than I can, but I would encourage you to do your own research on

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both sides of that issue and you'll find that there have been a lot of studies to show that up to certain levels, it really isn't a serious concern. The Panhandle Development District would like to express its support for LB705 and overall effort of this year's Legislature to grow the wind energy industry in Nebraska. Producing energy will likely be one of the greatest economic development opportunities for rural areas in the coming decades. With experts predicting that our domestic energy consumption will greatly outpace domestic energy production over the next 25 years, the race is on to turn this potential national crisis into an economic stimulus. The Nebraska Panhandle already benefits greatly from producing and transporting energy. The distribution of coal pumps millions of dollars into our regional economy. Over half of Nebraska's oil production, most of the state's natural gas production, all the state's uranium mining, occurs in the Nebraska Panhandle not to mention the benefits of the many businesses that directly support all these industries. While these industries, especially the transporting of coal, will continue to provide a positive economic impact to our region in the energy sector, there are many other energy-related opportunities we can potentially exploit. But to do such, we can't just sit back and wait for them to happen. We must identify opportunities such as wind energy generation, work together as a state, and make these economic opportunities happen. Wind energy generation can provide many benefits to the state of Nebraska such as it keeps more of our electric bill in Nebraska instead of supporting Wyoming taxpayers. Local landowners can receive compensation from wind generation leases. It can increase local property tax revenues when they are privately owned. It can create jobs, especially if we develop wind assembly, fabrication, service industries such as are done in California, Texas and around Minnesota and Iowa. It may significantly reduce electrical costs in the long term. It helps reduce our use of finite resources. The construction phase of wind farm development provides an enormous economic benefit at the local level, and it provides a long-term price hedge due to its consistent and predictable cost projection. Despite these enormous benefits, Nebraska is experiencing a great disconnect between real market potential and the actual production of wind energy in this state. Theoretically, Nebraska has the sixth greatest potential for wind energy in the United States, yet greatly trails many states which have far less potential than we do. In 2006 more than 2,400 megawatts of wind energy were installed in the United States; this represents \$4 billion in direct investment. Despite Nebraska's great potential, not a single penny of those \$4 billion was spent in this state. For 2007, the American Wind Energy Association expects 3,000 megawatts to come online. This will represent approximately \$5 billion in direct investment but none of these investments are planned in Nebraska. If all the planned wind projects in this country are completed, Nebraska's ranking in wind energy generation will fall from an already underachieving 18 to just 28 out of only 29 states that produce 50 megawatts or more of wind power. While PADD's primary interest in wind energy is local economic development, we also understand the patriotic duty and the humanitarian need of having Nebraska play its part in helping solve our nation's impending energy problems and address the global warming crisis. Just last week the Intergovernmental Panel on Climate Change stated that the observed widespread warming of our planet is very

likely the result of human activities led by the burning of fossil fuels with coal being the leading producer of CO₂. While some may look at global warming as being a national issue, it can be easily argued that Nebraska has a greater responsibility to reduce its carbon emissions than most other states since Nebraska uses coal for two-thirds of its electricity compared to the national average of just 51 percent. Just two weeks ago our nation's President in the State of the Union address, announced that we need to double our strategic petroleum reserve and reduce our nation's gasoline consumption by 20 percent in just 10 years. While the President did not elaborate on the full spectrum of our impending energy realities, Schlumberger Limited, the world's largest oil service provider, recently declared that the period of cheap hydrocarbon energy has ended. I would encourage you to read this statement a few times from what they said, because it's really telling. They stated this: maintaining the production base for both oil and natural gas in the face of accelerating decline rates, poorer quality or more difficult reserves, and eroding reserve replacement ratios will mean that the moderation in activity, as in if the price goes down anytime, will be short-lived and self-correcting. While we remain of the opinion that there's no overall shortage of oil and gas reserves, the world is realizing that the period of cheap hydrocarbon energy has ended and new and higher sustained levels of investment are necessary to meet demand and guarantee future supplies. Such a bold statement should not be surprising since world oil discoveries have fallen significantly since 1964. The world last discovered more oil than we used in 1981. The world used six times more oil than was discovered in 2005. U.S. natural gas production peaked in 1973. Canadian natural gas production now is in decline and the Energy Information Administration is projecting that more than three-quarters of U.S. natural gas consumption in the year 2025 will come from liquid natural gas imports. Put more simply, the low-hanging fruit has been picked and the remaining fruit will take more effort and investment to bring to market resulting in a higher and higher price floor for energy. [LB705]

SENATOR HUDKINS: Mr. Haberman? [LB705]

JERROD HABERMAN: Yes? [LB705]

SENATOR HUDKINS: We do have a copy of your testimony... [LB705]

JERROD HABERMAN: Okay. [LB705]

SENATOR HUDKINS: ...and I've been skimming through it; there's a lot of really good information here, but we can read... [LB705]

JERROD HABERMAN: Okay. [LB705]

SENATOR HUDKINS: But if you want to just summarize? [LB705]

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JERROD HABERMAN: All right. I would like to just say then, that that, here...like, this rising long-term cost of oil and natural gas will more likely result in higher coal delivery costs. We have recently seen container shipments passing coal in overall rail shipments despite record coal shipments. And rail companies have also added fuel adjustment charges due to increased diesel fuel prices. So getting to electricity, this is quite significant when you consider that rail transportation costs for Powder River Basin coal constitutes 40 percent to 80 percent of the total delivered cost. A recent Bear Stearns survey indicates rail transportation rates are rising and strong rate increases are expected to continue driven by ongoing tight rail capacity and expectations for continued strong rail freight demand. And then without even considering the likelihood of carbon taxes in the near future, the commodity price of coal will likely also increase in the future which typically happens when you increase the demand for nonrenewable resource, and you can read the rest of that on your own. But and I put it in there because you need to understand the energy realities that this world is facing, that this isn't just some political activity as it was in the '70s that are increasing these oil and natural gas supplies. And it will have an impact on electricity. LB705 is greatly needed, because at the present time, Nebraska's least-cost energy mandate favors coal because projects must be based on the basis of least-cost in conventional terms with no allowance for nonmonetized benefits, hidden subsidies, or the benefits of long-term price hedging. This least-cost provision discounts there may be negative externalities associated with coal. While wind energy is an emission-free power producer, coal has more negative health and environmental impacts than any other energy source including, coal is a leading producer of CO₂, the most significant contributor to global warming. Acid rain is almost entirely due to the generation of sulfur dioxide out of coal plants. Coal is the leading producer of nitrogen oxide, a major cause of smog and contributor to acid rain. Coal power plants distribute hundreds of tons of small particles which does cause lung damage to people. Coal power plants release carbon monoxide and coal power plants also release many heavy metals including mercury, lead, arsenic, and small traces of uranium, all of which can have serious health impacts on humans. In addition, a coal power plant can, and I'm sure you are aware of this issue in the state, use billions of gallons of water annually. While much of this water can be recycled, there are still millions and millions of gallons of water lost as steam when using coal. While wind turbines can kill some birds, especially if they are poorly sighted, coal-powered energy plants kill and injure thousands of people every year whether it be from emissions or injuries from transporting coal. Legislative Bill 705 will help level the playing field for wind energy and help account for the uncalculated external costs of producing electricity from coal. Legislative Bill 705, along with other wind energy proposals that have been put forth before the Legislature, will help create an environment that is conducive to wind energy development. This will help rural economic development and improve our natural environment, create a hedge against future energy price escalation, and improve Nebraska's competitive advantage in relation to its neighbors in the wind energy production market, help solve our nation's energy problems, and help address the global warming crisis. In closing, PADD would

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like to emphasize that we strongly advocate Nebraska's public power system and uniqueness in Nebraska. Public power has served ratepayers well in the past as the people of Nebraska truly are the stockholders of our energy generation and distribution in Nebraska. PADD does, however, advocate allowing private investment in wind energy development to occur in Nebraska, and to be owned by private entities while working in harmony with the public interests for the betterment of Nebraska, the environment, and our energy users, because the private sector is the only sector that will be able to drive wind energy to a higher, more productive level in this state. And thank you very much for your time. [LB705]

SENATOR HUDKINS: Are there any questions? Senator Fischer. [LB705]

SENATOR FISCHER: Thank you, Senator Hudkins. Thank you for coming today, Mr. Haberman. I am not familiar with your development district, the Panhandle Area Development District. Briefly, could you just let me know what area it covers, are you like a quasi-governmental group? How many members do you have; how are you chosen? [LB705]

JERROD HABERMAN: We're a public nonprofit council of governments for 11 counties in the Nebraska Panhandle and our members are cities and counties. [LB705]

SENATOR FISCHER: Okay. So everyone on there, are they a member of the city council or county board? [LB705]

JERROD HABERMAN: A majority of our board is made up of elected officials that are city council members and county commissioners. [LB705]

SENATOR FISCHER: Okay. And you're a member of...oh, you're the director... [LB705]

JERROD HABERMAN: Correct. [LB705]

SENATOR FISCHER: ...then of it, okay. Thank you very much. [LB705]

SENATOR HUDKINS: Other questions? Thank you, Mr. Haberman. [LB705]

JERROD HABERMAN: You're welcome. [LB705]

SENATOR HUDKINS: The first person to speak in support would be Mr. Winston. [LB705]

KEN WINSTON: (Exhibit 8) And I have written testimony as well. And I'm going to be very brief because Mr. Haberman touched on most of the points that I was going to make. I guess basically I just want to indicate that we're supporting LB705 because it

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will deal with the least-cost issue that Mr. Haberman described and that that is an issue because it's caused some projects to not be considered eligible for approval based upon the cost issue, even though the wind energy in particular is becoming more competitive in cost. This would help make more projects eligible and we would support LB705 for that reason. [LB705]

SENATOR HUDKINS: Thank you. Are there questions? Senator Wallman. [LB705]

SENATOR WALLMAN: What do you think the price differential is in between wind and coal? [LB705]

KEN WINSTON: Well it's my understanding that coal is cheaper just in terms of generation and the information that I've seen is that wind and nuclear are competitive. And of course the thing that renewable energy advocates have long advocated is that some of the external costs, some of the additional costs of coal generation should be factored in and that's usually not that, well, that has not been done by the Power Review Board. But I guess one of the comments that Mr. Haberman was making about this, that, or...what I thought was his central theme, was the idea that coal is going to get more expensive. And all of the nonrenewable fuels are getting more expensive. I mean, just think back a year ago what we were paying for gasoline at the pump and the fact that what we were paying five years ago for it. Now we are pretty well adjusted to the idea of paying \$2 or \$2.25 for gasoline. A few years ago if it went above \$2 we would have been panic stricken or very upset about that. So the idea is that energy costs are going to continue to rise and the cost of wind is going to remain constant and so that's one of the main reasons we support that... [LB705]

SENATOR WALLMAN: Okay, thank you. [LB705]

KEN WINSTON: ...in addition to the environmental reasons that we've talked about. [LB705]

SENATOR HUDKINS: Other questions? Thank you very much for coming. [LB705]

KEN WINSTON: Thank you. [LB705]

LORAN SCHMIT: (Exhibit 9) Chairman Hudkins, members of the committee, my name is Loran Schmit and I'm testifying here today on my own behalf. I had some very interesting testimony which I am just going to submit to the committee and you can read it, I know, when you get time. I am going to quote just a little from it because I think it's kind of important I do so. I was not an early advocate of wind energy. I felt that as Senator Christensen pointed out, sometimes it might not be there when you need it. On the other hand as the cost of energy continues to escalate and we see the continued demands escalate, I think it is something which we really need to look at. In fact I think

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we need to look at all forms of alternative energy, wind, solar, nuclear, methane, whatever we have and I think that is probably a direct reversal from what we had heard a few years ago. I want to thank Senator Dierks for introducing LB705. I recall when Senator Dierks introduced LB536 in 2001, opponents of the bill testified ethanol is a mature industry, we don't need any more ethanol, we got all the ethanol we need and to pass this bill would be an unfair burden to the taxpayer. Well, it didn't quite work out that way. As a direct result of Senator Dierk's bill we have ten plants that are being built, we have 12 that are in production, and we have another 20 or 30 that are going to be in production, and where you can't even keep up with the need for ethanol. I think that's going to be true as all other forms of energy. And so I really think and hope that the committee will advance this bill to General File. I have an amendment which I suggest that you might want to look at. I think it might satisfy some of the concerns of the persons. I'd like to offer the amendment which I will give to the committee clerk, and it reads as follows: On page 2, after line 7, after the word facility, add "in which such entity has an ownership interest or from which such entity intends to contract to purchase power." I believe this language may be needed to make sure that the federal production credits, tax credits, are available for use by the project. As we know, the federal government has shown a tremendous interest in wind energy and have provided billions of dollars of federal tax credits. It's no secret that some of our wisest investors have invested in wind projects because of the federal tax credits. I'm a very strong advocate of public power, the hold of public power is in my legislative district and they've done an excellent job, and I believe this might assure the public power interests that we can work compatibly as the previous witness has testified. There are opportunities here for those, some private investment, and very frankly I became kind of interested because a 115 volt line goes right through one of my places and it seemed to me that I ought to be taking a look up instead of down for forms of energy. There's not much oil underneath me and so I thought perhaps I could use the access to that power line and maybe do something for my own benefit. I freely admit this is a self-serving proposal I'm talking about here. I'm doing it because I think it's good for me, it's good for the community, and good for the state and good for the nation. And so with that I'll conclude my testimony and I'll answer any questions. [LB705]

SENATOR HUDKINS: Are there questions for Mr. Schmit? Seeing none, thank you very much. [LB705]

LORAN SCHMIT: Thank you, Senator. [LB705]

SENATOR HUDKINS: Are there others that would testify in support? Welcome, Shelley, [LB705]

SHELLEY SAHLING-ZART: Good afternoon, Vice Chair Hudkins and members of the Natural Resources Committee, for the record my name is Shelley Sahling-Zart. That's Shelley, S-h-e-l-l-e-y, Sahling-Zart, S-a-h-l-i-n-g - Z-a-r-t. I'm vice president and

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assistant counsel for Lincoln Electric System here in Lincoln, and I'm testifying today on behalf of the Nebraska Power Association who represents all of the publicly-owned electric utilities in the state of Nebraska. And we are here to support LB705 and thought it might be necessary based on what we've heard, to clarify for you and give you a little bit of background as to what this section was intended to do when we amended it a few years ago. This section first of all, only applies to utility applications. I'm not sure where Senator Schmit was going with his amendment, but I think what he was talking about would already be covered with regard to utilities. I'd have to look at the amendment specifically, but this section is sections dealing with utility applications to the Power Review Board. And what we found a few years ago when a number of entities were trying to put in some smaller-scale renewable energy developments to try to get the development of the wind technology going and get some experience with it, was that we had a problem with the least-cost standard in the Power Review Board statutes and that posed a fairly large hurdle for us. While we wanted to move those developments forward, we were, and remain, concerned about doing much to undermine that least-cost framework because we believe that is the cornerstone of why our electric rates in the state are so low. So we were fairly careful about the way we crafted this. Ten megawatts was the number that we pulled out at the time and our thinking was for the smaller developmental-type projects, ten. Twenty-five was the number we had thrown out at the time, so we certainly don't have a problem with 25, but the idea was that the smaller scale projects would go in. Our thought was that anything that got much bigger than that was really a project that ought to be justified on cost. Then you're getting in to a larger, major type of facility and we felt that should be justified on costs. To that end, I tell you that NPPD a couple of years ago when they put in their Ainsworth facility, it's a 60 megawatt facility, and they didn't need the special generation application. They went forward with an application to the Power Review Board and they justified that on cost basis. So it is possible, depending on how you structure your projects to meet the least-cost standard with renewable energy developments. This was intended to allow some of the smaller scale ones for entities that may not be as large as NPPD, that want to put some projects forward, but maybe don't have the economy of scale that an NPPD, or OPPD, or LES have, to be able to move forward with those under the special generation application. So that's really the background of why we put this in. Twenty-five I think is fine; we're supporting that, we don't have a problem with raising that limitation. But I would tell you to work with us and be fairly careful about significantly undoing the structure of how we've done that. The other thing that I would caution you on a little bit is, some of the wording makes me think that maybe we're going into an area of some legislation that we are going to be talking about with you in hearings next week, which are some of these community-based energy developments. And if that is where that was intended, then I think we need to be careful to not look at one bill at a time. There are several bills introduced on that topic and we need to kind of put all those together and put them together and make them all fit together rather than do it piecemeal; so that's just one caution that I put forth. Other than that, we don't have a problem with this; I think this may help some of the smaller scale utilities and move

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some developments forward and to that end, we'll support it. [LB705]

SENATOR HUDKINS: Thank you. Senator Louden, would you like your committee back? [LB705]

SENATOR LOUDEN: Well thank you. Are there questions? Seeing none, thank you for your testimony. [LB705]

SHELLEY SAHLING-ZART: You let me off easy today. [LB705]

SENATOR LOUDEN: Next proponent? Go ahead, John. [LB705]

JOHN HANSEN: Chairman Louden, members of the committee, for the record my name is John K. Hansen, H-a-n-s-e-n, I am the president of the Nebraska Farmers Union. We are in general support of the ideas behind LB705 and we'd like to touch on several things, several aspects. One is that to give you a relative idea of the size of what we're talking about, it's always helpful for me when you talk about megawatts or we will be raising this from ten to 25 megawatts size, two megawatts serves about 700 homes more or less, as an estimate for energy uses. So ten megawatts right now could serve about 3,500 homes so if you're raising to 25 megawatts you'd be somewhere in the neighborhood of 8,400 plus homes which is a lot of homes. So this is a large increase, that's a lot of juice to be generated. The low-cost standard has been a little problematic for wind energy development and it really kind of decides in a lot of cases how you're looking at things. Are you sitting on the horse and looking backwards or are you sitting on the horse and going forwards? And if you're sitting on an already paid for coal plant looking backwards and you're just looking at the cost of coal, there's not anything you're going to find that's going to be cheaper than that. And then when you start adding in externalities and all of the additional costs and health and other kind of related costs, well that ups it some. But we're really at a point in time when we are looking at whether we're, as we are trying to chart our course in the future in all of these wind bills that are going to be before you, is that if we are looking forward, the cost of coal and the cost of all of the carbon-based fuel sources is just going to go up; there's just no question about that. The consultants that NPPD hired to take a look at the future of energy generation in their last report last September, said, you ought to just raise the price of electricity about a penny just to get the consumers used to the idea of higher carbon-based costs if I remember that report correctly. And as you look at what's going forward as we look at what's going on in Congress, the cap and trade system will come into place and the cap and trade will do two things. It will lift up the renewable energies and make them more cost effective on the one hand, with the one hand, and it will be pushing down as you look at cap and trade and the economic impact as it's designed to work, it will be pushing down and making less competitive all of the nonrenewable energy costs and sources of fuel. So if it's got carbon in it, it's going to cost more money as time goes forward, there's no question about that. So if you want to build your generation into the

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future, the future needs to rely on less carbon. And so wind, then, when you at it, apples-to-apples, oranges-to-oranges, new generation to new generation, is very competitive at this point in time and will continue to get even more competitive. So if what LB705 does is make it easier for municipalities as I look at this, and publicly owned utilities to be involved in working together to put up a more cost-effective project where communities would go together on the best site and try to come up with a project that is cost-effective, the logic of raising it from ten to 25 is that if you are going to harness the efficiencies of being able to buy the turbines, build the turbines, and service the turbines, 25 is a pretty low threshold. And from our standpoint and our experience in wind development, 40 megawatts would actually be for a community-sized project is about the smallest you can be to really harness the efficiencies of scale. So for municipalities or public utilities, who are looking to go together to do something, 25 strikes us as a reasonable level by the time you bring in--just the cost of the crane alone is about \$500,000. So you obviously don't want to build just one turbine for one \$500,000 crane. So as you look at...and then just to get the construction crew in, just everything else, all of the, that makes it very inefficient to build one turbine...so grouping them together. In that respect we are in support. We would not be in support however of the proposed amendment by former Senator Loran Schmit and that because in our view it brings into play the issue of private ownership. And if we are going to do private ownership and if we are going to do private ownership in our public power state, we have to do it in a manner that is very, very carefully done and if you're going to tap into that pool of private sector incentives which are substantial, private sector incentives, the 1.9 cent production tax credit available at the federal level, is a very significant incentive and the value of depreciation is about equal to that. So if you are looking at financing a renewable project, especially a wind project, those are very substantial items to put on the table. But if we're going to do that in the state of Nebraska, it should be done in a very careful, very measured and we think, in a very public-power-friendly way and just the generic amendment that I've seen would cause us serious heartburn. And we don't think that it opens up a generic loophole to any kind of private sector ownership and we would not be in favor of that. With that I'd be glad to end my testimony and answer any questions if I could. [LB705]

SENATOR LOUDEN: John, first before I open you to questions from the committee, did I understand you right? You're talking about how many megawatts...is this, this is two and one-half megawatts, right, is the most that you want generated? Is that what your bill says here? [LB705]

JOHN HANSEN: No. [LB705]

SENATOR LOUDEN: Well it's 25,000 kilowatts is the maximum and then is my math wrong or something? Is that 2.5 megawatts? [LB705]

JOHN HANSEN: Is it 2.5 megawatts or is it 25 megawatts? [LB705]

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SENATOR LOUDEN: Well it says 25,000 kilowatts. [LB705]

JOHN HANSEN: And so how many megawatts is that? [LB705]

SENATOR LOUDEN: Well a megawatt is a million watts, isn't it? A kilowatt is a thousand watts. Just correct me on my math, so I know what we're talking about. [LB705]

JOHN HANSEN: Well, I misread it that...no you're asking the wrong guy because I always get that wrong, and so I'm not the guy that can answer that. [LB705]

SENATOR LOUDEN: All right. This is... [LB705]

JOHN HANSEN: So what are we? [LB705]

TIM TEXEL: It's 25 megawatts. [LB705]

JOHN HANSEN: So we're 25 megawatts. [LB705]

SENATOR LOUDEN: It's 25 megawatts? [LB705]

JOHN HANSEN: Yeah. [LB705]

SENATOR LOUDEN: Okay. [LB705]

JOHN HANSEN: That's when I read it; that's what I thought it was, but I'm... [LB705]

SENATOR LOUDEN: Okay, that's what I wanted to clear up. Okay, I'll ask, does the committee have questions? [LB705]

JOHN HANSEN: It is somewhat of a relief to know that I was right, but not altogether reassuring...(laughter) [LB705]

SENATOR LOUDEN: Senator Carlson. [LB705]

SENATOR CARLSON: John, you gave some, I wrote down these figures then you're standing by what you said. Two megawatts would service 700 homes? [LB705]

JOHN HANSEN: I've seen that multiple times, multiple places that that's kind of a rule of thumb and a lot of the materials that I read is that two megawatts is above the amount of electricity that 700 homes would use. And there's people sitting in this room with a lot more expertise than me, so that makes me kind of uneasy to answer any of these

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technical questions, but that's my story and I'm sticking to it. [LB705]

SENATOR CARLSON: Yeah well then what was ten? [LB705]

JOHN HANSEN: Well, ten megawatts, you just take 700 times five and... [LB705]

SENATOR CARLSON: Well but 25 wasn't...this 25 got even more. [LB705]

JOHN HANSEN: No, that's around 8,400. So if you take 700 times 12 and just my rough...(laugh) [LB705]

SENATOR CARLSON: Okay. Okay. (Laughter) [LB705]

JOHN HANSEN: ...math, I... [LB705]

SENATOR DUBAS: You're the numbers man. [LB705]

SENATOR CARLSON: I know, I know. [LB705]

JOHN HANSEN: So I get 8,400 homes times 12. This would be back of the envelope math on the spot here without the advantage of a calculator or an intelligent force at work. [LB705]

SENATOR CARLSON: Thank you. [LB705]

SENATOR LOUDEN: Any other questions for John? [LB705]

SENATOR WALLMAN: Thank you, Senator Louden. Well John, what are the latest technologies, how big is one generator? [LB705]

JOHN HANSEN: Well there's a lot of commercial generators. The ones that NPPD put up for example, the old Microns, which had been bought out by Suzlon right now, are 1.65s; that's a very good machine. The ones north of town I think are about .65s. So that's a substantial, that's three times as big but a lot of the commercial generators right now are in that 1.65 to 2.2, there's a lot of new machines out there. Suzlon has a 2.1 megawatt, so a lot of the new stuff that's going up, it's going up higher in the air and it's more blade length and 2.0 megawatts, there's a lot of different companies are selling machines in about the two megawatt. And then when you get offshore you can get up to five megawatts and you can get machines that are large enough that they just shut down the machine and land the helicopter on the top of the turbine platform. So five megawatts is doable off shore; we're probably not offshore here. [LB705]

SENATOR LOUDEN: Other questions for John? I have one or two maybe, John.

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What...when you are doing this, this is transmission line stuff, I mean, this isn't into your local residential lines where you can put this power. You have to put this onto a transmission line, don't you? So these would have to be located next to some type of transmission line? [LB705]

JOHN HANSEN: Depending on the size of the projects, projects over in this size would need some sort of substation to be able to transform the power and control it. And so then the things that you look at, at wind development is where the wind is, where the wires are, where the need is, and how close is it to a load that you need. And so wires is an important part of the thing. And one of the things that they're doing in Minnesota is to try to get folks to work together in both communities and in other ways to try to put more, larger, put together a wind farm if you will, rather than everybody just doing one turbine here and there. So that if you want to put together a project, you get several multiple communities to work together, you get different kinds of a mix of folks together, but there's a lot of efficiency in being able to put it in one place where you have adequate wires and so you're only putting in one substation then. Because substations are an expensive item, there's questions about it. So also from a safety standpoint from putting it...the wind in the best spot, from a development standpoint it makes more sense to try to locate things kind of together in an area. [LB705]

SENATOR LOUDEN: Who pays for that in Minnesota then? All that hookup stuff and if they need a substation? The people that own the generation or the people that are going to buy the power? [LB705]

JOHN HANSEN: My understanding is of the community projects, and I'm at a loss with the private sector folks how they work that out between them, but in the case of the community projects, that's all borne by the community that's doing it. That's built into the whole financial plan is the cost of the substation, the cost of the hookup, safety, all of the rest of the stuff, is... [LB705]

SENATOR LOUDEN: And let' see, and you mentioned... [LB705]

JOHN HANSEN: ...it's included. [LB705]

SENATOR LOUDEN: ...was it 1.9 cent a kilowatt, is that what the federal government subsidy, or whatever it is, incentive, gives out? [LB705]

JOHN HANSEN: The production tax credit at the federal level is I believe, at 1.9 cents, now and it was due to expire December 31, 2007, and one of the last things that Congress did was when it left town was to extend it for one more year. So it originally was going to be extended for three years rather than two. So that was one of the things that they did and the discussions are going on today about what is an appropriate length of time to do an extension. But all of the discussions that I've heard of have to do with

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longer windows of time than three years. They are more in the five- to ten-year range. And part of that is to try to give clearer signals to manufacturers that this is a long-term commitment on the part of the United States so that you're moving the manufacturing base more and more to the U.S. rather than doing this stop and start thing which we've been doing for the last umpteen years on production tax credits. We started, we stopped, we have gaps in between, so the manufacturers look at that and go, you know, that's kind of like getting on a horse that is already hopping... [LB705]

SENATOR LOUDEN: Well, yeah... [LB705]

JOHN HANSEN: You're not sure that's a good ride. [LB705]

SENATOR LOUDEN: ...that's a significant source of revenue if they only extend it a year at a time if you don't...once you put that thing up and amortize it for 20 years or whatever and then they stop that, why you'd have to probably pull your figures back and re-look them over I guess, or rerack the balls. [LB705]

JOHN HANSEN: And the production tax credit, so that I'm clear, so that we're on that, is that the program itself is a ten-year period. So once you start the program you're on for ten years. But the program itself has only been available usually in three-year increments. But once you start the program and you qualify for the facility then you are onstream for ten years and that's the life span of the production tax credit, has been ten years. [LB705]

SENATOR LOUDEN: And John, thank you. Other questions for John? Thank you, John. [LB705]

JOHN HANSEN: Thank you very much. [LB705]

SENATOR LOUDEN: Other proponents? Are there opponents to LB705? Are there those who wish to testify in the neutral? [LB705]

TIM TEXEL: Senator Louden, members of the Natural Resources Committee, my name is Tim Texel, T-i-m T-e-x-e-l and I'm the executive director and general counsel for the Nebraska Power Review Board and that is the agency that approves generation facilities under the provisions of Section 70-1014.01 which LB705 amends. I'm testifying today in a neutral capacity on LB705. At its January meeting, the Power Review Board reviewed this and asked me to provide historical background and its thoughts on the bill before you. And just my note here to clarify before I go on, that 25 megawatts would be the size--1,000 kilowatts equals one megawatt. So the current standard is ten megawatts we can create an exemption for and this would raise it up to 25. And I would reiterate what Shelley Sahling had said that this special generation application only applies to public power entities in Nebraska right now. However to serve customers in

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Nebraska, it does not provide for generation facilities that are put up by an investor-owned or private business enterprise, anything like that. So if you are not one of the listed entities, public power districts, municipalities of Nebraska, you wouldn't be eligible to go under this special generation application. You'd have to go under the normal application as Senator Dierks had set out and he set out the criteria. I normally split it into three parts and he put it in two, which is the way the statute puts it. I usually separate out that the facility will not duplicate existing facilities, but he set that out. I would say that it was said earlier that duplication is not a serious concern by one of the testifiers. I think for the Power Review Board under our normal approval criteria that it is a serious consideration because wind does tend, in my opinion, to duplicate existing facilities. It doesn't have to; we have approved a couple of facilities that are wind power--the Kimball, facility, 10.5 megawatts by MEAN and the one by NPPD by Ainsworth that's about a 60 megawatt. They both had factors that considerably reduced their costs. The Kimball facility has a peaking load in the winter because they are municipalities and evidently they need more power, or at least as much as in the summer, in the winter, which is different from most utilities, which their peak is normally in the summer. So we were able to address that under the normal criteria for approval since the wind capacity factor normally is the lowest in the summer in Nebraska, highest in the winter, you don't need as much power in the winter, you need it during the summer. So it's not "dispatchable"--when you flip the switch you can't necessarily have that power. Which normally with coal, it was mentioned that they have down times. But I would state that those down times are planned outages for facility maintenance and such. With wind you cannot plan what Mother Nature's going to do for you. And that's one of the concerns my board has. Under the current statutes, the structure is for both the utilities and the Power Review Board's approval process, is to keep the rates as low as possible for Nebraska citizens. Wind plugs into that probably as an intermediate resource which was how NPPD proposed their plant at Ainsworth and my board approved it. But I would mention that it was the more contested of the most of our facilities. The vote, my recollection was a 3:2 vote of my five board members. So one member switching would have disapproved that wind facility and that's one of the closest votes in the eight or nine years since I've been there, so I would just point that out because it's not as, under our criteria, wind is more maybe a square peg in a round hole a little bit. You can do it as an intermediate facility and I think it works to use wind and to save the coal and the medical expenses, everything else you can plug into that. But what it does as an intermediate is to allow you to use that when it's available and reduce your other resources. And it gives you another generation type in your portfolio mix which I think helps our utilities. But it doesn't have some of the criteria like coal and natural gas that it's always available, may not ramp up different, units ramp up more and less quickly but you can't count on it. When this statute was originally created, 70-1014.01, the Power Review Board supported the ten megawatt limit. The reason they did that is because the information provided us was that ten megawatts most utilities could handle without a rate increase to their customers and my board is very cognizant that its purpose is to help control the rates and keep them as low as possible.

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When you got into 25, 30 megawatts my board was concerned that the public power utilities of Nebraska would have to take out bond debt and increase rates. That was the reason that my board supported the ten megawatts and proposed that and I would simply say there were some utilities in Nebraska that thought the ten megawatts exception was fine. Under the special generation application there were some that thought it should be 25 megawatts. So I don't know that there was consensus by the utilities. My board, I think, had consensus that they wanted about ten, somewhere in that range because the rates wouldn't be affected. And that was still my board's opinion. Again, we are not opposing the bill but my board wanted to point that out that its concern is when you start exempting out 25 megawatt size, you start chipping away at the purpose of the Power Review Board which is to maintain a low rate. And I think the board and the utilities, and I won't take credit for that and my board won't, alone the utilities have done a very good job in Nebraska keeping some of the lowest power in a rural state, I think, is an amazing job...how well they've done for how low our rates are. And our concern is that you start chipping away at that if you create larger and larger exemptions for one type of energy. And even though wind resources definitely has its very good points, it has health benefits, it doesn't use up natural resources and etcetera, but it also has some concerns that my board has. I didn't hear exactly what the suggested amendment was but I think it dealt with the production energy tax credit so I would point out that those, I don't think...it would come into play since the only thing available to our utilities is the renewable energy production incentive, the REPI credits which are very different. They don't pay taxes or at least not in the same way, so I don't think that's applicable depending on what the language was; I'd have to take a look at it. The one thing my board wanted me to suggest was that there is a number of bills this year that seem to have the purpose of promoting renewable resources. That's a laudable goal, there's net-metering bills, interconnection bills, renewable portfolio standard that will come later I think, before this committee. There's community-based energy development projects, C-BEDs, this bill, and I very much agree and my board agreed with Shelley Sahling's testimony that perhaps what should be done is maybe an interim study or something like that where a more comprehensive approach to all these things can be looked at. My board and my concerns are that some of these bills don't necessarily go hand-in-hand with each other. For example, renewable portfolio standard. If you implement that then this 25 megawatt standard probably isn't large enough, even under this bill, under LB705, because it's not going to be large enough to allow the utilities to build what they need for an RPS in Nebraska. They would need a lot more than a bunch of 25 megawatt-sized plants. So my board feels that perhaps a more comprehensive approach with the advent of how much is out there dealing with renewables, that maybe we could look at all of it as one package and do a comprehensive approach where each of these bills could go more hand-in-hand, because my board doesn't want to be a roadblock where if renewables are promoted that we are also there with our standard that may block some of them. This bill would help, like I said, depending what other bills are out there. We could still be a roadblock if it doesn't fit under this or if they need to build one that's larger than 25 megawatts, they

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need a 6,000 or 7,500 megawatt wind farm, it still wouldn't go under this exception and we might be a roadblock and the next time the vote might be 2:3. And that in my opinion, would put the utilities in a pretty bad position if there is something like an RPS standards and yet we are saying you can't build more renewables. That's untenable for our utilities I think, so maybe a more comprehensive approach would help. I think that's really the information that I wanted to provide to the committee. I hope it didn't sound too negative. We don't oppose certainly the idea of this, but this in isolation I don't know how much it would promote renewables. Increasing the ten megawatts to 25 megawatts, it might help, but I haven't seen that frankly, yet, before my board. That's all I have and I'd be glad to answer any questions. [LB705]

SENATOR LOUDEN: Questions for Tim? Seeing none, thank you for testifying. [LB705]

TIM TEXEL: Thank you. [LB705]

SENATOR LOUDEN: Anyone else wishing to testify in the neutral? Senator Dierks, do you wish to close? [LB705]

SENATOR DIERKS: Only to give you the opportunity to ask questions; I have nothing else to add to it. [LB705]

SENATOR LOUDEN: Any questions for Senator Dierks? [LB705]

SENATOR DIERKS: I thank you for your attention, I think it's been a good hearing and I am looking for your favorable results. Thank you. [LB705]

SENATOR LOUDEN: Thank you. With that we will close the hearing on LB705 and I guess we can close the hearings for this afternoon. [LB705]

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Disposition of Bills:

LB636 - Advanced to General File, as amended.

LB652 - Held in committee.

LB705 - Advanced to General File.

Chairperson

Committee Clerk