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Revenue Committee  
February 08, 2007

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[LB343 LB488 LB512 LB514 LB531 LB648]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 8, 2007, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB488, LB648, LB512, LB514, LB531, and LB343. Senators present: Ray Janssen, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Carroll Burling; Abbie Cornett; Chris Langemeier; Don Preister; Ron Raikes; and Tom White. Senators absent: None. []

SENATOR JANSSEN: Good afternoon, ladies and gentlemen. Welcome to the Committee on Revenue. For the record, my name is Ray Janssen from District 15. Senators that are here with us today, my far left is Senator Don Preister from Omaha. Next to him is Carroll Burling. Next to him is Abbie Cornett. Next to Abbie is Cap Dierks. To my far right is Erma James, the clerk, Senator White from Omaha, Senator Langemeier from Schuyler. George Kilpatrick is here. Let's see, we're missing who? Senator Raikes. He'll be along shortly, I'm sure. Our page today is Marcus. I think it's still him over there. Yeah, it is. A few things that I wanted to talk to you about before we start is if you have any cell phones or pagers while you're in here, please turn them off, would you? I'd appreciate that. There are sign-in sheets if you're going to testify, at each door, and they need to be completed by everyone wishing to testify. If you're going to testify on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up. When you do come up drop them in that little box right there by the clerk. We'll follow the agenda that's posted on the door. The bill introducer will come up, then we'll take proponents, then opponents, and then those in a neutral capacity. With that, we're hearing six bills today and the first bill on the agenda is LB488, and that is Senator Wallman. Senator, come up and tell us all about your bill, will you please? I believe this is your first shot in front of this committee, isn't it? [LB488]

SENATOR WALLMAN: Second. [LB488]

SENATOR JANSSEN: Second one. Oh well, you're an old timer then. You're already to go. [LB488]

SENATOR WALLMAN: (Exhibit 1) Good afternoon, Chairman Janssen, members of the committee. My name is Norm Wallman, W-a-l-l-m-a-n, and I represent the 30th Legislative District. And this bill, LB488, is intended to provide a state incentive that will promote voluntary actions that help us to address water shortage issues such as the Republican River Compact and Platte River Cooperative Agreement. It's also intended to promote permanent protection of our most valuable wildlife habitat, especially where there is a threat of development. The credit will be in an amount equal to 50 percent of the appraised value of the donated portion of the easement, not to exceed \$250,000. And once this is approved, this credit may be carried forward for 15 succeeding taxable years. The credit may also be transferred in whole or in part to another taxpayer for

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value. The transferee can then apply the credit against his or her own taxes. Colorado has a very similar system. Since they were first on it, we were able to take from them what seems to work well for Colorado and omit what may not be working so well for them. Dave Sands will be following me and he will be able to explain the mechanics of this bill better than I can. And I do have an amendment. It is a collaboration of different agencies. It makes some friendly changes to the bill, I feel, and it strikes the bill's Section 3. Any questions before...ask Dave? [LB488]

SENATOR JANSSEN: Questions? We'll probably save them all up for your closing, all right? Thank you. [LB488]

SENATOR WALLMAN: Thank you. [LB488]

SENATOR JANSSEN: Proponents, please. Those in favor of the bill. [LB488]

DAVE SANDS: (Exhibit 2) Good afternoon, Senator Janssen, members of the committee. My name is Dave Sands and that's spelled S-a-n-d-s, and I'm here representing the Nebraska Land Trust. All too often it seems that natural resources issues are entangled with conflict which makes win-win solutions hard to find. LB488 is a rare exception. By promoting the use of voluntary land preservation agreements, known as conservation easements, there is no winner and loser in a battle because there is no battle. And at the end of the day, land and water resources are preserved for generations to come providing a variety of public benefits that are important to us all. Like previous bills that have been proposed the concept of transferable state tax credits for the donation of conservation easements, LB488 would offer these tax credits for two purposes: the retirement of irrigated acres in water-short areas and the permanent protection of ecologically significant land. However, unlike previous bills, this legislation is much more focused targeting the best of the best so that public benefits resulting from these easements are maximized. For example, in water-short river basins subject to interstate compacts, agreements, and decrees the credits would only be offered for the voluntary retirement of irrigated land in quick response areas designated by the Department of Natural Resources and the Natural Resources District where the easement occurs. Typically, these are areas near the river where the retirement of irrigation from groundwater will quickly result in a positive addition to stream flows. However, unlike some other retirement programs these acres could still be used for other agricultural purposes such as dry land farming or grazing. The tax credits for easements that protect natural areas are much more focused as well. Previous legislation had proposed to limit these tax credits to the easements that would protect ecologically significant areas, but that term was open to interpretation. LB488 would limit the tax credits to biologically unique landscapes designated in the Nebraska Natural Legacy Plan, which identifies specific regions where conservation efforts should focus. Furthermore, the easement would have to be recommended by the Game and Parks Commission to assure that valuable habitat is indeed being protected. By

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permanently protecting these landscapes, we can help to prevent at-risk species from becoming threatened or endangered, which benefits landowners and the public alike. While the protection of two treasured public assets, water and wildlife, will benefit most from the tax credits proposed in this bill, the list of public benefits does not stop there. Conservation easements can help to maintain water quality in addition to quantity by preserving natural buffers that absorb pollutants in storm water runoff before it reaches our rivers and streams. This is especially important in a biologically unique landscape like the Lower Platte River, which is also a vital source of drinking water for more than half of the state's population. Wetlands, grasslands, and woodlands also help to absorb the volume of storm water runoff which enhances flood protection. Other benefits can include the preservation of agriculture in landscapes where there is a pressure to turn ranches into ranchettes, like the Niobrara River Valley. This in turn helps to preserve our most scenic views which attract visitors that enhance local economies through tourism. Public access can also benefit from the easements as many landowners grant permission for hunting, fishing, ecotourism, and other recreational pursuits that can be preserved along with the land. Economic development also benefits from the preservation of natural amenities, which can play a significant role in attracting new business and families to our state, while providing a reason for our own young people to stay. This is especially true when biologically unique landscapes can be preserved near urban areas such as, again, the Lower Platte and Missouri Rivers or the Wildcat Hills near Scottsbluff. In other words, the public will receive a number of important benefits in return for these tax credits, and this investment in the future will continue to pay dividends for a very long time. In obtaining these benefits it is important to note that the cost will not fall solely upon the state. Whenever certain property rights are donated through a conservation easement, like the right to irrigate land or the right to turn it into a subdivision, there is a corresponding drop in the appraised value of the land. Under LB488, the landowner would only receive a tax credit equal to 50 percent of this value or this drop in value. This means that when irrigated acres are retired, the landowner will bear half the financial burden in keeping with those who call for local/state partnerships in resolving our water problems. When key wildlife habitat is protected, that landowner will also bear at least half the cost. In both cases, resources will be permanently protected without costly regulations and the land will stay in private hands, on the tax rolls, and often in productive use. For many landowners, the key to making this partnership workable and attractive is the ability to sell or transfer the tax credit as allowed under LB488. While Congress recently expanded the federal income tax deduction for the donation of conservation easements in recognition of the benefits they provide, the federal tax deduction is still most useful to people with high incomes which often excludes those involved in agriculture. This is why Colorado and Virginia allow for the transfer of their tax credits, so that any landowner could have the option of obtaining cash for the credit from a willing buyer. In Colorado, these payments tend to equal about 80 cents on the dollar. As the attached letter from the Colorado Cattlemen's Agricultural Land Trust indicates, this feature has nearly tripled the number of conservation easements donated by farmers and ranchers, providing a good model for

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our own agricultural state to follow. For more information on the Colorado law, I have provided a guide to the Colorado tax credits. By the same token, Colorado is not a perfect model, as they have learned some lessons in administering their law. Fortunately, we can benefit from their experience and LB488 does so in a number of places. For example, there are tighter controls on nonprofit organizations that hold these easements, requiring them to either have national accreditation or name another agency or organization as a backup in case they cease to exist. Appraisals are another area where tight requirements are in order so the bill requires appraisers to either have experience and/or continuing education in the appraisal of conservation easements. State oversight that encourages quality control is another key aspect of this bill. Before an application is approved, the benefits must be verified by DNR and the NRD in the case of irrigation retirement, and by the Nebraska Game and Parks Commission in the case of biologically unique landscapes. Each application must also list all other public benefits that are expected to result from the easement. At the end of each year, the Governor and the Legislature would receive a report detailing the use of these credits, the conservation values preserved, the public benefits that resulted, the number of acres protected, and the approximate location of these acres. Speaking of location, there is one other hidden incentive that will tend to promote the use of easements in biologically unique landscapes that are actually threatened by development. The reason for this is simple. If development pressure is largely absent, the value of an easement would be very low as there is nothing to push the price of land beyond agricultural value. However, in places like the Schramm Bluffs of Sarpy County, where the value of development rights are substantial, the result would be a larger tax credit, providing a greater incentive for the protection of land where it's needed the most. As you go down the legislative path with this bill, you may find other ways to improve it and we would welcome such efforts, including the amendments proposed by Senator Wallman. The bottom line is that LB488 is intended to promote permanent protection of valuable natural resources, which provide a host of public benefits through a voluntary, incentive-based program that avoids conflict and regulation, while providing a win-win, public/private approach to conservation. We hope that you will support this intent by advancing LB488 to General File. And with that, happy to answer questions. [LB488]

SENATOR JANSSEN: Thank you. Any questions? Senator White. [LB488]

SENATOR WHITE: How does the federal government treat these? [LB488]

DAVE SANDS: Federal government, Congress recently expanded the income tax deduction, which of course is different than a tax credit. The old federal income tax deduction was you could take the deduction up to 30 percent of your adjusted gross income and you had six years to use it. You could take it in the year you made the donation, carry it forward for five years. Congress recently expanded that benefit to the point where you can now take the deduction up to 50 percent of your adjusted gross annual income and you have 16 years to use the deduction. Or if you're a farmer or

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rancher, you can take the deduction up to 100 percent of your adjusted gross income over 16 years. Those new rules were only passed for easements donated through the end of 2007. There's an effort in Congress to make those incentives permanent, but that hasn't been ruled on yet. [LB488]

SENATOR WHITE: Thank you. [LB488]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, David, for being here today. Next proponent, please. [LB488]

GLENN JOHNSON: Senator Janssen, members of the Revenue Committee, my name is Glenn Johnson and I'm the general manager of the Lower Platte South Natural Resources District here in Lincoln. I'm here today representing the Nebraska Association of Resources Districts, the 23 districts across the state, and the Lower Platte South Natural Resource District who both support LB488. There will be a couple of additional managers following me from different districts addressing some of the specific issues and the particular applications of this bill. I just want to go on record that the Association of Districts strongly support this bill. We think it's a tremendous tool to add to the other ways we can to work with Natural Resources and protect and enhance them in the state. The Lower Platte South NRD, in particular, has been using a Conservation Easement Act that already exists in Nebraska. Without the tax credit it's a little bit different aspect, but we're very familiar with how that can be used to protect unique natural resources and certainly endorse the bill. So thank you. [LB488]

SENATOR JANSSEN: Are there any compensations within the Natural Resource Districts? [LB488]

GLENN JOHNSON: In our district, we hold about 20 different conservation easements. Some of them are over prairie, wetlands, grasslands, woodlands, stream corridors, floodplains. Some of them are donated, some of them we have compensated the property owner for them. We purchased some of those. We've used Environmental Trust Funds, we've used district funds, and other combination of funds when we compensated. [LB488]

SENATOR JANSSEN: Okay. Any questions? Senator White. [LB488]

SENATOR WHITE: Are you concerned at all what it will do to the long-term property tax base? [LB488]

GLENN JOHNSON: What we've seen here, and we've actually got quite a few, it really enhances actually in many cases, the remaining property that's not included in the easement for some of those areas that actually by protecting that area, reducing possibly the taxable value on it. It actually increases in many cases, particularly in this

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part of the state and would be more in the urban corridors and stream corridors, probably just the protection of that resource adjacent. [LB488]

SENATOR WHITE: Thank you. [LB488]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, Mr. Johnson. [LB488]

GLENN JOHNSON: Thank you. [LB488]

SENATOR JANSSEN: Next proponent. [LB488]

MARLIN PETERMANN: (Exhibit 3) Mr. Chairman, members of the Revenue Committee, my name is Marlin Petermann. I'm the assistant general manager of the Papio-Missouri River Natural Resources District and appreciate the opportunity to address you today on this important legislation dealing with conservation of our natural resources. One of the goals of the district is to conserve and protect our natural resources and natural areas. Approximately half of the state's population lie within the district boundaries of the Papio-Missouri River NRD and it continues to grow and expand. One of the ways to protect and preserve our natural areas is through voluntary conservation easements with private landowners. The district has had an interest in increasing its use of these voluntary easements on many of its projects in the past and has recently signed an interlocal agreement with the Nebraska Land Trust to enhance those efforts and broaden our activities in that area. The land trust as we see it, is a recognized leader in the development, acquisition, and management of conservation and habitat easements. This interlocal agreement, which I've attached a copy to that's been handed to you, calls for the trust to develop land protection and easement acquisition strategies, develop a fund-raising plan, develop conservation easement templates, hold public meetings and other activities for specific areas within the Schramm District of Sarpy County, as well as other areas within the district. The Schramm District, by the way, is along the Lower Platte River Corridor in the Schramm Park area, and it's the beautiful area that you see as you travel I-80 between Lincoln and Omaha in the Platte Valley. This Lower Platte Valley land conservation is important for a number of reasons. First of all, the Platte Valley is a vital drinking source for more than half of the state's population in eastern Nebraska here. This land protection helps preserve the water quality of that water. Flooding is another concern on the Lower Platte and natural sponges like grasslands and woodlands and wetlands help control that flooding and absorb storm water runoff. Tourism is important in the valley and will be on into the future. This maintains the scenic vistas that are available in that area. Some may call this the more scenic area of the entire I-80 corridor. And economic development is enhanced, actually, by the preservation and the promotion of natural amenities, which are important to the people and businesses looking to relocate. And conservation in this area would be highly visible to not only the more than half the state population that lives here, but all the

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people that drive through and visit our wonderful state. There are many potential partners with an interest in Lower Platte River conservation and preservation efforts as well. A number of years ago the three Natural Resources Districts that border the Platte River between Columbus and the mouth joined with six state agencies to form the Lower Platte River Corridor Alliance. Conservation easements are one more tool that will help facilitate the goals of that alliance. I'm also the Papio NRD's representative on the Nebraska Innovation Zone Commission which was set up to investigate economic development on the I-80 corridor between Lincoln and Omaha. And I serve as the chair of the tourism, recreation and environmental committee which has recommended support of the concept of this legislation and the use of conservation easements in the Lower Platte River Valley. In summary, we support the legislation and see it as another important tool in the conservation tool box which will help promote the voluntary donation of conservation easements which preserve and protect our vital natural resources to the benefit of the public we serve and the state in which we live. Thank you for this opportunity. Be happy to answer any questions. [LB488]

SENATOR JANSSEN: Any questions? Senator Dierks. [LB488]

SENATOR DIERKS: Marlin, if I had a quarter section of land up in your district, in the Papio-Missouri, and it was tiled and irrigated and I decided all of a sudden that I want to make this available for habitat and move into this area. Could you tell me what the process would be, what I would be able to realize as a tax benefit, where the taxes would not be spent or is going to be saved, or at least kind of give me an outline of where all this funding stream works on this quarter section? [LB488]

MARLIN PETERMANN: Well, I think probably the details of how this tax credit works is best left to Mr. Sands who knows the details of that. We've actually through our interlocal agreement are basically having the Land Trust handle these for us. And unlike Lower Platte South who does have some conservation easements at present, we do not have any. We basically are counting on our working relationship with the Nebraska Land Trust, that they would hold those and they would deal with those. [LB488]

SENATOR DIERKS: So this is effective more likely in the Platte River Basin than over in the Republic River Basin? [LB488]

MARLIN PETERMANN: That's what we see because we're looking at this applies, to my understanding of the bill, it applies only to those biologically unique lands... [LB488]

SENATOR DIERKS: Yeah. [LB488]

MARLIN PETERMANN: ...that are environmentally sensitive at this time as well as in the irrigated lands in the Republican or the over-appropriated basins. And so, yes, it really wouldn't apply to generally just a piece of farm ground in eastern Nebraska,

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because we're not an over-appropriated basin. [LB488]

SENATOR DIERKS: So then it wouldn't apply up in my country either, in the Elkhorn Basin, would it? [LB488]

MARLIN PETERMANN: No, it wouldn't, Senator. I believe you're right. [LB488]

SENATOR DIERKS: Thank you. [LB488]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, Mr. Petermann. [LB488]

MARLIN PETERMANN: Thank you. [LB488]

SENATOR JANSSEN: Next proponent. [LB488]

DAN SMITH: Fall in here. [LB488]

SENATOR JANSSEN: Just don't fall out. [LB488]

DAN SMITH: (Exhibit 4) Just don't fall out, sure. Senator Janssen, members of the Revenue Committee, my name is Dan Smith, S-m-i-t-h. I'm the manager of the Middle Republican Natural Resources District and I'm here to offer testimony in support of LB488. This bill, as already noted, would add another tool to the options that would be available to the districts in the Republican River Basin. Limited funding is always a problem and with this legislation and small incentives we may be able to develop a program that provides for an orderly retirement of irrigated acres with little up front cost. We, in the Republican Basin, are in the process of completing a pilot program whereby over 2,600 irrigated acres were permanently retired. This program required input from federal, state, and local governments to come up with enough money to provide the needed funding. With the passage of LB488, new programs could be initiated with little or possibly no up front cost. The tax credit itself may be enough incentive for some producers to elect to utilize the conservation easement. I would like to offer a couple suggested changes, maybe for consideration. And in that new language in Section 3, it indicates the easement would be donated to the state or to a charitable organization. I would suggest that maybe this language be changed to reflect that holder language that exists in 76-2,111, the section that deals with conservation easements. More often than not I would assume that when we're dealing with the water areas, the Natural Resources District would probably be the agency that holds and files those conservation easements. Also in that section, in Section 3, the application process that's ascribed through the Department of Natural Resources, I think, could be expanded to allow DNR to preapprove a program, if you will, with some conditions, of course. The conservation easement process is relatively long and involved and I think a producer that's going to



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go to the expense of getting an appraisal done to determine what would be eligible under this donation, without some reasonable insurance that he's going to be able to get that donated easement in the program, may just forego that process if he doesn't have some reasonable up front assurance that he can get this done. In summary, once again, to me it's a valuable tool that gives us an opportunity to look at an orderly retirement and it gives us the opportunity to maybe get in this without that up front cost, that up front expenditure that we've seen in our program. Thank you for the opportunity to testify. I would certainly try and answer questions if there are some. [LB488]

SENATOR JANSSEN: Thank you, Dan. Questions? Cap. [LB488]

SENATOR DIERKS: I'm interested, Dan, when you talk about your pilot program where 2,600 acres were permanently retired. Was that pretty well organized? Was that a voluntary thing on the part of the landowners? [LB488]

DAN SMITH: Absolutely, sir. We had the opportunity up front by, you know, looking for the funding sources. A little less than half of the funds came through the federal government in the EQIP program, Department of Natural Resources, and then the Natural Resources Districts came up with about 60 percent of the funding. We're able to structure that program, make sure that we were looking at acres that gave us the best bang for the buck, if you will. We had an application process and a ranking process that we looked at. And we were limited in funding to just slightly over 2,600 acres, but had almost 6,200 acres sign up. And then, of course, had to rank down through them until we got to the people that wanted to continue. [LB488]

SENATOR DIERKS: That was my next question. I wondered how many acres you had available. [LB488]

DAN SMITH: We were pleased. We ran a real short time frame for sign up. We only had about two weeks, and just because of the way it worked out last fall with the year end federal funding, and we had a real short time frame And it worked. I was pleased with the number of applications that we got. [LB488]

SENATOR DIERKS: With the pilot program, what are some of the procedures you're using? Are you after control of rush along the river and the salt cedar and the cedars and the... [LB488]

DAN SMITH: Our program was purely on retiring irrigated acres rather than the biologically unique landscapes. [LB488]

SENATOR DIERKS: You're not really on the accretion land then. [LB488]

DAN SMITH: Yes, it was. And we use what we call, in our rules and regulations in the

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Republican River Basin, the quick response area was our primary zone. If you were in that zone you ranked highest. We expanded that out by another mile and then a second mile and used that sort of a bull's eye as a ranking process. There are other things in there. If the producer was going to retire all the acres associated with a well he had to decommission that well. That gave you points. The gallons per minute that the well produced compared to the irrigated acres was another factor that went into the ranking. It gave you the opportunity to earn points. And then they were ranked based on those variety of different things that scored points. [LB488]

SENATOR DIERKS: Thank you. [LB488]

SENATOR JANSSEN: Any other questions? I have one, Dan. Now you're talking about retiring the well, is that correct? [LB488]

DAN SMITH: Yes, sir. [LB488]

SENATOR JANSSEN: All right. Now, do you retire that land altogether then? [LB488]

DAN SMITH: Yes, we're still going through that process. We went out and did a title search, and in some cases it was necessary to get subordination agreements from lenders. The conservation easement process requires that you go through a local planning commission then from that planning commission you go to the county commissioners, present these easements for their consideration. For our Natural Resources District, the statutes do provide that if they would reject them, if you will, you can wait 60 days and file them anyway. But in our cases, all the planning commissions accepted or approved--whichever terminology you want to use--with regard to those easements. The County Commissioners did. So we're in the process now of getting the state agency Department of Natural Resources' approval and will be filing, probably, some of those in the next week or 10 days hopefully. [LB488]

SENATOR JANSSEN: Now again, maybe I missed it, but if you retire that land is there anything you have to do with that? [LB488]

DAN SMITH: Absolutely not. [LB488]

SENATOR JANSSEN: You could just let it go wild then? [LB488]

DAN SMITH: The producer can use that land in any way he chooses other than irrigation and of course, within... [LB488]

SENATOR JANSSEN: Use the grass, you could graze. [LB488]

DAN SMITH: It could go to grass. It could stay dry land farmed. [LB488]

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SENATOR JANSSEN: He could stay dry land farming. [LB488]

DAN SMITH: Yes, sir. And that's one of the good points, if you will, of the program, there was a question about the impact on taxes and that's a legitimate concern. You know, with a program like this you can minimize, I guess, that impact by staying at dry land farming. But that producer could develop that property for homes, if you will. The only prohibition is irrigation of those identified acres. We have a process in our district where we've certified acres. So we know on any given track that signed up what the irrigated acres are. We don't have to guess at it. The program did also compare those acres to FSA records. [LB488]

SENATOR JANSSEN: So anyway, you're just going back to the way it used to be before we found out there was a lot of water underneath the ground? [LB488]

DAN SMITH: Yes, sir. [LB488]

SENATOR JANSSEN: Okay. All right. Any other questions? Thank you, Dan, for being here. [LB488]

DAN SMITH: Thank you, sir. [LB488]

SENATOR JANSSEN: Next proponent, please. [LB488]

MACE HACK: (Exhibit 5) Good afternoon, Senator Janssen, members of the committee. My name is Mace Hack, M-a-c-e H-a-c-k. I am the state director of the Nature Conservancy based in Omaha, Nebraska. The Nature Conservancy is a worldwide nonprofit organization devoted to the conservation of the diversity of life on this planet--plants, animals, and the lands and waters that they need to survive. We pursue pragmatic, non-confrontational means of achieving conservation and economically sustainable solutions. We collaborate--essential to our work is collaboration--with partners that include local communities, businesses, government agencies, and willing landowners. We use a variety of tools to achieve our conservation and one of the tools that we use is the conservation easement. To date, in Nebraska, we hold 13 conservation easements on a total of 23,644 acres. We have a long history as an organization across this country of being easement holders and working with these tools for conservation. I want to express our strong support for this legislation, the creation of a state tax credit for the donation of perpetual conservation easements. And I just want to make four brief points as to why I think this is an important bill. First is I think this is an opportunity to provide lasting benefits. It's hard sometimes to quantify the benefits that come from the conservation of wildlife and wildlands. Clean air, clean water, good grasslands for ranching, for hunting, for wildlife viewing, just natural landscapes that increase our quality of life. Those are all very important to our lives, but they're

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sometimes hard to put dollars and cents on. Conservation easements can pay these values to our economy on an annual basis and perpetuity. I draw your attention to a recent report developed for Nebraska that quantifies in more detail some of the values of these natural amenities to our economy and I have an executive summary, and I can get people a copy if they're interested. But these benefits can be substantial and they're annual and perpetual. Another aspect of this bill that I think deserves some emphasis is that it's very appropriately targeted to be effective, and I'm referring now to the wildlife portion of conservation easements. The use of the Nebraska Natural Legacy Plan, which may not be familiar to you, but it is a blueprint for where, what, and how to conserve the natural resources of this state. It was developed over a three year process with tremendous amount of public input from organizations and citizens across the state. All 50 states in the country came up with similar blueprints and Nebraska's was recognized as one of the top in the country. It's a very considered, thorough document as to where we can be most effective in targeting our conservation efforts and using that as a means to target conservation easements under this bill is a very effective means of getting benefits for all of Nebraska citizens. On that point also, I think this bill has a very wide appeal to a large swath of constituencies in Nebraska. We're talking urban, rural, farmer, rancher, wildlife enthusiasts. All these constituencies in the state, I think, can see benefits of the conservation easements that are being proposed in this legislation. And finally, I think the time for doing this is now. The time to invest is now. The costs of conservation easements rise with development pressure. There are lots of places in this state where development pressure is not intense now, but it's building. And I think in terms of investing in a mechanism to conserve our natural resources, this is a very opportune time to do so. Thank you very much. [LB488]

SENATOR JANSSEN: Any questions? Senator White. [LB488]

SENATOR WHITE: Nebraska tax law now, does it provide any benefits if you donate an easement? [LB488]

MACE HACK: I'm not really qualified to answer that question. I believe not. Although... [LB488]

SENATOR WHITE: It doesn't qualify as a charitable donation, for example? [LB488]

MACE HACK: It qualifies as a...well, you can take the deduction for the value of the part of the land that you're giving away. I cannot answer whether there's any specific state benefits, but my belief is there are not. [LB488]

SENATOR WHITE: Thank you. [LB488]

SENATOR JANSSEN: Any other questions? Seeing none, thank you for being here, Mr. Hack. [LB488]

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MACE HACK: Thank you. [LB488]

SENATOR JANSSEN: Next proponent. How many more proponents do we have? Okay, that's quite a few. I think you better get together and see who you want to speak for you. We're going to be well over an hour on this bill. So choose a leader amongst you, amongst those hands, and let's consolidate our testimony if you would please. [LB488]

KIM ROBAK: Senator Janssen and members of the committee, my name is Kim Robak, R-o-b-a-k. I will be as incredibly brief as I can possibly be. I'm here today on behalf of the Lower Republican NRD in support of LB488. We want simply to let the committee know that with all of the water issues that are facing the Republican Basin, the Lower Republican has the most quick response acres of the entire Republican Basin and we want to simply encourage the committee to consider this bill and to thank Senator Wallman for bringing it, because it is one more tool in the arsenal to help solve the issues that the Republican Basin is dealing with with the drought facing them for the seventh or eighth year. And that's it. I'd be happy to answer any questions. [LB488]

SENATOR JANSSEN: Thank you, Kim. Any questions? [LB488]

KIM ROBAK: Thank you, Senator. [LB488]

SENATOR JANSSEN: You got off easy [LB488]

KEN WINSTON: I'm going to be even more brief than Ms. Robak. [LB488]

SENATOR JANSSEN: Thank you, Ken. [LB488]

KENNETH WINSTON: My name is Ken Winston, last name is spelled W-i-n-s-t-o-n, and I'm representing the Nebraska Chapter of the Sierra Club and the Nebraska Chapter of the Sierra Club has taken the position in support of LB488. I'd be glad to answer questions. [LB488]

SENATOR JANSSEN: Any questions for Ken? Seeing none, thank you. [LB488]

KENNETH WINSTON: Thank you. [LB488]

SENATOR JANSSEN: You're helping. [LB488]

STEVE DONOVAN: (Exhibit 6) Chairman Janssen and members of the Revenue Committee, my name is Steve Donovan. I live near St. Paul, Nebraska. I'm the manager of conservation programs for Ducks Unlimited and, of course, I'm here representing

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Ducks Unlimited, but in order to conserve a little time I'm also representing Izaak Walton League of America for Wes Sheets. Wes does have some written testimony as I do and that is being passed around right now. Ducks Unlimited is a not-for-profit conservation organization dedicated to conserving wetland habitats that benefit waterfowl and a variety of other wildlife species. Here in Nebraska we have more than 10,000 members who support our conservation work. LB488 proposes to create an income tax credit for donations of perpetual conservation easements. We believe this proposed legislation offers a great opportunity to protect vital natural resources, including wildlife habitat. Conservation easements are one of the tools used by Ducks Unlimited to protect wetlands and associated habitats. We currently hold two conservation easements in the state and are actively working on several more. It has been our experience that creating a tax credit for donated conservation easements is a terrific incentive and will significantly increase landowner interest. In Colorado, as we heard earlier, similar legislation resulted in a significant increase in landowner interest, and as a result, Ducks Unlimited has successfully secured numerous conservation easements in the San Luis Valley and along the South Platte River in Colorado. Other neighboring states including Iowa, Minnesota, and Montana are currently considering similar proposals. We believe that conservation easements will not only protect Nebraska's natural resources, but also offer many other benefits. For example, conservation easements along the Platte River will serve to help meet the state's obligations to reduce consumptive water use, increase in-stream flows and provide habitat for endangered species. The value of donated conservation easements can also be used as the required non-federal match to secure federal grant dollars to further conservation objectives. An increase in donated conservation easements in Nebraska will result in an increase in the ability to secure federal grant dollars that will then help Nebraska's farmers and ranchers achieve the conservation objectives that they have on their properties. In addition to helping Nebraska landowners achieve their conservation goals, the expenditure of these additional federal grant dollars will provide additional revenue to Nebraska's economy. The ability to transfer the tax credit to others is an important component of the legislation. Many Nebraska landowners are land rich and cash poor. Many of these landowners would not stand to realize a significant tax savings for themselves through such a program. However, if they have the ability to transfer this tax credit to another party, it becomes a real incentive to landowners that are in that position. Finally, protecting and enhancing our precious natural resources in Nebraska through conservation easements will ultimately improve the good life that we enjoy in this state, providing large blocks of natural habitats that are enjoyed by bird watchers, wildlife photographers, hunters, fishermen and women, and others who simply enjoy these wild places. There's three additional comments I would like to make based upon some of the previous testimony. One we heard about the NRDs. We recently, through one of these same federal grants that I was talking about, we actually purchased a conservation easement in Phelps County that is held by the Tri-Basin NRD. Their interest in that particular property was that the property was going to go from irrigated cropland to grassland. The landowner will be able to use that grassland for haying and grazing, but

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it will not be irrigated cropland anymore. And it is in one of those areas where ground water resources are declining and the Tri-Basin NRD was very interested in the fact that we would be reducing that consumptive use of irrigated water. Another comment I want to make is that it's important to realize that every conservation easement is unique. There's no general template for all of them. Some conservation easements with the landowner may elect to go from irrigated cropland to dry cropland. Some conservation easements, maybe the landowner would go from irrigated cropland to non-irrigated grassland. And the values of those sorts of easements differ because of the types of property rights that the landowner is willing to give up. So in each and every case, it's what the landowner is willing to do, the rights that he's willing to give up. That's what determines the value of the subsequent conservation easement. And that was my third comment. So I want to thank Senator Preister and Senator Wallman for sponsoring this terrific piece of legislation. We believe it's very important in Nebraska and we urge all of you to support it as well. Thank you. [LB488]

SENATOR JANSSEN: Any questions for Mr. Donovan? Seeing none, thank you, Steve. [LB488]

TIM KNOTT: (Exhibit 7) My name is Tim Knott and I'm representing the Wachiska Audubon Society. We're the local chapter of the Audubon Society in southeast Nebraska. We very much support LB488. Because of our experience with protecting native prairies, we... [LB488]

SENATOR JANSSEN: Excuse me. For the record would you spell your name, please? [LB488]

TIM KNOTT: K-n-o-t-t. Our conservation organization in southeast Nebraska holds about 18 conservation easements, which are designed to protect small areas of native prairie in southeast Nebraska for education, for public enjoyment, for scientific use. And they are used by a lot of school groups in a lot of the small towns around southeast Nebraska. But because of the economics involved, most of these have to be small. So my point is that LB488 would help the process of maybe obtaining some larger easements on larger tracks of native prairie, and they're very much needed. And we think it's a good tool to protect native prairie, tall grass prairie particularly, which is in very short supply and decreasing every year. Thank you very much. [LB488]

SENATOR JANSSEN: Any questions of Mr. Knott? Thank you, Mr. Knott, for being here. Next proponent, please. [LB488]

TOM SCHWARZ: Chairman Janssen, members of the committee, my name is Tom Schwarz, S-c-h-w-a-r-z. I'm a farmer from Bertrand here representing myself. I do serve on the state Water Policy Task Force and conservation tax credits have been identified as one of the tools we'd like to use in repairing some of our water problems. I'm going to

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just cut down to the one thing, I guess, the point I wanted to make. [LB488]

SENATOR JANSSEN: Good. [LB488]

TOM SCHWARZ: LB488 splits the cost on a 50/50 basis between the state and the landowner and that allows the state to leverage its tax credit investment. I think the Senators and the Governor have shown that they're willing to take some steps to help us with our water policy problems, but they do expect a local investment as well. And I think this provides it. So I just think it's an ideal example of the kind of things we need to be doing in the water policy field. [LB488]

SENATOR JANSSEN: Any questions? Thank you. You told us something we didn't know. [LB488]

JAREL VINDUSKA: Senator Janssen, members of the committee, my name is Jarel Vinduska, it's spelled J-a-r-e-l V-i-n-d-u-s-k-a. I'll give you another quick landowner perspective. My family has about 200 acres southwest in Sarpy County and, in fact, that's a picture of the area. That's the Lower Platte River corridor. That area of the state is probably the most under the gun for rapid development. And we formed a group of landowners in our district called the Schramm Association for a Viable Environment. And for the past two years we've been trying to convince the county to do conservation-type developments in that part of the county. As you can see right now, it's a rural area, but it's poised to change very rapidly in the next couple years. The politics of Sarpy County is weighted really heavily toward development and, in fact, conservation is virtually nonexistent in the people's mindset. And we could sure use every tool we could get because it appears from the political side in Sarpy County, we're not going to accomplish much conservation, and this corridor is between Omaha and Lincoln. It's very valuable biologically and it is accessible to the greatest percentage of the state's population, but we're going to lose that opportunity in the next few years to preserve any natural integrity of it unless we have some tools to work with. And this is one of those tools. And like our particular farm, we got this 200 acres. About 80 acres of it was cropland that should have never been cropped. It's pretty steep bluff country. We've restored it to native vegetation. Got a pretty good biological diversity, but like most landowners in the area that were in our group, your land is your biggest asset that you have as far as your dollar value asset. And like I look at our family, for example, when I get too old to take care of this land, hopefully some member of our family will carry on and take care of it, but that might not be the case. And it would be a shame to have like my lifetime of work to restore this to the way it should be in that type of land, be then just turned into a housing project or something like that and destroy all that value for future generations. So, like I say, any tool that we can put forward to preserve some of these areas is beneficial and I wish you would consider it strongly. Thank you. [LB488]



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SENATOR JANSSEN: Thank you, Jarel. Any questions? [LB488]

JOE HERROD: I'll be terribly brief. My name is Joe Herrod, H-e-r-r-o-d. I'm here representing the Nebraska Council of Sportsmen's Clubs, because I assume that you would assume that we would be wholly in favor of this. I'm also a landowner involved in donating an easement on 900 acres of accretion and wetlands ground in western Nebraska through Ducks Unlimited. And if you have any questions at all, but like I say, I'm sure you know why we sportsmen are in favor of this. [LB488]

SENATOR JANSSEN: Any questions? Thank you, Mr. Herrod. [LB488]

VIRGINIA MILLER: Virginia Miller. Do you want me to spell any of that? [LB488]

SENATOR JANSSEN: If you would. [LB488]

VIRGINIA MILLER: V-i-r-g-i-n-i-a M-i-l-l-e-r. Thank you for allowing me to be here today and I'll be very brief. I'm also a part of the group with the Lower Platte River corridor there. That land makes up about 11,000 acres of southwest Sarpy County. It's only about 7 percent of the county. It's under very high pressure for development and I just wanted to confirm, again, a lot of people spoke about the wildlife and the importance of wildlife. We have an abundance of that. We have an abundance of trees. And 85 percent of the population of Nebraska live within an hour and a half of this area. And I did a survey, and for the year 2005, 2 billion people use the north and the south section of this river for recreation and youth camps. So I would like to see a method that the farm owners and landowners can come up with a way to preserve this for future generations. Thank you. [LB488]

SENATOR JANSSEN: Okay. Any questions? Thank you. Any more proponents? We got one more, okay. [LB488]

JOHN K. HANSEN: For the record, Chairman Janssen, members of the committee, my name is John K. Hansen, H-a-n-s-e-n. I am president of the Nebraska Farmers Union. We are in support of LB488. It is voluntary. It is incentive-based. It is a needed tool and we support it. Thank you very much [LB488]

SENATOR JANSSEN: Thank you, John. Any questions for John? Thank you. Any other proponent? How about opponents? Anyone in a neutral...opponent or neutral? [LB488]

PETE McClymont: Neutral. [LB488]

SENATOR JANSSEN: Neutral? All right. How about neutral? There you go. [LB488]

PETE McClymont: I'm trying to make it quick, Senator. [LB488]

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SENATOR JANSSEN: Oh, you're doing fine. [LB488]

PETE McClymont: Senator Janssen, members of the committee, I'm Pete McClymont, P-e-t-e M-c-c-l-y-m-o-n-t. I'm the vice president of legislative affairs for the Nebraska Cattlemen. We are here in a supporting neutral capacity. I've created a new category. The primary reason...we've been very appreciative of Senator Wallman, his staff, and Nebraska Land Trust, Dave Sands. They've included us in the process which is terrific. You get all the stakeholders together, it makes your job easy and we bring something to you that works. The amendments have been great. We offered up an amendment and Dave implemented that with Senator Wallman, so we were thankful for that. The only reason we're not here as a proponent is for the simple fact, easements are a personal choice and so we have some members that use easements, we have some members that don't like them for their own personal reasons, but nonetheless, for those that do use easements this would be a great tool and a reward financially for them if LB488 was passed out of committee and ultimately passed from the body. I'd be happy to answer any questions, Senator. [LB488]

SENATOR JANSSEN: Any questions? Seeing none, thank you for being here, Pete. [LB488]

PETE McClymont: Thank you. [LB488]

SENATOR JANSSEN: Anymore proponents, opponents, neutral? He was neutral. Senator Wallman to close. [LB488]

SENATOR WALLMAN: It'll be short, Chairman. I, too, want to thank Don Preister. I'm sorry I didn't thank you before. And I'd appreciate your support on this amendment and I appreciate all the testifiers. I think it's probably a time that we should have it. It's not mandatory, it's voluntary, which is big with me. So I'd appreciate your support. Thank you. [LB488]

SENATOR JANSSEN: Thank you for being here. That ends the hearing on LB488. Senator Preister on LB648. [LB648]

SENATOR PREISTER: (Exhibit 8) Thank you, Chairman Janssen, members of the Revenue Committee. My name is Don Preister, P-r-e-i-s-t-e-r. I'm here as the primary introducer of LB648. The bill increases the renewable energy credit on each kilowatt generated from a renewable energy facility depending on the year of generation. For energy generated after October 1, 2007 and before January 1, 2010, the credit is increased from .075 cents per kilowatt hour to 1 cent. After January 1, 2010 and before January 1, 2013, the credit is increased from .05 cents per kilowatt hour to .075 cents. After January 1, 2013 and before January 1, 2018, the credit is increased from .025

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cents per kilowatt hour to .05 cents. The bill also removes the one-megawatt qualifying size of the facility so the credit is available for energy generated from any size renewable energy facility. This makes the credit available not only to larger scale projects, but also to individuals who install a renewable energy facility to generate electricity for their own use. Those same provisions are identical to LB444 that Senator Stuthman introduced and that this committee heard earlier in the session. I go on in addition to those provisions in his bill. LB648 also expands funding for these renewable energy sales tax credits from the current funded level of \$400,000 to \$750,000. So it would be a \$350,000 increase. A second incentive is created by LB648 which is available to community-based wind energy projects, otherwise known as C-BED. A C-BED project is defined by its qualified owners and based on a defined percentage of ownership. A qualified owner includes a Nebraska resident, limited liability company whose members are Nebraska residents, Nebraska nonprofit organization, Nebraska cooperative association--other than a rural electric cooperative or generation and transmission cooperative, a political subdivision--other than a municipal electric utility or power agency, and a tribal council. C-BED projects would be eligible for a sales tax exemption on materials used to manufacture, install, construct, repair or replace wind turbines that convert wind energy to a form of usable energy. C-BED projects are not eligible for the renewable energy tax credit. Tax incentives are used throughout state government to stimulate and encourage behavior and investment. The rural economic development benefits from wind energy are multiple. Wind energy projects generate more new jobs than conventional fossil fuel projects. Studies have shown that wind energy produces 27 percent more jobs per kilowatt-hour than coal plants and 66 percent more jobs than natural gas. In addition, wind energy offers rural landowners a new cash crop. Royalties vary but typically range between \$2,000 and \$4,000 per year per wind turbine or 2-3 percent of the project's gross revenues. Given typical wind turbine spacing requirements, a 250-acre farm could increase annual farm income by \$14,000 per year, income that is not dependent on rain or commodity prices. Wind power has the potential to displace substantial amounts of natural gas consumption from natural gas powered plants. Natural gas accounts for 80-90 percent of the cost of producing anhydrous ammonia for nitrogen fertilizers. When natural gas prices increase, farmers and ranchers are forced to pay higher production costs and both urban and rural natural gas customers pay higher utility bills. Less money spent on production costs and natural gas utility bills means more money available to spend in the local economy. The tax incentives in LB648 are good investments in Nebraska rural economies. I neglected to pass out a handout that has on one side, some local or area states and their incentives and on the back, all 50 states are listed. And all states have some, but to varying degrees. So with that, Mr. Chairman, I would conclude my opening remarks. [LB648]

SENATOR JANSSEN: Questions? Don, I have one. Which different size of these generators are there? [LB648]

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SENATOR PREISTER: Senator, there all variety of them. The ones that we're looking at here, though, are the small generators. These are the ones that would be like the Danny Kluthe's have. These would be the farmer who wants to put up their own turbine. This first part of the bill essentially deals with the small independent producer. We had a cap on it of one megawatt, but because that was controversy and people wanted that removed in both Senator Stuthman's bill and mine, we removed that. The other portion would be several generators or potentially several generators by a Nebraska cooperative. So there would be two different incentive processes that we would be setting up and potentially different sizes of generators. [LB648]

SENATOR JANSSEN: What would be the, you know... [LB648]

SENATOR PREISTER: Right now, a common... [LB648]

SENATOR JANSSEN: ...a cost on one of these generators? What would you have in one that would do, say, run a farmstead or... [LB648]

SENATOR PREISTER: There could be other testifiers to give you more data. There's currently some refurbished 65-kW generators that were in California that are now being replaced with larger ones that, at one time, were more commercial grade, now are being looked at for more independent producers. Those would be 65 kilowatts and those would run roughly \$20,000, \$25,000, \$30,000 range. So it's a sizeable investment that an independent producer would have to put out just to put one up. And it's going to take some time before they would ever recoup that cost. [LB648]

SENATOR JANSSEN: Not as much as a new combine. [LB648]

SENATOR PREISTER: No, not nearly as much as a new combine. [LB648]

SENATOR JANSSEN: All right. Any other questions? Seeing none, thanks, Don. [LB648]

SENATOR PREISTER: Thank you. [LB648]

SENATOR JANSSEN: We'll take proponents. [LB648]

JOHN K. HANSEN: (Exhibits 9 and 10) Chairman Preister (sic-Janssen), members of the committee, for the record, my name is John K. Hansen, H-a-n-s-e-n, and I am president of Nebraska Farmers Union, appear before you today as our president and also paid lobbyist. I do have packets of information for the committee and I also have prepared remarks for distribution. So I'm upping the ante. I'm not only giving written testimony now. I'm giving supporting materials. And I also, Mr. Chairman, wanted to point out that I did pass around additional copies of the statistics left over from

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yesterday relative to the number of farmers in both the Nebraska and the United States for the last 50 some years. The issue of LB648 that I would like to address deals with the introduction of a new proposed concept of wind energy development in the state of Nebraska. The C-BED concept is community-based energy development, would be a new approach to wind energy development in the state of Nebraska. It is a model that has been used successfully in Minnesota and it does allow the use of private sector incentives, including the Production Tax Credit, which is 1.9 cents per kilowatt hour generated and it also allows the use of depreciation. These are very substantial economic incentives. And private sector generation in other states are using them now as they continue to move forward with wind energy development. So as we look at our traditional system of public power ownership in Nebraska, first, we want to say that we are a strong supporter of that. We believe that it has really well served the state of Nebraska, but we also recognize that our state is falling behind. As you look at the packet of information which I have given you, which is as much as it is is kind of the thumbnail version of kind of the basics. We have the latest wind maps in Nebraska, and it's 70 meters. That is 70 meters in the air. So you can look and see where the wind is. And then I have passed out the American Wind Energy Association data relative to the wind capacity of Nebraska. We are sixth in the nation. Also, the WEA, where the power is installed in the U.S. we are 18th. We are fixing to fall much further behind much quickly, as the development that is now online and other states comes online. And then there's a handout about understanding C-BED, which is the simplest, most basic, straightforward explanation that I have available about how that economic development approach works, and more of the particulars of it, as well as the C-BED brochure. And then, as we talk about wind energy, there's always lots of questions and so the miss and the benefits are, in fact, just a good summary of what the typical questions are, what the typical misconceptions are. And this is intended to be a "backgrounder" on wind energy. And we feel that we need to find a way to level the development playing field between those private sector approaches in other states and our own public power-owned state which is at a operating disadvantage, because the funding of the incentives that they can use has not been consistent. And so the cost of developing wind energy in Nebraska has been, in simplest terms, the cost of the capital of the construction and paid for with rates. And so if you contrast that with those same development costs, but allowing communities as best we can capture what a community is for development, they can use private sector incentives. So 1.9 cents is a very sizeable incentive that's available through the national energy programs, which was just extended by Congress for one more year, is likely to be extended for a long time, either a five or 10 year period. The depreciation is about equal to the 1.9 cents of production tax credit. So those two together are very powerful incentives, and so our interest is trying to diversify our portfolio by working with public power in a collaborative fashion by harnessing those private sector incentives, but doing it in a fashion that maximizes the economic benefits to the state of Nebraska and by doing it in a fashion that most clearly and strongly and effectively protects our traditional public power system. So when we look at the three primary ways that we can develop wind, the public power-owned, public power paid

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for--primarily through rates--approach. We look at the private sector outside player whether that be a utility or a developer, that approach. Or we look at a community-based owned private sector collaborative effort with public power. The difference in economic benefit is dramatic. And so there's about three different studies, but the one that I thought was probably the most accurate of capturing the difference in economic benefit was the GAO study, which was done in September of 2004. In that study, and we have full copies and summary copies of those if you want them--I didn't think you probably did, but if you do let me know; I'll be glad to get them for you--they indicate that there's about 2.3 times more jobs through the community-owned development model, and there's about 3.1 times more economic benefits to the community as a whole. So this provides us an opportunity to, we feel, move forward in a very progressive fashion with the C-BED model. There are other bills being introduced in the Legislature. Senator Dierks has one that will be before Natural Resources next week and there will be two or three C-BED type bills, but this is a new idea piece and we want to be clear that it is a new idea piece. But we think it's a very appropriate one which combines private sector incentives with public power interests. This grows out of our work with the Nebraska public power districts over a period of years of negotiations and joint discussions about how we can just move forward in the most beneficial way to both parties concerned. So this sales tax exemption is one of the pieces that would be very helpful in a targeted kind of way to just C-BED type projects to put us on a more equal footing with the kind of development that is going on in surrounding states. And Senator Preister's handout details what those other incentives are. In Minnesota, for example, there are no sales taxes on renewable energy equipment and machinery tied to wind, period. And so as we look at the fiscal impact of this in Nebraska, since we have virtually no private sector wind development in the state of Nebraska, the loss in revenue from what we have now as a base is not much. I mean, it's negligible. But what it does provide, is it provides us a tool to go forward and we think help encourage this kind of community-based development that would have enormous economic tax-expanding benefits to the state rural communities. It's sustainable, it's long-term, and it's a very effective way to get the most bang for the buck, in our opinion. And we appreciate your time and your consideration. We'd be glad to answer any questions if you have them or provide any other additional supporting materials if you have need for those. [LB648]

SENATOR JANSSEN: Thank you, John. Any questions? Senator Raikes. [LB648]

SENATOR RAIKES: John, you mentioned public power. In a sense, public power is a disincentive for these kinds of programs to the extent that it produces lower rates, and the lower your rate with conventional energy the less likely you're going to do something other than that. True? [LB648]

JOHN K. HANSEN: In part it really depends on whether you're sitting on the horse and looking backwards or sitting on the horse and looking forwards, because there is

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nothing in terms of all of the different kinds of ways to generate electricity that is cheaper than an old paid for coal plant, if you're just counting the cost of coal. If you're starting to count the externalities then that increases it. And if you look at the future, all of those carbon-based fuel sources, especially coal, are going to continue to get more and more expensive as cap and trade and all of those things come into place as we go forward. [LB648]

SENATOR RAIKES: But wouldn't that... [LB648]

JOHN K. HANSEN: But to finish my point, and I'll be glad, is that when we looked at our project that NPPD asked us to bring forward, and we ran out of time on last August, the numbers that we were looking at with this project was comparable to what they have done with the Ainsworth project, and in fact, was lower cost. So as a renewable energy source, it was not only competitive, but more cost effective and you were able to create a new rural economic development stream at the same time. And that's because you're able to bring in those production tax credits and depreciation that NPPD cannot. [LB648]

SENATOR RAIKES: But if NPPD were to do it, it wouldn't work? In other words, if it really is a more efficient system, if NPPD or another provider needs more capacity to produce energy, why wouldn't they use this rather than the coal-fired plant? [LB648]

JOHN K. HANSEN: Well, NPPD did just put up the biggest, newest wind development by far in the history of Nebraska, which was the 60-megawatt facility in Ainsworth. And if you're comparing new generation to new generation, wind is competitive and will continue to get increasingly competitive with other kinds of new plant generation. [LB648]

SENATOR RAIKES: One follow-up, if I may... [LB648]

JOHN K. HANSEN: And it also... [LB648]

SENATOR RAIKES: If you look at Ainsworth, though, on your map, I mean, Ainsworth it looks to me is a place where you've got good wind...maybe not. A little east of there is actually better. What I'm suggesting is if you look at the places that have the best wind energy source, they tend to be away from the areas that are likely to be the heaviest consumers of power. [LB648]

JOHN K. HANSEN: Yes. And so from a rural development standpoint that's a good thing, because you're bringing new capital, new jobs, and new revenue streams into areas that are economically depressed that has wind. And so as you look at our state from a development standpoint, you also want, in order to maximize the total amount of load dependability of wind as a generated source of load, is if you spread it out across

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the state, as one front blows through you have wind stopping either in front or behind of that front and wind starting or stopping behind it. And so as wind sweeps through this state, having diversification of the development is a very positive thing and increases the total benefit of the wind. And so part of the consideration is to make sure that the projects are put where the wind is, where the load needs to go, based on the needs of public power. And, you know, it's tying into the arterial wires. So you're putting it next to the electric transmission highway, if you would, rather than a country road. So the wires is a part of the consideration. President Bush is talking about trying to get a national goal of 20 percent of the total national grid developed by the year 2030. And this is going to require those high capacity wind states to figure out strategies to develop transmission and figure out what is the best way to capitalize in those incentives that go with that to make it work. And so my fear is that if we don't move forward, we're fixing to not just stay where we're at, but we will fall further behind with all of the national renewable energy initiatives that are going on. [LB648]

SENATOR RAIKES: Okay, thank you. [LB648]

SENATOR JANSSEN: Thank you, John. But I might add that you're both wrong. My backyard in Nickerson, Nebraska is the windiest spot in the whole state. (Laughter) [LB648]

SENATOR RAIKES: When you're out there or not? (Laughter) [LB648]

SENATOR JANSSEN: Any other questions for John? Cap. [LB648]

SENATOR DIERKS: John, at the national level, you mentioned a little bit ago, there's a lot of talk about renewable energy. How does C-BED actually fit into that picture? [LB648]

JOHN K. HANSEN: The production tax credit, which is a very heavy incentive piece, has been since 1992, has gone forward in stops and starts of two and three year periods. And the last go around was two years. It started out being three years from the Senate, two years in the House, no years in the House, ended up being cut to two years. And then as Congress just left, they just extended that for one year. The discussions that are going on in Washington today are about much longer periods of time of extension of the production tax credit program. And I think I need to make it clear that when you extend that program, every year that it is extended once you qualify, you get that program for 10 years. So you're taking advantage of those incentives for a 10 year period. So we just got another one year extension of that. But the discussion is to extend it for five or 10 years at a time so that you encourage more plant capacity building in the U.S. to take it so that you're sending clear and strong signals to wind manufacturers. So that along with the incentives that I think are going to be in the farm bill. The renewable energy portion of the farm bill is going to be bigger,



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better, much more aggressive than it's ever been before. That is the talk in Washington--is renewables--and wind is a part of that and community ownership is one of the models that are discussed as a part of the mix. And so we're trying to find a way to take that and make it work and fit for our state. [LB648]

SENATOR DIERKS: Thank you. [LB648]

SENATOR JANSSEN: Seeing no more questions, thank you, John, for being here. [LB648]

JOHN K. HANSEN: Thank you very much. [LB648]

SENATOR JANSSEN: Next proponent, please. [LB648]

TOM RICHARDS: Chairman Janssen, members of the Revenue Committee, my name is Tom Richards. I'm the manager of governmental and community relations for the Omaha Public Power District. I'm appearing here today on behalf of the Nebraska Power Association in support of the incentives that are being proposed. We have a history. I don't know if you remember it or not, but a couple of years ago we appeared before the Revenue Committee--those of you that were here--and we brought forward a bill talking about incentives. It was done on two different levels. One had to do with sales tax exemption for renewable energy projects and the construction of those projects. And we own facilities that are renewable energy projects as do other utilities in the state of Nebraska, and we pay sales tax on those buildings and those structures as we construct them. The other way that we came at it was with a bill to provide us a sales tax exemption and a revenue stream to purchase and to build renewable energy projects. It was a way that as a political subdivision, OPPD and other utilities pay a sales tax on the materials that we buy, on the facilities, the things that we buy, and that's the one steady revenue stream that we have as a pair of taxes in the state of Nebraska, and that was LB133, and that was introduced by Senator Connealy and Senator Preister in January 2005. And if you're going to move forward with this bill, I guess it would be our request that you consider using the public power facilities. That if you're going to give an exemption for the C-BED projects to build those facilities that we would like to have an exemption on the sales tax ability as well, because we're capable of developing those renewable energy projects as well. So we're here in support and we'd like to see it broadened to include us in that exemption for sales tax. [LB648]

SENATOR JANSSEN: Any questions? Ron. [LB648]

SENATOR RAIKES: So if you were to expand your energy production with a new facility, say you had to pay sales tax, however you did it... [LB648]

TOM RICHARDS: We do, yes. [LB648]

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SENATOR RAIKES: ...are there places where you would use wind energy rather than a new coal-fired plant? [LB648]

TOM RICHARDS: The current integrative resource plan does not call for any need for base load or ongoing, at this point, energy other than our building of Nebraska City II which is going up right now. That's 660 megawatts. So from our standpoint, there really isn't a need for the building of renewable for a capacity factor. If it's an environmental factor or if it's a political mandate, those types of facilities would be built and we could use the sales tax exemption to do that as well. [LB648]

SENATOR RAIKES: What you're saying is there's no economic need at this point for additional energy that would be produced by wind? [LB648]

TOM RICHARDS: Based on the current way the laws are structured, wind would not fit the least cost option when we're building base load units. So it would not fit into that plan. [LB648]

SENATOR RAIKES: Okay. So that's a different point. So even if you did need additional capacity, it wouldn't be wind. [LB648]

TOM RICHARDS: That probably would be so, yes. [LB648]

SENATOR JANSSEN: Tom. [LB648]

SENATOR WHITE: Tom, thank you for coming. I have just a couple of questions on the economics of wind versus coal. First of all, has OPPD taken a position either publicly or privately on the likelihood of a federal carbon tax, and whether that's likely to come our way? [LB648]

TOM RICHARDS: We monitor federal...and again, I'm up here on behalf of the Nebraska Power Association... [LB648]

SENATOR WHITE: Okay, I'm sorry. [LB648]

TOM RICHARDS: ...and the Nebraska Power Association is well aware of the discussions that are going on in Washington about a carbon tax, global climate change, and all of those issues. [LB648]

SENATOR WHITE: Do you think it's likely we're going to see a carbon tax? [LB648]

TOM RICHARDS: I don't know enough about that subject to give you an answer. I don't monitor federal legislation so I can't tell you that. [LB648]

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SENATOR WHITE: If a carbon tax is in place, and there are people who claim it's inevitable, all of a sudden wind power becomes more competitive, perhaps, even than coal and that could leave us in a position having invested heavily and solely in coal, with the exception of the older nuclear plants. Is that true? [LB648]

TOM RICHARDS: That point about more taxes, that is quite possible that that could happen. That's why you have a diversified fuel mix and, in our case, includes a nuclear plant at Fort Calhoun Nuclear Station. But your point about could the future bring attacks where it dries that cost up, yes, that's a possibility. [LB648]

SENATOR WHITE: And if that tax is in place then the lowest cost source for energy could dramatically shift to the wind. [LB648]

TOM RICHARDS: It could. [LB648]

SENATOR WHITE: Thank you. [LB648]

TOM RICHARDS: Um-hum. [LB648]

SENATOR JANSSEN: Tom, I have a question. Did you receive any investment credits of any kind when you put your generator in the landfill to capture that gas? [LB648]

TOM RICHARDS: There are a number of federal programs where people can apply. There's a new one called CREBs, it's something about clean renewable energy bonds. We applied for that landfill gas. There's four more megawatts going on that plant, but the funding from the federal side of it is never funded at a full amount. So while we applied, we did not get any of that money for that facility. [LB648]

SENATOR JANSSEN: Did you get any? [LB648]

TOM RICHARDS: No, not that I'm aware of. [LB648]

SENATOR JANSSEN: None. [LB648]

TOM RICHARDS: The other way that you do it is through renewable energy production credits, REPI they call them. We've applied for REPI credits, but again there are numerous people who apply for those credits, but we did not qualify. We were too far down the pecking order to qualify for them. There are other facilities that get on board. [LB648]

SENATOR JANSSEN: While we're on that subject, have you thought of possibly putting any more of those wells, I call them, in the Douglas County Landfill as time has went on

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and you start to get the fermentation so on and so forth? [LB648]

TOM RICHARDS: Since you last toured that facility, at that point, when it was four megawatts of power, we're building or actually waste management is building another four megawatts of power so that Douglas County Landfill will be somewhere between 8.5 and 9 megawatts of power when that project is done. [LB648]

SENATOR JANSSEN: And what was it, I remember the time, but what's the longevity of that area? [LB648]

TOM RICHARDS: Well, the current one could last FOR anywhere between 20-25 years and it has a capacity factor of about 99 percent, meaning that 99 percent of the time it's running and we can call on it for dispatchable energy. [LB648]

SENATOR JANSSEN: Okay. And how many more do you think you will eventually be able to put in that landfill? It's a big landfill. [LB648]

TOM RICHARDS: I know it is. I'm not exactly...I think where we're going to the 8.5-10 megawatts is where we're going to stay with that one, but as other landfills in the metropolitan areas are built--for instance, Sarpy County will be building a new landfill--they probably will vent that one so that there's some gas that could possibly be used from there. [LB648]

SENATOR JANSSEN: Okay, thank you. Any other questions? Seeing none, thanks, Tom. [LB648]

TOM RICHARDS: Thank you. [LB648]

SENATOR JANSSEN: Next proponent. [LB648]

KEN WINSTON: (Exhibits 11 and 12) I thought we were going to have a wrestling match to see who was going to testify next. (Laughter) [LB648]

SENATOR JANSSEN: Yeah, no referees in here. [LB648]

KEN WINSTON: Good afternoon, Chairman Janssen. For the record, my name is Ken Winston, last name is spelled W-i-n-s-t-o-n. I'm appearing on behalf of the Nebraska Chapter of the Sierra Club and I have written testimony. And John Hansen also forgot to hand these out so...there's always more handouts. [LB648]

SENATOR JANSSEN: Just send him a bill. (Laughter) [LB648]

KEN WINSTON: So I'm carrying water for John, or carrying wind for him, I guess, this

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afternoon. As I indicated I'm appearing on behalf of the Nebraska Chapter of the Sierra Club in support of LB648. And the main points that I wanted to make are in the letter that I've provided. Basically, that renewable energy as Mr. Hansen indicated, is an important economic development tool, particularly for the rural areas of the state. And as he indicated, and I'm sure some other people will amplify this, the cost of renewable fuels is...the only direction they're going to go is up because of the fact that it costs more to transport coal, it costs more to dig it out of the ground. There's also increased demand as more states get into the coal business of generating electricity through coal. And it costs more to transport it. And then as Senator White indicated, it's very likely that there will be carbon taxes. I believe that NPPD has already been advised by a consultant to start factoring in the idea of carbon taxes in their billings. And as I indicate, and as we all know, the cost of wind will remain the same, today, tomorrow, 10 years down the road. And as I've indicated, we're nowhere near our potential in terms of wind energy development. We're sixth in potential, but we're 18th among the 29 states that do significant amount of wind energy development and, frankly, we can do much better than this. Some of the other benefits of wind generation that I want to talk about just a little bit is that if we can do things to reduce our reliance on foreign oil and dependence upon resources from areas that may not be friendly to the United States, that's a very positive thing. There's also the aspect of reducing greenhouse gas emissions that are related to global warming. There's also the other pollutants that particularly come from coal-fired power plants, including mercury, which as you all know is a deadly toxin. And then power generating plants use a lot of water and I know there's a number of pieces of legislation dealing with water consumption and Nebraska has a lot of issues regarding water consumption and we're going to need to figure out how to deal with those issues. Then finally, I know that this is the committee that deals with money and where the money goes and what kinds of credits are given to people, what about the cost of all of this? Well, we'd submit that the cost will be offset or perhaps, that there would be more money generated to the state by virtue of additional economic activity. I think there's a number of economic theories. The late Milton Friedman, of course, was a great proponent of the idea that if you generate more economic activity you will, in fact, generate more revenue for governmental entities. And finally, those benefits would accrue to rural areas of the state, many of which are in great need of economic opportunities. And then finally, I guess the last thing I wanted to say is that as Mr. Hansen indicated, we're also strong supporters of public power and we want to work to ensure that public power remains strong in the state. Be glad to answer questions if I can. [LB648]

SENATOR JANSSEN: Questions? Don't see any, thank you, Ken. [LB648]

KEN WINSTON: Thank you. [LB648]

SENATOR JANSSEN: Um-hum. [LB648]

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JERROD HABERMAN: (Exhibit 13) I'd like to thank Senator Janssen and the rest of the Senators for the opportunity to speak today. 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. And if you're not familiar with PADD, we are a public nonprofit counsel of governments that covers the 11 county panhandle region. I have submitted a written statement and you can read that yourselves so I'll let you read most of that yourself to speed things up. I would like to touch on some of those things and expand my thoughts of some of the things I wrote. In the first part of my letter there, I talk a lot about how the panhandle is already greatly benefitting from producing and transporting energy. And whether you're talking energy, agriculture, or tourism, natural resources form a large part of our rural economy. And I hope you can appreciate the great untapped wind resource we have in western Nebraska, north central Nebraska, and Senator Janssen's backyard. And understand its importance of having rural areas to be able to tap our natural resource opportunities, because those are really the largest basis of our opportunities in rural Nebraska. When we're talking about any type of tax exemption or tax credit, obviously the question that's going to come up is will the lost revenue be offset by any economic growth or other benefits or preventing costs or other revenues? Well, if you look at 2006, in the United States there was about \$4 billion in direct investment in wind energy projects. None of that was in Nebraska. The American Wind Energy Association is projecting approximately \$5 billion in direct investment this coming year. None of that is going to be in Nebraska. So if you take zero times 5 percent, I believe that's zero. So we're not looking at least in the immediate term here, the cost that we're losing, we're essentially not losing anything. However, we are creating many benefits. I listed them. Other people have mentioned them. I won't go on too much about all of those, but it's probably one of the greatest opportunities that's going to come on the horizon and has been kind of touched on. The production tax credits and other state renewable portfolio standards are the two biggest impetuses of states that have grown a lot of wind energy in their states. And with the stop and start, stop and start of the federal production tax credit it's really held manufacturing out of this country, because they're afraid that well, if this doesn't get extended we don't want to spend millions and billions potentially on factories and stuff in the United States. But they're talking of extending this out indefinitely or even at least 10 years. The plan, not the tax credits. And if and when that happens, you're going to see a plethora of wind manufacturings come to this country. Primarily German and Danish companies are a very large share of that market. And they're going to come to rural America and they're going to come where the wind is. Right now, even with the situation states like Texas, California, Iowa, and Minnesota and around Minnesota have a lot of assembly--it's more assembly right now than fabrication--but other service type industries that are related around there. So that will be another growth potential, but if we don't do anything to stimulate the wind industry we can just kiss that enormous opportunity goodbye. When you're talking manufacturing in this country, we're seeing manufacturing leave. Here's an opportunity to have manufacturing come in and we don't want to miss on that opportunity. But if we do nothing, we're going to follow this trend. And as was mentioned, right now Nebraska has

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the 6th greatest potential. We are only an underachieving 18th right now in wind production. And if all the planned wind projects come in, we will slip to 28th out of only 29 states that produce 50 or more megawatts. And those other 21 states, most of them simply don't have the capability of producing a lot of marketable wind. So we're basically falling to the bottom. And there's a question, why is that happening? Well, when you have a system where there's no incentive to change, within that system you're going to find a resistance to change, whereas if you look at private capitalist sources and similar entities such as C-BED they're going to take that change as motivation and use it to innovate and grow our economy. While PADD's primary interest in wind industry is local economic development, we also understand the patriotic duty and humanitarian need of having Nebraska play its part in helping solve our nation's impending energy problems and address the global warming crisis. It is now obvious that global warming is not a partisan political issue. It is a scientific reality. The Economist magazine has been talking for the last five years. We need to reduce carbon emissions or else it will damage the global economy. The stern report in the UK last year spelled out in dollar terms the billions of dollars in damages that are potentially going to be cost to our society and our economies, but yet when we go through this process you'll probably hear a lot of yeah, wind's great, but...and then we'll hear 101 reasons or excuses why we can't incorporate wind in this state. Well, let's look more innovatively. When they say there's all these transmissions problems. Well, then let's ask what did Iowa do? What did Texas do? When they say, C-BED's, oh yeah, they're great, but, you know...well let's look at Minnesota and see how great it worked there. When they say it's difficult to incorporate wind. There's all these complications. Well, let's look and see what those other 27 states ahead of us are doing instead of making excuses and having that lack of incentive to change and resistance to change. Let's look forward and try to be innovative as those other states are and grow our economy, especially in rural Nebraska which is what we're obviously more concerned about. On the second page, I won't talk too much on here. But it's been discussed, carbon taxes may very well come and they may or may not come, but if they do come it will be a tremendous increase on the cost of coal. But even not even considering the cost of the carbon tax, oil and natural gas are going to increase in the future. I have a quote in here and I'd like you to read this two or three times and absorb it. And it's from Schlumberger Limited and they're the world's largest oil service provider, and they basically have declared that the era of cheap hydrocarbon energy has ended. You can read the statement yourself, but then look at their statement. Read what BP has said on Monday, read what Chevron said last month, see what Shell said last month, and you'll see a recurring theme that investment of finding these natural resources is taking more and more money to get them and their production levels are missing their targets year after year after year. And you can read that yourself. Further, LB648 is greatly needed because wind energy generation is a capital intensive investment involving significant fixed costs as part of the original investment and the cost of financing a wind project constitutes a large variable in a project's economics. And just like if you look at an amortization schedule of a business or a house, if you can cut that project by 5 percent off the top you're going to

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save the long range cost of that project in the end. And so this would help tremendously. Providing a sales tax exemption would not only cut the total cost of a wind project making Nebraska a much more attractive location for wind energy investments, but will also enable the money saved to be invested in larger wind farms and enjoy greater economies of scale. LB648 along with the other wind energy proposals that have been put before the Legislature will help create an environment that is conducive to wind energy development. This will help rural economic development, improve our natural environment, create a hedge against future energy price escalation, 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. And when we talk about global warming, a lot of people say it's just a national issue. Well, Nebraska uses coal for two-thirds of its electricity as opposed to the national average of 51 percent. So I think it could be argued that Nebraska has a greater responsibility than most states to address global warming. In closing, PADD would like to emphasize that we do strongly advocate Nebraska's public power system and a uniqueness in Nebraska Public power has served rate payers 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 production to occur in Nebraska and be owned by private entities--and when we say that we also mean C-BEDs--while working in harmony with the public interests for the betterment of Nebraska, the environment and the energy users, because the private sector is the only sector that will be able to drive the wind energy to a higher and more productive level for two primary reasons. The public cannot access production tax credits and a REPI is a far inferior program. And the production tax credits that a C-BED can get or a private entity can get can make a wind project cost competitive right there, everything else aside. And also the private sector is much more capable of raising larger amounts of capital and this is very key when you're building wind farms, because the larger the wind farm the greater the economies of scale, the more efficient that is going to be. So it's very important to have that capability. But when you get down to it, at the end of the day, this is and--wish Senator Raikes was here, because this would kind of answer his question--this is really going to depend what our priorities as a state are going to be. If all we're going to look at is what is the cheapest way to produce electricity, we don't care about economic development, we don't care about the environment, we don't care if we're harming our fellow Americans, we don't care about any of those other benefits that we've discussed, if all we look at is the cost and if wind and coal are about the same in price, even if coal's even a little bit cheaper, why go through the effort of adding wind if all it's going to save you a little bit? It's just simpler and easier just to put more coal in the furnace. However, if we take a longer term view and we see that coal is going to get more expensive in the future, not as it's been in the past, it already has been rising if you look at the last two years, if you look at that, if you look at the economic benefits we stand to gain, if you look at the environmental impacts, if you look at the global warming impacts, if you look at the health impacts that coal has on our fellow citizens that we all--myself



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included--contribute to, then if we choose that priority then wind definitely is the best option to take and we need to find incentives and the motivation and initiative to get it done. Thanks. [LB648]

SENATOR JANSSEN: Any questions? Seeing none, thank you for being here. How many more proponents do we have? A couple. Okay, our time is running short also so be brief. If you have written testimony hand it out and don't read it. Thank you. [LB648]

ROBERT BYRNES: Good afternoon, Senator Janssen and the Revenue Committee. My name is Robert Byrnes, B-y-r-n-e-s. I'm representing myself, my company, Nebraska Renewable Energy Systems, and am a small wind turbine owner here in the state of Nebraska. I will be brief in my comments. I think the previous speakers have well-covered the statistics involved and the resources and I don't want to reiterate that. I would like to thank Senator Preister for his continued leadership in paving the way for development for wind energy in our state. I want to thank him for that. I think a very important thing that we're doing here is opening this up to the small wind turbine owners. I am a small wind turbine owner and a 65 kW for \$30,000--I'm sure that's without a tower, but that's a good deal. I paid a lot more for mine with a lot less power. Anything that can be done to improve and decentralize production of renewable electricity is a good thing. And my turbine is flying not far from your place in Lyons, Nebraska. So we have exceptional wind. If you'll notice on your wind maps the spine that runs parallel to the Missouri there's some nice spots on those hills up there and very amenable to small wind, but not to large wind because they're so spread out. I think in my view, we need to create a climate conducive to development of these resources. These are free. They're environmentally friendly. They're blowing either way. And I can tell you, as a small wind turbine owner, with formal red, white, and blue wind turbine painted in my front yard, it changed the way I looked at wind. You know, before that wind was a nuisance. It brought nothing. And my neighbors still share that opinion, but I don't agree with them anymore in that regard. At the risk of overusing polling data relating to wind energy, I would like to remind the committee that Nebraskans have been polled time and time again through a number of venues, the ROLE Initiative, the NPPD, there's been a number of polls that have been done. The citizens of Nebraska have clearly stated that their desire to increase wind energy is very strong and they would accept such development at the cost of higher rates. And this has been overwhelmingly documented time and time again. I think we need to decide whether we're going to incent the development of these resources or ignore their potential and I'm a strong proponent of this legislation. Thank you. [LB648]

SENATOR JANSSEN: Thank you, Bob. Testimony was good. Any questions? Chris. [LB648]

SENATOR LANGEMEIER: I have one question. Thank you, Chairman Janssen and thank you for your testimony. Very good. Can you tell me on your personal wind farm

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what kind of efficiency are you running at? [LB648]

ROBERT BYRNES: There's maybe two days of the year in the summer where it does not turn. Generally, you'll have some periods in early morning, generally get to get some more stillness, but if you have a couple hours of downtime it will be in the early morning. Generally, it's running very well. Now I run a hybrid system. I am not tied into the grid. I use a biodiesel wind hybrid system so I've been producing my own electricity for three years. So it's a smaller turbine. I had to go with a 1,000-watt turbine instead of a 3,000-watt turbine because of local zoning ordinances. That's another issue, but that is another issue small wind turbine owners have to face, because there is some severe limitations. A lot of variability in county zoning, but in some cases there's some severe limitations in that regard. [LB648]

SENATOR LANGEMEIER: Okay, thank you. [LB648]

SENATOR JANSSEN: Your county zoning, is that what you were talking about? [LB648]

ROBERT BYRNES: Yes, sir. [LB648]

SENATOR JANSSEN: All right. To what extent is that hampering you? [LB648]

ROBERT BYRNES: Well, I live in the middle of nowhere in Burt County, which is great. But there's setbacks, clearly defined setbacks... [LB648]

SENATOR JANSSEN: Okay. All right. [LB648]

ROBERT BYRNES: ...that date back from a long time ago. There's really no rhyme or reason for them. I mean, they're requiring a 150-foot setback on an 85-foot tower with, you know, a 25-foot head in the air. And I was not able to meet that because of the lay of the land so I was forced to put up two smaller turbines at even greater expense than one of the single larger ones, though. [LB648]

SENATOR JANSSEN: Okay. [LB648]

ROBERT BYRNES: That may be something you guys have to address one day down the road. [LB648]

SENATOR JANSSEN: All right. Any other questions? Thank you, Bob, for being here. Good testimony. Next proponent. [LB648]

LORAN SCHMIT: Senator Janssen, members of the Revenue Committee, my name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I appear today in support of this bill. I commend

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Senator Preister and the other members who introduced it and I would like to say that I believe this Legislature will be known as a energy Legislature, not just generation, but of conservation. And I think we have to look at all aspects of renewable energy. When I hear people talk about the negatives of wind generation, and I must confess I was not an early advocate of Senator Preister when you began to talk about this. I was thinking about what we heard before this committee many, many years ago when representatives of the petroleum industry said we have tens of billions of barrels of oil in reserve...in reserves. There are additional tens of billions of barrels out there we haven't discovered yet. We will never--and they said never--run out of petroleum. We will always have low cost petroleum. We do not need such a thing as ethanol or any other alternative source of energy. And had this Legislature, at that time, listened to those opponents we wouldn't have an industry today which is not just beneficial, but which is necessary. Because if we didn't have ethanol today, we would not have an additive to gasoline which had to be provided after the lead was mandated to be removed. When people talk about how wind is not going to work and the negative aspects of it, I wonder about if we ever calculate in the cost of the energy of all the engines that sit in idle while coal trains rumble both ways back and forth across the state of Nebraska. I had an idea a few years ago to put the coal surry line under ground which would have minimized that, but I wasn't able to get it done. I wish now I had worked harder. And every time I stop and wait for a coal train I think of my friends who successfully defeated that proposal. We talk about these turbines now that have been running all the time. There are people today who have devised systems where they artificially power those turbines with diesel or natural gas so that they are a constant source of energy. They just don't have to run when the wind blows, Senator. They have other ways to do it and it's proven very beneficial. I just talked to my son this morning who had called from Switzerland and he mentioned the fact that he had seen some of those operations over there. He also mentioned, Senator White, that when he gets off the elevator in the hotel in Switzerland the motion sensor turns on the light. And when he goes into the room the motion sensor turns it off. When he gets in there he has to use his key to turn on the lights. And when he leaves the room he has to turn the lights off before he can leave. The Europeans are way, way, way ahead of us in many areas. There's just not one area of conservation. It's not one area of generation or ethanol and methane and water and air development. We need to look at all of it. And we need to look at the long-term costs. Those individuals who said we can't afford...I remember when we said we couldn't afford electricity to run down to the farms in rural Nebraska. It can't be done. Well, we've done it. Nebraska Public Power and OPPD have done that. But we need to not be scared by the figures and the statisticians who say this won't work. There are ways the least experienced Legislature can always find a way to justify a bill which we introduce. And at the same time, someone else can find a way to say it won't work. But we have to make up a decision that we're going to make it work. We're not going to be energy dependent upon foreign reserves forever, and it's going to require some investments, forward thinking, and some risk taking by the Legislature that that has proven a very beneficial factor in the past and it will in the future. I have no more advice to give the committee, but just

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want to support, again, the bill and support your efforts in deference to all you members who have really worked hard to get this done. Thank you. [LB648]

SENATOR JANSSEN: Thank you, Loran. Any questions? Tom. [LB648]

SENATOR WHITE: It's less than a question, but I don't know, Senator Schmit, if you're aware that Valmont Industry, a major employer, and actually Senator Langemeier's area and many of my constituents work at that factory, had a major investment in the towers for wind power and they are looking at wrapping that up and ending it because they're not getting the purchases that we need to get. And is that one of those hidden expenses of not going forward, Senator? [LB648]

LORAN SCHMIT: Absolutely. It's absolutely true. And when you drive or fly across the state today and you see the multitude of ethanol plants that have been built, the billions of dollars that have been created, the jobs that have been created, and the ongoing revenue that is generated, believe me, it's a substantial amount. Those ethanol plants, some of them have a six-figure electricity bills per month--six-figure bills per month. If you think they're not interested in alternative sources of energy, you've got sawdust for brains, because they're really concerned about it and we all need to be concerned. Any questions I'll be glad to address, Senator. [LB648]

SENATOR JANSSEN: Any other questions? Thanks for being here, Loran. [LB648]

LORAN SCHMIT: Thank you. [LB648]

SENATOR JANSSEN: Any other proponents? Any opponents? Anyone in a neutral capacity? Senator Preister waives closing. That ends the hearing on LB648. We'll move to LB512. Senator Fulton. Is Senator Fulton here? Yeah, there he is. Welcome to the Revenue Committee, Senator Fulton. [LB512]

SENATOR FULTON: (Exhibit 14) Thank you for having me. Thank you, Chairman Janssen, members of the Revenue Committee. For the record, my name is Tony Fulton, F-u-l-t-o-n. I represent the 29th Legislative District and I appear before you today to introduce LB512. LB512 amends Section 77.2715.07 of the Nebraska code to create an eldercare tax credit for Nebraskans utilizing home aid to care for their elderly or disabled loved ones. This bill expands upon the existing refundable and nonrefundable child and dependent care tax credit to provide a state match to the federal credit received under Section 21 of the Internal Revenue Code. The purpose for expanding the credit is to reduce both the cost to families for in-home care and the cost to the state in Medicaid expenditures. I have an amendment, AM185, that I will submit for your consideration. To ensure that my intent is properly served and that the fiscal impact of the state is kept to a minimum, I submit AM185 for the committee's adoption. AM185 effectively narrows LB512's eligibility requirement by striking the reference to Section 68-915 and replacing

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it with a reference to Section 68-1002 to 68,1005. The latter reference pertains to the eligibility requirements for public assistance to the aged, blind, and disabled. Only taxpayers then, with elderly or disabled dependents would be eligible for the additional credit proposed by LB512. LB512, then, as amended addresses the need to curb state Medicaid expenditures and the need to lessen the financial burden on families whose members require long-term care. I'll touch briefly now on the eldercare tax credit as it developed from the child and dependent care credit. LB512's structure is the same as the state's child and dependent care tax credit. The child and dependent care tax credit in its current form, originated as amendments brought by Senators Landis and Will to the economic growth income tax reduction of 1998. During floor debate on these amendments, the body agreed that the child care credit brought relief to working families, and in so doing, diminished individual dependence on state aid. LB512 would accomplish these same objectives on behalf of eldercare. Eligibility under LB512 is determined primarily by the eligibility requirements of Section 21 of the Internal Revenue Code. Section 21 requires, number one, that care be given to a qualified dependent who is either a child under 13 years of age or a spouse or other dependent who is mentally or physically not able to care for himself and who has the same principal place of abode as the taxpayer for more than one-half of the year. Secondly, Section 21 requires that care be given such that the taxpayer is able to work. Thirdly, Section 21 requires that care be provided by someone other than another of the taxpayer's dependents and, lastly, Section 21 requires that the taxpayer provides the taxpayer ID number of both the qualifying dependent and the care provider. The amendments to LB512 additionally requires that the dependents be at least 65 years of age, blind, and/or disabled and in need of shelter or maintenance. And so that explains what AM185 will do for LB512. I'll touch a little bit on the eldercare credit calculation itself, the numbers part of it. LB512 proposes a state tax credit equal to the federal child and dependent care tax credit for taxpayers who qualify under these additional eligibility criteria. Under Section 21 of the Internal Revenue Code, the federal credit is a percentage based on the taxpayer's adjusted gross income of the amount paid to a care provider with a dollar limit of \$3,000 for one dependent and \$6,000 for two or more dependents. An example, for a working family earning \$50,000 paying \$4,000 per year for the in-home long-term care of a qualified dependent the federal credit is 20 percent of the \$3,000 cap which would equal \$600. Assuming that this amount is less than the total federal tax owed, then this is a federal credit. Under LB512, this would also be the nonrefundable tax credit granted. I'll touch now, briefly, to explain the difference between refundable and nonrefundable credits and why it's applicable to this bill. The state child and dependent care credit currently distinguishes between refundable and nonrefundable credits based on an adjusted gross income of \$29,000. LB512 retains this same basic structure so that only returns with an adjusted gross income of less than \$29,000 would receive a refundable credit. LB512 benefits Nebraska's working families, its most vulnerable citizens, and ultimately the state itself. Under LB512, Nebraska's working families making greater than \$29,000 would receive a 75 percent increase in available credit for the dependent care expenses offsetting the personal cost of

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long-term care by as much as \$1,200. The elderly and disabled dependents receiving home care services receive the increased emotional and psychological benefit associated with remaining at home in familiar surroundings amongst loved ones, as well as the personalized care that one is hard-pressed to receive in an institutional setting. I'll point out that the state spent a little over \$540 million on Medicaid last year. Half of this Medicaid expenditure was in the field of long-term care, so a quarter billion dollars was spent last year on long-term care. Now I want to point out, you have your fiscal note in front of you, and understand that we received the fiscal note on this yesterday, and this is a further explanation as to why we decided to introduce the amendment to further pare down those dependents so we can get to the elder care those elders who are dependents. So I recognize the fiscal note in front of you is high. We are going to reduce that with the amendment. We estimate that the amendment will bring this fiscal note a little more than half of what you have in front of you now. I'm on Appropriations Committee. I recognize there are hard decisions. I recognize this is a decision for you to consider. And so I will point out two points for you to consider. Number one, one out of every six Nebraskans will be 65 years of age or older by the next decade--one out of every six. Number two, were the silent contributions of family caregivers imposed onto the state's Medicaid system, several billions of dollars of long-term Medicaid costs would ensue. So I submit to you we have a good thing going when families care for their own. So we need to encourage and reward good policy. Families caring for their own is good policy. So I summarize by saying by way of analogy, I'm asking you to consider reducing \$5 of revenue so that I might reduce \$50 of future appropriation. If you have any questions I'd be glad to or try to answer them. [LB512]

SENATOR JANSSEN: Any questions? Senator Langemeier. [LB512]

SENATOR LANGEMEIER: Thank you, Chairman Janssen and thank you for your great introduction. Do you have a copy of the green bill? [LB512]

SENATOR FULTON: I do. [LB512]

SENATOR LANGEMEIER: You're introducing into this two sections, Section 1(2), (f) and (g), and for the most part (f) and (g) are identical except for the last line of (g). Can you tell me the significance in those few words that make those two sections different? [LB512]

SENATOR FULTON: Okay. Help me find where you're reading from, Senator. [LB512]

SENATOR LANGEMEIER: Page 4, line 6 and 7, after 1986 as amended. It says whether or not the federal credit was limited by the federal tax liability. What significance is that wording? [LB512]

SENATOR FULTON: And that differs, you said that differed from... [LB512]

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SENATOR LANGEMEIER: From the previous section that you're adding in. [LB512]

SENATOR FULTON: Okay. [LB512]

SENATOR LANGEMEIER: Other than that it's word for word and I'm just curious why both subsections? And maybe that's something you might want to read and come back at closing with, too. [LB512]

SENATOR FULTON: Yeah, I may have to do that. [LB512]

SENATOR LANGEMEIER: Okay. [LB512]

SENATOR FULTON: I'm not finding the difference right now. [LB512]

SENATOR LANGEMEIER: Okay, thank you. [LB512]

SENATOR FULTON: I'll do that. [LB512]

SENATOR LANGEMEIER: Okay. [LB512]

SENATOR JANSSEN: Any other questions? Thank you, Senator. We will take proponents. How many proponents do we have? Okay. Try not to be repetitive. The hour is getting a little late. Let's have the first one. [LB512]

JUNE PEDERSON: Good afternoon, Senator Janssen. [LB512]

SENATOR JANSSEN: Good afternoon. [LB512]

JUNE PEDERSON: (Exhibits 15 and 16) Nice to be here with all of you. My name is June Pederson. I'm the director of the Lincoln Area Agency on Aging and I am occasionally known as the aging director. Some afternoons I think that's true. I have a one-page statement for you this afternoon. I've done some research and I think it will be interesting for you to know some numbers that address this particular bill so I'm going to use that page as my testimony. [LB512]

SENATOR JANSSEN: That's fine. [LB512]

JUNE PEDERSON: In 2005, Nebraska's population was believed to be 1,759,000. Estimates of growth for the state by 2020 show that a 2 percent increase will occur bringing that total to 1,803,000. Now that was a 2 percent increase in that period of time, in 15 years. In 2005, Nebraskans aged 65 and older made up 13.3 percent of the total population. In 2020, that percentage is expected to be 17.1 percent, an increase of

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32 percent in people who are 65 and older. More significantly, the 2005 Nebraskans who were 85 and older make up 2.1 percent of the total population. In 2020, that percent is expected to be 2.7, which is 30 percent increase. Although my agency sees people who need services in their homes or in assisted living or nursing facilities at all ages over 60, our experience tells us that nearly all persons who are 85 and older need assistance of some variety. Also of significance, in 2005, 9 percent of persons who were age 65 or older had incomes that were at or below the poverty level. The 2006 HHS poverty guidelines indicates that this means 9 percent would be living on \$9,800 a year or less. Research indicates that most of this 9 percent are women. A whopping 35 percent of Nebraskans over age 65 report living at the 200 percent of poverty rate which is \$19,600 per year. It's clear that if these people need assistance beyond the limited coverage provided by Medicare, they will be candidates for the Medicaid programs. LB512 provides an incentive to family and perhaps caring friends or neighbors to bring older persons into their homes rather than have them live in subsidized low-income housing, assisted living facilities or nursing homes. In 2000, Nebraska reported that 14.1 percent of our total population over age 14 were considered caregivers. I was unable to get a comparable figure for 2005, but it would seem safe to say that that will be more. Long-term care is inevitable for a significant majority of people over the age of 65. LB512 gives them an additional option for care in the home of a loved one. It's a step in the right direction and I would encourage your support. [LB512]

SENATOR JANSSEN: Thank you, June. Any questions? Seeing none, thank you for being here. Good testimony. Next proponent. [LB512]

ROBERT COURTNEY: (Exhibit 17) Senator Janssen and members of the Revenue Committee, my name is Robert Courtney, R-o-b-e-r-t C-o-u-r-t-n-e-y. I am the volunteer Statewide Advocacy Coordinator and a registered lobbyist for AARP Nebraska. I also volunteer for Saline County Eldercare and represent the Saline County on the Lincoln Area Agency on Aging advisory board. I thank you for the opportunity to speak to you today and I appear before you in support of LB512. LB512 provides limited tax relief to working families who choose to provide for in-home care of an elderly or disabled family member who is eligible for Medicaid. AARP support this legislation for two reasons. In 2002, an AARP survey of 1,679 members in Nebraska found if they needed help with basic activities of daily living on a long-term care basis, 79 percent preferred care at home with a nurse, personal care aide, or a relative helping. Another 18 percent would want to live in an assisted living facility. I am a caregiver. My wife has been disabled since having an aneurysm on her brain stem isolated in 1990. She is currently using an electric wheelchair for mobility and has many other deficiencies which would qualify her for placement in a nursing facility. I've been caring for her since my retirement in 1991. This is ideal as she is receiving safe and compassionate care and there is no cost to the state. Since she is not eligible for Medicaid we would not be eligible to receive tax relief under this bill. But for families who have an older relative who is eligible for Medicaid and who must continue to work, the availability of a tax credit may be the deciding factor



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that would assist these families in making a decision to care for their families or their loved ones. We're also concerned about the rising cost of Medicaid. For older persons, the cost of Medicaid is the cost of long-term care. One of the challenges we face is developing an efficient and effective long-term care system to deliver those needed services. I consider this to be one of the pieces of that puzzle, because it does encourage families to provide long-term care services for disabled relatives who are eligible for Medicaid. Community-based care is a cost effective alternative to nursing home care. The state general fund share of the Medicaid cost per day for persons over 65 is \$31.20 for a nursing facility, \$17.60 per day for an assisted living facility, and \$12.40 per day for formal in-home care. The cost for family care for an older family member under this bill will be about \$8.20 per day. So you can see there's considerable cost savings to Medicaid. Facilitating family care giving has a potential for delaying or avoiding placement in formal residential long-term care facilities. This, in turn, will help to contain the cost of Medicaid covered long-term care services. Senator Janssen, I urge you and your committee to consider this bill as a means to provide safe, compassionate care for family members in their home and a cost effective way to provide that care with a reduced use of Medicaid dollars. Thank you and I'll answer any questions you may have. [LB512]

SENATOR JANSSEN: Questions? Seeing none, thank you, Bob, for being here today. [LB512]

ROBERT COURTNEY: Thank you very much. [LB512]

PATRICK HENRY: (Exhibit 18) Well, good afternoon, Chairman Janssen and members. I am Patrick J. Henry, that's P-a-t-r-i-c-k J H-e-n-r-y, 1460 Buckingham Drive here in Lincoln. That is Senator Raikes' district. I'm also a property taxpayer in Senator Langemeier's district. I am a member of AARP and I'm chairman of the Nebraska Aging Legislative Coalition. But for the past five and one half years I have also been a volunteer for the state of Nebraska as an ombudsman at Lancaster Manor, which with 265 current residents is one of the largest nursing homes in this state. And I believe it has the most Medicaid residents. I come before you today in support of LB512. Admittedly, I do not have any large-scale studies of thousands of people in support of my views, but on a weekly basis I see residents of nursing homes not only at Lancaster Manor, but I also stop at a few others on a regular basis, not as an ombudsman, but doing other things. With these people that have, with a little help, could still be at home alone or with family, rather than a nursing home as a guest of Medicaid. Granted this is not a large number, but multiplied over the state the costs to Medicaid and the state of Nebraska can be very important. We should all be doing all that we can to accommodate the delay in entering nursing homes. The elderly are often much better off socially, mentally, and medically if they are able to remain at home for longer periods of time. They retain some sense of independence. They usually have more visitors. One of the worst things I observe in new residents is the sense of loneliness and I seldom

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observe visitors. It is no longer convenient for a neighbor to stop in to visit. They retain a better ability to entertain themselves in the manners in which they have become accustomed, rather than being herded into the activities that large homes must arrange for the people--bingo, sing-a-longs, and that sort of thing. At home, they can enjoy their food tastes for a longer period of time rather than eat a diet prepared for a large number of residents, which many find either too bland or too spicy, too hot or too cold, and one of the greatest complaints that I ever have is they can't get eggs fried soft or soft-boiled eggs, because it's against the Lancaster County Health Department's rules. They have to be hard. But that bothers a lot of people. Delaying the entry of a person into a nursing home and away from Medicaid through the use of in-home care would save the state of Nebraska approximately \$1,400 per month. Utilizing family care would save even more. I strongly encourage you to advance this bill to General File. Thank you for your time. Do you have any questions? [LB512]

SENATOR JANSSEN: Thank you, Pat. Are there any questions? I see none, thanks for being here today. [LB512]

PATRICK J. HENRY: Okay, thank you. [LB512]

SENATOR JANSSEN: Any other proponents? Any proponents? [LB512]

FRANK VELINSKY: Good afternoon, Senator Janssen, members of the Revenue Committee. My name is Frank Velinsky, that's spelled V-e-l-i-n-s-k-y. I'm a small business owner of an in-home service for the elderly and disabled. I'm also here today as vice chairman of the Nebraska Chapter of the National Private Duty Association. I will be as brief as I possibly can, Senator. We see a number of clients every day that are in a situation where they need considerable care and assistance. Our programs provide the type of assistance that they and their families need to make it through the day. We provide those kinds of services that they no longer can do for themselves. We can also provide the services where the working family may need someone to take them to the doctor's appointment, prepare meals, do laundry, take care of their living areas, and all those things that the families would do if they were at home. I think this type of bill would go a long way in promoting and encouraging families to use the caregivers. Many of the families sometimes...one of the spouses may have to quit their work in order to provide the services, which brings up an interesting request that our agencies or our members received last week. It came from CBS' Good Morning, America with Katie Couric who was requesting some names that, I think, highlight this very issue. What is interesting is the criteria that they were asking. They were asking us to come up with names of families where the married couple were baby boomers who were living with their, maybe, children who were 17 years of age or less and had in their family, in their home, an elderly person or a disabled person. And they were asking us to produce the names and release them so they could contact these families. My agency alone had no problem doing, just off the top of our heads, the number of families

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that would qualify in this narrow criteria that they produced. Now incidentally that's going to be shown next week, February 14. I think it highlights the interest anyway. At a national level on this very issue, the number of individuals, the statistics that were provided to you previously by the other proponents, I think, support the need for this type of legislation and we would encourage you to pass it and move forward on it. Thank you. Are there any questions? [LB512]

SENATOR JANSSEN: Questions? Seeing none, thank you for being here, Frank. Any other proponents? Any opponents? Anyone in a neutral capacity? Seeing none, Senator Fulton to close. Senator, you want to close on this one and open the next one? The next one is your's also. [LB512]

SENATOR FULTON: Yeah, that would be fine. Thank you, Senator. [LB512]

SENATOR JANSSEN: Sure. [LB512]

SENATOR FULTON: To answer Senator Langemeier, I waive closing. [LB512]

SENATOR JANSSEN: Okay, you can open on the next one then. Sure. [LB512]

SENATOR FULTON: Okay. [LB512]

SENATOR JANSSEN: Go right ahead. [LB512]

SENATOR FULTON: Thank you, Chairman Janssen, members of the Revenue Committee. For the record, my name remains Tony Fulton. I represent the 29th Legislative District and I appear before you today to introduce LB514. LB514 provides a nonrefundable tax credit to employers for contributions made to employee long-term care insurance plans. This bill aims to decrease individual reliance on Medicaid by encouraging growth of the long-term care insurance coverage offered in the private industry. I'm going to try to make this as logical as I can. Long-term care insurance is a means by which we can reduce future Medicaid dependence. I'd like to say that long-term care insurance is a chapter in a long book that is Medicaid reform. We have long-term care insurance. We have a hard time getting people to buy it. There has been legislation in the past to insight people to purchase their own long-term care insurance. This is a means to further that end. The second principle here is that promoting the purchase of long-term care insurance in the private sector through employment benefits is the most efficient means of leveraging private industry to get people to buy long-term care insurance. Public funds are not sufficient to meet the ever increasing demand for long-term care services by Nebraska's increasingly elderly populations. At present, few Nebraskans purchase insurance necessary to protect their quality of life from the high cost of potential long-term care needs, ultimately, shifting this cost in the long run to the state. State Medicaid expenditures, I elucidated earlier, last year were a little over \$540

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million, about a quarter billion dollars were spent in long-term care. If we could get individuals to provide for their own care by long-term care insurance in this case, we would go a long way to reducing the strain on our Medicaid budget. In passing LB965 last year, was Senator Jensen's bill, this body, the Legislature, further recognized the value of long-term care insurance as a means of promoting personal responsibility and reducing government costs. Now the reason that relatively few Nebraskans purchase long-term care insurance, I think there are two reasons for this. Number one, it's not well-known. A lot of individuals don't understand the value of long-term care insurance and what it can mean in the long run. And secondly, and probably most profoundly, it's contrary to human nature. Actuarial studies that I have read indicate that long-term care insurance ought to be purchased somewhere in the mid to late forties, maybe early fifties for people. It can be purchased at an affordable price and it's nearing a time where it's at least in the conceivable future that the long-term care needs would exist. People that are 45 and 50 years old aren't thinking about falling and breaking their hip, going to a nursing home, and requiring long-term care insurance. They're not thinking ahead that possibly they will have to spend down their resources to care for nursing home costs or long-term care costs. And so that is the difficulty getting people to buy long-term care insurance. So if it's a matter of good public policy to get people interested in long-term care insurance to take ownership for their own care, then we have to find means to do so. And I believe that leveraging the private sector employers is a way to accomplish this. Fifty-eight percent of Nebraskans currently receive health insurance through their employer. It makes sense that we could do the same thing, use the same mechanism to get employees to buy long-term care insurance in the same way they buy health insurance, through the employer and that's what this bill seeks to do. LB514, in conclusion, presents an opportunity to engage what this state and others have recognized as one solution to the growing costs of long-term care. This is a modest means to effect good structural long-term policy. And I'd be glad to answer any questions if you have any. [LB514]

SENATOR JANSSEN: Any questions? I don't see any. We'll have proponents. [LB514]

ANN HENNING: (Exhibit 19) Good afternoon, Senators. My name is Ann Henning, last name is spelled H-e-n-n-i-n-g. I appear before you today. I am a licensed health and life insurance agent here in the great state of Nebraska. I have a insurance agency that focuses solely on long-term care insurance. You have in front of you my basic statement. Long-term care expenses are the biggest element of the Medicaid budget. As our population ages, it's critical that we deal with this problem. Long-term care insurance that might be available through an employer or group long-term care insurance policy is a broader based product. People that couldn't possibly purchase an individual long-term care insurance policy due to health considerations such as diabetes or perhaps they don't meet with the weight restrictions, and they couldn't fall within the underwriting guidelines for an individual policy may be able to get a group long-term care insurance policy. Those policies tend to be cheaper for the employee to purchase

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than an individual plan. So it broadens the policies available to the consumers. The more that we can shift to the individual planning for long-term care needs the better off our society will be, and the better off if they plan at a younger age, such as Senator Cornett. You seem, amongst your peers, perhaps to be the youngest within the group. I don't mean to insult the other Senators (laughter), but okay, sorry. As long-term care insurance is much more economical the younger you are. Also, the younger you are the more likely you are to be health qualified. Long-term care insurance on an individual basis, the biggest barrier is someone's health. The older you are the least likely you are to be able to meet within the underwriting guidelines, okay? And to that extent, even if you are the wealthiest man in this state, and we know who that is, let's see I remember his name...anyway, that gentleman, he couldn't purchase long-term care insurance if he wasn't health qualified. That gentleman is a wise man and even though he could purchase any facility to care for himself, he's got long-term care insurance. Why? Because it's a wise investment to protect not only his family, but his assets. Long-term care insurance allows people to have ownership and control of what happens in those situations. It doesn't just cover nursing homes. Everybody thinks it's nursing homes, but perhaps you, Senator, were riding a motorcycle. Or you, Senator, were on your horse like that unfortunate actor who was very young when he had that incident where he broke his neck. It's long-term care. It's just not for nursing home. It's just not for the elderly. It's situations that might occur as a result of a terrible car accident where you need assistance for more than 90 days. This is something we really need to promote and encourage people to plan for, because if they don't plan for it, unfortunately our children and we will be paying for that with the principal that we call our checkbooks and what we call taxes. So I thank you very much for your time. If you have any questions I'd be happy to attempt to answer them, but I really appreciate the opportunity to speak with you. [LB514]

SENATOR JANSSEN: Any questions? [LB514]

ANN HENNING: Thank you very much. [LB514]

SENATOR JANSSEN: Thank you. [LB514]

DAVE SNITILY: Good afternoon. If I break any protocol, it's not intentional. I've never done this before. So Dave Snitily, S-n-i-t-i-l-y. I am the president of Snitily Carr. We're a small advertising agency here in Lincoln, Nebraska. We'll celebrate about 15 years in April and we've got a staff of 48 full-time. I'm here as a proponent of LB514, and for that matter any like legislation in the future that will give incentives to businesses to get people covered. Insurance would be long-care or other and to decrease the reliance on Medicaid. My belief is, in general, employees are not aware of the benefit. They don't appreciate the benefit for which we put forth, especially the younger ones. We do employ a lot of young professionals who they would rather have a company cell phone or an extra day off than some of the benefits in the insurance industry for which we

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provide, and until something happens to them, whether it be traumatic or whether it be having a child where you really need the insurance, they're probably not going to see that as appreciation. And thus, employers don't offer as much as we probably could or should, because there's not a need. And so we feel this incentive would be beneficial. I am proud to say that at our company we offer 100 percent of our paid insurance for the employees whether it be health, dental, life, long-term. Actually this additional, the long-term care is something we've considered but have not done it yet. We do these kind of things because there's hiring advantages and retention advantages obviously. But for the most part we do it so that our employees are covered. Every single year we have multiple people coming to us and say can I get a larger raise and I'll jump off of the insurance policy. And of course it would be a benefit to us as a company, but we decline that. And the reason is we're pretty much wise enough to realize they may or may not even go get insurance. They may be uncovered. Their families would be that way. And the fact is, over the last four or five years, we've had multiple incidences that our employees, because of tragic unforeseen things, would have endured medical and financial hardships if we did not have those in place. So I encourage this legislation, LB514, and all others like it to help employers provide a benefit whether the employees recognize and appreciate it or not. Thank you. [LB514]

SENATOR JANSSEN: Thank you, David. Any questions? Seeing none, thank you for your testimony. Next proponent? [LB514]

JUNE PEDERSON: (Exhibit 20) If I wasn't the aging director I think I would apply at Snitily Carr and see if maybe when you come to work everyday they give you the tunnel walk as you come in the door. Do you suppose? I'm June Pederson, P-e-d-e-r-s-o-n, and I'm still the director of the Lincoln Area Agency on Aging. I gave you lots of figures last time and I'm not going to do that. I'm going to give you a short story. When I was 50 my husband was diagnosed with bladder cancer. We did everything we could, but he died. The expenses for his very good health care were, we estimated, about \$750,000. Once he was gone and I began to put my life together as a single woman, I looked at financial planning and decided that it would be important for me to be able to care for myself. So I approached our agent and purchased long-term care. I was 51 at the time. I got a good rate because I was healthy. I pay \$96 a month for what I think is a very good plan. This was a smart thing for me to do, but I will tell you that I am in the minority when it comes to people who do this at the right time. Wearing another hat, several years ago I was involved with a group that did a study of long-term care insurance. We learned that the average person who comes in to buy long-term care insurance is female, generally 65 who has a husband who has either had a serious illness or is in a nursing home, and she finds that the cost of coverage for herself is nearly impossible to handle. The other piece of information that I want you to know is that my staff at the Area Agency on Aging tell me they see more people these days who are inclined to let the state take care of them or take care of mom. I don't think that's a healthy thing for anybody. LB514 provides encouragement for employers to offer and contribute to

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long-term care plans for employees. Although, I fear this option will be considered only by thoughtful, far-sighted, larger companies, if we are able to convince a larger proportion of our employed citizens to plan for their own long-term care we will have made a step in the right direction. As members of the Revenue Committee, you're going to be asked to give up state revenue and I ask you to look forward past your term of service to see that it will ultimately benefit us by reducing our Medicare costs. Thank you. [LB514]

SENATOR JANSSEN: Thank you, June. Any questions? Senator. [LB514]

SENATOR CORNETT: June, a couple of years ago we saw plans--not this one, but plans similar... [LB514]

JUNE PEDERSON: Yes. [LB514]

SENATOR CORNETT: ...and at that time we had quite a bit of testimony in regards to the fact that Nebraska already had--if you look nationwide--a high compliance, well maybe compliance is not the word, but for our percentage of population that a larger number of Nebraskans actually purchased long-term care policies than other states that didn't offer benefits or that already offered benefits. Since you're with the department, do you have any of that data? [LB514]

JUNE PEDERSON: I do not. Perhaps Ann Henning would be able to provide that to you. I don't believe that to be true. [LB514]

SENATOR CORNETT: Well, it's rather a nationwide problem that people don't purchase long-term care. [LB514]

JUNE PEDERSON: That's correct. [LB514]

SENATOR CORNETT: And other states are incentivizing it and they're not really seeing necessarily a very good response. [LB514]

JUNE PEDERSON: And that's, perhaps, why an employer contribution would be one more reason for someone to consider that. [LB514]

SENATOR CORNETT: And just so you know I support the idea... [LB514]

JUNE PEDERSON: Thanks. [LB514]

SENATOR CORNETT: ...and I did a couple a couple of years ago, but this was testimony that really raised some concerns in regards to incentivizing it, because the states that had we still weren't seeing any real results from it. [LB514]

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JUNE PEDERSON: I don't have data, but I would be glad to look. [LB514]

SENATOR CORNETT: Thank you. [LB514]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, June. Any other proponents on LB514? [LB514]

FRANK VELINSKY: For the record, Senator Janssen, members of the Revenue Committee, my name, again, is Frank Velinsky, V-e-l-i-n-s-k-y. My office located at 11904 Arbor Street in Omaha. I'm here representing and I am the vice president of the Nebraska Chapter, National Private Duty Association. Just very quickly a couple of notes I wanted to make in support of LB514. When I personally got into this business, we thought we would be really wise marketers and go to the insurance companies and to encourage them to give us some names of people of where we could pursue clients and so forth. What we learned is that the insurance agents themselves still thought of long-term care insurance--many of them anyway--thought that it was for nursing homes. And the unfortunate statistics I think that came about is that only about 5 or 8 percent over the years ever utilized the original long-term care insurance which was nursing facilities. Today that, of course, includes in-home care. And the stigma continues, I believe, as we were told, in that industry. So that may be one reason that the long-term care insurance is not progressing in terms of sales. And I think that this would incentivize that type of purchasing. The other note that I quickly wanted to make is that the Legislature went through a great deal of effort over the last two or three years, particularly the Health and Human Services Committee. And there was a question posed by the Legislature to that committee and that was to study whether the current Medicaid system was sustainable over the next several years. And there was a lot of hearings all over the state and I testified at one of those hearings. And what, I believe, came of that in the report showed that one of the important stepping stones, to make it more sustainable and that is the care of individuals was to provide and encourage long-term care insurance. And I think that this is merely one piece of that plan, I think, that would be put in place if passed. And I conclude my remarks. Thank you, Senators. Any questions? [LB514]

SENATOR JANSSEN: Okay, any questions? Seeing none, thank you. Next proponent. [LB514]

DAVE McBRIDE: Good afternoon, Senator Janssen, members of the committee. I will be brief and I have no paperwork to add to your stack. My name is Dave McBride. I'm the executive vice president and lobbyist for NAIFA-Nebraska, the Nebraska Association of Insurance and Financial Advisors. We've had some of our members in front of you earlier this year and before this committee in previous years supporting various incentives for the purchase of long-term care insurance for all the reasons that



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you've heard Senator Fulton and the previous witnesses talk about. So I want to be on record in support of this as yet another approach that we would hope would merit your consideration. Senator Cornett, with regard to your earlier question, I can try to give you maybe a quick answer to this. I'm not positive of this number, but the number I have heard in terms of percentage of people that have long-term care insurance now is 7 percent. I will try to check on that, too, for you and if that's not the right number I can let you know, but if that's a helpful piece for the committee. That's a number I heard from one of our members who is involved in sale of long-term care insurance recently. That's really all I have. If there are questions... [LB514]

SENATOR JANSSEN: Any questions? Abbie. [LB514]

SENATOR CORNETT: Just very, very quickly. What my point was we have heard bills regarding long-term care in the past. And we had testimony two years ago that even the states that have offered incentives they haven't seen a rise in the average of people participating in long-term care policies. If you could get me data to see if that has changed in those states, because it was fairly new, that would be appreciated. [LB514]

DAVE McBRIDE: I'd be glad to try to look for that for you. [LB514]

SENATOR CORNETT: Thank you. [LB514]

SENATOR JANSSEN: Dave, I have one questions. Just off the top of your head--I won't hold you to the number--but what would a long-term care policy cost a male, 50 years old...a healthy man, 50 years old? [LB514]

DAVE McBRIDE: I would love to answer your question or even take a guess, but... [LB514]

SENATOR JANSSEN: Ballpark figure. [LB514]

DAVE McBRIDE: Well, I'm not an agent and I don't sell the product. [LB514]

SENATOR JANSSEN: Okay. [LB514]

DAVE McBRIDE: So I really don't have a number for you. I'm sorry. I can try to get you a number, but I don't have one. [LB514]

SENATOR JANSSEN: If you could, I'd appreciate that. [LB514]

DAVE McBRIDE: Okay, sure. I will do that. [LB514]

SENATOR JANSSEN: All right. Thank you. See any other questions? Thank you. Next

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proponent. [LB514]

JANIS McKENZIE: Senator Janssen, members of the Revenue Committee, for the record, my name is Jan McKenzie, spelled M-c-k-e-n-z-i-e. I'm here representing the Nebraska Insurance Federation, also in support of LB514. You've heard us talk to you two other times before this session so we want to be on record in supporting this as another possible approach to take to encouraging the purchase of long-term care insurance. [LB514]

SENATOR JANSSEN: Questions of Ms. McKenzie? Seeing none, thank you for being here today, Jan. [LB514]

JAN McKENZIE: Thank you. [LB514]

SENATOR JANSSEN: Any more proponents? [LB514]

BRENDON POLT: (Exhibit 21) Good afternoon, Chairman Janssen and members of the committee. My name is Brendon Polt. I'm the assistant executive director of the Nebraska Health Care Association and we are a trade association with a membership of 400 nursing homes and assisted living facilities. I want to make one quick point. I won't read my testimony, but in various figures that are cited for what it costs for one year of long-term care remember that there actually two numbers, but usually you hear one. One of them is what is the cost to the Medicaid program. In Nebraska, that's 48 some thousand dollars, but that's not what it costs you or me or someone who's not on Medicaid. That number is \$60,000, because Medicaid underfunds providers of long-term care and that results in the private payers paying more. So one thing I'd like you to take into consideration as you look at this legislation as the cost for everyone comes down, I guess, for the private payers, when more people are paying for themselves as opposed to the government financing the lion's share which is 75 percent of people and the smaller portion paying for themselves. Then the portion that's paying for themselves the price goes up. So with that, I think I'll end my testimony. I'm available for any questions, but I'll maybe submit this for the record. [LB514]

SENATOR JANSSEN: Good information, Brendon. Thank you. Any questions? Cap, do you have something? No? Okay. Thanks for being here. Any other proponents? Any opponents? Anyone in a neutral capacity? Senator Fulton to close. [LB514]

SENATOR FULTON: Thank you, Chairman Janssen. I will close in hurried fashion by responding...a question was asked about the total cost of long-term care insurance. As luck would have it, that was precisely the question that we asked to have a figure for a 50-year-old male. The figure that we received, on average, is about \$7,000 per year for a 50-year-old male. [LB514]

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SENATOR JANSSEN: The premium. [LB514]

SENATOR FULTON: Correct. [LB514]

SENATOR JANSSEN: Okay. [LB514]

SENATOR FULTON: Another question that was raised by Senator Cornett I'll respond to that finding creative ways to incite people to purchase their own long-term care insurance has proven to be a challenge nationwide. I served on what was called the White House Conference on Aging, I think it was the end of 2005, representing Nebraska. And this was one of the points that was brought up--how do we get people to care for themselves such that the states are not? This is something that I proposed and it was adopted. I believe it was one of the adoptions at the White House Conference on Aging to leverage employers. I'd submit to you that there haven't been many states that have gone this route. We researched and we found that there are three. Maine, Maryland, and Oregon are the only other states to provide any type of tax incentive for employers to offer to their employees. I look at that number. Fifty-eight percent of Nebraskans currently receive health insurance through an employer. I would love to use that mechanism. Whatever leverage existed to get us to 58 percent in health insurance, I'd like to use that same mechanism to leverage such that we can get individuals to purchase long-term care. So those are my closing remarks. I thank you for your time today. [LB514]

SENATOR JANSSEN: Any questions? Abbie. [LB514]

SENATOR CORNETT: Do you have the data on how much participation has increased in those three states? That's what I would be looking for. [LB514]

SENATOR FULTON: Okay. I will get that data. I don't have it here. [LB514]

SENATOR CORNETT: Thank you. [LB514]

SENATOR FULTON: To be honest, I don't know if the data exists because these initiatives...I believe 2000 was the first year that any initiative was instigated in any state, but I will seek that data and get it to you. [LB514]

SENATOR CORNETT: Thank you. [LB514]

SENATOR JANSSEN: Ron. [LB514]

SENATOR RAIKES: Tony, the fiscal note shows \$38,000 a year decline in revenue. That, I would suspect, isn't going to do much. [LB514]

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SENATOR FULTON: It's a wonderful number. [LB514]

SENATOR RAIKES: Why is that so low? [LB514]

SENATOR FULTON: Because we wanted it low. No. I believe there...how do I answer this? I don't know how easy it is to predict how many companies will offer this. I don't know if it's easy to predict how many companies will utilize this bill as incentive because there is no hysteresis. There's no historical data of other states that have incited employers in such a way. And so I think it's just a conservative figure. I honestly couldn't tell you how many employers are going to glom on to this bill and offer long-term care insurance. I suspect more than if we didn't do anything. So that's the premise behind my bill. [LB514]

SENATOR RAIKES: Okay. [LB514]

SENATOR JANSSEN: Abbie. Oh, I'm sorry, Ron. [LB514]

SENATOR CORNETT: I guess what you just said, I'm fairly concerned at what the criteria was for the fiscal note. I mean, if we all the sudden have large participation in this program what is the fiscal impact going to be? [LB514]

SENATOR FULTON: I've thought about that question and the short answer is it's going to... [LB514]

SENATOR CORNETT: And I understand the cost of not doing it also. [LB514]

SENATOR FULTON: Right. And that is what I would employ into a comprehensive study. If we didn't do it, what is the cost? How many of these individuals who would otherwise purchase long-term care, what will that cost the state? And so I would submit that that requires a fairly broad study. I'd be very interested in the empirical data also. I will talk more with the fiscal analyst. I was pleased to see the low fiscal note, but at the same time if you get a quote on a car and they tell you \$100, you have questions about the car. So I'll get some answers and I'll talk with both of you about that. [LB514]

SENATOR CORNETT: I was going to say, fiscal notes have been known to be wrong before. I think Senator Preister had something come in at almost a billion last year? [LB514]

SENATOR PREISTER: Over a billion. [LB514]

SENATOR CORNETT: Over a billion that was actually a million something. [LB514]

SENATOR FULTON: Well, I will check into the fiscal note a little bit more to see the

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data that was used, but short answer is there's not a lot of history behind this and so I'm looking for innovations to get individuals to care for themselves. Thank you. [LB514]

SENATOR JANSSEN: Thank you. That ends the hearing on LB514. Senator Nantkes, is she here? All right, we'll open on LB531. Senator, welcome to the Revenue Committee. [LB531]

SENATOR NANTKES: Chairman Janssen, thank you so much. Good afternoon to you and the rest of the committee. My name is Danielle Nantkes, N-a-n-t-k-e-s, representing the "Fighting 46th" Legislative District. I'm here today to introduce LB531. LB531 would allow a refundable tax credit of \$5,000 to employers with 25 or fewer employees to provide health insurance and pay a portion of the premium. As you can see by the fiscal note, when stark distinction to Senator Fulton's, there are 95,000 employers in this state who could qualify for this benefit. I must say, the fiscal note surprised me a bit and I want to mention to Senator White I think that we may have beat you on high fiscal notes. Seriously, though, we all agree that there is tremendous need to help two factors in our society. To help small businesses succeed, as they are the bread and butter of our economy, and to help people access health insurance. This bill could be tightened up by requiring that employers pay 50 percent or more of the premium for their employees and a better definition of what health insurance policy may be. I'd be happy to work with committee counsel on this bill to tighten it up and reduce the price, but overall I think this is an important vehicle to address this important public policy issue. With that, I'd appreciate your consideration and happy to answer any questions. [LB531]

SENATOR JANSSEN: Questions? [LB531]

SENATOR CORNETT: Danielle? [LB531]

SENATOR NANTKES: Yes? [LB531]

SENATOR CORNETT: Don's still got you beat. [LB531]

SENATOR NANTKES: What's that? [LB531]

SENATOR CORNETT: Don still has you beat. [LB531]

SENATOR NANTKES: I will defer to the senior Senator on high fiscal notes then. (Laughter) [LB531]

SENATOR JANSSEN: Okay. No questions? [LB531]

SENATOR NANTKES: Thank you. And with that, Senator, I'll waive my closing. [LB531]

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SENATOR JANSSEN: Oh, all right. Okay. Any proponents? Proponents? Don't all get up at once. Proponents? [LB531]

JAN MCKENZIE: (Exhibits 22 and 23) Senator Janssen, members of the Revenue Committee, for the record, my name, again, is Jan McKenzie, J-a-n M-c-k-e-n-z-i-e, representing the Nebraska Insurance Federation here today in favor of the concept and the beginning of the discussion in LB531. There are, as you'll note on the fiscal note, a couple of pretty ambiguous problems with the bill as it's drafted at present, including what the definition of a small employer, small business is, as well as what exactly are we talking about health insurance. It could be a very horrible plan and someone could still qualify for the credit. What I'm having distributed to you are two documents that have just been released by AHIP, which is the national trade association for health insurance companies. AHIP spent the last year beginning the dialogue on this very important topic about what is happening nationally. And these two documents look at what they believe is the responsibility and some guidelines for the federal government, for state policy makers, for insurers, for the health care industry, and I thought this might be a nice opportunity to provide those materials to you. We're very interested in what's beginning to happen at the federal level. The President's proposal, some bills being introduced in Washington, and I think this will be also what we're seeing in states such as Massachusetts and California and New York. So as Nebraska begins to tackle this problem as well, we think it's a good time to start dialogue using LB531. I would answer any questions you might have. [LB531]

SENATOR JANSSEN: Questions? Seeing none, thank you, Jan. [LB531]

JAN MCKENZIE: Thank you. [LB531]

SENATOR JANSSEN: Um-hum. Next proponent. [LB531]

PETE McClymont: Senator Janssen, members of the Revenue Committee, I'm Pete McClymont, P-e-t-e M-c-c-l-y-m-o-n-t. I'm VP of legislative affairs for Nebraska Cattlemen. We support this bill and its concept. Obviously, some of the concerns that Senator Nantkes raised would also be concurrent with what we would believe in some of the definitions. Less than 1 percent of our membership would employ over 25 people, and the vast majority of our members would employ 10 or less. So this is a good start, \$5,000 income tax credit. So it's something that we would support and I'd be happy to answer any questions, Senator and the committee. [LB531]

SENATOR JANSSEN: Questions? [LB531]

PETE McClymont: Thank you. [LB531]

SENATOR JANSSEN: Thank you, Pete, for being here. Next proponent? Any

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opponents? Any neutral? That ends the hearing and Senator Nantkes waived closing so Senator Langemeier. Can you beat that? [LB531]

SENATOR LANGEMEIER: What? [LB343]

SENATOR JANSSEN: Can you beat that last note? [LB343]

SENATOR LANGEMEIER: I don't think I'm going to beat that, but I do thank you for your patience. [LB343]

SENATOR JANSSEN: Yeah. [LB343]

SENATOR LANGEMEIER: And I thank you for the skin care tips, by the way. [LB343]

SENATOR JANSSEN: Go right ahead. The floor is all yours. [LB343]

SENATOR LANGEMEIER: Thank you. My name is Chris Langemeier, it's L-a-n-g-e-m-e-i-e-r, and Old McDonald had a farm (laughter). It's late in the day. I appreciate your willingness and your patience to be here and to listen to this. As we talk about economic development, that's always a key in this Legislature. It seems like everybody wants to talk about it. I think you can go back to our ethanol industry if you don't look too close at the epic funds portion of that. We have truly had some real economic development out there across this great state with the involvement of ethanol. LB343 takes us down another biofuels direction to biodiesel. This bill is somewhat mirrored as ethanol was. It is designed differently. It's got some more caps on it to try and avoid to end up in that epic fund problem that we have. However, we look at this as...and I want to call it rural economic development and how do my fellow Senators from Omaha think of that? Well, the reality is the majority of the ethanol industry, the majority of the biodiesel industry, however, has created a lot of great jobs right out in the communities across this state, still have put their corporate offices in Omaha, Nebraska. And so I thank them for that. It's getting economic development statewide in that regard. And so it's more of a tool to do some economic development in rural Nebraska as well as probably the higher end jobs, however, they have been typically very good throughout the ethanol industry out in the rural areas. The higher end are still in Omaha. I have a number of testifiers behind me that will talk about how they see this portraying out and I'm going to go through some of the details, the 30 percent of the \$250,000 and the 50 percent of the tax credit in my closing at the end. So I think you'll kind of get a feel of how this may be implemented in Nebraska and the impact it may have through the testifiers. And then we'll get into the fine-tuning of the actual numbers, which tends to be the more boring part of the process. So with that, I would go on to my questions or off to the testifiers. [LB343]

SENATOR JANSSEN: Questions? Ron. [LB343]

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SENATOR RAIKES: Chris, my understanding is with current grain prices and diesel fuel prices, this doesn't work. Is that right? [LB343]

SENATOR LANGEMEIER: There has been some question out there whether biodiesel is going to continue to grow due to the level of the price of soybeans versus the price of diesel. That has been thrown out there. It's an idea. [LB343]

SENATOR RAIKES: So \$2.50 diesel...what's the most you can pay for a bushel of soybeans to make it work? [LB343]

SENATOR LANGEMEIER: That I don't know, but I do have a testifier behind me that will be able to give you that information. [LB343]

SENATOR RAIKES: Okay. [LB343]

SENATOR LANGEMEIER: And then the one thing I do have you remember is right now 16-18 percent of the biodiesel out there is created by soybean. The majority is still canola oil and animal fats. [LB343]

SENATOR JANSSEN: Chris, one question. You can use animal fat also, can't you, in biodiesel? [LB343]

SENATOR LANGEMEIER: Right now that is the major producer of biodiesel is animal fats and recycled oils over soybeans themselves. [LB343]

SENATOR JANSSEN: Oh, I'll ask some more questions come the testifiers. [LB343]

SENATOR LANGEMEIER: Okay. [LB343]

SENATOR JANSSEN: Thank you. Anyone else? Okay, go ahead. [LB343]

STEVEN WELLMAN: (Exhibit 24) Good afternoon, Mr. Chairman and committee members. I'm Steve Wellman, S-t-e-v-e W-e-l-l-m-a-n. I'm a third generation Nebraska farmer from Syracuse and I am on the board of directors for the Nebraska and the American Soybean Association. Today I will present information about how much the biodiesel market is growing and where the growth has occurred. I will also discuss the economic impact of biodiesel production and marketing. A recent study completed by the Nebraska Soybean Association and the University of Nebraska states biodiesel is renewable thereby creating a sustainable economic stimulus in areas where biodiesel production facilities are located. According to the National Biodiesel Board, in 1999, biodiesel fuel consumption was less than five million gallon. By the year 2005, consumption was 75 million gallons and last year it reached 150 million gallons. These



numbers show dramatic growth in the consumption of biodiesel and the trend is expected to continue or even accelerate. It is predicted that the U.S. biodiesel production will reach between 650 million and one billion gallons by 2015. Let's take a closer look at production. By August of 2006, Texas produced more biodiesel than any other state. Most of that was from animal fats and cotton seed oil. Iowa was a close second. Minnesota was third. Nebraska does not show up on the production capacity charts supplied by the National Biodiesel Board. The top producing states, along with many others, have legislation that provides incentives for production, infrastructure or tax exemptions for biodiesel. And there is a chart with some maps in the back of your packet. And the states in the green are the states that have specific biodiesel legislation. And as you can see, Nebraska and a few others in this area do not. Minnesota took a little bit different approach. They have a requirement that all diesel fuels sold, except for diesel used by the railroads, contains at least 2 percent biodiesel. Minnesota's approach creates a definite retail market and a need for production and marketing facilities. According to economic analysis completed by John Urbanchuk of LECG, America's biodiesel industry will add \$24 billion to the U.S. economy by 2015. The effect of biodiesel on the economy includes the temporary impacts of construction, the permanent impacts of annual production and the direct value of biodiesel and its co-products. The ongoing annual operation of biodiesel plants offers the most significant impact on the economy. Biodiesel producers will invest at least \$810 million by 2015 to build new plants or expand on existing facilities. This construction will create as many as 11,700 jobs. The biodiesel industry will play a significant role in improving America's energy security. The biodiesel industry will displace 242 million barrels of crude oil by 2015. That is equivalent to \$13.6 billion that will not be spent on foreign oil. A study completed in December of 2006 by Donis Petersan of NPPD, estimated the economic effects of a 10 million gallon biodiesel production facility in non-metropolitan Nebraska. According to the study, this production facility would directly employ 12 workers. These workers would receive annual compensation of \$594,000. Annual property taxes for the facility are estimated at \$88,200. For this one facility, the 10 million gallon facility, the annual total value added to the economy would be about \$7 million. So for 10 million gallons of production it would add \$7 million to Nebraska's economy. This includes wages, indirect business taxes, rents, royalties, dividends, and the expected return to the investors. In August of 2006, the National Biodiesel Board showed 68 plants under construction and 14 plants being expanded. Although there is now some production in Nebraska, it is apparent we are losing economic development to other states. Nebraska has several competitive advantages for investment in the biodiesel industry. There is a consistent supply of various feedstocks that are competitively priced. The transportation system has access to the west and east coasts and the gulf markets, and facilities would have a relatively low cost for gas and electricity. So why is Nebraska's biodiesel industry progressing slower than many other states? We believe it is because Nebraska lacks competitive legislative incentives specifically for biodiesel. We believe favorable legislation is needed to encourage the development of Nebraska's biodiesel industry. The passage of LB343 would make substantial impact on Nebraska's ability to compete

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with other states for the millions of dollars that will be invested. Another important piece in developing Nebraska's biodiesel industry is making improvements in the distribution infrastructure. LB343 would encourage retailers and others involved in the distribution chain to make investments to improve the availability of biodiesel to the consumers. In closing, the explosive growth of the biodiesel market in the U.S. is obvious. What is not obvious is how much of the growth will be in Nebraska. The passage of LB343 will benefit Nebraska by attracting millions of dollars of economic development. Thank you. [LB343]

SENATOR JANSSEN: Any questions? Cap. [LB343]

STEVEN WELLMAN: Yes, sir. [LB343]

SENATOR DIERKS: Steve, the cost of constructing a biodiesel plant any place is much less than that of an ethanol plant. Is that right? [LB343]

STEVEN WELLMAN: It is a rule of thumb that the cost of production for a biodiesel plant would be \$1 per gallon. And I'm not sure how that would compare to ethanol. [LB343]

SENATOR DIERKS: It would be quite a bit less. [LB343]

STEVEN WELLMAN: Okay. [LB343]

SENATOR DIERKS: It doesn't require quite as large a physical plant either as I understand. [LB343]

STEVEN WELLMAN: It's actually a very simple process to make biodiesel and so, yeah, I would agree that the plant itself would not be as large. [LB343]

SENATOR DIERKS: I'm not sure who it was. I think it was probably Donis Petersan that did the study on the economic advantages of the plant up at Plainview after that Husker Ag Ethanol plant was in production. I believe, as I recall, the economic return after one year was \$65 million to that community. I may be off just a little bit, but I think that's about what it was. And if you had that same sort of economic incentive for biodiesel plant then you must be pretty close at, what did you say...for every ten... [LB343]

STEVEN WELLMAN: Ten million gallon plant would add \$7 million of economic development. That includes direct and indirect income or taxes. But none of that \$7 million includes any income tax that is paid by the profit from the investors or by any additional profit that the feedstock suppliers might make. [LB343]

SENATOR DIERKS: Well, I think on the study that Mr. Petersan did was...a lot of the

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impetus was on the sale of the distillers grain which they had trouble--I think they still do have trouble--finding enough distillers grain for the demand out there. And this stuff goes many miles away from Plainview as far as that goes. So I think maybe there's even more money realized than that \$65 million. [LB343]

STEVEN WELLMAN: Yeah, I don't know. That could be. [LB343]

SENATOR DIERKS: But I think the potential is just tremendous for biodiesel development. I really think they have to work for it. I just am encouraged by Senator Langemeier's legislation and I think we have to just go for it. [LB343]

STEVEN WELLMAN: Well, it seems that the investment is going to be made somewhere, and it's whether Nebraska can get a part of that or not and... [LB343]

SENATOR DIERKS: How many plants are being planned for Nebraska now? Do you know? [LB343]

STEVEN WELLMAN: I don't know that I can answer that right now. [LB343]

SENATOR DIERKS: Well, I've attended a couple meetings up in my district and they're looking at one over in Orchard. I'm not sure where that one has gone, but I know that they--this has been a couple years ago--and I think they had investors. I just haven't heard. But I know we do some crushing in Nebraska. [LB343]

STEVEN WELLMAN: Right. [LB343]

SENATOR DIERKS: And my thought was that we had enough soybean crushing in the state that we could take care of at least three refineries. So I... [LB343]

STEVEN WELLMAN: I think we'll have some information later on that will talk about the feedstock availability. [LB343]

SENATOR JANSSEN: Any other questions? Abbie. [LB343]

SENATOR CORNETT: You said that you couldn't testify to how many plants that they were looking at building in the state of Nebraska currently. Am I correct? [LB343]

STEVEN WELLMAN: Right. [LB343]

SENATOR CORNETT: Would you say that they are looking at building plants in the state of Nebraska? [LB343]

STEVEN WELLMAN: Yes, there are. [LB343]

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SENATOR CORNETT: And they're looking at building the plants currently, even though we have no incentive programs for biodiesel. Am I correct? [LB343]

STEVEN WELLMAN: Correct. [LB343]

SENATOR CORNETT: Okay, thank you. [LB343]

STEVEN WELLMAN: There's two plants that I do know of that are under construction or maybe one of them that's farther along than the other. Kansas, it was announced last week that the state of Kansas announced three plants being built for a total of 180 million gallons capacity. [LB343]

SENATOR CORNETT: And what is Kansas'... [LB343]

STEVEN WELLMAN: Kansas has a 30 cent per gallon incentive. Missouri has a 30 cent per gallon incentive on production in an annual production. [LB343]

SENATOR CORNETT: And how many plants are there in Kansas and in Missouri? [LB343]

STEVEN WELLMAN: I can't tell you for sure on the capacity on those. [LB343]

SENATOR CORNETT: Well, I mean how many plants, not necessarily capacity. [LB343]

STEVEN WELLMAN: I don't know that. [LB343]

SENATOR CORNETT: Five? [LB343]

STEVEN WELLMAN: Three? [LB343]

\_\_\_\_\_: Three. [LB343]

SENATOR CORNETT: Three...in..well, I'll wait until you testify. [LB343]

STEVEN WELLMAN: There's three new ones coming in Kansas. I don't know what they have existing. What I would think with this...if you figure that out for 30 cents per gallon on a 100 million gallon plant, that's \$30 million of incentive per year. And so that's nowhere...I mean, this bill, LB343, would not cost anywhere near that much money. [LB343]

SENATOR CORNETT: Okay, thank you very much. [LB343]

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STEVEN WELLMAN: Sure. [LB343]

SENATOR JANSSEN: Any other questions? I have one, Steve. [LB343]

STEVEN WELLMAN: Sure. [LB343]

SENATOR JANSSEN: Making us biodiesel, isn't it more of a mixing process than it is a distillation like ethanol is? [LB343]

STEVEN WELLMAN: Yeah, maybe somebody else can touch on that, but if you take like 100 pounds of the feedstock and add ten pounds of ethanol, and you get 100 pounds of biodiesel and 10 pounds of glycerine back. [LB343]

SENATOR JANSSEN: Okay. All right. Any other questions? Thank you. [LB343]

STEVEN WELLMAN: Sure. Thank you. [LB343]

SENATOR JANSSEN: Next proponent. This fellow is back there giving me hand signals on...so I bet he can answer some questions. [LB343]

RONALD R. DEMARAY: (Exhibit 25) I'll try to. I'm kind of new at this, too, but my name is Ron Demaray, and that's spelled D-e-m-a-r-a-y. I am chairman of the board of Horizons Biofuels Incorporated renewable fuels company that's based in Fremont, Nebraska. I appreciate the opportunity that the committee has given us to talk about producing biodiesel in Nebraska. The United States is a fuel hungry economy. We use 60 billion gallons of diesel fuel and distillates every year. Every day we burn over 164 million gallons, calculated to an hourly rate--6.8 million gallons an hour. You can put it in perspective by saying the time it takes to deliver this testimony our nation will have used over half a million gallons of diesel fuel and distillates. Over 325,000 gallons of that will come from imported oil. We're sending American dollars overseas by the billions for oil alone. Increasing the use and production of biodiesel is our chance to keep more of the money being sent elsewhere for oil, in America. There are 10 owners of Horizon Biofuels. We are small business owners and entrepreneurs who grew up in the heartland. Our pilot plant is in Arlington, Nebraska, and produces about 350,000 gallons of biodiesel a year using 100 percent animal fats. HBI is currently building a five million gallon plant capable of producing five million gallons a year in Fremont, Nebraska. We see biodiesel as not only an opportunity for us as business owners, but it also is an opportunity to provide jobs to rural Nebraska, a way through our industry to contribute to the health and well being of small communities in this state. Our investment in our new plant will exceed \$2 million in cash. We have invested thousands of hours in our project to date without remuneration just to insure the successful launch of our five million gallon plant. We are excited about what biodiesel can offer to America and rural

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communities. Some information about our operation right now. Our plant in Fremont will employ 10 employees. We're going to become a training facility for our future plants. We will pay almost \$9,000, is the property that we've made an offer on right now, in property taxes that will be before improvements made to it. We'll use \$135,000 of electricity and other utilities each year. These dollars go directly into the community. Payroll for the new plant will be around \$475,000 annually with most employees coming from the Fremont area. The plant, for years to come, will contribute local tax dollars, will use local resources, and provide good paying jobs. We have another plant on the drawing board that will have an annual capacity of 15-20 million gallons of biodiesel and employ up to 20 people. Incentives can help this industry grow as proven by the 2003 federal incentive to blenders. Production of biodiesel increased threefold from 2003 until 2006. Several states are adding or have started offering incentives for this business and some have already been discussed. A new one, Iowa Governor Chet Culver just announced a Power Fund that they're creating there with \$100 million over the next four years to stimulate growth of renewable energy production. And I think that covers all sources of renewable energy. He has asked for 2007, a budget appropriation of \$25 million to fund this in year one. However, when creating tax incentives for stimulating growth in this industry care needs to be taken to insure the incentives are directed at the correct place in the market. The purpose of the incentives need to be focused on the producer and the incentives should be protected from use by existing oil industry. We need additional infrastructure to insure significant production levels are achieved. According to the USDA, the United States produces over 11 billion pounds or 1.4 billion gallons of animal fats and used cooking oil. Biodiesel can be made from both animal fats and used cooking oil which is considered a waste product and many times disposed of in landfills just to get rid of it. Many of these gallons could be converted to biodiesel production and burned by our fuel hungry society. A waste and by-product turned into something many Americans use everyday. What a great idea whose time has come. According to the Nebraska Department of Agriculture website, the beef industry is the largest single industry in Nebraska. It's an aggressive, dynamic business. Productive range and cropland supports somewhere around 1.8 million cows. The abundant supply of water and generous feed and grain supplies have supported the expansion of the state's feedlot industry. Nebraska is now the number one marketer in fed cattle. This cattle industry provides large quantities of beef tallow, a wonderful source for feedstock for biodiesel. The Nebraska Pork Producers website states that the pork industry in Nebraska creates more than one billion dollars for the state's economy. This is a major contribution to the states economy. The use of choice white grease and technical lard will add to Nebraska agriculture and return dollars to Nebraskans that may have gone elsewhere. The Nebraska Incentive Program for ethanol producers helped establish the state as the second largest ethanol producer in the United States. We need additional incentives to help our fledgling industry build the infrastructure needed to produce significant quantities of biodiesel and help maintain Nebraska's position as a leader in renewable energy production. Let's all contribute to the health and well being of our country by keeping our American dollars working at home. Let's reduce the amount of

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money sent to troubled areas around the world. We are asking for your help and support of LB343. Thank you. [LB343]

SENATOR JANSSEN: Thank you, Ron. Any questions? Tom. [LB343]

SENATOR WHITE: Yes, sir. What is the economy or the economics of biodiesel produced from animal fat given current prices versus soy? [LB343]

RON DEMARAY: We would be hard-pressed to make it profitable at today's soy oil prices. [LB343]

SENATOR WHITE: No, I'm asking animal fat. [LB343]

RON DEMARAY: Animal fat, we're doing very well with that. In fact, I just took a call a few minutes ago that sold 60 percent of our production for the next five months at a profitable level. [LB343]

SENATOR WHITE: How much unused animal fat is available in Nebraska and how big is that market? [LB343]

RON DEMARAY: I wish I could tell you that. It's difficult... [LB343]

SENATOR WHITE: Because you compete with edible oils, don't you? Don't they also use animal fat to mix with other food ingredients? [LB343]

RON DEMARAY: Yes. The way I understand it, most of the animal fat is used in feed production, somewhere in pet food production. And I'm not sure what those numbers are, the very specifics of that, but I know that a great deal of it's used in feed production. But all we've talked to about the quantities that are available to build plants seems that there's more than enough available. In fact, we've even been able to use some technical lard the last few months, which is the same as edible only without the USDA stamp, and it's a much higher value product and we're buying it for much less than market price. [LB343]

SENATOR WHITE: Thank you. [LB343]

SENATOR JANSSEN: Cap. [LB343]

SENATOR DIERKS: Who is the buyer of your product? [LB343]

RON DEMARAY: We sell all of our products that we produce today through ConAgra Trade Group in Omaha. [LB343]

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SENATOR DIERKS: And they sell it as part of the diesel fuel? [LB343]

RON DEMARAY: Yes. We make ASTM quality diesel fuel. Some of that is sold locally, some is sold as far away as Indiana. [LB343]

SENATOR DIERKS: Is there any tax incentive for ConAgra to buy that at this point? [LB343]

RON DEMARAY: No. [LB343]

SENATOR JANSSEN: They've already got one. [LB343]

SENATOR DIERKS: What? [LB343]

SENATOR JANSSEN: They already have one. [LB343]

STEVE WELLMAN: You know, we have a plant that half the ownership for our company is here in Nebraska, half is in Kansas. I own a business in Kansas, a business here, and farmland in Iowa. So I have a lot of interest in all three Midwest states, and I think the incentives are really key to seeing this thing go forward quickly. [LB343]

SENATOR DIERKS: One of the problems that I had with the sale of ethanol was that the people that invested in the plants would soon lose control of the product, that it would be in the control of corporate America and that they would eventually own the whole process. And I just would like to see some way that the incentives we do for diesel would allow for some sort of independence as far as where the product goes and who has control of it. [LB343]

RON DEMARAY: Um-hum. We're trying to develop more of the...we're going to hold some educational meetings in the next month and a half for potential local users of biodiesel and some already are using it. And we have some things to learn about handling biodiesel in winter months. And once we get some of those things figured out it will be available on a more year round basis in the local areas. [LB343]

SENATOR DIERKS: Thank you. [LB343]

SENATOR JANSSEN: Tom, do you have a question? Abbie has one. [LB343]

SENATOR CORNETT: You own land in Kansas, correct? You said and Iowa? [LB343]

RON DEMARAY: I have my family farm. I grew up in Iowa. [LB343]

SENATOR CORNETT: And does Iowa offer incentives on biodiesel? [LB343]



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RON DEMARAY: Yeah, they have a number of incentives that they...and I can't tell you the specifics of it because there's a lot of things they've done with their renewable energy. [LB343]

SENATOR CORNETT: Then if Nebraska has no incentives why did you start the plants here? [LB343]

STEVEN WELLMAN: Well, because four of the people that we chose to go into this business with were from Nebraska and the availability... [LB343]

SENATOR CORNETT: And you were able... [LB343]

STEVEN WELLMAN: Well, and the availability of the product for our first plant. [LB343]

SENATOR CORNETT: And you were able to make a profit in the state of Nebraska currently without incentives, correct? [LB343]

STEVEN WELLMAN: Right. [LB343]

SENATOR CORNETT: And other companies are looking at building plants here currently, correct? [LB343]

STEVEN WELLMAN: As far as I know. There's currently one under construction that's close to being operational and then I think there's ours and one other one that I'm aware of. [LB343]

SENATOR CORNETT: Okay. Thank you very much. [LB343]

SENATOR JANSSEN: One of the reasons that you use a lot of animal fat is because of the availability here in Nebraska, because we do slaughter a lot of cattle, process a lot of cattle in Nebraska. [LB343]

RON DEMARAY: Absolutely. We looked hard at going to Kansas for our first large plant, but because of the location in Fremont, the availability of some property there, the railroads, we were close to the packing plant, we thought Fremont fit our bill better than going to a location in Kansas. [LB343]

SENATOR JANSSEN: We also have a Hormel plant there, too, that you can purchase animal fat from. [LB343]

RON DEMARAY: Yes, that's where we get our fat now. Um-hum. [LB343]

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SENATOR JANSSEN: You also have some competition for animal fat with the dog food plant, isn't that correct? [LB343]

STEVEN WELLMAN: Oh, yes. Yes. [LB343]

SENATOR JANSSEN: They buy a lot of animal fat also. [LB343]

STEVEN WELLMAN: Yes. Yeah, I think the competition...I can tell you this. When we first started buying animal fat from Hormel we paid about 12.5 cents for what they call choice white grease, which is really the better stuff. Looks better than the brown stuff. But we're paying around 19.5 cents a pound for it today and it paid as high as 20.5. They'd love to index the soy oil price, I know. [LB343]

SENATOR JANSSEN: Oh, I imagine. [LB343]

STEVEN WELLMAN: But somebody makes that extra money that is being created. [LB343]

SENATOR JANSSEN: That's why they trim their pork loins the way they do. [LB343]

RON DEMARAY: Yes, that's right. [LB343]

SENATOR JANSSEN: They have a market for the lard. [LB343]

STEVEN WELLMAN: Yes. [LB343]

SENATOR JANSSEN: Any other questions? Thanks for being here today. [LB343]

STEVEN WELLMAN: Thank you. [LB343]

SENATOR JANSSEN: That was very interesting. [LB343]

STEVEN WELLMAN: Thank you. [LB343]

MICHAEL KELSEY: Good afternoon, Senator Janssen and members of the Revenue Committee. My name is Michael Kelsey, that's K-e-l-s-e-y. I serve as executive vice president of the Nebraska Cattlemen and I'm here to provide testimony in support of LB343. I'd like to begin by thanking Senator Langemeier for sponsoring the bill and I'd also like for the record to show that I would like to thank the Nebraska Soybean Association for fostering a cooperative spirit in the discussion of this important topic. I would first like to address Senator White's question regarding unused animal fat. There's nothing unused. In fact, you've heard that we harvest and utilize everything but the moo. That is correct and, in fact, we are actually recording some and plan to go on

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tour with some moos here before long (laughter). So, no, I'm joking. But we seriously utilize everything in terms of in everything has a value as does animal fat. And I wanted to provide, very quickly, just some facts and figures in terms of the cattle industry and I can only speak from that aspect. And then, very quickly, some closing comments on the bill. In terms of tallow, which is how it is termed, the amount of tallow per animal is very dependent upon several factors. Chief among those would be yield grade, whatever the animal yield grades, and then also live weight or carcass weight. According to, and how tallow is valued at the processing level is what is called a drop credit or a drop value. I backed up these figures on Monday. And this is for an average of a 1,275 pound steer, which would be current right now, you would see about \$14 per head in the drop value of the animal in terms of tallow. What that works out to is about \$1.10 per hundred weight. That's actually split into two categories. One would be edible tallow, which is valued at 26 cents, right now, per hundred weight, and then 84 cents in hundred weight in non-edible tallow. And the reason for that is an animal produces more non-edible tallow than it does edible tallow. So if you did some multiplication there you'd come out to about \$1.10 per hundred weight which would give you about \$14 per head. We process 7 million head of cattle in the state of Nebraska. We are the number one red meat exporter, before December 23, 2003, and we hope to regain that very quickly. Not all of that tallow will go into biodiesel processing. Certainly a large quantity of it could, and it would add value if it were able to do so. One of the reasons that you see not too many plants, in our opinion, in the state of Nebraska at this point, if you'll look at where most of the plants are right now they're in the south. And one of the primary reasons for that is temperature. One of the difficulties in dealing with some of the technology in biodiesel is it gels at very high temperatures from animal fat at close to 58 degrees. That makes it very difficult to use unless you add some additives that would allow it to have its liquidity and flow. One, and it's typical in most technologies, is as soon as you adopt a technology, it's obsolete and there's a new one right behind it. We all have that problem with our computers. We understand that there's a process using renewable diesel, which is somewhat of a broad term, but using it more broad, if you will, and specifically in biodiesel there's new technology that's called renewable diesel that actually alleviates a lot of that gelling problem. The question that we've had and we've communicated with Senator Langemeier's office in this, is it's our understanding that the bill is limited to B100, which is specifically some of--if you'll allow me to use this term--some of the older technologies. And this may just be some technicalities in terms of the bill, but an opportunity to include some of these newer renewable diesel processes that may be advantageous or make Nebraska more advantageous in that the sense of the supply that we have. Again, thinking that gels at 58 degrees in terms of animal fat, that's why you see a lot of the plants in the south, specifically using--at least in Tyson's case--using a lot of chicken tallow. So we would love to see the opportunity for our beef industry to be able to utilize this type of technology in the state of Nebraska and I think it's an awesome opportunity for us to look at some added value opportunities. With that, I'll close my testimony and offer any answers if I could. [LB343]

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SENATOR JANSSEN: Any questions? Seeing none, thank you. Any other proponents? How many more proponents do we have? You know, it's pretty late. Why don't you consolidate your statements and one or two of you deliver them to us, would you please? [LB343]

DEBBIE BORG: (Exhibit 26) Good afternoon, Chairman Janssen and committee members and thank you for giving me the opportunity. I've passed out written testimony and I'm going to summarize it... [LB343]

SENATOR JANSSEN: Good. [LB343]

DEBBIE BORG: ...or go over it quickly. I'm Debbie Borg, B-o-r-g, a mother, a farm wife, soybean producer from Allen, Nebraska. I currently serve as the vice chairman of the Nebraska Soybean Association and I'm here to speak in favor of LB343. The benefits of biodiesel are many. We've heard about the economics which is the big thing, but what I'd like to tell you about is what it can do for our health and our environment. Biodiesel is safer for people to breathe. Research conducted in the U.S. shows biodiesel emissions have decreased levels of all target polycyclic aromatic hydrocarbons, PAH, and nitrated PAH compounds, as compared to petroleum diesel exhaust. These compounds have been identified as potential cancer causing compounds. Yes, breathing in biodiesel is better for our lungs and hearts. When it comes out the exhaust pipe, it even smells better than diesel smoke. Biodiesel can smell like french fries. This past September at the first Air Quality and Alternative Transportation Fuel Forum, attendees learned about the important role biodiesel can play in reducing harmful emissions and improving air quality. Dr. Robert McCormick, U.S. Department of Energy National Renewable Energy Laboratory Principal Engineer presented the latest biodiesel emissions data, including a blend of 20 percent biodiesel, which is 20 percent biodiesel, 80 percent traditional petroleum. That can reduce particulate matter emissions by more than 20 percent based on heavy duty vehicle testing. And biodiesel blends significantly reduce toxic compound emissions. Plus, biodiesel is nontoxic and biodegradable. Tests sponsored by the United States Department of Ag confirm that biodiesel is ten times less toxic than table salt and biodegrades as fast as dextrose, a test sugar. In summary, passage of LB343 will make Nebraska competitive in biodiesel development and production. While at the same time allowing us to continue to be a leader in providing renewable fuels for our citizens and our country. As a mother, it's better for my kids. As a farmer it keeps our rural economies thriving. And as a concerned citizen it is better for the environment and biodiesel can help reduce our dependency on foreign oil. I ask you to support LB343. [LB343]

SENATOR DIERKS: Thanks, Deb. Thanks for coming. Questions for Debbie? We're kind of down in numbers, folks. Anyway, can you tell us, are you familiar with any particular diesel plant under construction plans up in your country? [LB343]

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DEBBIE BORG: No, there is not any that I know of being discussed in northeast. Well, Scribner, if we want to call that northeast. Scribner is under production. [LB343]

SENATOR DIERKS: Yeah, okay. Thanks for coming, Deb. [LB343]

DEBBIE BORG: Did somebody have a question earlier about the cost to a retailer or how much a gallon of biodiesel cost? [LB343]

SENATOR DIERKS: I think that Senator White asked a question about that. [LB343]

DEBBIE BORG: Okay, I have the answer. [LB343]

SENATOR DIERKS: Okay. Well, just tell us for the record. [LB343]

DEBBIE BORG: Biodiesel fuel cost to a retailer is \$1.86 after the blender's credit, which is \$1 per gallon. [LB343]

SENATOR DIERKS: Okay, thank you. [LB343]

DEBBIE BORG: Thank you. [LB343]

SENATOR DIERKS: Next proponent, please. Patrick. [LB343]

PAT PTACEK: Senator Dierks, members of the Revenue Committee, my name is Pat Ptacek, that's P-t-a-c-e-k. I'm an executive vice president of the Nebraska Grain and Feed Association. We represent about 85 percent of the storage capacity in the state of Nebraska. Additionally, we have eight of the current ethanol facilities as members of our association and two of the emerging biodiesel fuel facilities as members of our association as well. I just want to appear today in support of this. I think it's a very first positive step to send that signal to a lot of country elevators and cooperatives out there that are positioning themselves for the long haul for biofuels, some seeing it as a threat, most having to realize it has to be an opportunity because the federal signals have already been sent that this is going to be around for awhile. So we need to adjust that pattern, that transportation pattern. And as a matter of fact, I will tell you that there's a member in western Nebraska, Crossroads Cooperative, I believe in Sidney, Nebraska that did obtain a \$200,000 federal grant to look at the feasibility of mustard seed in bioproduction out there. Of course, they don't grow a lot of soybeans in western Nebraska, but certainly that is another value added process our cooperatives and country elevators are looking to give to that. And if we can keep that capacity here in the state of Nebraska as opposed to trucking it to the Bunge plant in Council Bluffs, so be it. And that's all I have to say today. [LB343]

SENATOR DIERKS: Thanks, Patrick. Anybody got a question for Pat? It's kind of

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exciting, isn't it, to think we might be able someday to produce all the fuels we use on the plains and the Nebraska farms? [LB343]

PAT PTACEK: Absolutely. And Senator, I would encourage you to talk to the Union Pacific because behind the Navy they are the second largest purchaser of diesel in the United States. [LB343]

SENATOR DIERKS: Okay. I'll be visiting with them. [LB343]

PAT PTACEK: Absolutely. Thank you. [LB343]

SENATOR DIERKS: Thank you very much, Pat. Next proponent, please. [LB343]

ROBERT BYRNES: Good afternoon. My name is Robert Byrnes, B-y-r-n-e-s. I am here representing myself, Nebraska Renewable Energy Systems, and Northeast Nebraska Biodiesel. I'd like to thank Senator Langemeier for introducing this bill and the others who were involved in the development of this bill. In addition to being the first commercial producer in the state of Nebraska, I initiated the idea for this five million gallon biodiesel plant in Scribner and I'm working with other facilities in various stages of development all across the state. There have been two projects that have been disbanded up to this point, but there are 6-7 projects that are currently in the planning and development stages. There are two under construction. The Northeast Nebraska Biodiesel facility will be the first million-plus biodiesel facility in this state and it's charted to start here in about 60 days. The facility is also 100 percent ag producer owned, uses 100 percent Nebraska feedstocks, primarily soybean oil, and will supply 100 percent of its fuel to Nebraska suppliers. This model for development offers the best opportunity to leverage economic development, environmental and national security aspects of biodiesel production. Biodiesel is a newer technology and this bill will help mitigate the perceived risk in investiture in such facilities. Facilities that attract higher investor ownership, like Scribner, will be in a much better position to weather the storms that will come as we currently see with current soybean oil prices. This higher investor ownership will both help the facilities weather storms and maximize economic return opportunities to the taxpayer that may be involved in the development of this facility. The northeast--I'm talking about the Scribner facility--Northeast Nebraska Biodiesel is 100 percent ag producer owned and financed. When we started the Scribner facility over a year ago, the soybean oil was at 23 cents a pound which was its 10 year average value. It is now 30 cents a pound and futures are looking higher. This project would currently close the doors if it did not have the high level of investor ownership. If we had bank payments to make, you know, we'd be dead in the box with these kinds of economics. The producer ownership is an important factor, in our opinion, that will enhance the stability of these facilities. I would like to make a suggestion for the committee's consideration and then I have some comments in representation of others here today. The tax credit toward investiture will encourage investiture and therefore

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development of the biodiesel industry in Nebraska, but it will not provide the plants the safety net this budding, fledgling industry needs. Plants like Scribner and others will need some time to change the way the oil is procured and brought into the facility. This includes changes in oil seed crops, processing, and feedstock development. Actually, 18 percent oil soybean, 43 percent oil sunflower is dwarfed by 60 percent algal oil sources. So there's a lot of technology out there that can enhance the feedstock pool that biodiesel facilities will be able to draw from. And most of those, the best opportunities, are not what we're currently using. A production incentive like in Kansas would be, in my opinion, the best way to insure that this fledgling industry has a safety net so that it can transition into a better feedstock pool that's going to be available longer term. Challenges to vegetable oils will continue. Also, I'd like to also mention what are some of the promising feedstocks that we have at this point include sunflower, and this is growing rapidly across the nation--interest in sunflower. Sunflower is a dry land crop. Sunflower can grow on marginal land. Sunflower can be raised in areas where corn and soybeans cannot be raised and add value to agricultural land that otherwise cannot be gained. Nebraska Farmers Union is a proponent of this bill. The Nebraska Sierra Club is a proponent of this bill and there is one development group in the room today that is on the border--literally, on the border--in the decision-making process as to whether they're going to locate in Nebraska or Kansas. So as we saw in the ethanol industry, it was the incentives that actually got the train really rolling. So I would ask your consideration for this bill. Thank you. [LB343]

SENATOR JANSSEN: Any questions? Seeing none, thank you. [LB343]

BURDETTE PIENING: (Exhibit 27) Senator Janssen and members of the Revenue Committee, good afternoon. I know it's late. I am Burdette Piening. I'm a farmer from Lancaster County here and I'm also a member of the Lancaster County Farm Bureau. I'm here today on behalf of the Nebraska Farm Bureau to offer support for LB343. Farm Bureau policy supports renewable fuels production and the development of programs to maintain and grow a viable renewable fuels industry in Nebraska. Farm Bureau policy also speaks to keeping our industry competitive with other states. As a farmer and soybean producer, biodiesel particularly, that made from soy oil, represents an opportunity to expand a domestic market for home grown Nebraska soybeans, much like the ethanol industry has done for Nebraska corn and grain sorghum producers. As others testified and have eluded to, providing an incentive for individuals to make investments in these types of alternative fuels production facilities is a good step that represents a win-win opportunity for Nebraska and Nebraskans. In closing, we appreciate your consideration of these comments and encourage the committee to support LB343 and advance the bill to General File. Thank you. [LB343]

SENATOR JANSSEN: Thank you for your testimony. Any questions? Seeing none, thank you for being here. Any other proponents? Any opponents? Anyone in a neutral capacity? Got one neutral back there. [LB343]

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LOREN ISOM: (Exhibit 28) Thank you. I'm Loren Isom with the University of Nebraska, Industrial Ag Products Center. [LB343]

SENATOR JANSSEN: Would you spell your last name, please? [LB343]

LOREN ISOM: I-s-o-m. And I'll try and summarize. I've got a handout going by here. But as a representative of the University of Nebraska, I've been working with biodiesel for two or three years. The past two or three years I was very intensely looking at providing information to potential investors that are wanting to get accurate information before they make their decisions on that. But my interest today isn't on for or against a specific incentive, but to give support to the effort of providing value added processing in the state of Nebraska. Some of the points that I have in my handout have already been touched today as far as the soybean and the cattle industry. But currently, as far as what we estimate, that Nebraska processes, I guess first--if we processed everything, all the soybeans and all the cattle, and took all the fat components from that that could potentially be a 400 million gallon a year market. Not all that is going to happen, but if you look at what we already process in the state, we probably could process about 220 million gallons of biodiesel in the state with processing that's already taken place--the soybean crushing, the livestock industry. If you look at just what roughly that's based on processing approximately 50 percent of the soybeans that we produce in the state. It's 200 million bushels. We export at least half of that. And if we'd process that in the state, that could add additional resources from the soybean oil. Then if you think of other areas such as were discussed, other crops that could be more valuable, that could go up the other area. I wanted to...hasn't been discussed yet is the corn oil from our ethanol processing and that the DDGs typically are limited in their feed amount partially because of the fat content in the feed. So if we had technologies to extract that oil, that could be another very large component. I've outlined some situations there, but they're very rough estimates, because the technology is just evolving and there's no plants that are currently doing any of the extraction of that. But as far as the industry is looking at it--the biodiesel industry that is--and the ethanol industry, they're looking at ways where they can do that for the multiple reasons. And I think as we see the margins for the ethanol plants that have been reduced in the past six months or so, they're now going to be more interested in looking at how can we add more value to our products out of co-products? So I think we'll see some more interest in that coming up. Just roughly on the biodiesel, it's very easily substituted for petroleum diesel at any level. So you can use it up to a neat level, more commonly it's at a B20 or a B5 blend or sometimes even lower. But even if we process all of the feedstocks in the world, meaning all the soybeans produced, all the canola produced, you can only meet about 12 percent of the world demand for diesel fuel. Things pretty much the same on the U.S. If you're crushing all of the U.S. oils and fats, that would only meet about 12 percent of the demand. So the conclusion that I draw from that is that the feedstocks in Nebraska are going to be used for biodiesel depending on the price. Food value is always going to



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prevail, but we have a lot of feedstock available that will be used and if we don't process it in Nebraska, somebody's going to be buying soybeans from Nebraska to crush them some place else and process them to biodiesel. So that's where my interest is and let's capture the value added in the state or even in the case of animal fats. Again, somebody's going to be buying animal fats off the market and if we're not process them here, they're going to buy our animal fats that are the cheapest biodiesel feedstock and they'll process those. We may as well process them here and if we need to sell the biodiesel down to southern states then, you know, we take that advantage. The other point, it was kind of talked about some, on the plants, the numbers of two existing plants--one of 50 one at five--is information I got from the Nebraska Department of Environmental Quality. They also had a list of seven other entities that had expressed interest in finding out the permitting regulations for biodiesel production. So there's interest out there and it hasn't moved forward yet in the permitting applications. But I believe Nebraska has a great potential to add value to the raw commodities we produce and that value processing will have a positive economic impact. That was discussed a little bit. And then if you're interested in further information, I've provided a list of resources, but also I'd like to offer the invitation on behalf of the university that I could coordinate other faculty members to come and give a presentation that would specifically address issues that you may have. If we can outline that. And I know the agriculture hall would be willing to help facilitate that as well as the Industrial Ag Product Center. So any questions? [LB343]

SENATOR JANSSEN: Any questions? Carroll. [LB343]

SENATOR BURLING: Thank you for coming and sharing that information with us. There's currently an additive you put in diesel fuel for flow in cold temperatures. Biodiesel takes more of that additive than petroleum diesel. Is that true? [LB343]

LOREN ISOM: Well, because its cold flow properties are higher, its gel point is higher, yes, you would need to use more of the additive to get to the same point. But most of our fuels are consumed at a B20 or below level and so even if you're using animal fat...I was at the National Biodiesel Conference just earlier this week and they referenced that even animal fat at 20 percent blend probably only decreases the cold flow properties about I'd say 4 degrees. Especially when you use it at the 2 percent blend level, or five, you really have a very negligible decrease in cold flow properties for the end fuel. The complication comes with the fuel handlers and distributors, because they're having to handle a product with animal fat that would gel at very temperatures. So they would have to probably use a truck that could maintain the heat in the wintertime so they could off load properly, or steam-jacketed vessels that they could warm up. [LB343]

SENATOR BURLING: Is there any technology available today that you could use any amount of biodiesel for jet fuel considering the cold temperatures? [LB343]

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LOREN ISOM: There's some research done on that, but I don't believe that, it was talked about at the national meeting, and about that being a potential market, but it's not something that they would consider commercially available today. [LB343]

SENATOR BURLING: Okay. [LB343]

SENATOR JANSSEN: Any other questions? Seeing none, thank you. Any other neutral? Seeing none, Senator Langemeier to close. [LB343]

SENATOR LANGEMEIER: Again, I thank you for your patience. When we started to formulate LB343 we looked at Kansas, we looked at Missouri, we looked at Iowa, and we looked at do we want to go head to head with what they incentivize. Their plans would be extensively more intense, more high dollars than what we've offered here, but we felt Nebraska offered a number of facets that made Nebraska more attractive in the first place. So what could we offer that would make them go over the edge? We have an example of a plant that can go up in McCook, Nebraska and then go into Kansas and reap a \$3 million benefit. This particular bill would cap that at \$250,000. We think that's a high enough level to start the process. And if nobody uses it then maybe we're back to make that adjustment at a later date. And then one other feature in this bill is 51 percent Nebraska ownership. I think that was some discussion Senator Dierks had there. I think that's a very important facet out there. And so with that I would conclude my testimony and we'll talk about that in detail later, too. [LB343]

SENATOR JANSSEN: Any questions? All right, Carroll. [LB343]

SENATOR BURLING: Senator Langemeier, plants currently under construction could not benefit from this bill? Is that true? [LB343]

SENATOR LANGEMEIER: Currently, the way it is written, currently under construction you could not. We are going to talk with Nebraska Cattlemen. They brought up the idea of some of the other type of products out there other than the B100. We will talk to them and see if we can...if the committee feels this is a viable option to make sure we include everybody. [LB343]

SENATOR JANSSEN: Any other questions? Thank you, Senator Langemeier. That ends the hearing on LB343, ends the hearings for today, and we are not going into exec today (laughter). [LB343]

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Disposition of Bills:

LB488 - Advanced to General File, as amended.  
LB648 - Indefinitely postponed.  
LB512 - Indefinitely postponed.  
LB514 - Indefinitely postponed.  
LB531 - Indefinitely postponed.  
LB343 - Advanced to General File, as amended.

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Chairperson

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Committee Clerk