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Natural Resources Committee
February 19, 2009

[LB471 LB567 LB591 CONFIRMATION]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, February 19, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on a gubernatorial appointment, LB591, LB471, and LB567. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Tanya Cook; Deb Fischer; Ken Haar; Beau McCoy; and Ken Schilz. Senators absent: None. []

SENATOR LANGEMEIER: Natural Resources Committee. I'd like to welcome everybody that's here in the crowd and those that are watching on the closed-caption and those that are watching on our new live Internet feed, as we strive to be more transparent to the public and their input. My name is Chris Langemeier, I'm the Chairman of the Natural Resources Committee. I'd like to introduce the people around us today. We have a couple senators that are introducing bills in other committees so they're not with us quite yet but they will come in over time. To start off we have Barb Koehlmoos, who is the committee clerk to my far right or your far left; then we have Senator Tanya Cook from Omaha, District 13; then we have Senator Tom Carlson from Holdrege, District 38; Senator Deb Fischer is just walking in the door from Valentine, District 43; going out to my far left or your far right we have Senator Beau McCoy from Omaha, District 39; Senator Ken Haar is absent but will be here, he's introducing a bill in another committee, he's District 23 in Lincoln; and we have Senator Ken Schilz from Ogallala with us, District 47; and then we have the Vice Chair of the committee is Senator Annette Dubas from District 34, excuse me; then we have Laurie Lage is the legal counsel for the committee; we do have two pages that will be helping you if you have something you'd like to hand out and we have Justin Escamilla from Scottsbluff, Nebraska; and Melinda Frevert from Omaha, Nebraska helping with us throughout our hearing process. At this time I would ask that you turn your cell phones off to not interrupt those that choose to come up and testify. If you do choose to come up and testify today, I ask that in the corners of the room you will find these green sheets. I would ask that you fill it out in its entirety. It allows us to keep a record that you were here and that we have your name and everything spelled correctly. And as you come up I would ask you to hand that to the committee clerk, hand it to Barb as you come up. If you're here today and you don't want to testify on a particular bill but you want to be on the record that you were here, there's also this form in the back that you can sign in with your name and address and the bill number and whether you support or oppose. And you don't have to do that but if you want to be on the record that you were here and in some form or another, please fill that out. At this time we're going to start. We have a confirmation hearing first, and so I would open that. We have Mark Spring (sic), did I say that right? [CONFIRMATION]

MARK SPURGIN: Spurgin. [CONFIRMATION]

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SENATOR LANGEMEIER: Spurgin. Okay, I was way off. Mark Spurgin, thank you, has been appointed to a term starting January 16, 2009 and ending February 15, 2014 on the Nebraska Game and Parks Commission. Welcome and come on up.
[CONFIRMATION]

MARK SPURGIN: Chairman Langemeier, fellow senators, I'm Mark Spurgin. Okay.
[CONFIRMATION]

SENATOR LANGEMEIER: Go ahead and have a seat, thank you. If you state and spell your name and. [CONFIRMATION]

MARK SPURGIN: Mark Spurgin, M-a-r-k S-p-u-r-g-i-n. [CONFIRMATION]

SENATOR LANGEMEIER: At this time, tell us a little bit about yourself and why you want this position. [CONFIRMATION]

MARK SPURGIN: (Exhibit 1) Okay. I'm a farmer/feeder in Paxton, Nebraska, area...Keith County. I graduated from school at Paxton Consolidated Schools and went to the University of Nebraska and graduated from the University. And from there I joined the Nebraska National Guard and also worked for Keith County Bank and Trust, now Adams Bank and Trust for five years. After the five years, my dad's health was not real good so he wanted to know if I could come back to the farm and I did and then two years later he passed away and we went from a dryland cropping operation to a dryland irrigated operation and we had found out that we had a lot of bushels of corn to get rid of and we weren't too good of marketers so we thought we'd get into the cattle business. And then once we got into the cattle business we found out that it was a disease that you can't cure, so you stay in it for life. And we're still feeding cattle. Our operation grew from about three circles of corn to now we have about 30 irrigated circles that we grow popcorn, soybeans, irrigated wheat, edible beans, and corn on. It keeps us pretty busy. I think that the reason that I think that I would like to be on this commission is that I have a good understanding of agriculture and the natural resources in western Nebraska. I'm also a hunter, upland game, waterfowl, deer, and turkeys. I live at Lake McConaughy, which is one of the recreational hot spots of Nebraska. I think that through my military experience, it's developed some of my leadership qualities and also gave me a chance to associate with a lot of different people. And through being involved in the cattle industry, you network with a very good group of individuals. And I think that all in all, I can represent our area very well. I am an avid listener and I found out since being appointed and having my name in the paper, there's a lot of people that like to make sure that their views are looked at or at least listened to. I think you probably find the same thing too. It was amazing, it was no longer, the first time it was in the paper, the next day I went to a meeting and we didn't talk too much about the meeting, we talked more about Game and Parks than anything else, so.
[CONFIRMATION]

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SENATOR LANGEMEIER: Very good, very good. Are there any questions? Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Senator Langemeier. Mark, you partially answered this but you are new on the commission and have you had enough briefing that you have an idea what the real challenges are and how you could help meet either that challenge or those challenges? [CONFIRMATION]

MARK SPURGIN: Well, I...just brief, I noticed that the number of hunters is decreasing and that's one of my objective is to see that number increase, and not only in young hunters, but I think in retaining our older hunters. Because the biggest share of young hunters come from older hunters who still have that place to hunt. And that's what I think is one of downfalls with our system in Nebraska. Probably our biggest asset is private property, and it's probably the biggest liability for hunting because there's only takes a few bad apples to spoil the whole barrel of apples. And I think that's what happened in the past with the Nebraska hunting. They just...they'd just give permission to somebody to hunt, they'd hunt on someone else's property not knowing that, but some of them did know it and then they found out that they were on somebody else's property by that landowner and he was upset. And so landowners just started leasing their property out. I might mention that our place, we do not lease any of it for hunting. The way to access our property is by asking and getting permission and we do that. And we haven't had too much problem. But I think obtaining access to hunting areas is another problem. But I'm thinking what the Nebraska Game and Parks has come up with as far as paying landowners to be able to hunt and fish in certain areas is a way to open a door to this. [CONFIRMATION]

SENATOR CARLSON: Do you hunt waterfowl? [CONFIRMATION]

MARK SPURGIN: Yes. [CONFIRMATION]

SENATOR CARLSON: What's happened in the last 10 or 15 years? Is that conditions there improved or gotten...lost my word, depreciated or help me out, Senator Fischer. [CONFIRMATION]

SENATOR LANGEMEIER: Deteriorated? [CONFIRMATION]

SENATOR CARLSON: Deteriorated, conditions around your area? [CONFIRMATION]

MARK SPURGIN: Well, in last five to seven years the ducks haven't been coming in our area. There was, I think, I mean I attribute it to the closing of the Canadian border to our livestock. That was in 2003, and that's when our duck hunting went downhill is from that time on. And since they've reopened it, I think they forgot to tell the ducks. (Laughter)

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But our duck hunting has gone downhill and I don't know what that...I think what happens is the hunting or the habitat in North and South Dakota has changed. They have irrigated corn, they have lots of water. And ducks are a type of a bird that they wait until they're run out of food before they go south. Some of the other migratory birds, they kind of...they know it's the 15th of October, they say we'd better get to going south and they stop on their way. But ducks don't seem to do that and I'm thinking that they stay there, then all of a sudden they get snow covered and then when they get up and start going south they see a little snow in our area and they go on south. I don't know. But our duck hunting has not been good the last few years. [CONFIRMATION]

SENATOR CARLSON: Okay. Thank you. And I asked that intentionally because I think part of the problem is the ducks can't see the Platte River anymore and we need to take care of that. (Laughter) [CONFIRMATION]

MARK SPURGIN: I agree with you 100 percent. And the birds don't like that foliage on the...they like it to be open so they can see, so. [CONFIRMATION]

SENATOR CARLSON: No they don't. Thank you. Thanks for that opportunity. [CONFIRMATION]

SENATOR LANGEMEIER: We always come to that opportunity. Are there any other? Senator Schilz. [CONFIRMATION]

SENATOR SCHILZ: Thank you. Well, Mark, at least you're pretty quick on the uptake there. More a comment than a question. I've known Mark quite a few years and he's known me and I think he's just one of the best people we could have picked to put in this position. I do have a couple questions for you and as you know out west in our area, whether it's perceived or real or not, we always seem like we struggle for staffing and just figure some people just consider the maintenance of the parks and getting the improvements and things like that. How do you...and I'm not saying that we expect you to work miracles like some of our other western folks have done, but we'd like to see that again. How do you plan on representing us out there on those issues? [CONFIRMATION]

MARK SPURGIN: Well, I realize...I mean, it's like anything else you have situations out there that need attention but you don't have the manpower to fulfill. And with the budget situation the way it is and is going to be, it's going to be hard to do that. Just hope that maybe we could get the public to sort of police themselves and if we could do that, that could really relieve a lot of the pressure we have on the staff out west. [CONFIRMATION]

SENATOR SCHILZ: Sure. Well, one good thing, at least the commission will have a thumb on you for a little while so we won't have to worry about you so much. (Laughter)

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Thank you. [CONFIRMATION]

MARK SPURGIN: That's right. Appreciate the comment. [CONFIRMATION]

SENATOR SCHILZ: Thank you. [CONFIRMATION]

SENATOR LANGEMEIER: Any other questions? Seeing none, I think that can't be topped. Thank you very much for your testimony. [CONFIRMATION]

MARK SPURGIN: Thank you. [CONFIRMATION]

SENATOR LANGEMEIER: (Exhibit 2) Now we'll move on into those that would like to testify in support and I have one letter I'm going to read in as they come forward. Dr. Tom Osborne would like to submit a letter in support of the appointment. Go ahead when you're ready. [CONFIRMATION]

MIKE KELSEY: Chairman Langemeier, rest of the Natural Resources Committee, good afternoon. My name is Michael Kelsey, I'm the executive vice president of the Nebraska Cattlemen, here to testify in support of Mr. Mark Spurgin, although I will have a discussion with him afterwards to inform him that cattle feeding is not a disease. (Laughter) We...Mark is a member of the Nebraska Cattlemen, he is a very active and engaged member. He attends meetings, leadership responsibilities he takes very seriously. He engages in conversation and discussion in a very open manner. And we would agree wholeheartedly with his appointment and appreciate your consideration. I'd be happy to answer any questions. [CONFIRMATION]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Kelsey? Seeing none, thank you very much for your testimony. Further testimony in support? Come on up. [CONFIRMATION]

JANICE SPICHA: Senator Langemeier, senators. My name is Janice Spicha, J-a-n-i-c-e S-p-i-c-h-a. I'm here representing the Nebraska Council of Sportsmens Clubs, which I guess you've been told before is a conglomerate of a great deal of the sportsmen's clubs in the state of Nebraska and we send representatives to keep track of legislative issues, help with the season setting, that type of thing. We voted unanimously at our last meeting to support Mark Spurgin so I just wanted to put our word of support in. Any questions? [CONFIRMATION]

SENATOR LANGEMEIER: Very good, are there any questions? [CONFIRMATION]

JANICE SPICHA: And he has been a member through...he is a member of some of our affiliate clubs so. [CONFIRMATION]

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SENATOR LANGEMEIER: Very good. Seeing no questions, thank you very much. Further testimony in support? [CONFIRMATION]

JOE HERROD: My name is Joe Herrod, J-o-e H-e-r-r-o-d. I'm here today representing Ducks Unlimited. Mark is a major donor to Ducks Unlimited. The many thousands of dollars he's contributed over the years have been leveraged across the state in a lot of situations and he works on the committee. He has worked on riparian protection issues that I am aware of. He's worked on restoration of wetlands, conservation of wetlands with Ducks Unlimited and the Fish and Wildlife Service. And the duck hunt hasn't been all that bad because we do hunt together and one of the things about Mark is that he as far as getting youth involved in hunting, he just doesn't make it a one day little deal where we get together and have lunch and let the kids shoot a gun or something. He buys them guns and buys them coats and buys them waders and brings them time after time after time and I think he's well aware of it. It takes real mentorship if we're going to get kids into hunting. We've got to do more than just a little one deal, one thing deal. And he's also helped me in the river as far as getting rid of...I haven't gotten him to wear a backpack and spray over there into the river yet so we're looking for a little, maybe a little help from a helicopter one of these days but we do work on issues in the river, taking care of some of that vegetation, so. And we're just very, very pleased that Mark has agreed to serve on the Game Commission. [CONFIRMATION]

SENATOR LANGEMEIER: Very good. Are there questions? Senator Haar. [CONFIRMATION]

SENATOR HAAR: Yes. Thank you. Could you just give a minute or so on the mentoring program for young hunters. I think that's really important. [CONFIRMATION]

JOE HERROD: Well, okay. A statistic that just came to my attention here recently was that 92 percent of all of the kids that fish and hunt come from a fishing and hunting family. And all of the efforts that we've been making, we've been trying to bring a lot of kids that have no real background in hunting and getting them out and getting them to be out of doors and doing these things. And I've been a big part of some of that. Ducks Unlimited calls it a green wing day, and Pheasants Forever has their days and everything. But after that day is over, if these kids don't have transportation, if they don't have equipment, and if they don't have somebody that really helps them out, then we're really not getting the job done. And so we really need to think some sort of long-term mentoring type of thing if we're really going to get kids in. And the other thing is the retention of people that do fish and hunt, we have to give them more opportunities to find ground to hunt on, which the Game Commission is trying to do by some of their leasing of places to hunt. We have to open up opportunities to keep those people hunting so that their kids can have a place to come along with them. So it's a great big subject and it takes money and we tried to get more money this year but the political conditions being what they were, but have to wait awhile I guess, so. [CONFIRMATION]

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SENATOR HAAR: Thank you. [CONFIRMATION]

SENATOR LANGEMEIER: Very good. Thank you very much. Did you fill out a sheet?
[CONFIRMATION]

JOE HERROD: Yes, I did. [CONFIRMATION]

SENATOR LANGEMEIER: Okay. Thank you. Further testimony in support? Seeing none. Any testimony in opposition? Seeing none. Any testimony in a neutral? Seeing none. That concludes...oh, Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Senator Langemeier. I just wanted to take this opportunity. I don't even know Mark, I just met him today. But it's really refreshing to have several people come and testify for somebody. And a lot of times on these appointments that's really not the case. That's a real compliment to you, Mark. Thank you.
[CONFIRMATION]

SENATOR LANGEMEIER: No other comments? That concludes the confirmation hearing, and thank you again for taking the time to attend. Thank you. We will now move on to open our hearings for the day. We will start off today with LB567, Senator Dubas. We will be using...and I'll say it now since you're here. We are using the lights in the committee, it's been very, very effective. We will be using them, they're set at five minutes. You get four minutes of green and one minute of yellow and the red, hopefully you're through. And if you're done and it's still green you can stop. So I will...I had one person ask me, do I have to talk that long? No, you do not. So anyway, with that, we appreciate everybody being here and Senator Dubas, you're recognized to open on your bill. Thanks. [CONFIRMATION]

SENATOR DUBAS: (Exhibit 3) Thank you. Good afternoon, Senator Langemeier and members of the Natural Resources Committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s. And I'm the senator from the 34th Legislative District. I presented an amendment this morning to committee members which basically replaces the original bill. The committee amendment that I presented to you will be explained in my testimony here today. And for those of you in the audience, the committee amendment proposes to change the Nebraska Energy Office into a noncode independent state agency. An independent state agency is under the direct control of the Governor and provides cabinet level positions who answer directly to the Governor. A noncode independent state agency is not under the direct control of the Governor. In my estimation, we have a lack of leadership with regard to renewable energy. To be even clearer, there are approximately 20 independent state agencies which will have a direct position with the Governor's cabinet. There are approximately 52 noncode independent state agencies which usually answer to a board of director or some

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oversight council. And I do have a handout here for committee members with noncode and code agencies on it. It is no secret that I have a strong interest in renewable energy and economic development. My philosophy is that Nebraska must become a leader in renewable energy because it is the next economic expansion that America will experience. I see great potential for rural economic development from renewable energy. Soon after taking office I began to meet with different agencies and groups who are already working on energy issues. I began to hear a common theme as I met with these people. We do not have a comprehensive, organized approach towards growing our renewable energy sector. So then I decided to invite all of the players to a meeting where we had some formal presentations and then a facilitated discussion about the future of energy issues in our state. One of those presentations was handed out to you this morning specifically related to this amendment. For many of the meeting attendees, it was the first time that they heard we even had a state Energy Office. It became abundantly clear to me we needed a statewide energy plan and an agency to take charge and coordinate amongst the variety of boards, commissions, and agencies related to energy. And I have a couple of charts, they might not be the easiest for you to see but the one on the left is kind of the agencies that are in existence today. There's really no connection between them and then the amendment that I introduced today is how I would foresee the office operating, that being the hub of a wheel and all of the other agencies coordinating with that hub. I introduced LB921 last year to make the Nebraska Energy Office a noncode independent state agency, and this is basically the amendment that you have before you today. At that hearing, Larry Bare, the chief of staff to the Governor, testified in opposition to the legislation with an offer to make the office an independent state agency making the director a member of the Governor's cabinet. While that wasn't exactly what I wanted, I agreed to the deal believing it was not a token gesture and we would have a department committed to aggressively promoting renewable energy policies and programs. I introduced LB567 today which would basically expand the duties of the Nebraska Energy Office. And while the office has taken some steps towards an energy plan, the fiscal note that you have in your packet makes the point that this issue is not a serious issue to the administration. As I was working on my legislation for this year, it became apparent to me by reports that I was receiving from senators and other agencies that I should go back and reconsider introducing LB921. Senators have noted to me that the Energy Office was not testifying at hearings and rarely showed up. Some even commented that their phone calls weren't returned and that they were difficult to find when they needed information. And I gave it careful consideration and I wanted to give them the benefit of the doubt and decided to come back with an olive branch simply asking for an expansion of their duties, and that was LB567. Then I received the fiscal note. For those of you that have been here for at least a session, you've probably heard the expression death by fiscal note. In other words, you receive a fiscal note so large that that note alone will doom your bill. And we've all had one, and if you haven't, be prepared. I have to wonder if a \$5 million fiscal note would have been considerably less if the Governor was fully in support of the development of renewable energy, the goals of this agency, and this legislation. A fiscal

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note with a \$5 million projection does tend to grab your attention. So I am compelled to question the justification for this exorbitant number and would like to point out that the author of the fiscal note raised a similar concern. I did not introduce LB567 to be flippant. I am very serious about this work and my agenda in renewable energy development. The Energy Office's work is critical to our state's future. I am committed to support their efforts, just as I am committed to work with my colleagues, and all of the energy players to promote the development and growth of renewable energy. So to quote the fiscal note as it reads, "without further information and documentation as to how the estimates were arrived at, a total of over \$5 million for a contractual service appears to be excessive." Duly noted is that many of these new duties were actually recommended by the Energy Office's own statewide report that they issued in January. So these duties ought to be occurring without my having to even introduce a bill to ask for it to be done. I have stated many times on the record that I want to have a working relationship with the Nebraska Energy Office. I have to believe we share common goals that ultimately seek the best interest of Nebraska citizens. My constituents repeatedly tell me they want wind energy and I think the sheer volume of bills introduced this year shows the resolve of many senators to pursue renewable energy production. This is something that requires a coordinated effort to help us capitalize on our comparative advantages. We need an agency to lead on this issue. The committee amendment will reinstate the Nebraska Energy Office into an independent noncode state agency. The Nebraska Energy Office was a program overseen by the office of the Governor until last year when it was made an independent state agency. The Energy Office was created in November of 1973 as the Fuel Allocations Office and was a division of the Department of Revenue until 1977. The department had independent status (sic) as Agency 81 from 1977 to 1987 when it became by executive order a division of the Governor's policy research office. The funding for operations has remained largely consistent over the past years including approximately \$6 million in federal aid to administer programs such as weatherization assistance and energy savings loans. In addition, it is funded through an existing cash fund capped at \$300,000 annually. The proposed Nebraska Office of Energy Independence will be responsible for coordinating, communicating, and collaborating with existing state boards, commissions, and agencies that work with energy related issues. The legislation creates a Nebraska Energy Council which is an advisory board charged with overseeing the Nebraska Office of Energy Independence. Both the NOEI and the Energy Council are charged with reviewing the Federal Energy Independence and Security Act of 2007 and making recommendations for comprehensive policy to achieve energy independence. As you will note in the powerpoint presentation that I had handed out to you, in the 1980s the Energy Office was a thriving public agency which employed 46 full-time staffers. Today the agency employs 8 full-time staffers. In addition, I would be open to adding the duties and expansions from my bill introduced today into this committee amendment. Nebraska will be receiving an incredible amount of money from the federal stimulus. There is \$52.1 million for Nebraska in discretionary spending related to public safety and government services. That money could conceivably be used to assist this agency in helping

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Nebraska to achieve energy independence. In addition, the federal stimulus package appropriates \$3.1 billion for state energy programs and to my understanding, the Nebraska Energy Office received none of that funding. I encourage you to thoughtfully consider this bill before you as well as the amendment. I strongly believe that this is an opportunity for us to create change in the way we approach renewable energy in the state and it would be change that would be positive and serve our citizens well. I'd be happy to answer any questions you may have. [LB567]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB567]

SENATOR HAAR: Yes, thank you. First of all, the bill itself, then gives new duties to the Energy Office. [LB567]

SENATOR DUBAS: That's correct. [LB567]

SENATOR HAAR: And the amendment would? [LB567]

SENATOR DUBAS: The amendment basically rewrites the bill. The amendment creates the Energy Office as an independent noncode state agency. So they would not be under the purview of the Governor. [LB567]

SENATOR HAAR: So they'd be...they'd have a board and so on? [LB567]

SENATOR DUBAS: Correct. [LB567]

SENATOR HAAR: Okay. I'm just sort of trying to get my head around this a little bit. Could you tell in a little more detail what the bill itself...what additional duties you'd be giving to? [LB567]

SENATOR DUBAS: The bill itself was seeking for the Energy Office to begin to create a comprehensive statewide wind energy plan. They did do some work last year, the last few months of last year in trying to craft a statewide comprehensive energy plan, broad based. But I was seeking for them to become much more focused on wind energy development so it was putting together a plan for wind energy development, seeking public and private dollars to further research and those types of things. Becoming involved in disseminating...compiling and disseminating information particularly through the Legislature in regards to studies, transmission issues, renewable energy issues. I don't have a copy of the bill in front of me... [LB567]

SENATOR HAAR: Sure, yeah. [LB567]

SENATOR DUBAS: ...so I'm just trying to bring this up from memory. But just asking them to kind of expand on the work that was already laid out for them to do in statute

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and be much more targeted towards the things that we are working on now. [LB567]

SENATOR HAAR: Okay. And you say you were surprised by the A bill. What did you kind of expect it to be? [LB567]

SENATOR DUBAS: Well, I don't know that I had a specific dollar in mind. I knew that there was going to probably need to be some more resources expended to do these kinds of things. You know, just off the top of my head if they were going to hire an outside source to put together some kind of plan or assessment we're looking at a couple hundred thousand dollars, probably. So, you know, I was figuring, you know, upwards of \$100,000 maybe or maybe a little bit more than that. As I said, I didn't have anything specific but I certainly didn't have \$5 million in mind either. [LB567]

SENATOR HAAR: Do you know on that new stimulus plan that's coming out talking about energy, if there would be funding for this kind of agency or not? Or is it mainly towards projects? [LB567]

SENATOR DUBAS: I have not yet had a chance to really go through in detail, you know, the direction that monies are going to be able to go to. I know that there is money targeted towards energy issues and I think in that \$52.1 million that I mentioned it's discretionary spending, public safety, and government services. That's probably a pretty broad umbrella so I don't know if there's more specifics under that. But I can see that there could be money available to do this, yes. [LB567]

SENATOR HAAR: Okay. And so after...and you're going to close on this right? [LB567]

SENATOR DUBAS: Yes. [LB567]

SENATOR HAAR: So then we can ask more questions. Thank you very much. [LB567]

SENATOR DUBAS: You bet. Thank you. [LB567]

SENATOR LANGEMEIER: Are there any other questions? Senator Dubas, I have one and I'm not going to ask a lot of questions because you've thrown away the green bill and now you're back to what was LB921 from last year. This would have gotten a fiscal note last year, as LB921. Do you remember what that was? [LB567]

SENATOR DUBAS: I do not. I should have looked that up and I apologize for not bringing that with me but I do not remember what that was. [LB567]

SENATOR LANGEMEIER: Okay. We'll have to read this, we'll probably have questions in the days to come and less today. So thank you very much. [LB567]

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SENATOR DUBAS: Thank you. [LB567]

SENATOR LANGEMEIER: Are there anyone wishing to testify in support of LB567? Come on up. We're ready, Ms. Harding, come on up. You're faster, you made it. [LB567]

MARY HARDING: Thank you, Chairman Langemeier and members of the committee. Members of the committee, good afternoon, thank you for the opportunity to be here today. I can't comment specifically...pardon? [LB567]

SENATOR LANGEMEIER: Your name. [LB567]

MARY HARDING: I'm Mary Harding, M-a-r-y H-a-r-d-i-n-g. I'm here representing the Nebraska League of Conservation Voters in support of what is to become LB567. I can't comment in great detail on the specifics with the changes that have just been presented to you but there are a couple of comments that we would like to make regarding the concept of this bill and the direction that it's heading. Yesterday we said we were here in support of a bill we thought was likely one of the most important concepts to come before you and we think this likewise is one of the most important concepts that you may have in front of you to discuss this year. It's hard for a citizen's organization to come in and be very enthusiastic about creating government agencies or having studies. There's not a lot of pizzazz in that when it comes to talking to our membership, but sometimes the needs and conditions of our society change to the point that we need to step back and look at restructuring how it is we go about doing what we do. And we believe that this is certainly one of those cases. Renewable energy and the energy business in general presents such a challenge and opportunity to us, both economically and socially and environmentally at this point, that we think the state of Nebraska needs to grab the bull by the horns, if you will. We think that leadership in Nebraska in energy policy is lacking to some degree as Senator Dubas said. We have a fragmented structure currently in this state that divides responsibility and accountability for policy among a number of different bodies. And as such we sometimes end up with disjointed policy that doesn't perhaps maximize the benefit that we could receive as a community. And so with those thoughts in mind we want to speak very emphatically in favor of the concept of this bill. [LB567]

SENATOR LANGEMEIER: Very good. Are there any questions for Ms. Harding? Senator Haar. [LB567]

SENATOR HAAR: Yes. Thank you. From your experience, do you have any preference for the noncode or the code kind of setup that Senator Dubas has talked about? [LB567]

MARY HARDING: I'd have to give that more thought, Senator, but I'd be happy to do that and get back to you later. [LB567]

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SENATOR HAAR: Okay. And just kind of for the record as well, NLCV, Nebraska League of Conservation Voters, who exactly do you represent? [LB567]

MARY HARDING: We have a membership of several hundred here in Nebraska. We are a Nebraska corporation with a Nebraska board, policy set at the state level although we are affiliated with a national federation of state organizations very similar to our own. We have a mailing list of several thousand Nebraskans who've asked to be informed on energy policy in particular. [LB567]

SENATOR HAAR: I was kind of thinking of the various groups like Ducks Unlimited and so on, I'm sorry. [LB567]

MARY HARDING: Oh. Well, we have...I see. I didn't understand your question. We have a council of like-minded organizations that we confer with in setting policy. And we offer a structured process by which organizations can bring topics to the league for consideration in helping our board adopt our legislative policy. But we don't actually have membership of other organizations. [LB567]

SENATOR HAAR: Oh, okay. [LB567]

MARY HARDING: It's just a collaboration, an informal collaboration. [LB567]

SENATOR HAAR: Okay. Thank you. [LB567]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. Further testimony in support? Welcome and come on up, do you have handouts? [LB567]

KEN WINSTON: Yes I do. [LB567]

SENATOR LANGEMEIER: Okay. Welcome. [LB567]

KEN WINSTON: (Exhibit 4) Thank you, Senator. Good afternoon, for the record my name is Ken Winston. Last name is spelled W-i-n-s-t-o-n, and I'm appearing on behalf of the Nebraska Chapter of the Sierra Club. And I was thinking as Senator Dubas was offering her introduction to the bill I could have brought my testimony from last year's bill and presented that today but I...so I'm addressing the green copy of the bill today. The energy issues are becoming increasingly important for the state of Nebraska in the twenty-first century. Global climate change, rising costs of fossil fuels, and energy security are issues that need to be addressed. The good news is that we have the resources to address these issues. We have abundant wind, solar, and agricultural resources to provide energy for the state. We also have great resources for research

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and development in our colleges and universities. LB567 would provide a mechanism for providing leadership and direction on energy issues. In particular, renewable energy issues. Now, one of the things that I think we're all becoming aware of is the fact that there are some rapid changes in national policies and as Senator Dubas indicated there's a substantial amount of funding that may be available or related to energy issues at the present time. So we believe it's important to go forward with developing some of the ideas that are outlined in LB567 including developing comprehensive wind energy plan, pursuing additional renewable energy funding and establishing standards for measuring the state of Nebraska's performance in increasing renewable energy and energy efficiency. We also support the aspects of LB567 related to determining transmission siting because of it's importance in renewable energy development for many of the same reasons that we supported LB437. We would support the advancement of LB567 and would be glad to work with the committee and the introducer in...with regard to this bill in the event it's amended. [LB567]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB567]

SENATOR HAAR: Thank you. The same question I asked before, do you...in your experience around here or whatever do you see any advantage...because we're hearing today about code or noncode agency? [LB567]

KEN WINSTON: Well, in what, I know you get to ask the question but in what respect? I mean, a code agency as opposed to a noncode agency or as opposed to something that's part of the Governor's office or how? [LB567]

SENATOR HAAR: I'm still struggling with this concept of either having it directly under the Governor or not having it directly under the Governor, I guess to put it most simply. [LB567]

KEN WINSTON: Okay. Well, generally a code agency is directly under the Governor and so the Governor appoints the director, the Governor chooses the...and so that person is directly answerable to the Governor. Now there's a number of boards and commissions that are noncode agencies where they, although the members of the boards and commissions are appointed by the Governor, the board or commission chooses the executive director of that organization. And generally the idea of a noncode agency is that it provides some independence from the direct political process, so that if there are some issues that arise in the performance of the executive director's duties, for example, that the executive director would be answerable to the commission and they would decide whether the executive director was performing his or her duties appropriately. So that would be the difference. Theoretically there would be more independence in a noncode agency than in a code agency. [LB567]

SENATOR HAAR: Thank you. [LB567]

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SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you for your testimony and if you would get me a copy of your last year's testimony? [LB567]

KEN WINSTON: Okay. [LB567]

SENATOR LANGEMEIER: We'll attach it to this amendment. [LB567]

KEN WINSTON: Okay. Thank you, Senator. [LB567]

SENATOR LANGEMEIER: Further testimony in support? Thanks. You didn't jump high enough. Further testimony in support of LB567. Welcome. [LB567]

ROBERT BYRNES: (Exhibit 5) Good afternoon, Senator Langemeier, members of the Natural Resource Committee. I am missing LB921 so much from last year, lamenting its not being passed. Actually, we covered LB921 concepts here in today's testimony without knowing so I think this will still be valid for today. I am in strong support of LB567. And everybody should have, I believe a copy of this. [LB567]

SENATOR LANGEMEIER: I need you to state and spell your name, sorry. [LB567]

ROBERT BYRNES: Oh, I'm sorry. My name is Robert Byrnes from Oakland, Nebraska. Byrnes is spelled B-y-r-n-e-s. And I believe committee members should have this testimony already. I am in strong support of LB567 and the increased guidance and responsibilities placed upon the Nebraska Energy Office through LB567. This bill represents a significant change in focus for the NEO which is long overdue. I am grateful to the introducers for their vigilance in helping the NEO to be all it can be for Nebraska. I think the reasons to support this change are clear and compelling. The NEO has had some restructuring done in reaction to the introduction of LB921 last session. This year has provided the NEO an opportunity to utilize this new structure. While some good efforts were made, it should be clear that the NEO did not exactly run with the ball. While initiating the overdue energy plan update process, which was excellent, it also showed how the NEO can be used as a platform for information dissemination. Resulting plan, however, also showed that the NEO as currently focused and structured is not going to be the driver for renewable energy in Nebraska. So the decision should be made to either further invest in the NEO structure or to create an entirely new one to ensure Nebraska is on top of our renewable energy opportunities. This bill certainly works to achieve the former but I am not so sure we should not consider both options. The NEO might be best served by focusing on data collection, analysis, and dissemination of all energy related information in the state while an independent agency actually acts as the focal point for renewable energy in Nebraska. This focal point, or call it a renewable energy czar using modern political lingo, would operate a web-based renewable energy portal for Nebraska and link all the relevant

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information on one page or one site to promote business development. This lack of coordination between state agencies regarding renewable energy is a tremendous ball and chain in the trek toward responsible renewable resource development in our state. This Nebraska green portal, as I imagine it, could outline the uniqueness of our public system in Nebraska so business understands how things work here. DED, NDEQ, NPPD, UNL, NEO, Ethanol Board, Department of Ag and many others are some of the organizations renewable projects may need to contact and the portal would serve as that conduit. While economic development coordination efforts are out there from DED, renewable energy is a very focused technical area and often has special requirements. Dissemination of information for folks looking at state and federal incentives is also needed because I get that question all the time. Nebraska needs to accent the incentives we do have for Nebraska-owned renewable energy generation so citizens realize public power is alive and well with renewables. It is clear that we must move carefully if we are to protect the integrity of our public power system. It is equally clear the disconnected entities within state government aren't getting this job done very effectively, currently. The plight of anaerobic digestion in Nebraska, of which there is a current seminar in York today, this example alone is an excellent one without even getting into wind energy. We need to do better in this area and to work to bring our blossoming energy plan to fruition. Ultimately we are judged by results in this arena, not be flowery words, fancy reports, or high-powered commissions. It comes down to discreet units of green kilowatt hours, gallons of ethanol, biodiesel, BTU's recovered and so on. There is much good in the NEO that prompts one to consider the refocusing route so I think the creation of a Husker green portal and the measures in LB567 would be a great combination. Initiating LB567 measures alone will help, but the NEO cannot nor should it be expected to do this big job alone as currently structured. I like the annual reporting procedures to the Legislature which is ultimately our citizen representative. I would also consider adding the requirement that the NEO engage in this development process by testifying at every energy related hearing, at minimum, in a neutral capacity to provide information to the committee and the citizens present. If they are not able to take a position regarding legislative issues currently in the session, then that alone would indicate to me that an independent agency is required. I would also consider that states that have done well with renewable energy and brought this value-added enterprise within their borders have reformed state energy offices along the lines we see in LB921. And I believe the noncode agency is the best way to pursue this and I think their track record here is obvious. With that I'll take any questions. [LB567]

SENATOR LANGEMEIER: Very good. You obviously have some foresight to know LB921 was coming back here, so. [LB567]

ROBERT BYRNES: You know, you roll the dice, Senator. [LB567]

SENATOR LANGEMEIER: There you go. Senator Haar has a question. [LB567]

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SENATOR HAAR: Thank you. Could you tell why you think a noncode agency is better?
[LB567]

ROBERT BYRNES: Well, I think the independence...if you look at the Nebraska energy plan, and I think the things that we're discussing, these are big issues that will span decades. I think governors in a sense when you compare these two will come and go. And I think their particular accentuation or focus on renewable energy will vary. I think a non...just from the perspective of continuity of a program, I think an independent agency is going to better serve...best serve the people of Nebraska to provide that continuity over time. I think obviously independent action, thought, based on fact and figures that are, you know, before you that can be demonstrated...that needs to be the base of renewable energy decisions not politics or particular other things that may involve a technical decision. [LB567]

SENATOR HAAR: Okay. Well, I'm sort of feeling philosophical today. So you talked about we need a driver, the driver for renewable energy. Talk about that a little bit. Should it come from the Legislature, should it come from the Governor, who is the driver? Who should be the driver? [LB567]

ROBERT BYRNES: Well, I don't know that it's a single driver. I think it is a team effort, and I think the coordination of the team effort I think is evident in a Nebraska Energy Office of Independence. When we first looked at this model a couple two-three years ago, we looked at an organized model where a team is built versus the Nebraska structure which is kind of like a random list of agencies in no particular order. I don't know that we necessarily need a driver but at least a coordinating agency where, you know, and I do this process as someone involved in the industry every day. Someone calls you with a question, you get them to the right person, the right agency, you get them the right information...kind of a clearing house or a portal that connects. I think the agencies all do a great job within their individual areas of expertise, as it should be. But we don't have that clearing house where people can just go and look at the website and find out exactly what they need to do within the four areas of renewable energy development. [LB567]

SENATOR HAAR: And then we've been talking about the A bill, \$5 million to accomplish what LB567 is talking about. Does that...do you have any reaction to that or? [LB567]

ROBERT BYRNES: Well, it's a little steep. It's definitely...that's a steep price. I think we need to do some shopping on that one. But I think the fiscal note attached to LB921, you guys have web access here in the hearing room, I have sent that to your offices and Senator Dubas's office. I think that showed up as \$225,000 which sounds like a bargain in comparison. If we were to judge, and I don't know that the NEO is just simply set up to do this. They've been, you know, they've had their little programs and going and I

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think they've...you can discuss how well that's gone or whatever, but I think they've become focused in a certain area. I just don't think they're cut out for this, for this particular mission, even though it is an important one, and it is one that we need to be developed or completed successfully. I just, you know, I think if the interim energy plan is any judge of the type of deliverable that the NEO is going to provide in this area, then I think yeah, we need to shop around. [LB567]

SENATOR HAAR: As I've gotten to know you this session, we've seen quite a bit of you, and I know you keep well informed. And this is a little to the side but what do you see coming from the stimulus package to Nebraska in this area? [LB567]

ROBERT BYRNES: Well, I see a lot of tax credits. And for there to be...my concern is the way, the only way you can use a tax credit is if you have something to tax which is business activity. So I just hope we're not trying to put the horse before the cart or the cart before the horse in providing tax credits that may be for businesses that don't really exist or don't have a tax burden because they're not making money. So, though I did see a mechanism within those...that some of those tax credits can be turned into grants or can be sold on secondary markets if they're transferable. That puts the cash in the hand especially of homegrown projects where it's most effective and most sorely needed. I think there are some tremendous opportunities coming down the pike. I'm not sure if they've read the thousand pages in there completely yet, but what I'm seeing coming down is all very encouraging. We just need to have a policy environment that is going to be able to utilize it. [LB567]

SENATOR HAAR: We've all read the thousand pages, so. [LB567]

ROBERT BYRNES: Oh really, well hats off to you on that one. [LB567]

SENATOR HAAR: No. One time about a week ago we were talking about the cost of turbines and that sort of thing and someone was saying that there's a 30 percent tax credit on wind turbines. And I thought. [LB567]

ROBERT BYRNES: Yes. Senator Fischer's 100 kilowatt wind turbine is going to get a 30 percent tax credit with no limit now. It was limited to \$4,000 before, or maximum of \$12,000 system value. So that high-powered \$300,000 wind turbine you're putting up at the ranch is going to get \$100,000 tax credit, theoretically. [LB567]

SENATOR HAAR: Makes it more interesting. [LB567]

ROBERT BYRNES: Yes, it does. [LB567]

SENATOR HAAR: And it also...relating back to the whole theme of net metering also for Nebraskans to take advantage of this we're going to have to get going pretty quickly

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with net metering, wouldn't you agree? [LB567]

ROBERT BYRNES: I think on net metering, again, maybe it's foresight maybe, you know, it's the luck of the draw but that unlimited cap for residential farm business is not limited by dollars but it's limited by size which is 100 kW. So our net metering policy at 100 kilowatt nameplate capacity limit is perfectly aligned with the benefits of this new federal incentive. [LB567]

SENATOR HAAR: And just one more technical question. A 100 kW generator, realistically, would put out what kind of maximum output do you think? [LB567]

ROBERT BYRNES: Well, when you're dealing with average annual winds over the course of the year always less in the summer than the other seasons, the large wind turbines a megawatt and above are going to provide a 40 percent capacity factor or 40 percent average of their output so 1 megawatt turbine would produce 400,000 kilowatts at any given time. A 100 kilowatt...as you start getting down, though, the towers get shorter and you access less power. So the megawatt and above, just as a rule of thumb, is about a 40 percent capacity factor or better. The 100 kW to one megawatt varies at about 30 percent and the 100 kW and below are about 25 percent, 20 to 25 percent capacity factor. So that 100 kilowatt turbine is really only going to produce 20 kilowatts or 20 kilowatts every hour, 20 kWh. [LB567]

SENATOR HAAR: Thank you very much. [LB567]

ROBERT BYRNES: You're welcome. [LB567]

SENATOR LANGEMEIER: Are there any other questions? Senator Fischer. [LB567]

SENATOR FISCHER: Thank you, Senator Langemeier. Thank you, Mr. Byrnes. I was just going to say I'm glad I'm going to get \$100,000 credit now with the stimulus package, but I still need over \$200,000 in order to put this up and I don't think the bank is going to give it to me. So that's your next project to work on. [LB567]

ROBERT BYRNES: We haven't even discussed grants yet there, Senator. [LB567]

SENATOR FISCHER: Oh, okay. Well, we've got some movement going here, thank you. [LB567]

ROBERT BYRNES: Are we getting warmer? [LB567]

SENATOR LANGEMEIER: We heard earlier that cattle feeding doesn't pay anything so she wouldn't need the tax credits. Thank you very much for your testimony. [LB567]

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ROBERT BYRNES: Thanks, Senator. [LB567]

SENATOR LANGEMEIER: Further testimony in support of LB567? Testimony...seeing none. Testimony in opposition? Come on up. Welcome to the committee. [LB567]

TOM RICHARDS: Thank you. I seem to be here a lot this year, so. Tom Richards, R-i-c-h-a-r-d-s, manager of governmental community relations for the Omaha Public Power District. And I'm here appearing on behalf of the Omaha Public Power District and the Nebraska Power Association. We are in opposition to LB567 as currently drafted. We haven't had a chance to review the amendment. We haven't seen it, haven't had a chance to comment on it but I wanted to...some of the same principles that are in LB567 are some of my recollections from LB921 a year ago. And a couple of our points that we want to make as far as what's perhaps studied, not studied, whatever it might be, I'd like to make a couple comments on that. First off, we understand the need for the state to prepare for private investment and federal stimulus dollars. I've seen some preliminary numbers and the preliminary numbers are somewhere in the \$50 million range that the state Energy Office could wind up with. And I understand the need for somebody to be in control of that \$50 million and as citizens we want somebody in control of that \$50 million. It's a question as to who that's going to be. So we understand the need to create, you know, a preparation for those dollars coming on board. As the bill is currently drafted, the state Energy Office already has the authority to do many of the things that are drafted in the green copy of it. I have no comment on, again, on the amendment that you have because I haven't seen it. A couple of the pieces that are in LB567 that probably the state Energy Office, at least currently, does not have jurisdiction over has to do with transmission lines. The development of transmission lines, the siting of transmission lines, the building of transmission lines, that's left to the utilities, the local public power boards of directors, and as we mentioned yesterday when we were talking about things, there is a federal, FERC, Federal Energy Regulatory Commission and the regional transmission organizations have jurisdiction over transmission lines. Our belief is that local utilities who build transmission are responsible for its planning and its implementation. In the bill as it's currently drafted it talks about requirements for renewable portfolio standard when and if passed by the federal government. And I guess our belief is that the federal government says we're going to have a renewable portfolio standard, the state Energy Office as far as providing guidelines and other input when the feds say build it, you know, we're going to build it. So we really don't need the direction of the state Energy Office pointing us that direction. And the last comment that I have, actually it's second to the last comment I have, is that there are a couple phrases in LB567 as currently drafted on page 4, lines 16 through 19, it starts to talk about the encouragement, the development, you know, measuring renewable energy and its growth in the state of Nebraska. To me, to us, that starts to sound like the first pieces of a mandate. If you're going to start to track it, you're going to start to measure it, it starts to sound like a mandate and not a goal. As stated yesterday in some of our hearings, NPPD has moved to a 10 percent renewable energy

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goal by 2020. OPPD has moved to a same goal by 2020 and on top of that we're talking about a 50 megawatt reduction through energy efficiency. We are moving quickly, we are moving rapidly and 10 percent renewable energy is no small number that's going to be taken on by the Nebraska utilities when it's built and when it's implemented. And there's been commitments to do it already. And lastly, as the bill's currently drafted there is a heavy emphasis on renewable energy. The state Energy Office has responsibilities for all forms of energy, not just renewable energy, and we would encourage that if they're going to look at energy policy, you're going to talk about all the different issues that you focus on a wide array of energy issues. So with that, again, I'm commenting on a few things at least what we saw that pertains to the utilities that we have a position on. As it relates to the structure of the Energy Office, no comment at this point. I can offer opinions or answer questions if you wish. [LB567]

SENATOR LANGEMEIER: Very good. Questions? We'll start on the end, Senator McCoy. [LB567]

SENATOR McCOY: Thank you, Chairman Langemeier. And thank you for your testimony this afternoon, Mr. Richards. You alluded that you didn't necessarily have a comment on the proposed white copy, excuse me, or the amendment. I guess my question to you would be since it appears it is an exact reincarnation of LB921 from last year, do you mind telling us what your position was on LB921 last year? [LB567]

TOM RICHARDS: It will be a recollection, so you can't... [LB567]

SENATOR McCOY: Sure. [LB567]

TOM RICHARDS: ...it's a recollection that we opposed LB921 for a lot of the same reasons that I stated today. That there were things in that draft that had to do with items that were traditionally the responsibilities of the local utilities that were then put under the purview of the state Energy Office. That was the main...my main recollection of what the objections were at that point. [LB567]

SENATOR McCOY: Thank you. [LB567]

SENATOR LANGEMEIER: Senator Haar. [LB567]

SENATOR HAAR: Thank you. You actually mentioned the number, \$50 million perhaps from the stimulus. What are the strings attached? Any ideas? [LB567]

TOM RICHARDS: You know, I saw the briefing yesterday at a conference where I was, and again, there is no hard and fast...people are still working through what the strings and allocations are going to be. I think the Energy Office is here and perhaps they're going to be able to answer some of those questions but I do understand why the state is

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positioning to me, you know, there's a position, you know, going on about who is going to control that \$50 million and again, somebody needs to be responsible to do that. [LB567]

SENATOR HAAR: Thank you. [LB567]

TOM RICHARDS: I can't...I don't know, I just saw the numbers and they were significant amounts of money. [LB567]

SENATOR HAAR: I'm always interested in the strings; thank you. [LB567]

SENATOR LANGEMEIER: Senator Fischer. [LB567]

SENATOR FISCHER: Thank you, Senator Langemeier. Thank you, Mr. Richards. I believe I heard your comment correctly, you said that the transmission lines are the responsibilities of the utilities and their boards? [LB567]

TOM RICHARDS: Correct. [LB567]

SENATOR FISCHER: Yesterday we had some bills up and one was for a study... [LB567]

TOM RICHARDS: Correct. [LB567]

SENATOR FISCHER: ...to look at where energy is produced and that we need to, you know, map things out and are you saying that the state really has no input on where transmission lines are going to be? [LB567]

TOM RICHARDS: Part of the testimony yesterday basically said traditionally that the local utilities had jurisdiction and building...and their boards of directors. What we testified about yesterday was a substitute study because the evolution of private investment in the evolution of others that are interested in building wind for export, that there is a role for...I don't know if it's the state or whoever it is, but there are others that are coming to the table that are asking about building transmission in Nebraska and part of what we proposed yesterday was a study of a variety of different people to get involved to look at how transmission would start to be built if you're going to export wind out of the state of Nebraska. One caveat, my friend Tim Texel's in the back, the executive director of the Power Review Board, they have some jurisdiction over how transmission is built in Nebraska. Usually they're looking at issues like public meeting convenience, duplication of services, so it's the local boards of directors and the Nebraska Power Review Board that have jurisdiction over transmission today. [LB567]

SENATOR FISCHER: Where does FERC fit into that? Do they ultimately have to make

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that decision? Do they have to okay it? [LB567]

TOM RICHARDS: We're starting to get a little over my head in my expertise when we get into FERC. FERC does not have a lot of jurisdiction per se over utilities in the state of Nebraska. But in the surrounding states around Nebraska when you look at the regional transmission, they are a much bigger player when it comes. Now there's another group that you've probably never heard of, since we're having an education process today, called NERC, the National Energy Reliability Council who oversees how we're interconnected, where we're interconnected, who we're interconnected with, making sure that there's backup transmission systems that are backing other utilities up on a whole nationwide basis that play into the building of transmission and the reliability and the safety of transmission. Senator Carlson's starting to stare at me so I'm going to stop. (Laughter) [LB567]

SENATOR FISCHER: I think we're all staring at you right now. Your comment that the Energy Office has responsibility for all forms of energy and you felt that the bill maybe placed too much emphasis on renewables. Could you remind me once again on what OPPD's goal is for renewables in your portfolio? [LB567]

TOM RICHARDS: We have a goal of building 10 percent renewable energy by 2010 or 2020. We have another goal in that same time frame of reducing our usage, energy efficiency programs by 50 megawatts by 2020. [LB567]

SENATOR FISCHER: Can you give me just a quick breakdown of your energy production now... [LB567]

TOM RICHARDS: How we do it? [LB567]

SENATOR FISCHER: ...on what the percentages like on the coal-fired electric plants? [LB567]

TOM RICHARDS: I'll give you a rough, again, this is recollection. Roughly it's just over 50 percent coal, 30 percent nuclear, actually it's about 55 percent coal, 35 percent nuclear, and the balance is natural gas, methane gas...we've heard lots of testimony over the years about the digester that Danny Kluthe has. We have 9 megwatts of power that sits on the Douglas County landfill that pumped up from methane gas coming out of the Douglas County landfill. So the balancing 15, the last 10 to 15 percent comes from natural gas, combustion turbines, methane producers, and other sources of distributed generation that we have, small projects, solar projects, wind turbine, different smaller items. [LB567]

SENATOR FISCHER: It's not just Nebraska that has such a reliance on the coal, is it? It's this region of the country that we have a strong reliance on coal, is that correct?

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[LB567]

TOM RICHARDS: It's not just the region, it's the whole nation. If you looked at the majority of production of electricity in the nation, it is coal. [LB567]

SENATOR FISCHER: So what do you think is going to happen to our electric rates, I guess nationally, I was thinking statewide and regionally but nationally with that reliance on coal and the political shift that is promoting renewable energies? What do you think is going to happen to our ratepayers in this state and across the nation with a political shift like that and we aren't in a position yet? [LB567]

TOM RICHARDS: Well, you have seen some of it take place in the last...particularly at OPPD with the cost of transportation of coal. We had a huge increase in what it costs to get coal from the mine to our power plants. That has driven up the price to some extent. On the other side, what starts to happen is you see us interested in a study. You see us more interested in building renewable energy, you see us more interested in understanding how it works. So we've seen some of the markers out there that say, you know what, we need to start figuring out how we integrate that into our system. It's going to take some time, and it's going to take some money, and it's going to take some effort. And yes, it was a significant cost increase already that we've had to bear. [LB567]

SENATOR FISCHER: Okay. Thank you. [LB567]

SENATOR LANGEMEIER: Senator Carlson. [LB567]

SENATOR CARLSON: Senator Langemeier. Something Senator Fischer asked and you responded to brought a question to me. If the goal of OPPD is to reduce consumption by 15 megawatts.. [LB567]

TOM RICHARDS: Fifty. [LB567]

SENATOR CARLSON: By what? [LB567]

TOM RICHARDS: Fifty megawatts. [LB567]

SENATOR CARLSON: Fifty megawatts by 2020. [LB567]

TOM RICHARDS: Correct. [LB567]

SENATOR CARLSON: Why do you want to do that? [LB567]

TOM RICHARDS: Because what happens going back to the last question that Senator Fischer asked me, it pushes out the need to build a baseload unit if you can defer out

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into time the building and purchasing of units. It's in our economic interest and the ratepayers of the 13 counties that OPPD serves to do that. [LB567]

SENATOR CARLSON: But if you reduce usage by that amount over the 11 year period you're going to have costs go up. [LB567]

TOM RICHARDS: You're correct. There is a point of diminishing return where if you cut too much out of your rate base that you start to hurt your fixed costs. I'm not an expert in that area. I know that our finance people and our planners were comfortable with that number, that it was an economic benefit to us and not an economic hurt. [LB567]

SENATOR CARLSON: Okay. I don't understand that, but that's interesting. I would hope it would be that way, where I just don't understand it. [LB567]

TOM RICHARDS: There is a point of diminishing return, I mean, there is a point where you can cut your usage so much where you can't cover your fixed costs. [LB567]

SENATOR CARLSON: Yeah. [LB567]

TOM RICHARDS: And to be quite honest, one of the reasons why you see us looking at how we step into the renewable arena is that we just feel...OPPD just coming online shortly with 663 megawatts of coal and that's an asset that the ratepayers of OPPD and the bond holders have put out close to \$1 billion worth of bonds. And those bonds need to be paid off. So we're very prudent in how we move forward with those decisions about wind, other forms of energy, because we don't want to strand our assets that the ratepayers have had to pay for. [LB567]

SENATOR CARLSON: Thank you. [LB567]

SENATOR LANGEMEIER: Senator Haar. [LB567]

SENATOR HAAR: Thank you. The 50 megawatts of conserved energy, what percent would that...like you said 10 percent renewable by...any idea? [LB567]

TOM RICHARDS: OPPD is around 2,400 megawatts so what would that be, 50 megawatts less than that would be...10 percent would be 240 and half of that would be 120, so 120 would be... [LB567]

SENATOR HAAR: Yeah, I can figure that one. I've got a calculator in my pocket. [LB567]

TOM RICHARDS: We're around 2,400 megawatts totally. [LB567]

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SENATOR HAAR: And again, sort of the crystal ball because some of the questions we're asking are sort of about the future. What do you see coming down the road in terms of carbon costs and those kinds of things. You know, the last Congress began to talk about that already, so a little bit of looking into the future. [LB567]

TOM RICHARDS: Again, the federal legislation is not my expertise, but this is what I've been told. What I've been told from our people who do federal work is that the carbon legislation, some of the emissions things...the price tag associated with implementing those is so high that given the current economic status that has starting to take a back seat to what it would do to the economy. Now, they continue to move forward with discussions about what they call renewable energy and RES, I can't think what the S stands for but it's basically renewable energy standard, there we go. The federal government continues to talk about that and they continue to push that forward. Carbon taxes, coal, some of the clean climate things...again, what I'm being told, kind of taking a back seat because of the huge cost involved with it. [LB567]

SENATOR HAAR: Okay. Thank you. [LB567]

SENATOR LANGEMEIER: Thank you very much for your testimony. [LB567]

TOM RICHARDS: Thank you. [LB567]

SENATOR LANGEMEIER: Further testimony in opposition of LB567? Don't hesitate, come on up. Welcome. [LB567]

BONNIE ZIEMANN: Hello, again. [LB567]

SENATOR LANGEMEIER: Yes. We get to be pretty friendly with everybody here we see over and over. [LB567]

BONNIE ZIEMANN: (Exhibit 6) I can see that. I appreciate that too. My name is Bonnie Ziemann, B-o-n-n-i-e Z-i-e-m-a-n-n. I'm the deputy director of the Nebraska Energy Office and I bring to you apologies. Director Moseman did prepare to come and testify today but he's had a sick child at home all week and now he was what the sick child has and he is ill. But he does apologize, he was looking forward to having a conversation with you. Chairman Langemeier and committee members, thank you for the opportunity to testify before you today on LB567. The intent of LB567 is to expand the duties of the Nebraska Energy Office and to adopt and implement a statewide renewable portfolio standard and a comprehensive wind energy development plan. The agency opposes this legislation for several reasons. First, many of the duties and tasks identified in the legislation are already being performed. And second, some of the tasks identified are well beyond the scope of the agency's authorizing statutes, especially those that are regulatory in nature. A number of the proposed changes in the legislation call for

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collecting and analyzing data in renewable energy and energy efficiency areas. These activities are already being done and have been done regularly in the past. As data or assessments become available, the agency makes additions to the Nebraska Energy Office website which recorded more than 1.3 million hits in FY '07-08. Since July of 2008, web hits are up on the agency's website by 50 percent over the previous year. In addition, the agency currently maintains energy production and use data in the areas of biodiesel, biomass, ethanol, geothermal, hydroelectric, solar, and wind for use by the public. The agency has been one of the leaders in posting information and data on the Internet since 1997 for ease of access by Nebraskans and others. Many users of the agency's website, such as teachers, have attested to its value and the wealth of data available. I will comment on sections of LB567 that are of concern to the agency. The bill would require the Energy Office to administer a state program for conservation of energy. Since the early 1980s, the agency has administered two federally funded and conservation and energy efficiency programs, the Low Income Weatherization Assistance Program and the State Energy Program, both of which improve conservation and energy efficiency and comply with the proposed change. The bill would also mandate as a completely new duty that the Energy Office develop and administer a comprehensive wind energy plan related to the development of transmission lines. Throughout LB567 other references add duties and tasks related to transmission lines. Under current law, the Energy Office is a nonregulatory state agency. New responsibilities regarding development of transmission lines would regulate public utilities. This activity could be very costly. The Nebraska Energy Office currently lacks the expertise and the funding to support this regulatory oversight. For example, the Nebraska Power Pool, or the Nebraska Power Association and the National Renewable Energy Laboratory are jointly funding a \$1 million project examining the impact of integrating wind energy on the existing transmission system in the state. The wind energy development plan proposed in LB567 and its annual updates is broader than the wind transmission work currently underway and certainly more costly than the narrowly defined \$1 million study. In considering this bill's fiscal note, agency staff looked at this task in its broadest sense: engineering studies, possible line routes, public informational meetings on those routes, land acquisition, substation locations, environmental impact reviews, and possible legal actions if eminent domain is involved. LB567 would also require the agency to monitor all existing federal energy policies for renewable energy, renewable fuels, energy efficiency, and transmission line development. The agency currently does this within the limits of its staff resources with the exception of transmission line issues. The Power Review Board approves power lines with certain restrictions. And the red light is on, would you like me to continue? [LB567]

SENATOR LANGEMEIER: You're close, read your last paragraph there, the agency... [LB567]

BONNIE ZIEMANN: The agency would also be required to establish standards for measuring the state's increased use of renewable energy, renewable fuels, energy

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efficiency, transmission line development. Renewable energy and renewable fuels consumption are currently available on the agency's website. To measure energy efficiency and transmission line development more accurately, the agency would need to contract for professional services to accomplish these tasks. These costs are reflected in the fiscal note on the bill. [LB567]

SENATOR LANGEMEIER: Very good. Are there any questions? I want you to tell me your website. [LB567]

BONNIE ZIEMANN: www.neo.ne.gov [LB567]

SENATOR LANGEMEIER: Thank you. Senator Carlson. [LB567]

SENATOR CARLSON: Senator Langemeier. In reading through this and your time ran out on the end, but I was underlining as you went through several statements that these things are already being done. You're already doing this. Until we get to development of transmission lines and you indicate the activity could be very costly. And then the wind energy development plan and its annual updates is broader and would certainly be more costly than the narrowly funded \$1 million study. And then we get in the next paragraph, the agency currently does this so that's not in addition. And I haven't gone through the last page yet, but if there are no more additional responsibilities that would require more resources on that back page, then it looks like the estimate on the cost of the overseeing the development of transmission lines is the cause of the A bill to go from two hundred and some thousand to \$5 million. Would that be accurate? [LB567]

BONNIE ZIEMANN: The \$5 million for the study, the contractual study, Mr. Moseman has met with a number of individuals. HDR is one of them and he talked with them about what such a study might cost and as a matter of fact, when we were doing the fiscal note and we were taking into account all of the contracts and the experts that would need to do this work because we don't have those people on staff and we think that figure is fairly low. We think that that study, the development of it and the administration of it would probably be far in excess of the \$5 million. When we're talking about lawsuits, when we're talking about attorneys, when we're talking about land acquisitions and the not in my backyard issue, afraid of power lines and so forth, you know, all of this taken into consideration, we think that \$5 million is a low number. [LB567]

SENATOR CARLSON: Okay, thank you. [LB567]

SENATOR LANGEMEIER: Did you have a question, Senator Cook? [LB567]

SENATOR COOK: Yes I do. Thank you very much, Mr. Chairman. And thank you for coming this afternoon. I have a question that you may be able to speak to or get back to

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us on. Do you have any idea why the office was placed under the Governor's direction when it was done under executive order? Does anybody have that historical knowledge to share with the committee? [LB567]

BONNIE ZIEMANN: I'm going to have to go back in long memory. Back to the, I believe, '80s [LB567]

SENATOR COOK: Okay. [LB567]

BONNIE ZIEMANN: Under, I believe, Governor Orr there was a decision made to move the Energy Office under the Policy Research Office. And we were there for a number of years and then we became a division of Agency 07, which is the Governor's office. [LB567]

SENATOR COOK: Um-hum. [LB567]

BONNIE ZIEMANN: I'm not sure that I can relate with accuracy the reason that we were moved. Jerry, do you...Jerry is our public information officer and he's my backup today. [LB567]

SENATOR COOK: All right. Does Jerry maybe remember? [LB567]

SENATOR LANGEMEIER: Yeah, I can't have him answer because I can't get it on the record but... [LB567]

BONNIE ZIEMANN: All right. [LB567]

SENATOR LANGEMEIER: ...he may be able to come and testify after you if he wants to try and answer that question. [LB567]

BONNIE ZIEMANN: Yeah. I'm not sure that we can actually answer that question because those individuals are no longer in government and, you know, I don't know what their thinking was at the time. That's the best I can do, I'm sorry, Senator. [LB567]

SENATOR COOK: All right. Well, thank you. It's more than we had, thanks. [LB567]

SENATOR LANGEMEIER: Any other questions? Senator Haar. [LB567]

SENATOR HAAR: Yes. First of all, following up on Senator Carlson's question. In the testimony you said administer a comprehensive wind energy plan but sort of what you described a minute ago was almost like actually developing the transmission lines. [LB567]

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BONNIE ZIEMANN: I think if you're talking about what went into our thinking about it... [LB567]

SENATOR HAAR: Yes. [LB567]

BONNIE ZIEMANN: ...is that we thought that everything that would have to be done before the actual construction of the transmission lines are contained in LB567. That was our interpretation, that we would come up with the plan where the siting and everything would be of those lines. And then we would oversee that once the plan was there. It's all obviously up to the utilities to actually build lines. And that would be a partnership, I'm sure, between the state and the federal government and the utilities of course. [LB567]

SENATOR HAAR: So it's...there's probably some real wiggle room there in terms of definitions. [LB567]

BONNIE ZIEMANN: There always is in terms of definitions. [LB567]

SENATOR HAAR: Okay. Could you tell us basically what the Governor's thoughts are on renewable energy development? [LB567]

BONNIE ZIEMANN: No. I'm not...I know that he's certainly for renewable energy and supports that. But I've not had any personal conversations with the Governor that I can relate to you. [LB567]

SENATOR HAAR: I'm not trying to pin you on this. I'm just trying to figure out if you're actually a code agency whether you sort of march to the orders of the Governor and perhaps what his thoughts are on where he would like to see this go. [LB567]

BONNIE ZIEMANN: I always march to the orders of my boss is my answer. [LB567]

SENATOR HAAR: Okay. Somewhere in this discussion I think that would be useful to find out what...since right now it is a code agency under the Governor to find out what his thoughts are because I would imagine that would be the guide giving major guidance to what the department does. [LB567]

BONNIE ZIEMANN: Senator Haar, the Governor's been a very, very supportive of the update of the Nebraska energy plan which does address renewable energy. And I know that Director Moseman has had many conversations with the Governor on this issue. My position in the agency is the administrator. I make sure all of the dollars are spent the way they're supposed to be and account for them. And I'm not necessarily an expert on the policy side, although, you know, we did talk about those things. But Mr. Moseman would be a better person to answer that question directly. [LB567]

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SENATOR HAAR: Thank you. [LB567]

SENATOR LANGEMEIER: Senator Schilz. [LB567]

SENATOR SCHILZ: Thank you, Senator Langemeier. Thank you, ma'am, for coming in today And I take it...I guess I'd just like to ask a little bit of question on the fiscal note as well. I take it that you're taking here from the green copy to develop and administer a comprehensive wind energy plan. That's where a lot of that is coming from, right? [LB567]

BONNIE ZIEMANN: Right. [LB567]

SENATOR SCHILZ: Don't...do the utilities right now, do they do any planning themselves to get ready for what's coming in the future? I mean, in your opinion? [LB567]

BONNIE ZIEMANN: Absolutely. Yes. [LB567]

SENATOR SCHILZ: Do you see that there could...when I look at these things I always look at...okay. If you're an office that's in charge of administering and developing, does that mean that you have to do everything yourself, and I think that my answer to that question is no. But if you can lead, just because it says to develop doesn't mean you have to do all the legwork yourself. And a lot of that legwork may have been done already by some of the utilities. Could that be a possibility? [LB567]

BONNIE ZIEMANN: It may be a possibility, but when we were doing the fiscal note, we were looking at actually contracting that \$5 million out to experts who can provide a plan that the utilities, the state, and the federal government could partner on to bring wind energy across the state. [LB567]

SENATOR SCHILZ: Okay, thank you. I guess the next question would be are you willing to work with the utilities in the state to take...to get that done? [LB567]

BONNIE ZIEMANN: Absolutely. Yesterday I met with the. [LB567]

SENATOR SCHILZ: So if you were looking at this in a positive sense to how do we get this done, wouldn't you think that would have entered into your mind that, hey, you know, we can cheapen this up quite a bit if we get together with all the utilities and bring them inclusively into a group instead of saying we're going to do this all ourselves and this is the way we're going forward. Is that unfair to characterizing this? [LB567]

BONNIE ZIEMANN: It might be unfairly characterizing it, as I know that Mr. Moseman

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has met with the utilities. [LB567]

SENATOR SCHILZ: Sure. [LB567]

BONNIE ZIEMANN: And I'm sure that those discussions have taken place, but again. [LB567]

SENATOR SCHILZ: But it didn't make into your? [LB567]

BONNIE ZIEMANN: How we came up with the fiscal note was based on LB567. We did not go outside of the agency and ask all of the different players and there will be many... [LB567]

SENATOR SCHILZ: Sure. [LB567]

BONNIE ZIEMANN: ...you know, how they could be involved. [LB567]

SENATOR SCHILZ: Right. [LB567]

BONNIE ZIEMANN: Or could you provide this amount of money to do this or anything like that. You know, that work is not being done. [LB567]

SENATOR SCHILZ: I understand. Do you think that that would be the work that should be done? [LB567]

BONNIE ZIEMANN: Certainly our agency does have a responsibility to work with other players. [LB567]

SENATOR SCHILZ: Okay. [LB567]

BONNIE ZIEMANN: It was not done in the time frame we have to provide fiscal notes, review legislation, etcetera, these kinds of hearings and the kinds of conversations that take place... [LB567]

SENATOR SCHILZ: Sure. [LB567]

BONNIE ZIEMANN: ...prior to coming to testify on a bill all take place. [LB567]

SENATOR SCHILZ: And I understand that. I guess when I'm sitting here and when I'm looking in my private business and things like that I'm looking for the type of people that are thinking outside the box saying, hey, how can we work together to bring this together just as cheaply and get the value out of it we need to without having to expend a whole bunch of money here and there if it's already being done somewhere else.

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Thank you very much. [LB567]

BONNIE ZIEMANN: Thank you. [LB567]

SENATOR LANGEMEIER: Senator Fischer. [LB567]

SENATOR FISCHER: Thank you, Senator Langemeier. When an agency receives a bill and receives the request for a fiscal note from fiscal here in the Legislature, your job is to go through the bill and determine what you believe the costs will be to your agency as you interpret the bill, is that correct? [LB567]

BONNIE ZIEMANN: That's correct. [LB567]

SENATOR FISCHER: Your job isn't to come...no offense to Senator Schilz, but really your job isn't to look outside the box at this point in the process and figure out how you can save money by working with private enterprise or anyone in that realm. It truly is just to look at the bill and give your honest interpretation on what you think the impact will be, is that correct? [LB567]

BONNIE ZIEMANN: That's correct, Senator Fischer. However, Director Moseman did have some conversations with some entities who have experience in the kind of things that we interpreted would be required of the agency. That was taken into consideration. [LB567]

SENATOR FISCHER: And that would be with, as you mentioned, HDR on some engineering concerns and that is reflected in the fiscal note. [LB567]

BONNIE ZIEMANN: That's correct. [LB567]

SENATOR FISCHER: But you didn't work with any power district in thinking how you might partner to reduce costs in the fiscal note, did you? [LB567]

BONNIE ZIEMANN: No. [LB567]

SENATOR FISCHER: Okay. Thank you. [LB567]

SENATOR LANGEMEIER: Senator Carlson. [LB567]

SENATOR CARLSON: Senator Langemeier. Just one comment here and I thought about it as Senator Fischer was talking to you. On the fiscal note, and this may appear frequently, I don't remember it appearing frequently so I may be wrong too. But there's two statements in here and it does show that your estimates and perhaps the estimates of the fiscal office are different and it's not necessarily cooperative. And that's probably

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a strength, not a minus, but there's no basis to disagree with the agency's estimated need for three additional FTEs. However, this does appear to be a large staff increase. And then the bottom here, without further information and documentation as to how the estimates were arrived at, a total of \$5.105 million for contractual services appears to be excessive. I don't recall seeing that kind of thing frequently on fiscal notes, so do you have any response? [LB567]

BONNIE ZIEMANN: It's not frequently been on fiscal notes pertaining to our agency. [LB567]

SENATOR CARLSON: Okay. Okay. So this is unusual for you as well. [LB567]

BONNIE ZIEMANN: It is. [LB567]

SENATOR CARLSON: Okay. Thank you. [LB567]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LB567]

BONNIE ZIEMANN: Thank you. [LB567]

SENATOR LANGEMEIER: Further testimony in opposition to LB567? Is there any testimony in a neutral capacity? Welcome. [LB567]

TODD SNELLER: Thank you. Senator Langemeier, members of the committee, my name is Todd Sneller, T-o-d-d S-n-e-l-l-e-r. I currently serve as administrator of the Nebraska Ethanol Board which is a noncode agency established in 1971. I'd like to comment just on two specific provisions of the bill. I find myself in a bit of an awkward situation with this change today. So I'd like to testify in a neutral position for that reason because it is a bit of an awkward situation as a state agency administrator. But I would specifically I would like to focus on a couple of central policy elements of what's being proposed in the initial bill because I think that's essential to moving forward in terms of capturing this opportunity in renewable energy in state policy and in the practices that we can employ to do a good job, an effective job of taking advantage of that opportunity. And this really simply looks at Section 2(7) which simply encourages the Energy Office to study the relationship of state energy policy to national policies. I've testified previously to this committee that in 2004, the Nebraska Department of Agriculture commissioned a report by an entity called Decision Analysts, Inc. and in that one of the three things that they said was essential to the ability of the state of Nebraska to capture opportunities in biofuels was to be sure that our state policies piggybacked on federal policy, which would make sense. We've been able to do that at least in the ethanol example in Nebraska. We saw that in 1990 with a number of changes to the Clean Air Act amendments at the time, there were opportunities to use cleaner burning fuels and

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it made sense to many of us that those would be ethanol fuels. In 1992 we saw public policy at the national level require the use of cleaner burning fuels in 51 U.S. cities, and in 1995 in cleaner burning fuels in another nine major metropolitan areas in the country. In 2001 it became clear that the federal government was on the verge of banning MTBE, which is a fuel additive that competes with ethanol. At every one of those junctures when federal policy changed, the state of Nebraska evaluated opportunities for ethanol development in the state and the Nebraska Legislature provided the tools in the form of incentives so we could go out and recruit private sector companies and take advantage of that growth in the marketplace. To me this is a very clear example of the wisdom of piggybacking state policies on federal policies in which an opportunity presents itself like it does today. So what I would suggest is that you adopt different policies in taking advantage of energy, renewable energy, bioenergy that we look at examples of the past to see if they would serve us well today. And I suggest to you that they will in a variety of different areas. The second section I'd like to address is subsection 14 which encourages the Nebraska Energy Office to pursue new research and investment funds from federal sources. As you're probably aware not only in the stimulus bill, in those thousand plus pages, there are a number of opportunities. One example, for example, buried in those pages is about \$5.95 million to the city of Omaha to purchase a very large fleet of flexible fuel vehicles, vehicles that use 85 percent ethanol, and to retrofit three service stations that the city of Omaha owns for fueling its vehicles. Now that is the single most efficient way to fuel a fleet of alternative fuels vehicles that return to the same location about every night is to put the fueling infrastructure there to allow them to fuel there and to then dispatch vehicles from that central location. At the same time this was occurring, we were aware that the Department of Energy was providing money for corridor programs in which the Department of Energy would like to demonstrate that alternative fuels including ethanol could be used in corridors for example, in this case, a stretch of interstate 80 that went from the eastern border of Iowa to the western border of Iowa. It struck me as odd that we wouldn't continue across the river to Omaha, for example, and take advantage of the fact that Omaha is a Department of Energy designated Clean City, and to include that as part of the corridor demonstration program. In the last day we have proposed that that be precisely what takes place so that we can extend the corridors of this program into the state of Nebraska and take advantage of some of these federal infrastructure dollars that are available couple with existing U.S. Department of Energy demonstration programs. My point is that it encourages the Nebraska Energy Office in subsection 14 to pursue these types of funds for research and demonstration programs. I think it behooves all of us to do that, but the Nebraska Energy Office has historically served as the federal fiscal agent for U.S. Department of Energy funds. They're structured, set up, prepared, experienced in doing that. And so again, an opportunity exists for this body to adopt policies that encourage and provide some directions, much as you all did to the Nebraska Ethanol Development Program in 1971 where you directed that board to go out and work with different parties, including communities and the private sector, to establish methods of expanding ethanol development and the use of ethanol in

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Nebraska. I think that can serve as a fairly constructive example. And so as you go forward, I'd simply encourage you to look at some of the examples that have worked in Nebraska and other places and see if they will fit and serve as well today, at a time when there's an enormous amount of federal money that's available for those states that have proactive programs and actively seek out those dollars for use in their own state programs. With that, I'd conclude and appreciate the opportunity to make a few comments today. [LB567]

SENATOR LANGEMEIER: Very good. Are there questions? Senator Haar. [LB567]

SENATOR HAAR: Thank you. Just spend a moment talking about the stimulus package and how it would effect ethanol. [LB567]

TODD SNELLER: Well I have not looked through the entire thousand pages myself. [LB567]

SENATOR HAAR: Me neither, actually. [LB567]

TODD SNELLER: But there are a few pieces in there. I think, frankly, despite a good effort on the part of some of our labor organizations in the state, some of the ethanol advocacy organizations, we tried to get some direct allocation of dollars for unfinished projects in the state because there are a couple of ethanol projects that are roughly 60 percent complete. And we knew that with some stimulus dollars applied to that type of project, within seven days we could have people out on those job sites working. And we thought that would be a very transparent, very productive way to create jobs. The Congress in its wisdom didn't accept that opportunity, but there are a number of programs both in the Farm Bill and in the current U.S. Department of Agriculture budget and the U.S. Department of Energy's budget, that allow research dollars and some programs that would backstop risk in the form of reverse auctions, in the form of loan guarantee programs that can be helpful. So again, this gets to making sure that anything we move forward with in terms of renewable energy development in the state, we at least be cognizant of the fact that there are these resources out there and if we're smart about engaging what we do at the state level and public policy with those programs, I think we can make the dollars that are pretty scarce to come by at the state level more productively leveraged with dollars from other sources. [LB567]

SENATOR HAAR: Okay. Well one of the things that I appreciate about your testimony is we're not any longer talking about if we're going to do renewable energy but how. Thank you very much. [LB567]

SENATOR LANGEMEIER: Very good. Seeing no other questions, thank you very much for your testimony. Further testimony in a neutral capacity on LB567. Oh, one more. Welcome, Mr. George. [LB567]

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ED GEORGE: Thank you, sir. Greetings, members of the Natural Resource Committee. I want to share my feelings about the LB567. [LB567]

SENATOR LANGEMEIER: I need you to state and spell your name. [LB567]

ED GEORGE: Yes. My name is Ed George, E-d G-e-o-r-g-e. One of the things that I wanted to share with you is as I've looked at the last couple of years at what's happened with the Energy Office. The director of the Energy Office now is a cabinet position that was created by the policy task force. The director of that has been very receptive to my comments. I found him very open to thinking about what we could be doing with energy and renewable energy in the state. Example, recently as you know I was the county extension educator in Clay County and I discovered that a hog operation wanted to expand their hog operation there by 1,200 sows. So I called the Energy Office and Mr. Moseman answered the phone and I said, what could be done in the case of we could look at this as a feasibility study for a methane biodigester just a few miles away from Hastings is the opportunity to produce electricity, knowing in full well that there had to be a process in place to have that happen, thinking about the county commissioners to allow that permit to be put in place, the utility companies involved in that, if that could be a feasibility, and the opportunity for utilization of electricity in close proximity, maybe five-ten miles. And I realized that when Mr. Moseman wasn't sure, he said I'll think about it, I'll get back with you. The next day he got in touch with me, a man who is very, very busy but took the time to think about what I had said. And I discovered that there is a tremendous initiative, an opportunity for the Energy Office. I see where we're talking about transmission lines, looking at the local use situations to determine what is the best opportunities there. Livestock industry is an important part of Nebraska's economy, hog operations, livestock facilities, dairy facilities. Thinking about this, what that may mean to future growth of our state beyond what we have. I look at this state and I say to myself, this is one of the most conservative states I could ever imagine to be living in. I was born and bred and lived here all my life. I realize that conservativeness has created a budget surplus in our state's budget. But that shouldn't hold us back from thinking progressively into the future. This is an example of what I'm thinking about and how we should forward think about what we could be doing with picking a pollution problem, soil, water, air pollution from a livestock setting and converting it into an energy opportunity whether it's renewable or whatever form of energy we want to talk about. I think it's a tremendous opportunity that we should give serious consideration to. One of the things that I was thinking about when I was listening to all this testimony about \$5 million, when I think that we have about 1.2, 3, 4, million people living in this state. I'd be more than willing to give up \$4 for a fast food meal, be an investment in that \$5 million investment if the rest of the state would consider this as a viable entity. One other example I wanted to talk about was the carbon thing. And recently in the last few months we have the coal industry that have said the cost of coal had to go up. The railroad industry said that they had to raise their

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rates by about 10 percent because of the fuel that was needed for those locomotives to get that to our state. And then on top of that, several of the utilities have said they have to raise their rates 7-8 percent. Norris Public Power was one example, I think was a 7 percent raise. But now on the other side of that is I live 50 miles west of here in the Waco area. And occasionally when I go home I see five trains of carloads of coal sitting there waiting to be transmitted. That represents 500 cars of...I should say five trains with 100 cars on each train hauling coal to some destination sitting there waiting to go to some location. And part of this led me to realizing what I read recently about Utica, Nebraska. The fire station is on the north side of the railroad tracks. The community realized that they were not prepared if the train sat there for a very long period to fight a fire on the south side of the railroad tracks. And so they're looking at the need for an additional fire station for a town of less than 2,000 people. These are the kind of examples that I see happening in our state and I recognize that it's very complicated and it takes a lot of thought and planning. The Energy Office as I saw was a real hub of what I could see happening here. Another state, Idaho, I looked at in what they did there and it is a classic example of the way we could be looking at things. I guess with that, just an old farm boy sitting here looking and observing what's going on. I think that we have a lot of opportunity but we've got to get out of the mode of such a conservative attitude. With that, I thank you. [LB567]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB567]

SENATOR CARLSON: Senator Langemeier. Mr. George. [LB567]

ED GEORGE: Yes, sir. [LB567]

SENATOR CARLSON: I appreciate your comments about the possibility and potential for harnessing what is waste in livestock operations and putting that to good use and hopefully that's something that we take seriously and work toward. But my question for you is earlier testimony and written testimony there was the term global climate change and we're hearing that all the time. Why did we go from global warming to global climate change? [LB567]

ED GEORGE: Who do you think brought that to the attention to the nation? Our former president Gore, recognizing some of the issue that was a vital concern to him. As we looked at that whole thing, I started investigating it very closely. I'm very personally interested in farming practices in relationship to carbon, carbon sequestration, and the impact of global warming. I think that as we become more educated we can make more and more decisions. And if this is the case, what is what's happening? Drought factors are important across the world. Australia right now is facing one of the worst droughts that they could ever imagine. California faced with droughts. I don't know that I can come up with a valid reason for all this, but I can see that some of these issues are

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being addressed. If we really want to be thinking about the whole impact of global warming, it means something to you, to you, to everyone of us and I sure don't want to be put in a position that someday we have to look back and say we made some pretty stupid mistakes. And why shouldn't we be prepared to be dealing with those today? You know, as a farm boy sitting out there and I see we have done a tremendous job of improving farming practices. We're using water more efficiently. Nebraska has utilization of our water more efficiently with center pivots, drop lines as I've shared with you several times. I've put up 400 pivots. I can tell you everything you want to know about a center pivot from every company; I've worked with them all. Farming practices reduce tillage, reduced tillage keeps carbon in the soil, keeps soil erosion from happening, keeps water in the soil. It's good for the health of the soil. Soil health and soil water are the key things that are going to be most important for our future economy. I firmly believe that. [LB567]

SENATOR CARLSON: Okay. Thank you. [LB567]

SENATOR LANGEMEIER: Thank you very much for your testimony, appreciate it. Further testimony in a neutral capacity? Seeing none, Senator Dubas you're recognized to close on your bill or your amendment, whichever one. [LB567]

SENATOR DUBAS: Whichever one I want? Either one or both. [LB567]

SENATOR LANGEMEIER: We're pretty open. [LB567]

SENATOR DUBAS: Okay. Senator Langemeier, members of the committee, thank you again for your attention and great questions. I understand that there are jurisdictional issues when it comes to placing and building transmission lines. LB567 talks about planning, monitoring, coordinating, and disseminating information in regards to transmission as well as many other issues, energy issues. Yesterday we had a lot of great testimony about what is already going on with the power pool and the transmission studies that are going on and that's the arena that those things should be in. To me, the vision for the Energy Office is just as is demonstrated on that second picture up there. It's the hub of a wheel. Senator Jerome Warner, I think, understood how some issues can become politicized and therefore not be able to serve the citizens' needs. He had great vision with many, many areas of policy for the state, one of them being a Highway Trust Fund, and that's operated by a noncode agency which is the Department of Roads. And in my estimation, the Highway Trust Fund has done Nebraska a great, great service. It's served Nebraska well. We have challenges with it, of course, with funding but it's done a great job in serving the citizens of Nebraska. Renewable energy development and production should not be a political issue. It's an economic development and revenue generating issue. We cannot afford to miss the opportunity to grow this industry. Our neighboring states recognize that there are opportunities and they have positioned themselves to be leaders in this arena. Shouldn't

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Nebraska do the same? Things are changing at the federal level and we are going to have to deal with those changes. Cap and trade, and transmission are just to name a very few. Nebraska is going to have to be ready to deal with the things that we are going to be more or less mandated to do. I introduced LB921 last year because I felt we needed a coordinated, cooperative effort, aggressive leadership that will allow us to capitalize on our comparative advantages in renewable energy. I brought LB567 this year to reemphasize those very points and to more specifically target NEO's efforts. I appreciate your consideration on this and would be happy to answer any questions you may have. [LB567]

SENATOR LANGEMEIER: Very good. Seeing no questions, thank you very much for your testimony. That concludes the hearing on LB567. Thank you. Now we'll open the hearing on, Senator Fulton's here so we'll open the hearing on LB471. Welcome to the Natural Resource Committee. [LB567]

SENATOR FULTON: Thank you, Mr. Chairman. Good afternoon, Mr. Chairman and members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I am happy to introduce to you--thank you--to introduce to you today LB471. I introduced this bill on behalf of the Nebraska Power Association. The bill is substantially similar to LB1066 from last year which was advanced to General File last year by this committee but was IPPed due to a lack of time. LB471 eliminates a statutory hurdle to the development of renewable power generation in Nebraska. Section 70-1014 requires electric generation applicants to pass a least cost test standard in order to gain approval by the Power Review Board. LB471 amends 70-1014.01 to change this standard only in cases where the application is for a facility that will use renewable energy sources to generate more than 10,000 kilowatts of electricity. The Power Review Board shall approve such applications so long as, one, the total production from all renewable projects of the applicant does not exceed 10 percent of the producer's total energy sales; and two, the applicant's governing body has afforded its ratepayers with a public forum to comment on the application. Subsection 3 of the bill also allows C-BED projects to apply to the board and receive approval so long as the purchaser utility holds a public hearing for its ratepayers and the power generated by the C-BED project is sold exclusively to the purchaser utility for a period of 20 years. LB471 does not amend the least cost standard for any application above this 10 percent threshold. Concluding, LB471 represents a collaborative attempt to enable additional renewable power generation in Nebraska while preserving the integrity of Nebraska's public power system. If there are any questions, I can try to answer them. [LB471]

SENATOR LANGEMEIER: Very good. Senator Haar. [LB471]

SENATOR HAAR: Thank you. If you can't answer this one, we'll maybe ask somebody coming up here. This really helps the whole concept of C-BEDs, correct, because it. [LB471]

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SENATOR FULTON: Say it again, I'm sorry I didn't. [LB471]

SENATOR HAAR: This particular bill actually enhances the ability of C-BEDs to be bigger projects and so on, is that correct? [LB471]

SENATOR FULTON: With regard to existing, I think that would be an accurate statement. That's not necessarily the intention of the bill, specifically. [LB471]

SENATOR HAAR: Right. [LB471]

SENATOR FULTON: But I think that could be a way that, you know, that C-BED policy could be construed, potentially. [LB471]

SENATOR HAAR: It's a nice consequence. [LB471]

SENATOR FULTON: Yeah. [LB471]

SENATOR HAAR: Yeah, okay. Thank you very much. [LB471]

SENATOR LANGEMEIER: Senator Carlson. [LB471]

SENATOR CARLSON: On the last question, are you going to close? [LB471]

SENATOR FULTON: I think so, yeah. I plan to. [LB471]

SENATOR CARLSON: Okay, well, Senator Fulton, I'm going to listen carefully to this bill. I may have difficulty in supporting a bill that comes from you from the Appropriations Committee and doesn't have an A bill. [LB471]

SENATOR FULTON: We can change that if you want, Senator. [LB471]

SENATOR CARLSON: But I'll try. [LB471]

SENATOR LANGEMEIER: Seeing no other questions, thank you. Further testimony in support? Welcome. [LB471]

SHELLEY SAHLING-ZART: (Exhibit 7) Thank you. Yeah. Chairman Langemeier, members of the Natural Resources Committee, for the record my name is Shelley, S-h-e-l-l-e-y, Sahling-Zart, S-a-h-l-i-n-g-Z-a-r-t. I am vice president and assistant counsel for Lincoln Electric System and I'm testifying today for both Lincoln Electric System and the Nebraska Power Association in support of this bill. We appreciate Senator Fulton's efforts in bringing this bill forward. We're here for a second year, and

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this is a fairly simple concept. We have been here for years talking about renewable energy. We have been here for years talking about barriers to utility development of renewable energy. This bill is intended to remove one of those barriers. One of those barriers has been that under existing law with the Power Review Board, when we take generation applications for approval to the Nebraska Power Review Board we are required to make a certain showing and that showing is in my testimony at the bottom of the first page. We must prove that a generating project will serve the public convenience and necessity and that the applicant can most economically and feasibly supply the electric service resulting from the proposed construction acquisition without unnecessary duplication of facilities. We've commonly referred to this as the least cost standard, proving that the application meets the least cost test. That's where the problem has arisen for renewable energy. Even with incentives it still is not quite the least cost. It has come down and as we've noted in some other testimony today with carbon legislation and some things looming on the horizon, the cost of coal will go up and wind energy will become more feasible, more economically feasible. Today it is not. Today it's difficult to meet that standard when we go to the Power Review Board. So it really has inhibited a lot of renewable energy development in the state. It is one of those barriers we've discussed with you for a number of years. This bill very simply gets us past that barrier for at least a limited amount. We believe there's reasons why after a certain threshold you do want the Power Review Board to evaluate how much generation is going in across the state without meeting some sort of scrutiny. This essentially in very easy terms gives you a free pass, if you will, from the Power Review Board if you can establish that the project is renewable and the definition is in the bill, if the total renewable production you have does not exceed 10 percent of your annual energy sales and if you have held a public hearing of your ratepayers on the proposed project. One difference from last year's bill is we did add the provision that would allow the same provision to C-BEDs if they have entered a long-term power purchase agreement with the Nebraska utility, their output is being sold exclusively to a Nebraska utility, and that utility has held a public hearing of customers on the proposed project. So that's in addition from last year's bill. We think this will at least help eliminate one of the barriers and help promote and incent additional renewable generation, particularly by C-BEDs and utilities. Give you a frame of reference, the 10 percent of annual energy sales would allow LES to put in about a little over 100, about 103 megawatts of additional renewable generation; we have about seven today. So a frame of reference for that. With that, we would urge your support of LB471 and that you advance it to General File. I would take any questions. [LB471]

SENATOR LANGEMEIER: Very good. Are there any questions. Senator Schilz. [LB471]

SENATOR SCHILZ: Thank you, Senator Langemeier. Ma'am, good afternoon and welcome. Could you tell me what the difference is between most of it. Let's just take wind generation at this point, percentage and difference of cost if you...and I suppose how you would apply your formula to figure that cost. What would be the difference in

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cost between coal-based energy and wind energy. [LB471]

SHELLEY SAHLING-ZART: You're catching me on the spot but. [LB471]

SENATOR SCHILZ: And it doesn't have to be, I'm just. [LB471]

SHELLEY SAHLING-ZART: Coal-based energy is about two to three cent energy. And wind energy with incentives is probably at this point--and somebody will correct me if I'm wrong--but it's probably today in the more like 6 to 8 cents. [LB471]

SENATOR SCHILZ: Okay. So we're looking at it's doubled a little more, maybe, something like that. And then somebody was saying earlier that there was a massive increase, I think it was between 130 and 150 percent, in transportation costs for coal this year. Is that correct? Or somewhere in there, yeah. [LB471]

SHELLEY SAHLING-ZART: It's utility by utility. Actually I'm glad you brought that up because we had very good news coming our way yesterday. Most of the increases come not in the cost of coal. [LB471]

SENATOR SCHILZ: It's transportation. [LB471]

SHELLEY SAHLING-ZART: The cost of coal has gone up, but it's the transportation, it's the freight rate. [LB471]

SENATOR SCHILZ: Right. [LB471]

SHELLEY SAHLING-ZART: And that's...we've had a case pending at the federal Surface Transportation Board since 2004 and we just won that case yesterday and the Surface Transportation Board awarded the owners of the Laramie River Station of which Lincoln Electric System is one, \$345 million in rate relief. So we've established that you can win a case at the Surface Transportation Board but I know OPPD was hit with about a \$95 million increase in their freight rates for this year. [LB471]

SENATOR SCHILZ: Right and so obviously that translates into higher rates for coal and I just...with all that we hear and I know that this is complete supposition on your part, or my part, or who's ever but do you ever think that you could see a day when the coal rates get up to where we're talking in these renewable rates? [LB471]

SHELLEY SAHLING-ZART: Sure. I think you'll get there. There's a couple of caveats on that. One is I think when you see carbon legislation coming, if they start to significantly tax carbon in some way, yeah, that'll raise the cost of coal. I don't know that that necessarily switches utilities to wind energy, for example. I think that will be a large shift to natural gas because we need baseload resources. [LB471]

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SENATOR SCHILZ: Absolutely. [LB471]

SHELLEY SAHLING-ZART: Baseload resources and wind can't fill that. [LB471]

SENATOR SCHILZ: So what I'm asking is, do you really want that renewable in there? Because at some point you may have to try to save the plants that you've got and need some way to move forward with that. That's my concern when we're coming at...you know, everything that we've seen is low cost here over the next 10 years but you turn itself completely on its ear, and I'm scared of that. [LB471]

SHELLEY SAHLING-ZART: Right. And I think what we get to...I think what we get to at that point is at some point this provision might even just need to be deleted and we go back to where everything competes on a cost basis because they'll all be... [LB471]

SENATOR SCHILZ: And then. [LB471]

SHELLEY SAHLING-ZART: ...there will be parity among the fuel sources at that point. This is intended to sort of spur renewable energy development because it's not competing on a cost basis today. [LB471]

SENATOR SCHILZ: Right yeah, and as long as we don't get there too fast and because we've taken us a long time and we've got 50 year project lives on some of these...I think on some of these coal-fired plants... [LB471]

SHELLEY SAHLING-ZART: Um-hum. [LB471]

SENATOR SCHILZ: ...that we need to have that ability to transition and...yeah, I'm not sure if we want to transition into other areas, but we need that ability and I think we also need the ability to maintain our baseload. [LB471]

SHELLEY SAHLING-ZART: Yeah. And with baseload, you know, the key there is reliability. [LB471]

SENATOR SCHILZ: Absolutely. [LB471]

SHELLEY SAHLING-ZART: You need a source you can rely upon at will and even when the price of coal goes up, we won't completely turn our backs on coal for that reason. [LB471]

SENATOR SCHILZ: So we may have to come back and address the least cost? [LB471]

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SHELLEY SAHLING-ZART: We may have to do that at some point. [LB471]

SENATOR SCHILZ: Okay, thank you. [LB471]

SENATOR LANGEMEIER: Senator Haar. [LB471]

SENATOR HAAR: Thank you. This has no impact whatsoever on net metering, does it really? [LB471]

SHELLEY SAHLING-ZART: No. [LB471]

SENATOR HAAR: Because those are smaller projects. [LB471]

SHELLEY SAHLING-ZART: Correct. And this, we're talking about utility projects here. [LB471]

SENATOR HAAR: Right. Okay. [LB471]

SHELLEY SAHLING-ZART: Or C-BED projects. [LB471]

SENATOR HAAR: Yeah, just to make sure I understood that, thank you, very much. [LB471]

SENATOR LANGEMEIER: Very good. Seeing no other questions, thank you very much for your testimony. Further testimony in support of LB471? Mr. Winston, welcome back. [LB471]

KEN WINSTON: (Exhibit 8) Good afternoon. For the record once again, my name is Ken Winston, last name spelled W-i-n-s-t-o-n. Good afternoon Senator Langemeier and members of the Natural Resources Committee. I am appearing on behalf of the Nebraska Chapter of the Sierra Club in support of LB471. And I guess I wanted to intentionally follow the representative of the Nebraska Power Association for the reason to indicate that there are issues where the Nebraska Power Association and the Nebraska Sierra Club see eye to eye, so. In case some people sometimes think that we don't see eye to eye on anything, but we do see eye to eye on some of these things and I want to publicly state that, that we are in support of LB471 for some of the same reasons that Ms. Sahling-Zart indicated, so. So with that, let me talk a little bit about some of the other reasons why we're supporting LB471. We support it in order to remove some of the barriers to renewable energy generation. Tapping this potential can provide jobs for Nebraskans such as manufacturing, installing and maintaining wind generators. We also want to point out some of the problems related with nonrenewable fuel use, including greenhouse gas emissions, mercury in our streams, use of massive amounts of water by coal and nuclear plants, and that is water that could be used for

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human consumption or to benefit agriculture. We appreciate the fact that Nebraska's public utilities are now supporting renewable energy development. We believe that strong steps toward renewable energy development are in the best interest of both public power and their constituents. A couple of other comments that I wanted to make. I do believe that...and I don't have all the statistics at my fingertips, but I believe that the way that things are going at the present time many renewable energy sources are competitive with nonrenewable energy sources in terms of new construction. If you're talking about something that's already been built and that's already out there, that's where you get the difference in cost. And I believe that someone after me is going to testify as to the exact cost of wind production at the present time so I'm not going to use that...I'm not going to refer to that at this point, but I believe it's under what Ms. Sahling-Zart indicated. And if we do go into situations where there are requirements for carbon reduction provisions on new coal-fired power plants I think there was testimony earlier today about spending a billion dollars on building a coal-fired power plant, and I understand that those costs will double or more if there is a carbon sequestration requirement attached to that coal-fired power plant. And so that means that all of a sudden the costs are going to be much greater in terms of nonrenewable fuel sources. And while we're talking about nonrenewable fuel sources, I know that in the past year Lincoln Electric System's rates have gone up by 15 percent and that was due to nonrenewable fuel sources. That was because of the fact of the cost of transportation went up, that was because the cost of natural gas went up, and the cost of coal went up. And so that wasn't because of any renewable fuel standard or anything of that nature. So we believe that going to more renewable fuels is a way that benefits Nebraskans because we have renewable resources in this state. We can take advantage of those things, we can provide jobs for Nebraskans, and we don't have all of the associated problems that are related to nonrenewable fuels. So for those reasons we would ask that LB471 be advanced. Thank you. [LB471]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much for your testimony. [LB471]

KEN WINSTON: Would it be...I would like to offer to just hand in my testimony on LB591. I think it's very similar to my testimony on this bill. [LB471]

SENATOR LANGEMEIER: Sure, sure. [LB471]

KEN WINSTON: And just indicate on the record that we're also supporting LB591. [LB471]

SENATOR LANGEMEIER: Very good. [LB471]

KEN WINSTON: I know you'd love to hear from me again. [LB471]

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SENATOR LANGEMEIER: Well we're going to conclude at 5:00 so this is helping us with that, so thank you. [LB471]

KEN WINSTON: Okay, thank you. [LB471]

SENATOR LANGEMEIER: Further testimony in support? Ms. Harding, welcome back. [LB471]

MARY HARDING: Thank you, Mr. Chairman, members of the committee my name is Mary Harding. M-a-r-y H-a-r-d-i-n-g, testifying in support of the bill on behalf of the Nebraska League of Conservation Voters. We think this bill is a very good start and headed in the right direction and certainly when we talk about 10 percent being a line of demarcation and making judgments about where our utilities should go, we have a number of years before we'll get to that point and so it's a good number. It's a good place to start. Just wanted to comment briefly on comparative costs of different fuel sources and offer the caution that really these costs are very site specific in many cases. And so, you are able to generalize that across a certain broad area you'll have rates like this for coal or rates like this for another source of generation. But within Nebraska, for example, when Ainsworth in Senator Fischer's district was commissioned, the actual cost of power from that facility was about a half a cent a kilowatt hour more than what a coal plant would have been. So you know, the doubled the cost reference...it depends on your frame of reference, it depends on what you're comparing. Specifically in terms of that Ainsworth plant, it wasn't double the cost of what NPPD experiences in terms of generating power from Cooper or Gerald Gentleman or Sheldon Station. I also want to emphasize that as you look at costs you need to think about the age of the facility because if you're comparing the cost of electricity produced from a facility that's 30 years old, the costs are necessarily going to be lower than any new construction. And so when you start talking about what's it going to cost us to build the next plant, whether it is wind or coal or another fuel source, all of that is going to be more expensive. And I am familiar with some preliminary studies that have been done about next generation coal plants that could be built in Nebraska, that come in around \$90 a megawatt hour without carbon capture technology, which is about three times, roughly, what we're spending now to get power from Cooper Nuclear Station. So just a couple of cautions as you think about what does it cost, to be specific in your thinking and to factor in some of these things that are not necessarily relevant to the type of generation but other factors such as age. Thank you. [LB471]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing no...oh, Senator Haar. [LB471]

SENATOR HAAR: Well this isn't just a question about the industry. I read, you know, in Japan they're having coal-fired plants that are much more efficient because they burn at higher temperatures and so on. Since you're on the NPPD board, are we looking at

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those kinds of things or...because I don't believe there is such a thing as clean coal, but these are supposed to be better. Do you know anything about that? [LB471]

MARY HARDING: You know, I'm not an engineer and I'm not an expert in this, but I have had some presentations from people who are engineers and experts and talking about different options for generation from coal coming down the path. For example, IGCC, fluid ice coal beds are two different types of technologies that would be available. They would have higher efficiency, higher efficiency ratings, and also better pollution controls than old technology. But I think one of the...just like when we talk about emerging technology in renewables, emerging technology in fossil fuels faces some of the same uncertainties. There haven't been a number of plants, a large number of plants built, so we don't have lots of test cases of the different technologies that we can draw on for experience. So there's a small degree of experimentation involved in these. [LB471]

SENATOR HAAR: Thank you. [LB471]

SENATOR LANGEMEIER: Very good. Thank you very much for your testimony. [LB471]

MARY HARDING: My pleasure, thank you. [LB471]

SENATOR LANGEMEIER: Further testimony in support of LB471? Welcome. [LB471]

DAVID LEVY: Thank you. Good afternoon, Mr. Chairman and members of the committee. David Levy, D-a-v-i-d L-e-v-y with Baird Holm Law Firm in Omaha on behalf of Midwest Wind Energy. Midwest Wind Energy is a private wind power development company doing business in Nebraska and it successfully developed this state's first privately owned wind power project which is an 80 megawatt project operating now near Bloomfield. I'm here today to testify in support of LB471. Within the past several months Nebraska's two largest public power districts, NPPD and OPPD, have announced that it's their policy and goal to incorporate 500 megawatts and 400 megawatts of wind power into their portfolios respectively by 2020, representing at that time approximately 10 percent of their respective portfolios. Presently, however, it's widely held that the Nebraska Power Review Board under current law cannot approve a wind power generator larger than 80 megawatts. And you heard I mentioned a minute ago, the Bloomfield project is exactly that, 80 megawatts. [LB471]

SENATOR LANGEMEIER: It doesn't record you, it's too close. There you go. [LB471]

DAVID LEVY: Usually I'm too far away because I'm too short. [LB471]

SENATOR LANGEMEIER: Nope. Not on this equipment. [LB471]

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DAVID LEVY: Okay. [LB471]

SENATOR LANGEMEIER: Very good. You can let go of it, it will stay. That's good. [LB471]

DAVID LEVY: Okay. Thank you. Again, so it's currently widely held that the Power Review Board cannot approve a wind project larger than 80 megawatts because the statutory findings are difficult to make for a wind project, or any project really other today than a project using Wyoming coal, for that matter, because those projects, as you've heard, may not be the absolute least cost option at this time. As a result, both NPPD and OPPD have been forced to arbitrarily limit projects to 80 megawatts or less because projects of that size are the only ones that can move forward without legal impediment. However in most cases somewhat large projects of 100 or 120 megawatts in size can be developed less expensively on Nebraska's 115 kilovolt transmission system because the interconnection costs can be spread out over the larger project which reduces the power purchase price for Nebraska customers. Essentially we're talking about economies of scale. Unfortunately, these savings cannot be realized so long as projects are limited to 80 megawatts. Moreover, Nebraska's potential for 2,500 megawatts of domestic wind supplied load and 5,000 megawatts of export generation which you heard about yesterday at some length could never be achieved at least in our lifetimes 80 megawatts at a time. This existing law really does the public power districts and in turn Nebraska electric customers a disservice by effectively limiting wind projects to 80 megawatts. Simply put, LB471 is needed to allow public power to achieve its low cost mandate by building or contracting with wind projects that are larger than 80 megawatts. And it's also needed to allow Nebraska to begin to pursue its potential for significant economic development from wind. As some previous speakers have noted, LB471 does contain safeguards such as a limit on how much total generation can be subject to this proposed limited Power Review Board process and the requirement for the public power district to hold a public hearing on the proposed project to ensure that the Power Review Board's overall function is not undermined and that the process remains transparent and open to the public. For all these reasons we urge you to send LB471 out to the full Legislature, and thank you for your time, and I'm happy to answer any questions you might have. [LB471]

SENATOR LANGEMEIER: Mr. Levy, thank you very much. Are there any questions? Seeing none, thank you very much for your testimony. [LB471]

DAVID LEVY: Thank you. [LB471]

SENATOR LANGEMEIER: Thanks for coming back to the committee. Further testimony in support? Seeing none. Any testimony in opposition? Would anybody care to testify in opposition? Welcome. [LB471]

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KRISTEN GOTTSCHALK: Thank you, Senator Langemeier, members of the Natural Resource Committee. My name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association. I'm here today representing only our 35 rural electric public power districts and rural electric cooperatives that provide electric energy to over 400,000 meters, over 80,000 miles of distribution line. And we are here today in opposition to LB471. NREA is a member of the Nebraska Power Association and every once in a while you have a renegade member that decides to go just a little bit different direction and that would be me today. And our opposition to LB471 I hope is not interpreted to mean that we're opposing renewable energy development. We do believe that renewable energy development is an essential part of the continued diversification of Nebraska's generation resources. We need to continue to develop resources but we also need to keep some fundamental issues in mind. And the Nebraska public power system in general was developed to ensure that all Nebraskans, both urban and rural, received access to affordable, reliable energy resources. We take that very seriously. We've done a good job managing this commodity and as you've heard repeated over and over because it's something we're very proud of, we have some of the lowest rates in the nation. Now, the Nebraska Power Review Board is a state agency that was created in 1963 to basically regulate Nebraska's publicly owned utility industry. And one of the critical roles of the Power Review Board has always been to ensure that adequate energy supplies are available and that the development of generation and transmission resources is done with the best interest of the Nebraska ratepayers in mind. Current special generation exemption does allow utilities to bring online small projects up to 10 megawatts such as the seven turbines at Kimball would be a good example of that size a project. And while the goal of LB471 is to simplify the process for bringing more renewable energy generation online, it does diminish the oversight authority of the Power Review Board to regulate energy development in the best interest of the consumers. The Nebraska Rural Electric Association has on their policy books opposition to anything that would lessen the ability of the Power Review Board to provide oversight. And as we heard in testimony earlier we can fully expect that changes at the federal level dealing with fossil fuel generation including the possibility of cap and trade, carbon sequestration, carbon taxes, other emission controls are definitely going to have an impact on the cost of fossil fuel production. And in the future we could see that that will possibly offset the current cost disparity between fossil fuels and which we think primarily coal and renewable energy resources, primarily wind. And this will allow those resources to fall within the Power Review Board criteria. And also I want to bring, one of the things that we're excited about is the possibility of doing a study that's similar to the LR455 study. You know, Senator Dubas has brought this to light numerous times to really evaluate what the role of the Power Review Board is, how we should manage these resources and how we integrate the resources in so that we don't create problems for the continued survival of our baseload generation, as Senator Schilz was concerned about, and that study would again address that. So with that I

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conclude my testimony. I'm happy to answer any questions you may have. [LB471]

SENATOR LANGEMEIER: Thank you very much. Are there any questions? Senator Haar. [LB471]

SENATOR HAAR: Thank you. Well I just can't resist because you and I share the same interest. I'm not trying to trap you with a question. Are there any of your members that generate wind energy or? [LB471]

KRISTEN GOTTSCHALK: The Nebraska Rural Electric Association members are all distribution utilities. They own no generation. [LB471]

SENATOR HAAR: Okay. [LB471]

KRISTEN GOTTSCHALK: There are member systems that do have consumers connected to their lines that use wind energy. [LB471]

SENATOR HAAR: Right. But, okay. That clarified. Thank you. [LB471]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. Further testimony in opposition? Mr. Byrnes, welcome back. [LB471]

ROBERT BYRNES: Good afternoon, Senator Langemeier, members of the Natural Resource Committee. My name is Robert Byrnes from Oakland, Nebraska. It's spelled B-y-r-n-e-s. I am testifying in opposition to LB471 and I'm pleased to know that every now and again the REA and I agree on topics regarding renewable energy. I think I've some slightly different reasons than those that Kristen mentioned. But I am in opposition to LB471 for several reasons. First, I think the bill puts a limit on the amount of renewables that qualify. I'm unclear that a voluntary goal of 10 percent renewable energy should be translated into a sort of cap for these systems. I'd like to think in bigger terms and bigger scales, and something more in line with the federal RPS. Excluding sales to other electric generating entities was also an unclear inclusion on page 3, line 7. LB471 makes no mention of exemption for C-BED or other Nebraska citizen-owned systems. Ownership matters and first consideration must be given to Nebraska-owned projects. Many times more cash staying in the state for Nebraska-owned projects is not intangible. LB471 brings the new process of decision making that does not broaden the ability of the Power Review Board to fully assess the complete impacts of renewable energy projects. It only gives a bye to the process if it all stays under 10 percent. Examination of the full impacts of renewable development in this process is not provided for in LB471. To redirect, one comment to...a comment you made, Senator Haar, in the improvement, and there certainly is improvement that can be made in old carbon coal consumption processes that could be made more efficient. CO2 in the exhaust of baseload coal burning plants can be sequestered into algae and

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that algae can be used to produce liquid fuels and biomass and can be either reburned or fed to animals or humans. There are...there's a lot that can be done but in the end of the day, utilization of coal is still old carbon at the end of the day will be effected by cap and trade. Coal, all the coal that's used in the state comes from somewhere else, it does not come from Nebraska. And then finally, it is a finite source so even though we may have reserves of 100 years in the ground of coal, we're still ultimately delaying...we're putting this decision off ultimately to a future generation to have to deal with. With that I'll take any questions. [LB471]

SENATOR LANGEMEIER: Senator Haar. [LB471]

SENATOR HAAR: Thanks. And the research for the using algae for carbon capture is being done in Nebraska, right? [LB471]

ROBERT BYRNES: That's correct. I'm involved with a project that is utilizing carbon capture in conjunction with an oil seed, community oil seed project that is actually going to capture CO2 sequestered into an algae project, an algae product, and then recycle that heat and CO2 in the process and my grant application deadline is tomorrow. [LB471]

SENATOR HAAR: Okay. Do you...I'm not so worried about the cap as you are, because I think if this thing works we'd all be happy to raise the cap quickly so is that a major concern or is that sort of? [LB471]

ROBERT BYRNES: No, I don't think it's a major concern. And I would hope that we would be responsible if we filled it up that we would lift it per se for the bye so to speak to get automatic approval, but I think this and LB591 are both getting at the same thing which is allowing the PRB to look at not just low cost, but total cost. What this does is it keeps the low cost criteria in place, but if it's under this threshold or that size then you just don't have to go through it, where I think the opposing bill actually changes the process from a lowest cost estimation to a total cost estimation when you bring in some of the other criteria that are involved and that's not part of the bill here. [LB471]

SENATOR HAAR: And the opposing bill you're referring to is the next one on the agenda? [LB471]

ROBERT BYRNES: LB591, that's correct. [LB471]

SENATOR LANGEMEIER: Senator Carlson. [LB471]

SENATOR CARLSON: Senator Langemeier. Robert, if this bill included C-BEDs, would that change your testimony? [LB471]

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ROBERT BYRNES: I think it would help, Senator, and I think I'm kind of a little guy looking up in some of these things but I think we should always be vigilant in maintaining preferences for Nebraska-owned projects in a public power system. But I think ultimately it doesn't get...this bill still doesn't get into the crux of the decision making diversity or ability that I think the PRB needs to look at economic development. And we're not even pulling in all the things that we certainly could when you look at outfalls of traditional or waste streams from traditional energy technologies. But certainly in terms of what renewable does bring to the table in terms of economic development and some of these other things that are in the other bill, I think should be in the decision making process. [LB471]

SENATOR CARLSON: We've heard so many bills in the last two days I get mixed up as to...and you testified in most of them but we had a bill that had to do with significant investment by outside companies coming into Nebraska. Were you against that? [LB471]

ROBERT BYRNES: I'm not. I was...I believe, again, I'm getting a little number shocked myself from the last 48 hours. I'm not against outside capital coming into Nebraska. I mean Nebraska should be open to business in the world economy and we've obviously already possibly said yes with an 80 megawatt privately owned facility in the state. And I think that's a good thing. However we do need to be vigilant to ensure, and again, some of this goes back to the energy plan, how much of our capacity do we really want to be foreign owned to protect, ultimately, the integrity of public power. I think some of that high-level stuff needs to be determined. I am not against outside, bring your money to Nebraska, by all means. I'm in favor of that but we do have to do that I think in a way that's different in other places because of the nature of our publicly owned utilities. [LB471]

SENATOR CARLSON: So in general, you would say bring your money to Nebraska and invest it in wind power, but it is C-BED or privately owned. [LB471]

ROBERT BYRNES: That's correct, however, we know the value of the C-BED project is going to leave far more of their money here, which I think is one of the goals of the process and economic development. If Nebraska just becomes a resource pool for out of state private developments and we're not in the valuated process, we stand to lose considerable. And I think the past, and when you look back at the history of public power development and why George Norris started this with TVA and all of the other places that he spread his seed, so to speak, to plant public power was where investor-owned utilities were abusing and taking advantage of the position they had as monopolies. [LB471]

SENATOR CARLSON: Okay. Thank you. [LB471]

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SENATOR LANGEMEIER: Okay. Thank you very much for your testimony. [LB471]

ROBERT BYRNES: Thank you, Senator. [LB471]

SENATOR LANGEMEIER: Further testimony in opposition? Welcome. [LB471]

JOHN K. HANSEN: Mr. Chairman, members of the committee, for the record my name is John K. Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union and appear before you today as my organization's president and also our lobbyist. It is a substantial step forward that we are considering which is the best way to move forward here today. Ten years ago this would have been a hallelujah day, you know, ten years ago. So instead of no absolutely not, we can't think about these things, can't work, we're now...we have public power engaged in a very positive, constructive way and I give them a lot of credit for looking for ways to move forward on renewable energy development. And really the question, I think, is what is the best way to do that? LB471 represents a substantial improvement as well over the effort that was made last year in a similar bill in that it does include a C-BED provision. And so one of the two reservations that we had last year has been addressed and so I compliment the proponents for including C-BED in this bill. It puts it on an equal footing and we appreciate that. That's a step forward. The other issue, however, that we raised last year was, I think, highlighted in the testimony of opposition that we have already heard today from one of the members of the Nebraska Power Association which is the Nebraska Rural Electrics. And as I do all of these public information meetings on wind and wind energy and the swirl of diversity of perspective that goes on in the 101 ways to look at all different issues that come forward in those meetings, there certainly is a persistent perspective that says we have been, you know, the...we have the fifth lowest rates in the nation and that if we move to renewable energy, sure as the world, that's going to go out the door and we're just going to end up in a situation where we're going to pay exorbitant costs somehow because of all of this additional wind energy, renewable energy, generally. And so we've thought that the more thoughtful and prudent long-term way to deal with that issue that's out there and that perspective that's out there is to refine the Power Review Board criteria in an appropriate way which if you go back to what is the sticking point, really is the beginning of the conversation of why it is difficult to go with the current criteria that they exist and I don't criticize them at all. They are doing a good job of enforcing the rules of the road that we've given them. I think we need to, as a state, go back and address those rules of the road in a thoughtful and constructive way so that we can find a way forward that continues to look at cost but also appreciate renewable energy and for the benefits that it provides. And of course the fair comparison in costs is to compare apples to apples and oranges to oranges and the way to do that is to compare all of the costs of both new sources of generation when you're comparing new generation and to compare all costs of old generation when you're comparing old. You can't compare new wind to old coal, that wouldn't be fair, and it's not fair to compare new coal to old wind. But if you're going to

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compare old wind to old coal, old wind paid for is cheaper. But as you look at where we're at right now relative to cost, we're at the break point now when you look at, depending on what window of time as you look forward, new wind is comparable to other forces of generation when you look at the national data that's available through the National Renewable Energy Lab. So it is much milder opposition this year that I bring to this concept piece than we had last year. It does represent progress, but in the end of the day, we'd prefer the other way forward. And I'll testify on that in a bit and with that I would end my testimony on LB471 and answer any questions if you have any. [LB471]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB471]

SENATOR CARLSON: Senator Langemeier. John, with your comment, you allowed Mr. Byrnes to reveal my ignorance on the fact that C-BEDs were included in here, so I agree that they are. But you made the statement old wind is cheaper than old coal. That's only if you don't have big maintenance problems, isn't it? [LB471]

JOHN K. HANSEN: Maintenance problems considered, once you get through the capital construction costs of wind, you're not paying for any fuel. And a very high percentage of a total cost of wind generation is up-front capital construction, which really speaks to the point of why Nebraska as a state has been so adversely impacted by the lack of robust and appropriate federal funding of the kind of incentives that work for wind energy. And so, since so much of the total cost of wind is up-front capital costs, when the incentives for public power are not adequately funded by Congress, which they have not, that puts them right out of the chute at a 1.9 cents in the past, a 2 cent disadvantage now over private incentives which do not require funding. And so it's a different structure, different mechanism but old wind, and I'll be glad to share the National Renewable Energy Lab a very busy set of graphs and charts with you about different costs and trend lines. And a lot of the trend lines also gets into the business of some of the assumptions in the trend lines but also what period of time you're looking at. [LB471]

SENATOR CARLSON: Thank you. [LB471]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LB471]

JOHN K. HANSEN: Thank you very much for your consideration and time. [LB471]

SENATOR LANGEMEIER: You bet. Further testimony in opposition? No more opposition. Further testimony in a neutral capacity? Welcome, and hand outs. Welcome. [LB471]

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BART FORD: (Exhibits 9, 10, 11) Thank you. Mr. Chairman, members of the committee, my name is Bart Ford spelled B-a-r-t F-o-r-d. I'm here today testifying in a neutral capacity on LB471. Thank you for allowing me this opportunity to testify. I'm a vice president with Tenaska, an independent power company founded by Bruning, Nebraska native, Howard Hawks back in 1987. Today our company has about 700 employees. We are 100 percent employee owned, and are among the 25 largest privately held companies in the United States based on total revenue. Our core business is developing, owning and operating power plants. Our headquarters are in Omaha and we have smaller offices in Dallas, Houston, Denver, and Calgary and power plants in a number of states as well as one project in Latin America. So why am I here today on this bill? I'm here to share with you amendment language we believe will enhance the original C-BED legislation and to ask that as you review the many wind proposals before the committee you consider this amendment. And Senator Fulton was very gracious in agreeing to allow me to speak in the context of his bill as a vehicle for this. The scope of the change that we are seeking is fairly narrow and is not part of the much broader question of how Nebraska might benefit from the export of wind power to other states. I understand that Midwest Wind has testified yesterday and we heard from them again today on this broad subject. Tenaska is focused for now on just fixing the C-BED statute so that it can be a more effective tool to promote local investment opportunity in wind projects that would sell their output to public power companies. As background, until the enactment of the C-BED legislation two years ago, Tenaska had not looked at Nebraska as providing an opportunity for the development of private power projects. Nebraska is very well served by its public power companies and there was just no need for Tenaska or any other private developer to develop power projects in Nebraska. So this was a place where we, Tenaska employees, lived and worked and raised their families, but our development activities were in other states. But things are different for wind projects because of the very substantial federal tax incentives provided to promote the development of renewable energy. Public power companies are tax exempt so they can't take advantage of these tax incentives and because of this it is more cost effective many times for private, taxable parties to own the asset and then to sell power to public power companies at a price that reflects the federal tax incentives. The C-BED legislation sought to incentivize the development of wind projects and also to encourage local ownership. This is exactly the effect that it had on the Elkhorn Ridge project near Bloomfield in northeast Nebraska which was completed this month. And this was a project that Midwest Wind had developed that you heard about. The special purpose limited liability company made up of Tenaska individuals who live in Nebraska was and is the C-BED partner and owns one-third of that project. There were over 100 jobs created during construction, \$5 million in property taxes is going to be paid the first year, \$325,000 in annual lease payments to local landowners. This project has had a positive effect on Nebraska economy and we've been privileged to be a part of it and I've handed...there, provided packets of information that provide more detail about the project and also about Tenaska. The issue that the amendment that we're proposing

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addresses is simply this. One of the provisions in the current C-BED law is a requirement that 33 percent of the gross power purchase agreement payments go to qualified owners. This provision is intended to keep a significant portion of the benefits created as a result of the project in the state of Nebraska. The qualified owners are the Nebraska residents or LLCs made up of Nebraska residents. The requirement that C-BED projects have 33 percent Nebraska ownership reflects state policies determined by the Legislature and that's obviously fine, it's well supported. But the way this requirement is currently written impairs the ability to obtain cost-effective debt financing for C-BED projects, and here's why. All of the projects that Tenaska has developed in the United States, and these are projects for which Tenaska has obtained in the neighborhood of \$10 billion worth of financing over the last ten years, have been financed with a combination of debt, project debt and equity. This is because the required interest rate on project debt is cheaper than the required return needed to attract the equity capital, and if the capital structure is balance properly the overall cost of capital in terms of the interest rate and the equity returns is lower than if projects were financed 100 percent by equity. The problem that we see and have experienced with the C-BED language is that by requiring 33 percent of the gross power purchase payments to go to the Nebraska residents, it just doesn't leave any room for debt financing at the project level and this is inefficient, raises the cost of capital, and results in an increased cost of power. I can illustrate this simply by showing--by referring to the capital structure we have in the Elkhorn Ridge project. Because of this requirement it wasn't possible to have debt at the project level, so the project company has no debt. Instead, the Tenaska individuals put in 33 percent of the equity and the non-Nebraska people put in 67 percent of the equity. We could not now have any debt at the project level because any debt at the project level is going to take payments from the power purchase agreement to service that debt. And by taking those payments away from the Nebraska residents, the percentage of those payments that we get goes down below 33 percent even though we are still a 33 percent equity owner. It really denies the ability to obtain normal and efficient project-level leverage with having the company that actually owns the asset borrowing the money. This has had an effect on us in terms of our own willingness to participate in further projects. And I think if we can't fix this problem, it just results in the amount of capital that's required, because you can't use debt at the project level, to be too high and the returns to be too low. The normal effect of adding leverage is to improve returns and without the ability to do that, the returns simply aren't sufficient for additional equity. So the amendment fixes this by specifying that the 33 percent of gross power purchase payments would be determined by first netting out the debt financing so that if the project has debt financing, you take that out of the equation and then look at where the rest of that money is going. Under this test, the Nebraska residents still will be 33 percent equity owners, but they'll be able to be investors in projects that are financed with a more rational capital structure that will permit a lower price on the power that's being sold to the public power companies. These are exciting times for wind energy development and also energy development in general and we've been very happy to be involved in the Elkhorn Ridge project. That completes my

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testimony. If there are any questions I'll be happy to try to answer them. [LB471]

SENATOR LANGEMEIER: I have one. Thank you for your testimony. My understanding, and I was aware of this proposal, my understanding is these C-BED projects get bigger and bigger. Finding that local ownership of that 33 percent gets more challenging and that's why you were involved in the Elkhorn Ridge project because they thought you would have the means to come up with the cash to be a Nebraska ownership partner. But as a company, you're having troubles with looking at putting all cash into your 33 percent ownership in a Nebraska project where versus financing and going to Texas and buying into something down there or somewhere else in the country? [LB471]

BART FORD: Right. That's exactly right. We...if for example, if we assume that the capital required for the Elkhorn Ridge was \$100 million. It was more than that, let's say it's \$100 million for a round number. That means unless we're doing financing at the project level, that means we have to put in \$33 million and while we're a big company, this is being done by our individual owners and it's being done on a voluntary basis. That's still a lot of money for a collection of individuals to come up with and they themselves under the statute, they can go out and borrow or the investors can go out and borrow but the more efficient way to do it is to have the project company borrow the money and then the investors just put in the equity components. So if half of the capital were provided through a debt financing at the project company in my example, then the C-BED investors would only have to invest \$17 million instead of \$33 million out of the \$100 million. They would still own one-third of the project, they get one-third of the equity distributions, they'd be a third owner. And the returns would be higher because the ability to put in lower cost debt both improves the returns and also enables the project to sell power at a lower cost. [LB471]

SENATOR LANGEMEIER: Sure. Senator Fischer. [LB471]

SENATOR FISCHER: Thank you, Senator Langemeier. First of all, Mr. Ford, I want to tell you Senator Langemeier and I want to go on a field trip and we want to go here. [LB471]

BART FORD: You want to be on top of the...it's a great picture. [LB471]

SENATOR CARLSON: And I won't go with them. [LB471]

SENATOR SCHILZ: We'll stand at the bottom. [LB471]

SENATOR FISCHER: Well, I think it'd be a great picture. Secondly, I'd like to thank you and your company for being here in Nebraska. I want to put that out front. But I don't think you are the Nebraskans we had in mind when we passed C-BED. You know,

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I...and again, I seriously want to thank you for being a company, being here in Nebraska, having Nebraska ownership. That's what we need. But your...I'm looking at the highlight of your 2007 report, your total assets...they increased to \$2.9 billion. I was kind of somewhat kidding with a testifier yesterday and today about, you know, I'd like to put up a turbine too. I've got a federal tax credit coming now but that still isn't going to help me. And of the testimony on the C-BED bill when we were looking at doing it from John Hansen and others was that, boy, this was going to help rural Nebraska. This is going to help our farmers and ranchers, they're going to be part owners in this. This is...you know, it's going to be great that we're going to help these people. And again, I thank you for investing in the Bloomfield project there. I think it's great for that community and I'm glad you did it. I just don't think that's a project for C-BED, though, and I guess I'm asking what advantages are offered for companies in other states that you can participate in? You participated in a C-BED here, what are advantages you get in other states? [LB471]

BART FORD: Well, the incentives in other states vary. The economic benefit incentives vary by state, tax situations vary, negotiation on, you know, property taxes, that sort of thing. So there wasn't a single answer to that. The one thing I'll say is that, you know, under the C-BED rules all of the landowners are...the project is required to offer them to participate on the same terms as others participate and in this case none of the landowners wanted to participate. That wasn't very surprising just because of the amount of money is very substantial and I was just sitting at my desk as I said in my testimony, we never particularly looked at Nebraska, you know, sitting in my desk and the phone rings and someone calls and says, we're trying to do this project in Nebraska, you know, we're having a hard time finding C-BED investors and I'm not sure exactly how it's supposed to work. We don't apologize for being a company that's gotten big and successful and I know that wasn't the tenor of your comment... [LB471]

SENATOR FISCHER: Right. [LB471]

BART FORD: ...but as to how the C-BED statute could be used so that rural parties could participate, I'm not sure, I think the amount of capital that's required is just very large. It's many tens of millions of dollars per project and unless the idea is to simply contribute the interest to people, I don't know where they would come up with that kind of capital there. Certainly... [LB471]

SENATOR FISCHER: And again, I thank you for investing in Nebraska and I thank you for having your headquarters here, that's what we need for our state. We need that if we're going to have growth. But I just don't see the C-BED project as you said, how many individuals are going to be able to be investors and benefit as investors? Do you ever see just the rural people out there on the land being able to do this? [LB471]

BART FORD: No, you know, I thought about this some and I think the only...maybe one

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way it could work, there would have to be some way of organizing people. I don't know whether that would be a state effort or some organization created that people then could be a part of because you'd need quite a number of people to amass the amount of capital that's required. It can't really be done easily on a one off basis and I think the fact that we were involved, you know, there aren't too many companies like Tenaska that are in Nebraska that are in the energy business that have a group of employees that can be organized. That's kind of an unusual situation. [LB471]

SENATOR FISCHER: Right. [LB471]

BART FORD: And so I think, you know, some other way needs to be looked at to organize the people who aren't in our situation; it's a fair comment. [LB471]

SENATOR FISCHER: Did you happen to know that we had a bill yesterday. Senator Lathrop brought forth a bill that could possibly take away the fear of eminent domain by power companies if private companies were able to come in and reach an agreement. Do you know anything about that bill? [LB471]

BART FORD: I've heard about that proposal and that's one of the... [LB471]

SENATOR FISCHER: Could your company then take advantage of something like that if that was being offered? Would you look at continuing to build turbine farms in Nebraska? [LB471]

BART FORD: Sure. That's one of the impediments right now. The other benefit that C-BED provides is a state tax break that's just economic, but sure, that is in the right direction. And I think it's really only with wind projects that a private party really could compete effectively in Nebraska. [LB471]

SENATOR FISCHER: Okay. Thank you very much. [LB471]

SENATOR LANGEMEIER: Very good. Other questions? Seeing none. [LB471]

BART FORD: Okay, thank you. [LB471]

SENATOR LANGEMEIER: Thank you very much for your testimony. Further testimony in a neutral capacity? You might be my final one. Welcome, Mr. Texel. [LB471]

TIM TEXEL: Thank you, Senator Langemeier, members of the committee. I do not have any...my name is, first of all, Tim Texel, T-i-m, last name T-e-x-e-l. I'm the executive director and general counsel for the Nebraska Power Review Board. I don't have any prepared testimony. I just wanted to say first of all that the Power Review Board is neutral on LB471 and on the next bill, LB591. The board takes its role as a

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quasi-judicial, primarily anyway, quasi-judicial board very seriously and historically has not taken a stance on our jurisdiction, doesn't want to appear to not be neutral when entities come before us and we're making decisions based on these types of criteria. So the board has decided to take a neutral stance on both these bills and I want to just address a couple of issues that came up during the prior testimony, as a...I guess, as a correction. When comparing costs before the Power Review Board, I mean, it's to paraphrase a low cost standard, when comparing the costs the board doesn't normally compare the cost of existing plants versus like a new wind farm. We prefer to view it as if you're bringing a 100 megawatt facility before us, what will the cost of a wind farm, coal plant, natural gas facility, whatever type of generation, we wouldn't be comparing an existing plant's cost with a new plant. We're comparing the costs of new plants of various types. So I wanted to correct that testimony if the impression was we're comparing costs. I think a lot of people compare the current costs, and that's true. But for our purposes when we're approving a generation facility, it's on equal footing, what would the new facilities of each different type cost. Next, I want to address our standard where it comes to that the board may not be able to approve a wind farm or even a gas facility due to the cost. I want to point out that we also look at...and that's been true. Wind tends to be more expensive, but one of the other problems that wind faces going before us is the duplication standard too. Because if you need 100 megawatts facility, say, just to use a round number, if you need 100 megawatts, then it's hard with wind also in addition to the cost because you also have to have something to back up that 100 megawatts. It has to be used not as capacity to provide you with 100 megawatts, but usually for energy to reduce the need for other, not burn coal, other things like that. So that's something else that comes into our review is the duplication. And wind because it's not dispatchable, you can't say, we need 100 megawatts, pull it out of that wind farm facility. You can't do that with wind like you can normally with a coal baseload or a natural gas peaking. The other point is that we also look at the feasibility of a new facility because coal versus wind versus gas have different purposes. As I mentioned, wind is usually energy, the other two are we need 100 megawatts. If you need it to be peaking, it doesn't make any sense to have a coal plant, those are larger, more capital intensive, they're usually long-term projects for reducing the debt and they're usually larger, the economies of scale kick in. So if you need a peaking station you only need...sometimes with the villages that we see they put in a diesel facility. Of course, that's very much more expensive than most other generation but they need a small facility because they may be isolated on the transmission grid, they're worried in the middle of winter if something happens like the ice storm we saw a couple years ago, they need some backup generation. We just had one recently that put in diesel. We approved it even though my board members pointed out, the cost was high. But they need that one or two megawatts for the protection of their citizens if an ice storm knocks out a line and that's the only line feeding their city or their village. So we look at more things than just the cost, and I wanted to point that out. Wind has some of the difficulties I've mentioned, but we don't just say you have to be the lowest cost. Otherwise we'd approve nothing but 800 megawatt coal-fired plants under our current existing scheme.

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So that's all I had, unless there's any questions for me. [LB471]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Texel? Seeing none, thank you very much for your testimony. [LB471]

TIM TEXEL: Thank you. [LB471]

SENATOR LANGEMEIER: Further testimony in a neutral capacity? Seeing none. Senator Fulton, you're recognized to close on LB471. Welcome back. [LB471]

SENATOR FULTON: Thank you. Thank you, Mr. Chairman, members of the committee. This is just an interesting policy discussion, this is something that I happen to have an interest in a lot of different things. This is something that I have an interest in because of past background but also because of the policy question that it poses for Nebraska. How can we capture the energy of wind to produce usable electricity transmitted via our existing transmission infrastructure. In the past it's been, and presently it's been difficult to deploy wind energy. Wind energy is often disallowed in this state due, incidentally, to a very wise, highly effective policy of public power which really has protected users in Nebraska. It's very affordable power for users, businesses, and families. This bill represents what I believed to be a collaborative effort to employ some renewable energy within existing portfolios for public power districts. I want to take this opportunity to lend some credence to the word collaborative. I read before agreeing to actually in the process of agreeing to introduce this bill, I read through testimony from last year's bill which was substantially the same sans the C-BED provision is included in this year's bill. The folks that have testified in opposition weren't testifying in opposition last year and in fact, the Farmers Union last year testified in a neutral capacity. But what stood out to me was, and I'll quote here, the last sentence of Mr. Hansen's testimony, "We think it's overall a good effort so we're neutral in favor, I would say". I was hopeful that this could be a collaborative process. I remain hopeful to that end. If there's any way that I can work with the committee so that we can move this forward, I think this would be a good means by which we can employ wind energy within our existing public power structure. So with that, I can answer any questions or be on my merry way. [LB471]

SENATOR LANGEMEIER: Are there any questions? Senator Haar. [LB471]

SENATOR HAAR: Just sort of a comment. And it's been brought up a number of times, I think what's very neat is we're not talking about if we should have renewable energy now, but how to do it and just so far this session we've seen competing net-metering bills, in other words how can we do it. We're going to have two bills like this that are looking on how best to do this. Somewhat the bill of Senator Dubas today and what we talked about yesterday go hand in hand. So we're looking at multiple efforts here and I think that's really hopeful. [LB471]

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SENATOR FULTON: Agreed. [LB471]

SENATOR HAAR: Thank you. [LB471]

SENATOR LANGEMEIER: Very good. Thank you very much for your closing. With that, that concludes the hearing on LB471. And I think, yep, there he is. Senator Dierks is here for a second day in a row. Senator Dierks, welcome back to Natural Resource Committee and we'll open the hearing on LB591. [LB471]

SENATOR DIERKS: Thank you, Senator Langemeier and company. Right now I am trying very hard to hold my temper. I can't believe the testimony I heard from this man from Tenaksa to come in here in a neutral capacity and try to offer an amendment that would change the structure of C-BED. That has nothing to do with this bill. Really, if he has some intention of making some changes there, he ought to at least ask for a new bill and bring it to a different conclusion than what he did here. I just am upset with this. Corporate America is trying their damndest to uncork our C-BED legislation and that bothers me to no end. We spent a lot of time on this legislation a year ago. We think it's pretty well perfect. We don't need anybody from wherever trying to tell us how to do this. I am just...I can't believe that that happened. Members of the Natural Resources Committee, my name is Cap Dierks, spelled C-a-p D-i-e-r-k-s, and I represent District Number 40. I am here today to introduce LB591. I introduced this concept last year as well in LB1138. LB591 is a continuation of my efforts to increase the use of renewable energy in Nebraska. Currently, when the Power Review Board considers a new project the board must find that the project will serve the public convenience and necessity and that the applicant can most economically and feasibly supply the electric service resulting from the proposed construction or acquisition without unnecessary duplication of facilities or operations. That's the quote from the rules. Under my bill, the Power Review Board may approve a renewable energy project if it will serve the public convenience and necessity and it meets one of the following four new criteria: one, reduction of pollution; two, water conservation; three, displacement of domestic and nonrenewable fuel sources; or four, provide economic advantages to the rural economy. These four additional new criteria must outweigh the original wording in statute without causing a need for a significant increase in the wholesale or retail electric rates. Both our county and our state are moving toward the increased use of renewable energy. Nebraska ranks sixth in the nation in its potential to develop and use wind energy. I believe this bill, LB591, will encourage the development of wind and other renewable energy sources by giving the Power Review Board greater flexibility while reviewing applications of such projects. I believe it will also help our public power companies to achieve the goals that our nation is required to meet. I am in concern about rates charged to our citizens. An important part of this legislation requires that a renewable energy project will not significantly increase the price residents pay to use energy in their homes. Thank you for your attention, and I'm sorry to have lost my temper but I still am upset that that happened. I think that's a very unfortunate thing to happen to this

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committee. I'll try to answer any questions you might have. [LB591]

SENATOR LANGEMEIER: You have your temper down just pretty good there. Yeah. Very good. Are there any questions? Senator Haar. [LB591]

SENATOR HAAR: Yes. Senator Dierks, so your bill includes no kind of caps, as in the other one? [LB591]

SENATOR DIERKS: No. This is just changes the structure requirements for making these changes that the Power Review Board makes. [LB591]

SENATOR HAAR: Okay. Things would still have to come before the Power Review Board, though? [LB591]

SENATOR DIERKS: Yep. [LB591]

SENATOR HAAR: Okay. [LB591]

SENATOR DIERKS: We don't talk about the fiscal part at all except we say that it's supposed to remain fiscally neutral. [LB591]

SENATOR HAAR: Gotcha. Thank you very much. [LB591]

SENATOR DIERKS: Yep. [LB591]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, they're going to let you off the hook easy. [LB591]

SENATOR DIERKS: Thank you. [LB591]

SENATOR LANGEMEIER: It's late in the day, that helps. [LB591]

SENATOR DIERKS: I'll stick around. [LB591]

SENATOR LANGEMEIER: Good. Further testimony in support of LB591? Mr. Hansen, welcome back. [LB591]

JOHN K. HANSEN: Chairman Langemeier, members of the committee, for the record my name is John K. Hansen. I am the president of Nebraska Farmers Union. Appear before you today as our president and also our lobbyist. I think I spelled my name, H-a-n-s-e-n. Sometimes I forget to do that. The approach of LB591 is, I think, something that has to be considered and needs to be addressed. It is the centralized planning and evaluation mechanism that has served our state extremely well up to this point, I think,

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as you look at trying to do things in the most appropriate and cost-effective way, so that we're not having a willy-nilly duplicative constructions and systems, transportation systems. So this is the funnel through which all of these activities get coordinated and go forward in our public power state in the most appropriate and efficient kind of way. We have to remember that public power is the creation of the Legislature. So when we think about structure issues and governance issues and missions, this is the place that we the people should come to visit with you about what it is that we think we should do. It is my considered opinion that you can run but you can't hide the issue of needing to update and expand the mission and the criteria that the Power Review Board uses relative to generation and transmission. I think it's appropriate that we do that. And the get out of jail free end run, free pass, whatever you want to call it of the previous bill is one approach. But it still leaves us at the end of the day with some criteria and some basis for making decisions issues that still aren't addressed. And so as we look at a 10 percent or a 15 percent or whatever it is...of course a lot of states in the region are now looking at renewable energy and wind in much higher amounts than 10 percent. I'll just tell you 10 percent is about the lowest you can go, because a lot of our neighbors are looking at 15, 20, and 25. And so sooner or later we're going to come back to this issue anyway. So it seems to me that as a process, I think that it's a good thing to be able to go back to our citizens and say the new generation that we developed went through the same process as other things and that it was looked at, considered, it was a part of through the same process that other things did. And at the end of the day based on the mission and the criteria for the state we moved forward. And so I think from my perception of doing the public information meetings we do and getting the public feedback that we get time and time again from the public is that this approach is, I think, I think it is better long-term policy. I think it also protects public power from unfair or certainly criticism whether it's unfair or not, I suppose is in the eye of the beholder. But it certainly provides, I think, a better way forward all in all, you know, at the end of the day than the previous bill, which I now stand corrected. I was apparently neutral opposed last year as opposed to opposed. I was doing my very level best last year to give as much credit as possible and be as positive as possible. And we work with all the public power folks all the time and I do sort of feel like the runt of the family oftentimes in those discussions and I try my best to give credit where credit is due. And so I stand corrected, I was obviously neutral opposed last year. But I am in support of this approach. I think it makes the most sense, and I would be more than glad to answer any questions if you have any. [LB591]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB591]

SENATOR HAAR: Certainly we don't consider you the runt. Do you see that this approach maybe has more delays built into it than the other approach? Or I mean that's kind of a thing that's going through my head. [LB591]

JOHN K. HANSEN: I don't necessarily. I think you, for 80 megawatts and under projects

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you still have the qualifying facility, the QF facility that you, language that comes in at the federal level and so the bulk of the wind projects are still going to be able to go through that process as qualifying facilities. But larger wind projects that could also potentially impact ratepayers higher would go through a process, but certainly the Power Review Board is going to take a look either way at what goes on and it has a role one way or the other in both cases. So I don't see one as being particularly faster or slower than another. [LB591]

SENATOR HAAR: Okay. One thing I do like about this is you're sort of redefining the considerations that you do. Do you see any possibility that there's any advantage to combine these two? Because then you sort of, you know, redefined what people are looking at but you've also said for the smaller projects, they can go through quickly. [LB591]

JOHN K. HANSEN: And here I am using a recollection, of course, the testimony can correct my memory, but I believe I mentioned that last year, that there are good features in both and that there were some opportunities to combine both, if I'm remembering right. I just want to tell you I'm now getting to the point where I don't have to apologize as much for not being able to remember as well as I used to. I'm getting good with that. After I joined AARP, I started apologizing less. [LB591]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none. Thank you very much for your testimony. [LB591]

JOHN K. HANSEN: Mr. Chairman, if I could, I just did also...in fact, I forgot my...just to remind the committee that in the handouts that I did furnish yesterday there was also the statute that deals with public power and economic development responsibilities and so as we think about renewable energy and all of these things and marbles and all of that, that that also is a part of the statutory responsibility of a public power to do that while they're also providing electricity and doing the other good things they do. [LB591]

SENATOR LANGEMEIER: Very good. I read that. Thank you. [LB591]

JOHN K. HANSEN: Thank you. [LB591]

SENATOR LANGEMEIER: Further testimony in support of LB591? Welcome back. [LB591]

ROBERT BYRNES: Thank you, Senator Langemeier, members of the Natural Resources Committee. My name is Robert Byrnes, spelled B-y-r-n-e-s from Oakland, Nebraska. I would first like to apologize to the committee regarding my last testimony on LB471 in terms of including C-BED projects in its scope. That was inaccurate and having the 21st century high speed wireless Internet we have in the Capitol, I have sent

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you all e-mail corrections already. So I apologize for that. I do strongly support Senator Dierks' approach to Power Review Board review as embodied in LB591. I think this is the right way to include renewable energy considerations for public power. This approach has been developed over a long period of time and represents the least disruption to the current process used by the Power Review Board. LB591 uses the current successful structure in the PRB and adds the ability to consider public conveniences factors, which the senator mentioned, to the decision-making process. The eligible criteria include very real, natural, and economic impacts like water, reduction of old carbon consumption, and rural economic development. Opponents of LB591 may chose to label these criteria as subjective or intangible. But there are many who would disagree. Energy policy can be a very effective tool in developing sustainable and profitable businesses that create technical jobs across the state. Demonstration of compelling economic development figures can be rarely shown. I believe LB591 is the right way to expand the ability of the PRB to do the best possible job for our public power system. I encourage the committee to move this bill forward onto the floor. [LB591]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB591]

SENATOR HAAR: Thank you. Do you see the possibility for combining the two? I mean the elements I talked about, I really liked Senator Dierks' four points here, four new criteria, but I also see the possibility of, you know, for smaller kinds of projects that this might slow it down some. Maybe combining the two? [LB591]

ROBERT BYRNES: Well you could certainly. The essence of the two bills, I think, if you look at them next to each other, the core is different. Where this one provides an exemption to an existing process, this one augments the existing process. But I think that is probably the one area where you could harmonize the two in that if you put a limit on LB591 that below 10 megawatt you don't even have to go through the Power Review Board, period. Something like that. But that would probably be the only point where I could see you could really come up with much of a combination effect. [LB591]

SENATOR HAAR: Yeah. Because I see the thing, talked about it. The other bill, LB471 is sort of an end run, where this is a redefinition. [LB591]

ROBERT BYRNES: I agree. And I think...I've been...Dave Tobias has been a good pal of mine in all these struggles, I guess you'd call them over the years. And he had to go through a Power Review Board review for a 10 kilowatt turbine some years ago. And being...what changed his process...the process has changed since for that sized stuff, I'm not exactly sure where that threshold is now. But that was a very...Dave is a pretty reserved person, and that was a pretty rigorous event for him to have to go through. It was borderline traumatic for him being, you know, a small farmer in Pilger, Nebraska, to have to go before the big suits. So that was quite an undertaking I think and I don't know

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that it was the best use of everybody's time. [LB591]

SENATOR HAAR: So if all of a sudden we combined these and we asked where should be that limit for applying the LB471 part, what would you say. [LB591]

ROBERT BYRNES: Oh. I've been known to shoot from the hip before, but I think somewhere in the middle of maybe anything under a megawatt or maybe 5 megawatt would probably be...certainly under 1 megawatt would be a size that is going to be inconsequential, I think in a lot of the scope, I think, that the Power Review Board considers. And I don't make any attempt to speak for them. But certainly net metering, 100 kilowatt net metering shouldn't need anything like this. And you know, that 100 kilowatt to 1 megawatt size is really kind of an interim field I don't know that we've addressed yet. Supposedly NPPD was presenting information on this, this intermediate scale RFP process this afternoon in York and I missed that. But that's going to be an interesting piece because we're addressing net metering on the small side. I think we've got a pretty good, starting to get a pretty good handle on the big side. But the single opportunity for turbines located near load centers like Senator Fischer's ranch is really an undeveloped area and I think that should be...that's a good deal to do that kind of decentralized production. [LB591]

SENATOR HAAR: Okay. Thank you. [LB591]

SENATOR LANGEMEIER: Very good. Any other questions? Seeing none, thank you very much for your testimony. [LB591]

ROBERT BYRNES: Thank you. [LB591]

SENATOR LANGEMEIER: Further testimony in support? Come on up. Welcome. [LB591]

STEVE EVEANS: (Exhibit 12) Senator Langemeier, Natural Resource Committee members, my name is Steve Eveans, S-t-e-v-e E-v-e-a-n-s. I'm manager of community development for Windrow Energies, LLC., a Nebraska-based limited liability company who is developing community-based energy developments under the auspices of having county support resolutions in place with Blaine and Brown Counties and Custer County and Cass County for the development of our community-based groups. As a point of clarification, I would like to ask a question of the committee. I was told that in order for me to testify amongst different senators in the Legislature, the Clerk of the Legislature said that I had to register as a lobbyist. And I wanted to...having seen testimony from other private firms in giving testimony and in some ways it seemed to me like free advertising in the last few sessions. I wanted to see what your thoughts were on that comment by the Clerk of the Legislature, stating that I need to register as a lobbyist for each of my C-BED groups that I represent. [LB591]

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SENATOR LANGEMEIER: That wouldn't be a question for the committee, you'd have to take that up with the Clerk's Office. That's not for the committee here at this present time. [LB591]

STEVE EVEANS: Okay. Well, I'm just wondering if I'm testifying illegally. That's what I'm asking. [LB591]

SENATOR LANGEMEIER: Again, I would state your testimony, your time is going, I think you have to take that up with the Clerk. If you want me to talk to you about that afterwards, I'm more than happy to do that. [LB591]

STEVE EVEANS: Okay. The thing that I would like to bolster is we followed in Cap's leading for the last two and a half years. We formed our groups based on the tenets of LB629 and the law, the Nebraska Rural Community-Based Energy Development Act of 2007 and we thought that we were following the basic tenets of the bill in doing our development. We have met every requirement of that bill in the formation of our groups and in the processes of trying to make RFPs and proposals to public power in this state. And we have met every kind of roadblock and basic...in eventuality, I would call it bid-rigging in terms of proposals that are out there on the table, especially Nebraska Power District's current RFP that's out. That is a document that predated the land assembly requirements of control two days prior to the RFP coming out. It would be predated to have land assembly control on November 15, 2008, and the RFP was issued on November 17, 2008. And so we had no way to capably assemble our group located in southwest Custer County, and we can't complete the land assembly. Our processes, we joint ventured with the C-BED group. They form up around a locus of landowners and then we develop a consulting and development agreement with the C-BED group. And we help them write the leases. We participate in the identification of the economics of the project. I would ask you to look at the other two C-BEDs that have been developed and look at how much they actually are returning to the counties in terms of the economic return. Look at them, you've got them out there, they're already on record, public record, supposedly. We have not been able to ascertain what the economics of those projects are. It's supposed to be public record, you know, we're public power. With that, I fully support and our groups fully support Senator Dierks' bill. As to the competitor, Tenaska now has their own wind development group internally and they are developing their own projects so that again, to me is a conflict of interest by his testimony. Do you have any questions? [LB591]

SENATOR LANGEMEIER: Are there any questions? Senator Haar. [LB591]

SENATOR HAAR: I think Senator Fischer raised some really good points earlier about whether C-BED, I mean just sounds so great but we want it to go to Nebraska landowners and so on. And you feel that what you're doing is a better job? [LB591]

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STEVE EVEANS: We're attempting to return the returns to the county and the landowners and the loophole is it says state. [LB591]

SENATOR HAAR: I'm sorry? [LB591]

STEVE EVEANS: The loophole in the C-BED bill is that it says residents of the state of Nebraska, it doesn't say residents of that county. We also are attempting to place, privately place, investment with another level of investors in Nebraska that aren't in the top echelon, but you know they're right below that echelon. [LB591]

SENATOR HAAR: Do you feel that you have a method for assembling the kind of money that's required to? [LB591]

STEVE EVEANS: That's what we're attempting. We do have a method and that's what we are attempting. [LB591]

SENATOR HAAR: Thank you. [LB591]

SENATOR LANGEMEIER: Senator Carlson. [LB591]

SENATOR CARLSON: Senator Langemeier. Because I was going to follow up on that. What volume of project do you think your group is capable of handling? [LB591]

STEVE EVEANS: Right now we have a municipal cogeneration project going on that is 7.5 megawatts is proposed. We also have engaged in the same RFPs at 80 megawatts. We have initialized projects in the 80 megawatt range, and we've also tailored an 80 megawatt proposal to OPPD. We looked at scaling it down to 40 megawatts because of the available transmission. Our wind technology expert is Ed Woolsey. Now he's the only non-Nebraska component of our team. We couldn't find any wind consultants, like we couldn't find wind attorneys in Nebraska. We went to Iowa, and that's where most of the folks from NPPD went who developed Ainsworth. They went to MidAmerican Energy in Iowa, the consultants and the wind energy developers that originated in Ainsworth now work for MidAmerican Energy. And one of them was hired back to work for Tenaska, so okay, to form their wind energy team. [LB591]

SENATOR LANGEMEIER: Other questions? Senator Haar. [LB591]

SENATOR HAAR: So I'm just curious, a little bit more about your group you've assembled. Are they people with a lot of money, or are they just a lot of people with smaller amounts of money? [LB591]

STEVE EVEANS: A lot of people with smaller amounts of money. [LB591]

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SENATOR HAAR: Okay, thank you. [LB591]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. [LB591]

STEVE EVEANS: Thank you. [LB591]

SENATOR LANGEMEIER: Other testimony in support of LB591? Seeing none, testimony in opposition to LB591? [LB591]

SHELLEY SAHLING-ZART: (Exhibit 13) Good afternoon again, Chairman Langemeier, members of the Natural Resources Committee. Once again for the record my name is Shelley, S-h-e-l-l-e-y, Sahling-Zart, S-a-h-l-i-n-g-Z-a-r-t. I am vice president and assistant counsel of Lincoln Electric System and I am here today representing the Nebraska Power Association which represents all of Nebraska's publicly owned electric utilities. We are here today in opposition to LB591. We have worked in the past with Senator Dierks on a number of measures including the C-BED legislation and we have very much appreciated working with him. Unfortunately, we don't see eye to eye with him on this bill. I talked to you in previous testimony that what we're really trying to do is eliminate barriers to increased wind energy development, particularly by utilities. LB471 does that, LB591 makes that frankly much more difficult and is a disincentive to additional wind energy development. LB591 lays out a three-step process and a number of things you have to go to, to establish...to get approval for renewable energy application. There was previous testimony that this sort of put all of the applications on the same footing. I'm not sure that's true. This bill and these criteria apply to only renewable energy generation applications. So it's only those applications that will be subject to these additional criteria. And it's really the criteria in the bill that are problematic. They're very vague, it's hard to determine exactly what's required and therefore I think we probably tend to shy away from it because we're not sure what the standard to be met is. For example, in meeting the public convenience and necessity you must meet one or more of the following criteria: reduce pollution, air pollution, visual pollution, water pollution, what kind of pollution; conserve water; displace domestic nonrenewable fuel sources; provide economic advantage to the rural economy. Well, what exactly is that? In terms of what? In terms of job, in terms of economic wealth, what exactly is the standard to be measured there? And those things are important because these things will all require us to go into a detailed analysis and a showing that we'll have to make before the Power Review Board which is a showing we don't have to do under LB471. LB471 is very straightforward, very simple, probably will result in some utilities putting in renewable energy development. They won't if they have to go through this, if they have to figure out what these standards are and provide detailed analysis. There's another thing...the second showing is the applicant must show that one or more of the above provides substantial benefits that outweigh the need to apply the standard

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economic test. What are substantial benefits? How much is substantial? And when we go into the economic test, I don't want to completely undo the economic test. One of the reasons that Nebraska has enjoyed electric rates among the lowest 10 percent in the country is because of this least-cost standard, because we've been required to put in least-cost generation. If wind energy for years had met that economic test, we wouldn't be having this discussion, there would be an abundance of wind energy. We haven't been able to make the appropriate business case for it. It's what we're trying to do is eliminate a barrier so that we can at least put small amounts of it in. We can't put large amounts of it in because it doesn't meet that business test. The third showing, the applicant must prove that the project does not cause a significant increase in the applicant's wholesale or retail electric rates. How much is significant? We've had two rate increases at Lincoln Electric System in the past year and I can tell you that some people think 1 percent in these economic times is significant. I don't know what significant means. I think it's going to mean something different probably to each and every one of you in this room as well as to each and every one of our customers. It's a difficult standard for us to understand what it means. We think LB471, I see my light's about to go on, we think LB471 is a better standard, it's easier, it's straightforward. We understand what that will mean, it will be easy for the Power Review Board to understand and apply as well. Both of these bills are intended to address the underlying fact that renewable energy due to its intermittency, due to some of the cost concerns, just presents other challenges to having wind energy approved in this state. We need to remove that barrier. LB471 is an easy way to do that, therefore we ask you to advance LB471 and to indefinitely postpone LB591. I'd take any questions. [LB591]

SENATOR LANGEMEIER: Thank you. Are there any questions? Senator Haar. [LB591]

SENATOR HAAR: Yes, thank you. What do you...how do you react to the amendment that was proposed for LB471? [LB591]

SHELLEY SAHLING-ZART: You mean the one proposed by Tenaska? I saw it moments before the hearing started so I don't have much of a reaction yet, other than it strikes me as outside the scope of what we're really trying to do. I'm not sure I'm opposed or supportive of it, it's just separate from what our primary focus was. [LB591]

SENATOR HAAR: Okay. It'd be useful once you've looked at it carefully to get some feedback. [LB591]

SHELLEY SAHLING-ZART: Be happy to. [LB591]

SENATOR HAAR: Yeah, thank you. [LB591]

SENATOR LANGEMEIER: Any other questions? Senator Carlson. [LB591]

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SENATOR CARLSON: Senator Langemeier. Shelley, did LES bring the bill to Senator Fulton? [LB591]

SHELLEY SAHLING-ZART: LES as well as other members of the Nebraska Power Association. [LB591]

SENATOR CARLSON: Okay. Thank you. [LB591]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. [LB591]

SHELLEY SAHLING-ZART: I got off easy. [LB591]

SENATOR LANGEMEIER: Got off easy. Further testimony in opposition? Mr. Gangwish, you sat here all day for this moment. [LB591]

DUANE GANGWISH: Good evening, Senator Langemeier, members of the committee. My name is Duane Gangwish, D-u-a-n-e G-a-n-g-w-i-s-h, representing Nebraska Cattlemen as their registered lobbyist. A very modest opposition to the bill and basically upon focusing on the specific construction of some of the language with consideration of possibly some of the unintended consequences. Section 2(a) of the bill lists four criteria, seemingly equal in status that each individually are allowed to as Mr. Byrnes said, subjectively outweigh the most economic and feasible and any unnecessary duplication clauses of the current law. One of the items as a previous testifier talked about is the reduction in pollution and although all of us would agree that a reduction in pollution is a noble thing, we can recognize that possibly in coal and nuclear power having things, but I was party to a permitting process for an ethanol plant where they had a pollution problem due to an NPDES permit. They were drawing well water to use in the cooling towers and they were not allowed to put it back into the local stream because the ground water exceeded the surface water standards and this was the state of Iowa, but they would not give them an NPDES permit to draw water out of the ground and put it in the stream. And so when we talk about one of the possible alternatives for...or as an alternative energy source of geothermal, it might be a consideration that this be looked at as a possible unintended consequence. A good thing is displacement of renewable fuels or nonrenewable fuel sources, that's a good thing we believe. But we come down to what the economic advantage of rural communities, we all want that in our rural communities, economic development. But to what cost when we look at the overall aspect of the citizens of Nebraska. We in no way want to be construed as being opposed to renewable energies but we felt it was important to draw out these couple of items for your consideration. Thank you. [LB591]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB591]

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SENATOR HAAR: Thank you. This is not exactly on this topic, but a couple of weeks ago I read in the newspaper, and maybe you saw this, where somebody was commenting on rural statistics around the state. And they said, I think the number was through the census data they had been looking at, 476 ag people were now producing some of their own energy. Are you aware of that? [LB591]

DUANE GANGWISH: No, Senator. [LB591]

SENATOR HAAR: Or I can get that to you and see if you could...because I was very interested in that. I didn't think there were that many and I was just curious as to how they're doing it or. [LB591]

DUANE GANGWISH: I think some of the others in the room here would be far more skilled at answering that, not I. [LB591]

SENATOR HAAR: Okay, okay. Great. Thank you. Yeah, thank you. [LB591]

SENATOR LANGEMEIER: Thank you. Seeing no other questions, thank you for your testimony. [LB591]

DUANE GANGWISH: Thank you. [LB591]

SENATOR LANGEMEIER: Further testimony in opposition? Seeing none. Testimony in a neutral capacity? Welcome. [LB591]

TIM TEXEL: Thank you, Senator Langemeier, members of the committee. My name is Tim Texel, T-i-m, last name T-e-x-e-l. I'm the executive director for the Nebraska Power Review Board. I'm going to be very brief. I know I'm standing between you, I think and the end. I just wanted to address one...first of all, as I said on LB471 testimony, the Power Review Board is neutral on LB591, so I wanted to put that in the record. I wanted to address one thing that was mentioned. Mr. Tobias did, you mentioned in previous testimony that he had to go before the Power Review Board for approval for a 10 kilowatt generator and that's true. He should not have, so LB471 or LB591 really wouldn't address Mr. Tobias' situation. What happened there was we weren't sure if his type of generation qualified under or if we had jurisdiction due to PURPA, Public Utilities Regulatory Policies Act of 1978. We weren't sure because of our public utilities status because of the uniqueness of the Power Review Board if we had to hold a hearing or not. We're required to hold a hearing 30 days after filing an application. So with his situation we submitted an AG's request for an opinion, we didn't get it back until after we had already approved Mr. Tobias' wind turbine. So that is why he went before us. If somebody like him came before us again, I wanted to clarify they could get a qualifying facility certification and not go through us. So I just wanted to clarify that, that these bills wouldn't address it and that's all I have. Thank you. [LB591]

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SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB591]

SENATOR CARLSON: Senator Langemeier. Mr. Texel, you have testified neutral on LB471 and LB591. Could you put a plus or minus by either one? [LB591]

TIM TEXEL: I don't have authority to do that. My board determined that they would remain neutral and I don't have authority to really go beyond that, I'm sorry. [LB591]

SENATOR CARLSON: You don't know unless you ask, thank you. [LB591]

SENATOR LANGEMEIER: Very good. Seeing no other questions, thank you very much for your testimony. [LB591]

TIM TEXEL: Thank you. [LB591]

SENATOR LANGEMEIER: Further testimony in a neutral? Seeing none, Senator Dierks. He's waited out the day with this as well. Welcome back, you're recognized to close. [LB591]

SENATOR DIERKS: Thank you. I just wanted to end with a couple of points that I think are so important for Nebraska. One is that I am very much in support of public power and I wouldn't try to do anything that would destroy the public power system that we have. I think it's outstanding. We're fortunate that we have that in this state. And the other thing that I want to stress is that I think the C-BED, and I know you know that I'm prejudiced, but I think the C-BED did an outstanding job--is doing an outstanding job for us. And the main thing about it is we're providing economic development in rural Nebraska with this. I know several people who have got these windmills on their own property up in Crofton, and they couldn't be more delighted. And it's just like a godsend for them, and it's going to happen across the state. I'm asking people to be patient because it takes awhile to get this all done. I think NPPD is doing a great job, they're getting at it. There are people that are unhappy because they can't have it yesterday, but nothing's going to happen yesterday. We've got to just have patience. I'd like to say one other thing. This bill that I brought and the complaints about those four points not being explained or further defined, I have confidence in the Power Review Board that they can develop their own rules and regulations as to how to define those particular four points. I think it simplifies the whole process. With that, I'd take any questions you might have. [LB591]

SENATOR LANGEMEIER: Are there any questions for Senator Dierks? Seeing none. [LB591]

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SENATOR DIERKS: Thank you, folks. [LB591]

SENATOR LANGEMEIER: Thank you. Have a great night. With that, that closes the hearing on LB591 (See also exhibit 14) and the hearings for the day. I'd like to thank everybody that participated. Have a great night. [LB591]

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Disposition of Bills:

LB471 - Placed on General File.

LB567 - Held in committee.

LB591 - Held in committee.

Chairperson

Committee Clerk