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Natural Resources Committee  
January 29, 2010

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[LB689 LB845 LB960]

The Committee on Natural Resources met at 1:30 p.m. on Friday, January 29, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB689, LB845 and LB960. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Tanya Cook; Ken Haar; Beau McCoy; and Ken Schilz. Senators absent: Deb Fischer. []

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen, welcome to the Natural Resources Committee. My name is Chris Langemeier, I'm the Chairman of the committee. I'd like to introduce our committee members first. I'm going to start to my far right. We have Barb Koehlmoos who is the committee clerk for the committee. I have Senator Tanya Cook from Omaha; Senator Tom Carlson from Holdrege. To my...Senator Fischer will not be with us today. To my left we have Laurie Lage, the legal counsel for the committee. To my further left and to your right, we have Vice Chairman of the committee, Senator Annette Dubas from Fullerton. We have next Senator Ken Schilz from Ogallala, Nebraska. That's Senator Ken Haar from Malcolm, Nebraska. And then I have Senator Beau McCoy from Omaha and Elkhorn area. We have today we have two pages that will be assisting this year in the hearings. We have Tony Pastrana from Colorado who is a freshman at Union College. We also have Kiana Mathew from Omaha and she is a sophomore from UNL. I'll bring your attention to those of you that wish to testify today, we have these green sheets located in the back corners of the room; we'd ask that you fill one of these out in its entirety. When you come up to testify, I'd ask that you give it to our committee clerk, Miss Koehlmoos. If you're here today and you want to be on the record of having an opinion on one of the three bills but yet don't chose to testify, also in the back corners is kind of a sheet that looks like a spreadsheet. If you would give us your name and information on there and then check whether you support or oppose and the bill number that you're here for, we will add you to the record. At this time I would ask that you turn your cell phones off not to disrupt...so we don't disrupt those that wish to testify. If you have something you want to hand out we ask that you have 12 copies. If you don't have 12 copies, just raise your hand now and one of our pages will be happy to assist you to make a few more copies. If you have something that you want us to see and you want to hand it out, if you hand it to us, remember that we will keep it and make it part of the official record. If it's something that you would like to receive back, don't give it to us. If you give it to us we're going to keep it. Just show it to us from the table, because once we have it, it's part of the official record. When you come up to testify, the first thing we ask that you do is state and spell your name. No matter how simple of a name or complex, we need you to spell it. It helps us keep the transcription and permanent record of this hearing that much easier to keep track of. With that, we have the lights you see in the front of the room. We, in Natural Resources Committee, we issue five minutes of time. You will have four minutes of green; one minute of yellow and then when it goes red we ask that you conclude and we will then allow yourself available for questions. With that, we will start the hearing.

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We will be hearing the bills in order as you saw posted: LB689 and LB845 and then LB960. And at this time I'll turn it over to our Vice Chair, Senator Dubas and we'll start the hearing on LB689. []

SENATOR DUBAS: Thank you, Senator Langemeier. []

SENATOR LANGEMEIER: Thank you, Senator Dubas and members of the Natural Resources Committee. My name is Chris Langemeier, it's C-h-r-i-s Langemeier, L-a-n-g-e-m-e-i-e-r. LB689 is...takes us back in time. Two years ago when we passed LB701, as we looked through that whole bill we were looking for funding sources for water. And as part of the negotiations in LB701, the idea of taking a portion of the state's ethanol, corn checkoff, that was currently going to ethanol, that was set to expire in 2012 was extended and put into the Water Cash Fund. The corn checkoff is a voluntary program that was instigated by farmers and it's paid by dryland farmers and irrigated farmers. Again, as part of LB701, it was allowed to extend up to seven-eighths of a cent which produces roughly about \$10.5 million a year. That is a voluntary fee paid by our corn producers in the state of Nebraska. As LB701 has deteriorated, as we had talked about when the bill was passed, we'll put it in, we'll make it part of the negotiation, we'll come back before 2012 when it was actually going to take place, and remove it. Now I'll be the first one to stand up here and I'm sure there's going to be opponents that want water in the cash fund and I understand that. But I'll be the first one to stand up here and say, our dryland farmers aren't part of any water problems in Nebraska. You know there's mixed opinions out there that our irrigated farmers are part of the water problem. I would argue that they're probably not the sole contributors to those issues. And so as we look to the future of how we're going to fund water issues in Nebraska, whether it's quality issues at the eastern end of the state that affect the city of Omaha, whether it's quantity issues that we're facing in the Republican River Basin, we're going to have to have a source of funding for water and I don't argue that. But it's tough to bring a group like we all are, 49 members of the Legislature, it's tough for us to talk about how we're going to fund water into the future when we have a source, maybe not the best source, the use of checkoff, but when you have a source of funding to go into a cash fund, it's tough to bring anybody to the table to talk about the true mix of how we should fund water issues in Nebraska. So what I'm asking the committee to do and then if they so choose, ask the body to let the corn checkoff, the EPIC portion of it, not the portion that goes to the Corn Board, just the EPIC that was funding ethanol promotion, excuse me, incentives, ethanol promotion has its own deal, but just to allow that portion to sunset in 2012 like it was scheduled to before the passage of LB701. And with that, we will continue to look for funding sources for the Water Cash Fund into the future. I'll conclude there. I know there's a number of people that want to testify. Are there any questions? [LB689]

SENATOR DUBAS: Thank you, Senator Langemeier. Are there questions? Seeing none, thank you. [LB689]

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SENATOR LANGEMEIER: Thank you. [LB689]

SENATOR DUBAS: Our first proponent for LB689. Welcome, Mr. Olsen. [LB689]

KEITH OLSEN: (Exhibit 1) Good afternoon, members of the Natural Resource Committee. I am Keith Olsen, K-e-i-t-h O-l-s-e-n. I'm a dryland farmer in southwest Nebraska raising corn and wheat. I also serve as president of the Nebraska Farm Bureau and I'm in here in that capacity today in our support of LB689. Senator Langemeier gave a historical perspective of how this particular checkoff came about in LB701. We as an organization are very much opposed for checkoff money to be used for purposes other than what checkoff funds were created for in the first place. As Senator Langemeier said, farmers asked for checkoff funds as a self-help tool to promote our products, to market our products, to have research conducted on the product that we raise on our farms and ranches. This may be put into a water fund if taken away from the checkoff fund for the purposes that they were created in. So we are very much opposed for the transfer of checkoff funds from corn and grain sorghum to be put in the Water Cash Fund. The second concern is, we believe that the water challenge that Nebraska is facing should be a responsibility of all citizens of the state of Nebraska to help resolve and to help contribute resources to if needed. A Nebraska Policy Institute conducted a study a few years ago and showed that the economic importance of irrigation in Nebraska showed that roughly two-thirds of the economic benefit of irrigation accrues to the state economy at large. In other words, one-third of the benefit goes to agriculture to producers; two-thirds go to the state in general. We believe that the checkoff funds to fund the Water Resource Cash Fund would lean disproportionately on agriculture. A study prepared by Dr. Ray Supalla in 2006 from the University of Nebraska estimated that the...by reducing the allocation on wells in the Republican River by two inches below then current allocations would cost producers around \$14 per acre. Farmers already contribute through local property taxes. And in the Republican Basin if we can get the legal issues resolved, farmers may contribute through occupation tax on the irrigated ground to resolve from the water issues in that area. Given that agriculture is already contributing at the local level, we do not believe it appropriate to single out agriculture, especially corn and sorghum growers, to make further contributions to a checkoff fund. We urge you repeal LB689, but our opposition to this...I'm sorry, we support LB689 which would repeal the checkoff fund that was put in place under LB701. But in no way does our opposition to this checkoff indicate any kind of lack of desire on our part to have adequate funding to address the many state water issues that we are facing. Funding is needed. We appreciate that, and we stand ready as an organization to work with you, the committee, to work with the Legislature, to work with the Governor and other interested agriculture groups and other interested parties to find an appropriate funding source that we can have adequate funding to help resolve the many water issues that we are facing in the state of Nebraska. Thank you and I'll be glad to take any questions. [LB689]

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SENATOR DUBAS: Questions for Mr. Olsen? Senator Schilz. [LB689]

SENATOR SCHILZ: Thank you. Keith, welcome today; thanks for coming in, appreciate it. I don't disagree with much of anything that you said. But as we think about this and we look at it as, have you guys done any thinking about where to go look for that next pot of money that we need to take care of this stuff? Because, you know, a lot of that money is already obligated, so. [LB689]

KEITH OLSEN: At our convention we held in December in Kearney, that was the issue of discussion. And we did have our members adopt policy to look at other sources, a wide range of sources from...and I realize we are facing tremendous financial crisis in the state and I really appreciate that also, but we looked at a possibility of a sales tax increase. We even considered some type of tax on high-capacity irrigation wells and other water sources. Basically, we have a lot of ideas of where it could come from. Now, we realize that wherever you get the money from, somebody has to pay. And we think there's sources out there. It's not going to be free. They're going to be paying; we appreciate that. And we think as producers are willing to pay our share, but we don't want to pay someone else's share. [LB689]

SENATOR SCHILZ: Right. Okay. Thank you. [LB689]

SENATOR DUBAS: Other questions? Senator Carlson. [LB689]

SENATOR CARLSON: Thank you, Senator Dubas. Keith, there's a couple of different schools of thought in terms of approaching the...some of the various water problems that we have, water challenges that we have. And one of the things that I hear frequently is that because the farmers, in a sense, didn't have a whole lot of input into the compact that was signed and other agreements that were signed, it really is an obligation of the state. And so the state should pay for it. How do you feel about that? [LB689]

KEITH OLSEN: Well we are of the opinion that the whole state benefits from irrigation and that the state did enter into contract. Many people take advantage of the water and the Republican River, you know, Harlan County Reservoir is used by many people. Many people, many agri-businesses from outside the Republican River sell inputs into the Republican River. You know, they benefit. Like I said in my testimony, two-thirds of the benefit of irrigation is received by people that do not irrigate, not the producers. And so we feel very strongly it's definitely a statewide issue. And it's a contract that was signed by the state and we feel that the state as a whole had the obligation to help meet the responsibility of solving the water crisis. [LB689]

SENATOR CARLSON: The next question, is kind of...is a difficult one, You're in the

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Republican Basin, your operation is in the Republican Basin. [LB689]

KEITH OLSEN: Yes. [LB689]

SENATOR CARLSON: Are you willing to help pay for problems that may be in the Platte Basin? [LB689]

KEITH OLSEN: I am in the Republican, I'm in the Upper Republican NRD. I do not irrigate because they put on restrictions around 1980, how many wells could be put in and where they could be put at and I did not, at that time, had not put any wells in, was unable to get additional...put in wells. I feel that, you know, and this was...if we had the money it would be very simple to take the money out of state coffers. And that would cover all taxpayers, both income tax and sales tax, and help contribute to the...cash source to fund these water projects that are needed. But we don't have that luxury today, and we understand that. But somehow we feel that irregardless of where the issue is, it should be a statewide approach to resolve that issue. You know, we can talk about the Platte River; we can talk about the Republican Basin; we can talk about the Elkhorn or Niobrara or the Missouri. But it's all part of Nebraska, and the issues that affect one area of the state affects the whole state. And so we were very strong that we need to work together, we need to have state support to resolve the issues wherever they might be at. [LB689]

SENATOR CARLSON: Thank you. [LB689]

SENATOR DUBAS: Other questions? Senator Haar. [LB689]

SENATOR HAAR: Yes, thank you. Just for my education, what...since you're a dryland farmer, how does your yield compare to someone...just kind of a ballpark number, compared to someone who is irrigating. [LB689]

KEITH OLSEN: Well, it depends on the year. Normally, you know, in my area and...if I could raise a 75 bushel dryland crop in my area, I'd be tickled pink; irrigation, 175 to 200 bushel in a normal year. The last couple of years my neighbors raised from 100 to 150 bushel dryland corn in our area because of the rain. I said my neighbors, because I got hail and I raised 20 and 10 and 5 bushel, so. But that's a very unusual year. So normally, you know, it's at times with us, but sometimes it makes more money. It just depends on your inputs, etcetera. But the value...the reason we do it is to have a crop rotation that we're 100 percent no-till operation and just...it's the right way for us to be farming. [LB689]

SENATOR HAAR: Okay. Thank you, appreciate it. [LB689]

SENATOR DUBAS: Other questions for Mr. Olsen. I would have a couple for you, Mr.

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Olsen. [LB689]

KEITH OLSEN: Okay. [LB689]

SENATOR DUBAS: I just want to give you an opportunity to maybe reemphasize some of the points that you made in your testimony and talking about checkoff dollars. What was...what's the statutory intent for checkoff dollars? [LB689]

KEITH OLSEN: The checkoff funds were created by the Legislature. I think the first one was on wheat back in the 1950s and followed up with corn and grain sorghum and a few others. In Nebraska we do have the national checkoff, soybean, beef and pork are national checkoffs. But the idea behind them was to get an opportunity for a more controlled fund to conduct promotion of the products that we raise, to conduct research on the products that we raise, to conduct education. The end product is we want to increase demand for the products that we raise on our farms and ranches here in Nebraska. [LB689]

SENATOR DUBAS: So the use of checkoff dollars for the Water Resource Cash Fund would, in your estimation, would that be kind of a reach on what checkoff dollars are supposed to be used for? [LB689]

KEITH OLSEN: Absolutely. We do not believe that you transfer the money from the purpose that it was created to fund the Water Resource Fund would definitely be...taking the money away from the checkoff fund and used for purposes not intended. [LB689]

SENATOR DUBAS: But your organization understands agriculture plays a part in the water issues that we have in the state. [LB689]

KEITH OLSEN: Absolutely. [LB689]

SENATOR DUBAS: And you're not saying that we shouldn't, as agricultural interest, contribute to helping find solutions, but the use of checkoff dollars just probably isn't the right kind of money to use. [LB689]

KEITH OLSEN: That's correct. [LB689]

SENATOR DUBAS: Thank you very much, Mr. Olsen. [LB689]

KEITH OLSEN: Sure. [LB689]

SENATOR DUBAS: Other questions? Seeing none, thank you. Welcome. [LB689]

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STEVE EBKE: (Exhibit 2) Thank you, Senator Dubas. Members of the Natural Resources Committee, my name is Steve Ebke and that's spelled S-t-e-v-e E-b-k-e. I'm here today as co-chairman of the Nebraska Corn Growers Association, government relations committee. I'm a corn producer from Daykin, Nebraska, which is approximately 60 miles southwest of Lincoln here. The Nebraska Corn Growers Association supports LB689. We thank Senator Langemeier for introducing the bill which appropriately places the responsibility of meeting a state obligation on all citizens of the state of Nebraska. The corn checkoff specifically implemented to provide funds for ethanol development within Nebraska was written with sunset provisions. With a specific ethanol production...when the specific ethanol production incentives are fully funded, the collection of the ethanol directed corn checkoff is to cease. As a point of interest, there's been a number of checkoff supported ethanol production incentives within the state of Nebraska and I think we've been very successful in developing a market for our commodities by incentivizing those plants. We're one of the major ethanol producers in the nation, so it's, I think, it's been a resounding success. Many of the things that Mr. Olsen said we totally agree with. We also believe production agriculture has a responsibility to assist with the determination of a long-term workable solution which addresses Nebraska's water issues. However, this difficult challenge, which is compounded by the current economic situation, must be resolved without unfairly taxing a particular region or industry. The Nebraska Corn Growers Association has consistently objected to the use of the corn checkoff program to fund what is clearly an obligation of the state of Nebraska. With the passage of LB689, this committee and the entire Legislature will remove that portion of LB701 which circumvented the original legislative intent and sunset provisions of the ethanol directed corn checkoff. The Nebraska ag community is very grateful for the support shown commodity checkoffs by the Legislature during the special session. Understanding the purpose and value of the commodity checkoff programs allowed the Legislature to reject the attempt to redirect commodity checkoff funds to the General Fund. Philosophically, our members see no difference between the two corn checkoffs. Each checkoff is a cooperative effort to further the primary purpose of market development. Therefore, passage of LB689 will maintain the purpose of market development and eliminate the diversion of checkoff funds to the General Fund. The Nebraska Corn Growers Association requests that this committee advance LB689. Thank you. [LB689]

SENATOR DUBAS: Thank you, Mr. Ebke. Questions? I will ask you a similar question as I asked to Mr. Olsen. You pretty much laid out what checkoff dollars are intended to use...to be used for and that's promotion and marketing and education. So does your organization also believe that the use of checkoff dollars for this Water Resource Cash Fund is kind of a stretch for the use of checkoff dollars? [LB689]

STEVE EBKE: Yes, Senator, we do. As I said, at the time LB701 was being considered, we objected to that portion of it, and particularly on the grounds that the checkoff that we're talking about extending was...had a specific purpose and that was developing a

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market for the commodities that are used by the ethanol industry. So yes, we would be in agreement that that is not the correct use. [LB689]

SENATOR DUBAS: And your organization also recognizes that agriculture needs to be involved in finding solutions, but just not supporting it with checkoff dollars. [LB689]

STEVE EBKE: That's correct. [LB689]

SENATOR DUBAS: Thank you very much. Senator Carlson, did you have a question? [LB689]

SENATOR CARLSON: Yes, thank you, Senator Dubas. Steve, I'm in full agreement with the bill here in LB689. Do you have any philosophy or perhaps specific suggestions of a better source of dollars for this purpose? [LB689]

STEVE EBKE: And I'm, you know, I'll stumble around a little bit. [LB689]

SENATOR CARLSON: That's a hard question. [LB689]

STEVE EBKE: We've had much debate amongst the corn growers for at least the last three policy sessions that we've held. So that would be three years, or, you know, since this has been at the forefront. Our members struggle with...they know they don't like this, okay. We've tried to challenge them to give us what they felt might be an appropriate funding source and they're still, at this point, as far as our delegates are concerned, they believe that because some of the things that have been said, possibly because of some of the language in the court case that overturned the property tax that was allowed in the Republican Basin that, you know, it continues to be an obligation of the state. And so therefore, they would look to some sort of a statewide source, whether it be, you know, additional income taxes, sales taxes, they have a definite concern about applying some sort of a usage fee on irrigation. But I'm not sure that...you know, I can't speak necessarily for them, but as I tried to state, I think they realize ag has an obligation to participate in the solution and funding the solution. And so, I think once we...if we can look at a composite of different funding sources, if that were to include some specifically related to ag, you know, but not the preponderance, then I think our members would be in agreement with that. But at this point, we have nothing specific in policy. [LB689]

SENATOR CARLSON: And I understand that and accept that. It just helps when you state that, that you're agreeing, as we all are, it's a difficult issue. And I think to not have the exact source of revenue to replace this doesn't mean we shouldn't pass the bill. We ought to pass the bill; but then we've still got a little time, but we've got to come up with a solution. So any help any of you give us would be very much appreciated. [LB689]

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SENATOR DUBAS: Other questions? Senator Schilz. [LB689]

SENATOR SCHILZ: Thank you. Thanks for coming in, sir. A couple of sentences ago in your testimony, you talked about possibly looking at sales tax. I mean, so I guess my question is, are you saying you're in favor of raising the exemption of sales tax on ag products and things like that? I'm just trying to figure out how far does this go? [LB689]

STEVE EBKE: Um, if we look to the policy that the corn growers currently have, I would...no I would not say that our policy would be in favor of that, of changing the exemption situation. I would think that our members were probably looking at, you know, probably their dream would be just an allocation of the current collection, which probably is not... [LB689]

SENATOR SCHILZ: Right. [LB689]

STEVE EBKE: ...a reasonable approach. But I would suspect that if there was an increase in the sales tax rate, would probably be where they would be looking when we talk about sales tax. [LB689]

SENATOR SCHILZ: Okay. Thank you. [LB689]

SENATOR DUBAS: Any other questions? Seeing none, thank you. [LB689]

STEVE EBKE: Thank you. I do have...excuse me, I do have copies that I will...my testimony. [LB689]

SENATOR DUBAS: Next proponent for LB689. [LB689]

SENATOR DUBAS: Good afternoon, welcome. [LB689]

SCOTT RICHERT: (Exhibit 3) Good afternoon, Senators. Thank you. I'm Scott Richert, president of the Nebraska Soybean Association and that's spelled S-c-o-t-t R-i-c-h-e-r-t. I'm a soybean and corn farmer from Gresham, Nebraska; dryland and irrigated. The Nebraska Soybean Association would like to take this opportunity to lend support to LB689. Nebraska faces extreme challenges associated with the water compact with Colorado and Kansas. However, we feel that it is in the best interest of the state and its many agricultural producers to end the excise tax or checkoff that LB701 extended on corn and sorghum back in 2007. The Nebraska Soybean Association and its nearly 1,100 members believe that the additional checkoff placed on corn and sorghum unfairly places much of the revenue stream for the Water Resources Cash Fund directly on agriculture. While we understand that agriculture is a large user of water and a beneficiary of the aquifer, we feel that we are not the sole owners of the problem. Projections indicate that nearly \$7.5 million of the revenue collected for the Water

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Resources Cash Fund will come directly from the excise tax placed on corn and sorghum farmers. This is a large amount compared to the \$2.7 million that the rest of the state will provide through general funds. This is asking a small percentage of the population to fix a problem that affects the entire population of the state. The Nebraska Soybean Association is speaking to this issue because first, many of our members are also producers of both corn and sorghum and, secondly, we believe in a strong checkoff system that creates a greater market and value for our products. By implementing an additional checkoff, one that does not create market or value, you in turn reduce the income of the grower and set a precedent that is unwanted by producers of agricultural products. Additionally, we as soybean producers worry about the spillover of the checkoff placed on corn and sorghum and worry that soybeans may be on the list when the excise...if the excise tax on LB701 extended does not meet the fiscal needs of the water compact with Kansas. We as agriculturalist and as Nebraskans understand the great challenges that lay before you. We also understand that we as users of this great natural resource we need to play a role in resolving the conflict. The Nebraska Soybean Association looks to play a role in this current water crisis, but respectfully supports ending the checkoff placed on corn and sorghum for the use of the Water Resources Cash Fund as stated in LB689. Therefore, we encourage advancement of LB689. Thank you. [LB689]

SENATOR DUBAS: Thank you, Mr. Richert. Questions? Seeing none, thank you. Oh, Senator Carlson. [LB689]

SENATOR CARLSON: Thank you, Senator Dubas. Scott, in the text of your letter here, it's not an uncommon response to me from somebody that's not in a basin that's affected but in another basin, and they're involved in agriculture, to have the attitude I didn't contribute to that, I'm not in that basin and I don't want to pay for it; let them pay for it. How do you respond to that? [LB689]

SCOTT RICHERT: You know, that's the case for me. I'm in the Upper Big Blue NRD right now and we're monitoring, but no controls. You know, you go back and look at, well, who signed that compact? And it was the Governor of the state, so it's a state issue in that respect, for all of us, and it just so happens that we're looking at the Republican issue right now. It could have been somewhere or something else and effected a different area. It...things have happened, you know, when that compact was signed, there was not near the amount of no-till going on in that area, or diversion areas, terraces and those kind of things. It's hard to look that far forward on things that haven't been happening to figure out what kind of effect it will have. So it's a statewide issue. The water is there for all of the state and I would say that we're probably all going to have to stand behind it somehow. The fun part, I guess, is trying to figure out how to make it all work. [LB689]

SENATOR CARLSON: Thank you. [LB689]

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SENATOR DUBAS: Other questions? Senator Haar. [LB689]

SENATOR HAAR: Yeah, an interesting discussion. I've talked quite a bit with Senator Carlson about this one, but the...some people tell me that half the population of the state lives east of 27th Street here in Lincoln. Maybe in the next census it will be 56th Street, so it's moving that way. And I really hope that whatever this...whatever the solutions, it doesn't just become an urban-rural kind of thing. So that's probably the biggest challenge, I think. Statement, not a question really. [LB689]

SENATOR DUBAS: Other questions? I would have one question for you, Mr. Richert. The soybean checkoff, is that a state checkoff or a federal checkoff? [LB689]

SCOTT RICHERT: That's federal. [LB689]

SENATOR DUBAS: So your checkoff isn't necessarily impacted. [LB689]

SCOTT RICHERT: We're not...right, correct. We're not directly affected by this, but our members, myself, I grow corn and soybeans and milo so I would be involved in this. [LB689]

SENATOR DUBAS: So as growers, we grow a variety of... [LB689]

SCOTT RICHERT: That's right. [LB689]

SENATOR DUBAS: ...so in one way or another, whether it's direct or indirect, we're impacted. [LB689]

SCOTT RICHERT: Correct. [LB689]

SENATOR DUBAS: Thank you very much. Other questions? Seeing none, thank you. [LB689]

SCOTT RICHERT: Thank you. [LB689]

SENATOR DUBAS: Next proponent. Welcome. [LB689]

ZOE OLSON: (Exhibit 4) Thank you. Senator Dubas, members of the Natural Resources Committee, my name is Zoe Olson, Z-o-e O-l-s-o-n, and I am the executive director of the Nebraska Wheat Growers Association. The Nebraska Wheat Growers would like to express our support of LB689 introduced by Senator Langemeier and we thank him for his support of Nebraska agriculture. As has been stated, wheat was the first checkoff established in Nebraska. Growers, wheat growers came to the state and

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said we wanted a fund so that we could do market development, education research on our wheat to increase sales of that. And in turn, that has helped the state. Many members of our organization grow corn, sorghum and other crops as a part of good crop rotation practices. A majority of our growers are dryland farmers, but we do have irrigated wheat as well and also, we do a lot of no-till. And we appreciate that Nebraska faces difficult challenges regarding the water compact with Colorado and Kansas, but we believe it's in the state's best interest to end the excise tax or checkoff that LB701 extended on corn and sorghum in 2007. We're opposed to the provision...or to the establishment of checkoffs for other than what the original intention was of commodity checkoffs and there have been several instances in recent years of wanting to establish checkoffs on agricultural products to provide revenue streams for other issues in...similar to the Water Resources Cash Fund. We understand that agriculture is a large user of water and benefits from the aquifer, but we believe that other parts of our state are also users of water. I personally live in Lincoln, although I grew up in the western part of the state, and I resent, as a member of agricultural industry, my neighbors who water their lawns and the water runs in the street. And we believe that any water fund should be put on all members...or all citizens of the state, not just primarily agriculture. And so we'd like to see some sort of revenue stream that comes from all users of our water resources throughout the state, not just in the Republican Valley. Nebraska producers have worked hard to preserve this great natural resource. We thank Senator Carlson for his efforts to increase the amount of water that actually stays in our state and the usefulness of it. And we look forward to working to resolve the current conflict. We respectfully support the ending of the checkoff placed on corn and sorghum for the use of the Water Resources Cash Fun as stated in LB689, and we encourage the advancement of this bill. Thank you. [LB689]

SENATOR DUBAS: Thank you very much. Questions? Senator Carlson. [LB689]

SENATOR CARLSON: Thank you, Senator Dubas. Zoe, about how many acres of wheat are grown in Nebraska and what percentage are irrigated? [LB689]

ZOE OLSON: It depends on the year. Our wheat plantings are down 12 percent this year just due to the late corn harvest. We have 62 million acres, I believe, no that's not right either. I apologize, I don't have that right off the top of my head. [LB689]

SENATOR CARLSON: If that's something that you could get, I'd sure appreciate that. [LB689]

ZOE OLSON: I can get that for the committee. [LB689]

SENATOR CARLSON: The number of acres and the percentage that are irrigated. [LB689]

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ZOE OLSON: Yes, and I know that less than a quarter of our wheat is irrigated. Most of it is dryland. [LB689]

SENATOR CARLSON: Thank you. [LB689]

ZOE OLSON: Um-hum. [LB689]

SENATOR DUBAS: Other questions? Seeing none, thank you very much. [LB689]

ZOE OLSON: Thank you. [LB689]

SENATOR DUBAS: (Exhibit 5) Next proponent for LB689? Any other proponents? A letter of support from the Nebraska Cattlemen in support of LB689. All right, we'll go on to opponents to LB689. Welcome. [LB689]

KENT MILLER: Members of the committee, my name is Kent Miller, K-e-n-t M-i-l-l-e-r, I'm general manager of the Twin Platte Natural Resource District and our headquarters is in North Platte. I'm testifying today on behalf of the Twin Platte Natural Resource District and also on behalf of our Nebraska Association of Resource Districts. It was very difficult for me to get up here and testify in opposition to this legislation, as all the supporters and I agree there is a need for a state fund from some other source. We also understand that Senator Langemeier also supports the fact that there is a need for a state fund from some other source. So, you know, it is difficult being on the opposition side, but we just had our annual legislative conference earlier this week and the fact that the additional source of funding is so desperately needed by the NRDs, the NRDs in assemblance at our annual conference took the position of opposing unless replacement funds are found. And so I want to make very clear that we're not opposed to eliminating the checkoff to be used for a Water Resources Cash Fund, if state funds are available to replace the funds that we have available to us today. And what I wanted to spend a little bit of time visiting with you about is how we're using those dollars and how they're being leveraged against local dollars and the type of dollars we're talking about. The thing that we're concerned about is that we need a stable source of state funding. And I think probably all of you agree with that from the questions I've heard you stating to the other testifiers. In the Platte Basin, and I'm going to be focusing on the Platte Basin. I think a lot of the questions and the comments earlier were in regard to the Republican Basin, but in the Platte Basin we have to get the Platte Basin back to the 1997 levels in the next ten years and that's a result of the Platte River Recovery Implementation Program. That was a program that was agreed to by the state. We also have to, the NRDs have to implement IMPs that were required by LB962. All the NRDs in the basin have to do that and we have the same need to get back to 1997 levels in the first ten years. Once we get back to 1997 levels in the Platte Basin, we still have to go beyond that and get back...go from over appropriated to fully appropriated. So we have a tremendous need in the Platte Basin and it's a need that requires dollars. And

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the Twin Platte NRD has limited funding and we're maxing out the available funding that we have. In regard to the Platte River Recovery Implementation Program, we've in the Platte Basin felt that that first ten year increment to get back to 1997 was a state commitment. You know, we did not, the NRDs did not sign that agreement. The state signed that agreement. But it became very clear to the NRDs that that was not going to be the case, that the state was going to put the basin back to 1997 levels. So we have agreed that the NRDs need to participate in that. And in that regard, in the case of the Twin Platte NRD, we're putting \$3 in to accomplishing that to get back to that 1997 levels compared to every \$1 that the state is putting in from the current cash fund. So I mean this is a major commitment, but we have to get the basin back to 1997 levels. In regard to using the state cash funds for the Water Resource Cash Fund, which there's \$2 million available through the Department of Natural Resources at least for this year and next year and hopefully through 2012. But to utilize those funds, we formed an organization in the Platte Basin of the five NRDs called the Platte Basin Habitat Enhancement Program and that...the sponsors for that program, for that interlocal agreement, are the five NRDs in the basin: Twin Platte, Central Platte, North Platte, South Platte, and Tri-Basin and also working with the state. And the annual amount of money that's available from that source leveraging those cash funds is \$2 million a year for those five NRDs from the state cash fund, \$2 million from the NRDs, and \$1 million a year from the Nebraska Environmental Trust. We have a three year grant from there. In the case of the Twin Platte NRD to bring that to our district, our share of that \$2 million of the cash fund is \$600,000. We're matching that with \$600,000 from property tax dollars and we will receive \$300,000 from the NET grant, on a per-year basis. In addition to that, our board of directors is putting in an additional \$1 million on top of that to accomplish getting back to 1997 levels. So we believe that the state has a commitment. And I'm pleased to hear that I think all of you agree with that; it's just the source of that commitment. And I just wanted to add a couple more things. One is that in regard to the Twin Platte NRD, I talked about us maximizing out the dollars that are available. There's one cent available for all NRDs for groundwater management. We're maxing that entire one cent. There's three cents available now and I know you have other legislation dealing with that sunsets eventually, and that's critical that we can keep that. We're maxing that out, that's available for NRDs that are in an over appropriated or fully appropriated, that's three cents. And then we're maxing out the other funds that are available for NRDs. There's 4.5 cents available; we're at 2.9 cents. That's as much of that as we can get because of the lid and that's...essentially because of many years of good stewardship of using tax dollars, the lid is catching us there. So the maximum that we can levy then is that combination of funding and, you know, to do that my board of directors this year from last year doubled the property tax levy. I have never before gotten calls from folks who get their tax bills until this year. And beginning about three weeks ago I started getting calls because that's when they saw it, when they get their tax bill and many folks, more do it than I do, get their one year to the next and look at how that's changed and they call up and say why. And I have to tell you, I am so proud of people in western Nebraska that when I had a chance to explain to them on a

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one-to-one basis of why this was being done, that this was to maintain a viable agricultural economy and that...they supported it. I got no opposition when I had a chance to talk with folks one on one. I mean, I even spent one afternoon with the Arthur County commissioners who were darn unhappy because they have to run it through their...they have to take some action on it also. And when I had a chance to visit with them, they understood and those are primarily cattle producers. They're not using these irrigated dollars. So, I see the red light is on, I will stop. I think that...if someone wants to ask a question, I'd be happy to give you some ideas of how we're going to use these funds. Basically, we want to use these funds to prevent excessive regulations and to be in compliance in the basin. And if someone would like to ask the question I could go through some examples, but thank you for the opportunity to come and testify. [LB689]

SENATOR DUBAS: Thank you, Mr. Miller. Do we have questions? Senator Carlson. [LB689]

SENATOR CARLSON: Thank you, Senator Dubas. Kent, how did you get this job today? Somebody had to do it. [LB689]

KENT MILLER: I got the short straw; not only did I get the short straw, I had to go back to North Platte and then come back. [LB689]

SENATOR CARLSON: Okay. [LB689]

KENT MILLER: But I want to emphasize that, you know, we're not opposed to getting rid of the checkoff, because we understand what the checkoff is for. We just...we just need that state assistance in our funding. [LB689]

SENATOR CARLSON: Have you got suggestions for...you talked about statewide obligations and so forth; do you have some specific suggestions for other sources, because somehow or another we've got to come to that? [LB689]

KENT MILLER: Well, you know I was kind of hoping you'd ask me that question, and I thought you probably would. My Twin Platte NRD board has not discussed that. But about two, two and a half years ago, a group of surface water irrigation district representatives and four NRD managers, we sat down and started talking about where are there areas of agreement. And one of the areas that we've been trying to focus on is what sources of funds might be available for, if you will, planning for implement...you know, because one of the issues, if we could get some planning dollars into this state to better use our water resources, then we would have dollars...you know, we would have sources of water available for offsets other than trying to take them away from irrigators. And we just about a month ago, and we're going to have another meeting in a couple of weeks, have been visiting with some folks from other states who have information from other states that have looked for other sources of funding. And I don't have a clear

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answer for you today, but that is something that a group of us have been working on and trying to identify what other options might be available that we should look at that have been utilized in other states. So I hope to have, you know, some better information for you on that in the next few months to a year. [LB689]

SENATOR CARLSON: Okay. I appreciate your answer and it sounds like that you agree when there's a defined problem or a challenge and we don't seem to have all the answers for it at the present time, that it's a good idea to get people together that have a stake in the outcome, discuss these things and try and come up with a solution. [LB689]

KENT MILLER: Absolutely. When we brought together this group of some surface water irrigator district managers and some NRD managers, I mean, it seems like we're always fighting each other. And that is an area that we have some agreement and we can work forward and look for other options, so yes, very much so. [LB689]

SENATOR CARLSON: And of course, it's not only NRD and surface water irrigators in any given area that have a stake in the outcome. There are others that have a stake in the outcome. [LB689]

KENT MILLER: Absolutely. I've really got on the bandwagon and trying to explain to folks and it's true in North Platte and I'm sure it's more true in eastern Nebraska that...this state is based on an ag economy. Agriculture is primarily the only new dollars in this state. The rest of us are just trading services with each other and if we don't have those new dollars from agriculture, this state doesn't have a whole lot. And so it's critical and people are getting really tired of me saying that when they start hearing me say it two, three or four times, but they're understanding it. And like I said earlier, I think more people understand it than I thought, but they don't think about it and it needs to be talked about. [LB689]

SENATOR CARLSON: Okay. Thank you. Now one more question. Your group met earlier this week and you've discussed a lot of issues and so this one you had discussion and a vote on; was the vote to oppose this unanimous? [LB689]

KENT MILLER: Yes. But it was unanimous with that provision that unless we, you know, it's all based on if replacement funds are found. If replacement funds are found, then we're supportive of this. So the position that was taken, and I guess I better look at Dean and make sure I'm right, but the position that was taken was the fact that we need dollars and if there was a source of dollars sitting there instead of having to go out and identify it, then I'm convinced we would have had a unanimous vote in support of this because our directors, they don't like the checkoff funds being used for this purpose. [LB689]

SENATOR CARLSON: Okay. All right, Kent, I asked you several questions, thank you.

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[LB689]

SENATOR DUBAS: Thank you. Other questions? Seeing none, thank you very much.  
[LB689]

KENT MILLER: Well thank you. [LB689]

SENATOR DUBAS: Next opponent to LB689? Do we have any letters? Opponents? Do we have anyone in the neutral capacity? Seeing none, Senator Langemeier, would you like to close? [LB689]

SENATOR LANGEMEIER: Sure. I can't miss the opportunity. First of all, I want to thank everybody that came on both sides of this issue. But I want to make sure we're clear that LB689 repeals a mandatory checkoff. Every farmer that produces dry or irrigated corn is paying into this that was designed for the promotion of that commodity. We all agree that we need to look at funding sources for the cash Water Cash Fund and I think that new funding is going to be a mix of funding that is produced by agriculture, as well as others in the state of Nebraska to meet the needs of Nebraska's future water needs. And so with that I'd ask you to advance LB689. If there are any questions, I would take some questions? [LB689]

SENATOR DUBAS: Thank you, Senator Langemeier. Any questions? None. Thank you.  
[LB689]

SENATOR LANGEMEIER: Thank you. We'll now open the hearing on LB845. Senator Howard, we'll wait a second for her to get here. Welcome to the Natural Resources Committee. [LB845]

SENATOR HOWARD: (Exhibit 6) Thank you, it's been a long time coming. [LB845]

SENATOR LANGEMEIER: Yeah, we're ready when you. [LB845]

SENATOR HOWARD: Thank you. Thank you, Senator Langemeier and members of the committee. For the record I'm Senator Gwen Howard and I represent District 9. LB845, which is on the surface sounds like a simple little bill, would require state agencies to create conservation plans that at a minimum include plugging equipment into power strips that can be switched off when the equipment is not in use. I originally envisioned this bill to only require the use of power strips so I'd like to spend a little time talking about power strips and standby power usage. Like a good...like a lot of good legislative ideas, the impetus for this bill is a personal experience. My younger daughter was able to significantly reduce her energy bill each month by plugging in her devices and appliances and switching them off when she wasn't using them. And I should explain, Sara is in Chicago, lives in Chicago and the gap of time between when she graduated

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from law school and when she was able to find a job was a bleak period. So she became very conservative about any money she spent and she became so thrifty with the power sources that she was able to save more money with her little apartment than her neighbor down the hall which...who basically only had a dorm room setting. So it really was significant to me; it really kind of jumped out at me what you can do when you just put some common sense into it. Research suggests that the average household could save \$100 a year by reducing standby power. The state of Nebraska has many more computers, monitors, televisions and other devices than the average homeowner, so logically the savings would be significantly more. It would be helpful to backtrack and explain exactly why using power strips to cut back on energy bills is effective. Standby or vampire power is the power appliances and devices use, even when they're switched off. Sometimes we can see that our appliances are still using power. If the LED light is red on your TV, it's still using power. Your microwave uses goodly amounts of standby power to power the clock. Other things like radios or phone chargers may not outwardly show us that they are still sucking up power, but it's clear from our power bills that they are. The EPA estimates that standby power costs Americans as much as \$10 billion a year. Standby power also accounts for 1 percent of carbon dioxide emissions. If we were to reduce this amount by only half percent, it would be as if there were 18 million fewer cars out on the road. I've sent all of you a link to the YouTube video produced by the Good magazine, a little viewing pleasure for you, and this would be helpful in kind of explaining standby power. When I saw this I thought it was very cleverly done. We couldn't pull off a hard copy off that video, but if you're interested, just go to YouTube and search for vampire power. It should be the first link available. It's very short and it really, in a simple fashion, shows you where the power is used in your home when you think an appliance is turned off. LB845 I hope is one of those inventive ways to help cut costs that has the added bonus of being good for our environment. I do not want this bill to result in any sort of dangerous behavior. I received some feedback that some agencies are concerned the power strips may pose a fire hazard, especially if they're plugged into each other. Well, that's not a good idea. If LB845 passes, it would be necessary for agencies to make sure the conservation practices are used safely. Ideally, state employees should not be plugging more than one appliance or device into outlets than they do right now. Even in my own office, when we decided to try and make sure our TVs and computers were plugged into power strips, we had to move some of the power strips around so that they were located in places that were both safe and convenient. Offices will also need to follow best practices with regard to their equipment. They're going to have to shut down their computers before they flip that switch. These, I think, are common sense things that most employees already know. I should note that you will also receive a letter that suggested that the sleep mode would be a better method of cutting back on computer power usage. It's true that the sleep mode uses less energy than a computer would at full power, however, this still does not prevent standby power from being used. In fact, it is that power use during the sleep mode that LB845 is meant to address. The data that we've received from Lincoln Electric Systems indicates that a desktop computer uses

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from one to six watts while in sleep mode and computer monitors can use as many as 15 watts. LB845 also creates a conservation plan requirement because cutting back on standby power is not the only way we can conserve energy and help the environment. LB845 is intended to allow agencies to come up with their own innovative ideas and ways to save energy. It's likely you will hear from some other testifiers about the importance of energy conservation so I won't belabor that point. I do want to recognize though that some agencies will be more able to create energy savings than others. Smaller agencies whose offices are operated by the building division probably will not be able to do as much more than plug their computers into power strips and make sure they're turned off at the end of the day. LB845 sets the floor for conservation and allows agencies to develop ideas that work best for them. Eliminating standby power and other energy wasting practices may start out just as a few nickels and dimes for each agency, but if you put all that change back in the state's jar, it can really add up and it certainly did for Sara on a very small scale. Moreover, LB845 will encourage agencies to get creative and lessen our environmental impact. Thanks for giving me your time and attention to this bill, LB845. And I was interested in noting that on the fiscal note, I kind of stumped them. They couldn't figure out really what the cost would be or what the savings would be, so I think we're all trying to learn that. [LB845]

SENATOR LANGEMEIER: Thank you, Senator Howard. [LB845]

SENATOR HOWARD: Thank you. [LB845]

SENATOR LANGEMEIER: Are there any questions? Senator Haar. [LB845]

SENATOR HAAR: Well I'd like to... [LB845]

SENATOR HOWARD: Mr. Wind Energy. [LB845]

SENATOR HAAR: I'd like to go on public record saying that I'm better at conserving power than my wife. I have to turn off the light switches after her, but...and she can't speak back on that one. So, but there are a lot of things, I think, and I've even noticed such simple things in the springtime and the fall when I walk out and those huge spotlights are shining up on the State Capitol before dark. And I would really support this idea of just having people look at, you know, what they need and how they could save because those little things add up to a great amount of energy we use. [LB845]

SENATOR HOWARD: Well I really appreciate that and when I was talking to Senator Langemeier on the floor this morning, I said don't make jest of my little power strip bill because I was so surprised that Sara was able to cut her power costs down just by putting on the power strip and putting the computer on one power strip, the television on another, and flipping that switch. I mean, it's a little extra effort because you not only turn off the TV, but you also flip the switch on the power. But if you're going to be

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saving, you know, \$5, \$6, \$7 a month in a small apartment, and in a home they figure it's a dollar a day and then if you multiply that to state office buildings, you know that could add up to some money at a time when we're really looking at saving money and decreasing our spending. [LB845]

SENATOR HAAR: Well I think the more we educate people on these little uses, the more consumers are going to require like a toaster that doesn't have a light on it all the time. You know, a toaster with a...I had a toaster with a clock on it at one point. What's the purpose? It doesn't make sense. [LB845]

SENATOR HOWARD: Does it have an alarm? [LB845]

SENATOR HAAR: Thank you very much. [LB845]

SENATOR HOWARD: Thank you. [LB845]

SENATOR LANGEMEIER: Other questions? I do, Senator Howard, I'm going to ask a couple questions. [LB845]

SENATOR HOWARD: All right. [LB845]

SENATOR LANGEMEIER: You've obviously studied this power strip...the difference in power strips, but in the fiscal note here, it talks about an automated switching power strip. [LB845]

SENATOR HOWARD: Well I'm no expert on it, but I'll tell you what people have told me. There are sophisticated power strips that can actually tell you how much usage...how much power you're using in that equipment. Those are expensive, they cost \$100 or so. When I was telling people about that, that's when they kind of enlightened me. I'm envisioning the power strip you switch off, simple as that. [LB845]

SENATOR LANGEMEIER: Yeah, because your fiscal note was based on this automated switching power strip at \$100 a piece. [LB845]

SENATOR HOWARD: Well there you go; but that certainly...I mean, we don't...unless we're really going to pay attention to this, I think the simple method of simply switch off the power source gives us what we need to do. Those are about two fifty, I think. I've bought some. [LB845]

SENATOR LANGEMEIER: Yeah. [LB845]

SENATOR HOWARD: That would be \$2.50. (laughter) [LB845]

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SENATOR LANGEMEIER: That would change your fiscal note dramatically. Senator Haar. [LB845]

SENATOR HAAR: Are you aware of any appliances where if you turn off the vampire voltage that it's going to hurt the appliance? [LB845]

SENATOR HOWARD: You know, I don't know of any, but I've heard people say that if you put your television, if you've got it all programed on your remote, you could lose your program channels on that. That's the only thing...the only complaint I've heard. I don't know of any appliances that are hurt by that. I don't think down here we're so concerned about having our televisions programed in so that they're so...I mean, we don't have a vast number of cable channels that we're watching. But as far as damaging the appliances, I don't think there's a risk. You have to turn the appliance off first and then turn the power strip off. [LB845]

SENATOR HAAR: Yeah, okay. Thanks. [LB845]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much. You did a great job. [LB845]

SENATOR HOWARD: Thank you. Here's a...I know you want to study up, so. [LB845]

SENATOR LANGEMEIER: We do. [LB845]

SENATOR HOWARD: All right. Thank you. [LB845]

SENATOR LANGEMEIER: The pages will take that from you. You've heard the opening on LB845. We will now take testimony in support of LB845. Don't hurt each other getting here, but come on up. Welcome. [LB845]

CHAD JOHANSEN: (Exhibit 7) Thank you. Good afternoon, committee. My name is Chad Johansen C-h-a-d J-o-h-a-n-s-e-n and I am a volunteer advocate for the United States Green Building Council's Nebraska Flatwater Chapter and I'm here in support of that organization. I'm passing around the letter that I'm going to read to you guys. The Nebraska Flatwater Chapter of the United States Green Building Council is in support of the proposed Legislative Bill 845. We represent local businesses and individual members from the Omaha and Lincoln metropolitan areas and across the state of Nebraska. Our membership includes architects, engineers, students, and other professionals who support green building practices, technologies, and policies. As a group, we are concerned with the economic future of local businesses and the environmental health of our beautiful state. In order to continue to thrive in the future, we must take a strong stand on energy conservation today. By proposing LB845, which requires each state agency to develop and implement a plan for conserving energy and

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set a percentage goal for reducing its usage of electricity, the state of Nebraska is leading by example for the citizens of Nebraska. The Nebraska Flatwater Chapter strongly supports the state of Nebraska's efforts to conserve electricity across all state agencies by proposing LB845. It is very important to our members that the Natural Resources Committee thoroughly considers proposed Legislative Bill 845 that will help our state prepare for the future. Practicing energy conservation helps businesses and families save money as well as work and live more comfortably. We encourage you to support LB845 and improve the proposed legislation so that it will conserve electricity, protect our environment, and provide economic savings here in Nebraska. Thank you. [LB845]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Johansen? Seeing none, thank you very much. [LB845]

CHAD JOHANSEN: Thank you. [LB845]

SENATOR LANGEMEIER: Did a great job. Further testimony in support of LB845? [LB845]

SHELLEY SAHLING-ZART: Good afternoon. My name is Shelley Sahling-Zart S-h-e-l-l-e-y S-a-h-l-i-n-g - Z-a-r-t. I'm vice president and assistant counsel for Lincoln Electric System, the municipal electric utility here in Lincoln. We're here today to offer our support for LB845. Not for specifically the power strips, those are one of many options available, but really for the general idea of energy conservation and efficiency. It really is the most important power supply source we have. And I mention power supply source because the most important...the most important megawatt is the one we never generate. So to the extent that we don't have to generate those because people are using energy more efficiently, that's really the quickest way we can reduce carbon emissions and our dependence on foreign oil and things. And so energy efficiency is a great idea. What I like about this bill is it allows the state agencies to look at what they can do, not come up with things they're not able to do. It lets them live within their means, if you will, and find out what makes sense for them because not all of them will be able to implement the same measures. We certainly have our services available to them here in Lincoln. If they want to give us a call, we've got some energy service representatives that would be happy to come in, walk through their facilities, give them great ideas for things they could do. I'm sure the other utilities across the state would be more than happy to do that as well. That phantom electricity, that vampire energy, if you will, there's a lot of it out there. You know, the transformer for your cell phone that you might have left plugged in, like my teenage boys do every day, is back home or in your office drawing energy. And for your own electric bill that's not huge, but when you combine all of those throughout the city, that becomes a little bit more significant load. So there's little things we can all do. I think this is a great step and together we can get there. Thank you. [LB845]

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SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB845]

SENATOR HAAR: Yes, thank you, Shelley. Did I hear an offer that actually we could require LES to come through government buildings and... [LB845]

SHELLEY SAHLING-ZART: I think if you called us we would do that. I don't see why we wouldn't. We've got folks available to help you out. [LB845]

SENATOR HAAR: Okay. That would just be a simple... [LB845]

SHELLEY SAHLING-ZART: To the extent there's an agency that would like some assistance and some ideas on things they could do, you know, we've got all kinds of resources either at LES or the other resources, the Energy Office, I think, would probably have people willing to provide some assistance, although, Neil might hit me for that. [LB845]

SENATOR HAAR: Okay. Thank you. [LB845]

SHELLEY SAHLING-ZART: You bet. [LB845]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much for your testimony. [LB845]

SHELLEY SAHLING-ZART: You bet. [LB845]

SENATOR LANGEMEIER: Further testimony in support of LB845? [LB845]

TOM RICHARDS: Senator Langemeier. Tom Richards, Omaha Public Power District, R-i-c-h-a-r-d-s, manager of governmental and community relations for OPPD. A couple weeks ago, Senator Howard's office called and asked if we'd make a few positive comments about energy efficiency. And being and since Senator Howard's father worked for the Omaha Public Power District, I will come and testify on behalf of her bill. Basically, we have no comment on the...to the extent about the agencies and the groups that are involved and people, as far as the state agencies go, but energy efficiency is a major component of OPPD's energy reduction program and clean energy program. We look to reduce our energy sources by 50 megawatts by 2020. And while we don't have a lot of state office buildings in Omaha, we have some and 50 megawatts is a considerable load. We talk a lot about wind generation and other renewable sources and I'll just add that the greenest megawatt of renewable energy is the one never produced. Shelley commented earlier about the megawatts being produced; I'll just add that that's, from my standpoint, one of the greenest ways that you can do it. We too have a number of staff dedicated to providing energy assistance. We do everything

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from residential to high-end commercial and industrial energy efficiency programs. And with that, I would close my testimony. [LB845]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB845]

SENATOR HAAR: Yeah, just thinking on my feet, Tom, do you two, if...let's say we build some kind of mandate into this bill that would require all governmental agencies to undergo an audit and report. Could that be done free or would OPPD have to charge for that kind of thing? [LB845]

TOM RICHARDS: I think that...when you start creating mandates to that extent, without knowing exactly what we're getting into, it would depend on how much the...how much we're being asked to do. There are people inside the organization right now to respond on a wide variety,... [LB845]

SENATOR HAAR: Sure. [LB845]

TOM RICHARDS: ...but it kind of depends on how many buildings we would be talking about. [LB845]

SENATOR HAAR: Well, and obviously there would have to be a time span, you know, a reasonable time span, but could you look into that, because... [LB845]

TOM RICHARDS: Sure. [LB845]

SENATOR HAAR: ...you know, if we required that and there was some way to do it without cost to agencies, in the long run it could save a lot of energy for... [LB845]

TOM RICHARDS: Again, it would go back to might save the agencies money, but like I said, it depends on what we're talking about as...how many of them we're talking about, might cost our agency something, but I'd be happy to look into that for you. [LB845]

SENATOR HAAR: I would appreciate that. Thank you. [LB845]

TOM RICHARDS: Okay. [LB845]

SENATOR LANGEMEIER: Seeing no other lights, thank you very much. [LB845]

TOM RICHARDS: Thank you. [LB845]

SENATOR LANGEMEIER: Now we know how we've got some leverage on you, we call Senator Howard. That's actually good information to learn today. Further testimony in support of LB845? Welcome to the committee. [LB845]

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KEN WINSTON: Good afternoon. [LB845]

SENATOR LANGEMEIER: I believe for the first time this year. [LB845]

KEN WINSTON: (Exhibit 8) That would be correct. Good afternoon, Senator Langemeier, members of the Natural Resources Committee my name is Ken Winston, K-e-n W-i-n-s-t-o-n appearing on behalf of the Nebraska Chapter of the Sierra Club in support of LB845. Couple of...I guess I would reiterate some of the things that have been said earlier. One other point, in addition to being the most...the greenest kilowatt, the one that isn't generated, it's also the cheapest one because you don't have to spend money on it. So a couple of points I wanted to make is that that reducing energy costs can reduce spending by government without reducing services. You can...if you make your building more efficient than that provides more funds that can be used for other things. And then there are a number of studies that have indicated that making the building more energy efficient is also creates a better building and which creates better performance by the staff who are working in the building and there have been studies about schools that the students perform better in buildings that are more energy efficient. And I guess the final point I wanted to make in addition to the points that have been made earlier, I've had a conversation with my son who is a student at Hastings College this noon and we were talking about...he was asking what are you going to go testify on this afternoon. We're talking...I was talking to him about this bill and he said there's a new science building on the Hastings campus and he said even though it's bigger than the old science building it uses one-third of the energy of the building that they...the building that it replaced. And he was also talking about how it's a very comfortable building, it has lots of open space, talking about some of the innovations in the building, but a couple of things he was talking about are some of the technological changes that also help improve energy usage. There are timers on electrical devices and thermostats and things like that. Also, there's motion sensors so when you walk into the room the lights go on; when you leave the room the lights go off. And so there's a lot of things like that that we can...that can be done that aren't really expensive, but it can save lots of energy. So I just wanted to make those points. [LB845]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB845]

SENATOR HAAR: Yes, you're pretty familiar with legislation from past years. Wasn't there some bill a few years ago that would have required governmental agencies to sort of lead by example by auditing...by doing an audit of where they could do energy savings and stuff? [LB845]

KEN WINSTON: There was a bill in 2007 related to that, but I don't think anything ever happened with the bill. And then there have been various bills, LB14 is on that subject; it's currently in the committee. I guess I'm not...I mean, I've appeared in support...Sierra

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Club has appeared in support of both those pieces of legislation. I'm not sure what other answers you wanted to that question. [LB845]

SENATOR HAAR: What is LB14? That's not my bill, is it? [LB845]

KEN WINSTON: Senator White's bill. [LB845]

SENATOR HAAR: Okay. [LB845]

KEN WINSTON: No, it's not your bill, Senator. [LB845]

SENATOR HAAR: Okay. But it's just occurring to me, if we could again...the nice thing is for government to lead by example, especially in an area like energy savings, and it just seems to me that if we could work out...especially free ways of doing these audits, at least it would raise the consciousness of people working in those environments. [LB845]

KEN WINSTON: Well if I can give a plug to a bill that you have introduced... [LB845]

SENATOR HAAR: Well you can do that. [LB845]

KEN WINSTON: ...there are energy service companies that work in that area and LB1096 deals with that concept where you have a company that comes in and does an audit... [LB845]

SENATOR HAAR: Right. [LB845]

KEN WINSTON: ...and then agrees to do the energy upgrades. [LB845]

SENATOR HAAR: And yeah, we'll talk a lot more about that. The idea behind that one though, is that you think of retrofitting buildings in significant ways... [LB845]

KEN WINSTON: Sure. [LB845]

SENATOR HAAR: ...for significant energy savings. I think one of things I like about Senator Howard's bill, it talks about things that we could be doing without a lot of trouble. [LB845]

KEN WINSTON: Sure. [LB845]

SENATOR HAAR: Just like I have to remind my wife to turn off the lights and things like that. [LB845]

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KEN WINSTON: I don't want to get into domestic discussions in public. [LB845]

SENATOR LANGEMEIER: I don't think we want to go there either. [LB845]

SENATOR HAAR: But thank you very much. [LB845]

KEN WINSTON: Okay. [LB845]

SENATOR LANGEMEIER: Are there any other questions? [LB845]

KEN WINSTON: Thank you. [LB845]

SENATOR LANGEMEIER: Seeing none. Thank you very much. [LB845]

KEN WINSTON: Thank you. [LB845]

SENATOR LANGEMEIER: Well done. Further testimony in support, support of LB845? Welcome. [LB845]

ROBERT BYRNES: Good afternoon, Senator Langemeier and members of the Natural Resources Committee, my name is Robert Byrnes spelled B-y-r-n-e-s. I'm here before you as president of the Nebraska Renewable Energy Association. We do support measures outlined in LB845 and I won't reiterate the other comments of support, but I would make some suggestions potentially to Senator Howard and to some things that we're seeing in terms of federal moves in this regard. Federal agencies, particularly Department of Interior, USGS, are actively pursuing what they consider carbon profiling of their agencies and have actively been seeking and posting solicitations to do this precise or similar type of characterization of energy use with the eye toward reduction. And it's the same type of mentality that the government should be lean, mean and as efficient as possible. I might also suggest that the scope of these studies be increased. Electricity is one of the inputs that runs a commercial building operation and we've done a lot of these types of surveys in commercial, residential, industrial environments. There's also other energy inputs that make up that energy profile of that particular operation. These can include natural gas, propane, various other forms of energy that are consumed in the building. I suggest that these studies might be pursued in such a way as to create first a baseline of data, looking at previous energy bills, energy consumption, historical records that always exist and we typically use three years of data when we do these analyses, and develop a baseline in terms of BTUs or kilowatt hours or whichever unit of energy per person or per square foot of the building space. And then once the energy assessment or study is done and measures are implemented, those changes can then be compared to baseline and progress can be shown. These are pretty standard ways of doing this kind of things. It can document success or lack of success and it can also help define what we like to call the energy

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pigs that are out there because we recently came across an application where we found 300 120-watt incandescent light bulbs. The technology now is beyond CFL. We're into LED technology now which can provide...deliver the illumines of 120-watt incandescent bulb with 10 to 12 watts. So there is some tremendous potential out there with the new technologies and I think with an organized structure of both analyzing the existing data and comparing changes post...comparing the data after the changes, a very clear impact could be shown and that's something that these agencies can be proud of. [LB845]

SENATOR LANGEMEIER: Very good, very good. Are there...Senator Haar..questions...Senator Haar. [LB845]

SENATOR HAAR: Yes, thank you. Robert, in terms of carbon profiling, it sounds pretty inclusive, I mean, like let's say you do carbon profiling on the State Capitol. You're looking at just about everything that uses energy, right? [LB845]

ROBERT BYRNES: You can determine that scope and you can make it as complex as you want. I think what the federal agencies are after, they're after the big picture. Not only the energy used within the building itself, but the energy use of the personnel coming and going from work. [LB845]

SENATOR HAAR: Um-hum. [LB845]

ROBERT BYRNES: What is their average commute time? What is the fleet mileage? What fuel are they on? How much of that is new carbon versus old carbon and this is not about old...I'm not getting into cap and trade at all. But the measurement of the carbon consumption is obviously in proportion to the energy consumed because it all adds up to CO2 and H2O somewhere in the process. So you can determine the scope just within the building doors or within the complete operation of the building which would include the comings and goings of personnel and anything that, say, the fleet would use in the pursuit of the government business. [LB845]

SENATOR HAAR: Is there funding for this stuff? [LB845]

ROBERT BYRNES: Um...I know OPPD and NPPD receive some funding to do energy audits; that was from USDA last year, but you have to be a CEM or an electrical provider to have gotten those fundings, those particular funds. I think they were aimed at surveys on farms. I don't know off hand how government can get money to do that, but there are some programs, I know, for farmers through the USDA Rural Development Program to get funding to have these kind of surveys done. [LB845]

SENATOR HAAR: Well right now, especially in this session, there's what's called death by A-Bill; anything that costs money is pretty much going down the tubes. How can we

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start to do this without spending a lot of money? [LB845]

ROBERT BYRNES: Energy, wherever there's, you know, every challenge creates an opportunity. I think we...there's a need in this state, from where I sit, both for energy awareness and energy education. Well, let's put those together and get students involved in projects like this. We have, you know, our summer internship program, this is a...pretty much a staple of our renewable energy internship program is students know how to evaluate energy use within a building or an operation and our students do this during the course of the summer. I would...I think an internship program or something that revolved around collecting this kind of data and analyzing this data could be done, I think, on a...pretty cheaply or free. [LB845]

SENATOR HAAR: Now your students are where? [LB845]

ROBERT BYRNES: My students come from all over... [LB845]

SENATOR HAAR: Okay. [LB845]

ROBERT BYRNES: ...for this particular program and I self-fund it. But I'm sure there's...with partnership with the university, you know, this kind of data could be collected and students can get credit or extra credit toward their courses, and obviously any time you go out in the field and you measure things with your own eyes, that's a powerful learning opportunity. [LB845]

SENATOR HAAR: Are you familiar...you're familiar, I know, with Peter Kiewit Institute... [LB845]

ROBERT BYRNES: Sure. [LB845]

SENATOR HAAR: ...and some of the things they're doing. And just thinking out loud here, but I mean, they're a part of the university actually and they're working on ways of conserving energy and it would seem that we ought to try and put together some kind of carbon profiling. And I hadn't heard that term before, but using PKI maybe. I mean, that's their... [LB845]

ROBERT BYRNES: I saw that they were awarded a large grant or contract with the city of Omaha to inventory city buildings there. I did reach out to them because we have a solar camera that can look at, you know, the same time you look at these energy reduction opportunities, you look at potential energy production opportunities to offset that load as well, because energy production and energy efficiency, essentially, have the same impact to the system. [LB845]

SENATOR HAAR: Um-hum. [LB845]

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ROBERT BYRNES: So those things are generally looked at at the same time. But I think the educational system that we have here that is distributed all over the state, where government agencies and schools are, I think, would be the first resource, the first well I would go to, and the schools themselves, the schools themselves should know how much energy they consume per student and be responsible for that and I think that will be a great student project for them to calculate and evaluate those consumptions. [LB845]

SENATOR HAAR: Because I've been looking at green schools and one of the neat things there that the students are very aware of what's going on and if we could somehow promote actually involving students in the process, I mean, that carries on after they leave obviously. [LB845]

ROBERT BYRNES: You're killing two birds with one stone. You're accomplishing energy conservation and reduction at the same time as you're achieving energy awareness and education goals. [LB845]

SENATOR HAAR: I'd like to talk to you some more about this; let's brainstorm. Thanks. [LB845]

ROBERT BYRNES: Okay. [LB845]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. [LB845]

ROBERT BYRNES: Thanks, Senator. [LB845]

SENATOR LANGEMEIER: (Exhibit 9) Further testimony in support of LB845? Seeing...wait a minute; I have a letter of support from Randy Anderson with the State Electrical Board. Any other support? Anyone wishing to testify in opposition to LB845? Seeing none. Anyone wishing to testify in a neutral capacity? Seeing one. Welcome. [LB845]

NEIL MOSEMAN: (Exhibit 10) Thank you, Mr. Chairman. Good afternoon, Chairman Langemeier and members of the Natural Resources Committee. My name is Neil Moseman N-e-i-l M-o-s-e-m-a-n and I'm director of the Nebraska Energy Office. I appear before you today to testify in a neutral capacity on LB845. LB845, as introduced, of course requires each state agency to develop and implement a plan for conserving energy and to set a percentage goal for reducing its usage of electricity. The plan as required by LB845 includes, at a minimum, the use of switchable power strips that are powered off when the attached equipment is not being used. In addition, each agency is required to submit plans to the Nebraska Energy Office no later than December 1, 2010,

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and submit annual reports thereafter reporting goals achieved and additions or modifications to the plan. The Energy Office is committed to promoting practical ideas and assisting agencies to implement practices to become more energy efficient. However, there is some technical concerns with the bill as drafted. Most state agencies do not have direct access to its utility bill to monitor energy usage. This is due to some agencies being housed in buildings that the Department of Administrative Services owns and operates. DAS can only provide a sum total of energy usage for these agencies. In addition, many agencies own buildings and some agencies independently negotiate leases for office space and energy usage and utilities are built into their leasing costs. Therefore, most state agencies do not receive a monthly utility statement to accurately evaluate the effectiveness of individual reductions. I'd also like to point out, as well, in 2008 the National Governors Association entered into a partnership with Walmart called Greening State Capitols with the goal of assisting states in reducing their energy consumption through cost-effective improvements. In August of 2008, an energy...an audit was conducted on the Nebraska State Capitol Building and the Lincoln and Omaha state office buildings. The audits focused on the facilities' lighting and HVAC systems. The Walmart study found that Nebraska has made significant progress in reducing energy consumption in the Lincoln and Omaha state office buildings. The report further states, "While the audit did reveal some opportunities for additional energy savings, the primary finding here is that Nebraska should be held up as an example to other states about how to implement an energy savings initiative." In...finally, in buildings maintained by DAS, the following energy efficiency measures and controls are currently being utilized. These are just some that are being utilized, but copy equipment are energy star compliant, State Building Division utilizes night setbacks for energy conservation where HVAC controls are available. The State Building Division started a...has installed low water use landscaping as one example, and also the State Building Division is replacing incandescent bulbs with the CFLs and most exit lights have been replaced with a high efficiency LED lighting. Efforts are being made to reduce the amount of time lights are on by switching to daytime janitorial services which should provide some help as opposed to nighttime cleaning. And finally, energy conservation along with the use of more renewable energy sources is a priority, of course, for the state of Nebraska. The Nebraska Energy Office will continue to provide technical assistance and encourage state agencies to maximize energy efficiency. This concludes my testimony and I'm happy to answer questions. [LB845]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB845]

SENATOR HAAR: Well, obviously, what...you're not testing against energy efficiency, but against the details of this particular bill. Do you, in your opinion, do you think then that the state's doing about everything it can or do you think that there could be improvement; give us some ideas on that. [LB845]

NEIL MOSEMAN: Oh, Senator, absolutely there can be some improvements. And

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actually, I'm here in a neutral capacity and not against the bill. There are some concerns with the power strips. I think those are things that we can certainly work on and...but it doesn't...it didn't lead us into a position to oppose the bill, certainly. There are a couple...in this year a couple of shoes to drop, if you will, in the energy efficiency area. Through the...again, through the stimulus package, the American Recovery and Reinvestment Act, the state is going to receive...actually, the Department of Administrative Services will receive \$4 million for energy efficiency activities. That pot of money...I understand currently the Department of Administrative Services is preparing their plan and they will present that to our office and the Energy Office as well and will work with our engineers to develop a plan for that \$4 million and then it also needs to be approved by the Department of Energy. So that...there's some activity going on in that regard. I also heard and appreciate LES's and I think OPPD's offer... [LB845]

SENATOR HAAR: Well I did too, I heard that. [LB845]

NEIL MOSEMAN: I appreciate you...that you're able to do that. So I'm happy to work with them as well. I'm glad that we can work with LES in particularly here because we have so many office buildings, obviously, state office buildings in the Lincoln area, so. [LB845]

SENATOR HAAR: The thing about the night...or daytime janitorial service helps explain some of the people that wander in and out of my office so that's useful. But thank you very much. [LB845]

SENATOR LANGEMEIER: Are there any other questions? See, we keep a detailed transcription of that report just for you to use for LES. So we'll get you a copy of it. [LB845]

NEIL MOSEMAN: Yeah, see I wasn't able to do that, thank you, Senator Haar, for...and thank Shelley. [LB845]

SENATOR LANGEMEIER: Thank you very much. [LB845]

NEIL MOSEMAN: Thank you. [LB845]

SENATOR LANGEMEIER: Is there any other testimony in a neutral capacity? Seeing none, Senator Howard, would you like to close? [LB845]

SENATOR HOWARD: Well I certainly learned things, as I always do in these committee hearings. This is really very interesting, more interesting than I anticipated power strips ever being. Going green is a popular thing throughout the country and the state of Nebraska. Saving green has been our focus this legislative session. Thank you for your attention; thank you for your time and I hope you will look favorably on this little power

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strip bill. Thank you. [LB845]

SENATOR LANGEMEIER: Are there any more questions? Senator Haar. [LB845]

SENATOR HAAR: Do you see any potential, maybe, for what was brought up that maybe we work with the public power districts to do audits that would assist in this kind of thing. [LB845]

SENATOR HOWARD: I think it's great, I mean, I...there's a lot of opportunities. The power strips are a way to begin, at least they were in my mind, because I'm not an expert on this. But it just seemed like a common sense kind of thing and if we have...you know, we have offers from the power company and Lincoln Public Power, I think that's wonderful. Use it. [LB845]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much. [LB845]

SENATOR HOWARD: Thank you. [LB845]

SENATOR LANGEMEIER: That concludes the hearing on LB845. Now we'll open the hearing on LB960. Welcome to the Natural Resources Committee, Senator Stuthman. [LB845]

SENATOR STUTHMAN: Thank you, Senator Langemeier. Chairman Langemeier and members of the Natural Resources Committee, for the record my name is Arnie Stuthman, A-r-n-i-e S-t-u-t-h-m-a-n and I represent the 22nd Legislative District. I'm here today to introduce LB960. In order to better protect the economic competitiveness interest of Nebraska, LB960 modifies current net metering statutes to allow Nebraska to compete with neighboring states and states with similar economic bases. LB960 contains a provision that creates a separate class of customer generators apart from residential customer generators and increases the limit of generation for the new class to be more equitable with neighboring states or states that have similar economic bases. Residential customer generator limits would remain at the current statutory 25kW. The non...the new nonresidential class customer generator limit would be raised to 125kW. Specifically, the purpose for LB960 is to allow agriculture, commerce and industry to fulfill a potential to generate electricity at a limit more fitting to the usage of an individual farm, ranch, business or industrial complex. LB960 does not propose any other changes to the current statute and all other protections remain in place for the electrical service providers. Also, this bill is very important to our number one industry which is agriculture in Nebraska, and especially animal agriculture. And again, this bill does not change anything for the residential generation of electricity that was placed in the statute a year ago. And I'd be glad to try to answer any questions. [LB960]

SENATOR LANGEMEIER: Very good. Are there any questions? Seems pretty

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straightforward. Senator Carlson. [LB960]

SENATOR CARLSON: Thank you, Senator Langemeier. Senator Stuthman, can you give an example of the nonresidential class customer. [LB960]

SENATOR STUTHMAN: The nonresidential class customer, in my opinion, would be a methane digester for a hog unit; possibly a 6,000 head hog unit, a methane digester which would generate a lot more electricity. [LB960]

SENATOR CARLSON: Okay. Thank you. [LB960]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much for your introduction. [LB960]

SENATOR STUTHMAN: Thank you. [LB960]

SENATOR LANGEMEIER: We will now move on to supporters of LB960. Mr. Cooper, welcome. [LB960]

STONIE COOPER: (Exhibit 11) Thank you. Thank you, Senators. My name is Stonie Cooper, S-t-o-n-i-e C-o-o-p-e-r. And thank you again for this hearing. I'm here to represent myself and my family only. LB960 creates a separate class of customer generator, separate from residential, and raises that limit on the generating capacity for nonresidential class, such as my farm. And that's what I'm here to discuss, is give you an example of how this would benefit my case which is attempting to break from the monocultural agricultural practices and do something different. I'm not going to read through my letter that I've provided to you. In fact, when I was driving here I thought through this a little bit further and there's a couple points that I want to hit, anticipating some arguments that are going to be against this bill. One thing that came to mind is that, as Senator Stuthman indicated, all the remaining protections other than the division in classes and raising the limit for this new class, all other protections stay in place, including the one percent aggregate limit across any public power district. Following with logic, this should actually decrease the amount of paperwork that any public power district would have to, in order to maintain the net metering customer base, if you have 125 kilowatt customer, that's one interconnect agreement that they're going to have to do the paperwork through and to maintain for that same amount of offset off the one percent. With the current statutory limit of 25, you would have to have five interconnect agreements and all the support that goes with those five interconnect agreements. So this is actually a more efficient way of allowing net metering in this state. By raising that limit you're actually going to decrease the amount of paperwork and interconnect agreements that each one of these public power districts are going to have to maintain. Now to my specific example to why I'm here is I'm a small farmer in Saunders County. I have half of my acreage in a traditional soybean, corn rotation. The

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other half, however, we are attempting to move towards a sustainable, chemical free vegetable for local supermarkets and farmer market scenario. The FSA office has recently announced that they are providing grant money for what they call tunnel farming. And tunnel farming is basically you create this large plastic tube, it's like a greenhouse, however much more...much less rigid than a typical greenhouse, and the idea being that vegetables can be grown in that tunnel year round for market in our area so that we're not importing vegetables from San Joaquin Valley in California in the wintertime. We can actually produce things here. Those tunnels, however, take energy, especially in the wintertime when it's cloudy. You're going to have to have inputs in order to maintain a heat balance inside those tunnels so that you don't freeze your crops. And if I'm to consider going forward with what the FSA is proposing with these tunnel crop scenarios, I'm going to have to have a lot more electricity. And the thing of it is, at the same time that we have this potential grant, we also have the federal, up to 100 kilowatt grant potential for installing renewable energy generation. Now if I take those two programs which are not associated together whatsoever and bring them together to help me put in place my business model, which is to grow vegetables for local markets, local supermarkets, you can see the business potential that's here. I cannot do that under the current statute. The current statute puts a limit at 25 kilowatts that is going to service one tunnel and one of those crop tunnels is not going to give me the volume that's going to allow me to be consistent and stable in providing produce for supermarkets in eastern Nebraska. So again, I want to reiterate, I'm in support of LB960 and thank you for your time. [LB960]

SENATOR LANGEMEIER: Are there any questions? Senator Haar. [LB960]

SENATOR HAAR: In the tunnel farming you're talking about, tell me again about the...you're hoping to put in a wind turbine or what... [LB960]

STONIE COOPER: You'd have to have some form of...well either you would have to tap into it and use more electricity from the grid... [LB960]

SENATOR HAAR: Um-hum [LB960]

STONIE COOPER: ...or you'd have to produce your own electricity in order to heat those tunnels when it's cloudy or cold... [LB960]

SENATOR HAAR: Right. [LB960]

STONIE COOPER: ...because those tunnels, actually, even...I've seen instances...or anecdotal stories in Minnesota that even when it's minus 5 degrees outside, as long as the sun is shining, those things get pretty warm inside. But it's at night and it's also during cloudy days that you would need to heat those tunnels and they're significant in size if you think about growing enough vegetables to stock... [LB960]

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SENATOR HAAR: Sure. [LB960]

STONIE COOPER: ...IGA or Hy-Vee. [LB960]

SENATOR HAAR: And what are you thinking of in particular for... [LB960]

STONIE COOPER: Actually, as anything goes, a diverse method of generation would be the best, using both wind, solar, and in my case I happen to have the resources to do micro hydro as well. [LB960]

SENATOR LANGEMEIER: Any other questions? I do have one. [LB960]

STONIE COOPER: Yes, sir. [LB960]

SENATOR LANGEMEIER: Thank you for your testimony and I read through it so I wasn't looking down, I was listening, but I read it all. In your second...you give some examples in here and the second one you give is talking about an electroplating company near Omaha that hot dips galvanizes irrigation equipment, poles and guard rails. [LB960]

STONIE COOPER: Okay. [LB960]

SENATOR LANGEMEIER: I know what that is. You talk about...they were talking about putting up a wind turbine, they put one up at their current facility, which I think OPPD put up; not the company. And then my other question in here, you talk about that they're thinking about doing it at the West Point facility but due to the expenses of utilities, they're thinking about going to Logan, Iowa. [LB960]

STONIE COOPER: And again, this is a hypothetical situation. [LB960]

SENATOR LANGEMEIER: Okay. [LB960]

STONIE COOPER: I've only had cursory conversations with them and unfortunately digging through the layers of hierarchy at that particular company I never was able to talk to the specific person who plans these things. And these are just examples to illustrate how it benefit if we have a higher limit. [LB960]

SENATOR LANGEMEIER: Sure. But that facility, you talk about going to Logan, Iowa, I know their number one commercial customer for that plant is located in Logan, Iowa. [LB960]

STONIE COOPER: Right. [LB960]

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SENATOR LANGEMEIER: So I can understand why they'd want to put that plant closer to the product they galvanize. [LB960]

STONIE COOPER: Exactly. No...I'm pretty familiar with their business model and how they function and that's why that came up and I...before this hearing came up, I was not able to confirm, otherwise it wouldn't be hypothetical if I could have gotten some of the facts done so I guess I had to label it hypothetical. [LB960]

SENATOR LANGEMEIER: I understand. I appreciate the examples though. I do. Seeing no other questions, thank you very much. [LB960]

STONIE COOPER: Thank you. [LB960]

SENATOR LANGEMEIER: I appreciate your testimony. Further testimony in support of LB960? Mr. Kluthe, welcome back. [LB960]

DANNY KLUTHE: Thank you, Senator Langemeier and Natural Resources Committee. My name is Danny Kluthe, D-a-n-n-y K-l-u-t-h-e. I'm a hog farmer from Dodge, Nebraska. I'm here to support LB960. I'm here on behalf of myself. What I've got is an anaerobic methane digester manure processing system. And what it does is controls the emissions that goes out, effluent control, odor reductions and the by-product is electricity. It's the by-product. And when we talk about odor control, naturally agriculture is the backbone in Nebraska. And the backbone of agriculture is livestock and when we can get livestock to be neighbor friendly with...using the methane digester, I mean, that is economic development to the extent. And what LB960 really wants to do is keep the bill, you know, we got a 25kW net metering last year. That's great for residential. What LB960 wants to do is raise that cap to allow ag and commercial operations to be part of that. And, you know, this bill, what's great about this bill is it will not cost the state any money which I heard in previous deals that's huge. And that's great. It doesn't cost...but by raising that cap, what we will do is in increase economic development. We will, you know, give ag and commercial an opportunity to partake in the renewable energy and right now, Secretary of Ag, Tom Vilsack, announced on December 15 that he wants to work with the dairy producers to take manure to electricity which is actually the methane digester. That's great, that's fantastic. In this state though, if we cannot utilize our energy, you know, like right now, you know, I'm selling 100 percent of my energy and then buying it back. And if you think the business model, no business produces something and then turns around and sells it and buys it back. You know, it just...it...LB960, you know, four years ago I went and started my methane digester and I knew up front that we didn't have a net metering bill. But I thought to myself, working with the Legislature, we could get one. And we got part of a one last year which was great, but it still wasn't the...the cap was too low for somebody like myself to participate in. And LB960 comes along and we've got...the bill we got last year was good, we're

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going to keep that bill. All we want to do is increase the cap. And I think it's something that I hope the natural resources district looks at very favorably. You know, there's a lot of stuff that I probably could say, but, you know, I'm going to stop there and I'm going to thank the committee for allowing me to come and testify on behalf of LB960. And if you have any questions, I'd... [LB960]

SENATOR LANGEMEIER: Sure. Are there any questions? Senator Haar. [LB960]

SENATOR HAAR: Thank you, Danny. I know that, obviously, you need a digester and you need a generator. Do you have to change your operation in any other way to actually capture the manure? Have there been changes in your hog operation? [LB960]

DANNY KLUTHE: Well, for my particular operation, I didn't have a lagoon. And after the effluent goes through the digester, it needs to go up to a lagoon. So I had to build a lagoon. Now not all operations are like that. There are operations with a pull plug with a lagoon right now, and the only thing they'd need to do is stick a digester in the middle of what they've already got and they're off and running. So there are operations that could fit into this so very well, so very well. And right now, USDA and other agencies are promoting renewable energy and there's grants out there for all this...these types of digesters and renewable energy projects. So...yeah, I had a...a little bit... [LB960]

SENATOR HAAR: Do you know...is there any difference between using the manure of a pig farm versus a cattle farm. Do you know anything about that? [LB960]

DANNY KLUTHE: I would probably guess there's probably a little difference, but the value of farmland or barnyard manure... [LB960]

SENATOR HAAR: Um-hum. [LB960]

DANNY KLUTHE: ...is huge. If you had to buy commercially everything that's in manure,... [LB960]

SENATOR HAAR: Um-hum [LB960]

DANNY KLUTHE: ...you couldn't afford it commercially. And even to add further to that, raw manure has to be broke down by the soil before a plant can utilize it. The methane digester breaks it down so now we've got a fertilizer that's available right now to the plant. So that's another one of the benefits of the digester. [LB960]

SENATOR HAAR: By-products, yeah. And then I want to see your operation at some point, but in terms of...I know that to finance that you got a number of grants and so on. Do you...what's happening to the price of the kind of operation, I mean, could somebody conceivably repeat what you've done? [LB960]

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DANNY KLUTHE: Exactly right now, USDA still has the same grant available. You know, I... [LB960]

SENATOR HAAR: Okay. [LB960]

DANNY KLUTHE: ...there might even be a few more newer grants that are available, just because right now the federal government and...well even...thinking green is a phrase now that is used pretty commonly, but thinking green and renewable energy, there's a whole lot more on the burner now than there was a number of years back. So, you know, I'm not...you know...I think somebody could go into this and still get grants that are probably still there as well. [LB960]

SENATOR HAAR: Okay. Thank you very much. [LB960]

SENATOR LANGEMEIER: Are there any other questions? Danny, I just had a statement and then I have a question. First of all, I've been out to your facility... [LB960]

DANNY KLUTHE: Okay. Thank you. [LB960]

SENATOR LANGEMEIER: ...and I do want to extend my thank you on behalf of all the people that have come out and toured your facility; you've been very gracious to let anybody that wants to come out there. As a matter fact, I think you and I and Congressman Fortenberry are on the front of his Web site at your place. [LB960]

DANNY KLUTHE: Is that right? Thank you. [LB960]

SENATOR LANGEMEIER: So we do thank you for allowing people to come out and see it. Not a lot of hog producers are real thrilled about having visitors out to their facilities. Now my question is, give me a ballpark figure what it would cost to build a facility like yours with just the digester; if they've already got the lagoon, you said all they have to do is put it the middle, just the digester and then what you have as Cat (Caterpillar) engine or a...that set-up, what's an estimated cost? [LB960]

DANNY KLUTHE: I would guess probably about probably \$150 a pig space. You know, I would guess that's probably what it would be. [LB960]

SENATOR LANGEMEIER: Okay. Very good. Senator Haar. [LB960]

SENATOR HAAR: Just one further question. Do you produce more electricity than you use or is it the other way around? [LB960]

DANNY KLUTHE: No. I produce more than I use. [LB960]

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SENATOR HAAR: You do. [LB960]

DANNY KLUTHE: Yes, I do. [LB960]

SENATOR HAAR: Two to one, what...do you have any idea? [LB960]

DANNY KLUTHE: Actually, it's even better than that right now. If I would have had the foresight to include my other operation into it all, it probably would have been about half and half. But just Bacon Hill by itself, I probably use less than half and I'd be able to sell a good part of it. [LB960]

SENATOR HAAR: And you're putting out about 80 megawatts, if my memory... [LB960]

DANNY KLUTHE: Yes. That's what I've got, an 80kW unit. [LB960]

SENATOR HAAR: Okay. Thanks so much. [LB960]

SENATOR LANGEMEIER: Senator Carlson. [LB960]

SENATOR CARLSON: Senator Langemeier, your question triggered one with me on your ballpark figure here. So a thousand head, that would be \$150,000? [LB960]

DANNY KLUTHE: A thousand head would be \$150,000...okay...it isn't a hundred...that's pretty high. [LB960]

SENATOR LANGEMEIER: I just did the math and I was going to come back with a question. [LB960]

DANNY KLUTHE: Yes. That's great. I should have not even mentioned that because actually by rights it's probably half that. Yeah, it would probably be more closer to 50 to 60 bucks a pig space probably. That was...I spoke out of line there. Thank you very much. [LB960]

SENATOR CARLSON: That's pretty important figures. [LB960]

DANNY KLUTHE: That's big...that's big. Yeah, it's not that. [LB960]

SENATOR LANGEMEIER: That was approaching a million dollars on 8,000... [LB960]

DANNY KLUTHE: Whoops. [LB960]

SENATOR LANGEMEIER: ...yeah, it was kind of pricey, kind of pricey. Seeing any

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other questions? Seeing none, thank you again. Thank you for your testimony. [LB960]

DANNY KLUTHE: You're welcome. [LB960]

SENATOR LANGEMEIER: Further testimony on LB960 in support? Welcome back. [LB960]

KEN WINSTON: (Exhibit 12) Thank you. Good afternoon again. My name is Ken Winston, K-e-n W-i-n-s-t-o-n appearing on behalf of the Nebraska Sierra Club in support of LB960. We've supported net metering and renewable energy for...as long as I've been involved with lobbying for the Sierra Club. One of the reasons we support net metering is it can be a tool to encourage renewable energy development by consumer generators. And increasing the cap or limit makes it more feasible for nonresidential customers such as farmers and business people. And I wanted to mention that had...that LB436, which is the bill that was passed by the Legislature last session that came through this committee that created the net metering program that's the...set forth the parameters of net metering for the state of Nebraska last year was reviewed by Brad Klein from the Environmental Law and Policy Center and he's done a lot of work in the area of net metering. He indicated that based upon his review, that bill was largely consistent with best practices for state net metering programs. However, the limit of 25 kilowatts is among the lower limits for net metering programs and that if the limit was increased that would improve Nebraska's ranking in that area. There's some other things I wanted to mention in addition. There are a number of studies from other states that have shown...or studies examining other states' programs that have shown that net metering has a minimal impact on utilities. In general, it's often hard to measure in terms of the overall amount of electricity that is generated in the state or used by utilities in comparison to the overall amount of electricity that's used and sold. One of the other points I wanted to make is that we want to encourage projects like Danny Kluthe's. We think that things like that are very important in terms of dealing with the...both the agricultural and environmental aspects of Nebraska because methane is one of the biggest components of greenhouse gases and if we can find a way to capture that and use it productively, we kill...well, I hate to use kill birds with one stone as an environmental advocate... [LB960]

SENATOR CARLSON: You don't like to kill birds.(laughter) [LB960]

KEN WINSTON: Okay, scratch that, I won't use that term. We can accomplish several goals simultaneously, how's that sound? (laughter) So, so that...lost my train of thought completely. But would enable both reducing greenhouse gas emissions; it also reduces odor problems. The kind if setups that he has also are usually more effective in terms of controlling odor and it deals with things like runoff because of the fact that once the product has gone through the digester it's much more usable as a fertilizer product. So we think this is...encouraging programs like that is an important way of addressing lots

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of environmental issues that are related to feeding operations so we'd like to encourage more of those kinds of projects being created. And to respond to one of the questions that Senator Haar asked about cattle feeding operations, I don't think it's specifically related to different kinds of feeding operations, as much as it is the kind of location. It's my understanding that operations that mix dirt with...where it's just out on the land, it's a lot harder to use it in a digester and so in general they...at this point they're still working on trying to make that more effective. [LB960]

SENATOR HAAR: Okay. [LB960]

KEN WINSTON: But we certainly would like to see more of that done as well because there's lots of...as I indicated, lots of problems that can be addressed in that area. [LB960]

SENATOR LANGEMEIER: Very good. Are there any questions? I saw the...I was envisioning the headline there: Ken Winston, lobbyist for Sierra Club says kill two birds with one stone. That through... [LB960]

KEN WINSTON: I don't think there are any media here are they? [LB960]

SENATOR LANGEMEIER: ...that flashed through my eyes for a second. Seeing no other questions. [LB960]

KEN WINSTON: No, we want to avoid that, Senator. [LB960]

SENATOR LANGEMEIER: I'm well aware of that. Thank you very much for your testimony. [LB960]

KEN WINSTON: Okay. Thank you. [LB960]

SENATOR LANGEMEIER: Further testimony in support of LB960? [LB960]

SENATOR HAAR: It's not two turbine...two birds with one turbine blade. [LB960]

SENATOR LANGEMEIER: I don't think we want that either. Welcome back. [LB960]

ROBERT BYRNES: (Exhibit 13, Exhibit 14) Thank you. Good afternoon, Senator Langemeier, members of the Natural Resources Committee, my name is Robert Byrnes, B-y-r-n-e-s and I'm here testifying today as president of Nebraska Renewable Energy Association, owner of Nebraska Renewable Energy Systems and operations manager for All Native Services Company. We appreciate LB436 and all that happened with that. The actual standardization of the policy across the state is a good thing and we are grateful for that. The intent of net metering is very similar, if not identical intent

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as those within the goals of energy efficiency that everyone supports. The impacts to the grid are the same and we should kind of keep this in that context. LB436, as currently exists as a state policy, and I'll refer to this report here in a little bit. This is an excellent, timely report from NREL. I'll refer to a couple of pages, but I did copy it for your reference because it is very timely on this topic. LB436 has ample safeguards within that policy to protect ratepayers and public power from potential negative impacts from net metering. This includes the 1 percent cap of the grid which has been mentioned. LB436 requires customers to be responsible for any utility build-out that is incurred as a result of a renewable energy system. That is the integral sizing limit within that bill already. If the intent of net metering is to offset a user's load, okay, as an energy efficiency reduction would do; the intent is not to export power for public power to buy. Therefore, if a customer installs a renewable energy system that's larger than his existing service, he is responsible for that build-out which is a cost prohibitive; that stops the show right there. So the natural size limit is already built into LB436. Also the excess, if there is times of excess, the power is produced and that power goes back to the utility. The power is not purchased at retail cost. That power is purchased at avoided cost. So there is money that is made, the transmission, the infrastructure, the maintenance is there on the power that's exported to the grid. So public power is well protected within the existing framework of LB436. I'd like to...as a...trying to be a green business person in Nebraska, I'd like to mention and outline the efforts of All Native Services Company. This is a wholly owned subsidiary of Ho-Chunk, which is owned by the Winnebago tribe of Nebraska. I give tremendous credit and respect to the Winnebago for all they have done on the reservation regarding renewable energy. I've been quite impressed over the year or two that I've been involved with them. All Native Services Company has, in the pursuit of federal solicitations in regards to renewable energy, the success of these Indian-owned companies, obviously, has extreme and very pronounced economic development impacts on the reservation and they've done a great job up there. However, as I...as we pursue, the federal government is probably the single biggest purchaser of renewable energy in this nation at this time. As we pursue these on a national level, we find that we cannot be competitive because we cannot generate the past performance required to be competitive in the national marketplace. This system limits that exist, the 25kW, we're like, we're junior leagues. We need to be able to put up systems just so we can compete in the bigger marketplace. The...so that's...the one example, but I think the business example is very strong. I had the opportunity to teach students at Northeast Community College last semester in the wind turbine technology training course that that school has initiated. And one of the figures that I had the unfortunate position to share with 16 students is that there's one job created for every 10 megawatts of commercial wind. Small wind, by comparison, offers from my figures, 30 to 50 times the economic development impact in terms of jobs as large wind. So as we review an 80 megawatt mandate or policy from NPPD, I have to look out at a class of 16 students and tell half of them that you're going to have to pack your bags if you want to stay in this industry. In reference to the NREL report, I'll just reference a couple of pages here. On page 2, there's a chart that shows how many

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states have the split type of classes of customer generators that we discuss...that we've discussed; many of them have a 25 and a much larger commercial limit. We're asking for 25 and 125. On page 6, the summations of this federally funded NREL report indicate that increasing system capacity from 40kW to at least 2 megawatt would be considered best practice. On page 14, page 14 shows the graph of the trends in net metering caps and they have increased over time in states that have net metering policies and you can see that trend clearly increasing. And then on page 24 and in conclusion, page 24, the next step conclusions of this NREL study indicate a higher net metering system size cap seems to coincide with accelerated market transformation and a great installed capacity without significant negative ratepayer impacts, and there's no fiscal note. With that I'll conclude. Thank you. [LB960]

SENATOR LANGEMEIER: That is a very important statement. Senator Haar, a question. [LB960]

SENATOR HAAR: On page 6, it does talk about it, it seems to say Minnesota doesn't have really good net metering policies. So what, this was just to give Minnesota the idea of what good practice was or...okay. [LB960]

ROBERT BYRNES: Well I think they...and this study they took Minnesota as having best practices installed in all of the other areas of the policy, the components of the policy, and many of which we have already in place, but they looked at the issue. They had a system size cap of 40kW and they looked at the impacts and the trends towards raising net metering caps. They used the Minnesota example in particular and this study does have kind of a solar, if you don't mind in the industry, solar angle, kind of a geeky joke, but it does have kind of a solar perspective to the report. But obviously any green electricity, methane digester, wind power, solar, would fall under the same category. [LB960]

SENATOR HAAR: Thank you. [LB960]

SENATOR LANGEMEIER: Other questions? Senator Carlson. [LB960]

SENATOR CARLSON: Thank you, Senator Langemeier. Robert, you used a term that I should know and I don't understand what it means, I've forgotten, but we've got net metering or we've got wholesale, retail, what's the other term? [LB960]

ROBERT BYRNES: Avoided cost. [LB960]

SENATOR CARLSON: And what's the difference between wholesale and avoided costs? [LB960]

ROBERT BYRNES: Avoided cost is the actual, and I can't speak for utilities, although

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I'd like to, avoided cost is actually the lowest cost of power that public power would have to purchase from the producer. So typically in our case, that's about 4.5 cents a kilowatt; typically it would be about half of what the retail average is in Nebraska. We consider that to be a 4.5 cent a kilowatt. We kind of envision that as what that power costs at the transformer of the coal plant. So for renewable energy excess to be given avoided cost out on the grid where it goes from the renewable energy producer to the next neighbor incurring no line loss, essentially no line loss because it's so close, you don't have to transport it 300 miles from the coal plant, it's actually more efficient and there's actually some profit there that public power would realize from buying avoided cost power out on the end of the grid somewhere in some cases. And again in perspective, a 100 kilowatt wind turbine sounds like a big system. In fact, these wind turbines don't...that is a rated capacity; the actual capacity of a wind turbine is between 10 and 30 percent of that number. So essentially what we're talking about when we talk about raising the cap, we're talking about a 30 horse power motor. I mean, that's all we're talking about. [LB960]

SENATOR CARLSON: When you use the 4.5 cents, what would wholesale be? [LB960]

ROBERT BYRNES: It depends on where you're buying it and how much line loss and wheeling cost has to be put onto that, 6 cents, 7 cents and then the next step is retail to the customer's meter which includes the line loss and the wheeling cost to that meter, you know, delivered cost. So would go avoided, wholesale, and then retail. [LB960]

SENATOR CARLSON: Okay. Thank you. [LB960]

SENATOR LANGEMEIER: I have a question. In my mind you had a conflicting statement so I'm going to let you try to correct that. You talked about our net metering was too low in Nebraska; you couldn't compete with size and production with other areas in the country. Okay? But prior to that you said, you talked about no one that puts these facilities in wants to generate more power than what they use. The whole purpose is to provide their own power generation. So first you said we don't want to produce more than what I need, but yet you want to compete in the market with excess. That's a conflict. [LB960]

ROBERT BYRNES: Hmmm [LB960]

SENATOR LANGEMEIER: And then to...I'm going to let you answer... [LB960]

ROBERT BYRNES: Okay. [LB960]

SENATOR LANGEMEIER: ...and then to follow up on that is...Mr. Kluthe's facility is 80 kilowatts and he said that he produces twice as much as what he uses. So he really should only be a 40 kilowatt facility instead of the 125 they're asking for here. So, I'm

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going to let you try and either straighten me out or correct that. [LB960]

ROBERT BYRNES: Okay. I think I many have used the wrong terminology. When I mean competitive I mean as a green business. The intent of net metering is not to generate excess and the way that LB436 is set up, you don't want to generate excess because you're only getting avoided cost for it. So if you had a retail for excess, yeah, I mean, that's...a size cap, again, might be more appropriate because, wow, I can make more and I'm going to get retail, I'm going to make money, okay. But now...this...the way it's written now, you get avoided cost for excess. So when we size systems, we don't...we size systems so you don't sell back because that's where the best value is to replace the retail consumption. When I talk about us not being competitive, I talked to us about being a green business. In other states that have larger net metering limits, green businesses are installing 100kW, 200kW, 500kW systems, so the government and air force facilities and army bases and big users go out there looking for...I mean you hardly ever see small systems; it's 50kW and up. And they ask for experience. They want to see three, four projects that you've done of a similar size and complexity and you need the references and what's called past performance. We have...we would have to go out of state to get past performance. We can't even get past performance within our own state. So to do this at home, for Nebraska businesses to build this experience and build this past performance here within the state, we're limited because of that cap. Danny Kluthe is...and I don't speak for Danny, but I'm familiar with the situation, is an exceptional case because he came in before net metering, he's under contract...a certain contract or whatever, so he makes twice the power or...he makes considerably more power than he consumes. That's net billing. He's still under a net billing system so all of his power goes to public power at avoided cost and then he gets some green tags and then he has to buy back at retail. So even though in that particular case he is making more than he consumes and still has a bill, that would not be the case if he were under LB436, but he can't be because, again, the limit. [LB960]

SENATOR LANGEMEIER: Right. I just...you did a good job of clarifying that. [LB960]

ROBERT BYRNES: Okay [LB960]

SENATOR LANGEMEIER: I thought it was confusing, I think. Senator Haar. [LB960]

SENATOR HAAR: Yeah, real quickly; I e-mailed you about Roger Taylor. Have you talked with that guy at NREL or are you familiar with him? If not, we need to talk some more. [LB960]

ROBERT BYRNES: Um, I have...I didn't get the contact from Annie yet,... [LB960]

SENATOR HAAR: Okay. [LB960]

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ROBERT BYRNES: ...but I think that would be a good...I'd like to pursue that. Appreciate it. [LB960]

SENATOR HAAR: NREL has certain people assigned to certain areas and they have a person who's really sort of in charge of tribal renewable energy so I wanted to pass that along to Robert. [LB960]

ROBERT BYRNES: I think that would be a great help and the Winnebago Tribe has done a tremendous job. They've installed thermal solar, they have a solar water-powered buffalo well, they've put up five turbines on...they actually have the most intense decentralized energy production system per square mile in the state and they see the value of this. They put early money on this and they're trying to be competitive in this marketplace. However, they're looking outside Nebraska and we're just kind of handicapped just from that perspective. Obviously, we'd like to keep those jobs home. It's like C-BED on steroids when you look at the economic development impact of small green businesses. [LB960]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none, thank you very much for your testimony. You did a great job. [LB960]

ROBERT BYRNES: Thank you. I appreciate it. [LB960]

SENATOR LANGEMEIER: (Exhibit 15, Exhibit 16, Exhibit 17) Further testimony in support of LB960? I want to read in...I have a number of letters in support of LB960: Steve Eveans with SEArch, Inc.; LaVern Raabe of Pilger; and I have a letter signed by 17 citizens and they'll be of record too. With that, that concludes our support section. Those that would like to testify in opposition to LB960. Welcome. [LB960]

KRISTEN GOTTSCHALK: Chairman Langemeier and members of the Natural Resources 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 represent 35 rural electric providers which includes public power districts and electric cooperatives. I'm here today to testify on behalf of my members, but also on behalf of members of the Nebraska Power Association. And the Nebraska Power Association represents all of the electric utilities in the state of Nebraska. I will be testifying today in opposition to LB960, but I'm not testifying today in opposition to net metering. I want to make that very clear. Net metering is an issue that's come before this committee every year since I've been a lobbyist and that's been the last nine years and it came up several years prior to that. And we've been very grateful for the willingness of Senator Haar to work with us and the willingness and the hard work of the committee to craft net metering legislation that made sense for the state of Nebraska. In LB436 created a net metering law and we became one of only....one of 42 states that have some net metering provisions in statute. How I emphasize we're one of only 22

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states that apply any portion of their net metering mandates to small rural utilities, electric cooperatives or municipal systems; anything under the public power. Many of these states either have significantly reduced requirements for those types of electric systems than they would require for what we consider to be investor-owned utilities. And as we read the statement of intent, it says we need to come more in line with our neighboring states and states with similar economic basis. And I think we need to look a little closer at what our neighboring states are actually doing and how it applies. And I'm going to use information that was referenced in the LR193 report on net metering that was introduced by Senator Haar and the information comes from a report called "Freeing the Grid," a publication from the New Energy Choices Network. And this information is also supported on the DSIRE Web site which provides much more complete information on all renewable energy policy in states. So I'll start with the state that is ahead of us: Colorado. And this report rated, gave everybody an A, B, C, D, or F grade. Colorado is one of only 11 states that receive a higher grade than the state of Nebraska. Colorado gets an A; Nebraska got a B. Colorado's net metering law allows for up to 100 percent of a customer's energy use to be put into capacity for net metering. Now that sounds great; it doesn't matter, that means there's no limit. But that only applies if you are an investor-owned utility. For a publicly-owned utilities, rural systems, public power districts, electric cooperatives, the limits are only 25kW for commercial and 10kW for residential. And that's a big different. For public utilities in Nebraska, it's 25kW across the board. And I want to mention that the 25kW is not a limit. It sets a minimum standard and there is no limit by which the state has applied, so systems could attach larger generators. In Iowa, our neighbor to the east with all those commercial wind turbines, we hear about them all the time, they have a size limit of 500kW. Now that's a really huge system, but here again, the net metering law only applies to investor-owned utilities. And the rural systems, public power and municipal systems are exempt from that. And I'd like to say that we're still ahead in Nebraska because we don't have exceptions and the net metering law...we don't have exceptions for utilities in Nebraska and Iowa received a C in that report. So Nebraska's grade was higher. Wyoming set very similar provisions to Nebraska in their net metering law; 25kW size limit that applies to all the electric utilities in the state. Kansas, our southern neighbor, has a 25kW residential and 200kW commercial. Again, it's large, but they do not require that to be applied to any public power, rural or cooperative system. Kansas also received a B. South Dakota, our neighbor to the north, has absolutely no net metering laws or provisions in statute at all. Now Missouri, Missouri, this one is a little bit different. Missouri's law does allow for up to 100kW and does include all utilities, but their exchange of energy is not as liberal and the specific insurance requirements for systems over 10kW resulted in Missouri receiving a C. And I think after we evaluate other states, Nebraska has a consumer friendly law that addresses the requests for interconnections from the utilities that we received. Many people worked hard on that bill last year to make sure that we could create a net metering provision that we could begin to use and understand how net metering systems will impact our distribution system. The Legislature was careful in the passage of that law to set a minimum

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requirement and not a maximum mandate. Utilities can establish, and many did establish policies before the passage of the law to allow for net metering on their systems. When we evaluate the LR193 report, and I think this is important when we look at the types of requests for interconnections for net metering systems, we do see that a majority of those have been well under even 25kW and a large number of the interconnects have been in the 1.5 to 10kW range; very limited requests for size larger than that. And a majority of the systems also have policies in place that would allow for larger systems upon negotiation with the distribution system. With that, I see my time is expired, but I would be happy to answer questions related to avoided costs, related to how Danny Kluthe's facility applies to net metering, but I would say that we are in opposition to increasing the size, but we do still support net metering in the state of Nebraska. [LB960]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB960]

SENATOR HAAR: Well I'm sure you're well aware that we...in the Legislature when we want something we compare it to other states, and when we don't, we use it the opposite direction. But in some ways it doesn't much matter how we compare to other states. Talk about the issues. [LB960]

KRISTEN GOTTSCHALK: The issues. [LB960]

SENATOR HAAR: Why you would oppose this. [LB960]

KRISTEN GOTTSCHALK: Well the reason we oppose it, we came forward last year, there were several people that would like to have seen us go up to 200kW, 100kW last year. And in most of our systems we felt very strongly that 25kW was a good mandated starting point for distribution systems to interconnect. In fact, when I met with some of my members just recently, they said, you know, we may have sections on our system where a 100kW could work, but we don't want that to be the first system we interconnect; we'd rather see how a 5, a 10, a 25 implement. And so as we discussed in negotiations last year, we saw 25kW as a starting point to evaluate and we really haven't had time to evaluate. We've...the law implemented in August and, quite frankly, a number of the installations since August were already in the pipeline before the bill was ever passed. So I still don't think we have a full understanding of what these... [LB960]

SENATOR HAAR: What kind of personal feedback have you gotten in terms of problems in integrating into the system or whatever? I mean, since you're talking to these people all the time. [LB960]

KRISTEN GOTTSCHALK: When you say problems integrating, you're talking technical problems or difficulty? [LB960]

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SENATOR HAAR: Yeah, yeah. [LB960]

KRISTEN GOTTSCHALK: Really for most of my utility systems, the installations have been relatively small, so the impacts on the distribution system tend to be less. So if you have a 1.5kW system or a 2kW system integrating onto your system, it will have a lesser impact than the 25kW. We've seen a little bit of flicker in the line when a system were to first start up and ratchet back. we haven't had any major issues... [LB960]

SENATOR HAAR: Okay. [LB960]

KRISTEN GOTTSCHALK: ...with integrating what systems we have integrated. Now, NPPD and LES have had net metering consumers probably longer and they may be able to address that a little better. [LB960]

SENATOR LANGEMEIER: Senator Carlson. [LB960]

SENATOR CARLSON: Thank you, Senator Langemeier. Your letter grades that you read for several states; I don't think you read one for Wyoming. [LB960]

KRISTEN GOTTSCHALK: Oh, I'm sorry. You know what, and I thought about that as I was reading through, I didn't write it down, but I think Wyoming was also a B. [LB960]

SENATOR CARLSON: Thank you. [LB960]

KRISTEN GOTTSCHALK: And that report was referenced in the LR193 report and there's a Web site that you can go to to retrieve that. They did indicate we would get an A if we went up to 2 mega watts. So that was a pretty big jump to get an A. [LB960]

SENATOR LANGEMEIER: I have a question. [LB960]

KRISTEN GOTTSCHALK: Okay. [LB960]

SENATOR LANGEMEIER: I know in...first of all, Cuming County Public Power which Mr. Kluthe... [LB960]

KRISTEN GOTTSCHALK: Serves Danny... [LB960]

SENATOR LANGEMEIER: ...serves Danny Kluthe, I know they had a lot of growing pains when he first came on. As a matter of fact, I think it was quite a relationship that wasn't overly positive. Has that changed since they've experienced a facility like his coming on the system? [LB960]

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KRISTEN GOTTSCHALK: Well, I'll tell you what; Danny Kluthe's system is integrated a little bit differently. [LB960]

SENATOR LANGEMEIER: I'm aware of that. [LB960]

KRISTEN GOTTSCHALK: At that time it was early in the process and the all-requirements contract that Cuming County had with NPPD would not allow them to put Danny on the system and purchase energy back from him. So one of the things that they did is rather than Danny dealing with his distribution system, he dealt with the wholesale provider of Cuming County. Since that time, NPPD has said...their all-requirements contract, I believe it had a 25kW restriction in the past. I think they've increased that now to allow for up to 2 megawatts. So if Danny were to come to Cuming County now, he could interconnect through the distribution system, use his own energy, deliver energy back, but he would have to have a different system because right now Mr. Kluthe generates on a three-phase system into NPPD's direct lines and he receives energy on a single phase system. So it would have to be...something would have to change in order for him to be able to do that now. [LB960]

SENATOR LANGEMEIER: I guess the point I'm getting at is a new facility that wanted to come on similar to Danny's in Cuming County, for example... [LB960]

KRISTEN GOTTSCHALK: Um-hum [LB960]

SENATOR LANGEMEIER: ...with Cuming County Power is much simpler because of that new policy that NPPD has created with those exclusive contracts... [LB960]

KRISTEN GOTTSCHALK: Absolutely. [LB960]

SENATOR LANGEMEIER: ...than the difficulties he experienced. [LB960]

KRISTEN GOTTSCHALK: Yeah, when you're first things can be a little complicated in the process. We learned a lot from Danny's program and anybody who knows, I'm as big an advocate for Danny's methane digester, but in this situation, if Cuming County were to interconnect it, it would not be under net metering and not necessarily because it's an 80kW system, but for the reason you brought up earlier, is he intends to generate more energy than he uses; not within the definition of a net metering customer. He would then fall into an energy supplier. Now that doesn't mean we wouldn't connect him or that we wouldn't be required to connect him. Because of federal law, regardless, if he meets the requirements of the federal law under PURPA, we would have to interconnect and then pay avoided cost for his energy, so. [LB960]

SENATOR LANGEMEIER: Senator Haar. [LB960]

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SENATOR HAAR: I'm sorry, all of a sudden I'm confused now. If this law goes into place and Danny Kluthe came online and the phase was the same all that kind of stuff,... [LB960]

KRISTEN GOTTSCHALK: Um-hum. [LB960]

SENATOR HAAR: ...then it would just be net metering, wouldn't it? Or are you saying if he produces more... [LB960]

KRISTEN GOTTSCHALK: If his intent, you know, if he knows he's using...Danny is very well aware of how much energy he uses,... [LB960]

SENATOR HAAR: Right. Right. [LB960]

KRISTEN GOTTSCHALK: ...if his system is designed to offset his own energy use, you know, and it doesn't mean that the kW has to match up... [LB960]

SENATOR HAAR: Sure. [LB960]

KRISTEN GOTTSCHALK: ...it just means that the amount of energy he generates offsets, or slightly more, I mean the intent is to get a zero bill. But since he intentionally generates about 50 percent more, and he's very efficient with his system so sometimes that's even greater, that no longer becomes a net metering customer because the intent is to have an excess product. And that's one of the benefits to his methane digester is that excess product. So at least in my interpretation of the net metering law, it takes it out of the initial definition that it's intended to offset your own energy use. And that is a definition that is very similar across all 42 states that have implemented net metering policies. [LB960]

SENATOR LANGEMEIER: Any other questions? Thank you very much for your testimony. [LB960]

KRISTEN GOTTSCHALK: Thank you. [LB960]

SENATOR LANGEMEIER: Further testimony in opposition to LB960? [LB960]

DAVID RICH: Good afternoon, Senator Langemeier and members of the committee. [LB960]

SENATOR LANGEMEIER: Welcome. [LB960]

DAVID RICH: My name is David Rich, D-a-v-i-d R-i-c-h, I'm the renewable energy development manager at Nebraska Public Power District. NPPD serves about 25 public

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power districts and coops and about 50 municipals at wholesale and about 88,000 customers at retail. NPPD did offer net metering at 25kW before it became state law. NPPD supports Senator Stuthman's intent here of being very supportive of ag methane generation. NPPD supported Danny Kluthe and his grant applications which were the basis of his project. We also last February hosted a one day conference, an ag methane conference, in York with the Department of Agriculture, Nebraska Department of Environmental Quality, USDA and EPA, and we had over 100 attendees at that meeting. It was a kickoff of what we offered last year, was an RFP, a request for proposals for renewable projects that were greater than 25kW up to 10 megawatts. Okay, so we understand there's a hole here for those people or those businesses who want to have an opportunity to generate a lot more than what they're going to use. And so we had this RFP process with our wholesale customers that allowed anybody that wanted to supply energy into the system to make a proposal. We encouraged them to work with USDA and others to get grants because, again, these projects are very capital intensive. We did receive eight proposals ranging from 1,600kW to 10,000kW. The point is, that this was an opportunity for anyone such as was interested in 100kW for example, to supply a proposal that we would take a look at it. Unfortunately, we did not receive any ag methane proposals and, you know, the smallest one again was 1,600kW. We have discussed this with our board. We plan to offer this process again in 2010 in conjunction with our wholesale customers. Again, our wholesale customer contract has been revised so, in fact, they can buy directly projects up to 2,000kW as Kristen mentioned. So that is my testimony, I would be happy to answer any questions. [LB960]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Haar. [LB960]

SENATOR HAAR: Obviously somebody puts a solar panel on the roof isn't trying to compete with NPPD. Where in your mind do you see that sort of cutoff line where you'd start saying, you know, this person is, I mean, Danny too, probably isn't really competing with NPPD, do you have sort of a line in your mind where you'd... [LB960]

DAVID RICH: Actually, if the power can be produced economically for whatever, I don't know that there is a line. You know, that's why we allowed this to go up to 10 megawatts. If the price is a reasonable price, it doesn't result in an increase in cost to other wholesale customers, there's really no threshold there. Again, we had projects, there were some of them that were 10 megawatts, 10,000kW were proposed, but the price of that was...the wind was 6.5 cents a kilowatt hour and the solar was over 10 cents a kilowatt hour. For us, for our board to approve that at a time when we were already having rate increases, you know, was something that they weren't prepared to do. [LB960]

SENATOR HAAR: So, I mean, one of the issues that came up last year was sort of fear of competition, but we're not talking about that here with... [LB960]

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DAVID RICH: Not in my personal opinion. I don't think the economics are there. You know, prior testimony was that the...the labor to support small wind was 30 to 50 times what it was for large wind. Well if you look at that cost plus if the initial cost is anywhere from 2 to 5 times, you're looking at small projects being almost prohibitively expensive if you look at the amount of labor that's required and the initial cost compared to the large scale turbines. [LB960]

SENATOR HAAR: Now often, the equipment is expensive, but in smaller projects people probably can do a lot of their own maintenance, I would imagine. [LB960]

DAVID RICH: Yeah, depending on the size. The one risk to you there, you start getting towers that are 100, 150 foot in the air and tilting those down to work on is going to be a challenge. Solar, you might be able to climb up on your roof, but I don't recommend most people tilting down 150 foot tower. [LB960]

SENATOR HAAR: Thank you. [LB960]

SENATOR LANGEMEIER: Any other questions? Seeing none. Thank you very much for your testimony. [LB960]

DAVID RICH: Thank you. [LB960]

SENATOR LANGEMEIER: Further testimony in opposition to LB960? Seeing none. Any testimony in a neutral capacity? Seeing none. Senator Stuthman, you're recognized to close and thanks for waiting around. I think you're the first person that's testified in our...I guess Howard, you and Senator Howard are the first two to actually stick around to the end. [LB960]

SENATOR STUTHMAN: Well thank you, thank you, Senator Langemeier. In closing, all I wanted to say is, you know, I think where we're at right now, you know, with the bill that was passed last year, you know, LB436, we have a very good start. But I think we need to be looking into the future. We need to be serious about, you know, renewable energy. We need to be serious about the by-products from animal agriculture and we also, keep that in mind, you know, this would also be good for smaller industries and commerce. In the testimony that I just heard, you know, that no applications were for these 100...80 to 100 like Danny Kluthe's methane digester, I can see why. Because of the situation that the livestock industry is in, no one wants to spend \$500,000 for a methane digester when their complete concentration is on survival. And so with that, you know, I'd be glad to answer any questions, but I would like to ask that you would advance this to General File. [LB960]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none. Thank

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you very much. [LB960]

SENATOR STUTHMAN: Thank you. [LB960]

SENATOR LANGEMEIER: Did a great job. And that concludes the hearings on LB960 and the hearings for the day. See Exhibit 18 also. [LB960]