

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Urban Affairs Committee
February 09, 2010

[LB997 LB1098 LB1099]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 9, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1098, LB1099, and LB997. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Tanya Cook; Bob Krist; Steve Lathrop; Kent Rogert; and Tom White. Senators absent: None. []

SENATOR MCGILL: (Recorder malfunction)...remember to turn off your cell phone or at least put it on vibrate so that it's not...your phone isn't...doesn't disrupt our hearing at all. If you are going to testify, you need to fill out forms that are by either of the doors that let us know who you are for the record, and when you come up to testify, if you could please say and spell your name for the record as well, we'd appreciate that. Otherwise, I will interrupt you and ask you to do it. You can, of course, just submit written testimony or just sign in, either in support or opposition to a bill if you'd like. And with that, we can go ahead and start our Mello Tuesday with LB1098. []

SENATOR MELLO: (Exhibits 1, 2, and 3) Good afternoon, Chairwoman McGill and members of the Urban Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I introduced LB1098, a bill that would provide enabling legislation to municipalities to create, by ordinance, a special district known as a sustainable energy financing district. The purpose of the district is to encourage, accommodate, and provide a means for property owners to finance energy efficiency improvements, such as retrofitting and the installation of renewable energy improvements in residential and commercial properties. LB1098 would allow municipalities to provide loans to residential and commercial property owners to make energy efficiency improvements. The loan, including interest rates and administrative fees, would be collected through the property owner's property tax bill over a length of time, up to 20 years. Eligible energy efficiency improvements include installations or modifications designed to reduce energy consumption. Cities have the authority to decide what improvements would be specifically allowable, but to give you an idea of what we're talking about, the improvements would include items like insulation, storm windows and doors, replacing lighting fixtures, caulking and weather-stripping, and new HVAC system modifications. The legislation provided in LB1098 is deliberately broad. LB1098 is meant to provide enabling legislation for municipalities who can then refine the program when it is created via ordinance. Nearly 40 percent of our nation's energy usage in greenhouse gas emissions are from buildings and homes. Every month property owners in our districts are throwing money away because their homes or businesses are not energy efficient and they don't have the financial means to make them so. Energy efficiency improvements often require up-front costs, even though the improvements provide an return on investment over time. This is still a significant hurdle for many families and business owners. Property assessed clean energy, or PACE as the concept is known, helps to eliminate this barrier by allowing property owners to pay

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for energy efficiency improvements through their property tax bill. Because property taxes transfer with the property when it is sold, the costs associated with the energy efficiency improvements are repaid over time by the person benefitting from the improvement--the property owner. The repayment is secured as a senior lien against the property, meaning the bonds receive repayment priority if the property owners default on tax or mortgage payments. This is done with good reason. If a property owner were to default on a home with a mortgage and a PACE assessment, the PACE assessment is senior to the mortgage. But with PACE, unlike a mortgage, only delinquent amounts are subject to foreclosure. The remainder of the PACE assessment would stay as a lien on the property to be paid over time by the subsequent property owners. However, if a property owner defaults on a mortgage, the entire outstanding balance becomes due. If the mortgage loan was senior to a PACE assessment, a local government could only ensure the delinquent PACE assessment taxes would be repaid by paying the entire outstanding balance of the mortgage loan. This puts local governments at a considerable risk and they would be unable to protect their finances and their interests. PACE has been embraced by states like Oklahoma, Wisconsin, and Illinois, and the PACE program is currently available in 10 cities in 15 states. In November 2009, the New York Senate and Assembly voted unanimously to pass legislation authorizing municipal loan programs for renewable and energy efficiency improvements on homes and businesses. PACE was also endorsed by the federal government this past fall and was included as a major component of the Recovery Through Retrofit federal plan that aims to create jobs and reduce energy costs for families. LB1098 is good for homeowners and commercial property owners because it provides them an opportunity to save money and take personal responsibility for reducing their property's energy bill. As the Nebraska Energy Assistance Network relayed to my office, through the federal program, Low-Income Home Energy, a significant amount of money is spent every year to assist those who are not able to pay their energy bills. LB1098 has the potential to create a lot of new jobs. When a property owner decides to make an energy efficiency upgrade to their property, they will be employing contractors with businesses big and small. If I'm a contractor receiving an infusion of new business, I would likely need to add new employees to the payroll. I may need to take out a...decide to take out a bank loan to pay for a new piece of equipment, or I may choose to invest the money my now-booming business is making. A University of California at Berkeley study shows that if PACE were implemented widely it could infuse \$280 billion into the economy via bond financing. This same study showed serious environmental benefits that result from a bill like LB1098. If PACE was widely adopted, greenhouse gas emissions could be reduced up to 1 billion metric tons. LB1098 is, at its simplest form, provides property owners a choice that is not currently available to them. Colleagues, this is a bill that has no fiscal note. It is voluntary and it empowers our community members to save energy and improve their properties. With that, I would take any questions. [LB1098]

SENATOR MCGILL: Thank you, Senator Mello. Are there any questions? Senator

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Coash. [LB1098]

SENATOR COASH: Thank you, Chairwoman McGill. Pretty cool bill, Senator Mello. Just a couple of technical questions: is there any direction in your bill given to municipalities on how they should set up their districts or is it all up to them how they would draw those lines? [LB1098]

SENATOR MELLO: The language...the language in the bill allows municipalities to create their own district essentially by each individual property. So the way that the district is drawn in theory, it is only made up of people who voluntarily choose to be part of the program. So the way we draft the language, it says that it's...you know, the district is decided by the city council or the village board but also that it's voluntary so you can't draw a district in theory. You have to draw the entire city, so to speak, and then say it's a voluntary program. You only... [LB1098]

SENATOR COASH: In or out. [LB1098]

SENATOR MELLO: ...you can only...you decide whether or not you want to be part of it. [LB1098]

SENATOR COASH: Okay. Is there... [LB1098]

SENATOR MELLO: And by the way, in regards to your comments, I would like to give you some credit. You had a similar bill in Revenue last year that dealt with home improvements. And while this does not directly involve, you know, all massive, all-encompassing home improvements, it does do an awful lot of similar things that your prior bill introduced. [LB1098]

SENATOR COASH: Yeah. Are there any...I don't...give any direction on loan limits per structure? [LB1098]

SENATOR MELLO: That is... [LB1098]

SENATOR COASH: That would be up to the municipality as well? [LB1098]

SENATOR MELLO: That is another area that we actually...I know there will be people testifying after me that will probably discuss some potential concerns they have with the bill, and part of the reason we left it broad is not knowing. Once again, the needs in the city of Lincoln might be different than the needs in the city of...or the village of Arnold, and we want to make sure that we don't...when drafting this legislation, I didn't want to make sure that we limited preemptively of what a certain municipality might deem necessary. They can make those own decisions, I think, for themselves. [LB1098]

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SENATOR COASH: Thanks. [LB1098]

SENATOR MCGILL: Other questions? Senator Rogert. [LB1098]

SENATOR ROGERT: Senator Mello, where did you come up with the idea? [LB1098]

SENATOR MELLO: PACE legislation is enacted in over 13 other states. This is something that my office researched. I met with various people and the energy industry and a lot of...there will be some testifiers afterwards who do some of this work for a living, weatherizing homes, providing energy efficiency for homes, and that's kind of where the issue kind of grew of wanting to provide a mechanism for people to finance energy efficiency upgrades. [LB1098]

SENATOR ROGERT: Where does the responsibility of payment of bonds lie? [LB1098]

SENATOR MELLO: At the municipal level. [LB1098]

SENATOR ROGERT: Okay. So everything goes back to the city then on...so the property owner isn't out anything or are they held responsible for any payment? [LB1098]

SENATOR MELLO: First off, this is enabling legislation... [LB1098]

SENATOR ROGERT: Sure. [LB1098]

SENATOR MELLO: ...so the state...so the state...this does not affect the state program. This does not affect the state, I think, in any which way. The municipalities can structure their programs any way they'd like under the way we've drafted the bill and we've given them multiple options to how to structure a PACE program in the municipality. Still, the basic principles apply to what a PACE program is, which is a municipality finances loans either through...I mean you can do it through grants, private dollars, loans from banks, bonds. They can finance their program, municipal program; gives you the homeowner or commercial...residential or commercial property owner the option of...be voluntary part of the program. You take out a loan up to 20 years repayment. Your repayment process and the repayment mechanism is done through a line-item on your property tax bill. So it's the easiest way to do that, knowing that the municipality, with the senior lien component, the municipality won't be left on the hook for a default loan because the loan stays with the property. And that's how it's been successful in other cities and states, which is it provides the city an opportunity to do mass redevelopment, so to speak, if they want to do a mass redevelopment areas, and affordable housing or existing properties, but also allows them to do it without costing them money and it allows them not to have to lose money in the process. [LB1098]

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SENATOR ROBERT: What happens if I take...what do you figure would be an average loan... [LB1098]

SENATOR MELLO: You know... [LB1098]

SENATOR ROBERT: ...or a range? [LB1098]

SENATOR MELLO: ...you know, I...for, you know, my...I think it depends on the home, to be perfectly honest. I mean my legislative aide and myself have talked about this. She lives in a home that's 100 years old. I live in a home that's about 45 years old. I think it's different. It depends on the age of the home. I mean a geothermal heat pump, new storm windows, and weather...you know, general weather-stripping and weatherizing of a home could cost anywhere up to \$25,000. [LB1098]

SENATOR ROBERT: Okay. So say we borrowed...you borrowed \$25,000. Three years later you decide you want to sell your house and move. You've only paid off \$4,000 of the loan, so the \$20,000 stays on as a... [LB1098]

SENATOR MELLO: The \$21,000 would stay assessed...assessed as a loan to the property. [LB1098]

SENATOR ROBERT: Okay. [LB1098]

SENATOR MELLO: Because the point being is that any and all energy savings that you would gather through your property by upgrading your home, that needs to stay with whoever owns the property, not you as the person. Because right now, traditionally, if you were to take out a bank loan for the same amount, repayable over five years or three years, you sell the home, you're still liable for that loan, and that's the difference between a private bank loan versus this program where the loan stays with the property because whoever owns the property will see the energy efficiency cost savings that are associated with that loan. [LB1098]

SENATOR ROBERT: Okay. I like the program. I wonder, do you see it as a hindrance to selling your home or getting financing because there's an additional lien on there? [LB1098]

SENATOR MELLO: I don't. I don't see that, and that's not...as far as the research we've seen, that's not an issue. I think the concern and, you know, the Nebraska Bankers Association and I believe the Nebraska Community Bankers will be coming in to testify in opposition currently to the bill, but we've been working and plan to work with the banking interests and the banking community to find a happy medium to ensure that all of our bases are covered, so to speak. Because that's, I think, a concern, would be exactly what you said. Their concerns are...I'll let them speak to that a little bit more

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specifically on their own. But because of the senior loan aspect of it, it shouldn't impact at all in regards to the selling of the home because still you're seeing the benefit of the home in regards to property value. Because if you have a new geothermal heat pump, new storm windows, that not only will save you energy but that will no doubt increase your property value or your home valuation as well. [LB1098]

SENATOR ROBERT: Okay. [LB1098]

SENATOR MCGILL: Senator White. [LB1098]

SENATOR WHITE: Thank you, Senator Mello. I think it's a great bill. I do have a couple of minor questions from my point of view. One of the things we've gotten past in line with this is that the public power districts that want to participate in a low-income energy loan, is there any provision in this bill where the city or...can coordinate with other entities who are also...is that provided for, some kind of coordination aspect? I don't see much governance. [LB1098]

SENATOR MELLO: There...because this is enabling legislation, we chose not to tighten regards to what cities can do if they want to partner with other groups. I know the Omaha Public Power District will testify after me and I believe they will be stating that this program would benefit what their opportunities are in regards to enacting LB1001, which was passed by the Legislature in 2007. They see this as another bonus to help execute that existing program for low-income Nebraskans because they can then target and work with the city to how to ensure people who might get their funding that might not need to apply for this funding. [LB1098]

SENATOR WHITE: And then this is technical and you might not be the person to ask, but I...and I haven't had a chance to read it as well. The loans that you envision you say run with the property, which I get. And you give them a priority above a normal mortgage. They're on the same level as tax, which is...I understand that. But once you sell it, do you walk personally away from the loan? I mean normally in a loan situation there's two aspects. There's a lien on the property and then there's a personal obligation to pay. Do these loans propose that if I own a home and put in a heat pump and the other stuff you talk about, I owe \$20,000, I sell the home, the lien stays on the home, I get that, but do I walk away from personal responsibility to pay that loan if I've sold it to you and you default? [LB1098]

SENATOR MELLO: Yes. Yes. [LB1098]

SENATOR WHITE: Normally, an assumption of a loan... [LB1098]

SENATOR MELLO: That would be the...I mean, that would be the understanding at least. Once again, individual municipalities can craft the program, I would say, with the

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way the legislation is drafted, if they want to make a change to that, but the way it's drafted now is if you sell a home and you have a PACE bond or a PACE loan associated with that property, then whoever is the new property owner is responsible for that loan. [LB1098]

SENATOR WHITE: It's like an assessment for a sidewalk or something like that. [LB1098]

SENATOR MELLO: Yes. Yes. [LB1098]

SENATOR WHITE: Okay. But unlike a sidewalk, I could individually judge whether I wanted to do the energy efficiency on this home. [LB1098]

SENATOR MELLO: Uh-huh. Uh-huh. [LB1098]

SENATOR WHITE: Okay. Well, thank you very much, Senator Mello. [LB1098]

SENATOR MCGILL: Thank you, Senator Mello. I think that's... [LB1098]

SENATOR MELLO: Okay. [LB1098]

SENATOR MCGILL: No, whoa, wait, one more. Senator Coash. [LB1098]

SENATOR COASH: I'm sorry, just a couple of questions. What about outstate Nebraska, small counties without a big... [LB1098]

SENATOR MELLO: Without municipalities? [LB1098]

SENATOR COASH: Yeah. [LB1098]

SENATOR MELLO: You know what, Senator Coash, that's a great question and in discussing this issue with a few other senators, that was something that I wanted to hold off on because I wanted...one, this is a new concept in Nebraska and I think part of it is trying to be able to provide a thorough education of how it's worked in other states and other cities. But the counties, there are counties in Nebraska where it would be more applicable for a county to do this than a city. I think that might be another road to travel if we can get LB1098 law, and then to see how cities and municipalities are currently using the program and then include counties if they choose to do it. Because even in my home county, in Douglas County, there are homes, older homes that an older business is not within a city's limit, a municipality's limit that would easily qualify for this. And to be perfectly candid, Senator Ken Haar is one of our colleagues who fit in that county category. He brought that issue up to me in the sense that I would not qualify under your bill because I don't live in the city of Malcolm city limits or in the city of Lincoln. He

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resides within the county. So I explained to him that this will probably be our first step would be to do it for the municipalities and then, depending upon the success that we envision with LB1098, to try to look to come back and include counties. [LB1098]

SENATOR COASH: Gotcha. Is there any...last question. Is there any mandate in your bill for disclosure of a lien to the buyer, that whole, you know, it's on the buyer one of these homes has got...been through this? I don't want to be surprised that there's an extra lien on there. Is there...maybe through just the regular sale of property they would have to disclose any lien on it. [LB1098]

SENATOR MELLO: I would...that was at least an assumption that we had that it's a general...you have to go through it and you have to see that information when you purchase the property. But if that was something the committee wanted to look to include to ensure that transparency was added... [LB1098]

SENATOR WHITE: It's probably filed of record. [LB1098]

SENATOR MELLO: Yeah, I think... [LB1098]

SENATOR WHITE: Must be filed of record. Okay. [LB1098]

SENATOR MELLO: I'd have no problem with an amendment to do that. [LB1098]

SENATOR COASH: Thanks. [LB1098]

SENATOR MCGILL: All right. Any other questions? No. Thank you. [LB1098]

SENATOR MELLO: And for the record, I believe I've provided letters of support from the AFL-CIO, Omaha by Design, as well as the Verdis Group. [LB1098]

SENATOR MCGILL: Yes. [LB1098]

SENATOR MELLO: All right. [LB1098]

SENATOR MCGILL: We have received those. Thank you. [LB1098]

SENATOR MELLO: All right. Thank you. [LB1098]

SENATOR MCGILL: First proponent. [LB1098]

JOHN LINDSAY: Senator McGill, members of the committee, for the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of Omaha Public Power District. Senator Mello asked OPPD to take a look at this bill after he

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introduced it to see what our views were. We evaluated the bill and found it...we think it would be beneficial to OPPD and to our customer owners. If the bill...if the bill were to be passed, we think it could be used to leverage other energy efficiency dollars from other programs to do more energy efficiency programs throughout our...throughout the Omaha Public Power District service area. For example, OPPD could combine LB1001 dollars. LB1001 was passed, Senator White's bill, as a matter of fact, a couple of years ago; could be combined with LB1001 dollars and those new dollars could be used for a variety of energy improvements. Residential programs for energy efficiency upgrades is lacking and I think, as Senator Mello mentioned in his opening, it's a big chunk that can be saved in...by doing energy efficiency upgrades. And yet those small projects are...they're small in the scheme of things, cumulatively they add up to a lot of potential energy savings. But those small projects in the scheme of things are big projects in a household and...or could be big projects in a household. So we appreciate Senator Mello, we think taking an innovative approach to try to address that need to encourage residential...to encourage and make possible energy efficiency upgrades in residential settings. OPPD has a goal of reducing energy consumption by 50 megawatts by 2012, and we believe that this bill could be another tool available in trying to achieve that overall goal. Senator, with that, we'd be happy to answer any questions. [LB1098]

SENATOR MCGILL: All right. Any questions? I don't see any. Thank you. Other proponents. [LB1098]

LYNN REX: Chairwoman McGill, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We do support LB1098. We think this is a very innovative proposal. We think it's also one that can help with energy savings across the state in very small villages as well as cities the size of Omaha. We do also believe that, from some indications from the bankers, that they would like to work with us and others to try to provide some other options and make sure that they have an important role in this. We're certainly willing to work with them and anyone else that wants to help try to save energy in the state of Nebraska. I will tell you that we do think that this kind of bill has been very successful in other states and Senator Mello already mentioned several of those states that are using it. And in contacting our counterparts in those municipalities, they have found this to be very, very effective. With that, I'd be happy to answer any questions you might have. [LB1098]

SENATOR MCGILL: Thank you, Lynn. Any questions? No. [LB1098]

LYNN REX: Thank you. [LB1098]

SENATOR MCGILL: Thanks. Other proponents. [LB1098]

KRISTI WAMSTAD-EVANS: (Exhibit 4) Hi. My name is Kristi Wamstad-Evans. It's K-r-i-s-t-i and Wamstad-Evans is W-a-m-s-t-a-d, dash Evans, E-v-a-n-s. I'm the

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sustainability coordinator for the city of Omaha and I'm speaking on behalf of the city of Omaha in support of this legislation. We feel this presents us a very valuable tool that we'd like to have the option of exercising at the municipal level. We feel that financing mechanisms or ability to form financing mechanisms like this will really do a lot for the citizens in Omaha, especially those who are challenged, looking at up-front costs for energy savings with the expectation of long-term energy savings. The important pieces of the programmatic implementation for this legislation includes the condition that the property owner opt in to the program, we think that's important, as well as that the financing includes the interest rates and administrative fees to actually run a program like this, and that the districts are allowed to establish the criteria to make these loans. Some of the components or one of the pieces that we'd like to emphasize, and perhaps suggest adding in some fashion, is language that stipulates the cost-effective decisions be made based on sound building science through a reputable auditing process, and that the work be performed by a qualified or certified professionals. We feel that this would be something that would help us not only address the concerns that many of the residents and commercial building owners are facing, but also lead to market transformation on a broader scale, so it's not just a one-time thing for us. And with that, I'd be happy to answer any questions. [LB1098]

SENATOR MCGILL: All right. Senator Krist. [LB1098]

SENATOR KRIST: Senator...it seems that...thank you, Chairwoman. Thanks for testifying. It seems, though, that Senator Mello was trying to keep this legislation enabling... [LB1098]

KRISTI WAMSTAD-EVANS: Uh-huh. [LB1098]

SENATOR KRIST: ...and that those kinds of restrictions or amendments that you're suggesting would be best put at the municipal level. [LB1098]

KRISTI WAMSTAD-EVANS: Uh-huh. [LB1098]

SENATOR KRIST: You don't want us to put those on. Are you suggesting that that's something that you would do or you're asking for the... [LB1098]

KRISTI WAMSTAD-EVANS: That's something that we could do. It's something that I feel is important to ensure quality in the work that gets done and so...in the interest of focusing on energy conservation measures and being successful as a program. [LB1098]

SENATOR KRIST: I hope this is successful and I also hope that Omaha does exactly that, because that will guarantee that the work is done well. [LB1098]

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KRISTI WAMSTAD-EVANS: Uh-huh. [LB1098]

SENATOR KRIST: Enabling legislation allows us to help you and then you get better. [LB1098]

KRISTI WAMSTAD-EVANS: Right. [LB1098]

SENATOR KRIST: So...but thank you for your testimony. [LB1098]

KRISTI WAMSTAD-EVANS: Thank you. [LB1098]

SENATOR MCGILL: Other questions? Thank you, Kristi. [LB1098]

KRISTI WAMSTAD-EVANS: Thank you. [LB1098]

MILO MUMGAARD: Good afternoon, Chairperson and committee. My name is Milo Mumgaard. It's M-i-l-o M-u-m-g-a-a-r-d. I am senior legal counsel to Mayor Chris Beutler here in Lincoln, as well as coordinator of the sustainability work we're doing here in the city of Lincoln as well. Our work in the city of Lincoln is all about trying to promote policies and practices which build a more sustainable Lincoln, which is oriented around a significant number of goals that Mayor Beutler and the community leaders have set regarding energy use, reduction of greenhouse gas emissions and the like over the next 10 to 15 years. So clearly, we are very supportive of the general principle and the enabling legislation you have before us. To give you some perspective of what we're trying to do and why this is a valuable opportunity for folks in Lincoln is that presently we're spending about \$2.5 million in stimulus funds related to energy efficiency, renewable energy, and related activities in the city. Our programs are in a broad range of areas--residential, commercial, nonprofit, industrial, revolving loan funds and so on. But primarily it's all about seeking to figure out ways that we can reduce barriers to folks investing in energy efficiency for the long term. We also...the city of Lincoln also is working through Lincoln Electric System and their own sustainable energy program, which this year we'll spend another \$1 million to do just that, to promote the very activities that Kristi was just talking about to try to, in effect, transform the market in the near term for energy efficiency. The problem though is, of course, the ongoing sustainable sources of finance and funding for just this kind of activity. It's one thing to be using federal stimulus dollars in 2009-2010. It's another thing to be looking down the road and thinking about how can we maintain the momentum for these kinds of programs. So clearly, LB1098 provides just that kind of mechanism to do so, and Mayor Beutler and his staff and others are very enthusiastic about creating a municipal loan fund that would do...and serve the objectives that Senator Mello has outlined. I just want to share one little last story, and that is I did visit Colorado this past year and visited the programs that have been set up in Boulder County and the enthusiasm level there has gone from a \$10 million program to a \$30 million program in just a matter of two years in

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terms of how they are using this kind of funding mechanism. So clearly it's a dynamic that is growing and it's a means by which communities can rise to the occasion and fund their own energy efficiency. So with that, again, the city of Lincoln, Mayor Beutler supports this LB1098, LES is also generally in support. And I'd be happy to answer any questions you might have. [LB1098]

SENATOR MCGILL: Thanks, Milo. Any questions? No. Thank you very much. [LB1098]

MILO MUMGAARD: Thank you. [LB1098]

SENATOR MCGILL: Any other proponents? [LB1098]

CHAD JOHANSEN: (Exhibit 5) Good afternoon. My name is Chad Johansen, C-h-a-d, and then Johansen, J-o-h-a-n-s-e-n, and I'm here as a volunteer advocate for the United States Green Building Council, the Nebraska Flatwater Chapter, and I'll have a letter of support I'll pass out but I'm not going to read it verbatim. Obviously, like everybody else has kind of hit the highlights of, we're also in support of sustainable projects. And this one is very innovative in fact that it just enables municipalities to come up with their own plan of what works, and takes the state, especially in this type of an economy, out of the financial solution (inaudible) while still enabling municipalities to promote sustainable solutions and sustainable buildings which will hopefully drive for jobs and economic vibrance in our communities. So by proposing LB1098, I wanted to state that the Nebraska Flatwater Chapter of the United States Green Building Council is in support of this and that we think it's an important vehicle to jump-start energy-efficient projects across the state. And that's pretty much it. I mean everybody else kind of hit the highlights, so I just wanted to voice my support and pass around the letter from our organization. And with that, I'll take any questions. [LB1098]

SENATOR MCGILL: Thank you very much. Any other questions? No. Thanks. [LB1098]

CHAD JOHANSEN: Thank you. [LB1098]

SENATOR MCGILL: Other proponents? Anyone else? [LB1098]

MARK LOSCUTOFF: My name is Mark Loscutoff, M-a-r-k L-o-s-c-u-t-o-f-f. I'm a mechanical engineer living in Omaha. I've spent most of my career automating manufacturing processes. My career has been affected by the loss of manufacturing in the United States. Last summer I became certified as an energy rater and started my business, O-HEAT. I do auditing and home energy improvements. People tell me there is a lot of demand for my services. What they should say is that there's a lot of need. Most people who need these services are not buying. One of the main reasons people are not investing in energy efficiency of their homes is that they might sell before the investment pays them back. I advised one of my customers to replace her old,

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inefficient, potentially dangerous furnace. She refused, explaining that she might sell the house in the next few years. She didn't think the eventual buyer would reimburse her for the new furnace. PACE would remove that barrier. Another barrier to improving energy efficiency in a home is uncertainty about the return on the investment. Homeowners often receive conflicting claims about energy savings from companies selling insulation, windows, etcetera. They are rightly confused and skeptical. A PACE program can and should be designed to provide objective analysis of the house with science-based estimates of return on investment for various improvement options. Americans have been playing a game of musical chairs with their homes. Frequent selling and moving have reduced the sense of ownership and responsibility. Homeowners frequently make decisions based on what they think the next owner will want or pay for. That has skewed the choice of home improvements toward the superficial, the cosmetic. As someone in the real estate business told me, cute sells. PACE would give homeowners an incentive to invest in the performance of their house, not just its appearance. PACE will improve the quality of housing in Nebraska. Finally, Congress is considering several programs that may help my business through stimulus funds and/or tax credits. I have to say I prefer PACE, the PACE concept, because it does not increase long-term government debt and it can be self-sustaining, not a temporary response to the mortgage/financial/employment crisis. Thank you for considering LB1098. I hope it will become law very soon. Any questions? [LB1098]

SENATOR MCGILL: Thank you, Mark. Questions? [LB1098]

SENATOR ROBERT: I have one. [LB1098]

SENATOR MCGILL: One from Senator Robert. [LB1098]

SENATOR ROBERT: Mark, do you get involved in any work that's paid for through grant funding or aid funding through the aging offices or block grants, through that type of aid assistance? [LB1098]

MARK LOSCUTOFF: So far, Senator, I have not. [LB1098]

SENATOR ROBERT: I know we have...there is money that's being distributed on a pretty regular basis in some of the rural areas and probably some of the older areas of the urban places, the urban parts of the state that's provided for, some of it through stimulus money, some comes through annual grants to groups like Goldenrod Hills Community Action Center, those types of groups. And I wonder if you had any thoughts on how this would affect that. Would that help spread that money out? Would it help it be used more efficiently or just add to it? [LB1098]

MARK LOSCUTOFF: This program would be intended to provide an investment for investors with a return. Therefore, it probably would apply to...well, the investors would

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have something to say about which projects they take on. So if it's a project that might not return on their investment, they probably wouldn't be interested in it, I suppose. [LB1098]

SENATOR ROBERT: And I think a lot of these folks that I'm referring to are...they're in need of the funds to lower their utility costs because they can't afford those costs. So they're trying to bolster that... [LB1098]

MARK LOSCUTOFF: Uh-huh. Right. [LB1098]

SENATOR ROBERT: ...or bolster their income through a reduction in utility costs. [LB1098]

MARK LOSCUTOFF: Right. [LB1098]

SENATOR ROBERT: And I wondered if this would be a part of that or... [LB1098]

MARK LOSCUTOFF: Well, yes. The way it's been done in other states and the way I hope it will be done here, the total payments, if you combine utilities plus the payments on the loan, that would be less than what the homeowner is currently paying on utilities. So it...each homeowner that participates should have a reduction in their overall monthly expenses. [LB1098]

SENATOR ROBERT: Okay. Thank you. [LB1098]

SENATOR MCGILL: All right. Thanks. Senator White. [LB1098]

SENATOR WHITE: What kind of paybacks are you thinking? Let's say we take a 40-year-old natural gas furnace running, what's a reasonable number, 15-20 percent efficiency, and you flip it to something else. Are we looking at things that can pay themselves off in 20 years in terms of savings? [LB1098]

MARK LOSCUTOFF: Oh definitely, yes. If I remember correctly, I analyzed a house about a month ago...well, I'll back up and say just like a ten-year payback is common with something like that. It varies a lot, depending on what the specific measure is, insulating or air sealing or replacing of equipment. Yeah, it depends a lot on what it is and those individual measures would have to be considered on each project. [LB1098]

SENATOR WHITE: Thank you. [LB1098]

SENATOR MCGILL: Thank you. I don't see any more questions. Appreciate your testimony. [LB1098]

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MARK LOSCUTOFF: Okay. Thank you. [LB1098]

SENATOR MCGILL: Any other proponents? How many more proponents do we have after this? Goodness gracious. Okay. (Laugh) Going to love this bill to death. (Laughter) [LB1098]

MIKE WADUM: (Exhibit 6) My name is Mike Wadum, that's spelled W-a-d-u-m. I'm the director of advocacy for the American Lung Association here in Nebraska. I must first apologize for the typo in the first paragraph. I do know that I'm here supporting LB1098. I could tell you that my fingers were stiff and cold from being in an unweatherized office when I typed this (laughter) but you're not going to buy that. The American Lung Association does support LB1098 for another reason, and it's because of its distinct potential to reduce the burden of the asthma epidemic on our communities. So many of our clients who come to us for asthma education and other services, for example free medications, live east of 42nd Street in Douglas County and also in Sarpy County, and a large portion of these socioeconomic areas are also homes to houses which are older and, as a result, have inadequate or no insulation or other weatherization products and techniques. We authored this study in 2002. It's getting a little long in the tooth. However, we found that in those same geographic areas, they experienced death rates due to asthma which were two to four times higher than the national average. The study also showed that emergency room visits due to asthma peaked in October and May, and it's no coincidence that those are peak periods for the appearance of mold in homes with inadequate weatherization. Weatherization experts, these other smart people who are here, will tell you that in an inadequately insulated home, the attics and walls become a breeding ground for mold, which is a major asthma trigger; that when the warm air escaping from a living area meets cold, moist air in the attic or in the wall spaces, the condensation provides just the starting point that mold needs. Many, many children with asthma live in such a home. Many of them are our clients, in fact, for summer asthma camp. In fact, there are 31,000 school-age children in Nebraska who have asthma. When they experience an asthma attack, they are bound to end up in the doctor's office, the emergency room, or admitted to the hospital. We would appreciate your advancing LB1098 because it offers a wonderful opportunity to reduce the effect of mold, which is really a very serious asthma trigger. Thank you. [LB1098]

SENATOR MCGILL: Thank you for adding some new perspective to this discussion. [LB1098]

MIKE WADUM: Yes. [LB1098]

SENATOR MCGILL: Questions? No. Thank you very much. [LB1098]

MIKE WADUM: Thank you. [LB1098]

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SENATOR MCGILL: Next proponent. [LB1098]

KENNETH C. WINSTON: (Exhibit 7) Good afternoon, Senator McGill and members of the Urban Affairs 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. I am not going to read my testimony. You can read that. I believe that probably most of the points that I've made in my letter have already been made. So I thought I'd just talk a little bit about how old I am. I've been around the Legislature for 28 years and there's very few pieces of legislation that I've seen in that time that are really significant pieces of legislation. This is one of those pieces of legislation. This is actually a piece of legislation that could be a game-changer in a lot of ways. And one of the biggest problems with people funding energy efficiency improvements in their homes is up-front funding. Now there are some programs, Senator Rogert referred to one of them. There is a Low-Income Weatherization Fund that funds a lot of projects and, as long as you're below a certain income level, the community action agencies will come in and do the work and you don't have to pay that back, and that's an excellent program. But once the funds are used up, they're gone. And right now there's some...there are some incentive...some stimulus funds that are being used to fund an increase in that area and that's a very significant fund. There's also the dollar and cents (sic) loan program that the Energy Office operates in conjunction with the bankers in the state. That's also a good program and that's also a program that we supported over the years. But part of the problem was the fact that the magnitude of the work that has to be done. If we envision, well, just...just for the sake of considering this, if we envision there being 400,000 homes in the state of Nebraska that need weatherization in the income category that we're talking about, and if we had \$40 million a year that we could put into that, and we had...and each of those homes needed \$10,000 worth of renovations, it would take us 100 years to get this kind of work done, and I submit that we don't have that amount of time to do that. I think that we need to become a more efficient society as soon as possible and I don't think we can wait till 2110 to do that. So...and this bill, because of the way that it's structured, it allows the fund to grow as the need, as the demand, based upon the demand, and so that people can...the community can issue bonds to fund that program and then it enables the person to obtain the loan and to pay it back as was described by some of the other speakers. I guess one of the other things that I wanted to talk about in terms of having been around the Legislature for a long time is I know that people are reluctant to make changes, and particularly institutional organizations are reluctant to make changes. People are afraid of new ideas. They don't want to see the...they don't want to see something that is unusual. It's like, well, that's not the way we do things; we don't do things that way. I think it's time to do something that's different and unusual and I guess the questions that I would ask the people who oppose this is whether this will actually hurt them. Is this program going to hurt their enterprises? And I would submit, and particularly financial institutions, that a program of this nature would be beneficial to them. It would provide more security for their loans by providing more disposable income for the people who take out these projects and would also improve the value of

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the properties that are in question. So I guess, like I said, I mean, I've been in situations where...I remember there was a time during the nineties when I served on the Lincoln school board and I recall proposing a new school, the board proposed a new school, and I was surprised when some...at some of the organizations that came in and opposed it because some of the organizations that came in and opposed it would directly profit from having new schools in their neighborhood. So I guess I would seriously encourage the committee to probe the opponents and ask whether they would actually be harmed by this legislation or whether they would in fact profit from it, and ask them if they would open their concept and find a way that...a concept that, of this nature, could be workable within the parameters of what they do at the present time. And I guess the other thing that I'd like to say is that I have been working with Senator Mello's office and also am very...the Sierra Club is very interested in this legislation. It's one of our top priorities of legislation. I would be glad to work with anyone, with the committee, with any of the people who are concerned about the legislation and see if we can work out a way to make this legislation a reality. Thank you. Be glad to answer questions. [LB1098]

SENATOR MCGILL: Thank you very much. Questions? No. Thank you. [LB1098]

KENNETH C. WINSTON: Okay. Thank you. [LB1098]

SENATOR MCGILL: Any final proponents? In support? Yep, go ahead and come on up. [LB1098]

JON TRAUDT: (Exhibit 8) Good afternoon, Senator McGill, members of the committee. Thank you for your interest in this program. This bill can provide many benefits, as you've heard. Since the oil...oh, my name is Jon. [LB1098]

SENATOR MCGILL: Yes, say who you are. Thanks. [LB1098]

JON TRAUDT: Jon Traudt, yes, J-o-n T-r-a-u-d-t. Since the oil embargoes of the 1970s, I've been helping people to conserve energy, improve indoor air quality, and use renewable energy. Instead of taking Peter's tax dollars to pay for improvement to Paul's home, PACE programs enable Peter to earn a fair profit by investing in the improvement of Paul's home. One thing I really like about this is that it can provide the funds, many more funds than the federal government is able to provide, for improving energy efficiency. PACE programs can profitably apply the methods of EPA's highly successful Energy Star and Indoor airPLUS programs. I've been helping builders to make their homes more efficient, safer, and more comfortable, less likely to have mold problems, more likely to have higher resale value, and the government's \$2,000 tax credit, of course, has helped to provide incentives for that. That \$2,000 tax credit has not, as far as I know, been renewed. It may be. This program, the PACE program, could provide more funds for builders of new homes so that...instead of having about 18 percent of

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new homes built to be efficient during construction, when it's more economical to do so. So here's a few items, benefits of the program. You know that it can improve energy efficiency of homes, but it can also improve the safety and comfort when done according to EPA Energy Star guidelines. As you've heard, it can quickly provide large numbers of jobs, and decrease the number of homes that go into foreclosure, and increase tax revenues by putting more people to work. It can reduce government expenses by getting people off of unemployment. It can help Nebraska to stop having the highest carbon monoxide deaths...death rate in the USA. When I test existing homes, I often find that the air distribution system is out of balance, creating suction in the basement and backdrafting chimneys. That also contributes to the radon levels. We have four times the national average. The average Nebraska home has four times the national average of radon. It can help...it may help Nebraska to stop having the highest rate of Parkinson's disease of any region in the world. In my hometown of Sutton, I have 27 surviving classmates and 4 of them have Parkinson's. In your folder, you'll find evidence why that might be related to radon, which is...which can be reduced in a way that improves other...improves air quality in general, saves energy, prevents mold. Okay. I've, over the years, helped a lot of people find out why their pipes are frozen. Properly weatherized homes are less likely to have frozen pipes. Frozen pipes can crack, leading to water spillage and mold. I've seen entire homes destroyed by mold. Okay, that's a signal. [LB1098]

SENATOR MCGILL: Wrap it up pretty quick here. [LB1098]

JON TRAUDT: Okay. So be glad to answer any...try to answer any questions that you may have. [LB1098]

SENATOR MCGILL: Any questions for Jon? I don't see any. Thank you very much. [LB1098]

JON TRAUDT: Thank you. [LB1098]

SENATOR MCGILL: Any last proponents? Going once, going twice, okay. Any opponents? [LB1098]

JERRY STILMOCK: (Exhibit 9) Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock is S-t-i-l-m-o-c-k, appearing on behalf of the Nebraska Bankers Association, testifying in opposition to LB1098. The opportunity to improve energy efficiency is not the nature which brings me, on behalf of my client, to the table. We certainly don't dispute the objectives in refurbishing homes and commercial businesses. But the unintended consequences that may occur are items that I'd like to share with you at this point. Fanny Mae has recently issued a lenders letter to all of its single-family sellers, as well as servicers, outlining potential problems associated with super-priority lien status granted to energy efficient...or energy efficient financing district. The letter

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indicates that loans established under the program similar to that proposed by LB1098 must be treated as a special assessment for underwriting purposes. Based upon that, Fannie Mae has indicated that any servicer maintaining an escrow account for a borrower with the type of loan proposed under the bill must also escrow those amounts necessary to make the loan payments as they fall due. In addition, Fannie Mae servicing guide requires servicers to advance payments necessary to keep current all real estate taxes, special assessments, and other obligations that take priority over a Fannie Mae lien. As a result, if a borrower fails to make an energy efficient, energy financing district loan payment when due or in the event that the escrow funds are insufficient to cover those funds, servicers are obligated to advance their own funds to bring the energy financing loan current. The NBA has consistently opposed legislation designed to authorize public entities to make direct loans in competition with our member financial institutions, particularly when the governmental entity is not subject to safety and soundness or other lending regulations, as is in the banking industry. In addition, the super-priority lien status that would be granted to the energy financing district loans is particularly problematic. The effect of granting these loans, at least that default portion of those loans, the super-priority lien status is to impair the value of first mortgages to creditors and any subsequent holder of the first mortgages or deeds of trust. The end result of granting these priority loans over existing first mortgages and trust deeds will result in consumers facing increased mortgage interest rates, more restrictive borrower underwriting standards, additional escrow requirements, and reductions in both the availability and size of mortgage loans in areas with such programs. In addition, if the lien is designed to transfer to the new homeowner, it may inhibit the ultimate sale of a home or, at a minimum, adversely impact the price that may be obtained upon sale. We do not believe that the public entity should be in direct competition with private enterprise--the banks. Over the years, when proposals have been raised at the Legislature that would allow governmental entities to make direct loans, the NBA has tried to work with the membership to provide alternatives, and that's what we've done with Senator Mello in trying to discuss other alternatives, whether it be in the form of grants or loan guarantees that the governmental entity would guarantee, along with the loan being made by the lending institution. A third category would be perhaps a interest rate buy-down or perhaps a loan participation where the government and the financial institution go together in a participation agreement and are able to provide funding in a joint enterprise. The...we believe that the lending activity should be left to those in the lending industry and not the individuals at a financing district that might be created by a municipality. Under the proposed loan program, the energy financing districts' Department of Economic Development...excuse me, the financing district would have loan losses, undoubtedly, and those loan losses are going to have to be collected. I'm encouraged by the conversations I haven't had firsthand with Senator Mello but my partner has had in trying to work out some area, one of the four areas of the way financing institutions have been in the past, and we would continue to try to work with Senator Mello, as was discussed during the proponents' testimony. Thank you. [LB1098]

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SENATOR MCGILL: All right. Thank you. Questions for Jerry? Senator Krist. [LB1098]

SENATOR KRIST: The value of my home is set at \$100,000, for a round figure let's just say, and I want to...and I owe \$95,000 on the house and I want to put \$20,000 into energy. What you're saying is that, as a banking institution, you advise against doing that because of the super-priority lien status. Somehow the value of the home is not going to allow me, in today's market, will not allow me to spend \$25,000 because I don't have that value left in terms of my mortgage. [LB1098]

JERRY STILMOCK: I mean the equity is getting eaten into, yes. [LB1098]

SENATOR KRIST: Okay. And so you're envisioning that if this would happen and...describe to me the two different kinds of default status you're talking about here, one being a default to the loan and the other being a default of the super-priority lien. [LB1098]

JERRY STILMOCK: The super-priority lien, as I understand under LB1098, would only be that portion that was then in default, so that assessment, one month, two month, whatever number of months of default on that assessment, that would be the super priority that would jump ahead of or leap frog and be in equal stance with real estate property taxes. [LB1098]

SENATOR KRIST: So is it the banking...is it the institution itself at this point that is saying that if we have these two different loans out there that that's the problem? [LB1098]

JERRY STILMOCK: Well, it's...that's one of the problems, but the other is just who is...who's doing the underwriting, where is the program originating from? The municipality, what are they going to do in order to set up these standards of underwriting? We're taking an entity, a governmental entity that isn't involved in the lending industry to go into that area that they're not accustomed to doing. [LB1098]

SENATOR KRIST: What if the chamber of commerce comes to, hypothetically, the Third National Bank of Omaha and says, we need you to manage this program for us within the banking standards? Is that...is that acceptable in terms of the way that the bank wants to pursue or would want to pursue? [LB1098]

JERRY STILMOCK: To my understanding, we haven't supported those types of programs in the past, Senator. [LB1098]

SENATOR KRIST: Okay. [LB1098]

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JERRY STILMOCK: So I cannot answer that that would be an acceptable arrangement in this situation. [LB1098]

SENATOR KRIST: Okay. Thank you very much. [LB1098]

JERRY STILMOCK: Yes, sir. [LB1098]

SENATOR MCGILL: All right. Senator White. [LB1098]

SENATOR WHITE: Thanks for coming, Jerry. I've got a number of concerns and questions. First of all, the banks deal right now with special assessments that can eat into equity. [LB1098]

JERRY STILMOCK: Sure they do. [LB1098]

SENATOR WHITE: Could be streets, could be sewer, could be sidewalks, all kinds of special assessments. So in making the loans, those issues of super priorities aren't something that's really impacted the industry in the past. Isn't that true? [LB1098]

JERRY STILMOCK: Sure. I mean we've had and we have special assessments. [LB1098]

SENATOR WHITE: And they become prior...they have a higher priority and (inaudible) of proceeds from a foreclosure than the underlying mortgage loan, correct? [LB1098]

JERRY STILMOCK: Yes, sir. [LB1098]

SENATOR WHITE: Okay. That's just one. I just wanted to make sure we're not introducing something new here that you guys, as an industry, aren't already struggling with. [LB1098]

JERRY STILMOCK: True. [LB1098]

SENATOR WHITE: It may be bigger in magnitude, which I appreciate your concern there, but still, you guys have done business in that context. [LB1098]

JERRY STILMOCK: Yes. Yes, and then it was brought up in the proponents and Senator Mello recognized that maybe something needs to be done in terms of recognition of...that assessment needs to be filed up-front rather than after delinquency. So that's an item that needs to be improved. The other item that occurred to me, Senator White, was the longevity of the assessments that are being...of the personal property improvements that are being made. A street compared to windows, are those personal property items going to wear out? Not the way that a street, a sewer, the other

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types of assessments that we would typically see. [LB1098]

SENATOR WHITE: Come to Omaha. (Laughter) We'll compare windows to streets any day, Jerry. [LB1098]

JERRY STILMOCK: Well taken, sir. [LB1098]

SENATOR WHITE: But let's do talk about it because it's a legitimate issue. I mean the flow of capital is at the heartbeat of the problems we're facing right now so I really do respect what you're talking about. I've got some concerns I want to try to work through so I can make a measured judgment. One of them is that I understand lending requirements are being greatly tightened up and if you take Senator Krist's example, which I think is a perfect example, that person wouldn't qualify for a second mortgage or any kind of home improvement mortgage, as I understand it, under existing guidelines, not the bank's fault by the way. Just so you know, the federal government has much to answer for, first by putting healthy banks into crisis, then yelling at them for not lending but at the same time tightening standards to the point where a banker can't win. [LB1098]

JERRY STILMOCK: Which way do we jump, yes, sir. [LB1098]

SENATOR WHITE: Yeah, and I've seen that and it's shameful. But for our neighborhood, I want to get electricians to work and I want to get carpenters to work. These are folks, largely in a lot of these areas, that won't qualify for any loans from the bank and yet we can really ease their monthly cash flow situation if we can get them capital invested in appropriate, qualified, energy-efficient heating and air conditioning, those kind of things, and we can liberate a lot of cash flow and take pressure off of them. You guys can't make the loan in many cases, in Senator Krist's case. And the state...and I only lay this out because I want to try to deal with it and urge you to work on it. State and the city have huge financial interests. In my district, you would be amazed at the number of elderly people who end up in nursing homes because they can't afford their heating bills, you know? Benson was built right after World War II, a lot of the little housing, you know, and I mean you've got tents with more R-value than some of the houses in my district, and those people get sick. And it's, what, \$6,000, \$7,000 a month now for each person on nursing home? [LB1098]

JERRY STILMOCK: Sure. [LB1098]

SENATOR WHITE: And they get sick because, trying to pay their heating bills, they don't take their medicine or they don't eat or they don't heat. But that comes back and nails us. I mean it's not just asthma. It's really the elderly too. I'm trying to sort out. I understand why you guys don't want government competing. I get that and respect it. You pay taxes, government doesn't, those kind of things. [LB1098]

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JERRY STILMOCK: Yes, sir. [LB1098]

SENATOR WHITE: On the other hand, it doesn't look to me like your industry is going to give money to these kind of people to alleviate these kind of crises in time. And if you can explain to me how you can get private industry, under the existing regulations of the feds, which you don't control, neither do we, and get the money into those neighborhoods and get it in aimed like a rifle bullet at this, then I'll play with you. [LB1098]

JERRY STILMOCK: You've allowed me the opportunity to respond, Senator. The only thing that I think I would emphasize is we believe we have the ability to cooperate and we have the ability to do what we do, and whether it's in participation with the governmental entity, the financing district, the energy finance district that would be created, we think that would be a better solution, sir. [LB1098]

SENATOR WHITE: I agree, if you can play. But in Senator Krist's situation, let's say I have a 55-year-old, 60-year-old person having struggling to meet their bills but they can drop a heating bill, and I've seen this, by 60-70 percent by making, you know, \$15,000, \$20,000 in improvements. They don't have the \$15,000 or \$20,000. They can save \$300, \$400 a month during the cold season and you guys can't play. You can't make that loan under existing federal guidelines. I mean that's the dilemma. [LB1098]

JERRY STILMOCK: Yes, sir. [LB1098]

SENATOR WHITE: And I appreciate, Jerry, very much. [LB1098]

JERRY STILMOCK: Yeah. Thank you. [LB1098]

SENATOR MCGILL: Senator Krist. [LB1098]

SENATOR KRIST: And...thank you for making the case a lot better than I could. And the point, I think, is that here's the rock and here's the hard spot, you know? And I would love to say that the banking institution in the Third National Bank of Omaha is going to partner with Omaha and make this a reality despite all the roadblocks that are out there. I guess that's what I'm saying, and Senator White said it very well. I hope that...I hope that between the banks and Senator Mello's office you're able to come to some kind of enabling, enabling this thing to go forward, because it's a wonderful idea. Getting to the point where we're collecting \$200 on the Monopoly board I think is the challenge of putting together the existing loaning institutions with the enabling legislation. [LB1098]

JERRY STILMOCK: We have assignments within our...with our client that we represent and I can say that the cooperation that I've seen from a distance between my partner

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and Senator Mello, I don't think he talks to his spouse as much as he's been talking to Senator Mello, so. [LB1098]

SENATOR KRIST: That's unfortunate. (Inaudible) (Laughter) [LB1098]

JERRY STILMOCK: Everybody is...everybody is figuratively rolling up their sleeves, trying to find a happy medium. [LB1098]

SENATOR KRIST: Thank you. [LB1098]

JERRY STILMOCK: Yes, sir. [LB1098]

SENATOR MCGILL: Senator White. [LB1098]

SENATOR WHITE: May I suggest an area that maybe it would work? I mean I'd love to keep the banks involved, especially our local institutions. Would you explore the concept of the banks being the lending agency to the city or to the district? Okay? They make the bond, they carry the bonds, keep them involved. As part of that bonding process, they can suggest the loan standards, they can help train the district. Because what...you can make a loan to a property-secured bond and I'd suggest, Jerry, that if we do this right we can actually help the banks have more investable loans they can make and we can yet help the small individual who won't qualify. So if you guys would look at the concept of you making the loans to the city and then they securitize them by the individual loans tied to a super priority, giving room for you guys to play and lend your expertise... [LB1098]

JERRY STILMOCK: Yes, sir. [LB1098]

SENATOR WHITE: ...and make a profit, which is important, but at the same time get capital to the city and to these various people, which is really critical at the moment, maybe we can...maybe we can cheat the devil on this one, huh? [LB1098]

JERRY STILMOCK: We will certainly explore every opportunity, Senator. [LB1098]

SENATOR WHITE: Thank you. [LB1098]

JERRY STILMOCK: Yes, sir. [LB1098]

SENATOR MCGILL: Other questions? No. Thank you very much, Jerry. [LB1098]

JERRY STILMOCK: Okay. Thank you. [LB1098]

SENATOR MCGILL: Next opponent. [LB1098]

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MARK HESSER: Senator McGill, members of the committee, my name is Mark Hesser, M-a-r-k H-e-s-s-e-r. I'm president of Pinnacle Bank and I'm here today in opposition of LB1098 in its present form. Certainly happy to work with Senator Mello or the committee on ways that we can make it more workable. We'd certainly like to see some more guidelines put out there for the municipalities today before it goes forward, share your wisdom with the municipalities, don't require the banks or whoever to educate every municipality every time this comes around. As someone with a bank in both the village of Arnold and Lincoln, we'd just like to do it once as much as possible. The first suggestion I would have that would probably make a lot of people happy is, as opposed to now requiring just the owner to opt in, if all lienholders had to opt in with the owner that would take away the primary objection to the loan value risk, and that is a big concern. If we make a second mortgage on a home today that's using that 70 to 90 percent loan value up, but now we know tomorrow somebody can come along and loan out another 20 percent of the value of that home, moving us to 90 to 110 percent loan value, we're going to quit making those seconds. Even if money is available and the borrower qualifies, we won't do it. Another thing this bill doesn't address, and we've got a big problem in our country today because homeowners were given credit without looking at affordability, the ability to repay it. Now a lot of that fault goes to the bankers. I won't say it doesn't. Not all the bankers in Nebraska, but nationwide money was given to borrowers that they couldn't repay, and nothing in here requires anybody to look at repayment ability. The municipality is going to do it. It's got great...great risk. They're in first position. It's the existing borrowers that they'll put at risk. So again, consider having them agree to opt in the property. If it's really beneficial and improves the value, we're going to do it. A lender is going to do it. It also does, in some cases, protects us against nothing in here that you define the different types of improvements that qualify, but with green energy, people also get creative and they come up with a new system that may or may not work, but it will qualify for this program. Some homeowner might spend \$25,000 on an energy-efficient system they saw on TV at 3:00 in the morning. It may not get repayment. Some other things to consider, and I certainly...Senator White and others, as you've asked questions, that are some great benefits to homeowners here. I don't believe this bill is limited to homeowners. I think the landlord can do it, keep the money, not lower rents. I would also urge you to look at whether commercial properties should be allowed to use this. If all those are going to be in there then we'd ask you to look at some limits: 2 percent of the tax assessed value, that way you cover Arnold and you cover Lincoln at the same time; 5 percent tax assessed value. Put some limits in there. You know, I won't get scared about 2 percent. We've got that with property tax today. That's going to rack up 2 percent and could be 4 percent before we get foreclosed. Up to 5 percent, something like that, you know, that will get a lot of improvements, weather-stripping and the like done. So consider some limits. I think that would help us. We certainly can work with special assessments. We do it today. If you have a super lien status, you wouldn't need the city to come up with the money. Every bank in town would give them the money if they have super lien status. So there are a

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lot of ways we can work with municipalities. So that's my main objections to the bill in its current form. As I say, I'd be happy to work on finding solutions or answer any questions you have. [LB1098]

SENATOR MCGILL: Yes, Senator White. [LB1098]

SENATOR WHITE: Thanks a lot, Mark, for coming. I really appreciate it. And one of the things that you mentioned triggered a thought. The main benefit of this is there's going to be a greater available income stream because of lower gas and/or electric bills. I mean that's the payback. What if there's a process in that, that the first lienholder, the mortgage holder on it, gets an assignment of that savings or a portion of that savings to help accelerate the payback, that it has to be dedicated to paying back the underlying property loan? [LB1098]

MARK HESSER: You could do that. It probably gets complex. Again, if those lienholders saw the benefit, truly that the system was going to save money, we're going to sign off and say go for it, and you think they'll just turn the money over. [LB1098]

SENATOR WHITE: One other thing, and I like that. One of the things is if we get to help, because really what we can't do, what I heard you say is we can't give you guys a class of properties where we expect you to make money and then all of a sudden you're upsidedown because of a policy of the state. I mean you're going to get killed by the regulators if we do that on a board base. [LB1098]

MARK HESSER: Particularly if you throw in commercial. I mean it'd be real easy to make a loan on a commercial building... [LB1098]

SENATOR WHITE: Yeah. [LB1098]

MARK HESSER: ...and go out and invest \$400,000 in a new geothermal system for it tomorrow. That's all of a sudden equity gone. [LB1098]

SENATOR WHITE: So if we limited this to housing, that would take one of your big heartaches. [LB1098]

MARK HESSER: Uh-huh. [LB1098]

SENATOR WHITE: Is that right? All right. Now if we talk about committing, giving an assignment as one of the requirements of getting one of these loans, okay, there is an assignment, a stream of the savings, all or part of the...certainly probably this part, but of the savings from statistical energy bills to what they are now based on usage, BTU usage, and so you get basically assignment of income as part of that, that will have to go pay off this prior lien, would that help alleviate some of the risk? [LB1098]

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MARK HESSER: I think it would help alleviate some of the risk. I mean with the special assessment, as testimony was earlier, we're probably going to start escrowing that special assessment so that probably takes care of that portion, forces them to bring that savings to you. [LB1098]

SENATOR WHITE: Okay. So we can work...I mean there maybe different ways to skin that cat. [LB1098]

MARK HESSER: There are different ways to work through that. [LB1098]

SENATOR WHITE: All right. And I guess I shouldn't say skin a cat. PETA will get mad at me. [LB1098]

MARK HESSER: Right. [LB1098]

SENATOR WHITE: Let me struggle with another concept then I want to talk to you about. How about that a proposal for a participant must be an accepted approval by the loan-making agency that this makes economically viable sense? In other words, it will reduce the cost of heating and cooling in an amount that makes sense based on what you're investing. In other words, we look at a positive cash flow over the 20-year period of time, the life of the equipment, and that's an underlying requirement before you can qualify for one of these loans. Because if you got that, doesn't that put you in a lot better position if you're that first lender? I mean because now you got a... [LB1098]

MARK HESSER: It...certainly we'd be better positioned in the bill today if somebody was going to look at this that was objective and says, yes, this will save money and monthly, monthly save money, the special assessment will be less than their energy savings. [LB1098]

SENATOR WHITE: Right. And then that's the threshold to get this loan. I mean I'm looking, struggling for ways to make this work because we got to get these things going. [LB1098]

MARK HESSER: Right. And that's...there's something to work with there, I agree. [LB1098]

SENATOR WHITE: Okay. And that's really loan underwriting. What we've been talking about are basic loan underwriting standards. Would you folks work with Senator Mello? We need to get this capital flowing, Mark, but we can't throw you under the bus doing it. [LB1098]

MARK HESSER: I'm more than happy to work with Senator Mello. [LB1098]

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SENATOR WHITE: Thank you for your courtesy. [LB1098]

SENATOR MCGILL: Other questions? Well, thank you for your helpful input. [LB1098]

MARK HESSER: Thank you. [LB1098]

SENATOR MCGILL: Other opponents. [LB1098]

KURT YOST: Chairwoman McGill, members of the Urban Affairs Committee, my name is, for the record, Kurt Yost, K-u-r-t Y-o-s-t, and for the past 26 years I have been the registered lobbyist for the Nebraska Independent Community Bankers. And my testimony is going to be really brief because the dialogue that preceded me with Mr. Stilmock and Mr. Hesser and members of this committee was, wow. And I have discussed with...oh, I appear here in opposition. Senator Mello knows that. But I sense that there is a real movement afoot here to create an atmosphere of a working situation. Our concern, and I have expressed this to Senator Mello, LB1098 is a consumer-driven great idea. The problem is the unintended consequences. We've talked about them. We don't need to belabor it, Madam Chair. But we wanted to make sure that we don't throw the baby out with the bathwater. I think that has all been covered. I rest my case. [LB1098]

SENATOR MCGILL: All right, Kurt. Any questions? Senator White. [LB1098]

SENATOR WHITE: Kurt, do you think your folks, if we could get them in a position where they're making the block loans to the municipalities, which is where I think most of them would want to go under this program so you guys are in play and you're getting your capital at work, then we could figure out this stuff to not threaten your firsts on the property that participate, you think your fellows would play if we can work all that out? [LB1098]

KURT YOST: Senator, I know that we will certainly take a very sincere look at it. It...I'm not... [LB1098]

SENATOR WHITE: I mean if you can get a good, secure investment where you can make some profit,... [LB1098]

KURT YOST: Right. Right. [LB1098]

SENATOR WHITE: ...you will. All right. [LB1098]

KURT YOST: And the vast majority, as you know, Senator White, of my membership come from the rural areas as opposed to the urban areas. [LB1098]

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SENATOR MCGILL: Senator Krist. [LB1098]

SENATOR KRIST: This is a what if, because I know this is aimed at the municipalities, but just as an aside, you see this happening in the farm community where it could happen on a county basis with a small bank? [LB1098]

KURT YOST: I see it, Senator Krist, as certainly a possibility. My first reaction to that is will those county commissioners or will that city council, wherever it's at, will they take the time to make it happen? There's conceivably a lot of work involved here and will they do that in the rural areas more so or at least comparable to what they'll do in the urban areas? [LB1098]

SENATOR KRIST: The reason I ask that... [LB1098]

KURT YOST: They don't have the staffing out there, as you know, Senator Krist. [LB1098]

SENATOR KRIST: Right. The reason I asked that question, and then Senator Mello needs to pay attention to this just a little bit, the point is that the heating bills on the farm over in the rural community with propane are...there tends to be a substantial savings in that environment and, now again, we're talking about the Bellevue...or, I'm sorry, the Benson age homes that are out there in the farm communities all over. It has better potential in that arena, I think, than any place else. As someone who fills up a propane tank every once in awhile at my other place, it's outrageous, and saving half of that would be incredible. [LB1098]

KURT YOST: I understand. I, too, fill a propane tank at another place. And you're 100 percent correct, the vast majority of residential properties, first properties in rural Nebraska, are in the 40-year age bracket vis-a-vis 5-year age bracket or 10-year age bracket, so there is certainly the potential for the premise from which Senator Mello brings LB1098 and that's cost savings, energy savings and what have you. We just have to make sure from the banking industry that we don't throw the baby out with the bathwater, so to speak. [LB1098]

SENATOR KRIST: Thank you, sir. [LB1098]

SENATOR MCGILL: Senator White. [LB1098]

SENATOR WHITE: How about, Kurt, the possibility, and I say this only so you guys can start thinking, of a public-private partnership, an entity literally where the bank participates with the municipality that elects to, and then the loans are made under standards where the bank is providing the capital, municipality is doing a lot of the work,

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too, where you guys actually get to be a part of the board of directors that makes the loans? I mean it's not set up here now and I'm not saying it should be, but that's another way a bank that wants to play in this realm might feel a lot more safe and secure. [LB1098]

KURT YOST: Well, and, Senator White, to take that further, if you go back to the rural situation, I would think that those municipalities and/or county governments would want the banker (laugh)... [LB1098]

SENATOR WHITE: Oh yeah. [LB1098]

KURT YOST: ...to be a working component of that and not just a part of it but a very viable working component of it to make sure that all I's are dotted, T's are crossed and the thing is going to work. [LB1098]

SENATOR WHITE: But if a banker is a heavy lender in the residential area and it can spread the risk of this by it being the main capital supplier to the municipality that makes loans across all those properties, you've probably taken some of the sting out of it, I would think. [LB1098]

KURT YOST: We certainly will sit down with Senator Mello and others and look very sincerely at trying to make this, the concept, work. [LB1098]

SENATOR WHITE: All I could ask. Thank you. [LB1098]

SENATOR MCGILL: Thank you, Mr. Yost. [LB1098]

KURT YOST: Madam Chair, thank you. [LB1098]

SENATOR MCGILL: Anyone else here in opposition? Anyone here neutral? Senator Mello, would you like to close? [LB1098]

SENATOR MELLO: Very quickly because I know we have two more bills. Chairwoman McGill, members of the committee, I think, if anything, that hopefully we've learned over the last hour is that LB1098 is a new idea to Nebraska, and it's a new idea to Nebraska because right now most of our, almost, if not all of our weatherization and energy efficiency funding is targeted to low-income families. Families like mine, many families like yours, middle-class families, moderate income families don't qualify for loans or can't get the loans to do these kind of upgrades that not only improve the value of your home but also help you save money in the process. As I stated in some question and answering with the committee during my opening, I've been working with the bankers association, Bob Hallstrom, to start to try to look for--we didn't have enough time I think prior to the committee hearing today--to look for that common ground, and I think there's

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a lot of ideas and a lot of issues that we discussed, a few were discussed in their testimony today that we're going to look to do to try to make this work, a lot of good ideas that came from the committee as well. I think at the end of the day we have to do something on this issue and the financing opportunities that come with this is something that we might not see with any other existing program that's out there. And it would be my hope that I could come back to the committee with some amendments after working out some kinks, so to speak, with not only the bankers association but also, you know, groups that have come in support of this bill to ensure that the main purpose of it is not watered down. Because the main point of enabling legislation is to allow the municipalities to determine the makeup of these programs, not for the state to create a program and say, cities, do this program. It's my understanding that cities have done this before with federal CDBG money of making individual loans through revolving loan programs, so cities know how to do this in regards to creating a loan program that gets that money out the door. But by all means, I want to make sure that LB1098 comes out with support from the bankers association, individual bankers, because in no means do, you know, Senator White said, no way do I want throw bankers under the bus. It's very passe to be able to do that nowadays with some of the turmoil that we're seeing as a county, but that's not the point of this bill and that was never the intention of looking at this idea. It's still focusing on trying to find a way to provide that financing to people who need that financing that saves money, not just for the homeowners but for the public at large. And I think the one aspect that was not mentioned in any of the testimony is by the amount of energy that could be saved of one or two fewer coal-fired public power plants that would be built in Nebraska. That is a huge cost savings to all users of public power in this state, including banks, including commercial or industrial users. The amount of money saved by delaying potentially 25 to 50 years of these coal-fired plants is something that would not only save all of us, even those who don't use this program, but obviously have a serious environmental opportunity in regards to protecting the air quality that one of our testifiers mentioned today. So with that, I'll take any further questions if the committee has any. [LB1098]

SENATOR MCGILL: Senator Coash. [LB1098]

SENATOR COASH: I do. Thank you, Senator McGill. I'm surprised, Senator Mello, that the realtors weren't here on either side of this bill. Did they fall asleep on this one and not come out, or where were they on this bill? [LB1098]

SENATOR MELLO: You know, I don't know. My office never contacted them. I didn't see it as the issue being more in regards to whether or not someone could sell their home or couldn't sell their home and that transaction. It's more a matter of a home improvement. As I looked at it, it was more of a home improvement related issue instead of more of a real estate transaction, so to speak. But the concerns that got brought forward by the Nebraska Bankers Association are things that I think lend that issue to the table as well though. [LB1098]

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SENATOR COASH: Yeah. Well, not to put too many chefs in the kitchen as you work through these things, I would encourage you to see what they say about it. [LB1098]

SENATOR MELLO: Okay. Thank you. [LB1098]

SENATOR COASH: Thanks. [LB1098]

SENATOR MCGILL: Other questions? No. That will end the hearing on LB1098. And Senator Mello can open on LB1099. [LB1098]

SENATOR MELLO: (Exhibit 10) Good afternoon, Chairwoman McGill, members of the Urban Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I introduced LB1099, a bill that would amend the 1992 Nebraska Integrated Solid Waste Management Act to allow the city of Omaha to adopt and implement a voluntary, fee-for-service, solid waste residential recycling program as every other city and county in this state is allowed to do. The 1992 act is the most comprehensive statewide solid waste management law passed in Nebraska and places the responsibility for the "safe and sanitary disposal of solid waste generated within its solid waste jurisdiction," upon each Nebraska county and municipality. The law further empowers the governing body of a county, municipality, or agency to make all necessary rules and regulations to accomplish the requirements of the act. The 1992 act...in the 1992 act there was a provision that requires the city of Omaha to hold a citywide election if any fee is to be charged for solid waste collection. It appears this provision was intended to apply to a city-imposed, mandatory, solid waste collection fee and not, I repeat not, a purely voluntary fee for an enhanced recycling service like that described in LB1099. If an individual homeowner chooses to participate in an enhanced recycling program they will pay a fee for the enhanced recycling service. There will be no change in or change for the current Omaha green bin recycling program. The current green bin free service would continue. If the city of Omaha were allowed to adopt a more a more modern recycling program as has been implemented in the city of Lincoln and the suburban Omaha area and various cities across the United States, the city of Omaha would have the potential to significantly decrease the amount of solid waste the city must put in landfills and, as a result, save hundreds of thousands of dollars in unnecessary landfill tipping fees it now pays at \$23 per ton while capturing millions of tons of otherwise valuable recyclables from unnecessary and costly public landfill disposal. These innovative programs used in other communities nationwide are based on providing residents economic, convenient, and environmentally responsible incentives to recycle solid waste while at the same time receiving financial benefits to do so. Programs are now being used in other cities that have resulted in an increased residential recycling collection rates by as much as 300 percent and a significant cost-savings in income to the sponsoring city governments. The city of Omaha's Law Department recommended seeking this clarification of the law to allow the city of

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Omaha to offer such a voluntary recycling program. I've also requested an official opinion from the Attorney General's Office. I would like to emphasize this amendment...this bill does not allow the city of Omaha to impose a mandatory garbage fee. The citizen voting provision in the current law remains the same under LB1099. I urge the committee to approve LB1099 and would be happy to answer any questions from the committee. [LB1099]

SENATOR MCGILL: Senator Krist. [LB1099]

SENATOR KRIST: The Mayor's Office didn't do you any favors this past week. Sorry, but this, to be clear, is an incentive for me to sign up to separate my garbage and essentially, if I understand, providers in the area there are credits that are issued if I participate in this program. So even though I pay for that extra bin out there, I now have an incentive to keep things out of the landfill. [LB1099]

SENATOR MELLO: To be crystal clear, Senator Krist, LB1099 in no way, shape, or form would allow the city to impose a mandatory garbage fee which, I believe, is being considered by the city of Omaha right now, or at least the Mayor's Office and the recent World-Herald story I think you're referring to. And the...what LB1099 would do was exactly what you stated, it would allow the city to offer a new service that would be purely voluntary for the people to choose to sign up. They would pay a fee for an enhanced recycling program, thus an enhanced recycling bin, larger, no doubt, to separate their waste into this new program with the understanding that they would receive some kind of financial benefit or credit back for the amount of recycling that they do. In conversations with other senators interested in this bill, those incentives or those benefits, it's our understanding that they're being negotiated and looking to expand to ensure that benefits would be applicable across the city. So that someone in my district, in south Omaha, would see benefits possibly to local vendors and merchants in our area of town compared to someone who lives in the western part of the city, to maybe vendors or merchants in their part of the town. So to answer your question, yes. Twofold, crystal clear, it does not allow the city of Omaha to impose a mandatory garbage fee. And second, it provides an opportunity for an incentive-based recycling program above and beyond the current existing small green bin recycling program. [LB1099]

SENATOR KRIST: I just want to go on record saying that I think it's a great idea. And the day that we create an opportunity for people to do things like this is a step closer to actually keeping garbage out of the garbage heap that doesn't need to be there. And we should make a point of making it very public because the two pieces of information are going to be confused. We are not in favor of enabling or...we don't get into their management of their city. What he does, what Mayor Suttle and Omaha does to charge for garbage is their business. This should not be confused. This is a voluntary program and I applaud you for bringing it forward. [LB1099]

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SENATOR MELLO: And one other component to the question or the comment you made regarding the solid waste component. It's estimated, at least the estimates that we've received from the existing recycler on behalf of the city of Omaha, that with the passage of LB1099 it has the potential of saving close to \$400,000 in what the city currently pays for solid waste removal. Exactly what you said, things that should be recycled being disposed into landfills instead would move through this program, thus saving the city the money they spend on their garbage collection, which has an extra added benefit to at least the taxpayers of the city of Omaha. [LB1099]

SENATOR MCGILL: Senator White. [LB1099]

SENATOR WHITE: Given the debate with the garbage fees, I'd like to restate, since Senator Chambers is not here, (laugh) why we don't permit charging for garbage fees in the city of Omaha. People under economic stress won't pay to have their garbage removed, they will dump it all over. Over and over again I have had visitors from other parts of the country come into Omaha and they are stunned at how clean the city is and how neat it is and how much that impresses them and how much they're more willing to do business here. That is not possible if we start charging for garbage. Now on a personal side, I will sign up for this, especially...will it allow me to recycle glass? Because it irritates me I have to throw glass away. [LB1099]

SENATOR MELLO: Yes. [LB1099]

SENATOR WHITE: It will? [LB1099]

SENATOR MELLO: Um-hum, yes. [LB1099]

SENATOR WHITE: Great, thank you. [LB1099]

SENATOR MELLO: And for the record, Senator White, I think I've made it very clear, at least in my conversations with the city that I do not support the city allowing to impose a new garbage fee. And I've separated that garbage fee issue that Senator Chambers put in the 1992 act different from this opportunity and this fee-for-service. That is purely voluntary. Because solid waste collection through the existing law for garbage is not a voluntary thing, it's mandatory. And that's the...there's a big distinction between voluntarily signing up for a program and a city mandating that this needs to be removed. [LB1099]

SENATOR WHITE: In other words, everybody would still get free garbage removable... [LB1099]

SENATOR MELLO: Yes. [LB1099]

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SENATOR WHITE: ...as part...all right. Thank you. [LB1099]

SENATOR MCGILL: Senator Lathrop. [LB1099]

SENATOR LATHROP: Maybe you know the answer to this. I'm like Senator White. I recycle in the green tub and I have to throw my glass away. And I'd sign up for this, too, just to have somebody haul the glass off. Is there something else besides glass this is going to get recycled that that green bin doesn't? [LB1099]

SENATOR MELLO: Well, glass is one of the...glass is the one thing that most people talk about. But I think the bigger point is with the small free recycling bin, I think, we, at least those of us within the city of Omaha, both the members on this committee and myself, we know how small that bin is for this city. And part of that is because of the economics that are associated with that, it's a free service that you can choose to abuse it if you want, you don't have to use it. This new enhanced recycling program, obviously, would offer a much larger bin. And that's a big component of it, which is separating...you can only fill up your small bin so much in a week. And depending upon how much you use as a family of four, family of six, you could fill it up within a matter of two days. Thus the rest of your solid waste for the week or garbage for the rest of the week, you really have nowhere else to take it that's convenient. So the incentive is being able to recycle more than what currently is being available to the city. The other aspect, the other extra added benefit or silver lining to this legislation that would allow...essentially enabling legislation for the city to do this is it would provide and allow the city of Omaha to apply for more competitive federal grants. Which right now, because they're unable to do an enhanced recycling program because of cost, they can't apply for federal funds, whether it's through the EPA, the Department of Energy, they're unable to apply for those additional funds that the city might be able to apply for. And that was an issue that was raised before under the previous mayor of Omaha's administration. When they looked at this issue, that that was a big hindrance to them as well, their inability to apply for additional funds. [LB1099]

SENATOR LATHROP: Is there a downside to the city? If I sign up for this and now I'm going to pay, wheats this going to cost me, do you know? [LB1099]

SENATOR MELLO: It is estimated it could cost anywhere between \$6 to \$10 a month. [LB1099]

SENATOR LATHROP: All right. So let's say that I'm paying a couple bucks a week for this. And I put everything in the bigger bin that this guy is going to come by and take. Is the city losing something? Are they making any money on the recyclables? [LB1099]

SENATOR MELLO: Well, I would defer that to actually the person or the company that

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has the city's contract. I mean, they would be able to speak more to whether or not the city...whether or not their business is making money or whether or not the city of Omaha is making money off their contract. The city of Omaha's purpose though, at least through the law that was passed in '92, is that they pay through their recycling...their free recycling service right now through property taxes. That's how the city pays for it right now. The thought is if you spend less money on your waste...your solid waste removal, which is your garbage, you'll save money, you know, you will save money if it's being used through people paying to actually recycle. I mean that's the unique aspect of this program is for those Omahans who want to recycle, want to pay to do this, they're actually saving the rest of the city of Omaha a significant amount of money that can be used...that money can be used for other things. But obviously, right now... [LB1099]

SENATOR LATHROP: So when the city picks up the stuff that's in the green bin right now and they recycle it and somebody buys the material from them, they're losing money on the proposition. [LB1099]

SENATOR MELLO: It's my understanding that they are losing money, that they're not making money if they make enough to break even, but the problem...but part of that thought is that it's a free program and that's the reason why the people aren't...there's not an education effort that's associated with it. This program would allow, as I said, the grant component I talked about, the federal funds would allow the city to apply for money to use to promote and educate the city of Omaha to recycle. And maybe not to use this program, but at least the free program that's available that will continue to be available to everyone in the city. [LB1099]

SENATOR LATHROP: And all we do is give the city of Omaha authority to do this, we're not creating the program right here. [LB1099]

SENATOR MELLO: Because of the 1992 act, it prohibits the city of Omaha for charging any fee for any solid waste removal, mandatory solid waste removal. This would say that's still the case. But it would say for a voluntary recycling program you could charge a fee for. And that's the difference between...as what Senator Krist said, a mandatory garbage fee and a voluntary recycling program are two different things, operating two different spears. Because no one could...I mean, logic...to be perfectly honest, no one in the city of Omaha could sign up for a program if this city chooses to do this. Which they want to do. That's completely understandable that no one would ever sign up. Now I think that's not the case. I would probably second Senator White, I would sign up for the program if it was available, not only because I want to recycle more but the fact is it's an opportunity to actually pay people to recycle. And that's the bigger point, this is an enhanced recycling program that provides financial rewards or credits to people who choose to participate in the program, depending upon how much you choose to recycle. [LB1099]

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SENATOR MCGILL: Senator Cook. [LB1099]

SENATOR COOK: Thank you, Madam Chairwoman. How do I pay the bill if I were to sign up for this? Do I pay directly to the contractor or would the user of the service pay the city and then are there added administrative costs for the city to factor into that \$400,000 they are potentially saving? [LB1099]

SENATOR MELLO: Senator Cook, because this is enabling legislation, it's not creating the specific program, that's something that it would be better to ask the city of Omaha. They will testify after me, in regards to support of the bill. Since they would be the ones who have to setup the program they have to offer or they would be the ones who have to put out to bid the contract in regards to what they want out of an enhanced recycling program. So, it's the general...our general understanding from working with the current city's recyclers that an enhanced usage of a new program would yield that amount of money in regards to what is currently being spent through Deffenbaugh Industries and the garbage collection fee. [LB1099]

SENATOR COOK: Thank you. [LB1099]

SENATOR MCGILL: Senator Krist. [LB1099]

SENATOR KRIST: Thank you, Chairman. Senator Mello, one other question. What's the estimate on the potential increase in jobs in the area? Is there a figure out there? [LB1099]

SENATOR MELLO: There is and the potential right now, depending upon the number of households that would sign up for this program, it's our understanding that for about every 1,000 households that would sign up there's one new job created. So there is a potential. There is a serious potential for job growth in this area, knowing that once again it's a fee-driven program. So obviously part of those fees are to pay for employees to help execute the program. But it was our understanding that if the program reached maximum capacity, and I could be mistaken, and I'm certain that someone from...who will be testifying, Dale Gubbles, who should be testifying can provide more of the details. If the program reaches its maximum capacity it could create up to 71 new jobs for the city of Omaha in the city of Omaha, so to speak. [LB1099]

SENATOR KRIST: Thanks. [LB1099]

SENATOR MCGILL: All right, I think that's it for the questions. [LB1099]

SENATOR MELLO: All right, thank you. [LB1099]

SENATOR MCGILL: We'll take the first proponent. And how many people are here to

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testify on this bill? All right. [LB1099]

DAVID KARNES: (Exhibit 11) My name is David Karnes, K-a-r-n-e-s. I am here on behalf of Curbside Rewards, LLC. And they are the current operator of the recycle bank, the National Recycle Bank program in certain parts of Nebraska. Chairwoman McGill and members of the committee, Curbside Rewards and the city of Omaha's solid waste recycling contractor, First Star Fiber Company, have been in discussions for more than one year with the city of Omaha to offer the residents of Omaha, on a voluntary basis, the Recycle Bank program. Currently, the Recycle Bank program is being offered in Lincoln, Fremont and many of the suburban communities of the Omaha metropolitan area. Recycle Bank has been very well received in these areas, with more than 16,000 individuals residents choosing to subscribe to the service in the past year alone. The fee for the Recycle Bank service runs from \$6 to \$10 per month. With the Recycle Bank service comes a very sturdy, convenient 96-gallon wheeled and lidded container along with key financial incentives in the form of coupons from thousands of national and local merchants, like HyVee in the Omaha metropolitan area, that on average total \$25 per month for a family of four, based on the weight of the recyclables collected from each home. The Recycle Bank program has been highlighted in articles in The New York Times, Wall Street Journal, Forbes, Fortune, the Omaha World-Herald, and the Lincoln Journal, among other publications, as one of the most innovative and thoughtful systems for solid waste recycling in the world. The city of Omaha has one of the lowest residential recycling participation rates in similarly sized cities in the United States. Annually, tens of thousands of tons of residential recyclables that can and should be recaptured, processed and sold are buried in landfills. It is estimated by the city of Omaha Public Works Department that if a program like the voluntary Recycle Bank program could be offered to the city of Omaha's residents more than \$800,000 annually could be saved by avoiding unnecessary landfill costs and receiving payments to the city for these valuable captured recyclables. The city residential participation rate in the current green bin 18-gallon program is 30 percent of all residents. Among this 30 percent the eligible recyclables that are captured is 11 percent, in other words 89 percent of the valuable recyclables are disposed in landfills. The city wants and needs to do better, thus the city's discussions with the Recycle Bank operators that operate currently in other parts of Nebraska. In the areas of Nebraska where Recycle Bank services are being offered to residential customers, the participation rate and the capture rate of these eligible, valuable recyclables has increased by more than 300 percent. The Recycle Bank program has a monthly participation fee. The current state law on solid waste collection/disposal in Nebraska does not allow the city of Omaha to charge a fee even for a voluntary, individual resident-decided program. We believe that the statute did not contemplate restricting the city from offering a voluntary residential service but indeed wanted to restrict the city from requiring a mandatory garbage fee. The city will continue to offer its current no-fee green bin program. Thus to clarify, the current LB1099 is an enabling law that would allow the city to plan and incorporate an option for the citizens of Omaha for a modern recycling program. On behalf of Recycle

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Bank, I ask the committee to favorably vote to move the bill to the floor. And I urge each of the members of the committee to secure its passage in this session. A number of questions have been asked on behalf of Recycle Bank and the Curbside Rewards program which is operating this program in the state I'd be happy to answer. Senator Mello did very well but some of the specifics, including Senator Lathrop's question maybe could be asked. I'd...the recycler for the city of Omaha will be also testifying. And before I conclude, I would like to offer a letter from the Omaha Chamber of Commerce. I won't read it here, but the Chamber and its Public Policy Committee has endorsed the program as a significant enhancement to not only the financial but the environmental services that are offered to the citizens of the city of Omaha. I thank you, Madam Chairman. [LB1099]

SENATOR MCGILL: Senator Krist. [LB1099]

SENATOR KRIST: Thanks for coming, Mr. Karnes. I just, in terms of competition out there if this takes off, is the current contractor the only contractor that we might see or if this actually picks up do you see competition in the area? [LB1099]

DAVID KARNES: Well, there are other recyclers. In Lincoln, for example, the Recycle Bank program is offered through individual haulers. And each of those haulers decide how the program is going to be administered. The plan, I believe, of the city of Omaha would be to have one program and Recycle Bank...there would be an RFP. Recycle Bank would apply for the rights to run the program. The program with the financial incentives that Senator Mello referenced is the Recycle Bank program. That's being offered in other parts of the state and nationally. So there would be other competitors potentially, but nobody would be able to offer the financial incentives that currently are offered through the Recycle Bank program. [LB1099]

SENATOR KRIST: Thank you, sir. [LB1099]

SENATOR MCGILL: All right. Any other questions? No. Thank you very much. [LB1099]

DAVID KARNES: Thank you. [LB1099]

SENATOR MCGILL: Next proponent. And I ask that people try to limit their comments to what hasn't been discussed already. I can see this is probably a bill where it could get very repetitive. So please try to limit what you say so we can keep moving forward. [LB1099]

DALE GUBBELS: (Exhibits 12 and 13) Thank you, Senator. My name is Dale Gubbels. I'm the CEO of Firststar Fiber. We are the processor of the city of Omaha's recycling materials. And I'm also the president of the Nebraska League of Conservation Voters. Like the bill, and in deference to what you said, Senator, I will keep my remarks brief.

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What is being passed out now is a picture that kind of describes the purpose of this bill and then also provides some examples of what this bill can do if it's passed. Again, I won't dwell on the fact that this simply clarifies that Omaha has the right to offer a fee-for-services for recycling programs on a voluntary basis. The handout has three examples. It's been discussed the Recycle Bank program, but that's just one of several that I think could come about over time because they have come about in other cities that have opportunities to work hand-in-glove with the private sector to offer ways to increase the amount of recycling, reduce waste and create jobs. The question was asked, how many jobs might this create? The EPA has actually estimated that for every 10,000 tons that gets recycled it creates about 36 jobs. In Nebraska we've got 2 million tons that we're burying annually. And I calculated, based on the DEQ's study that was done last year, that 60 percent of what's going into the landfill is actually material that could be recovered and then sold and applied to farmland in Nebraska. If you take all that into consideration and use EPA's figures that means that we could create in this state close to 4,000 jobs. And the other significance of that is from an economic point of view the average cost to dispose of solid waste in the state, again according to the DEQ, is about \$27 per ton. That's just to put it...bury it in the ground. And once it's in the ground, of course, it doesn't do anyone any good anymore. The cost to get it there is significant, especially in rural communities. The...some communities have to travel 70, 80, 90 miles to get to a landfill. And with the fuel prices you can imagine what that is costing residents of this state. Again, this bill only pertains to Omaha. But as I see it this has the potential to establish some new innovative approaches to dealing with recycling and resources. And my hope is this will lead to a lot of communities around the state getting more involved in resource conservation and recycling. With that, I'll try to answer any questions you might have. [LB1099]

SENATOR MCGILL: Are there any questions? Senator Lathrop. [LB1099]

SENATOR LATHROP: Your business is the one that takes the contents of these green bins currently and separates it? [LB1099]

DALE GUBBELS: It is brought to us...correct. We don't do the hauling but it is brought to us. In fact, we're in your... [LB1099]

SENATOR LATHROP: Then you have a process where you sort the plastic from the cardboard and the newspapers. [LB1099]

DALE GUBBELS: Thank you for reminding me, Senator. It's in your district and I would like to invite you to tour our facility. (Laughter) [LB1099]

SENATOR LATHROP: Great. All right, well, maybe I got to change my question. (Laughter) Would you be the same entity that would sort the contents of these bins? [LB1099]

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DALE GUBBELS: Correct. [LB1099]

SENATOR LATHROP: This question I have, we talked about the glass. We used to be able to put the glass in the green bins and now we can't. Is there a reason for that? [LB1099]

DALE GUBBELS: Yes, some very significant reasons. When the city switched from separating the materials at the curb, that's where the glass was separated at that time. And at that time it would end up getting broke right there at the curb. So the city switched over to what's called the commingled approach. And as you know, now the trucks are actually former trash trucks, compactor trucks. If you put glass in those trucks it breaks and most of it would go out as trash anyway. And not only that, it devalues the rest of the material on the truck. We have paper mills that have said that they like our material because the city did not include glass in the collection. [LB1099]

SENATOR LATHROP: But if I decide to sign up for this, am I not doing the very same thing, causing the problems you just said you alleviated? [LB1099]

DALE GUBBELS: Well, actually, there was some confusion on that. Glass will not be collected in this program either at the curb because, yeah, say it would break and it would go out as trash. We're working on some projects. And again this LB1099 opens up some opportunities to work through other innovative way, working with restaurants, bars and local trash haulers to establish drop-off centers that would open up a lot more opportunities for people to take their glass to their local restaurant and so forth. [LB1099]

SENATOR LATHROP: Okay. Is there anything then that I can put into this bin that I'm not putting in the green bins right now? In other words, am all I'm getting for my \$10 a month is more volume? I get a bigger bin. [LB1099]

DALE GUBBELS: You do get a bigger bin. We take, with the program that we operate in the suburban areas, and the hauling there, plastics 1 through 5, and basically, because those numbers are so small anymore, I just tell people to put anything with a neck or that they think is plastic in because you won't see the number anyway unless have powered glasses like this. So, yes, there is more plastics that we take. But what we also see, and we did a study three years ago this summer. We went around the city and looked at people's recycling bins to see what they were setting out. And what we noticed is as soon as those bins are full they put their trash...they put the recyclables in their trash right next to it because the bin is full. So that's one of the reasons why we've seen a 300 percent increase in the amount of material that we get when this cart is rolled out and people are given an incentive to recycle. [LB1099]

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SENATOR LATHROP: Okay, thanks. [LB1099]

DALE GUBBELS: Thank you, Senator. [LB1099]

SENATOR MCGILL: Other questions? No. Thank you very much. [LB1099]

DALE GUBBELS: All right, thank you. [LB1099]

SENATOR MCGILL: Next proponent. Other proponents can kind of move to the front, if they want to, it can help facilitate the process. [LB1099]

JACK CHELOHA: (Exhibits 14-16) Good afternoon, Senator McGill and members of the Urban Affairs Committee. My name is Jack Cheloha, that's J-a-c-k, the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify in support of LB1099. I've asked the pages to hand out a couple of different items. One of them is just kind of a general overview of the bill where it shows support from the mayor of Omaha, Jim Suttle, city council president Garry Gernandt, and then our planning director Rick Cunningham. Additionally, have an individual letter that the pages will hand out from the mayor himself directly to Mr. Karnes supporting this program. Finally, we have a letter from...it's signed by three of the council members in support of the program. I think it's also addressed to Mr. Karnes. And between the time of when it was dated to now a fourth one has joined. And so a lot of times for me to get my orders from the city all I have to do is count to four out of a council of seven. And I do have authorization from four of seven to...so they all support it, if that letter is coming around. I think it was council member Ben Gray has added his name to it. But I wanted to say the city of Omaha supports this. We see it as a measured incremental response, if you will, to allow us a way to encourage recycling to enhance our existing program. We think that the two individuals who spoke in front of me do a terrific job. They've got a marketable product and service. I think, you know, if we're allowed to do this I think the public will respond positively based on the incentives that could come to them. And likewise, this will help bolster recycling in Omaha, which is ultimately our goal, if you will. As has been pointed out on existing law there is a prohibition on the city of Omaha for charging a fee, you know, for garbage collection unless you have an affirmative vote of your citizens. And so based on legal opinions regarding that, in order to start this new, you know, voluntary program where the participants would pay, we felt it was necessary to have legislation to clarify that. And for those reasons we're here to support LB1099. I'll try and answer any questions. [LB1099]

SENATOR MCGILL: All right. Any questions? Senator Cook. [LB1099]

SENATOR COOK: Thank you, Madam Chairwoman. Hi, Jack. [LB1099]

JACK CHELOHA: Hello, Senator. [LB1099]

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SENATOR COOK: How are you? [LB1099]

JACK CHELOHA: (Laugh) I'm fine, thanks. [LB1099]

SENATOR COOK: I have a question. And I know you and the sponsoring Senator have asked for...sought legal opinions related to this. But I want you to say it so that we can have it for the record. Is there a way through any types of gymnastics to move from this initiative, which sounds fine and good, to a fee-for-service for either the green bins, the green bins and/or the regular old trash you put in the trash can and take to the curb? That's my first question. [LB1099]

JACK CHELOHA: Right. Thank you for that question. And I understand your question and why you're asking it. I think the language as it's drawn here in this bill, it's kind of a one, two punch, if you will, in terms of the new language added to it. There's language within the Solid Waste Recycling and Reduction Act to allow for this program, this voluntary program to begin. But then there's also, under general authority granted to cities of a metropolitan class in Chapter 14 we do a specific enunciation of power on page 19 of the bill, line 10, where it says, to establish a voluntary fee-for-service recycling program. And so, Senator, I think this bill would be very limited. And I think it would only allow the type of program that's being mentioned here today. The city of Omaha does not have any interest in charging its citizens for a garbage program unless we follow the law as it exists now and get an affirmative vote from our citizens. [LB1099]

SENATOR COOK: Okay. So based on this, there wouldn't necessarily be an initiative from the administration to say, hey, isn't this great, now everybody's paying \$10 a week, a month. How much are you pay, Senator Lathrop? Ten bucks a month. And now we don't have to take any green bins to any neighborhoods and that's less money from the city. There's no... [LB1099]

JACK CHELOHA: Well, that is a good question. But... [LB1099]

SENATOR COOK: ...kind of foot in the door. [LB1099]

JACK CHELOHA: Well, that's a good question. But we don't anticipate disbanding the green bin program. We see this working in harmony. You know, I suppose we should have asked the company if, when and if we do an RFP and they bid, you know, what do they anticipate in terms of participation. I don't have that number, I can't speculate for them. But I would almost say it's safe to say that not every household in Omaha will participate in the voluntary program. And so there's still going to be a need for our green bin program. [LB1099]

SENATOR COOK: Okay, thank you. [LB1099]

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JACK CHELOHA: Okay. [LB1099]

SENATOR MCGILL: Other questions? [LB1099]

SENATOR LATHROP: And you will not discontinue it. [LB1099]

JACK CHELOHA: We have no plans to discontinue it, Senator. [LB1099]

SENATOR LATHROP: And it will not be discontinued, the green bin program will not be discontinued if we do this? [LB1099]

JACK CHELOHA: (Laugh) If we do this and adopt this law, change, it will not be discontinued. [LB1099]

SENATOR LATHROP: Perfect, thanks. [LB1099]

SENATOR MCGILL: All right. Other questions? [LB1099]

JACK CHELOHA: One last thing, if I could add. When the initial act was passed, in 1992, the Waste Reduction and Recycling Act, I did not work for the city of Omaha then. I've been here a long time, but 1992 was before my time, so I just wanted to make that point, regarding the status of the law. [LB1099]

SENATOR LATHROP: Okay. You're saying you would have caught something and this wouldn't have been an issue, if you'd been the lobbyist back then? [LB1099]

JACK CHELOHA: (Laugh) Either that or I would have been retired long ago probably [LB1099]

SENATOR LATHROP: Okay. [LB1099]

JACK CHELOHA: Thank you. [LB1099]

SENATOR MCGILL: Thanks, Jack. Other supporters? [LB1099]

LYNN REX: Senator McGill, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities and we do support this measure. This has worked well in other cities across the state. And just for a technical amendment, and this is only technical, we would recommend the following. On page 4, line 7, and this is only so that the other municipalities in the state and counties that are already doing this are not in some way construed to no longer have this authority. So notwithstanding this section, the governing body of, and we would insert the words "any

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municipality and county including," then going back to the language you have page 8, a city of the metropolitan class may establish by ordinance a voluntary fee-for-service recycling program that is paid for by each participant in the program. The only reason for this is so that no one can construe this to say now the Legislature has spoken and now only cities...now only cities of the metropolitan class can do it. Because other cities already have this authority, counties do too. And indeed it's been very successful. And we highly recommend that the Legislature advance this bill. And unlike Jack Cheloha, I was here in 1992. And when the federal government passed this mandate called Subtitle D, it said that cities and counties across the country would have to be facing these issues. And indeed, they actually put an unfunded mandate on every state in the country saying that the states would have to do it. The state of Nebraska, like many other states, although some states actually did contribute funds, the state of Nebraska took the position that this would be passed on without one dollar, without one penny of assistance from the state to cities and counties across the state to manage this. And it has been...it was a huge, huge effort and that resulted in regional landfills across the state, one of the most costly and most controversial issues that ever faced this state. And it was in the long run something, I think, that had to happen. But I would just tell you that this kind of a program makes huge difference. And we want to make sure other cities and villages can continue their program. Thank you very much. Be happy to respond to any questions you might have. [LB1099]

SENATOR MCGILL: All right, thanks, Lynn. Yes, Senator Cook. [LB1099]

SENATOR COOK: Thank you very much. Ms. Rex, since you've been here for a while, can you shed any light on the possibility, this idea of the city of the metropolitan class or whoever this ends up applying to being able to change their solid waste collection or their recycling collection program without an affirmative vote of the people? Can...from your review of this and from your experience in hearings and watching floor debates, do you see that as a possibility? [LB1099]

LYNN REX: I do not. And, for example, if you look at, on page 2 of this bill, starting on line 24, this actually is an amendment, this is what the law currently says in 13-2020, and right now provides that, except that no city of the metropolitan class shall impose any rate or charge upon individual residences unless a majority of those voting in a regular or special election vote affirmatively to approve or authorize the establishment of such rate or charge. Since you are not changing that in any way, and indeed I think that's the reason why the new language on page 4 starts out with the provision, "notwithstanding this section." Because you're giving a very narrow exception here for the city of Omaha. The purpose of our amendment, Senator Cook, was just to make clear that other municipalities and counties could still continue doing what they have been doing. [LB1099]

SENATOR COOK: All right. Thank you very much. [LB1099]

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LYNN REX: You're welcome. [LB1099]

SENATOR MCGILL: All right. Thank you. [LB1099]

LYNN REX: Thank you. [LB1099]

SENATOR MCGILL: Other supporters. [LB1099]

CHAD JOHANSEN: (Exhibit 17) Once again, I'm Chad Johansen, J-o-h-a-n-s-e-n, volunteer advocate for the United States Green Building Council, Nebraska Flatwater Chapter. I'll be very brief. As a Green Building Council representative for the local side for the state of Nebraska, any recycling effort taken part by the city of Omaha should be commended by our organization, that's why we're here in support of it. On a personal side, as a resident of Omaha area, any avenue like this that could lessen the burden potentially for the city of Omaha in terms of what they have to pick up and collect and put in a waste fill is beneficial, obviously, for our environment. But obviously for, maybe, economics and bringing in another revenue stream in terms of a voluntary recycling program, I think, would be beneficial both for the environment and hopefully for economics as well, not to mention the individual household that chooses to do this could be eligible for incentive rewards or coupons, as already been mentioned. So for that reason I just have a letter here that, once again, I'll pass out that is our committee's response in support of this proposed bill. And with that, I'm going to wrap up very quickly for you. [LB1099]

SENATOR MCGILL: All right, thank you. [LB1099]

CHAD JOHANSEN: Thank you. [LB1099]

SENATOR MCGILL: No questions? All right. Yeah, thanks. Other supporters. Anyone here in opposition? Anyone neutral? All right, Senator Mello, would you like to close? [LB1099]

SENATOR MELLO: Briefly. Once again, this is enabling legislation that creates jobs, good paying jobs. There's a sheet that I had the page hand out in regards to the projected number of jobs through the Recycle Bank program. It saves the city of Omaha a serious amount of property tax dollars by people willing to pay a little bit extra to be able to recycle more. It's good public policy. It protects our environment. It saves tax dollars and it creates jobs in the process. So...and to make sure, for the record, it does not allow the city of Omaha to impose a mandatory garbage fee which is not only a concern of mine but a concern of a number of senators from the eastern part of our city, which we will be making that crystal clear to the city of Omaha through a letter. So with that, thank you, Madam Chairwoman. [LB1099]

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SENATOR MCGILL: All right. Any final questions? Senator Lathrop. [LB1099]

SENATOR LATHROP: This doesn't affect...this doesn't create a mandatory garbage fee in Omaha? (Laughter) Is that right? Just to be clear about it. [LB1099]

SENATOR MELLO: That is absolutely correct, absolutely correct. [LB1099]

SENATOR LATHROP: Okay. [LB1099]

SENATOR MCGILL: All right. That closes the hearing on LB1099. And Senator Mello can open on LB997. How many people are here to testify on this last bill? Okay. [LB1099]

SENATOR MELLO: (Exhibits 18-20) Good afternoon, Chairwoman McGill, members of the Urban Affairs Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I introduced LB977 (sic LB997), a bill that would require counties and municipalities to include an energy element as part of the comprehensive plan already required by state statute. LB977 (sic LB997) would become effective when a new comprehensive plan is developed, a full update to the comprehensive plan is undertaken or by January 1, 2015. This date provides ample time for counties and municipalities, five years, to incorporate this new element into their comprehensive planning process. That said, I am open to negotiating this date if counties and municipalities feel that more time would be beneficial. The energy element would add a new section to the comprehensive plan that would assess energy infrastructure and energy use by sector, including residential, commercial and industrial sectors, evaluate the utilization of renewable energy sources, and lastly promote energy conservation measures that benefit the community. With an ever changing global economy, and public power stretched to its limits across our state, it serves a positive public purpose for communities to evaluate their energy consumption, energy conservation opportunities, and renewable energy potential. By collecting this information and making it available, greater transparency is provided to the public, including new industries that may wish to relocate to the area and decision-makers are armed with information to guide their policies. Imagine the millions of taxpayer dollars that could be saved if every municipality critically examined their energy usage and incorporated these findings into their comprehensive plan. Some communities are already looking to include energy usage in their comprehensive plans and will use the energy efficiency and conservation block grants provided by the Department of Energy to help them achieve this goal in a more timely and thorough manner. Additionally, in Omaha the policy development initiative, aptly named Environment Omaha, was formed to create an environmental element for the city of Omaha's master plan. There are five content areas for the environmental element--the natural environment, urban form and transportation, building construction, resource conservation, and community health. The

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resource conservation area, which kicked off on January 20 of this year, addresses energy specifically and how it should be incorporated into the environmental element of the city of Omaha's master plan. LB977 (sic LB997), in short, is an opportunity for municipalities to examine their energy usage and make positive changes that benefit the community. Including an energy element in comprehensive plans is a long-term planning tool that addresses energy usage and efficiency. LB997 does not cost the state additional funds and, in fact, stands to save communities valuable taxpayer dollars if the information gleaned from this process is fully utilized. I will close by stating that, as you well know, I've introduced multiple bills in front of the Urban Affairs Committee regarding energy efficiency. In some of the bills I've introduced, like LB977, the bill that would require new and renovated state buildings to be energy efficient, I asked the state to lead by example. In this bill I'm asking the cities and counties to help guide the way. Nebraska needs to be forward-thinking as the nation moves from one that is dependent upon fossil fuels to one that is energy efficient and uses renewable energy. This shift is already happening. And Nebraska can either make changes behind the curve or get ahead of it. With that, I would take any questions from the committee. [LB997]

SENATOR MCGILL: Senator Coash. [LB997]

SENATOR COASH: Thank you. Just for the record, Senator Mello, you introduced LB997 today? [LB997]

SENATOR MELLO: LB997 and LB977 was the bill I introduced last week. (Laughter) [LB997]

SENATOR COASH: Okay, just wanted to make sure you got... [LB997]

SENATOR MCGILL: Thank you for catching that, Vice Chair. Are there questions, thoughts? No? Thank you, Senator Mello. [LB997]

SENATOR MELLO: Thank you. [LB997]

SENATOR MCGILL: First... [LB997]

SENATOR MELLO: For the record, I passed out three letters, one from the American Institute of Architects, one from Daniel Lawse, and then one from Omaha by Design, who does the Environment Omaha. [LB997]

SENATOR MCGILL: All right. First proponent. [LB997]

MITCH PAINE: Thank you, Madam Chairman. My name is Mitch Paine and I'm here with the...on behalf of the Nebraska Sierra Club. And my last name is P-a-i-n-e. And we do support this bill. And I want to specifically speak about my experience with the

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Mayor's Office in Lincoln. I've been working there for about nine months now. And originally, I was brought on to help us develop our sustainability plan for a cleaner, greener Lincoln and the Energy Efficiency and Conservation Block Grant. And I was initially charged to look at other communities and see what they're doing. This aspect of including energy in comprehensive of plans, not only comprehensive plans but specific targeted sustainability plans was something that seems to be more mainstream than out of the ordinary. For example, Madison, Wisconsin, Boulder, Colorado, Des Moines, Iowa City, Kansas City, Sioux Falls, and Greensburg, Kansas all are good examples of cities that have this as part of their comprehensive plan and part of their sustainability plan. Greensburg, Kansas, is an excellent example of the use of this energy language. And they...and another point I'd like to make is there are a lot of organizations and institutes out there that are able to help municipalities that may not have the expertise of Omaha and Lincoln in developing this language. I haven't read the letter from AIA, but I imagine that they are willing to help municipalities develop this. American Planning Association, National Renewable Energy Lab, the U.S. Green Building Council, there are...I learned today there are 676 LEED accredited professionals in Nebraska and all of them have very good knowledge of this. And I imagine that one of them was probably in the communities looking to doing this. There is the Ackley Local Governance for Sustainability and then the University of Nebraska Planning program. I don't know about UNO but I imagine they have people that would be willing to help municipalities with this. And just recently, DOE, EPA and the Housing and Urban Development created a sustainable communities partnership. We heard from them at a conference we had in Lincoln, back in October, from one of the under secretaries in the Department of Transportation about this partnership. and they're really looking at helping communities across the country. Iowa City and Kansas City and Denver, I believe, are part of the pilot program. And they're very near our area and there certainly are a lot of contacts with them. For instance, in Lincoln with the Energy Efficiency and Conservation Block Grant we anticipate to save \$500,000 in our intensive energy efficiency projects. So this really does equate to financial savings. And because the state is in the current situation it is, I think that this legislation could help encourage communities positively to look at ways to save money through energy efficiency in their own communities. And I'd answer any questions. [LB997]

SENATOR MCGILL: All right. Any questions? No? Thank you very much. [LB997]

MITCH PAINE: Thanks. [LB997]

SENATOR MCGILL: Any more supporters? You can still come move towards the front if you want. Helps me see how many people are left. [LB997]

CHAD JOHANSEN: (Exhibit 21) For the final time today, I'm Chad Johansen, J-o-h-a-n-s-e-n, with United States Green Building Council. We're obviously in support of this, LB997, for the fact that it's cheaper and easier to plan ahead than to spend the

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money on the back end. And by not having a comprehensive plan that includes an energy element, so often today our cities and developers are planning without even thinking about the energy required for their development plans. And as many public power industries have come to speak in support of many of Mello's bills that he has proposed so far, they will say that the cheapest kilowatt is the one they don't have to produce. So by energy efficiency being part of their master plan they therefore can maybe save that kilowatt and then instead of produce the development and demand that kilowatt. So that being said, obviously, the United States Green Building Council being forward-thinking in terms of energy efficiency, is here in support of this bill. And once again, I have another letter from our chapter supporting that. And with that, I will conclude briefly and take any questions. [LB997]

SENATOR MCGILL: Any questions? No? Thank you very much, Chad. [LB997]

CHAD JOHANSEN: Thank you. [LB997]

SENATOR MCGILL: Next proponent. [LB997]

KRISTI WAMSTAD-EVANS: (Exhibit 22) Hello. Kristi Wamstad-Evans, K-r-i-s-t-i, then Wamstad-Evans, W-a-m-s-t-a-d dash Evans, E-v-a-n-s. Sorry, it's a long one, I get that a lot. I'm representing the city of Omaha. I'm the sustainability coordinator for the city and we're voicing our support for this bill. This is something, as Senator Mello referred to the work that's being done with Environment Omaha, the city has been working very closely with Omaha by Design and a number of coalition members in crafting this environmental element that we're going to be...plan to bring into the comprehensive plan. So in our minds this is just something that reflects what we're already doing. And in addition, we are, as a part of the recent funding the city received for the Energy Efficiency and Conservation Block Grant program one of the projects we've identified is a comprehensive energy management plan that will actually take the work that we're doing as a part of this environmental element and really kind of refine it and get to a level where we have more technical information, the type of information that you would need to assess the residential, commercial and industrial sectors and really kind of take it to the next level as far as making those plans come to fruition, to actuality. So in our minds this is something that's aligned with what we're working on. And we fully support adding this as a part of our comprehensive plan. With that, I'll take questions. [LB997]

SENATOR MCGILL: All right. I don't see any. Thank you, Kristi. [LB997]

KRISTI WAMSTAD-EVANS: Thank you. [LB997]

SENATOR MCGILL: Next proponent. Any more supporters? Okay. Opponents. Neutral. [LB997]

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LYNN REX: Senator McGill, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We strongly support the concept of this measure. We're testifying in a neutral capacity only because we are concerned about the date and also the money necessary to do this and the expertise, if it's available across the state, not just in the cities of the first class. And we do appreciate the fact that this is a targeted bill. One provision of the bill limits it so it does not include villages. But we do have 530 cities and villages in the state of Nebraska. And of those, hundreds of them are obviously villages. But we also have over 100 of them that are cities of the second class, population approximately 800 to 5,000, and 30 cities with a population of 5,000 up. So one of our concerns is just to make sure that the expertise is there in cities across the state if this mandate does take effect. And we would look forward to working with Senator Mello in terms of the date, because we are concerned also about the funding issues. Of the 530 cities across the state of Nebraska, as Senator White knows from being on the Revenue Committee, over half of those municipalities are already up against their maximum levy limit of 45 cents plus 5 with a super majority vote. They're already there. Many of those are already up against the maximum lid with a 1 percent super majority vote. So we have cities right now that can't even raise the money to spend the 2.5 percent lid that you authorized them to spend on restricted funds. And that is really a concern when you look at something like this. We don't know what...how much money it takes to do this sort of thing. But there is absolutely no question this is an important element that needs to be considered in their comprehensive plans. So we look forward to working with Senator Mello on the date, but certainly this is a very, very important measure and we appreciate him introducing the measure. I'd be happy to respond to any questions you may have. [LB997]

SENATOR MCGILL: Questions? Senator White. [LB997]

SENATOR WHITE: Thanks for coming, Ms. Rex. When I did a bill asking the state to do these kind of things it became apparent both NPPD and OPPD offer free services to evaluate energy efficiency in their buildings. The plan itself could say something as simple as, take advantage of all free services available to examine our energy use, could it not? [LB997]

LYNN REX: Oh. Sure, absolutely, if that's all this is, yes. [LB997]

SENATOR WHITE: I mean, we'll have to ask Senator Mello. But if they say we have no available money to do anything more than look for any federal grant, look for free OPPD, free NPPD services to evaluate the energy efficiency of our buildings, look at pay back times, is that too burdensome? [LB997]

LYNN REX: No, absolutely not. If that's all that is, no. We thought this was requiring something more than that. [LB997]

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SENATOR WHITE: It may, it may. I'll be interested to talk to Senator Mello. I don't know. [LB997]

LYNN REX: But certainly we have a number of municipalities that already...that own...we have eight that own and operate their own gas system, and those also operate their own electric system. For those municipalities this is an easier thing to do because they own all the information. They have the information. When you go beyond that, and fortunately we are a public power state, so we would be working with the public power entities to kind of get that information. But, I guess, the question then becomes, what kind of...what level of detail? Something as simple as you're talking about is just absolutely a no-brainer, no problem whatsoever. [LB997]

SENATOR WHITE: Finally, the state found it incredibly difficult to get their head around. But thank you. [LB997]

SENATOR MCGILL: No other questions? Thank you, Ms. Rex. [LB997]

LYNN REX: Thank you very much. [LB997]

SENATOR MCGILL: Um-hum. Other neutral? Senator Mello, would you like to close? Close our Mello Tuesday. (Laugh) [LB997]

SENATOR MELLO: Yes, after a long day. To answer...I think to preempt Senator White's potential question, LB997 just adds another element to what cities already have to do in regards to their master plans. And as Ms. Rex mentioned, my office is more than willing, and obviously we'll be sitting down and talking with Ms. Rex to find a way to make this work. Because some cities, as she mentioned, can already do this, already have the opportunity to do this if they have a municipally owned utility. Then it's just a matter of incorporating that locally owned utility, municipal utility into their planning process. As one testifier said, the city of Omaha is already doing this, is already moving in this direction. The city of Lincoln is starting to move in this direction, obviously, as well. It's something that is just...it's good public policy I believe. And while public power would be, I think, would be a key component to help execute this, there are other professionals out there, such as...to be...testifiers, Ms. Wamstad-Evans as well as Mr. Mumgaard both are the sustainability coordinators on behalf of their respective municipalities, which part of their responsibility is to help create exactly this for their cities. So at least some of the larger cities are already starting to move in this direction. And the time date, as well as if we need to narrow it down, I included second-class cities as well. I fully understand that a city of 800 might not have the funding or the additional funding that might be required or what they think is required to carry out this provision of their master plan. But that's something that I'm more than willing to sit down and try to negotiate with Ms. Rex to find a solution that we can all get behind. [LB997]

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SENATOR MCGILL: Senator White. [LB997]

SENATOR WHITE: Does this actually mandate the expenditure of funds? It says they have to just include concepts in that. [LB997]

SENATOR MELLO: It just said...yes. [LB997]

SENATOR WHITE: And if they don't have any money, can't they comply with this just by saying, look, we're going to call League of Municipalities, we're going to call our local energy suppliers and see what, if any, free advice we can get to become more efficient. Wouldn't that satisfy it? [LB997]

SENATOR MELLO: The way I interpret the bill, Senator White, that is the way I would look to interpret it too. Which there is no cost...obviously there's no fiscal note. But there is no cost associated with how they implement this. Each individual city is allowed to choose to implement this part of the plan or research and include this plan to what their city council and their mayor or their governing structure chooses to do. It's just an element that would need to be included in their plan, because energy efficiency, particularly with government buildings, is, I think, a very pressing issue. [LB997]

SENATOR WHITE: So the city of Lincoln may choose to hire a sustainability coordinator, they have opportunities to save on a citywide scale that makes that make sense, but the village of Mead, you know, they may not. So if it doesn't mandate expenditures you think you'll have much smoother sailing. And if that's what you're saying... [LB997]

SENATOR MELLO: That is correct, that it does not mandate that they have to spend money on it. It's just a matter that it says that when they develop their master plan or redevelop it or create a new one they have to include this new element from here on out, starting January 1, 2015. [LB997]

SENATOR WHITE: And literally it may be that simple. [LB997]

SENATOR MELLO: Um-hum. [LB997]

SENATOR WHITE: Okay, thank you. [LB997]

SENATOR MCGILL: Other questions? No. Thank you, Senator Mello. [LB997]

SENATOR MELLO: Thank you all. [LB997]

SENATOR MCGILL: A wonderful day. And thank you all for coming to the hearing today. We'll go into Executive Session now. [LB997]