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Natural Resources Committee  
February 01, 2008

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[LB1065 LB1066 LB1138 CONFIRMATION]

The Committee on Natural Resources met at 1:30 on Friday, February 1, 2008, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LBI065, LB1066, LB1138 and gubernatorial appointments. Senators present: LeRoy Louden, Chairperson, Carol Hudkins, Vice Chairperson; Tom Carlson; Mark Christensen; Annette Dubas; Deb Fischer; Gail Kopplin; and Norman Wallman. Senators absent: None. []

SENATOR LOUDEN: Good afternoon, everyone. We will start this committee hearing for the Natural Resources Committee. My name is LeRoy Louden. I represent District 49 and I'm chairman of the Natural Resources Committee. I'll introduce the senators to my right. The first one is Senator Gail Kopplin from Gretna; next to him is Senator Tom Carlson of Holdrege; and next to him is Senator Norm Wallman of Cortland; the senator to my left is Senator Carol Hudkins which is vice chairman of the Natural Resources Committee; and on the end is committee clerk Barb Koehlmoos; to my right is committee counsel, Jody Gittins. Pages today is Kristen Erthum from Ainsworth. She's a sophomore at Doane College, and also with us today is Ryan Behrns. He's a University of Nebraska student, sophomore student, and he's in business management. Also just now joining us is Senator Deb Fischer from Valentine. With that I would ask that you turn off or put your machinery on silence that you talk with and so we don't have any disturbance during the hearing, and then those wishing to testify on a bill should come to the front of the room when that bill is to be heard. As someone finishes testifying the next person should move immediately into the chair at the table. If you do not wish to testify but like your name entered into the official record as being present at the hearing, there is a form by each door that you can sign. This will be part of the official record of the hearing. This year we are using a computerized transcription program and it is very important to complete the green sign-in sheets for testifiers prior to testifying. They're on the tables by the doors and need to be completed by all people wishing to testify, including senators and staff introducing bills and people being confirmed. If you're testifying on more than one bill you need to submit a form for each bill. When you come up to testify, place the form in the box by the committee clerk. Do not turn the form in before you actually testify. Please print and it is important that you complete the form in its entirety. If our transcribers have questions about your testimony they use this information to contact you. As you begin your testimony, state your name and spell it for the record even, if it is an easy name. Please keep your testimony concise and try not to repeat what someone else has covered. If there are large numbers of people to testify it may be necessary to place time limits on testimony. If you have handout material give it the page and they will circulate it to the committee and if you do not choose to testify, you may submit comments in writing and have them read into the official record. No displays of support or opposition to a bill will be tolerated, vocal or otherwise, and if you need a drink while you are testifying, please ask the page. With that we will begin the confirmation hearing and the first one will be Leigh Hoyt from the Environmental Quality

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Council. Thank you, Mr. Hoyt. Tell us a little bit about yourself, if you would please.  
[CONFIRMATION]

LEIGH HOYT: (Exhibit 1) Okay. My name is Leigh Hoyt. I'm Red Willow County Commissioner out of McCook, Nebraska. I have been there, born and raised there in Red Willow County. Farmed for, oh, considerable amount of years, 15, 20 years, and now I went into the retail business and at the present time I work for Frenchman Valley Coop there in McCook. I have a wife and three children. I have a son that lives there in McCook and my two daughters live in Phoenix, Arizona, and let's see, three grandchildren. [CONFIRMATION]

SENATOR LOUDEN: Oh, okay. Questions for Mr. Hoyt? Senator Carlson.  
[CONFIRMATION.]

SENATOR CARLSON: Senator Louden. Your background in farming indicates that you still do, so tell us a little bit about your operation. [CONFIRMATION]

LEIGH HOYT: Well, I don't anymore. I sold out, oh, it was maybe it's wrong on the resume or there, but I sold out in, oh, what year was it, '98 I believe is when it was. I still am involved in agriculture as far as fuel sales and that type of thing. I work some in the agronomy department there at Frenchman Valley also. [CONFIRMATION]

SENATOR CARLSON: Why do you think you were asked to be on the...this board?  
[CONFIRMATION]

LEIGH HOYT: Well, really wasn't asked. The NACO, Larry over at NACO sent out an e-mail and wanted to know if there was anybody interested in serving on this committee. The commissioner from, I can't remember her name right now, but Imperial, she was on the council and she resigned and so I thought about it and I thought that I kind of would like to make a difference. That was one reason why I become a commissioner because I wanted to make a difference and so that's kind of why I decided to go ahead and run for the office. [CONFIRMATION]

SENATOR CARLSON: Good. Thank you. [CONFIRMATION]

SENATOR LOUDEN: Other questions? You're a new appointment, is that...  
[CONFIRMATION]

LEIGH HOYT: Yes, sir. [CONFIRMATION]

SENATOR LOUDEN: Now the way I understand it, are people appointed this council from certain segments of different industries and that's...what part do you represent?  
[CONFIRMATION]

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LEIGH HOYT: Yes, sir. I represent the county commissioners end of it, the political end of it of the county commissioners. [CONFIRMATION]

SENATOR LOUDEN: What do you have, three commissioners in Red Willow County, or... [CONFIRMATION]

LEIGH HOYT: Yes, sir. Earl McNutt and myself and Steve Downer. [CONFIRMATION]

SENATOR LOUDEN: And you call yourselves county commissioners down there? [CONFIRMATION]

LEIGH HOYT: Yes, sir. [CONFIRMATION]

SENATOR LOUDEN: Okay. How long have you been county commissioner? [CONFIRMATION]

LEIGH HOYT: This is my fifth year, going on my sixth year. [CONFIRMATION]

SENATOR LOUDEN: Okay. Do you have any problems with dust roads, dusty on the roads and people complaining about it? I mean, how will you address that as being a member of the environmental council and still being a member of the county commissioners that's got to foot the bill if something is done. [CONFIRMATION]

LEIGH HOYT: Pray for rain? How's that? (Laughter) [CONFIRMATION]

SENATOR LOUDEN: I guess it's probably as good an answer as any but...(Laughter) [CONFIRMATION]

LEIGH HOYT: I don't know how you'd address dusty county roads. I guess my opinion is that if you live in the country, you'd better be able to put up with dusty roads and at least in my district. And we have some asphalt roads in my district but they're getting so hard to or so expensive to keep up and maintain that we just basically decided not to do anymore of that armor coating and that type of thing. Gravel, you know, helps but that's become a real challenge as far as the financial end of it and the budget goes, so that's where you people can come in. Just distribute a little more money down to the county so we can have a little bit more (laugh) money for gravel. But other than that, I guess, I don't know how address that other than just, you know, try to keep them graded and, you know, pray for rain. [CONFIRMATION]

SENATOR LOUDEN: The reason I asked that because there are places that are starting to complain about the dust and the particulates in the air, you know, and there we start in, what you going to live in the country if its dry, you know, and I just wondered

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if that's come across you peoples. If anybody's shot that across your bough yet down there as county commissioners? [CONFIRMATION]

LEIGH HOYT: No, we've had a lot of things shot across the bough but that hasn't been one of them yet and, you know, like I said before, you know, we have people that have irrigation wells out in the country and then somebody from the city moves out to the country and builds a house by this irrigation well. The next thing you know that irrigation well is keeping them up at night. To me, the county roads and that irrigation well was there way before the people moved out to the country so if you lived in the country you kind of learn to live with the smell and the noise and the dust. [CONFIRMATION]

SENATOR LOUDEN: Okay. Thank you. Other questions? Senator Hudkins.  
[CONFIRMATION]

SENATOR HUDKINS: Thank you. Mr. Hoyt, I'll talk as loud as I can. [CONFIRMATION]

LEIGH HOYT: That's fine. [CONFIRMATION]

SENATOR HUDKINS: On your resume it says that you're an active member of your church, on the 4-H council, Elks, on the county board, a representative for your local nursing home, on the board for the Work Ethic Camp, the zoning board, the health department, the fair board, the visitors committee, and the ag task force.  
[CONFIRMATION]

LEIGH HOYT: Yes, ma'am. [CONFIRMATION]

SENATOR HUDKINS: If you want something done, you ask a busy person. Thank you for being willing to do this. [CONFIRMATION]

LEIGH HOYT: Thank you. [CONFIRMATION]

SENATOR LOUDEN: Other questions for Mr. Hoyt? Seeing none, thank you for your testimony. [CONFIRMATION]

LEIGH HOYT: You're welcome. Thank you. [CONFIRMATION]

SENATOR LOUDEN: Anyone wishing to testify in favor of the confirmation of Leigh Hoyt? Anyone wishing to testify against the confirmation of Leigh Hoyt? Anyone wishing to testify in neutral? Seeing none, that closes the confirmation hearing on Leigh Hoyt. Next we'll go to confirmation hearing for John Kinter. Thank you. Welcome, Mr. Kinter.  
[CONFIRMATION]

JOHN KINTER: (Exhibit 2) Good afternoon, senators. John Kinter, J-o-h-n K-i-n-t-e-r,

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represent heavy industry. Currently work for a Nucor Steel up in Norfolk, Nebraska, as their environmental manager. I'm married, have a two-year old son and one more on the way in April and been in Nebraska since 1993. Went to school at the University of Nebraska. Spent some time working with the DEQ, then on into the ethanol industry and now with Nucor. [CONFIRMATION]

SENATOR LOUDEN: Okay. Questions for Mr. Kinter? I have one. You work for Nucor, then what do you do there? I mean, what is your job description I guess with Nucor? [CONFIRMATION]

JOHN KINTER: As the environmental manager I take care of all the environmental programs. Have a team of operators that also get involved in the process. We take care of our own potable water systems. We have our own wastewater treatment facility there. Our own baghouse dust collection system that pulls the dust off of the melt shop and basically cleans the air before it's discharged. [CONFIRMATION]

SENATOR LOUDEN: Pretty near, in other words you take care of nearly all your environmental quality problems then, and do you have any problems up there? I mean, is this an ongoing problem all the time or are you able to pretty well not do nothing and go fishing once in a while? (Laughter) [CONFIRMATION]

JOHN KINTER: Why, we wouldn't consider those problems. We consider that part of doing business and part of doing business is being in compliance with all the rules and regulations that the state of Nebraska and the EPA have. I feel Nucor does a good job of that. We are a EPA performance track member. We just got involved in that program last year that recognizes companies such as Nucor who agree to go above and beyond just maintaining compliance, being ISO certified. I don't know if you guys are familiar with ISO certifications or not but we are a ISO 14,000 certified company as well. [CONFIRMATION]

SENATOR LOUDEN: Are they owned by another company someplace or they...is that it, Nucor, right there, is that... [CONFIRMATION]

JOHN KINTER: We're a part of Nucor Corporation. We're what Nucor would call a Bar Mill. There's 18 steel mills within Nucor Corporation. We are Bar Mill but Nucor is...has also other product divisions. There's a Volcraft facility across town from us that does joists. There's also a coal finish plant that takes our steel and further processes it. [CONFIRMATION]

SENATOR LOUDEN: What...do you bring in scrap metal and melt it down or what do you make your stuff out of? [CONFIRMATION]

JOHN KINTER: Yes, we do. We're what one would call an EAF or an electric arc furnace

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shop so we melt 96 percent of our material is recycled scrap. [CONFIRMATION]

SENATOR LOUDEN: Okay. I've never been up there to visit and I was quite interested. I'd like to go up sometime but what do you do with your...how do you store your scrap metal? What do you do with it? Have a big pile of scrap metal and... [CONFIRMATION]

JOHN KINTER: Correct. We get it in by rail and by truck. We store the majority of our scrap outside. We do have a scrap bay where we store the steel that's actually going into the furnaces. Last year we melted just over a million tons of steel. [CONFIRMATION]

SENATOR LOUDEN: Okay, then. What I'm leading up to, my next question is how do you keep the varmints out of that scrap steel? (Laughter) [CONFIRMATION]

JOHN KINTER: A good contractor for pest control. [CONFIRMATION]

SENATOR LOUDEN: (Laugh) And that takes care of it? [CONFIRMATION]

JOHN KINTER: Right. The majority of the scrap is steel so we haven't, seem to have much of a varmint problem so. [CONFIRMATION]

SENATOR LOUDEN: There's no food source in there so they don't bother it much? [CONFIRMATION]

JOHN KINTER: Not really. [CONFIRMATION]

SENATOR LOUDEN: Yeah. I just wondered if you have momma cats nesting in there or not? [CONFIRMATION]

JOHN KINTER: An occasional deer or raccoon every once in a while. [CONFIRMATION]

SENATOR LOUDEN: I see. Okay. Thank you. [CONFIRMATION]

JOHN KINTER: You're welcome. [CONFIRMATION]

SENATOR LOUDEN: Other questions? Senator Wallman. [CONFIRMATION]

SENATOR WALLMAN: Thank you, Senator Louden. Yes, you know, I haven't been through your steel mill, I'm sorry, but I've been through like caterpillar's and that. What do you do with your slag off of, or waste products off of there, melted, you burn all, I mean, melt scrap metal, right? [CONFIRMATION]

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JOHN KINTER: Right. Right. Our slag we consider a by-product and we have a contractor on site that markets that. Some of it's sold into the concrete business. Also, a lot of it gets sold for road aggregate mixed in with asphalt used as fill in various construction projects. [CONFIRMATION]

SENATOR WALLMAN: Thank you. [CONFIRMATION]

SENATOR LOUDEN: Senator Carlson. [CONFIRMATION]

SENATOR CARLSON: Senator Louden. John, you had two majors, environmental studies and water science and I'm not very well versed here. Tell me a little bit about what water science encompasses. [CONFIRMATION]

JOHN KINTER: It's a...well, it's in the biological systems engineering department within the University so a lot of it focused on...I took an irrigation management course, soil courses, took a couple of environmental law courses along with that encompasses a lot of different courses, you know, a vast array of different courses and you know, again the soils and air quality and water quality type classes. [CONFIRMATION]

SENATOR CARLSON: Okay. Thank you. [CONFIRMATION]

SENATOR LOUDEN: Other questions? Seeing none, thank you for your testimony, John. [CONFIRMATION]

JOHN KINTER: Thank you. [CONFIRMATION]

SENATOR LOUDEN: Are there those that wish to testify in favor of John Kinter for this appointment? Those who wish to testify against the appointment of John Kinter? Those testifying in neutral? Seeing none, I close the hearing then on the appointment of John Kinter. [LB1065]

SENATOR LOUDEN: With that we will start with, what bill you got started here? LB1065. [LB1065]

JODY GITTINS: Good afternoon, Chairman Louden, members of the Natural Resources Committee. My name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I'm committee counsel for the Natural Resources Committee introducing LB1065 on behalf of Senator Louden. LB1065 provides a process for the interconnection of qualified renewable energy generation facilities by distribution utility customers, customer-generators. For systems larger than 10 kilowatts the legislation allows for the recovery of unavoidable costs by the distribution utility, provides for fair compensation to the customer-generators for excess energy produced and ensures that the safety and reliability features are in place. For systems smaller than 10 kilowatts, the legislation provides for net metering. The act

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will require local electric distribution utilities to interconnect qualified renewable energy generation facilities to the system. A qualified facility uses solar, wind, biomass or hydropower as its energy source, is on property owned or controlled by the customer-generator, operates in parallel with the distribution system and is intended to offset all or a portion of the energy consumed on site and not for another location, and it meets the applicable safety and reliability standards established by the industry. For qualified generation larger than 10 kilowatts, local distribution utilities may create a customer generation rate class or classes and may establish a facilities charge to collect the costs for use of the distribution system that are not avoided by the distribution system. This charge is intended to prohibit a shift of distribution costs from a customer-generator to the other customers of the local distribution utility. The facilities charge shall be based on the cost of the service study and shall be non-discriminatory. Rate classes may be based on the size of the generation facility. Energy rates for the purchase or delivery of energy will not be less than the wholesale power supply rate. Energy will be metered at a one-to-one ratio until the meter reads zero. Excess generation will be compensated as a monetary credit based on the average wholesale power supply rate on a monthly bill. If the customer-generator uses more energy than they generate, the difference will be billed at the average wholesale power supply rate. All fixed costs are collected in the facilities charge. For qualified generation 10 kilowatts and smaller, the local distribution utility shall employ net metering. No special rate class is created and a facilities charge is not applied. The energy will be exchanged at a one-to-one ratio until the meter reads zero. Excess generation is compensated at a monetary credit not less than the average wholesale energy costs for the month of generation. Energy used for the distribution utility is billed at the retail rate for their rate class. Utilities may allow for net metering of larger qualified generation units and may compensate at a higher rate if they so choose. The meter is provided by the distribution utility. No facility charge is applied and the fixed costs are not paid for by the customer-generator so they cannot be shifted to other customers on the distribution system. An exception from Power Review approval is given for all sizes of qualified customer-generators. Again, reminding you that a qualified customer-generator is one who is using renewable energy. This bill was presented to Senator Louden by the Rural Electric Association and has support of the Nebraska Power Association. Folks after me can go into greater detail about how they arrived at this. This was a collaborative process over a period of several months since...well, actually before last session ended to try to come up with a system of net metering for the state of Nebraska that will get us started on the path to encourage renewables and have customer-generators that are allowed to then hook up to the local transmission system and if need be, to actually do net metering. So that if they are using less than they're producing, they will get credit for it. If they are using more, they will pay like every other customer pays for utility service. [LB1065]

SENATOR LOUDEN: Okay. Thank you, Jody. Let me mention for the record now that Senator Mark Christensen from Imperial has joined the committee and any questions for

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Jody? Senator Hudkins. [LB1065]

SENATOR HUDKINS: Thank you. Jody, on this sheet that you used for your intro, the next to the last paragraph, the bottom two lines, did you maybe misspeak? I'm assuming that what looks...I'll tell you what I think it is and then you can tell me if I'm wrong. For larger qualified generation units and they may be compensated at a higher rate, the meter is provided by the distribution utility. There's no facility charge applied and this is where I maybe misheard you. The fixed costs not paid for by the customer-generator will be shifted to other customers on this system, is that right? [LB1065]

JODY GITTINS: Senator, I believe that that is incorrect and its...and I've put the "not" in the wrong place. [LB1065]

SENATOR HUDKINS: So it should be that the fixed costs will not be shifted to other customers. [LB1065]

JODY GITTINS: On the larger facilities where we're talking about...rather than mess this up any more than I already have, I'm going to allow Kristen to explain how that works and if I've messed it up, I do apologize to the committee but it may, in fact, shift those costs to other customers if you're talking about a large system. [LB1065]

SENATOR HUDKINS: We'll find out later. Thank you. [LB1065]

SENATOR LOUDEN: Other questions for Jody? Thank you, Jody. Then I guess we're ready for the first testifier for LB1065. [LB1065]

KRISTEN GOTTSCHALK: (Exhibits 3 and 4) And I do have two handouts. One is my testimony because hopefully I'll make it through it but as you can tell, I sound a little more like Mickey Mouse than myself, and that way you can follow along. Chairman Louden and members of the Natural Resources Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association. Our association consists of 35 publicly owned rural distribution systems. We service about 400,000 meters over 80,000 miles of distribution line. I'm here to testify on behalf of my members as well as on behalf of the members of the Nebraska Power Association. The NPA represents all electric utilities in the state and I will be testifying in support of LB1065. Well, here we are again. First of all, I do want to thank Senator Louden for introducing LB1065 on behalf of my membership. The process leading up to LB1065 has definitely been a long one and each year, in my recollection that I've been at the Legislature, we have debated net metering or customer-generation in some form or another. And often we carry this debate into the interim. We did that this last interim and so we have discussed it thoroughly but I guess there's no harm in having one more discussion to make sure that

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we're all on the same page. The electric industry has supported legislation dealing with customer-generation interconnection over the past several years. And we've...our intent in bringing legislation before you now has been to facilitate a fair means of providing compensation to renewable generators without creating a significant cost shift to the other consumers of the distribution system. Last year we asked Senator Loudon to introduce LB579, which was a renewable customer-generator interconnection bill. That was not a net metering bill, was not intended to be. My members have always maintained that on principle, net metering creates a discriminatory rate that benefits one customer at the cost of other customers and frankly, that position really hasn't changed. LB1065 does include a limited net metering provision which we are going to support but it also retains the original provisions of LB579. Jody did a good job but I may go through this and that will help clarify some of the questions that Senator Hudkins had as well. LB579 did provide that opportunity for interconnection of qualified renewable electric generation facilities by our utility customers. It allows for the recovery of fixed costs or those unavoidable costs of the distribution utility and this would be done by creating a special rate class and creating a new facilities charge that will allow for the customer-generator to pay those costs. And I've also handed out to you an excerpt from the Renewable Energy Background and outlook for Nebraska Electric Consumers. It's a research document from the Nebraska Power Association and it does a really good job of outlining what those costs entail so I won't go through those for you because I know you all can read very well. And I should mention you were each provided with a full copy of that document earlier this session and it does a good job and there's a, actually a really nice analogy in there as well to owning a car and kind of compares this net metering proposal to the driving a car and the distribution system is compared to the roadways. Now the facilities charges, Jody mentioned before, is going to be based on a cost of service study. This is a study that the utilities do in order to set their rates and we have by mandate, our rates have to be fair and nondiscriminatory so it's a very long, important process to set those rates. In Nebraska when you look at those...well, and what that facility charge is essentially going to do through that cost of service study is it's going to divide out the energy cost, you know, which is basically an avoidable cost if somebody doesn't use it from those fixed costs or unavoidable costs. And if you look at our bills in Nebraska on average and everybody is going to be a little bit different, but the facilities charge would be about one-third of the cost of what your current electric bill is right now, the cost to use those fixed costs. The facilities charged though, I do want to point out because this does get confusing, it's not the same as what would be a minimum customer charge that you may have on your bill already. That minimum customer charge is here to cover the cost of billing you, whether or not you use or generate electricity either way and that charge is not affected by the legislation. The facilities charge is defined and it is different. Customer-generators, energy use, energy generation in this situation can then be measured using a single meter. The meter runs forward when the customer uses energy from the utility, and the meter runs backward when the customer is generating more energy than they use. In this model, the energy is being exchanged one-to-one during that time at the same value, and at the end of

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that monthly cycle if the customer uses more energy than they generated, we're going to bill them at the average wholesale power supply rate because we've already collected those fixed costs. We don't need to collect them. And then if they generate more, then we also pay back the energy at that same rate. And that's under the original provisions of LB1065 and it would actually apply in LB, or excuse me, the original provisions of LB579 and actually is going to apply to systems over 10 kilowatt hours in LB1065. For renewable customer-generation, 10 kilowatts and smaller, LB1065 will allow for net metering. And that's going to be the biggest change in LB1065 from LB579 is that inclusion. Net metering customer-generators, those customer-generators that meet the same qualifications that are 10 kilowatts and smaller will not be subject to that facilities charge. They will instead, they'll be interconnected under the same safety and reliability standards and they'll be metered in the same manner, exchanging energy at a one-to-one ratio. Except in this situation we are now looking at a level that's retail. But when the energy use is greater than the energy generated, they will be billed at the existing retail rate because we have not collected any facilities charges at all from them when the energy exchange is going back and forth. It kind of zeros everything out so we've collected nothing. So we're only going to collect those fixed costs when we bill them for their excess energy use at the retail rate. Now when they generate more energy than they use, excess generation will be paid out as a monetary credit at not less than the average wholesale energy rate for the month of generation. Credits are going to carry over month-to-month and at the end of the annual period, if there's any excess credits then those would be paid out with the final bills. That just kind of gives you an annual cycle so that the accountants can zero out their books at the end of the year. Now I should mention this really is a direct subsidy to the generator. When energy is exchanged at the one-to-one ratio in this model, the electric utility does not collect a good portion of those fixed costs and as a result, those fixed costs are going to be shared by the remaining customers on the distribution system. So your question before, Senator Hudkins, under net metering, regardless of the size, if a utility wants to allow for a larger size, yes, there will be a cost shift if you are net metering. Because of this subsidy that's involved, and we've got to keep in mind that, you know, the more systems there are, if there's just one or two, three or four, you're probably going to have limited impact on some of your consumers. But the more of those types of systems you put on the system, there's a greater chance of having a net, a negative effect and to avoid having that negative effect on the customers, LB1065 would set a limit of how many could be on the line and that limit is set at 1 percent of the average aggregate peak demand. If you have a question what that means, you might want to ask the guy that's going to come up after me because he's actually a utility person. A limit was not established for those generators, 10k and above, and that was done because if you are given the ability to collect those fixed costs, you're not going to have that shift and you're not going to need...you're going to be able to accommodate them on this system in whatever means you need to because you can collect those costs. If net metering were implemented, the initial cost shift burden might be small, again I mentioned this before, if only a limited number of customer-owned generators were in use but it's going

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to grow the larger numbers that are installed. Now the 10 kilowatt size limit for net metering was established for a number of reasons. Small 10k systems will require limited or no modification to the distribution system and since those costs for modifications would be the responsibility of the customer-generator, this would also limit their obligation and the costs for interconnection. Ten kW and smaller keeps the cost shift burden at a more reasonable level. I mean it still is going to happen. And even though consumers will pick up the difference, it should be manageable with this system cap in place. And also the 10 kilowatt limitation is supported by the analysis of utilities in that document that you were given when I started my testimony. Now while the electric utilities are supporting this new version of customer generation, I'll have to tell you that it's not going to be unanimous support. I imagine even there may be a member of mine that will also testify in opposition through a letter and that's because of the new net metering positions. There was unanimous support under the previous bill, LB579, before net metering would have been attached. Now there are some things that, changes that might occur that would cause us not to support the net metering provisions of this bill. One of those would be if the electric utility were required to cover all the costs of interconnection for renewable a customer-generator because if there are additional costs or if utility is allowing a greater size, those costs can be significant. Under 10 kW those costs can be managed. If there is any reduction in safety standards, this is something we feel very strongly about. The 10 kW of electricity can kill a lineman just as easily as a 345 line can. And if the change in payment for excess generation were to be escalated to the retail rate for net metering customers, that would also cause a lack of support. Also if the monetary credits, you'll notice we mentioned that on both sizes of generation the compensation would be monetary credits for the value of that energy at the time it was generated. And if you were to replace that with kilowatt hour credits and those kilowatt hour credits weren't used at a time when the value was the same, you can earn kilowatt hour credits at a time when energy rates are really low and then they can be turned in when energy kilowatt hour rates are really high and then you've also...that also creates an additional shift because the other consumers would have to pick up the difference. An increase in the net metering size would be difficult and the loss of proof of insurance. Now the Power Review Board did call me and they said they had a couple of, not concerns but changes they would like to see in the bill, and one of those changes is very simple. In fact Jody and I thought we caught all these to make sure that we didn't have 10 kW and below and 10 kW and above and then what really is 10 kW if you're right there in the middle. So on page 6, line 18, you would just need to strike out "at" and "or" from that line so that it makes the bill consistent and of course were completely agreeable to that. And the other thing that they mentioned was having the distribution systems provide a report annually to the Power Review Board on the number of net metering and customer-generators on our distribution systems and the impacts just so that it's something that they can monitor and we're agreeable to that as well. With that, I'll save you any more of my squeaky voice and if you have any questions, I'm happy to answer them. [LB1065]

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SENATOR LOUDEN: Questions for Kristen? Senator Wallman. [LB1065]

SENATOR WALLMAN: Thank you, Senator Louden. Thank you, Kristen, for testifying. I appreciate what you're trying to do here. Now if I was on a demand chart, would that affect that, you know, if I was a large utility user? [LB1065]

KRISTEN GOTTSCHALK: If you were a large utility user you're probably not going to fall under the... [LB1065]

SENATOR WALLMAN: I couldn't use a bigger generator, you wouldn't be interested in that under this plan? [LB1065]

KRISTEN GOTTSCHALK: Under the 10k and above, yeah. You wouldn't be net metered if you were over 10 kilowatts. You wouldn't be...I might let John Hoke may want to address that because he would see it from a slightly different angle from a utility manager's perspective. [LB1065]

SENATOR WALLMAN: Okay. Thank you. Thank you, Chairman. [LB1065]

SENATOR LOUDEN: Other questions? Senator Christensen. [LB1065]

SENATOR CHRISTENSEN: Thank you, Chairman Louden. Thank you, Kristen. Why...I guess I see two things here. Why wouldn't you...if somebody's happens to be staying under 10k which I don't know if it'd happen very often consistently, then why wouldn't you want to pay them more than once a year and I would think whenever you have a rate change you'd definitely want to? [LB1065]

KRISTEN GOTTSCHALK: Okay. They would be credited at the end of each month and that way if the following month if they use more energy than they've generated, then that would offset their energy use. [LB1065]

SENATOR CHRISTENSEN: Yeah, but is this a credit of dollars or credit of... [LB1065]

KRISTEN GOTTSCHALK: It's a monetary credit and then if there's excess... [LB1065]

SENATOR CHRISTENSEN: So in other words, rate change isn't an effect to it. If you have a...let's say you're generating in time of cheap electricity. [LB1065]

KRISTEN GOTTSCHALK: Right. [LB1065]

SENATOR CHRISTENSEN: Wintertime is more, is cheaper. Okay. If you use and make an extra 100 kilowatts and use that in a high time in the summer, customer's getting an extra break. But if you turn it in as dollars, then they're not. [LB1065]

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KRISTEN GOTTSCHALK: No, the monetary credit is on the bill so that would carry over so if that credit was continued to carry over until they were using more energy when the value of energy was higher, it would still offset that bill but the value would have been slightly less per kilowatt hour than it was then, but it's a monetary credit so if you've got a \$5 credit or a \$20 credit from December and then you use that in August, it's still a \$5 or \$20 credit. [LB1065]

SENATOR CHRISTENSEN: So in other words, it's based upon the rate at the time so they're really not being subsidized then because if I generate extra in a cheap time and I get cash at the cheaper price, then I use it in the summer when the rates are higher, I'm going to get less kilowatts for the same dollar so there's really not a subsidy there. [LB1065]

KRISTEN GOTTSCHALK: The subsidy occurs when you're to the point in between the point that you hit that zero, when the meter's running forward and backwards, you're actually exchanging energy at a one-to-one ratio. So for the time that you're using the distribution both to deliver and generate the energy, when you hit zero you pay no facilities charge whatsoever and that's the subsidy. [LB1065]

SENATOR CHRISTENSEN: Correct. I understand that one. I understand that one but I thought you had said earlier there was another one if they had excess... [LB1065]

KRISTEN GOTTSCHALK: It would be if you converted instead of using monetary credits. If you were to award them as kilowatt hour credits... [LB1065]

SENATOR CHRISTENSEN: Kilowatts, then there would be a subsidy. [LB1065]

KRISTEN GOTTSCHALK: Then it would be a subsidy. [LB1065]

SENATOR CHRISTENSEN: Okay. But this is a monetary one. [LB1065]

KRISTEN GOTTSCHALK: This is a monetary and that was...at the end of my testimony that would be one of those things we would object to is if the monetary credit were switched to a kilowatt hour. [LB1065]

SENATOR CHRISTENSEN: Okay, I just misunderstood when you read that. [LB1065]

KRISTEN GOTTSCHALK: Okay. [LB1065]

SENATOR CHRISTENSEN: Thank you. [LB1065]

SENATOR LOUDEN: Other questions? Senator Fischer. [LB1065]

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SENATOR FISCHER: Thank you, Chairman Loudon. Thank you, Ms. Gottschalk for being here today. I have some questions on the bill as it's set out here but also I'm just curious, how many customers do you think will take advantage of this? [LB1065]

KRISTEN GOTTSCHALK: Well, quite frankly, generation units at the customer level, the small generation units are quite expensive. And so, you know, it has to be somebody with a disposal income or you know, an overwhelming desire to, you know, generate their own electricity. We don't anticipate that the numbers will be high but as...at least at the onset but as technology increases obviously and there are more manufacturers, chances are those numbers could increase. [LB1065]

SENATOR FISCHER: Do you know what the cost is for the qualified generation unit? [LB1065]

KRISTEN GOTTSCHALK: Well, it's going to depend on the type of qualified generation unit and the cost... [LB1065]

SENATOR FISCHER: There are different types? [LB1065]

KRISTEN GOTTSCHALK: Oh, yeah. Well, it depends, are they doing hydro or are they doing solar or are they doing...but give you an example, I believe there was a system that was put up just south of town recently. There was a article in the Lincoln paper about it and it was a 10 kilowatt hour system put in for, I believe, the cost was around \$60,000 installed. I think that was all the costs involved. And somebody can correct me if I was wrong. That's what I remember from the article. [LB1065]

SENATOR FISCHER: Not counting then the cost of this unit, do you think people who would put these in plan to make any money on this net metering? [LB1065]

KRISTEN GOTTSCHALK: I think unfortunately there are some people that assume they are going to make money on a small generation unit. The capacity factor of these small systems are such that that would be very unlikely and also the intent of the legislation, you'll find that in all the states that do net metering, is that you're supposed to offset your own energy use. You're not supposed to look to go beyond that with net metering. [LB1065]

SENATOR FISCHER: On page 7 of the bill, lines 7, 8 and 9, the utility may require proof of liability insurance coverage. Why isn't that a shall and why isn't there a dollar amount on the coverage required? [LB1065]

KRISTEN GOTTSCHALK: Well, you've actually highlighted a rather big sticking point for when we had these discussions with the renewable folks. They actually don't like to

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have even the paragraph that we have in there, in there, feeling that the equipment is...comes with enough safety features that this is not necessary. Unfortunately, it is necessary from the standpoint of our systems and they wanted the ability to at least prove that there was insurance so my systems probably would all ask for proof of liability insurance. Dollar amounts listed, now those are my systems that are RUS, rural utility service borrowers. Well, one, they're going to be required to have insurance on the customer-generators that are any distributed generation. It doesn't matter whether it's renewable or other and I believe there are dollar amounts specified in the RUS legislation and that might be at a million dollar liability policy level. [LB1065]

SENATOR FISCHER: Would that be covered under the local utility then under their policies if they're going to require liability coverage or not and what dollar amount they would put on it or I'm thinking we need to require it in this statute or in this proposed bill. Would it cover it under a policy of a local utility? [LB1065]

KRISTEN GOTTSCHALK: Well, I guess it would be...it would be under the distributed generation agreement with a customer-generator. [LB1065]

SENATOR FISCHER: We've had discussions on the floor last year about liability on some other issues that citizens needed to even carry on them proof that they had liability coverage so I could, I could anticipate that this may be discussed on the floor and it may come out that it would be required. You wouldn't have any problem with that I take it? [LB1065]

KRISTEN GOTTSCHALK: We wouldn't object to that. [LB1065]

SENATOR FISCHER: Thank you. [LB1065]

KRISTEN GOTTSCHALK: Others might, but we would not object to that. [LB1065]

SENATOR LOUDEN: Other questions for Kristen? Seeing none, thank you for testifying. Welcome John, we get to see you annually. [LB1065]

JOHN HOKE: (Exhibit 5) Well, it feels like it, doesn't it. It's good to see you. (laughter) Good afternoon, senators. My name is John Hoke, J-o-h-n H-o-k-e and I want to thank you all for allowing me to testify today as a proponent for the LB1065. As you may recall, I'm the manager, general manager of Niobrara Valley Electric Membership Corporation. We are one of the few electric cooperatives in the state and I'm here today representing the Nebraska Rural Electric Association's 35 member-systems and that association represents about 400,000 meters, primarily rural in nature. The bill you have before you today is a culmination of many years of effort on behalf of the electric industry and the NREA Net Metering Task Force. Last year, Senator Louden brought together our industry and the representatives of the small renewable

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customer-generators to see if we could find a compromise that we could both accept. While we found some common ground, there was not enough time left in the session for our association to develop a consensus among our membership on the compromises brought forth at that time. The bill being considered today is in response to those discussions. This bill divides renewable generation into two classes, those under 10 kW and those above...10 kW and above. For larger systems than 10 kW, the bill remains unchanged from last year's LB579 introduced by Senator Louden. As you know, it's the industry's belief that rates should be cost based and fair to all rate payers. This philosophy has been condensed over the years by our industry to this simple statement. Those individuals that create a cost should pay that cost. And frankly, the portion of this bill for systems 10 kW and less breaks with that belief. And I would not be exaggerating to tell you that this philosophical change was debated at length amongst our members for the past year. So how did we come to make this change to our core philosophy? It's my belief that we did so for two reasons. First, as public power, we're owned by those we serve and we believe that where we can, we should try to accommodate the desires of our owners. Second, by capping the level of cross subsidy for systems, 10 kW and below, we keep the subsidization between customers at a minimum. While we cannot endorse true net metering, and this bill should not be viewed as that, we do want to accommodate the desires of those citizens of Nebraska who want to operate small renewable generation systems. Our cooperative has 2,597 miles of line and 5,236 meters. If you do the math, you can see that we have two paying meters per mile of distribution line and that's not unusual for rural electrics in the state. This compares to the 21 to 28 meters per mile in cities like Lincoln and Omaha. Generally in rural areas, unlike larger cities, many people have more than one meter. To buy power from our cooperative you must be a member and we have 2,705 members. So this means roughly, we have one paying customer supporting the cost of operating each mile of line owned by the cooperative. And that's typical for rural electric systems. Only one customer supporting each mile of line, it becomes very clear that a cap on small renewable generators receiving true net metering becomes critical. At the extreme, and all things being equal, if the renewable generator offsets all of their energy needs and only uses the electrical distribution system for backup, then we're asking 2,651 people to pay for 54 miles of line no longer being supported under net metering. I'm sure that if I were to ask those 2,651 people if they wanted to subsidize their neighbor's generation, the answer would not be a unanimous yes. I guess the reasons aren't important. Maybe they can't afford to, they might not have a passion for the environment or they may just not be neighborly. I don't know. But this is the crux of the issue for the industry. Should we ask everyone to support the few who can afford to generate renewable energy? Those in our association have said yes, as long as those few receive no additional subsidy. For systems 10 kW and below, there are no additional integration costs other than the electronic meter that accounts for energy flowing into and out of the generation site. Sites smaller than 10 kW are basically hobby systems. Sites larger than this become commercial generators requiring additional integration equipment and costs and need to be treated as such. We believe that if you're consistently going to generate

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more energy than you use, then you need to pay for the distribution system you're using, just like everyone else. This bill does just that. It creates a subsidy for small hobby generators and requires those who generate on a larger scale to pay for the costs that they create by using the electric distribution system. And that ends my testimony and I'll be happy to answer any questions that I'm able. [LB1065]

SENATOR LOUDEN: Questions for John? Senator Fischer. [LB1065]

SENATOR FISCHER: Thank you, Chairman Louden. Thank you, Mr. Hoke, for being here. [LB1065]

JOHN HOKE: Certainly. [LB1065]

SENATOR FISCHER: On...I don't know if you have a copy of the bill in front. [LB1065]

JOHN HOKE: I don't have a copy of the bill. [LB1065]

SENATOR FISCHER: Okay. In the bill on page 8 in section 6 for my fellow committee members, this deals with the policy. I'm wondering if you know of any of the utilities that have policies currently in place that deal with net metering. Are they following a federal policy or do they have their own policies in effect, do you know if any have that? [LB1065]

JOHN HOKE: As a matter...I can speak to our system and yes, we do and currently we do require a facilities charge on all systems. [LB1065]

SENATOR FISCHER: With that current policy, maybe we can discuss this among ourselves later, but the way I read that section is if the utility has a policy currently in effect that this bill then would not require them to change that policy. If that's...could you address that or would you rather not? [LB1065]

JOHN HOKE: We were just talking about that at lunch. (laughter) I'm glad you ask and correct me if I'm wrong, Kristen, but I believe that doesn't necessarily affect rural electrics, I think it means cities, is that correct Kristen? [LB1065]

KRISTEN GOTTSCHALK: Yes, it affects those that were required by PURPA to consider net metering. [LB1065]

JOHN HOKE: Okay. Yeah, okay, it affects those required by PURPA to...because it affects net metering, is that correct? [LB1065]

KRISTEN GOTTSCHALK: To consider net metering. [LB1065]

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JOHN HOKE: To consider net metering. So my understanding then...to answer your question, my understanding is if you have a current policy in place and were a rural, it wouldn't hold. [LB1065]

SENATOR FISCHER: Okay. At the end of the bill there's also another section, I see you have a copy in front of you now, page 9, lines 19, 20, 21, there's an addition there, number 4 to section 7. The way I read that, the board would not be required to approve that added sections. Your board wouldn't be required to approve the construction of a new or the interconnection of an existing qualified generation unit. Could you address that? [LB1065]

JOHN HOKE: That would be the Power Review Board and no, I can't. (laugh) [LB1065]

SENATOR FISCHER: That's referring to the Power Review Board? [LB1065]

JOHN HOKE: Yes. [LB1065]

SENATOR FISCHER: Okay. Thank you. [LB1065]

SENATOR LOUDEN: Other questions for John? Seeing none, thank you, John, for your testimony. [LB1065]

JOHN HOKE: Thank you. [LB1065]

SENATOR LOUDEN: Next testifier. Maybe I...could I have a show of hands of those wishing to testify on this bill? Okay, come forwards. Thank you. [LB1065]

CRAIG REINKE: (Exhibit 6) Good afternoon, senators. My name is Craig Reinke. C-r-a-i-g R-e-i-n-k-e and I'm here representing family farm partnership. We operate or have a farm in Kearney County, Nebraska. We farm 800 acres and I'm...I have a handout also, if I could. And I'm a contractor from Omaha, and with the family farm I am the representative for the family, and I support this bill but I would like to speak to the 10 kW provision. I think that needs to be greatly enhanced in order to take care of a farming operation or any operation including a house. I don't think anyone with 10k can get by living in a single family house with that amount of electricity. So I'm not sure anyone is going off grid with that and I think the assessment before that it's pretty much hobbyist that will be doing this, I'm not sure that promotes the intent of going green with our energy other than pacifying a few people. But what I want to testify to is that the house and shop requirements on our farm place takes about 20 kilowatts. The grain handling, we have 90,000 bushel of storage. It includes a batch dryer, elevator, unloading augers and aeration fans. It takes about 30 kW. We have five irrigation wells with five electric pivot sprinklers and the requirements for that is about 175 kW which comes to total of 225,000 kW. We...where we...our farm is, is approximately six miles

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east of Minden and I called the power company this morning. They said we're about as far from the substation as we could get. All we can run off of rural power is our house. We use...we have diesel engines on all the wells with generators that run the pivot sprinkler systems and we have...we use the irrigation wells then to power a generator that generates our elevator, our batch dryer, our unloading augers, all of our grain handling equipment. So I guess I would like to see some provision that gives an incentive for farmers to produce their own electricity if it's not available through a rural system and also if they want to just go green with their power. So that's all I have for the testimony. [LB1065]

SENATOR LOUDEN: Okay. Questions for Craig? Senator Fischer. [LB1065]

SENATOR FISCHER: Thank you, Chairman Louden. Thank you, Mr. Reinke. We appreciate you being here today. You said you...you're a farmer but then you said you're a contractor in Omaha. Do you live on your farm or do you live in Omaha? [LB1065]

CRAIG REINKE: I live in Omaha. [LB1065]

SENATOR FISCHER: Okay. You wanted to see this bill possibly increase from 10k to 20, is that correct, or at least 20? [LB1065]

CRAIG REINKE: No, it'd have to be far greater than that. [LB1065]

SENATOR FISCHER: How much does it cost for a 10k generator? We heard maybe \$60,000 before. Do you have any idea what the cost would be? [LB1065]

CRAIG REINKE: I don't have any idea on those. [LB1065]

SENATOR FISCHER: If you were going...are you considering, obviously it seems to me you're considering putting in a generator on your farm in order to produce energy, is that correct? [LB1065]

CRAIG REINKE: Correct. [LB1065]

SENATOR FISCHER: But you want to produce energy for the entire farm operation? [LB1065]

CRAIG REINKE: Well, I think if we did that the system would have to be oversized considerably, which means we're producing excessive amounts of electricity when we're not using it so. [LB1065]

SENATOR FISCHER: I guess I have...how many farmers do you think could afford a

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10k generator, let alone one that's going to be able to handle over 20? [LB1065]

CRAIG REINKE: Well, I'm not saying that an individual farmer necessarily needs to do this. [LB1065]

SENATOR FISCHER: Would you like, I guess I'm not understanding what you're saying then. [LB1065]

CRAIG REINKE: Well, with a community base... [LB1065]

SENATOR FISCHER: Do you want to set up your own cooperative to be in competition with public power then? [LB1065]

CRAIG REINKE: Well, I guess if you want to look at it that way but no, I don't necessarily want to be in competition with them but I would like to generate power on my own farm to run our farm. [LB1065]

SENATOR FISCHER: Do you think then that, I'm a rural public power customer, do you think that when you go above the 10k, then I would really be subsidizing you to use the lines that I'm paying for. Is that fair? [LB1065]

CRAIG REINKE: I guess it depends on whether we want to...the way I see it is, if a commercial wind generator can make money, a farmer should be able to, to help pay for the system. [LB1065]

SENATOR FISCHER: Do you know of any commercial wind generators in the state of Nebraska that aren't owned now by public power, therefore owned by all of us? I don't know of any in this state right now, do you? [LB1065]

CRAIG REINKE: Well, is the one in Ainsworth totally owned by a power company? [LB1065]

SENATOR FISCHER: Yes, it is. Thirty-six turbines by NPPD. [LB1065]

CRAIG REINKE: Okay. I guess I...the intent of the bill, I think, is good to get people involved in buying their own power. I'm just not sure that 10,000 or 10 kW is going to do anything for green power. Everyone's still going to stay on the grid. Everybody's still paying peak, peak dollar for their energy. They're still paying the minimums. I'm not sure that changes anything except appeases a few hobbyists that like the look of a wind charger on their farm. [LB1065]

SENATOR FISCHER: Okay. Thank you very much. [LB1065]

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SENATOR LOUDEN: Other questions? I have one. You say you're at the end of the line on single-phase, is that what you are? [LB1065]

CRAIG REINKE: Single-phase. [LB1065]

SENATOR LOUDEN: That's the reason you have to run everything off of diesel power and that sort of thing? [LB1065]

CRAIG REINKE: Correct. [LB1065]

SENATOR LOUDEN: How far are you from three-phase power? [LB1065]

CRAIG REINKE: We're five miles from the main transmission line. [LB1065]

SENATOR LOUDEN: Are there other people between you and there? [LB1065]

CRAIG REINKE: Yes, there is. [LB1065]

SENATOR LOUDEN: And how many, do you know off hand? [LB1065]

CRAIG REINKE: I don't know. [LB1065]

SENATOR LOUDEN: Do they irrigate or run machinery like that too? [LB1065]

CRAIG REINKE: Yes, they do. [LB1065]

SENATOR LOUDEN: Have you contacted the power company to see if there's enough load there to justify putting in three-phase line? [LB1065]

CRAIG REINKE: I have not. [LB1065]

SENATOR LOUDEN: That's what I was wondering because, I was going to say, you live further away from power than I do and I'm clear out in western Nebraska. And we have that same problem out there as people on single-phase line that want to do some of these ranches and stuff. But nonetheless, there's usually ways to work it out. If there's enough load out there to justify it, why they do it and sometimes you have to pony up some of the bucks yourself. And that's the reason I was wondering if you have thought about how much it would cost you to put in a, that size of a generation system compared to how much you would cost-share on a...you know, some of you get together and cost-share on a three-phase line. I was wondering if you'd done any pencil work on that or anything? [LB1065]

CRAIG REINKE: Well, I haven't but my interest has been in renewable energy so I'm

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not sure I want to put money toward a transmission line if my goal is to go toward renewable energy. [LB1065]

SENATOR LOUDEN: Yeah, of course you can go green energy now. There's nothing to stop you from it. [LB1065]

CRAIG REINKE: Right. [LB1065]

SENATOR LOUDEN: Okay. Yeah, this isn't designed to run a circle pivot. This is more or less designed to get some net metering started out so we can see how it's going to work. And probably in the future, why, if it works and there's more efficient generation, it'll probably be raised but this is the first step I guess, so. [LB1065]

CRAIG REINKE: Okay. [LB1065]

SENATOR LOUDEN: Other questions? Thank you for your testimony. [LB1065]

CRAIG REINKE: Thank you. [LB1065]

SENATOR LOUDEN: Next testifier, please. [LB1065]

WAYNE MCMURTRY: Wayne McMurtry from Bayard, Nebraska and it's M-c-M-u-r-t-r-y. What I...I live, I'm at rural Bayard and our utility bills run between three and four hundred dollars a month, the lawn, and so forth, you know how that goes. And my wife had mentioned to me that she was interested in finding out a way to offset our utilities and that was like a sick 'em to me because I like to do those sort of things. My field is plumbing, refrigeration and control work and so I researched the smaller units. I started out with like a 1,000 kW unit and those are toys. I do...first off, I want to say this bill is a good bill. Okay. And it has a lot of good things. It just needs just a couple things, improvements on it. A 10,000 kW unit will produce...they aren't as efficient as the large units, you know, our big towers and they run between 20 and 30 percent efficiency. So if we use a figure of say, 28 percent efficient kilowatts, that means it produces 28, I mean, I'm sorry, 28 percent efficient, that means it will produce 2.8 kilowatts per hour and at an hourly rate of 24 hours, 365 days a year, that's 24,528 kilowatts annually that that generator will generate. Okay. And at say using 8 cent per kilowatt figure, that comes out to be \$1,962 at the retail, if you have a 8 cent retail rate. If you take that as a monthly rate it is \$163, is what your return would be on a 10 kilowatt at 28 percent efficiency. Okay. Like I said, my bill runs between three and four hundred dollars. My proposal is to raise the minimum size where this net metering break is, up to, raise it up. According to Rich Levick, he's the manager of Crescent Electric which is in Scottsbluff, they're also statewide, most utilities are putting in 200 amp services. What that means, is the power going in that facility is 200 amps and 200 amps at 230 volts...bear with me just a moment. Okay, what that means is that we have 46,000 kilowatt, 46,000 watts

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which is 46 kilowatt hours that the panel is designed for but you have to derate that by 80 percent. I hope I'm not losing all of you here but I'm just trying to get some figures for you here. [LB1065]

SENATOR LOUDEN: Just keep a rolling. (Laughter) [LB1065]

WAYNE MCMURTRY: Okay. So what I'm saying is 37,500 kilowatts is what a panel is designed to operate on at maximum continuous. Okay. So for a power company to hook on, for us to...or an individual like myself to hook on to the grid, you could actually hook up with 37,000 kilowatts of electricity and the only thing that would have to be changed is the bi...you know the bidirectional meter. There won't be any additional cost to the utility because they're already set up with a 200 kilowatt, I mean 200 amp service or a service that's designed to run continuous at 37,500 kilowatts. Is everyone with me on that? Okay. [LB1065]

SENATOR LOUDEN: Yeah, are you ready for questions now or... [LB1065]

WAYNE MCMURTRY: I...just one, I think so. Just a second, one more thing. Yeah, I did also wanted you to also check a few sites, internet sites that has other states that have their minimums, you know, what their ratings are. And one is [USAAIR](#), or [USAWIND.com](#). It shows ratings for states and then also [dsireusa.org](#) and that's a really good site. And several places over the years have raised their rates, I mean, their minimums, so. Okay, any questions? [LB1065]

SENATOR LOUDEN: Okay. Questions for Wayne? Senator Carlson. [LB1065]

SENATOR CARLSON: Senator Louden. Wayne, if I'm following your example, you're calling for a retail rate to be paid. [LB1065]

WAYNE MCMURTRY: Retail rate paid up to on net metering on a larger scale. I'd like to see it...I actually have purchased 1,630 kilowatt units and they are on my property. They're going to be resold. One will be installed on my property and I have an agreement with Chimney Rock Public Power right now for one and it will be up and running in about 30 days. So I just wanted...what I'm after is to get that rate, you know, the minimum up to 30 to 35 kilowatts at least. [LB1065]

SENATOR CARLSON: And you have an agreement with them to pay retail? [LB1065]

WAYNE MCMURTRY: Chimney Rock. Yeah, net metering up to...what my agreement with Chimney Rock is, is they will net meter and then if there is any credit they're going...they're on a monthly rate. It's not going to be a yearly. I like the yearly thing better where you accumulate credits for a year because like March is a windy month, August isn't. [LB1065]

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SENATOR CARLSON: Thank you. [LB1065]

WAYNE MCMURTRY: And they're requiring insurance. [LB1065]

SENATOR LOUDEN: Other questions for Wayne? Senator Hudkins. [LB1065]

SENATOR HUDKINS: Mr. McMurtry, I was interested when you said your light bill is three to four hundred dollars a month. Do you operate irrigation on that, then? [LB1065]

WAYNE MCMURTRY: No, I do not. We have a large lawn and then we also have a shop building that we work out of and then our hobby pond so, and that pond takes about...hot tubs and things like that so. [LB1065]

SENATOR HUDKINS: Okay. That explains it then. Thank you. [LB1065]

SENATOR LOUDEN: Senator Fischer. [LB1065]

SENATOR FISCHER: Thank you, Chairman Louden. Mr. McMurtry you called the 10 kilowatt generators toys. Do you know how much those toys cost? [LB1065]

WAYNE MCMURTRY: They, if you would buy a unit, say, that was made in China, which would be...these are DC units... [LB1065]

SENATOR FISCHER: With no lead in them. [LB1065]

WAYNE MCMURTRY: Right. (Laughter) These are DC units. They run about \$20,000 and then you have to buy a converter which is another \$5,000. That is for, that's a 20,000. They're about \$15,000 and \$5,000 so about \$20,000. [LB1065]

SENATOR FISCHER: And just ballpark figures, what would then the 30 kilowatt unit cost? [LB1065]

WAYNE MCMURTRY: I will...to resell these installed they'll will be about \$40,000 but these are used units. [LB1065]

SENATOR FISCHER: Okay. Thank you. [LB1065]

WAYNE MCMURTRY: Thank you. [LB1065]

SENATOR LOUDEN: Question I have, Wayne, I don't think there's anything in this bill that stops you from making your own negotiating with the power company if you want to generate all you want, is there? [LB1065]

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WAYNE MCMURTRY: No, there isn't. But I just want to....because if I...to resell these I just want to have a statute there, you know, that we have something that's fixed. I'm glad that it's being done, that there's going to be something in writing. You know, right now, it's just kind of in the air. [LB1065]

SENATOR LOUDEN: But actually this is the more or less a floor put on the thing or a starting point but if you want to negotiate, there's nothing to stop you from negotiating. [LB1065]

WAYNE MCMURTRY: Right. That's true. [LB1065]

SENATOR LOUDEN: Yeah. And then you, whatever price they wanted to do or however much you wanted to generate or however you wanted to do it, you know, whatever they wanted to pay for that extra power because the Eldred Ranch nearly 30 years ago put in wind generation down there, you know, and that was before anybody even thought about it. Now we just negotiated with Panhandle REA and then went from there. I guess the other comment I'd have is, gee whiz, I'd settle for \$300 electric bill each month. [LB1065]

WAYNE MCMURTRY: You would, I know you would. [LB1065]

SENATOR LOUDEN: So I have no problem with that. (laugh) Other questions for Wayne? Thank you for your testimony. [LB1065]

WAYNE MCMURTRY: Thank you. [LB1065]

SENATOR LOUDEN: Next testifier. Is there some more testifiers for this? If they would sit up here in one of the chairs up here please, so we work along a little bit, otherwise I'll have to start shutting you down to the amount of time you can testify. [LB1065]

MICHAEL SHONKA: (Exhibit 7) Good afternoon. My name is Michael Shonka, that's M-i-c-h-a-e-l S-h-o-n-k-a. I'm actually a solar dealer of sorts. It's only a part-time job but yet I'm the only one listed in the yellow pages in Omaha so you can see that (laugh) not terribly busy. The industry is pretty much flat. I do have a prepared testimony. I thought I would just read from this point and then take whatever questions you have. Good afternoon. Thank you for the opportunity to address the committee on this very important topic of net metering. I have a three-part presentation about this. First, my background and then secondly, what our current circumstances is as I see it, as someone involved in the solar industry and finally, I'd like to project a little bit about the image of the future, what we can do with renewable energy in Nebraska. I started working in solar in 1983. I was fresh out of college. I could envision a solar collector on every rooftop. (laugh) The solar industry was similar to the space race a decade before.

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We were making leapfrog advances in technology and applications. The consumer benefited from advancements in products such as electronic setback thermostats because of the temperature tolerances in the solar industry were plus or minus one degree. Most of those mercury bulbs are plus or minus like five and it didn't work for solar. So the solar electric also paved the way for entire new product lines such as inverters and the low power, low voltage appliances. The solar industry in Nebraska had hundreds of full-time and part-time people employed during that time. They were in cities as well as small towns. I was president of the Nebraska Solar Energy Industries Association. After the tax credit expired in 1986, the industry dwindled. Today, I'm the only one in Omaha. I do believe that the net metering bills under consideration by this committee today can bring back those jobs and also stimulate our economy. Before I get to the future, let's take a look at the present. Presently most renewable power projects, particularly those solar electric systems for residential and commercial use are negative ROI. There is no return on investment. This means that no homeowner or business owner can make an economic investment in private capital of generational power in the state of Nebraska. This also means that there can be no job creation for the industry and finally, this means status quo of a balkanized power grid stifling innovation. This is very similar to the telephone industry many years ago when divestiture, prior to divestiture we were forbidden to connect anything such as even an answering machine to your phone line because it might damage the network. Please understand, I believe Nebraska is blessed with a rich tradition of public power policy that no other state has. I am an advocate of our public power infrastructure. Much of our state economic development can be attributed to the low cost of power but we can do more then with these net metering bills and this is a very important start. I believe that the Nebraska's public power infrastructure can lead an innovation throughout the country and we just have to move that mindset to that direction. The real life example I'd like to give to you today is that my own solar electric system on my house was installed in 1999 and sold last year. I never had it connected to the grid and I could not benefit from the investment other than an independent or power backup source for my furnace. The reason for this is that I could not connect my system to the grid in a manner that made economic sense. This is what the bill addresses today which is very important. Installing additional meter and transfer switch by a licensed electrical contractor under the supervision of an on-site power engineer increased the cost to well over \$2,000 at the time. The additional cost would have added 20 percent to my total investment. The payback at the going rate of 2 cents a kilowatt just made this unacceptable. What does the future look like for Nebraska with net metering? I'd like to predict that there will be a whole new industry spawned that reaches very deep into our economy. We could create funding mechanisms similar to public power does now for renewable projects. We could offer private investment a place to put their money for a stable rate of return. Landowners have new sources of rental income for wind farms, thus diversifying our agricultural economy. We could also create a new municipal district heating system as an extension of this investment. Our towns in Nebraska are very compact and it's really easy to move steam around. You could create for the large commercial buildings, you

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could create these district heating systems which is...also uses the same financing mechanisms. All these projects can flow because we start with net metering. I see a future that has public power infrastructure leading the way. We need an outreach program to educate the public, train professional installers and coordinate infrastructure. Towns and cities form power generation cooperatives where proceeds are invested back into the community. The buying power of the utility would be tremendously beneficial to homeowners wanting solar electric on their residences. The power company could purchase this equipment and then the installations would be done by contractors they have trained. There are model programs blossoming all over the country that Nebraska can collaborate with. Today our job at hand is to vote for a future to increase the jobs in Nebraska and the opportunities. I think the net metering bill is a start in that direction. Thank you. [LB1065]

SENATOR LOUDEN: Questions for Michael? I have one. You're...you do solar, solar panels, that sort of thing? [LB1065]

MICHAEL SHONKA: Yes. [LB1065]

SENATOR LOUDEN: When you put those on your house, how much do they put out? I mean, where are they compared to a 10 kW? [LB1065]

MICHAEL SHONKA: Way at the bottom. (laugh) Now, there's two... [LB1065]

SENATOR LOUDEN: No, I mean how much power do they put out? [LB1065]

MICHAEL SHONKA: Correct. As you said earlier, hobbyist, I would say something similar to that. However, I don't necessarily agree with it. The system I put on was 800 watts. It's not even 1 kW. It cost me about \$5,500 at the time plus installation so adding more on to it wasn't feasible to. I wouldn't get any payback at 2 cents a kilowatt so I didn't connect. [LB1065]

SENATOR LOUDEN: Are they any more efficient now than they were, when you...what do you say 1999? [LB1065]

MICHAEL SHONKA: A little bit more efficient, yes. Some of the equipment there's incremental efficiencies that are going on. There are things on the horizon that I think will bring the efficiency costs down. Countries such as Germany, France, Spain and also Japan have put in tax credits and they've actually outsold global production of solar electric systems so we really do have opportunities as mass market is accepted. The 10k limit I can see in residential as being a little bit tight. A lot of homes need more than 10k, particularly the larger ones and the people that could afford solar. [LB1065]

SENATOR LOUDEN: How big of a panel does it take for a 10k? [LB1065]

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MICHAEL SHONKA: Ten k systems, let's say the top of this desk is like 100 watts so you would need... [LB1065]

SENATOR LOUDEN: Ten times that? [LB1065]

MICHAEL SHONKA: You need a hundred panels. Yeah. [LB1065]

SENATOR LOUDEN: Okay. Then that would have to be probably one about 15 foot square? [LB1065]

MICHAEL SHONKA: Yeah. [LB1065]

SENATOR LOUDEN: I mean, do you know how many square feet it takes or how many square...how many watts per square foot or anything like that? [LB1065]

MICHAEL SHONKA: Right. The numbers are various but I'd say if it was 10 square feet per hundred watts then it's a 1,000 square feet, you know, for... [LB1065]

SENATOR LOUDEN: A thousand square feet. [LB1065]

MICHAEL SHONKA: Yeah. [LB1065]

SENATOR LOUDEN: Okay. And then, I guess you're probably familiar with down there in Missouri, what is it, Busch, whoever it is that runs the beer outfit that has that farm out there that he's trying to run the whole thing on solar panels and I've wondered if you were familiar with that. [LB1065]

MICHAEL SHONKA: There's numerous and large scale installations right now. What we have at the opportunity today for large scale commercial installations for solar and similar to wind is that there's some tax credits that are available that make these things actually cash flow. [LB1065]

SENATOR LOUDEN: Okay. Yeah, but I mean, we've got to figure this out without doing tax credits because they won't happen in all the time and then the next thing is, you got to make some money in order to get your tax credit. [LB1065]

MICHAEL SHONKA: Very wise. [LB1065]

SENATOR LOUDEN: What I'm wondering is, with your 10 kW solar panel, how much would one of those cost if you're talking about 1,000 square foot solar panel? [LB1065]

MICHAEL SHONKA: Yeah, yeah. Let's see, it probably look at...it could be a \$30,000

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plus system, yes. [LB1065]

SENATOR LOUDEN: Okay. So in other words, right now, as far as solar energy is concerned, this bill is well in the ballpark for anything that they want to do. [LB1065]

MICHAEL SHONKA: It's helpful. It's very helpful. For most homes, I'd say this is a good start. This is a great start. For larger scale operations like I heard earlier regarding agriculture, I think you need an exception there because you're going to run into these cases and this...I think this is a learning curve as you had expressed earlier. Try it at 10k. See where the policies and things go with the power companies and how it works. [LB1065]

SENATOR LOUDEN: See out in the ranch country I'm a little bit more familiar with solar panels because we're using them quite a lot to run, oh, pumps in places way out where you can't, where the fellow says he's on a single-phase line, we have places where they won't even put in a single-phase line. So they are coming about with solar panels and we're operating some smaller equipment with solar panels and that's the reason I was wondering what one that would get in under here would cost so it isn't a lot of homeowners that are going to buy that big of a solar panel. If they're going to buy a solar panel, it's going to be mostly to run, either run their furnace or run some... [LB1065]

MICHAEL SHONKA: Some lights or small appliances. [LB1065]

SENATOR LOUDEN: Some light because they can't use it when they come home and I watch television because the sun isn't shining. [LB1065]

MICHAEL SHONKA: Actually, yeah, you have a battery system that's connected. [LB1065]

SENATOR LOUDEN: If you have the battery but then your cost increase considerably then doesn't it? [LB1065]

MICHAEL SHONKA: That was my system. I had a battery backup so that in case I did lose power I'd be able to maintain. So that was my type of system. The grid intertie systems don't have the batteries as you said, so that's correct. It would be a direct use system in that case. [LB1065]

SENATOR LOUDEN: Okay. Other questions for Michael? Seeing none, thank you for your testimony. [LB1065]

MICHAEL SHONKA: Thank you, sir. [LB1065]

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SENATOR LOUDEN: Next testifier. [LB1065]

STEVE EVEANS: (Exhibit 8) Good afternoon. My name is Steve Eveans. E-v-e-a-n-s. I'm president of SEArch, selective energy alternatives, renewables, concepts and horizons. We're a consulting firm. We're currently working with two of the C-bed organizations in Nebraska on the development of a utility size wind farms. But the exception to the rule in working with the ranchers and farmers that we're currently working with, is each individual that's involved with our wind farms, our utility scale wind farms, has expressed an interest in obtaining energy through renewables directly to their farm. The utility scale wind farms do not allow for that type of offtake into their system. So in effect, we need to be able to provide that energy in another subsystem. And I've provided you with a list of things that we're talking about, similar things to a couple of the farm and rural operators that you've heard previously. From our groups we have a rancher that has three irrigation circles for feed production and that accommodates 600 to 1,200 head of cattle on his ranch and that requires 500 kW to run and operate those three irrigation circles. A grain farm in Cass County has 25,000 bushels of grain storage, all electric heating and cooling in the house, hot water heating for the house and the barn, electric grain drying, that requires 50 kW. Farm or ranch grain drying in general requires 20 kW for every 25,000 bushels of grain. The dairy with 200 cows and feed operation, 500 kW. Dairy with 3,500 cows, this is in an area of one of our wind farms out west, enclosed feed and milking parlor, cold storage, automated feed bunks, sanitation and waste treatment, 750 kilowatts. Alternative ag pharmaceutical company in a...it's a typical tenant in a alternative ag industrial park we're looking at, that's 200 kW per tenant and then we have five industrial lots that we're looking at, at 1 megawatt. In relationship to ag and eco-tourism that the state is looking at very heavily, and the governor's looking at very heavily, we have a seasonal recreational lake near Ericson, Nebraska, 20 homes and cabins, recreational lake with the potential for low head hydro capability along with several co-generation wind and low head hydro concepts dispersed along the Cedar River. We also are looking at load shedding concepts within the larger public power district at OPPD. New traditional living subdivision and an existing city neighborhood to look at the possibility of load shedding which requires a net metering concept. The loads in each one of those subdivisions are approaching 500 kW. We would like to see this, the ceiling of 10 kW adjusted and we would be in favor of the bill. [LB1065]

SENATOR LOUDEN: Okay. Thank you. And we was having so much fun that I failed to notice that Senator Dubas from Fullerton joined us here, the committee, a while ago, so welcome, Senator Dubas. Questions for Steve? Seeing none, thank you for your testimony, Steve. [LB1065]

STEVE EVEANS: Thank you. [LB1065]

SENATOR LOUDEN: Next. [LB1065]

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MATT LATHROP: Good afternoon, members of the committee, Senator Loudon. My name is Matt Lathrop, L-a-t-h-r-o-p. I am an attorney from Omaha, Nebraska, and I'm here representing the Nebraska Association of Trial Attorneys. I am going to kind of sound out of place here. We aren't really here to talk about the electrical system or the hooking in. There is a provision found, it's section 3, subsection 7, in this bill which is...provides for immunities and as the committee may know, NATA likes to appear and talk about those when they present themselves. Essentially, there are a couple of areas. The immunity provision in this bill is NATA, by NATA standards isn't as bad as most that we see. However, it does provide for an immunity to the utility and as you read that paragraph, you'll see further down that one of the concerns in the bill is that problems could arise to the level of injury to property and death. Anytime we see immunities we're always concerned what the problem is we're trying to immunize people from. So we are in principle against immunities, the...in the particular bill that we're talking about the concern we have is the utility may decide to allow someone to hook into the grid and there are provisions in here for a qualified generation unit but it doesn't...there isn't anything to tell me as another person on the grid or a person in that neighborhood whether this human being that's attached to the grid is a reliable person. And the concern is that this person once patched in may modify or improperly maintain or do something with that generation unit that could cause problems to property or could cause injury or death. And so the allowance of someone to hook into the grid, while controlled by the utility, there aren't any safeguards here for what kind of screening we have of those people. And that's just as an example. I'm not using that as a focus of our objection. So the problem with an immunity that says if we allow anybody to hook into the grid as long as the machine they're hooking in is reliable or certified, it doesn't tell me anything about who those people are and what problems may develop later because of tinkering with them. And I know these are expensive machines, but these are also, if you're talking about hobbyists, hobbyists can't keep their hands off of their hobby. So that's a concern that we have. There's no reliability guarantee of a customer-generator. Also there's the modifier in this bill at line...page 7, line 6, that talks about including death or to any third party or to the local distribution utility or to the customer-generator. It's just a little unclear what that's modifying. If it's modifying the customer-generator or if it's a modification directed at the utility. There is a balance here between an immunity for the utility but it doesn't extend to the customer-generator. That's what the law already says so to another extent there really isn't any need for this immunity. If common law says that Matt Lathrop, running any enterprise, is negligent, his neighbor isn't negligent for that act unless the neighbor participates in the negligence. So the immunity provisions itself is a little redundant as to what common law says. And then finally, Senator Fischer, you brought up a great point and I was going to speak to it too, and that is the provision for the distribution utility requiring insurance. We certainly think that should be a "shall" and not a "may." Whether or not a utility feels comfortable allowing someone to hook on without insurance, we, the trial lawyers just aren't comfortable with anything other than mandating insurance for liability

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on that. With that, that concludes my testimony. I'd be happy to answer any questions. [LB1065]

SENATOR LOUDEN: Thank you, Matt. Lathrop. Do I recognize that? You got relatives around here? [LB1065]

MATT LATHROP: I've got one that hangs out down here a little bit, yeah. [LB1065]

SENATOR LOUDEN: Okay. Well, we won't hold that against you, so don't worry about it. [LB1065]

MATT LATHROP: You're very kind. You're very kind. [LB1065]

SENATOR LOUDEN: Questions for Matt? Senator Fischer. [LB1065]

SENATOR FISCHER: Thank you, Chairman Louden. Thank you, Mr. Lathrop. I almost insulted you. I'm sorry. (Laughter) [LB1065]

MATT LATHROP: It happens a lot in my house. [LB1065]

SENATOR FISCHER: You mentioned about the reliability of the customer-generator. Is there anything we can do with this bill that would alleviate some of your concerns about who's going to be hooking on? I have a problem with who's going to be hooking on, and I don't want the public power to be held liable for some of these people that may be hooking on. So I may disagree with you on the immunity part of that. Is there any way we can control who's hooking on by having them have to take classes, a course including the liability, things like that? Because we're all customers. We all own public power, which means you guys are going to sue all of us and yourself if that ever happens. So how can we control that better or is there a way we can control it? [LB1065]

MATT LATHROP: You know, that's a great question, and I get...it boils down to the human element, and the human element is a variable in everything that everybody does everyday. And so the concern we have is that we're immunizing against what is naturally the human element. Nobody goes out...given the benefit of the doubt in what I do, nobody goes out to try and hurt someone else. It's a moment of inadvertence. It's the cell phone call while you're doing the critical task. So I can't see that there's a way to say, you know, if we give them a class, that would suffice for the immunity, or if we said you have to have so many hours of training. I don't know if that gets rid of the human element, because it's the human element. It's the thing we don't expect. So it isn't that we're not, the trial lawyers aren't flexible on the idea; we're always willing to sit down and talk about it. But it's the people who take the class who aren't going to be the negligent ones. It's the people who get the training that usually are... [LB1065]

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SENATOR FISCHER: Do you support this concept then? Do you think as a public power state we should even open ourselves up to possible litigation due to net metering, hooking on to transmission systems, things like that? [LB1065]

MATT LATHROP: When the...I'll tell you, when the trial lawyers, when we reviewed this bill, we have no position on the hooking into the grid or net metering or anything like that. We don't...you know, my personal opinions don't matter here because I'm here for the trial lawyers... [LB1065]

SENATOR FISCHER: Well, how do we protect ourselves then? [LB1065]

MATT LATHROP: From the trial lawyers? (Laughter) [LB1065]

SENATOR FISCHER: Can we do that? [LB1065]

MATT LATHROP: Right. That's a different hearing. [LB1065]

SENATOR FISCHER: Okay. Yeah, that's a long, long discussion. [LB1065]

MATT LATHROP: Right. [LB1065]

SENATOR FISCHER: But, no, how are we going to protect ourselves, seriously, as a state, because it is public power? [LB1065]

MATT LATHROP: Yeah. Absolutely. [LB1065]

SENATOR FISCHER: Should we even be looking at this since we're public power? [LB1065]

MATT LATHROP: Well, that's a great question. Let me offer this as an answer. That whether we allow people, individuals to hook into the public power system, is just a policy question. And with every policy question there comes liability, where there is liability to the utilities right now for everything that they do. So I don't think we change the equation by letting private people hook in. It's just a matter, just like we have line workers who have good days and bad days and there is no way the utilities can control that; we're going to have people who privately hook in that are going to have good days or bad days, and we can't control that. So I don't think...I don't see, from reading this bill when we sat down and talked about it, I don't see the risk to the utilities either going up or going down by doing this, the risk of a problem. It's just...the concern we have is, if the risk is the same, why do we need immunity now that we didn't have before? [LB1065]

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SENATOR FISCHER: And you would recommend that the customer-generators shall have liability insurance? [LB1065]

MATT LATHROP: We certainly feel that way. [LB1065]

SENATOR FISCHER: Would you set an amount? Suggest an amount at that or let it be the policy of the individual utility? How would you handle that? Would you put it in this bill? [LB1065]

MATT LATHROP: Well, I guess...I hear someone mention a million-dollar policy, and in my line of business that...you know, when I started practicing that was a lot of money, and... [LB1065]

SENATOR FISCHER: But that doesn't even cover your costs now. [LB1065]

MATT LATHROP: Well, only a third of it. Right. The problem is that, you know, we're dealing with electricity, and the injuries that come out of electrical injuries, and a million dollars for someone who has lost the use of their legs because of something like that, that doesn't get there. But, no, I think that's a policy decision that the insurance industry could probably talk about. [LB1065]

SENATOR FISCHER: Okay. Thank you very much. [LB1065]

MATT LATHROP: You bet. I'm sorry. [LB1065]

SENATOR LOUDEN: Senator Carlson. [LB1065]

SENATOR CARLSON: Senator Louden. Matt, I think it's clearing up a little bit, but are you testifying for or against or neutral? [LB1065]

MATT LATHROP: Well, as long as the immunity provision is in the bill, we are opposed to it. But the substance of the bill itself, we don't really have an opinion on. In other words, the 10 kilowatt-hour issue and net metering, that isn't our objection to the legislation. The objection to the legislation comes from the immunity provision. [LB1065]

SENATOR CARLSON: Okay. Thank you. [LB1065]

MATT LATHROP: You bet. [LB1065]

SENATOR LOUDEN: Other questions? Senator Christensen. [LB1065]

SENATOR CHRISTENSEN: Chairman Louden, thank you. Thank you, Matt. What would you recommend for personal liability insurance now? I agree with you. A million

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doesn't seem to be a lot anymore. What would be common? Three? Five? What?  
[LB1065]

MATT LATHROP: Those are...I mean we even look at the medical malpractice liability limit that the state has, and it is a \$1.75 million limit on all damages. And I think if you ask any lawyer who does medical malpractice, they think that's way too little. If...and maybe three or four times that amount is something where if the state is going to say, if there's an accident with electricity and someone has horrible injuries that affect not just him but his family, we don't want that person to become a burden on the state through the Medicare system, than certainly much more than even the medical malpractice limit of \$1.75 million, you're talking numbers at or above what you just mentioned. [LB1065]

SENATOR CHRISTENSEN: Because, you know, I agree with you. I carry a high level of liability insurance that's not overly expensive. So that's why I didn't know if the number was typically getting to be 10 now, or 20 or where? I just... [LB1065]

MATT LATHROP: Yeah. I would say, even in my car, I've got, like you said, the first \$100,000 is the expensive stuff, and after that the millions come a lot cheaper. I think that probably it would be good for an insurance actuary to tell you, here's what happens when people are injured by electrical accidents, because it's different. You know, a car accident may have different actuarial numbers than electrical accidents. [LB1065]

SENATOR CHRISTENSEN: Okay. Thank you. [LB1065]

SENATOR LOUDEN: Other questions? The only question I would have, Matt, is liability insurance doesn't just cause injury, because up there a few years back, you know, they nearly burnt the whole country up and nearly burnt up the town of Thedford because of... [LB1065]

MATT LATHROP: You're exactly right. [LB1065]

SENATOR LOUDEN: ...of a short in a electrical pole there. So that got to be real big money. And if it would have took Thedford, why, it might have got bigger money, so. [LB1065]

MATT LATHROP: Sure. Those train fires that are started by trains sometimes, take out entire crops. [LB1065]

SENATOR LOUDEN: Oh, don't talk about trains and fires. I live along a railroad track. Thank you anyway. Thank you for your testimony. [LB1065]

MATT LATHROP: Yeah, sorry, but you bet. Thank you. [LB1065]

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SENATOR LOUDEN: The next testifier please. [LB1065]

RITA CORELL: Hello. My name is Rita Corell, R-i-t-a, the last name is C-o-r-e-l-l. I am from Omaha, Nebraska, and I'm just speaking as a regular public citizen. I don't have any particular format. I started learning about this stuff last summer, becoming interested in renewables, and really came to understand what net metering and net billing was for a meeting Mr. David Tobias at his farm outside of Pilger, Nebraska. There is a letter that LaVern Raabe sent you earlier (See Exhibit 12) that is talking about his farm. And he has a 10 kilowatt generator and he says that they are generating 76 percent of the power requirements for their farm from this. And when I saw one of Mr. Tobias's bills, like what he got back on that billing versus net metering, he was losing a significant amount of money for the money that he put into his wind generator. So it's obvious that we need net metering. And I'm for this bill because I really think I would like to have it. As someone speaking from a city position, if I don't have the space to have the batteries stored to have them properly vented to the outside, that's an added expense, the batteries themselves, as well as the space for it. If I chose to do that, which if I were to put something on my home now, I would have to do it or I get no money for the money that I generated. There is no incentive for me to try to help support the system or to invest in renewable energy. And I don't like that as it stands now, and as it has stood for almost, I don't...apparently 20 years or so you've been trying to work on getting net metering. So I hope that something really constructive does come out of this session because I think it's time. And there are a lot of people who would be interested, not in large scale, not necessarily hobbyists, but just as a little supplemental, if nothing else, just to say I support the environment, I support being green. And right now, the way the law exists, there is nothing to support us in doing so. So I appreciate you putting this bill together to get that started. There is something that the first lady who spoke said something about net metering is a discriminatory rate, that it benefits one customer over another. And I beg to disagree with that. That customer has invested their time, their energy, and their resources into putting that in. This is a public utilities state. We have the fifth lowest rates in the nation, and I appreciate that. I do not understand why the public utilities are so hesitant in working with net metering to this point, or willing to let people invest in it. I understand about the cost and the rate distribution down the line a little bit more from listening to this today. There are problems with that or factors to be discussed, but I would urge you to consider going beyond 10 kilowatt, as Mr. Tobias's farm is stating. He is already at his 10k with the turbine he's got. What I have learned is that sometimes using a hybrid energy use, like using solar and wind together. When it's windy it's not sunny; when it's sunny it's not windy. So if you can hybridize this together, you can get a more consistent energy use process. And this is not an on-demand energy source, like nuclear or oil or any of that, you know, natural gas. But it is something that we could be using, and using very positively. Another thing I'd like to point out in another city that was done, and it worked with utility companies where they helped set up solar panels on homes, and they gave the homeowners batteries for backup. And one of the concerns with OPPD is the peak use

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on the grid, and they're trying to get people to be more efficient at this point, to be able to cut that service down on the line. In this community, they had a group of houses where when there was peak use on the grid, the houses went off grid and used the energy stored from batteries to run their facilities, so that they took their use that they were having off the grid at peak times. So there are some very creative solutions that could come from having net metering. And I would urge you to consider a higher limit on that, is what I'm hearing today from the farm community. And I am also not sure about that liability insurance. Again, I'm not as informed as I wish I were in this moment, but what I've read online is that that's rarely needed because you have special shutoff, when you set up an inverted it's got a shutoff switch on it, that if the grid goes down, there's a failure in the grid, the system shuts down. No power is put back in. It's automatic. And OPPD, when I have looked into it just tentatively, there was a 60-page service general manual. You need to be an engineer to be able to read it. And you have to work with the utility company to be able to hook it into the grid. So I kind of doubt that hobbyists would be going out and trying to do this on their own, that it would be overseen by a qualified engineer and installed that way. And I thank you for having this hearing today and for putting this bill together, and putting something that might actually be able to be put into effect. It would be a great relief and long overdue for our state. [LB1065]

SENATOR LOUDEN: Okay. Questions for Ms. Corell? Seeing none, thank you for your testimony. The next testifier. [LB1065]

TIM TEXEL: Senator Louden, members of the committee, my name is Tim Texel, T-i-m, the last name is T-e-x-e-l, and I'm the executive director and general counsel for the Nebraska Power Review Board. As I believe you know, we are the entity, the state agency in Nebraska with primary jurisdiction over Nebraska's electric power suppliers. My board authorized me today to testify in a neutral capacity just on a couple of technical comments. This bill, and I believe Kristen Gottschalk brought that up already, one was the potential discrepancy on page 6, and she mentioned that so I'll leave that in the record that I discussed with her. And the other was the reporting requirements that we were thinking would be of assistance. Senator Louden, you mentioned this bill might help see where things are going and be a starting point. And to facilitate that, my board was thinking it would be good for us to be a central repository that when somebody interconnects we could just keep a file so we know perhaps the size, location, and fuel type. You know, we just need those three things. That was if the Legislature or the governor's office, the Energy office, anybody needs that information, we would have it at your disposal, and we really don't have that now. Because I get a lot of those types of requests at the board from other states, other regulators, to see how our system is going, and I have to contact dozens and perhaps 100 utilities in the state to try and acquire the information. It would be a lot easier if there is something in there saying they could just report it to us. We're not particularly worried about the mechanism. It can be a letter or a form or something like that, as long as we get the information. And Senator

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Fischer had a question about the Power Review Board exemption. I don't know what that was, so with that, that concludes my testimony. I would be glad to address any questions you have. [LB1065]

SENATOR LOUDEN: Okay. The first question I have, are you testifying as a proponent or a neutral? [LB1065]

TIM TEXEL: Neutral. [LB1065]

SENATOR LOUDEN: Okay. [LB1065]

TIM TEXEL: And I'm sorry, I didn't know if there were any more proponents or... [LB1065]

SENATOR LOUDEN: Well, we hadn't got to the opponents yet. [LB1065]

TIM TEXEL: I'm sorry. I apologize. I didn't realize if we were doing that and I was out of turn. I am sorry for that. [LB1065]

SENATOR LOUDEN: Okay. We'll do neutral right now right quick then. Any questions for Tim? [LB1065]

TIM TEXEL: And I apologize, Senator. I was out of turn. I didn't realize that it had progressed that way. Sorry about that. [LB1065]

SENATOR LOUDEN: Oh, we're liberal here. (Laughter) Thank you for your testimony. Next proponent. Seeing none, next opponent. Is there anyone testifying in opposition to this bill? How many opponents do we have? Two and this one is three. Okay. [LB1065]

SCOTT YAHNKE: Good afternoon, Senator Louden and senators. My name is Scott Yahnke, that's Y-a-h-n-k-e. I live in Omaha, Nebraska; retired school teacher of 33 years from OPS. I'm a realtor, work with CBS Home in Omaha, Nebraska, and I've lived in Omaha and Nebraska my whole life. I'm very proud of that and like to share that with anyone, especially the out-of-towners. I have some relatives down in Phoenix that like to call me and tell me how nice it is down there, and then they never call when it's 110 degrees, but I call them because it's 60 up here. Anyway, I'm here...I would characterize myself as in opposition to this bill, but not in opposition to sustainable renewable energy, wise use of resources, making use of what we have available as Nebraskans in terms of resources, but more so in favor of Senator Preister's previous bill, LB581 in its amended nature. And I have some specific items that I want to address and perhaps compare this bill a little bit to that bill from my sense of understanding. I don't consider myself an expert in any regard, but as a realtor my current work in new construction is focused on applying better building practices to the homebuilding industry in terms of

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sustainability and energy efficiency. I've seen too many homes that are less than ten years and less than five years old that are...we have rotting window sills and fungus growing through the siding and things like that. They look great for the one-year period that the builder is in compliance with Nebraska state law, and after that they start falling down. So I like to make an effort in my career as a realtor to address those with not just a builder, but through a development plan with a group of builders, and push things forward that way. So that's the perspective I'm coming to you here from today, and in that light I have been consulting with a developer in the Omaha area who has a development proposed to a quarter section, 160 acres that's called Latham, and he hasn't asked me to come down here today and he only knew that I was coming down because I told him yesterday when we met...we meet every once in awhile to visit about our common interest in sustainable and energy-efficient construction. And he's got this new urbanism project, or a TND, traditional neighborhood development plan out in northwest of the city of Omaha, but it's within the city zoning limits and planning board and so on, requirements, and whatnot. But for his specific area, I contacted him originally because I wanted to see him think about doing geothermal and wind generation for some of the energy needs out at that development. There are extensive common areas and so on, and he does have...he has a high situation out there that I know it's pretty windy around there a lot in northwest Omaha. I'm not too far from that area and I think we could get it coming in at a pretty good rating. I don't know if it would be Class 3, which is what I understand is probably a good minimum level to have for what we would want to do, and at that, just a preliminary, quick study, and not anything scientific or money spent on it, but it looks like we would be looking at needing at least a megawatt out there, if not more. And it looks like the transmission line we would be connected to would apparently be the one that comes down from the nuclear plant up in Fort Calhoun, which is about a mile away from where his development is planned. So it looks like the cost to install and connect is going to be at least \$2 million to do that. And my concerns about the provisions of LB1065 is that I want to address the environmental impact of many small generators dotting the landscape and how we define pollution. Now, I sound conflicted, and I am somewhat in my advocacy for wise use of resources and more sustainable practices and energy-efficient practices in the homebuilding industry. I recycle, I compost, I am really serious about my commitment to these things. But if any of us are from the Sandhills or ranch country and we recall how the countryside, how the landscape started looking when we put in our cell towers, all of the sudden it's different. Being from Omaha and riding my bike across Nebraska in the BRAN rides and so on, several times, that's the country I love to get out into, get away from all that stuff. We have to look at our trade-offs, and I suppose the safety factor and the communication factor using cell phones and cellular communication outweighs the landscape appearance. However, when we consider the fact that the city of Omaha is pretty happy with the string of pearls or the lights that run from Eppley Airfield to downtown Omaha along Abbott Drive, which was about a million dollars worth of investment there and a grant from the, I believe the Kiewit Foundation, the lights, a local astronomer wrote a letter to the Public Pulse in the Omaha World-Herald, and

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mentioned that maybe they could have been designed so they wouldn't have thrown light up into the sky; it is light pollution. Well, and he got condemned by a few writers that responded and who just didn't understand why he didn't like those beautiful lights along Abbott Drive. So we have a lot of...we're looking at this energy issue, and it's not just net metering but, you know, all kinds of ways to look at it, and we're really kind of in the...we probably are more in a neophyte stage here the way I'm looking at it. I just like to have us consider and I appreciate if the committee would consider the way you define pollution. I remember going to school at UNL when my political science professor brought to our attention that the smell from feedlots is one form of pollution, not much less what comes off them. And now we're looking at the full in the face with our large-scale operations and whatnot. I also think that the elements of Senator Preister's LB581 address the need to develop a comprehensive plan for renewable energy in Nebraska, more so than LB1065 does. I believe that the development that I mentioned up in northwest Omaha that is proposed and how we might be approaching that and dealing with that, I'm concerned that under LB1065 there is a chance that we may end up incurring more...if we do that we may end up incurring more of the public utility's costs which could have a discouraging effect on implementing this kind of renewable energy without having the elements of LB581 in its place. And again, that's my understanding, and I may be...I'm certainly not as knowledgeable as members of this committee would be on that, and I stand corrected if I'm wrong about any of that. LB1065 appears to politicize the process of implementing renewable energy compared to provisions of LB581 due to its...the way we install...look at the installation and safety standards and using National Electric Code and UL standards. I prefer that myself over having elected boards give a yea or nay over something. I think in that light, LB581 seems to stand a little bit higher on that platform than LB1065. I would like you to carefully weigh all of the trade-offs in your considerations with LB1065. I'd like you also to look closely at the buy-back rate for excess or out-of-season generation. I believe the numbers should be higher for that. I think it should be at least half, and not the way it is, maybe a third or between a quarter and a third or less than a quarter, depending on the utility. At this point I'm going to end my remarks and I'll take any questions. [LB1065]

SENATOR LOUDEN: Any questions for Scott? Seeing none, thank you for your testimony, Scott. [LB1065]

SCOTT YAHNKE: Thank you very much. [LB1065]

SENATOR LOUDEN: The next testifier. [LB1065]

DAVE DINGMAN: (Exhibit 9) I also have some information to pass around. Thank you very much, members of the committee, thank you very much for hearing my testimony and for your efforts in looking over net metering and other legislations throughout the years. My name is Dave Dingman. I am director of education and outreach, as well as project manager, with SWT Energy Inc. We are an alternative energy systems

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contractor stationed here in Lincoln. [LB1065]

SENATOR LOUDEN: Can you spell your name for us? [LB1065]

DAVE DINGMAN: Sure; I'm sorry. My first name is D-a-v-e, the last name D-i-n-g-m-a-n. The National Energy Policy of the United States, as outlined by President Bush, promotes the interests of energy security, energy independence, and the elimination of our dependence on foreign sources of oil. However, too often, these concepts are misrepresented, which creates a schism of understanding between our leadership and the public. At the national level, policymakers equate energy security with the process of securing control over existing energy inputs such as foreign sources of oil. At the national level, the idea of energy independence is equated to further development of clean coal and nuclear power sources with the idea of renewable energy sources becoming marginalized by a focus at the megawatt-scale. Furthermore, the notion of reducing dependence on foreign oil is equated with expanding exploration and drilling operations in our beloved national parks, wildlife reserves, and our already overburdened oceans. At the state level, Nebraska is also concerned about these national issues. However, perhaps the most pressing local issues are represented in the ideas of sustainable economic development for our rural communities, as well as for the urban centers in the east. However, too often these concepts are also misrepresented, creating a schism of understanding among Nebraska's citizens, businesses, and leaders. At the state level, energy security and independence, as well as renewable energy, are equated with a haphazard expansion of biofuel markets for Nebraska's agricultural products or large megawatt wind projects. While these pursuits will continue to play an important role in Nebraska's energy and economic future, they will also come with a cost. In accordance with National Energy Policy and under the threat of global climate change and rising energy costs, every citizen has a right to become a customer-generator of their own electricity and other energy needs. This right is protected under the Bill of Rights, which gives our citizens the right to life, liberty, and the pursuit of happiness. Moreover, allowing our local customer-generators a fair and equal opportunity at energy security and energy independence is intrinsically necessary for the effective implementation and pursuit by the state of sustainable economic development. With this in mind, I strongly urge the Natural Resources Committee to consider adopting LB581 instead of LB1065. Simply put, both legislations offer similar definitions and considerations for rights, roles, and policies of customer-generators and the local utility. For example, both legislations offer monthly credit rollovers with an annual payoff to the customer-generator at a rate of 1:1 for energy produced and consumed, while respecting the business aspect of the utility by offering credit rates at the wholesale price at the time credit is given. However, the difference between the two legislations are significant and will impact the state greatly in our pursuits of energy security, independence, and sustainable economic development. Specifically, LB1065 is limited in its ambiguous language and the system parameters it sets forth for customer-generators, which under Section 2(4) of LB1065, the system capacity is set at

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10 kW for net metering. This will do absolutely no good for the state's pursuit of sustainable economic development by limiting the ability of both private producers, as well as corporate producers, to adapt key business innovations and will continue Nebraska's lagging effort in the fight of its people to combat global climate change and protect themselves from rising energy costs and lowering energy resources. Meanwhile, LB581 is not limited in its use of specific language and the system parameters it sets for customer-generators. Under Section 2(3) of LB581, customer-generators are specifically defined as residential, commercial, industrial, nonprofit, school, utility agricultural, institutional, local government, state government, and federal government customers. Moreover, under Section 3(a) of LB581...actually I will scratch this. I was just told it's 65 megawatts and not 2 kilowatts. I misread, but that still stands. So what do these numbers mean? I'd like to take a look at two different scenarios, both at the 10 kW level and I'll go ahead and revise that 2 mW application to the 65 to make it applicable to LB581. At the 10 kilowatt application, a homeowner, a farmer, and a small business owner would like to install a renewable energy system in their home or office. Under both LB1065 and LB581, these customer-generators would be able to provide all their own electrical needs in a given month, for the most part. The math is as follows, basic math, that is. The average U.S. home consumes about 1,500 to 2,000 kilowatts a month. A 10 kilowatt-rated wind, photovoltaic, or hybrid system will produce, on average, 2,000-2,400 kilowatts per month, thereby generating a modest excess supply deliverable back to the local utility. However, the implications of this are not as positive as it may seem. Limiting system capacity to 10 kilowatts will not allow for any sense of a margin to expand a home or office that is already consuming near its productivity. This may be good at saving the utility money in the short term, but it is not good for the consumer or the notion of expanding business opportunities in the state. In the end, this is also not good for the utility, as national mandates will continue to be passed down from Congress as the national energy picture becomes increasingly tumultuous. Scenario 2, a large multinational corporation is seeking to build a manufacturing or warehousing operation as part of the I-80 Corridor Project or Antelope Valley Project, or a large property management firm would like to install systems on each unit of its properties. Under LB1065, neither of these entities will be able to provide all of their electrical needs and expect any net metering, nor will they have any incentive to do so outside of their own volition, to which, let's be honest. Renewable energy systems and greenbuilding are essential to the future development of our city, our state, and our country, and corporations are saving millions in energy costs and carbon credits which only promote a strong, healthy local economy. However, under LB581, these entities would be able to provide for their own energy needs as well as having an incentive to do so, which as previously discussed is key to any business looking to build in Nebraska's prime central location. We can even make a more recognizably concrete scenario. The difference in language and system size means the difference in allowing Yia Yia's Pizza downtown to install a wind turbine or a solar panel system versus allowing Kawasaki to install a renewable energy system. As a conclusion, it's imperative the committee chose to reject LB1065 as it is written, as it does nothing to improve the quality of life or

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economics in Nebraska. Rather, it limits our capacity for growth on all levels. It is not in anyone's best interest, even the utilities in the long term. Indeed, it would be better to have no legislation at all. LB581 provides a solid platform for future growth of Nebraska according to its other policy goals, such as sustainable economic development and energy security. I believe, and I am certain it will become more evidence with time, which is time we do not have, that the ability to become a customer-generator is a right guaranteed to every citizen and business entity by the Constitution of the United States. Therein, it is imperative that this right is protected by fair and balanced net-metering legislation that considers the respective individual interests as well as the overall long-term goals. It is important for the committee to know that there are already local mechanisms for advancing the application and education of renewable energy systems in the state, such as SWT Energy. It is time to empower the people with the tools necessary to become energy independent and all-around good stewards of the good life we enjoy in Nebraska. It's good for the planet, it's good for the nation, it's good for the state, and it's good for the people that we represent. [LB1065]

SENATOR LOUDEN: Questions for Dave? Senator Fischer. [LB1065]

SENATOR FISCHER: Thank you, Chairman Louden. Thank you, Mr. Dingman, for being here today. I can tell you are very passionate about this issue, and I do appreciate that but I'm not following your logic on a lot of this. [LB1065]

DAVE DINGMAN: Okay. [LB1065]

SENATOR FISCHER: If...it seems as though your passion is for renewable energies. It's for what's good for the planet, good for the nation, good for the state, and good for the people. It's that we move ahead and become more efficient. How does net metering tie into all that? As Senator Louden brought up earlier, individuals can enter into contracts. We heard from a gentleman earlier who entered into a contract with a utility on his own, not looking for an incentive. And if these truly are your goals, as I believe they are that you stated, why is it so important to you to be able to have net metering so that, I'll be crass here, so that you can make some money off of it? [LB1065]

DAVE DINGMAN: We're not looking to make money off of it. I'm looking to make...if you're referring to SWT's... [LB1065]

SENATOR FISCHER: No. No, I'm not referring to that specifically. I'm referring to anyone who wants to do the net metering. You can do your renewable energy on your own right now. Why are you looking, first of all, for incentives from government? But that's not this bill. This bill is dealing with net metering. Why are you looking for net metering if your goal is to protect the planet, to make us more energy efficient? Because you can do that right now. Why the net metering? [LB1065]

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DAVE DINGMAN: In terms of net metering, it's a very important piece of the puzzle. When we are looking at just people in general, or businesses or organizations that are looking to get into renewable energy, that is the only...I don't believe it's an incentive at all. Net metering is simply something, a fair and balanced element to any sort of energy policy. You're not going to make money on renewable energy. The key to net metering is that on the consumer level, on the business level, at the customer-generator level, you should never have to pay for renewable energy after your initial investment. You become the producer. [LB1065]

SENATOR FISCHER: But what about those people who can't make that initial investment? What about the people, even on a 10 kilowatt who can't afford a generator for \$15,000 or a generator for \$60,000, but yet they're subsidizing you even under this bill if you happen to be able to afford that generator unit? People who struggle to pay their monthly energy bills are subsidizing people on net metering. I am troubled by that. [LB1065]

DAVE DINGMAN: That's a different discussion than net metering. That comes down to subsidies for renewable energy, and net metering isn't one. [LB1065]

SENATOR FISCHER: But that comes into net metering, sir. I beg to differ. [LB1065]

DAVE DINGMAN: And with the net metering, I would like to raise the ceiling from the 10 kilowatt, at least to the 65 kilowatts. [LB1065]

SENATOR FISCHER: My argument to you then would be that it would even burden those of us who can't afford a generator because the price goes up the higher your kilowatts become, and it burdens us then with subsidizing the concept of net metering. And I am troubled by that, but thank you. [LB1065]

DAVE DINGMAN: Okay. [LB1065]

SENATOR LOUDEN: Other questions? Senator Carlson. [LB1065]

SENATOR CARLSON: Senator Louden. Mr. Dingman, help me understand the statement that the ability to become a customer-generator is a right guaranteed to every citizen. [LB1065]

DAVE DINGMAN: I think that the ability to produce your own energy falls under the category of life and liberty and a pursuit to happiness. You have the right to create your own energy to live; you have the right to create your own energy to be free; and you have the right to create your own energy in a green way that makes you happy with the way you interact with your environment. That, I don't have any sort of legal precedence. I'm not a trial lawyer. That's an opinion and that's where that comes from. [LB1065]

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SENATOR CARLSON: Okay. And I may be missing something, but I would agree with Senator Fischer. I think you can do that. I don't see...I'm troubled with the right, then, to be guaranteed to sell that back, to sell your excess back. I agree with your right to become a customer-generator. I struggle with the right to sell it back for a given price. [LB1065]

DAVE DINGMAN: Well, I think the right to sell it back as a customer-generator on an individual level kind of...we might be misrepresenting the term "right" in this moment. However, when you look at the national energy picture, right now energy utilities are being mandated to get 15 percent of their energy from renewable resources. As making the doorway open for customer-generators to do so as a public power state means that our public power utility can pay our public power owners for what they generate at the same level as they would their already other utility company partners, if that makes sense. [LB1065]

SENATOR CARLSON: Okay. Thank you. [LB1065]

DAVE DINGMAN: You're welcome. [LB1065]

SENATOR LOUDEN: Senator Dubas. [LB1065]

SENATOR DUBAS: Thank you, Senator Louden. How would you or anyone in your business capacity operate differently if we had a net metering policy? [LB1065]

DAVE DINGMAN: We've had a 200 percent increase in interest of alternative energy systems over the past two months. Whether that's through Web site hits or walk-ins or e-mails, whatever. And it really comes down to the fact that the customer-generator bears the burden up-front of any size system that they buy. And so they want to find ways of ensuring that they're going to be able to save money, at least. You know, you're not looking for payback. That's kind of a myth I would like to dispel. There is no other thing that you do for a home improvement that you even consider payback for. It's a somewhat ridiculous argument that people make. So for net metering, that's just the one way to help ordinary people that cannot afford a generator to make money back. You're not making money, you're saving money over the long term. And so that is what...just one mechanism that we see would allow, you know, for our customers that come to us that can't afford to pay \$40,000 for a 10 kilowatt system, installed. You know, if they see that over 20 years that \$40,000 is going to be paid for, that's good enough for them, and that's where net metering comes to play when you're a customer-generator, and that's where it comes to play for us as a business, who are simply trying to do what's right for the environment and right for the public, as they come to us. [LB1065]

SENATOR DUBAS: Thank you. [LB1065]

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DAVE DINGMAN: You're welcome. [LB1065]

SENATOR LOUDEN: Other questions? I have one, Dave, and first of all, on your net metering, I guess you would say that electricity is a saleable commodity. Is that correct? [LB1065]

DAVE DINGMAN: Yeah, yeah. [LB1065]

SENATOR LOUDEN: Now, if everybody has got one of these, whether you have an 80 kilowatt or a 10 or a 5 or whatever, but there are certain times that everybody in a given area, is if it's a wind machine, is going to be able to generate their power. If it's solar they'll probably be the same thing because the sun will probably all shine about that time and the wind will all blow at that time. Now, when they're doing that, perhaps that power isn't worth much because everybody else is generating it all over the United States. In other words, the price of that commodity, if everybody has got some the price of a commodity isn't worth much. So consequently, if you wanted to have one with an 80 or a 50 or whatever, should there be a different price? Should that power be figured, the cost of that power, hourly as you generate it, rather than credits at the end of the month and used at the end of the year, and that sort of thing? I mean, you're talking about generating power now. We're getting into the power generation business. [LB1065]

DAVE DINGMAN: Right, right, right. [LB1065]

SENATOR LOUDEN: If you're going to be in the generation business, then you're going to have go out on the market just like everybody else. [LB1065]

DAVE DINGMAN: Right. [LB1065]

SENATOR LOUDEN: When nobody has some, it's worth something. But can you generate power when nobody else has some? [LB1065]

DAVE DINGMAN: Generally speaking, yeah. There are different types of systems that would apply to net metering. You have the straight grid tie and you also have a two-way which would allow you to be producing when the grid goes down. [LB1065]

SENATOR LOUDEN: Well, yeah, I understand that. I'm talking about different times when you're producing it. What would the...? How should you figure the price of that power because it's a saleable commodity but it isn't going to be the same price all the time. [LB1065]

DAVE DINGMAN: Right. And I think the most fair way to do that is to credit it at the wholesale for any excess at the time...at the price of the time that the credit is given, if

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that answers your question. [LB1065]

SENATOR LOUDEN: Now, are we talking about on an hourly basis, have it on a clock, and then whatever you generated at a certain time, if you were generating it on a windy afternoon and everybody else was generating power and it was only worth about a cent a kilowatt, then that's all you get paid? [LB1065]

DAVE DINGMAN: I would leave that up to the utilities, and I would welcome a sort of ability to sit in with them and discuss that with them. I'm not completely familiar on the economics of that sort of thing, so. [LB1065]

SENATOR LOUDEN: Okay. Thank you. [LB1065]

DAVE DINGMAN: You're welcome. [LB1065]

SENATOR LOUDEN: Other questions for Dave? Seeing none, thank you for your testimony. [LB1065]

ROBERT BYRNES: (Exhibit 10) Good afternoon, Chairman Louden and members of the Natural Resources Committee. It's a pleasure to be here today. As a small...I'm handing out just a copy of my mostly-read testimony today for backup. My name is Robert Byrnes, spelled B-y-r-n-e-s, R-o-b-e-r-t. And as a small renewable electricity producer in the state of Nebraska and a renewable energy developer and advocate, I speak for many Nebraskans who want to see an increase in the renewable energy component of our state's electrical grid. A fair net metering program is a very small component of this goal, yet it has become a hotly contested issue which needs to be properly and expediently concluded. I would also be glad to answer any technical questions that the committee may have, and I'll just touch on a couple that have come up. Grid intertie systems can provide backup power if the grid is down and using both the new technology capacitance systems as well as traditional storage batteries. On the solar power, you're looking at about 15 watts per square foot. Wind turbines have been around for a long time. The models that I use and others use are fully matured. The opportunity for those things to decrease in price is pretty miniscule. Qualified generator equipment costs, renewable energy equipment costs, and I concur with earlier statements that there is no money to be made in this, but the biomass generation units using liquid fuel, like biodiesel, which I utilize, can be anywhere from 50 cents a watt and up. Wind generation equipment can vary from \$2 to \$5 a watt, installed. And solar panel...solar electricity varies from \$8 to \$10 a watt, installed. I come before the committee today to oppose advancing LB1065 over LB581. LB1065 represents another in a series of attempts by the public power lobby to containerize and burden the opportunities Nebraskans have to generate renewable electricity from the wealth of natural resources we have been blessed with. As a result of this situation, I have been receiving an increasing number of requests for citizens wanting to generate their own

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power outside of the public power system, which I also currently do. Nebraskans and I have visited many times, and many are discouraged and angry by our state's inability to enact a fair net metering program. Many citizens involved with this effort have become disaffected by the situation and have thrown up their hands, saying things will never change. This committee has a tremendous opportunity to foster this change by advancing LB581 over LB1065. As I have often stated, net metering is not about just small wind. It is renewable electricity. This green power can be generated from numerous other sources we have in abundance other than wind. All of the technologies that are utilized to produce this renewable electricity result in the growth of the renewable component of our power grid by its citizen-owners using our available and diverse resources. The proposed 10 kW limit within LB1065 would cripple many possible applications of these diverse technologies. The public power lobby continues to view net metering as a nuisance issue that requires the state's largest lobby to perform damage control. This may be because net metering is also about decentralized production of renewable energy. I think the ice storms of the past have clearly showed the value of producing decentralized power, yet little has been done to rectify our weakness in this area. One of the weakness of the centralized power model is the transmission system which has to transport this power over these long distances. Fair net metering would provide distributed inputs to a strained grid, making it more robust. Islanding of these units could enable folks to stay in their homes with their own power instead of having to leave the farm and move to town during an outage. The incurred costs associated with integrating this power into the grid have been characterized as excessive and a subsidy by the utility lobby, yet their own numbers have shown these costs to be insignificant. The characterization of this cost shift as discriminatory, I believe, is oversimplistic and overstated. This year's version of utility-sponsored net metering actually includes the term net metering which is, as you say, a good start, but LB1065 introduces several new concepts to the discussion which will have to be defined and discussed. Among these are the existence of the authority of the governing board, which is, today, I'm hearing the Power Review Board to approve PURPA connections is mentioned in this bill. I am not sure of the existence of this authority to regulate PURPA connections. The 69 kV access limit is a new and puzzling limit. Also the 1 percent cap within each district needs to be quantified for each district. This provision will lead to the least opportunity where the applications are most available and the most individual power is consumed, on the farm. Extensive burdens in the form of inspections, insurances, certifications, testing, switches, and facility charges abound in LB1065. Please remember that nobody has ever been hurt by a wind tower putting power into an empty grid. It has not ever happened. Nebraska will not accept these burdens on the floor, in my opinion. LB1065 will take a lot of time during a short session and I do not believe will get completed this year. I do agree that the monetary credits on a monthly basis, annualized at the end of the year, is a good way to go. I have heard...you know, I teach...I have the opportunity to lead Cub Scouts in Oakland, Nebraska, and we talk about our state seal and the different elements within our state seal, and the state motto is equality before the law. And what I'm hearing is that we have a limit but then we still

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have this one can negotiate this and this one can negotiate this, and we have different options. And it seems like the legislation would result in inequalities and potentially discrimination as applied across the state. In summary, I characterize LB1065 as tolerating small amounts of renewable energy inputs to a state grid sorely in need of these same inputs, while LB581 promotes it. I oppose LB1065 and encourage the committee to advance fair net metering as embodied in LB581. And with that I'll take any questions. [LB1065]

SENATOR LOUDEN: Questions for Mr. Byrnes? Senator Hudkins. [LB1065]

SENATOR HUDKINS: Thank you. Mr. Byrnes, I'm sorry I missed your testimony, but I did read your handout. I would like to hear your definition, what do you consider to be fair net metering? [LB1065]

ROBERT BYRNES: Fair net metering would be a program that does not...that is acceptable to everybody. I have heard...if that exists. And if it doesn't exist, then it doesn't make sense to put one out there. A fair net metering program is one in which a person can defray a portion of their consumed energy without excessive burdens and requirements and restrictions. [LB1065]

SENATOR HUDKINS: And then if they produce more electricity than they need and it goes to the power company, how should that be paid to them? [LB1065]

ROBERT BYRNES: How...the excess. The wholesale or avoided cost of that power, I think is fair for excess credits, because that is energy that's actually leaving and has to be distributed. Now, if you're out somewhere remote or not, but if you're 300 miles from...or 200 miles from your coal generating plant, that electricity has to move from here over to here. If you're already here, and you supply some excess, where does that...how far does that power have to travel? Well, it goes to this neighbor here or this neighbor there. It doesn't...you are not incurring the same type of wheeling costs over those long distances when you talk about these small amounts of excess getting put back onto the grid. [LB1065]

SENATOR HUDKINS: If you have that distance, 200 miles, aren't there substations that take care of part of your problem? [LB1065]

ROBERT BYRNES: That's...the 200 miles is not renewable energy's problem. That's centralized power. That's coal generation. [LB1065]

SENATOR HUDKINS: Okay. My next question is, you talked about weaknesses of the centralized power model, and that would be the transmission system. Is that what you're talking about? [LB1065]

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ROBERT BYRNES: Yes, ma'am. There's a lot of strengths to the centralized power model, too, that need to be recognized, and those are efficiencies in production and cost. I mean, so...I mean, to be balanced. But just as in anything, I mean, and everything has its strengths and weaknesses. [LB1065]

SENATOR HUDKINS: All right. Thank you. [LB1065]

SENATOR LOUDEN: I have a question, Mr. Byrnes. I was looking down here in your testimony, something about you could island these units and enable folks to stay in their homes with their own power. [LB1065]

ROBERT BYRNES: Yes. [LB1065]

SENATOR LOUDEN: That's a different kind of generation than what you are talking about when you have a wind generator with net metering. If you have a wind generator, you can't depend on that thing to take care of all your needs while the other system is out, can you? [LB1065]

ROBERT BYRNES: No, and that would be an improper sizing. It would be difficult to size a system... [LB1065]

SENATOR LOUDEN: And then don't you have to have different kind of shunting units in there, because you have to have whatever that shunt unit is to shut you clear off of the system in order to use your system. [LB1065]

ROBERT BYRNES: Technology is a wonderful thing, Senator. Inverters are...inverted technology is very mature in which you can...you feed your power to your charge regulator or your controller that comes down from the turbine first, which feeds to an inverter. These inverters...this is a...these inverters take grid power to excite the state are in the wind turbine. So if the grid power goes out, the turbine cannot produce power, okay. But as the system is operating on a normal day-to-day basis, it can take a slip, this inverter can take a slip stream of power and store it in a capacitance unit or a traditional battery storage unit. When it senses that power is out, this can be...this storage unit can be put on line. Now, if I was in a power outage, I wouldn't be doing my laundry though. I'd be having a light on and a phone. [LB1065]

SENATOR LOUDEN: Now, you just doubled your price when you put in storage batteries, didn't you? [LB1065]

ROBERT BYRNES: No, that's not true. No. And it varies from size to size. I just...I'm...I've got a small wind turbine. My farm is off grid. I'm testifying here for people who want to do net metering. I do it myself and I'm off grid with a battery bank. But I've been running with used batteries and stuff, recycled batteries, I mean for years. I just

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finally grew up and bought a brand store-boughten new battery bank, so I'm liking that. [LB1065]

SENATOR LOUDEN: Because when you're talking about the power going out, this is what we do in the country I come from. We all have our own generators or else you'll be different if you don't. And I was wondering then, when you talk about some of these inspections and insurances and everything, you're going to have to have insurance on there, won't you? If you're going to put something on a grid, when you say nobody has ever been hurt, there hasn't been that much done. But if you have a 10 kV wind charger going and that doesn't go off like your equipment is supposed to do, and equipment does fail, you could be putting 7,200 right back out on that line if it's going back through your transformer. [LB1065]

ROBERT BYRNES: That would be true if grid-tied turbines were able to operate without grid power, which is not the case, and that's one of the reasons why there have not been issues there. A grid-tied turbine is unable to produce electricity without the magnetic field being excited, and that comes from grid power. Yeah, I don't know how else to...I think there is...you know, I think that is a highly contested area. We heard some earlier testimony that a million bucks is just not even scratching it. I'm really at a loss to figure out how I can do a million dollars' worth of damage with a 10 kW wind turbine, but I'm sure it's possible in some strange conjunction of the universe. Whether everybody needs to apply, we are still talking about (inaudible) systems. Perhaps an insurance requirement that is graded to the output of the unit. Maybe a million dollars for a 10k as an example, and then half that for a 5k, half that again for a 2k, and make it for a thousand. If I have a 1,000 watt wind turbine, I mean, I could... [LB1065]

SENATOR LOUDEN: Well, a 5k will put 7,200 back to that transformer just as easy as a 10k would, wouldn't it? [LB1065]

ROBERT BYRNES: Well, 1,000 watts at 110 volts is...you know, my 1,000 watt runs on a 15 amp circuit. I mean, I can...you know, you can touch that with your fingers and live to tell about it. [LB1065]

SENATOR LOUDEN: Yeah, but if you step it up back through the transformer, that's where it goes, back out on the power line. [LB1065]

ROBERT BYRNES: That's not happening on your property though. That's not happening within your system. I mean, not the equipment I'm familiar with. [LB1065]

SENATOR LOUDEN: Okay. Thank you for your testimony. [LB1065]

ROBERT BYRNES: Yes. Thank you, sir. [LB1065]

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SENATOR LOUDEN: The next testifier. The next opponent that testifies. [LB1065]

JOHN K. HANSEN: Mr. Chairman, members of the committee, for the record my name is John K. Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and appear before you today as my organization's president and also our lobbyist. Well, I thought we had a very good hearing on net metering today, members of the committee. I've been coming to this committee and hearing net metering discussions for, I think, 16 years, maybe a little more. And the issue continues to get more and more lively and interesting, and the interest continues to grow. And from my perspective, there are a couple of things to bear in mind. One is what the PURPA requirements are for our state and our obligations to meet them. The second is the continuing growth in interest in small wind as well as large wind on the part of lots of folks, and how do we best deal with that. And there are some particular challenges, I think, with that. We're a 100 percent public power state. My organization takes a great deal of pride in the fact that we helped create the public power system, and we're some of the original supporters and advocates of the idea, and we continue to be strong and aggressive and enthusiastic defenders of that kind of system. Our state has been served very well. And in my view, all the rest of the technical issues and all of those things off the table, just looking at this, does this bill actually kind of put this issue to bed? And my honest assessment, for what it's worth, remembering, of course, you're paying nothing for it except your time at this point, is, no, it's not going to fix the deal. And there is...you know, if you listen to the comments today in favor, they are in favor of net metering and they want to support net metering and they wanted lots of changes in the bill. So if you're going to put the issue to bed and you do this based on what, you know, my phone rings, what people are calling, what people are asking us, we refer people, we give them places to go to get more technical information all the time. There's a lot of 30 kW systems out there being sold; 10k isn't going to solve their problems. They are still going to be unhappy. There is a lot of refurbished systems coming in out of California that are 65k. That's one of the reasons that I think that the LB581 level is more realistic. And as I look at the different approaches before the committee, we continue to think that LB581 is likely to put the issue more clearly to bed so we can move on and talk about new things. But at the end of the day, and I applaud the efforts of the REAs and the Nebraska Power Association for their efforts on this bill, and I commend them for that and I give them high marks for that. But I would also suggest to them, while this has been a long and I'm sure bruising struggle within their own ranks to get this far, which represents, I think, substantial and positive movement, they haven't really sat down at the table, I think, with the folks who are really, the folks wanting to use the system, and tried to then bridge that gap between where they're at and where they want to go. So that's kind of my...I thought about testifying neutral and I just almost did. [LB1065]

SENATOR LOUDEN: God, I wish you would have, John. [LB1065]

JOHN K. HANSEN: (Laughter) Just almost neutral. [LB1065]

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SENATOR LOUDEN: Yeah. Questions for John? [LB1065]

JOHN K. HANSEN: I come this close to being neutral. [LB1065]

SENATOR LOUDEN: (Laugh) Questions for John? Senator Carlson. [LB1065]

SENATOR CARLSON: Senator Louden. So, John, you are neutral negative? [LB1065]

JOHN K. HANSEN: I think neutral negative, yes. I think as we...we all know there's all different shades of both positive, negative, and neutral testimony, and so I am...I do appreciate and commend the folks who have made this effort to get this far. This represents progress. [LB1065]

SENATOR LOUDEN: Other questions for John? Seeing none, thank you, John. [LB1065]

JOHN K. HANSEN: Thank you, Mr. Chairman and members of the committee. [LB1065]

SENATOR LOUDEN: Who is the next testifier against the bill? [LB1065]

KEN WINSTON: I'm neutral on the bill. [LB1065]

SENATOR LOUDEN: (Also Exhibits 11 and 12.) Okay. Then I guess if we see no more then we'll...oh, we've got letters here to read. There are two letters in opposition, one from Gary Hedman and from Southern Public Power District, and another one from LaVern Raabe from Pilger. Go ahead, Ken. [LB1065]

KEN WINSTON: Good afternoon, Mr. Chairman. For the record, my name is Ken Winston. The last name is spelled W-i-n-s-t-o-n. I'm appearing on behalf of the Nebraska Chapter of the Sierra Club in a neutral position on LB1065. We support net metering. We appreciate the fact that this does create a net metering program for generators under 10 kilowatts. We think that's a positive step and we applaud the introducer and we applaud the public power districts for coming together and supporting that. But there are a number of questions about the bill, and as the day went on more and more questions got raised. And I'm going to try to address a couple of them. We do think that net metering is a good idea in terms of increasing renewable energy development by consumers. However, there are a number of studies that indicate that the more burdens you place on the consumers, the more likely it is that people will not actually take advantage of net metering. Frankly, there's a bunch of terminology in the bill dealing with connections and what have you that I don't understand as an attorney. I'm not involved with the electrical generation business, but I guess that does lead me to my next point, which is Mr. Lathrop came in in opposition to the bill, and, frankly...well, I

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don't know...he...well, he supposedly was supporting the bill, but all the things he said were negative about the bill. So it's unclear. Maybe it's one of these things where lawyers can be on both sides of an issue. I don't know. But...(laughter)...and I'm sure that he's a very capable attorney and a very intelligent individual if he's anything like his relative, the senator. But I do believe that he was being alarmist about the liability issue, because as has been indicated by prior testimony, there is no record of deaths or injuries through interconnection systems under net metering that I'm aware of. And if someone finds some data to that, I'd be glad to look into that, but I believe that he's inaccurate and I realize the trial attorneys do a great job of scaring people. And sometimes they are like the boy who cried wolf, and I think in this particular case they're crying wolf about something...about a problem that does not exist, because there are more than 40 states that already have net metering. So this isn't something that just happened to just...you know, somebody dreamed up and came out of the blue. There are a lot of places that...I mean, it's being done in most of the country already. Actually, Lincoln Electric System adopted a net metering program this summer, and that's probably the reason for the interest in the program that Mr. Dingman was talking about earlier, because of the fact that suddenly people are wanting to check it out and figure...I mean, at least part of the reason. I don't know what all the other factors would be, but when they find out that perhaps they can get some of the cost back for their generation equipment they're more likely to invest in it. And then I'd like to address just briefly the subsidy question. And there are subsidies in lots of places in life, and, you know, one person pays more to another person. We're supposed to take care of the least of these according to the Bible, but that isn't what we're talking about here. There are subsidies within electrical systems. There are different classes of systems. Some people pay more, some pay less, and sometimes things are equalized because one person, it costs more to get the electricity to one person's house or one person's place than it does another. As was previously mentioned, it costs more to generate something over a long distance than it does to generate it for a short distance. And, for example, as Mr. Byrnes was indicating, the fact that somebody is generating electricity and it's close to their neighbor, that may actually be a benefit to the utility because of the fact that the electricity doesn't have to travel as far. But finally, I guess the final aspect of the cross of the subsidization question, I guess I don't...this is not...these are not my figures. This is information that was developed by the REA and it was handed out at the November 2006 renewable energy interim study hearing. And at that time they made a bunch of calculations based upon the average number of customers, the average revenue per customer. The calculation that 57 percent of customer rates are used to purchase power to resell to the customer. The remaining 43 percent is used to pay for the maintenance and operation of the delivery system. Based upon the REA's own numbers, the calculations concluded that subsidizing one customer-generator will cost each ratepayer on the distribution system about 15 cents per year. Well, that's not much. I mean, I don't know what you can buy for 15 cents. I mean, I know you can't buy anything in the cafeteria, so. (Laughter) I mean, ten times that, you couldn't buy a cup of coffee at Starbucks. So I think that what we're talking about is a fairly reasonable

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subsidy if indeed a subsidy exists. And I think it's worthwhile in order to promote this public policy. So to the extent that I am able I would be glad to answer questions. [LB1065]

SENATOR LOUDEN: Questions for Ken? Senator Wallman. [LB1065]

SENATOR WALLMAN: Thank you, Senator Louden. Thank you, Ken. I don't know when I've ever seen you neutral. But I appreciate your testimony on subsidies. You know, if I'm a large power user or an irrigator or something, I may get a special rate over somebody else, so the subsidy thing should be a moot issue, I think, because we're doing that already. So if you have any answers on that it would be fine. [LB1065]

KEN WINSTON: Well, I appreciate your point, and I guess that was the point I was trying to make. Thank you. [LB1065]

SENATOR WALLMAN: Okay. Thank you. [LB1065]

SENATOR LOUDEN: Other questions for Ken? Seeing none, thank you, Ken, for your neutral testimony. [LB1065]

KEN WINSTON: Thank you. [LB1065]

SENATOR LOUDEN: Anyone else testifying in neutral? Seeing none, then I guess I'll close the hearing on LB1065. LB1066 is the next one and Jody will give us her best shot on that one. [LB1065]

JODY GITTINS: Good afternoon, Chairman Louden, members of the Natural Resources Committee. My name is Jody Gittins, J-o-d-y G-i-t-t-i-n-s. I'm committee counsel for the Natural Resources Committee, introducing LB1066 on behalf of Senator Louden. This bill was presented to Senator Louden by the Nebraska Power Association. The purpose of the bill is to encourage public power utility development of renewable energy generation by essentially waiving the statutory least-cost economic test for renewable generation up to a specific threshold. This deals specifically with special generation projects in the public power statutes. Shelley Sahling-Zart from LES is here and she will give you the details of the bill, how it came about with discussions, and she will also talk about a proposed amendment to the bill to address some concerns that were raised by Nebraska Central Power and Public Irrigation. [LB1066]

SENATOR LOUDEN: Thank you, Jody. The first testifier then for LB1066. [LB1066]

SHELLEY SAHLING-ZART: (Exhibit 13) Good afternoon, Senator Louden and members of the Natural Resources Committee. For the record, my name is Shelley, S-h-e-l-l-e-y, Sahling-Zart, S-a-h-l-i-n-g hyphen Z-a-r-t. I am vice president and assistant

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counsel for Lincoln Electric System here in Lincoln, and I'm testifying today on behalf of the Nebraska Power Association, which represents all of the publicly owned electric utilities across the state. I would like to thank Senator Loudon for introducing this bill and we are here to support LB1066, and I find myself in a seat I'm not in very often, which is testifying for a renewable energy piece of legislation, so. And this comes from really what's been a long process. We've had a lot of hearings in front of this committee, and we've spent a lot of time in this committee talking about barriers and challenges for renewable energy development in this state. One of those challenges has been cited by us. It's a statutory barrier. It's a requirement in state statute that the generation resources that we go to have approved by the Power Review Board meet a standard that basically provides it has to be the most economical option available to us to supply the need. And that has been a hurdle for renewable energy development, particularly wind. We're a very low-cost state which is a high-class problem to have, but it's made it difficult for technology such as wind energy to compete. We are here today to tell you that we have made an effort here to address that challenge and remove that challenge from our discussions, and at least get one of the hurdles or challenges out of our way. This bill is simple. And what we wanted to do, we had several objectives in mind when we thought about this proposal. We wanted it to be simple and easy to understand. We wanted it to be easy to measure. And most of all, we wanted it to be an objective standard and not one that was going to require bringing in a lot of expensive experts to testify to things before the Power Review Board. And that's what you have before you. It's a short bill. It's pretty easy to go through. It requires a couple of things. It eliminates the economic test for renewable energy generation. That test will still be there for our traditional resources and it will still be there for the bulk of renewable energy resources. But under the special generation applications in statute that this body approved a few years ago, we would amend that to allow for renewable energy development that is under a certain threshold. In the bill, we've defined that as 10 percent of a utility's energy sales. I will tell you now, we're doing some work. We may need to tweak the threshold language in this. There is some concern that the 10 percent of energy sales--energy sales may or may not be the right measure for some of the utilities, and the reason I say that is we've got, NPPD, for example, is primarily a wholesale utility. They are structured a little bit differently so the measure may be a little different. We've got Central, who is already 100 percent renewable because they're all hydro. But they have some interest in possibly looking at some wind projects, so we may need to work with this threshold a little bit to allow them to put in some additional renewable generation beyond what they have. So we would like your indulgence after this hearing to keep discussing this with you, and we are going to keep working on some language. But the concept is still the same, that you would go up to about 10 percent of a certain threshold. And essentially you would still go the Power Review Board but there would not be approval criteria other than the Power Review Board would certify that it is a renewable pursuant to the definition we've laid out in the statute, which our definition does include hydro. You would have to certify that it is less than 10 percent of the threshold we define. And then finally, you would have to certify that you have held a

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public hearing of your ratepayers on the proposed project. If those three things are in place, the Power Review Board would approve it. It does a couple things. It doesn't have a strong approval role for the Power Review Board. That is true, but it does...Tim Texel testified earlier that what he liked in the net metering provision is some reporting. They would like to know what's out there. This would handle that. You'd be there and the Power Review Board would still be approving the application. So it keeps them in the loop. Will this directly lead to a great deal of wind energy development in the state or renewable energy development? No, directly it won't, but as I mentioned at the outset, it does remove one of those challenges that we have faced in the past. It will make it easier for utilities to look at renewable energy projects without having to make a lot of economic gyrations to try and make an economic test work at the Power Review Board or to have to give it up because they can't make the economics work. So this will put a certain amount in. Anything that would exceed the 10 percent threshold you would go back to the economic test that's currently in statute. You would have to meet that economic test for anything that exceeds that, but I think this will go a long way to helping spur additional developments by the utilities. With that, it's a pretty simple bill. I would be happy to respond to any questions. [LB1066]

SENATOR LOUDEN: Questions for Shelley? Seeing none, thank you for your testimony, Shelley. [LB1066]

SHELLEY SAHLING-ZART: You bet. [LB1066]

SENATOR LOUDEN: Next testifier in favor of LB1066? [LB1066]

KEN WINSTON: (Exhibit 14) Well, it is nice to be on the same side of an issue as Ms. Zart today, so. Once again, my name is Ken Winston. [LB1066]

SENATOR LOUDEN: You ought to do this more often, Ken. It feels good, doesn't it. (Laughter) [LB1066]

KEN WINSTON: Oh, well, I like to bring people together. No, I'm sorry. My name is Ken Winston, last name is spelled W-i-n-s-t-o-n, and I'm appearing on behalf of the Nebraska Chapter of the Sierra Club in support of LB1066. We support LB1066 as a mechanism of removing some of the barriers to using native Nebraska resources to provide for our energy needs. Tapping this potential can provide jobs for our citizens, such as manufacturing, installing and maintaining wind generators. We also want to point out some of the problems with nonrenewable fuel use, such as greenhouse gas emissions, mercury in our streams, and use of massive amounts of water by coal and nuclear power plants, water that could be used for human consumption or to benefit agriculture. I want to note specifically, as I said in kind of jesting way as I sat down, that we do appreciate the fact that Nebraska's public utilities are today openly supporting renewable energy development. And as Ms. Zart indicated earlier, typically the utilities

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in the past have opposed renewable energy development. So it is a good step, from our point of view, that they are in support of renewable energy today, and this was noted yesterday, when the Retail Federation was indicating there was some...they were noting the irony that they were on the same side of the Sierra Club, and today the utilities are on the same side as the Sierra Club. I want to point out that we haven't changed our position, so I'll let you draw the conclusion that...whatever conclusion you wanted to take from that. I do want to make some additional comments, just briefly. We would like to ask for the committee to consider some amendments to the bill. First of all, we do believe that efficiency needs to be considered in any generation application. As I note, the cheapest and most environmentally friendly kilowatt is the one that is not generated, and I can go into a long detail about that but I won't, given the time of day. I do think that there needs to be some sort of oversight by the Power Review Board and we would ask that that be part of the process, as well. We would ask that C-bed applications be given consideration under this bill, as well. And then we would ask that any Nebraska ratepayer be allowed to comment on renewable energy generation application. Specifically, the concern is...I mean, just because I'm not a ratepayer within NPPD, I may have an interest in supporting their application or potentially opposing their application. I think it would be better to have any Nebraska ratepayer be allowed to comment. So those would be the suggestions I would have this afternoon, and I would be glad to work with the committee or any interested party on supporting this legislation. [LB1066]

SENATOR LOUDEN: Questions for Ken? No, I think you shook them up when you mentioned your position, I guess, Ken, or mentioned their position, so thank you for your testimony. [LB1066]

KEN WINSTON: Thank you. [LB1066]

SENATOR LOUDEN: Next testifier. [LB1066]

MARY HARDING: (Exhibit 15) Hello. Good afternoon. My name is Mary Harding, M-a-r-y H-a-r-d-i-n-g. I'm appearing today as executive director of the Nebraska League of Conservation Voters in support of LB1066. And actually in the interest of time I would like to appear in support of both of the bills you've got left on this afternoon's docket. Our position is that it is truly time for Nebraska to take advantage of the emerging technologies that are now going to commercial scale, and to evaluate more than just the base cost per kilowatt hour in deciding what kinds of generation strategies are appropriate for Nebraskans. We would generally support simpler solutions over more complex ones in terms of legislation as you decide what you're going to do following this hearing. But regardless of the solutions, in specific, you choose, we really do believe now is the time to start. We don't want Nebraska to be left at the gate. And we would like to actually see this be more than 10 percent, but this is a great place to start. And as we begin to see power districts and utilities implementing more renewable generation

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this number can always be adjusted to accommodate what's best at that time. So we strongly encourage the passage of this out to the body as a step in Nebraska's energy independence. [LB1066]

SENATOR LOUDEN: Questions for Mary? Seeing none, thank you, Mary, for your testimony. Any other testifiers in favor of LB1066? Are there opponents to LB1066? Are there those wishing to testify neutral on LB1066? [LB1066]

TIM TEXEL: I'll make sure I get it right this time. (Laughter) Thank you, Senator Louden, members of the committee. My name is Tim Texel, T-i-m, last name, T-e-x-e-l. I'm the executive director and general counsel for the Nebraska Power Review Board and we are, as you know, the state agency with primary jurisdiction over Nebraska's electric utilities. And my board authorized me to testify today in a neutral capacity, mostly on several technical comments regarding LB1066. And first, I wanted on behalf of the board, express our thanks to Senator Louden for introducing this bill. The Power Review Board has for several years been bringing forth the idea that it's difficult for wind to get, and other renewables to get, approved in the Nebraska given our current criteria and if there's some guidance changes to be given to us, that we'd appreciate that. So we appreciate both this and LB1138 as methods to address that issue if the Legislature believes it should be addressed. The first issue I just wanted to mention is the use of the term "energy producer" in the bill. In section 1, subsection 2, that uses...and this is on page 3, and line 10, it uses the term "energy producer" and I believe it's a reference to public power electric utilities. I'm not aware of another instance of that term. Usually the term "power supplier" is used when generically referring to electric utilities in Nebraska. And it appears to be that was what was meant in context, so I would just raise that as an issue that perhaps it would be better to use the term "power supplier". Given rules of statutory construction, the courts usually say that the Legislature may have intended something different if a different term was used so. The second issue, in the use of the term of "renewable energy technologies" in subsection 3, this is on page 3, lines 15 and 16, where the board is approving or can approve these facilities, uses the term "renewable energy technologies" but it doesn't define it. And I think if we just have a reference to that list of renewable energy technologies that's in subsection 2, that would help just so that my board couldn't face the argument that somebody is claiming other technologies should be included. If that's the list the Legislature wants, it's probably helpful to give it to us in addition to what the utilities can apply to in subsection 2. Last comment is on the term "renewable energy sources" versus "renewable energy technologies." In the section stating what renewables allow one of the new special generation applications to be filed. It uses the term "renewable energy sources" and this is on page 3, line 3, of the green copy. But in section stating what renewables allow the PRB to approve the application, it uses the term "renewable energy technologies". I believe...and this is on page 3, lines 15 and 16, and unless something different was meant, I'd recommend these terms probably be amended to be consistent for the same reasons I mentioned earlier. Just for consistency of terms so that there's no confusion

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about that. So those are pretty technical changes but I just wanted to mention them to the committee and that's all I have. I'd be glad to address any questions. [LB1066]

SENATOR LOUDEN: Questions for Tim? Seeing none, thank you for your testimony, Tim. [LB1066]

TIM TEXEL: Thank you. [LB1066]

SENATOR LOUDEN: Anyone else wishing to testify in the neutral? [LB1066]

JOHN K. HANSEN: Mr. Chairman, members of the committee. Again for the record, my name is John K. Hansen, H-a-n-s-e-n and I'm president of Nebraska Farmers Union and appear as their president and lobbyist. I almost, on this bill, Mr. Chairman, made it into the positive category. I like a lot of stuff in this approach. I think it's neat, it's clean, it's simple. We also had some areas that were just less than clear and so I wanted to listen to the testimony and the explanation in trying to figure out a bit about where C-beds fit into this. Now we had some questions, some of the same questions that Ken Winston did about who gets to testify, which rate payers, and some of those things. But we think it's overall a very good, a good effort and I think a very interesting approach. And so we're certainly not opposed to it and we like an awful lot of the approach in it, and I think that there's a lot of merit in it. And we're really kind of undecided, I guess, about the business of kind of just going around the Power Review Board just...in where you take a lot of that criteria kind of off the table. And so, we're a little concerned about that but we'd certainly be open to thinking about it some more and we certainly don't have any hard opposition to this. We think it's overall a good effort so we're neutral in favor, I would say. [LB1066]

SENATOR LOUDEN: Questions for John? Senator Carlson. [LB1066]

SENATOR CARLSON: Senator Louden. John, then I don't know if you've got those amendments recommended by Ken Winston and the Sierra Club. There are four of them. Are you aware of the four? [LB1066]

JOHN K. HANSEN: I do not have copies of those amendments. [LB1066]

SENATOR CARLSON: Okay. Then I won't ask you. I was interested whether you were in agreement. [LB1066]

JOHN K. HANSEN: But when I heard them listed, they were in the same areas that we sort of had some questions about and so we were coming to learn today. [LB1066]

SENATOR CARLSON: Thank you. [LB1066]

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SENATOR LOUDEN: Other questions for John? Or Ken, or John? Yeah, I get you guys mixed up. That's odd because you're a little bit taller than he is. Any other...thank you (laughter) for your testimony, John? [LB1066]

JOHN K. HANSEN: Well, thank you, Mr. Chairman, I think. [LB1066]

SENATOR LOUDEN: Any other testifiers in the neutral? If not, then I close the hearing on LB1066. [LB1066]

SENATOR LOUDEN: With that we'll open the hearing on LB1138 and Senator Dierks is here to present that bill. Welcome, Senator Dierks. [LB1138]

SENATOR DIERKS: Good evening. I think it's evening. (Laughter) [LB1138]

SENATOR LOUDEN: Oh no, it isn't evening until we leave. (Laughter) [LB1138]

SENATOR DIERKS: They always told me in Texas anytime it got after 12:00 noon they called it evening. Are you ready for... [LB1138]

SENATOR LOUDEN: Yeah, go ahead. [LB1138]

SENATOR DIERKS: Well, Chairman Louden, members of the Natural Resources Committee, my name is Cap Dierks, that's D-i-e-r-k-s and I represent District 40 and I'm here today to introduce LB1138. LB1138 is a continuation of my efforts to increase the use of renewable energy in Nebraska. Currently, when the Power Review Board considers a new project, the board must find that the project will "serve the public convenience and necessity, and that the applicant can most economically and feasibly supply the electric service resulting from the proposed construction or acquisition without unnecessary duplication of facilities or operations." Under my bill, the Power Review Board may approve a renewable energy project if it will serve the public convenience and necessity and meet one of the following criteria: (1) water reduction of pollution; (2) water conservation; (3) displacement of domestic renewable fuel sources; or (4) provide economic advantage to the rural economy. These four new and additional criteria must outweigh the original wording in the statute without causing the need for a significant increase in the wholesale or retail electric rates. Both our country and state are moving toward the increased use of renewable energy. President Bush has set a goal that our nation increase its use of renewable energy to 20 percent of the electrical generation before the year 2030. Last year my priority bill, LB629, was introduced to promote the use of community based energy development in Nebraska, wind development that would benefit both farmers and ranchers as well as the rural communities where they live. While drafting this bill, Tim Texel of the Power Review Board was consulted and responded to all questions directed to him. We want to work with that board since they will have the responsibility to carry the new requirements of

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this legislation, if it's passed this year. Nebraska ranks sixth in the nation as potential to develop and use wind energy. I believe this bill, LB1138, will encourage the development of wind and other renewable energy sources by giving the Power Review Board greater flexibility while reviewing applications of such projects. I believe it will also help our public power companies achieve the goals that our nation is required to meet. I remain concerned about rates charged to our citizens. An important part of this legislation requires that a renewable energy project will not significantly increase the price residents pay to use energy in their homes. Thank you for your attention and I'll try to answer your questions. [LB1138]

SENATOR LOUDEN: Questions for Senator Dierks? Seeing none, Senator, and I presume you want to close? [LB1138]

SENATOR DIERKS: You know, I think they're in Exec Session over in Revenue Committee. I believe I'd better go over there so if I'm through there by the time you do that, I'll close. Otherwise, I'll waive closing. [LB1138]

SENATOR LOUDEN: Okay. Thank you. [LB1138]

SENATOR DIERKS: Thank you. [LB1138]

SENATOR LOUDEN: First testifier in favor of LB1138. [LB1138]

KEN WINSTON: (Exhibit 16) Good afternoon, Senator Louden, members of the Natural Resources Committee. My name is Ken Winston. I'm appearing on behalf of the Nebraska Chapter of the Sierra Club, my last name is spelled W-i-n-s-t-o-n, in support of LB1138. I have a couple of introductory paragraphs in the letter that's being handed out describing the reasons for our support for renewable energy. The benefits provided by renewable energy and the issues that are created by nonrenewable energy and I'm not going to read that. I would like to point out some of the things they...the third paragraph I'd like to go through that and just quickly. Reasons for supporting LB1138. We support the idea of continued Power Review Board authority over electrical generation applications which this bill does. We're concerned that if there's a blanket exemption for renewable energy applications, there may be some consequences that we haven't anticipated that could arise. Then secondly, as John Hansen indicated in the prior hearing and I also alluded to, we'd like to allow C-bed applications to have the same footing as utilities. Last year the Legislature, as you all know, unanimously passed LB629 to provide a framework for community based energy development and it's our position that C-bed should be given an opportunity to succeed in the process of developing renewable energy. And I believe, I recall hearing comments regarding the...whether the C-bed law needs strengthening and if there is a belief of that, the Sierra Club would wholeheartedly support that effort. And then, finally, we like the fact that LB1138 recognizes the factors that are...the reason for supporting renewable

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energy, which are the economy, the environment and energy security. The energy...the Sierra Club believes that the overwhelming majority of Nebraskans support clean air, clean water and good jobs regardless of whether they call themselves environmentalists or not. And I guess, I just had an allusion, I was thinking about, I mean I grew out in the Sandhills area and I know how, what that environment can be like and came to the...and was thinking about the people who have succeeded in that environment are people who are good stewards of the land, who took care of the environment. Who took care of the...made sure that the water was, continued to flow in the streams and made sure that the fields weren't overgrazed and I guess, I know...I'm aware of the fact that there's a couple of senators from that area who, I'm presuming that if your ranches have succeeded it's...in large part because of the fact that you and your families have been good stewards of the land. And we believe that there should be recognition of those kinds of efforts and we believe that this, in the analogy, is that the same sort of recognition should be put in law dealing with electrical generation. I'm sorry, it's been a long afternoon. So with that, we would ask that the committee advance LB1138 or amend portions of LB1138 into LB1066 if that's what the committee is intending to do. Would be glad to answer questions. [LB1138]

SENATOR LOUDEN: Questions for Ken? Senator Fischer. [LB1138]

SENATOR FISCHER: Thank you, Chairman Louden. Just a short note. I appreciate your comments about ranchers in the Sandhills, but in your written testimony you say Nebraska Sandhills can be harsh and unforgiving. I hope that doesn't apply to the two ranchers on this committee. (Laughter) [LB1138]

KEN WINSTON: I was talking about the area, not the inhabitants. [LB1138]

SENATOR FISCHER: Thank you for clarifying that, Mr. Winston. [LB1138]

KEN WINSTON: Yeah, I grew up out there too so. [LB1138]

SENATOR FISCHER: Well it might have...well, never mind. Thank you. (Laughter) [LB1138]

KEN WINSTON: Well, no, I know many kind and loving people from that area as well so. [LB1138]

SENATOR FISCHER: There we go. Thank you. [LB1138]

KEN WINSTON: Okay. Thank you. [LB1138]

SENATOR LOUDEN: Any other questions for Ken? Yeah, you don't want to mess with him. He's from Rushville. (laughter) Thanks, Ken, for your testimony. [LB1138]

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KEN WINSTON: Thank you, Senator. [LB1138]

SENATOR LOUDEN: Next testifier in favor of LB1138. [LB1138]

ROBERT BYRNES: (Exhibit 17) Thank you, Senator Louden, and committee members, Natural Resources Committee. My name is Robert Byrnes, B-y-r-n-e-s and I'm here representing Nebraska Renewable Energy Systems and the Nebraska Renewable Energy Association. I wanted to express my wholehearted support of LB1138 and to some extent, LB1066 as well. I feel that LB1138 is a better vehicle to do this. I have the opportunity, the blessing really, to visit with a lot of people in Nebraska all the time. I live and breathe this stuff every day. I have the...it's a real, it's a treat to visit with folks. And one of the questions I get, there's a lot of common questions that you always hear. Will one of those power my house? Or how much, you know...one of the questions I always seem to, that always seems to pop up is, what's going on in Nebraska? What's the hold up? What's the problem? There's no one answer and, of course, one of the answers is, it falls straight back into the laps of Nebraskans themselves. It is, you know, there is...we only change what we choose to get involved with and to affect, so to some extent every Nebraskan shares that responsibility. However, there are institutional barriers that have what I feel presented or allowed renewable energy to be assessed somewhat in, with blinders on. I think this, both LB1066 and LB1138 address these issues and include the real tangible values, include the tangible values that renewable energy can deliver to our state. I think this...both these bills allow the Power Review Board to peel back the blinders to take into account these other issues that are very important, like clean water, like sulphur in the environment, like, you know, all the other things that both these bills address. And I think that is an important step to be able to do that and to advance development within the state and I welcome this. I feel primarily because the LB1138 includes a more diverse project array, that it is a better vehicle to forward this cause. But they both have similar goals and, you know, address the same issues so I'm in favor of both but I prefer LB1138. With that I'll take any questions. [LB1138]

SENATOR LOUDEN: Questions for Mr. Byrnes? Seeing none, thank you for your testimony. [LB1138]

ROBERT BYRNES: Thank you. [LB1138]

JOHN K. HANSEN: Again, Mr. Chairman, members of the committee, for the record, my name is John K. Hansen, H-a-n-s-e-n, and I appear before you as the president and lobbyist for Nebraska Farmers Union. We are in support of LB1138 and it is in part, I am sure, because of the, kind of the, our role in this process of sitting at these hearings, talking to other players and some of the bills that have come up in the past relative to renewable energy. And how do you address dealing with the issue of how do we come to terms with renewable energy and how we introduce it into our power system. And so

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some of the barriers that have been there before, if they were barriers, were that really the criteria that the Power Review Board had to deal with, which is their, you know, their obligation and their responsibility really hadn't factored that into the criteria. And so, some of the issues that were raised legitimately I thought by Tim Texel and his shop last year about LB705, and some of the different approaches that have been used, got us to thinking and working with Tim Texel's shop and folks to try to come up with some reasonable way to help deal with this issue without doing major disruption or throwing the baby out with the bath water. There's an enormous amount of potential here in the state of Nebraska as we look at our wind resources and what our future has to bring, and there's an enormous amount of wind energy can be brought into our system. And one of the things that we like about LB1138 is that you continue to have the Power Review Board helping make judgments about what is in the best public interest using the criteria that has served us well, and yet giving them just enough additional criteria. And I fully agree that there's some subjectivity and decision making and judgment that goes into that exercise of that additional criteria, but is it a fair and reasonable way to take what we already have, modify it just a little, and allow for some new additional criteria in order to bring wind energy based, renewable energy onto the system. We think it is, and I like a lot of parts of the last bill. And I also have a few concerns about some areas of this bill but for the most part, I think, between the two of them, you've got two good options to look at. And there may be a need to take some of both of them and put them together. But I commend Senator Dierks, and also Tim Texel and his shop, and all the folks who have been about this process of trying to figure out, how do we make appropriate changes without doing serious harm. And so, you know, part of one of the hats that we continue to wear is we're also on the one hand pushing for renewable energy and more wind energy, is on the other hand we're also wearing our public power hat which we try to remind folks that we also think that we wear as a protector of that system. And so, this seems like a very reasoned and calculated and appropriate approach. And with that I close my testimony and attempt, attempt to answer questions. [LB1138]

SENATOR LOUDEN: Questions for John? Seeing none, thank you, John, for your testimony. [LB1138]

JOHN K. HANSEN: Thank you, Mr. Chairman, and members of the committee. [LB1138]

SENATOR LOUDEN: Next testifier in favor of LB1138. Any testifiers opposing LB1138? [LB1138]

JOHN MCCLURE: (Exhibit 18) Good afternoon, Chairman Loudon, members of the committee. My name is John McClure, J-o-h-n M-c-C-l-u-r-e. I am vice president and general counsel for Nebraska Public Power District and I'm testifying today on behalf of the Nebraska Power Association. Let me begin by commending Senators Dierks, Dubas

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and Preister for proposing an alternative Power Review Board approval process for electric generation facilities using renewable energy. As you know from the previous hearing on LB1066, the electric industry is also supportive of reducing current statutory barriers for renewable energy projects. We believe this bill, while meritorious in its purpose, is neither as simple nor as effective as LB1066 which is also being considered by this committee. Before directly addressing LB1138, I would like to provide a brief explanation of the current Power Review Board process for approving construction of an electric generating facility. And Senator Dierks went through this briefly also. Under present law, an applicant must prove that a generating project "will serve the public convenience and necessity, and that the applicant can most economically and feasibly supply the electric service resulting from the proposed construction or acquisition, without unnecessary duplication of facilities." There is also a provision for a special generation project of 10 megawatts or less and a provision for certain replacement projects below 25 megawatts, neither of which is applicable to larger renewable projects. LB1138 creates a new three-step process for obtaining Power Review Board approval for electric generating facilities utilizing renewable energy. First, the applicant must demonstrate that the project will serve the public convenience and necessity and meet one or more of the following four criteria: reduce pollution, water conservation, displacement of domestic nonrenewable fuel sources, or economic advantage to the rural economy. The second step is to show that one or more of the above provide "substantial benefits" that outweigh the need to follow the current standard for approval. Finally, the applicant must prove that the project does not cause a significant increase in the applicant's wholesale or retail electric rates. We are concerned that these new standards could result in considerable debate and uncertainty regarding the viability of a proposed project. Renewable energy projects may have unique attributes such as the intermittency of wind generation that make it more challenging to fit within the current approval standard established for the Power Review Board. Although LB1138 addresses this issue, the proposed solution in this bill establishes new criteria which are subjective and could be difficult to prove or to apply. Five reasonable people may all have a different number in mind when asked, what is a significant increase in wholesale or retail rates? Those same five reasonable people may also have differing opinions on whether a project provides substantial benefits as required by this bill, and in fact, substantial that outweigh the particular existing criteria under the current law. In closing, while we acknowledge and appreciate the effort to propose legislation addressing the regulatory barriers to renewable energy approvals, we do not believe this process has the simplicity or the certainty of LB1066 which is also before this committee. I'd be happy to attempt to answer any questions you may have. [LB1138]

SENATOR LOUDEN: Questions for Mr. McClure? Senator Christensen. [LB1138]

SENATOR CHRISTENSEN: Thank you, Chairman Loudon. How does C-bed fit in LB1066? I think that's the issue here, so... [LB1138]

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JOHN MCCLURE: Currently, it does not because the language in LB1066 is a section that is constructed applying to the public power industry in this state, municipalities, public power districts, joint action agencies and electric cooperatives. It's an increase, if I recall, of the special generation exception which is in the law currently. As drafted, I do not believe LB1066 applies to a C-bed project. I'm not sure that LB1138 would apply to a C-bed project and I think that's certainly an issue that I'm sure Mr. Hansen and others may have some ideas on. [LB1138]

SENATOR LOUDEN: Senator Fischer. [LB1138]

SENATOR FISCHER: Thank you, Chairman Louden. Since the C-bed project was brought up, are there currently any C-bed projects in the works in Nebraska right now? [LB1138]

JOHN MCCLURE: NPPD is currently in negotiations involving potential C-bed projects, yes. [LB1138]

SENATOR FISCHER: Do you think it would be...maybe we're jumping the gun a little bit in considering C-bed projects in this bill and in the previous bill that we just heard about until we know exactly how those projects are panning out, and maybe some problems or challenges that there might be with them. Shouldn't...I guess, what I'm saying...that's a long deal isn't it? About as long as this hearing. (laughter) Do you think we should wait before we include the C-bed projects in legislation like this until we see how they need to be included? [LB1138]

JOHN MCCLURE: I certainly think there needs to be more discussion. As far as the Nebraska Power Association, we have not talked about how a C-bed project might be affected by either of these bills. The focus has been in the alternative bill that's not the subject of this hearing but to get a simple streamlined process that's very straightforward. [LB1138]

SENATOR FISCHER: Would you be ready in, hopefully the near future, then, to come back on that simple streamlined bill and address the inclusion of other projects at that time? [LB1138]

JOHN MCCLURE: Again, the industry hasn't had that discussion. I'm here speaking on behalf of the NPA so I don't feel comfortable...I'm sure we're open to listening to new ideas and seeing how that might affect either bill. [LB1138]

SENATOR FISCHER: Okay. Thank you. [LB1138]

SENATOR LOUDEN: Other questions for John? Seeing none, thank you, John, for your testimony. [LB1138]

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JOHN MCCLURE: Thank you. [LB1138]

SENATOR LOUDEN: Anyone else want to testify in opposition to LB1138? Anybody want to testify in a neutral position for LB1138? [LB1138]

TIM TEXEL: Chairman Louden, members of the committee. I'll be very brief. My name is Tim Texel, T-i-m T-e-x-e-l. I'm the executive director and general counsel for the Nebraska Power Review Board. I just have one quick comment that I wanted to add in this. I don't have any recommended changes to this bill but in fairness to LB1066 and LB1138, I wanted to make the same comment I did on the previous bill that the board wants to thank Senator Dierks, and Senator Dubas and Preister as co-sponsors. As I said, the previous bill, the board has been mentioning this issue for years and we appreciate that these two alternative methods to address that are out there. We don't take a stance on which one would be preferable. My board specifically addressed both of these at our last meeting and said they don't take a stance and we acknowledge, they acknowledge that they are two alternative methods to address the issues of approving renewables. So I wanted to enter that into the record since I did in the last one, and that would conclude my comments and I'd answer any questions that you might have. [LB1138]

SENATOR LOUDEN: Any questions for Tim? Seeing none, thank you for your testimony today. [LB1138]

TIM TEXEL: Thank you. [LB1138]

SENATOR LOUDEN: Anyone else wishing to testify in the neutral? Seeing none, then Senator Dierks would close. [LB1138]

SENATOR DIERKS: Thank you very much. Very briefly, I just want to mention the fact that I'm very appreciative of public power in our state. I've always been a strong supporter of it and I wouldn't do nothing to upset that. I think what we've provided with this legislation is an opportunity to expand on our renewable energy. There are some things, I think, that we know about wind energy for instance that is an advantage over the use of coal and nuclear energy from the standpoint of emissions. There's no emissions from wind energy. We know that we don't use any water at all to produce wind energy and yet we do use water to produce nuclear energy. There's some of these things we know are...I don't think it takes any five people to come together and agree on something like that. So there are things out there about this legislation that I think are very viable and I just would..I want to reiterate the fact that I do appreciate the public power system in this state. I appreciate the people that operate there, and I know they have their issues. I think that we can get around some of those issues with this legislation. Thank you very much. [LB1138]

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SENATOR LOUDEN: Thank you, Senator Dierks. With that we close testimony on LB1138. Do you want to go to Executive Session for our confirmation people then? We move and second we go into Executive Session. [LB1138]

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Disposition of Bills:

LB1065 - Advanced to General File, as amended.

LB1066 - Advanced to General File, as amended.

LB1138 - Indefinitely postponed.

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Chairperson

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Committee Clerk