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Revenue Committee
March 05, 2009

[LB58 LB234 LB455 LB539 LB632]

The Committee on Revenue met at 1:30 p.m. on Thursday, March 5, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB455, LB58, LB234, LB632, and LB539. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Mike Friend; Galen Hadley; LeRoy Louden; Dennis Utter; and Tom White. Senators absent: None. []

SENATOR CORNETT: Good afternoon and welcome to Revenue Committee. My name is Senator Abbie Cornett. I am from Bellevue. To my left is Vice Chair, Senator Cap Dierks from Ewing. To his left is Senator Greg Adams from York; Senator Galen Hadley will be joining us from Kearney; research analyst is Bill Lock; and committee clerk is Erma James. On my far right is Senator Utter from Hastings; Senator LeRoy Louden from Ellsworth will be joining us shortly, as will Senator White from Omaha. Senator Mike Friend is also here today. And then legal counsel is Shannon Anderson. The pages today are Rebecca Armstrong and Elsie Cook. Before we begin hearings today, I'd please advise everyone to turn their cell phones to either off or vibrate. Sign-in sheets for the testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your testifier sheet to the committee clerk. There are also clipboards at the back of the room to sign in if you do not wish to testify but wish to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door today. The introducer or a representative will present the bill followed by proponents, opponents, and neutral testimony. Only the introducer will have an opportunity for closing remarks. As you begin your testimony, please state your name and spell it for the record. If you have handouts please bring ten copies of each for staff and committee members and give them to the pages. If you do not have ten, go ahead and hand them to the pages and they can make copies for us. With that, we will begin the hearings for today. Senator Nordquist, you are recognized to open on LB455. [LB455]

SENATOR NORDQUIST: Thank you, Madam Chair, members of the committee. My name is Jeremy Nordquist, N-o-r-d-q-u-i-s-t, and I represent District 7 in Omaha. Over the past several years, as the need for renewable energy production has become more and more apparent and as environmental and economic concerns have made rethinking our energy policy more and more critical an ongoing conversation has developed about what we must do to make Nebraska's public power producers a leader in renewable energy generation. LB455 is in large part the results of that dialogue. LB455 provides an economic incentive for Nebraska public power producers to invest in energy generation from renewable sources, including wind energy, hydroelectric, solar, geothermal, biomass, fuel cells, and landfill gas. In its current form LB455 provides a tax credit of 1.9 cents for each kilowatt hour generated from renewable sources. This rate mirrors the

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

Revenue Committee
March 05, 2009

current federal incentive. But because Nebraska's public power districts do not pay income tax, they are ineligible for a vast majority of federal renewable energy incentives. The money will be credited towards the sales tax paid by the qualifying public power districts. The bill also proposes a sales tax exemption for all equipment needed to generate and transmit power from renewable sources. This exemption already exists in Nebraska for community-based energy development or C-BED projects that was enacted in '07. If this exemption applies to private industry, I also believe it should apply for our public power districts. An investment in clean energy production is an investment in a clean environment, a sustainable energy, and good high-paying jobs that cannot be outsourced. Unfortunately, Nebraska as a state has lagged in renewable energy production despite having the resources available. We, as I'm sure you've heard, we're in the top five or six states for the potential for wind energy production. This incentive will largely move us in that direction of increased production. I realize we're facing tough economic times and the fiscal impact of this bill is a larger investment than our state can currently and comfortably go forward with. While I believe the fiscal note is on the high end, I certainly would be happy to work with the committee to find a way to trim or alter the bill to lessen the fiscal impact, while still providing some assistance to our public power districts to make renewable energy a top priority. One way of doing this would be to only apply the 1.9 cents tax credit to renewable energy production facilities...to new renewable energy production facilities. The committee could also limit the ability of public power districts to recapture past sales tax or remove the production tax credit provision altogether. In reality, Nebraska cannot afford to continue to be left behind in renewable energy production. And I believe LB455 will move us in the right direction. I'd appreciate your full consideration of LB455. [LB455]

SENATOR CORNETT: Questions from the committee? Senator White. [LB455]

SENATOR WHITE: The federal government is talking about a carbon auction to be instituted in the next several years. Is incentives like this necessary in light of the pending federal tax on carbon pollution? [LB455]

SENATOR NORDQUIST: Well, I think at this point in time it very...it is because, as you know, public power is tasked with finding the most affordable source. And overnight, if those tax credits come in place the equation is going to flip and we're going to be left in a significant or in a dilemma with not having any of this infrastructure in place to move forward with renewable energy. And I think, you know, we know the stimulus has a significant chunk of money for a transmission grid. And I think that goes hand in hand with this as well that as the federal government is investing in our transmission grid system that we step forward as a state and do what we can to help public power generate more renewable energy. [LB455]

SENATOR CORNETT Senator Hadley. [LB455]

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

Revenue Committee
March 05, 2009

SENATOR HADLEY: Thank you, Senator Cornett. Senator Nordquist, thank you for bringing this. Just for my own knowledge, right now our public power companies, they do not pay income taxes to the state of Nebraska. Is that correct or incorrect? [LB455]

SENATOR NORDQUIST: Yeah, they don't pay, their public entities of...yeah. [LB455]

SENATOR HADLEY: They don't pay any of those taxes. And so the credit we're talking about here is... [LB455]

SENATOR NORDQUIST: ...the sales... [LB455]

SENATOR HADLEY: ...the sales taxes that individuals pay them... [LB455]

SENATOR NORDQUIST: Yeah. The... [LB455]

SENATOR HADLEY: ...that is remitted to the state. [LB455]

SENATOR NORDQUIST: Exactly. And they also...and also, that would be the credit portion. The exemption portion they pay sales tax on equipment purchased for, you know, building a wind turbine or something. We would...this would give them an exemption for that. I know Iowa has done that, at least that portion of the bill giving the exemption on the purchase of equipment for energy production. And we have that exemption and that was passed two years ago, in '07, for the C-BED projects. So... [LB455]

SENATOR HADLEY: Okay. [LB455]

SENATOR CORNETT: Seeing no further questions, thank you, Senator Nordquist. [LB455]

SENATOR NORDQUIST: Thank you. [LB455]

SENATOR CORNETT: First proponent. [LB455]

TOM RICHARDS: Chairwoman Cornett and members of the Revenue Committee, my name is Tom Richards, T-o-m R-i-c-h-a-r-d-s. I'm the manager of Governmental and Community Relations for the Omaha Public Power District. I'm here testifying on behalf of OPPD in support of the bill. I'm also here in...representing the Nebraska Power Association which represents all of Nebraska's utilities across the state of Nebraska, made up of co-ops, public power districts, municipalities, all in all about 169 utilities across the state of Nebraska. I appreciate the opportunity to come and talk about LB455. I have some formal testimony and I have a history, a little bit of a history of where parts of this bill came from. And I want to expand and answer your question a

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

Revenue Committee
March 05, 2009

little bit further. So for those of you who have been on the committee for awhile, you may remember this bill, Senator Bourne did this a couple of years ago, parts of this bill. And I'll get into an explanation as to where it...where the concept comes from. And then I'll answer any of your questions. I guess I look at this as a bit of an opportunity to do some education as well. I'm going to try not to take a lot of your time but to kind of give you a little bit of a background on what public power districts and what other public entities pay in taxes in the electric industry. First off, tax incentives are needed to spur renewable energy development. Experience with the federal production tax credit shows that tax incentives spur growth and renewable energy projects. A couple of years ago, when they reduced the amount of the production tax credits, renewable energy building dropped off. When they put the production tax credits back in place building took off. So credits and incentives are a big part of what happens to make renewable energy projects more workable. Nebraska lags other states and incentives for renewable development. Our neighboring state, Iowa, provides renewable energy production tax credits as well as property tax exemption for renewable energy systems, and sales tax exemptions for wind and solar equipment purchased. These incentives have helped Iowa become a leader in renewable energy development. Public power is at a disadvantage in developing renewable energy sources. Public power entities make in lieu of tax payments when you asked about our tax structure. There are a number of ways that we pay taxes. One is through property tax in lieu of property tax payments. Those go in the 13 counties, for instance, that OPPD serves, those in lieu of tax payments go to the county, to schools, municipalities. In our case that figures out to be about \$22 million a year that we pay as a utility up and down the 13 counties that we serve at OPPD. You can imagine what would happen if you try to put as tax credit against those other political subdivisions to take some of those dollars back and make that the way that you're going to fund the tax incentive program for renewable energy programs. The sales tax credit of 1.9 cents provided in LB455 would help level the playing field for public power entities in Nebraska. We...right now the model in Nebraska is that we're working with private developers to develop wind energy because they get those private production tax credits. And in the future as we go forward, public power entities see the possibility that we would build those facilities if we could find some type of an incentive to do so. There's short- and long-term job creating. Supporting renewable energy development will promote jobs in multiple ways. It requires the purchase and installation of transmission lines, poles, concrete, electric generators, wind turbines, wind turbine blades, substations, roads, steel, and rebar. Developing and constructing these projects employs hundreds of people directly and indirectly. It's a boost to manufacturing. Renewable energy infrastructure is a high growth industry, supporting renewable energy development with a tax credit could attract manufacturers of turbines, generation, utility poles, and transmission lines, thus creating more tax revenue. I know that in the Governor's Office the Department of Economic Development, one of their major sources of who they're recruiting is they're looking at those groups that build these types of manufacturing equipment. They're looking to attract them to the state of Nebraska. Nebraska is right in the heart of a transmission

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

Revenue Committee
March 05, 2009

corridor. If you're going to move power east and west, north and south, Nebraska sits right in the middle. And in that transmission corridor, we're literally in the middle of a renewable energy corridor and we support renewable energy development which could attract significant outside investment in a smart grid--transmission lines, related construction, engineering, and maintenance jobs, thus allowing Nebraska to potentially export renewable energy to other states. Exporting renewable energy would produce more economic growth from Nebraska...from non-Nebraska dollars which could flow into Nebraska thus boosting the economy. Green marketing, at OPPD we're finding more and more customers, for instance, in Omaha we got the opportunity to attract Yahoo, the computer company. One of the major questions they asked about when they were locating are, do you have green energy, and do you have green energy on your horizon that you're going to build? Businesses that are looking to locate, that becomes one of the things that they're interested in doing. Rural economic development/job development, Nebraska's high wind areas are predominantly rural areas. Promoting renewable energy would boost the economic development growth potential in rural areas by altering construction...by attracting new construction, maintenance and management jobs. Renewable energy tax credits would help companies invest in rural areas, thus boosting the family income, property values and employment prospects. The fiscal note that you have is a significant fiscal note. I haven't had a chance to analyze it. But as you can see, just the incentives would be just one small portion of what's going on. The total cost of building renewable generation is a high dollar ticket. One of the things that the fiscal note fails to do is look at the tax credit, how it could increase sales tax revenue. The fiscal note does not account for the proposed tax credit effect on other types of tax revenues, particularly income and property tax. A tax credit would boost investment in renewable energy project development, thus creating new jobs, new jobs, and new jobs mean more of an income tax base. Renewable energy development also potentially boosts property values and related tax assessments. That portion I'll close with is just to kind of give you some background on why those things are important. You asked the question of our sales tax. When we were kicking around how you can find an incentive that public power could participate in, we pay two kinds of sales taxes. We pay a sales tax on what we buy and what we purchase as a utility. In OPPDs case that can range from \$4.5 million to \$7 million a year what we're paying the state of Nebraska and the cities and the counties that we serve on purchases that we do. We also collect about \$33 million a year. We were looking for a way that you could collect an incentive. And the only revenue stream that's a steady revenue stream as far as what public power districts pay to the state are sales tax dollars. So that's a little history of where the bill came from and what it is that makes it work for us. So I'll stop. I'll try to answer any questions that you might have and... [LB455]

SENATOR CORNETT: Senator Utter. [LB455]

SENATOR UTTER: Looking at the fiscal note, a rather substantial figure. And we have heard at an awful lot of hearings in Revenue Committee thus far this year what Iowa

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

Revenue Committee
March 05, 2009

does and what Kansas does and what Missouri does and what South Dakota does. And I think it's just important for us to step back and take a look at that most of those states are in deep fiscal doo-doo right now. Luckily Nebraska isn't but could get there pretty easy. And I'm just wondering realistically is this the time to consider something that has a fiscal note of some \$70 million plus for the biennium. How do we justify that as state senators when we're already really struggling to find the money that it's going to take to run this state on a bare bones budget without raising the taxes on somebody? [LB455]

TOM RICHARDS: I guess it goes back to a little bit when I started my testimony, that this is an education process. The utilities are at a crossroads. We have people asking us, you know, where are you at on renewable energy and what are you going to do? What are you going to build? I guess part of the point that we're trying to make is if you want to go forward and you want to build significant renewable energy projects, there's a cost...price tag involved. For instance, if OPPD wanted to build a 100 megawatt wind turbine farm, 100 megawatts, the normal transaction is that it costs about \$2 million a megawatt to build a renewable project. That base price tag would be \$200 million to build 100 megawatts. That's not including the transmission that goes to service. Yes, we're talking about big numbers. I guess part of it goes back to...depends on what the priority is for the state. If the priority for the state is that...we're not here advocating the development of the wind energy to the state, we're here educating, saying here's what some of the numbers are to make that, if it's going to happen, that's what has to happen to make it work. [LB455]

SENATOR UTTER: Well, and I appreciate that. And I support what we're trying to do in this regard. I just have to ask myself as a state senator, is now the time that we can commit the resources, realistically, to look at a project such as this or is it important that we keep ourselves out of a California type situation. [LB455]

TOM RICHARDS: And ultimately that goes back to all of you to say what that decision is. Again, going back to the education of what's going on. I don't disagree with you. It's a big price. [LB455]

SENATOR UTTER: Thank you. [LB455]

SENATOR CORNETT: Senator Louden. [LB455]

SENATOR LOUDEN: Yes, thank you for your testimony, Tom. As I understood your testimony you've mostly discussed the sales tax that OPPD pays and that sort of thing. And you say \$7 million worth of sales tax is... [LB455]

TOM RICHARDS: That portion on items that we buy as a utility, that's what we pay the state of Nebraska. [LB455]

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

Revenue Committee
March 05, 2009

SENATOR LOUDEN: Okay... [LB455]

TOM RICHARDS: In addition, we pay...we collect \$33 million, and these are just averages, okay? [LB455]

SENATOR LOUDEN: Okay. [LB455]

TOM RICHARDS: It fluctuates from year to year. [LB455]

SENATOR LOUDEN: Yeah, and that...the patrons are paying, the customers are paying that. [LB455]

TOM RICHARDS: That's correct, what they pay on electricity. [LB455]

SENATOR LOUDEN: Now on...if you're doing some new construction and that sort of thing, do you pay sales tax on that material that goes into that new construction? [LB455]

TOM RICHARDS: We do, we do. That's why it fluctuates. Because if you're building a brand new power plant that's a billion dollar power plant and let's say one-third of that is the parts and things that you're buying, or even on parts and labor, that's a significant amount of money. So when that power plant is done being built, then it rolls back to kind of a more sometimes between \$4.5 million and \$5 million. So it fluctuates. [LB455]

SENATOR LOUDEN: Okay. Now as I look at this bill, though, this 1.9 cents sales tax credit for each kilowatt hour, that's the bread and butter for you, isn't it? If you can get nearly 2 cents a kilowatt back of credit for every kilowatt you send, I mean, the sales tax thing is insignificant compared to what that would amount to, isn't it? [LB455]

TOM RICHARDS: That...a portion of what you're saying is correct. But that's what makes...that's what closes the gap and makes wind energy more affordable is if you can get a tax credit because in cases it's more expensive, it's a way that you can offset some of those costs. And you're correct, that it's the... [LB455]

SENATOR LOUDEN: Yeah. And the reason you're doing this is because the federal government gives you tax credits, but you don't pay income tax, so you don't...you're not privileged to receive those tax credits. [LB455]

TOM RICHARDS: That's correct. [LB455]

SENATOR LOUDEN: So now we're putting it down on the state level... [LB455]

TOM RICHARDS: That's correct. [LB455]

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

Revenue Committee
March 05, 2009

SENATOR LOUDEN: ...to set it up so that you can receive tax credits you ordinarily wouldn't be able to do. [LB455]

TOM RICHARDS: And that... [LB455]

SENATOR LOUDEN: And what's the government rate of tax credits you get when you...if you're doing a C-BED project or whatever, if you were over in Iowa with your generation, do you know what their tax credit is? [LB455]

TOM RICHARDS: Well, it's based on...I don't know all of it. But part of it is the 1.9 cents, they get that tax credit. The state of Iowa kicks in, and I don't know what the number is, they tax...they kick in their own percentage of energy. They get a credit on the energy, plus they get an exemption on the materials that they are buying to build those facilities. [LB455]

SENATOR LOUDEN: Um-hum. [LB455]

TOM RICHARDS: So they get it in three ways on the state level. They get the federal... [LB455]

SENATOR LOUDEN: But this 1.9 cents would be matching more or less the federal. [LB455]

TOM RICHARDS: That portion of it would be what they get from the feds would match that portion of it. [LB455]

SENATOR LOUDEN: Okay, thank you. [LB455]

TOM RICHARDS: That's my understanding. [LB455]

SENATOR CORNETT: Yes, I'm sorry. Senator Hadley. [LB455]

SENATOR HADLEY: I have heard a lot that our energy is reasonable in Nebraska. That's a...I've heard the economic development people say that that's one of our real pluses to try and sell. [LB455]

TOM RICHARDS: That's correct. [LB455]

SENATOR HADLEY: Is part of the reason that's reasonable is that we're not paying income tax at the state level and the federal level? [LB455]

TOM RICHARDS: That's correct. [LB455]

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

Revenue Committee
March 05, 2009

SENATOR HADLEY: And such as that. So I'm wondering, do the other states, they might be able to give money back to the electrical companies because they're charging... [LB455]

TOM RICHARDS: That's correct. [LB455]

SENATOR HADLEY: ...the electrical companies. [LB455]

TOM RICHARDS: Most of them are investor-owned, and they're passing those costs through in their rates. We don't...if we build renewable projects, those are built into our rate base and they're not passed...on exactly what you're saying is that we absorb them in our rate base and that drives the cost of electricity up. In Iowa investor-owned just move that price mark up further and then they get the advantage of those tax credits as well. [LB455]

SENATOR HADLEY: And, I guess, what I...I'm trying to rationalize in my mind all the citizens of Nebraska are paying for the \$30 million or \$38 million of tax credit versus the actual users of the electricity paying for the, you know, paying for the credits. [LB455]

TOM RICHARDS: You also have to remember that that \$38 million is based on, I don't know exactly what it's based on, but that would be that if every utility in Nebraska was generating renewable energy, not every utility in Nebraska is going to do that. There are some that are and some that aren't. So I think that that number, while it's out on the nth degree as far as the total possibility, I don't think that that would happen. I think that there would be some utilities that would build renewable projects and take advantage of that sales tax credit. [LB455]

SENATOR HADLEY: Well, you know, I just want to make sure that I kind of fully understand how public power works in Nebraska. And as Senator Utter said, there isn't a day that we don't get beat on over the head that something is doing something in Kansas or Iowa or Missouri, Colorado that Nebraska is on the short end of the stick. And... [LB455]

TOM RICHARDS: Well, we take pride in our economic development efforts by keeping the price of electricity low. [LB455]

SENATOR HADLEY: Which I think is a very... [LB455]

TOM RICHARDS: And, I guess, the model or the educational component of this is that...what we're saying is as we move forward, if this is the area that you want to go, here are some of the price tags that go along with that. [LB455]

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

Revenue Committee
March 05, 2009

SENATOR HADLEY: Okay, I understand that. [LB455]

SENATOR CORNETT: Senator Utter. [LB455]

SENATOR UTTER: Just one more question. As we look at alternative forms of power, generation of power that's coming down the pike, and I know that you folks have had some experience with the nuclear thing, how does...and while it may not be as green, and certainly I'd be the first one to admit that green is popular. How do you compare the cost of generating electricity using some updated, modern, nuclear technology with the wind power? [LB455]

TOM RICHARDS: Well, today...that's a good question. I'd have to compare it to coal and I'll start there and I'll try to work...find my answer for you. If you would compare it against coal, nuclear would probably be more today. But going back to a little bit of what Senator White said, if you're starting to move towards cap and trades and you're starting to move towards emissions taxes, then nuclear becomes more viable and more attractive because of...you're driving the price of coal up at that point. Wind would start to fit into that mix. We've already seen some closing of the gap between traditional coal-based carbon production and wind, not because the price of wind has come down, because in fact the price of wind has probably gone up. What's happened is the price of coal has gone up and thus it's closed the market a little bit closer to making that more of an attractive bill for utilities. So, I guess, that would be my answer is that it's not that the price of wind has come down, it's actually gone up, but the price of producing coal has gone up at this point as well and could go up more. [LB455]

SENATOR UTTER: And so where do you put nuclear in that... [LB455]

TOM RICHARDS: Today it would probably be number two. It would be coal number one, it would be nuke number two, it would be wind number three. [LB455]

SENATOR UTTER: Thank you. [LB455]

TOM RICHARDS: I'm just doing this off the top of my head, again talking to people in the utility business that would be my recollection. [LB455]

SENATOR CORNETT: Senator White. [LB455]

SENATOR WHITE: Thank you, Tom. We took a tour of the Ft. Calhoun Plant. Actually, a huge portion of the cost of nuclear is in the security now, is it not? [LB455]

TOM RICHARDS: The fixed costs of nuclear, including security, is where a lot of the costs are. You have to maintain an engineering department, a security department, a finance, all the different things that go with it, that's correct. [LB455]

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

Revenue Committee
March 05, 2009

SENATOR CORNETT: Senator Dierks. [LB455]

SENATOR DIERKS: Thank you, Senator Cornett. Tom, we've been in the C-BED business for two years now. Are you free to tell us what C-BED projects are going on at OPPD? Is that confidential information or... [LB455]

TOM RICHARDS: I can't tell you exactly. I know that OPPD is in the process of building an 80 megawatt wind farm. And I'm pretty sure that...I know Mr. Hansen is behind me, maybe he's going to testify, that one of the RFPs we're considering is a C-BED project. But we have not announced where we're going to do that. We've also just announced that we're going to move towards a 10 percent renewable energy goal. And that will be more production by 2020. So that could be upwards of a couple hundred more megawatts of renewable energy. I think they're in the mix. I think there's a C-BED project in the mix. I don't know who they are. I don't know where they're at. [LB455]

SENATOR DIERKS: Thank you. [LB455]

SENATOR CORNETT: Any further questions from the committee? Seeing none, thank you. [LB455]

TOM RICHARDS: Thank you. [LB455]

SENATOR CORNETT: Next proponent. [LB455]

KRISTEN GOTTSCHALK: Senator Cornett, members of the Revenue Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association. I'm representing here today 35 of our rural electric systems, none of them which generate electricity, they are simply distribution systems. But they provide electric service to over 400,000 meters over 80,000 miles of distribution line. And we do that at very low cost, by the way. We do appreciate Senator Nordquist introducing this bill. The Rural Electric Association has in fact worked hard at the federal level to try to get equitable solutions for nonprofit utilities so that we can participate in line with the investor-owned utilities with the resources that they have available to them. Did want to address the question that Senator Hadley had with respect to cost. Is it because we're not paying income tax that our costs are so low? I'm sure that's a small component of it. But the reality is because we're not generating a profit for shareholders that really is the reason we've managed to keep our costs and rates very low in the state of Nebraska. We have worked to get the clean renewable energy bonds at the federal level. That's one step into putting us in par, also dealing with an annual appropriation for that program. Feel very strongly with what Senator Nordquist is trying to do so that the state can take a more active role in facilitating and moving forward with renewable energy projects.

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

Revenue Committee
March 05, 2009

Sales tax exemption is another issue of equity. Since we are allowing that for community-based energy development projects it seems that that benefit should also be for the publicly-owned utilities of this state. And again, not so that they can compete but so that we have various avenues from which to develop renewable energy in the state of Nebraska. We do understand very clearly what the economic situation is in our state and across the United States and the ability of the state to be able to fund a program like this with the appropriations or the fiscal note at the level that it is may be impossible. And we do support the amendments that Senator Nordquist brought to your attention. But we'd also like to bring to your attention one other possible amendment that would not cost the state additional dollars. It would be going back to legislation that we passed in 2006, the Renewable Energy Tax Credit bill. And this bill was meant to create an increase in investment by privately owned individuals for renewable energy generation projects. And the poster child that we've always used for this, and I'm sorry to refer to you that way, Danny, but (laugh) has been Danny Kluthe and his 80 megawatt...or 80 kilowatt hour, excuse me, methane digester. He has 8,000 hogs produce a resource that can then be turned into methane gas, which he then uses to generate electricity. And the benefits of his project go far beyond the ability to generate electricity with a renewable energy resource, but it goes to being able to manage a manure resource and controlling odors on his project. So it's a very innovative way to get multiple benefits out of one project. Well, what we found, Dan Kluthe got a letter in the middle of January, after the time frame for introducing new legislation was passed, with the Department of Revenue telling him that he did not qualify for that renewable energy tax credit bill that was almost created for him. And the reason for that is the way the language in the bill was drafted. And it made reference to zero emissions facilities. I think we realize anytime you run a combustion engine, regardless what the fuel to go into that engine, you are going to have some emissions. Department of Revenue did pick up on that, sent him a letter saying that he no longer qualified. And, in fact, I believe he has to pay back the tax credits that he had been awarded in the past. So what we would ask for, and this is actually within the bill, starting on page 5, the language dealing with the old renewable energy tax credit legislation, would be simply to strike the language referencing "new zero emission facility" and replace it with "renewable energy generation facility" because we still believe that the renewable energy aspect of this is the key component. And it would be as simple as that. You can go back and you can look on page 6, when it lists the types of materials to be considered for renewable energy generation methane gas is specifically listed. And again, in order to use that as a resource you do have to put it into a combustion engine with some emissions. So with that, I do want to close my testimony. And I would be available for any questions you might have. [LB455]

SENATOR CORNETT: Any questions from the committee? Seeing none, thank you. [LB455]

KRISTEN GOTTSCHALK: Thank you. [LB455]

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

Revenue Committee
March 05, 2009

SENATOR CORNETT: Next proponent. [LB455]

DANNY KLUTHE: Thank you, Senator and thank you, committee. I'm Danny Kluthe, D-a-n-n-y K-l-u-t-h-e. I'm a hog producer from Dodge. I'm also on the Cuming County Public Power District and I'm also a director for the Nebraska Rural Electric Association. But today I'm testifying on behalf of myself. Kristen kind of talked a little bit about the renewable energy tax credit that I, back when that bill was introduced, I testified on behalf of it and the intent was actually for all renewable energy projects. And I was pretty shocked when I found out that for the...the way it was written my project was not able to be used under this tax credit. And the exciting thing about renewable energy, and especially this methane digester is the fact that it helps economic development, it takes waste, hog waste, livestock waste, (inaudible) waste and eliminates odor. All of the waste that goes through this processing system it eliminates the odor, which is really huge when you're talking about livestock. And I probably can go on and on but I'll probably just stop there and take questions because I think that if we go back to the intent of what was originally intended, I think hopefully you will see it so that we can scratch what we need to scratch on it and make it right. With that, I'll be available for questions. [LB455]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB455]

DANNY KLUTHE: You're welcome. [LB455]

SENATOR CORNETT: Next proponent. Are there any further proponents? [LB455]

KEN WINSTON: (Exhibit 1) Good afternoon, Senator Cornett and members of the Revenue Committee. 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 LB455. We're big supporters of renewable energy as you might expect. There's a number of reasons for that. We believe it's important for economic development purposes, reducing greenhouse gas emissions are one of our primary goals. There are other pollutants that we also want to reduce, and I can go into more detail if you'd like, but I'm guessing that brevity may have some benefits this afternoon. There probably also has been mention of energy security as a reason for using more renewable energy and then controlling costs. There have been a number of increases in rates by our utilities because of the increased cost of nonrenewable fuels, in large part because the transportation costs have gone up so much. And wind and solar don't require fuel, so therefore the fuel costs remain constant. We have tremendous wind and solar potential. And the problem is that we're lagging behind in development of our potential in that area, in large part because of tax policies. The federal tax credit has benefitted private developers. And as Senator Dierks was the primary introducer of LB629 in 2007, along

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Transcriber's Office

Revenue Committee
March 05, 2009

with a number of other senators, which provided a method for the public utilities to work with private developers directly so that they could take advantage of the incentives that are available. LB455 provides direct incentives to the public utilities for the development of renewable energy. And we would encourage that because we believe that development will have great opportunities for financial and economic development for the state. There was an NREL, the National Renewable Energy Laboratory study, which depending upon the scenario that was used they estimated that thousands of jobs and billions of dollars of economic development benefit would result if wind in particular was developed in the state of Nebraska. I have not seen the amendment, but if they do what I've been told we would be in support of the amendments. And then I also wanted to comment on the prior testimony. We've consistently supported methane recovery. We believe that it's important to take pollutants and convert them into beneficial resources. We also believe that reduction in odor is a very important aspect of this process. And it also has a benefit in that it reduces the manure into a form that it's more easily applied on fields. And I'm sure Mr. Kluthe could tell us all about that, if he wanted to. So with that, I would be glad to answer questions. [LB455]

SENATOR CORNETT: Any questions from the committee? Seeing none, thank you very much. [LB455]

KEN WINSTON: Thank you. [LB455]

SENATOR CORNETT: Next proponent. Opponent? [LB455]

ROBERT BYRNES: Good afternoon, Senator Cornett, members of the Revenue Committee. My name is Robert Byrnes. I'm owner of Nebraska Renewable Energy Systems in Oakland, Nebraska. My name is spelled B-y-r-n-e-s. I'm here to present testimony in opposition to LB455 as written. I have not had a chance to review amendments. I do support the concept of developing renewables. I understand this is a positive thing for Nebraska and I appreciate the OPPD representative for outlining the economic development impacts that arise from such developments. I am concerned, though, that a public tax credit or production tax credit issued by the state is nothing more than a hidden tax to the Nebraska taxpayer. It's kind of like robbing Peter to pay Paul, to a large extent in the public system. This bill provides the production tax credit at twice the length of the federal PTC, that's a 20 year liability. I think that's a very expensive undertaking, I think, for the state to sign onto. I'm unsure how the fiscal impact was derived, but I used the...LB437 or Wind Energy Task Force number of 7,800 megawatts. Used slightly below that with a 50 percent public power ownership, and the number I came up with was in the billions of dollars with a B. That's a pretty...I think maybe to address some of the concerns about fiscal responsibility for an investment like this I think a cap, a megawatt cap might be appropriate or considered. I do agree with the sales tax exemption as is currently granted to C-BED. I think that should also be provided to public or actually private wind turbines. Small, decentralized, and

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

Revenue Committee
March 05, 2009

publicly-owned wind turbines are often left out of these incentive programs, and LB455 is no exception. Public power has correctly lauded the economic development opportunities of wind, yet we see continued resistance against decentralized opportunities that we have in this area, such as net metering. Net metering, because there are no "infrastructural" costs provided to public power make a lot of sense. This is something that we've been struggling for in Nebraska for decades. I think we should try to keep citizen-owned turbines in the mix with C-BED and public power instead of grouping them with private developers. I also agree with REA testimony and Danny's testimony regarding the correction, the apparent mistake in the renewable energy tax credit as it currently exists. I think since methane is specifically noted in that bill the zero emission requirement is obviously at odds with the bill intent. I believe that renewable energy production tax credit does represent an existing platform that can be used to incent these technologies. And I would also include a more diverse technology base than just wind. And that may be a more suitable program to do this kind of incentive. And with that, I'd be glad to entertain any questions. [LB455]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB455]

ROBERT BYRNES: Thank you. [LB455]

SENATOR CORNETT: Next opponent. [LB455]

JOHN K. HANSEN: Chairman Cornett, members of the committee, for the record, my name is John K. Hansen, John J-o-h-n, Hansen H-a-n-s-e-n. And it is with some reluctance that I testify in opposition. But based on the bill in its present form, not seeing amendments, not knowing what's actually in the mix, in its current form we cannot support it. We have several areas of concern. One is that the transferability of the credits, where in our view public power could get those credits and then transfer them to private sector developers, and it could be an end-around and create a huge fiscal hole where one was not intended or needed. So it raises some concerns with us relative to that. Second, I'm not really sure that it's needed or necessary to actually stimulate wind energy development. The two areas that we are in agreement, one is not in the bill, but that includes the correction to what we believe the original intent of the renewable energy credit was. And a technical correction would certainly be in order. And if we would go forward in a fashion with some sort of sales tax abatement for public power, the one that I think is the most targeted, the most focused, and would have far and away the most across the board benefit in wind energy development would be to target a sales tax abatement for all of those materials. Just do a straight out abatement of sales tax for public power investment in transmission and grid upgrade. If we're going to move forward with wind energy development in the state of Nebraska, it's very obvious to anyone who has looked at the Nebraska wind potential that we obviously have a lot of it. The National Renewable Energy Lab has estimated that in order for us to be a full

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

Revenue Committee
March 05, 2009

partner in the 20 percent of the nation's electrical generation by 2030 goal, that we would need to develop approximately 7,880 megawatts of wind, that's where that estimate comes from. And certainly one of the key restricting factors right now is transmission and transmission capacity. And so if we're going to upgrade the infrastructure and we're going to participate in both diversifying our domestic portfolio of electrical generation in this state to participate in the Southwest Power Pool goals, which we are now as a state entering into and will formalize later this spring, as we orient our generation and grid and queue and process toward the Southwest Power Pool or as a part of regional development or as a part of fitting into a national super highway type grid system, all of those things are going to require substantial updates and investments in the grid itself and in transmission. And so that seems to be a more appropriate and targeted way to look at sales tax abatement in our view. And with that, I would close and be glad to answer any questions if I would be able to do so. [LB455]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB455]

SENATOR LOUDEN: Thank you, Senator Cornett. Well, John, you mentioned about that transferring those credits, and that's in Section 7 there. Is that kind of a license to steal or what? Because, I mean, this puts it out you can transfer that credit, you know, could some corporation come in and build some wind farms and take that tax credit and then use it against their liability, if they had a manufacturing plant or something like that? Is that the way you understand it? [LB455]

JOHN K. HANSEN: Well, I...that was my suspicion when that read it, and not just manufacturing but also for purchase. And so it looked like it had...it appears to me, based on my reading, that there was the opportunity for mischief. [LB455]

SENATOR LOUDEN: Okay, thank you. [LB455]

JOHN K. HANSEN: I would not say license to steal, but I would certainly (laugh) indicate the opportunity was there to do that in that section. And if there was just a straight across the board sales tax abatement for public power, period, for capital purchase for wind development, in the past we have not opposed that. This seemed to be something more complicated and confusing that I certainly don't completely understand but was suspicious of. [LB455]

SENATOR LOUDEN: Thank you. [LB455]

SENATOR CORNETT: Senator White. [LB455]

SENATOR WHITE: Thank you, Mr. Hansen. Portability of tax credits is something that's well established in federal tax law. And they've not been an opportunity for mischief. As a matter of fact, almost every historic structure in the United States that's been

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Transcriber's Office

Revenue Committee
March 05, 2009

redeveloped and readapted and reused has used portable tax credits, have they not?
[LB455]

JOHN K. HANSEN: Yes, they have. [LB455]

SENATOR WHITE: And had the federal government seen fit to provide portability of tax credits for renewable energy, I suspect that public power in Nebraska would have been the leader rather than the caboose of the train moving towards renewable energy. So the problem is not in the concept of portability is it? [LB455]

JOHN K. HANSEN: I would not say it's specific to portability, it would be the applicability of portability and who would get it. [LB455]

SENATOR WHITE: Well, the point of who gets it is those who can use it the best. That's the whole point of portability. If you have an entity that doesn't pay taxes, such as public power, they then can auction off the tax credit to that part of the market that can most efficiently use it. That's the brilliance of portable tax credits, they harness the free market, at the same time incenting development of desirable economic projects. So, I guess, I'm concerned that you think portability is a problem when it would in fact help uniquely Nebraska institution cope with new developmental challenges. [LB455]

JOHN K. HANSEN: And, Senator, in my judgment the same goal could be accomplished by simple abatement of sales tax liability, period, without going through a tax credit and portability system. If, in fact, public power were wanting to build their own projects and the federal incentives were to increase to make that financially feasible to do so and it were simply a matter of public power saying we want to...we now have federal tax credits that work for us for incentives. Right now as the current system exists public power is at about a 2 cents per kilowatt disadvantage for wind energy incentives. And so to cope with that issue the Legislature did pass the C-BED bill which does use the federal production tax credits and it is able to move forward with wind energy development. So public power can move forward with wind energy development and partner with those entities who can use production tax credits. If public power wanted to build their own facilities, then it seems to me that if the federal credits are in place, the straight-up way to do it is to just say okay, sales tax abatement similar to what C-BED has for public power itself. That way we're keeping straight of who's doing what and which kind of model we want to incent. [LB455]

SENATOR WHITE: Well, the reason I asked these questions is I and others have been trying to urge our federal representatives to make renewable energy a portable credit so that people who invest in it, whether they're not-for-profits, whether they're environment groups start building renewable services and facilities can sell them on the secondary market similar to what we do when we rehabilitate historic structures. Would your organization support the extension of portable credits to nonprofits such as OPPD and

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Transcriber's Office

Revenue Committee
March 05, 2009

NPPD? [LB455]

JOHN K. HANSEN: And Nebraska Farmers Union and Nebraska Farmers Union Foundation, if we were on the list we would have to certainly look at that. You know, right now we have a new federal incentive system. And part of the angst at the national level relative to incentives and portable any kinds of production tax credits is the lack of need for a federal tax offset. And so the need for the credit itself has been diminished by the performance of the stockmarket and the economy generally. So the number of equity players who use those kinds of credits is substantially reduced. And the amount of tax liability that they have is substantially reduced. So the new incentive, which has just come out, that came out of the stimulus package would be a temporary ability to claim to 30 percent of the investment tax credit instead of the production tax credit four of the next four years. And so 30 percent basically of the project costs would be a one-time up front financing mechanism. And so there's lots of new things in play here, most of which all of us are scrambling to figure out and figure out how they best work. [LB455]

SENATOR WHITE: Thank you. [LB455]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB455]

JOHN K. HANSEN: And thank you. [LB455]

SENATOR CORNETT: You're welcome. Are there any further opponents? Is there anyone here to testify in a neutral capacity? Senator Nordquist, you are recognized to close. [LB455]

SENATOR NORDQUIST: Thank you again, Madam Chair and members of the committee, thank you for your thoughtful questions and the discussion today. Ultimately, I see this as a way...you know, the bottom line is this is what we need to move our public power districts forward in renewable energy production. Like we had a discussion earlier that if a cap and trade system comes in and carbon tax, the equation, you know, the economics of it could flip overnight leaving our ratepayers in a serious hole, ratepayers including businesses, which seek out Nebraska because of our low cost utilities. Just one thing. Senator Loudon had a question kind of about the breakdown a little bit of the credit, the 1.9 cent credit, of the \$36.5 million on the fiscal note in the first year about \$23 million of it would be for the production tax credit, about \$12 million would be for the tax exemption on equipment. So that exemption going forward on the equipment would be somewhere in the \$12 million to \$13 million range going forward. Those are numbers from the Department of Revenue. And I would...I look forward to working with the committee to come up with a sensible solution here, especially on the equipment exemption, I think that is an issue of equity. We did it for the C-BED projects, I think we need to do it for our public power districts as well. And as far as the methane

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

Revenue Committee
March 05, 2009

digestion, if the committee goes forward with this legislation that's something that I would encourage you to consider putting in there as well. Thank you. [LB455]

SENATOR CORNETT: Thank you, Senator Nordquist. That...questions from the committee? Seeing none, that closes the hearing on LB455. Senator Louden, you are recognized to open on LB58. [LB455]

SENATOR LOUDEN: (Exhibit 2) Good afternoon, Senator Cornett and members of the Revenue Committee. Today I bring before you LB58. I'm LeRoy Louden, I represent District 49. And the last name is spelled L-o-u-d-e-n. That's a bill that exempts all propane and heating oil used for residential heating purposes from sales tax. This bill came about after the price of propane and heating oil spiked a couple of years back and it became extremely expensive to heat a home in this way. The price became over \$2 a gallon for propane and somewhere around \$4 a gallon for home heating oil. And with the sales tax of 11 cents a gallon on propane, with 5.5 percent on the \$2 a gallon, it's around 11 cents a gallon. And I can remember when that's all you ever paid for propane was 11 cents a gallon in itself. And although most homes use natural gas and electricity to heat and cool their homes, there is a population that uses propane and heating oil for this purpose. This bill was designed to help middle to lower income families heat their homes. Larger farms and ranches that use propane can deduct as a corporation or it may get a tax free propane for grain drying purposes. Homeowners that live in small towns may have no access to natural gas lines, and so propane or heating oil may be their only option. Using a working man's paycheck to heat ones home using propane is not very easy. The price of propane has rapidly risen in the last five years. In 2004, the average price per gallon was about \$1.07, and by 2008 it had risen to \$1.94 and that was the average price. In July of 2008, the price of propane peaked at \$2.17 a gallon. And then from October '07 to October '08, the price of propane did not go below \$1.83. In six of those months the price stayed above \$2 a gallon. Anyway, the green copy of this bill has a fiscal note of over \$5 million. I've worked with the Propane Dealers Association and others in order to come up with an amendment to this bill, and that's the one that's being handed out now, that may be more fiscally neutral. I've done this by exempting propane and heating oil from sales tax and taxing it with an excise tax of 60 cents a decatherm, or broken down to approximately 6 cents a therm. These prices would coincide with propane priced at \$1.50 a gallon and a 5.5 percent sales tax. This way the tax would stay the same. And by using thermal units this is the most fair and reasonable way to tax heating fuel as any fuel can be reduced to calculated in British thermal units, or BTUs. And with that, I would thank you for your consideration of this bill. I intend to have this amendment added to the bill or take the place of the bill. The sales tax, before on the original bill there was a fiscal note that was unusable I thought. By going to the therms and setting it somewhere around \$1.50 a gallon the price of your sale...the tax on fuel then would stay the same all the time for the people, unless the Legislature decided to change it. This way you wouldn't have these spikes such as we had. When that...some of that home heating oil or number 2 fuel, as some of you may

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Transcriber's Office

Revenue Committee
March 05, 2009

know that's familiar with it, got up around \$4 a gallon why there was about 22 cents a gallon sales tax on the fuel. And this is usually the people, as I say, the blue collar workers, anybody on a ranch or farm, for the most part, can deduct that as a deductible expense. But those people who live in those small towns that are driving someplace working for wages and that sort of thing, they can't deduct that as an expense. So it's an out of pocket expense for them and part of their living expense. So this is a way to try and neutralize some of the shock, I guess, and keep it the same so that it isn't spiking the year-round. With that, I'd be willing to answer any questions if I can. [LB58]

SENATOR CORNETT: Questions from the committee? Senator Adams. [LB58]

SENATOR ADAMS: Probably a naive question, Senator Louden, but I'm accused of that all the time. I can understand the plight of someone that is dealing with those kind of prices with those two particular fuels. But I guess I have to ask the obvious, why wouldn't they use natural gas or electricity and avoid that? I can understand on a farm and ranch where that alternative maybe doesn't exist. [LB58]

SENATOR LOUDEN: Well, out in...like in western Nebraska now you have a natural gas line that comes up from Sidney, goes to Alliance, goes to Chadron, and goes both ways down Highway 20 a ways. And then from there east there's nothing. Yeah, I've told Source Gas and Roland (phonetic) and a bunch of them that, you know, when you going to put a gas line by my place? But it will never happen. So you have those towns, all those towns down Highway 2, I don't think there's any gas available. Maybe perhaps Broken Bow or someplace down there is the first time you have any of it. A lot of your towns as you go in north from Scottsbluff, there's no natural gas pipelines out there. There is once you get up on Highway 20, because they're a gas line that runs along Highway 20. This is...there are areas out there. I think...I've been told that like Arnold and Callaway, I think, aren't on natural gas because that was the ones where if you took the sales...the city sales tax off I think there were a couple of towns in there that had a city sales tax, that they would be putting a sales tax on it. That's the reason written into this amendment there is a half a cent per therm tax for local entities. And this is what we're looking at is a big area. Now I'm not familiar with down in the southern end of Nebraska whether there are any... [LB58]

SENATOR ADAMS: What about electricity, though? I mean in the community you're talking about that doesn't have the natural gas to it. [LB58]

SENATOR LOUDEN: Usually, that's quite high priced to convert to electricity to do it. Unless you can insulate real well and come up with some kind of a geothermal system, the electricity is quite high because I had a son that just did that. He changed his heating oil over to electricity and it's expensive to do. [LB58]

SENATOR ADAMS: Then it begs the question should we add electricity to the...(laugh)

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

Revenue Committee
March 05, 2009

[LB58]

SENATOR LOUDEN: Well, okay. Yeah, I thought about it. And see, if you're using thermal units you can. The problem is, is how do you decide on your electric meter what you're using to heat your house and what you're using to plug your car in, in the morning, or you're turning the lights on in your garage or opening...your garage door opener or something like that. But yes, it could be. If you wanted to heat with wood chips and you had to buy your wood chips, it could be worked around. Once you ever start setting it up and figuring it on a thermal unit, everything there is that you burn or can heat with has a thermal unit, whether it's cow chips or whatever it is. [LB58]

SENATOR ADAMS: Thank you. [LB58]

SENATOR CORNETT: Any further questions from the committee? Seeing none, thank you, Senator Louden. First proponent. [LB58]

TOM BOSSHARDT: (Exhibit 3) Thank you, Madam Chair, members of the Revenue Committee, for the opportunity to testify today in regards to LB58. My name is Tom Bosshardt, B-o-s-s-h-a-r-d-t. I'm the executive director of the Nebraska Propane Gas Association. I'm here today to support LB58 as amended by Senator Louden to remove sales tax from propane and heating oil for the use of heating residential dwellings. Replacement excise tax, instead of sales tax, would help propane marketers when figuring out how many gallons of propane to pump into a tank when a customer calls and ask how many gallons they can get for X dollars because of the set tax per gallon on 1 million BTUs instead of going through the number of calculations when using a sales tax percentage. Thank you for this opportunity. [LB58]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB58]

TOM BOSSHARDT: Thank you. [LB58]

SENATOR CORNETT: Next proponent. [LB58]

TIM KEIGHER: Good afternoon, Chairman Cornett, members of the committee. My name is Tim Keigher, that is K-e-i-g-h-e-r. I appear before you today as the executive director and lobbyist for the Nebraska Petroleum Marketers and Convenience Store Association in support of LB58. I guess I'll be very brief and that me too. We just feel this is a way to help our customers who use heating oil to heat their homes, control the cost somewhat. Even though we can't control the cost of the fuel itself, we just felt that, you know, supporting them was worth coming in and supporting Senator Louden. So with that, I'll be happy to answer any questions if I can. [LB58]

SENATOR CORNETT: Seeing none, thank you, Mr. Keigher. Next proponent. Are there

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

Revenue Committee
March 05, 2009

any further proponents? We'll move to opponent testimony. Are there any opponents? Neutral? Senator Louden. [LB58]

SENATOR LOUDEN: Yes. Thank you, Chairwoman Cornett and members. All I would say is Gene Roland (phonetic) sent in his...and he told me he would send in an opposition testimony. And that was before we'd put in the amendment that we have here and worked it over to the therm excise tax. His concern was that they have some areas that people are going to use propane instead of natural gas. And I asked him, where on earth would that be? And it was usually a case of where someone wasn't paying their bills on the natural gas and they were probably going to get shut off so they went to propane. This same system could be used in natural gas or whatever. Once you decide on therms it doesn't matter what it is. And I think that was...I wouldn't want to speak for Gene, but this was their concern that they would be taxed at a little bit different rate than what propane is. The deal is at the present time propane was paying a huge amount more sales tax per therm than what propane was. If you remember the bill that Senator Cornett had on earlier here, her bill was figured out at about, what, I think the therms, they had to be about \$13 and some cents, which is the highest it had ever been. And if you would have used this figure, you wouldn't have to use near that high a cost per cubic foot of what it was with natural gas. So this is something to smooth it out. This can be used straight across the board for any fuel we have if someone so desired to do that in the future. With that, I thank you for your attention. [LB58]

SENATOR CORNETT: (Exhibit 4) Thank you, Senator Louden. That closes the hearing on LB58. Senator Louden or Adams, you are recognized to open on LB234. We have a letter of support from Nebraska Grain and Feed Association that I will enter into the record. [LB58]

SENATOR ADAMS: Thank you, Senator Cornett, members of the committee. Back again. And the story I would tell you today is somewhat similar to yesterday. We have again a situation, although I believe more narrowly defined, of where the Department of Revenue's interpretation of existing statute and the application of sales and use tax may be a bit different than what the Legislature originally intended. If you recall, yesterday we were talking about the mineral oil that's applied to grain to suppress dust. Today it's energy, the energy that is used to dry down grain at our elevators. And the issue seems to be this. The statute allows for where 50 percent, if I remember correctly, where 50 percent of the energy is used...over 50 percent of the energy is used for drying purposes of the grain, then a portion of that energy is exempt from sales and use tax. And that has been the practice. That's not what is being debated here. Instead the issue is this, the Department of Revenue has determined that that exemption should only occur during the months of October, November, and December because those are the months when corn is being dried down. Hence the interpretation is that maintaining moisture levels for drying purposes is not what the original intent of the statute was or for that matter, and Senator Louden can better speak to this, if the exemption has been

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

Revenue Committee
March 05, 2009

interpreted to mean October, November, and December, what happens in other parts of the state when grain such as wheat are coming in and need to be dried down. Therein lies a big share of the problem. So the interpretation, in summary, the interpretation of this is that the Department of Revenue says we'll exempt that use of energy, but we're only going to exempt the use of the energy from October to December, that's it. That's...what this bill would do would be to correct that interpretation again, similar to yesterday. And there, like yesterday, there are those who deal with this every day that are behind me and willing to testify. But I would try to field a question or two, if you have them. [LB234]

SENATOR CORNETT: Senator Adams, you may not...I'm sorry, go ahead. [LB234]

SENATOR HADLEY: Senator, just a quick question. Maybe it's not possible. At times I think somehow maybe the Department of Revenue should ask the Legislature how we might have meant for something to be interpreted rather than going off on, you know, (laugh) and that's probably just an off the wall question but... [LB234]

SENATOR ADAMS: That question has been asked before. And then sometimes, Senator, we get accused of being in the judicial role, and we're not supposed to do that either. [LB234]

SENATOR HADLEY: Okay. [LB234]

SENATOR CORNETT: Senator Louden. [LB234]

SENATOR LOUDEN: Well, I asked the same question yesterday. Is this another case of them needing to be slapped up side the head? (Laughter) I mean, where did they come up with the idea that they were only going to...was that...is that in statute anyplace that listed those days? [LB234]

SENATOR ADAMS: I don't believe so. I think it's an interpretation, their interpretation of the statute. I don't believe it's listed that way. And I suspect someone coming up behind me could better explain that. And slap up side the head (laughter), I think this is more a matter of genuine interpretation. And... [LB234]

SENATOR LOUDEN: Well, there has got to be some common sense someplace around there. I mean, if you're going to dry grain, you're going to dry grain. It doesn't matter what time of the year it is, depends on what you have. Could be peanuts in the wintertime or something like that, you know. So are they going to shut it off then that you can't dry grain after, what did you say, some time in October? [LB234]

SENATOR ADAMS: After December. [LB234]

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Transcriber's Office

Revenue Committee
March 05, 2009

SENATOR LOUDEN: December? [LB234]

SENATOR ADAMS: Um-hum. [LB234]

SENATOR LOUDEN: Then what about into the spring on some of the stuff that...what if you have snow and this corn is late getting out of the field? I've seen a time when they didn't harvest corn until after Christmas, you know, if you got snow in (inaudible). [LB234]

SENATOR ADAMS: Right. And I would tell you, Senator, I think that a portion of this issue comes from your part of the state. [LB234]

SENATOR LOUDEN: Well, the wheat part I know does... [LB234]

SENATOR ADAMS: Right. [LB234]

SENATOR LOUDEN: ...because, yeah, if they bring in wheat, ordinarily wheat is dry...is dried in the field out there. But there is some that will come in with too high a moisture. Thank you. [LB234]

SENATOR ADAMS: You're welcome. [LB234]

SENATOR CORNETT: Looking at the current statute, this bill has been in place since 1993. And when did the Department of Revenue decide that this was just for... [LB234]

SENATOR ADAMS: I don't have the answer to that, Senator Cornett. Someone behind me may. [LB234]

SENATOR CORNETT: Okay, thank you. Sorry. [LB234]

SENATOR ADAMS: I'm sorry. [LB234]

SENATOR CORNETT: Any further questions? First proponent. [LB234]

TOM JEFFERS: (Exhibits 5 and 6) Thank you, Chairwoman Cornett and members of the Revenue Committee. My name is Tom Jeffers. My last name is spelled J-e-f-f-e-r-s. I'm here today on behalf of the Nebraska Cooperative Council in support of LB234. Real quick, I want to explain what is being passed out right now. I do have written testimony for myself, but also what is being handed out is written testimony from the manager of the Hemingford Cooperative. He very much intended to be here today and in fact traveled to Lincoln today but fell ill this morning. So he will not be testifying today. And I would request that you take the time to review his testimony. Some of the points I would like to make were actually raised in a few of the questions. And I would like to start by

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Revenue Committee
March 05, 2009

first thanking Senator Adams for introducing this bill. It is very important to the Nebraska Cooperative Council and its members and I'm sure many of the agricultural producers in this state. It is true that in the last 15 years or so there has been this energy, this exemption for aeration of grain. The exemption has its source or foundation in Nebraska Revised Statute Section 77-2704.13, and that statute provides that where energy is used for processing at least 50 percent of that energy usage is for processing, then there will be a sales tax exemption. The Department of Revenue has adopted a regulation that corresponds with that statute. And it's interesting in that it broadly provides that processing, quote, includes grain drying and feed grinding in a commercial facility. So there is no restriction as to the number of months. And just to give you a little bit of history, going back a few years, when the Department of Revenue audited elevators and cooperatives, many of whom are my client, the traditional inquiry and dispute with the Department of Revenue was whether or not 50 percent or more of the energy usage was for aeration. And the burden is on the taxpayer to show that. So you have a meter. And, Senator Louden, on the last bill you pointed out with respect to heat how do you tell how much of the electricity is being used for heat versus your garage door opener. We have the same problem for aeration of grain. And what ended up happening is many of the elevators and cooperatives in Nebraska went out and incurred the cost of putting in separate meters. With respect to Hemingford, I believe they have three different locations. And at those three different locations they have, I believe, 15 different meters. So to avoid that dispute, and it's very difficult to tell exactly what proportion of energy going through a meter is attributable to certain uses, they installed meters on their elevators. And that way it gets rid of the issue, we thought. So now the Department of Revenue has recently come back, just late last year, and they want to limit the exemption going through those meters to just October, November, and December. And the situation with respect to Hemingford is enlightening because Hemingford primarily stores and dries wheat. Wheat is harvested July, August in a typical year. It fluctuates, sometimes it's earlier, sometimes it's later, but even more importantly is wheat comes in green off the field all times of the year. You know, the market conditions, various issues are present in the market which cause farmers to bring green wheat in all around, you know, all through the year. So I don't know exactly what's driving this, other than I believe it's a desire to generate revenue for the state. I have represented many cooperatives. This situation with Hemingford is the first that I've seen the department apply this October through December restriction. I will tell you that the Nebraska Cooperative Council has received a letter from the commissioner, the Tax Commissioner, indicating that this position, this limitation regarding October through December was first implemented in 1998. My firm has handled many tax disputes and been involved in audits with a lot of our clients. We've never seen this restriction expressed even until just last year. So we do think that it's really contrary to reality. I don't know where October through December comes from other than my own assumption that because corn is you can say generally harvested during that period, someone has determined that that's the primary time when grain is aerated, and therefore we're going to limit it to those months. And I believe they're trying to eliminate

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Transcriber's Office

Revenue Committee
March 05, 2009

the exemption for those periods when you're making de minimis use of your drying equipment. But I would point you back to the statute which has a 50 percent threshold requirement. And, you know, certainly when you're using more than 50 percent of the electricity through a meter, that's more than a de minimis use. So on behalf of the Nebraska Cooperative Council I would encourage you to support LB234. One point I think is implicit in my comments, with respect to the fiscal note, it's our position that this is not a bill that will cause the state to incur a loss in revenue because...and I do represent 90-plus percent of the cooperatives, most of whom have numerous elevators, none of them have paid sales tax on electricity used for aeration through the whole year. This is the first instance which I'm aware that revenue has not been there. And I see that, you know, going forward this bill, according to the Department of Revenue, will result in roughly, I think, it was \$300,000 less in revenue going forward, but certainly would not represent a loss in revenue that's been collected historically. That concludes my testimony. I would be happy to answer any questions you may have. [LB234]

SENATOR CORNETT: Senator Hadley. [LB234]

SENATOR HADLEY: Mr. Jeffers, if we put mineral oil on it, would it dry quicker? (Laugh) I think we could handle two tax situations at the same time then, couldn't we? [LB234]

TOM JEFFERS: You know, there is a lot of similarity between these two issues. I understand there is a desire to generate all the revenue we can according to the current laws. The problem here though is there's been a history of how these issues, mineral included, this aeration, how they've been treated over the last, you know, decade or so. And to just reinterpret current laws and apply a new meaning, it's not only frustrating to taxpayers and my clients, but I think it's unfair. LB234 would maintain the status quo, essentially. And that's what we're asking for. [LB234]

SENATOR CORNETT: Senator Utter. [LB234]

SENATOR UTTER: Thank you, Senator Cornett. Mr. Jeffers, you seem to have a penchant to get crossways with the Revenue Department. (Laugh) Out in central Nebraska where I come from we have customers that deliver corn in the spring. And some of it comes in wet, has to be dried down. So it just seems like if October, November, December is good, and particularly if they're metered, the only thing that goes through those meters the rest of the year should be good also. [LB234]

TOM JEFFERS: Well, that is true. And this last harvest season is a prime example of what you're talking about with corn. We had a lot of cold weather and moisture in the field. And a lot of corn did not come in until January and February. Something else I'd point out that's related to this, is with respect to all kinds of grain, but take wheat for example. If you've got an elevator with 200,000 bushels in it that have been dried down

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

Revenue Committee
March 05, 2009

to an acceptable moisture content, which would be 10 or 11 percent, and a farmer brings in a couple of truckloads, 2,000 or 3,000 bushels of green wheat, you put that into the elevator, if you don't aerate the entire bin, that 2,000 or 3,000 wet bushels of grain will cause spoilage in the entire bin. So, I mean, the reality is this aeration equipment is used throughout the year. Yes, there are peak times and there are times when they're not using the aeration equipment at all, but it changes all the time. I think it's an arbitrary thing to try to set a date. It just doesn't make sense with the realities in the market. One other point I would make, just to make sure that we're correct, those meters that are on the elevator, they don't just monitor the electricity for the aeration equipment. There are other pieces of equipment on the elevator--legs and lights. And when the aeration equipment is not being used very much it's not going to exceed 50 percent of the electricity going through that meter. But certainly when you have green bushels coming in off the farm or off of a farmer's own storage facility where he's just been running some fans and not really taking the moisture out of it, you are going to exceed that 50 percent threshold. And that's been the test for I think 15 years now. And we ask that that stay the same [LB234]

SENATOR UTTER: And the natural gas in that facility is not...that's not an issue, that's used in the dryers? [LB234]

TOM JEFFERS: No, it's not. Some types of grain, I believe corn, there are some people that...some entities out there using natural gas to dry. I don't believe with wheat that's used at all. And that issue just hasn't come up. It's been specifically with respect to electricity. As I pointed out, it used to be a big question as to whether you're actually using more than 50 percent of what's going through your meter. But now that there's been kind of a widespread switch of the meters to the elevators, now the focus is when are you really using that electricity, what are the peak times of the year. And there's clearly an effort by the Department of Revenue to limit the exemption to those peak times. And we just don't think that that's appropriate. So... [LB234]

SENATOR CORNETT: I just want for you to reiterate, this has not been taxed previous to this year in your knowledge. Correct? [LB234]

TOM JEFFERS: That is true. And I've spoken with quite a few people in this area, including some of my partners that have been involved in tax audits. I can give you an example of a tax protest that was filed several years ago on behalf of another cooperative. And there was a dispute about the 50 percent threshold. Did you really meet it? And the taxpayer had the burden to show that. It was never even a discussion, any reference whatsoever to a time limitation. The first time I heard of this time limitation was when I received a call from the Hemingford Cooperative and the Nebraska Cooperative Council late last year. The audit that Hemingford was undergoing last year has been finalized now. And that audit includes a requirement from the Department of Revenue for Hemingford to pay, well, denying Hemingford the use of the exemption for

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

Revenue Committee
March 05, 2009

all months, except for October through December. And so their peak time of electrical use for aeration was July, August and, basically, they're being denied the exemption. For those types of elevators that operate with grains other than corn, this position, basically, guts the exemption for them. [LB234]

SENATOR CORNETT: Thank you. [LB234]

TOM JEFFERS: Thank you. [LB234]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB234]

TOM JEFFERS: Thank you. [LB234]

SENATOR CORNETT: Next proponent. Are there any opponents? Is there anyone here in a neutral capacity? [LB234]

SENATOR ADAMS: Senator Cornett, members of the committee, typically on a bill like this I don't know that I would close. But I think there's a couple of other things that need to be brought forward. I did speak with a representative of the Governor's Office today. And they assured me that they want to work with the committee and I and the Department of Revenue to see if there can't be some remedy to this. Now I don't know that that diminishes the necessity for us to clarify the language. And there is also a question that needs to be resolved, and they acknowledged that. We need to, as you look at these fiscal notes one could interpret that as a loss of revenue, obviously. But is that a loss of revenue going forward? I think that interpretation still has to be made. How did we come up with this fiscal note in the first place given that the revenue is not currently being generated? Thank you, Senator. [LB234]

SENATOR CORNETT: Thank you very much. That closes the hearing on LB234. Senator Mello, you are recognized to open on LB632. [LB234]

SENATOR MELLO: (Exhibits 7-9) Good afternoon, Chairwoman Cornett and members of the Revenue Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District. I introduced LB632, a bill that would create the Nebraska Green Building Advantage Act. The Nebraska Green Building Advantage Act would provide sales tax rebates to businesses that retrofit or build new projects to leadership and energy in environmental design or LEED certification standards. LEED certification is a nationally accepted benchmark system put in place by the United States Green Building Council. In order to receive certification a building project must be independently verified by a third party. Meeting a LEED certification level requires meeting certain prerequisites in a minimum number of points in different areas, such as site planning, water management, indoor environmental quality, energy, and material use. There will be proponents testifying after me that can better address the process for

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

Revenue Committee
March 05, 2009

achieving LEED certification levels. Providing incentives to businesses that build or retrofit new construction projects will spur economic development in this new sector and create high wage jobs. The green economy has the greatest potential as our local economies grow. And with the passage of LB632 Nebraska will be poised to take the lead in this burgeoning economic sector. Going green seems to be the newest trend. And with this trend we have an opportunity to not only construct buildings that are more energy efficient but also an opportunity to create high-skilled high paying jobs. I've handed out to the committee a copy of the Green Jobs Report that outlines just how the new green economy can benefit our state's economy as a whole. In this report, Nebraska is 1 of 12 states studied to demonstrate how investing in the green economy can benefit states by creating good high paying jobs. Every new construction project built to utilize the tax incentives outlined in LB632 will require a skilled labor force to complete it. I believe this legislation will jump start the green building economy in Nebraska and create jobs while helping businesses cut down on energy costs. As currently drafted, LB632 would provide a 50 percent rebate for sales taxes paid to companies that build or retrofit their entire buildings to LEED certification standards. And a 25 percent rebate would be provided to companies that build or retrofit portions of buildings to LEED certification standards. Businesses that meet the highest LEED certification level, LEED platinum, would receive an additional 10 percent rebate. Since introducing the bill, I've become aware of how the LEED standards are set and discovered that the specific LEED standards of LEED 2.1, LEED CS, LEED CI, and so on are constantly updated and improved. I have drafted an amendment for the committee's consideration that would alter these certification levels in order to better align these tax incentives with the LEED certification process. There are four levels of LEED certification, in ascending order they are LEED Certified, LEED silver, LEED gold, and LEED platinum. This amendment would change the bill so that businesses that qualify at the lowest level, LEED Certified, would receive a 10 percent rebate. Businesses that receive a LEED silver or gold certification would receive a 25 percent rebate. And businesses that meet the highest standard, LEED platinum, would receive a 50 percent rebate. This amendment would also add in a sunset provision for the year 2015, to allow the Legislature to reevaluate these incentives. I also have some concerns about the fiscal note for LB632 that I would like the committee to be aware of. As drafted, the fiscal note estimates that 25 percent of all construction will meet LEED certification standards. While I would be pleasantly surprised to see this amount of construction meeting LEED certification standards, I find 25 percent to be unrealistic. I am told that in Nebraska there are currently eight buildings that are LEED certified and only 12 percent of projects that attempt to become LEED certified actually meet these rigorous standards. There are people here that will testify after me that there are more...that are more qualified to speak on how many new projects will be attempted, and of those how many will realistically meet LEED certification standards. LB632 would give our state the unique opportunity to be ahead of the curve economically and drive the growth in new green high wage jobs. By creating new high wage green jobs, LB632 would make us a national leader in green construction and energy efficiency. I would be

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

Revenue Committee
March 05, 2009

happy to take any questions from the committee. [LB632]

SENATOR CORNETT: Senator Friend. [LB632]

SENATOR FRIEND: Thank you, Madam Chair. Senator Mello, and this...let me look at the green...I hadn't looked at the green copy for awhile. But according to the amendment, which actually struck just about everything and replaced the bill, the certified level...let me get this...let me make sure I understand. We're going to provide tax rebates based on a certified level that's set by the United States Green Building Council? [LB632]

SENATOR MELLO: It's a process, yes. It's a certification process that they have to go through to meet. [LB632]

SENATOR FRIEND: Is the United States Green Building Council a...I mean, who...I mean, where are they...how are they generated? [LB632]

SENATOR MELLO: LEED is just...I think your question is more about the LEED... [LB632]

SENATOR FRIEND: I mean, is Obama, is President Obama appointing the, you know, a person to manage this energy and environmental design green building rating system? [LB632]

SENATOR MELLO: No. Senator Friend, that's a good question. And someone from the U.S. Green Building Council is here and can provide probably much more information on their organizational structure and their history and how they interact with various energy efficiency buildings and public-private partnerships. [LB632]

SENATOR FRIEND: Okay. [LB632]

SENATOR MELLO: The LEED certification process is a worldwide accepted certification process in design and build. And there will be some other testifiers after me who can explain how that interacts with the private sector. [LB632]

SENATOR FRIEND: Fair enough. [LB632]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. First proponent. [LB632]

PATRICK LEAHY: (Exhibit 10) Thank you, Madam Chair and committee members, for allowing me to attend. My name is Patrick Leahy, spelled P-a-t-r-i-c-k L-e-a-h-y. I'm an architect representing AIA Nebraska as well as the Omaha...Greater Omaha Chamber

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

Revenue Committee
March 05, 2009

of Commerce as a member of both organizations. I'm a member of the National Council of Architectural Registration Boards and a LEED accredited professional. I'm also an elected member of the Board of Governors of the Metropolitan Community College. And I bring that up to get into my second point. I've only got a few minutes here I want to spend just going through five small items. The case study I want to present at Metropolitan Community College, located on our south Omaha campus, was our first project built that was under our LEED policy. The state of Nebraska at this time only has an in-state organization that has this policy going. One is the college at this time. That policy number happens to be 90304. But what's important to mention is there are other federal projects, government projects. There's a federal project, for example, the Forest Service Building on the Missouri River in downtown Omaha. The building that we completed, the connector building, has a savings each year of \$36,000 just on the electrical use, the energy use. And that's at the current 6.5 cents per megawatt. That savings over 20 years with no escalation will be nearly \$600,000. If we escalate at 11 percent, that was announced by the power district this year, and then a modest 4 percent each year, 2 through 20, over 20 years it will save the college in energy cost \$1.4 million. Now I think the most important thing you're going to want to ask then is what does it cost for that investment into the building. The investment, the additional investment to achieve LEED standards outside of, to make a standard building function, was \$60,000 over the construction costs of the building. And that was provided by Paul Jeffrey, president of BBH Architects, and their consulting engineer, Alpine Engineering, both in Omaha. Sustainable...green sustainable building designs cost more, they can be the same cost. I've heard it can cost 1 to 3 percent if you want to take those higher levels, from silver all the way up to platinum, if you want to take it that far. It's also about putting the right materials in the most cost-effective arrangement and picking the strategies that have the best amount of return. It's important, we're building as efficiently as we can. In comparison right now we're building more Hummers and we need to build more like Prius'. The other thing I wanted to mention, the third item was, this is perfect timing. We're just at the top of the bell curve, starting to come down. Right now other state governments, 31 have adopted some kind of LEED policy at this time. There's 170 cities and 163 different U.S. cities, states, and agencies, 39 institutes of higher education, I thought you'd find that interesting too. I'm not going to go through all 31 states, but I do have four that I want to point out: Colorado, Indiana, Oklahoma, and South Dakota. And Colorado enacted theirs in 2007. And it has a certain percentage of state funds if they're going to include it in a building it has to achieve LEED or something or another third party...as a third party certification program. But it also has a provision that it cannot be recouped through decreased operational costs within 15 years. It does not have to be applied. And this is different than the bill that is being put forward here in that it's a requirement of state funded buildings not of the rest. The state of Indiana, another state in the Midwest, in 2008 they required new state buildings to earn LEED silver or another equivalent system and also all renovations do the same thing. So that was a rather simple approach. And Oklahoma, in 2008, put out any state building over 10,000 square foot apply LEED after July of 2008. And then the last one,

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

Revenue Committee
March 05, 2009

the state of South Dakota, any new construction or major renovation of state owned buildings costing at least a half a million, greater than 5,000 square feet to achieve LEED which is above...the next step above basic certification or another comparable third party standard. The fifth thing I wanted to mention was at this time, this is the perfect time to have an independent third party verification system, such as LEED which is the most comprehensive and involves the most adverse group of people to come together to develop a system and doing it as an incentive system, like has been proposed. There are two ways to do it--this incentive approach, or carrot approach or the stick or requirement of law. And I think this carrot or incentive for investment is the better approach. And it's the perfect timing to keep moving forward and showing that we're an innovator. I also have with me a letter from the...that I can hand out to the members that...it's a letter of support from the Greater Omaha Chamber of Commerce. And you can read the entire letter. But in summary they applaud the incentive for economic development in attracting and retaining investment in Nebraska and attracting new business to Nebraska. And that concludes mine. Thank you. [LB632]

SENATOR CORNETT: Thank you. Questions from the committee? Seeing none, thank you. [LB632]

PATRICK LEAHY: Thank you. [LB632]

SENATOR CORNETT: Next proponent. [LB632]

TIM HEMSATH: (Exhibit 11) Senator Cornett, members of the committee, thank you very much for letting me testify. My name is Tim Hemsath, that's H-e-m-s-a-t-h. I'm past chair of the Nebraska Chapter of the U.S. Green Building Council, here to testify in support of LB632. I think everybody is familiar now that LEED stands for Leadership and Energy in Environmental Design. It's a green building rating system that encourages and accelerates the global adoption of sustainable green building and development practices through the creation and implementation of universally understood and accepted tools and performance criteria. LEED is a third party certification program and a nationally accepted benchmark for the design, construction and operation of high performance green buildings. LEED gives building owners and operators the tools they need to have an immediate and measurable impact on their buildings' performance. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health--sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality. State and local governments across the country are adopting LEED for public-owned and public-funded buildings. There are LEED initiatives in federal agencies, including the Departments of Defense, Agriculture, Energy, and State. As Senator Mello mentioned, there are currently eight LEED certified projects in addition to one home. There are 39 building projects currently registered with the intent to pursue LEED certification. Those are called LEED registered projects

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

Revenue Committee
March 05, 2009

versus those who are actually certified, which go through the third party verification system. You can see from some of the numbers in my letter that actually only 12 percent of the projects that intend to get certified actually do. I think there are five key benefits to LEED and the financial benefits. But I'm going to ask you to look at the final sheet of what I handed out. We did our own cost-benefit analysis of LEED projects. In 2006, which was a banner year for LEED projects in the state of Nebraska where five of the current eight projects were certified, they represented only 2 percent of the total buildings in the state of Nebraska which is quite different than the fiscal note's assumption of 25 percent. I would be happy to quit my job and start working in Nebraska if 25 percent of the projects met LEED certification. I also had a conversation this morning with someone at Kiewit Construction who does theirs. Seventy percent of the current backlog at Kiewit are projects seeking LEED certification. And that represents one of the largest profitable sectors of their business. It's a high percentage of the value of projects, but it's a low percentage as far as the number of projects that Kiewit does as a company. And so I think that gets me to my first point is that this is an economic benefit for green jobs, which Senator Mello said. There's a lot of shovel-ready buildings ready to be built in the state of Nebraska that meet the LEED certification standards. There's a lot of professional architects, engineers, contractors, as well as trade professionals that are ready to get going on these projects. It's going to increase the amount of education that these people need to be ready and prepared for building green. And it also creates a new material supply chain above and beyond the existing construction related income. One of the most important, I think, and most pressing financial benefits of LEED is corporate spending and straight capitalism. Businesses that purchase or rent LEED facilities will free capital up of the activities that they're not very good at, such as operating their building, disposing of waste, using water efficiently, and energy efficiently. This will allow them to more efficiently and ably invest in their strengths, such as creating jobs and providing economic benefit for the state of Nebraska. Further, the regulatory burden on the state environmental agencies will decrease to the benefit of the private parties and the state. Successful companies relieved of such burdens will incur greater tax liabilities as a result. Consumer spending, in a similar vein, residential construction will support tax revenue as money once spent on energy is diverted. I can go buy dinner, I can spend more money on my kids because I'm spending less money in turn on energy. And this in turn becomes a sales tax revenue for communities and pays for firemen, policemen, and the civil servants that make our lives possible. There's also an increase in property value. I think you'll see from the final sheet that most projects that are built to LEED standards are 7.5 percent higher in property value than those that meet nonstandards for green building. There's also long-term economic gains as far as...that would augment and work for governmental protections when factoring in revenue increases, that can be worker productivity. And where businesses who occupy LEED buildings can see their employees reduce absenteeism and increase productivity, improving their profitability. And LEED can be a long-term incentive for companies to relocate to and stay in Nebraska. Additionally, there's a health impact. LEED creates healthier environments

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

Revenue Committee
March 05, 2009

for workers and occupants which could decrease healthcare expenses due to decreased health risks. This is a very real and important cost-savings and opportunity for kids and families in Nebraska. In our own cost-benefit analysis based on all of these increases and factors you can see that we've calculated that there would actually be a net benefit to the state of Nebraska of close to \$1 million based on projections from 2006 to 2010 as far as LEED construction. That is the end of my testimony. I'll take any questions now, thank you. [LB632]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB632]

TIM HEMSATH: Thank you. [LB632]

SENATOR CORNETT: Next proponent. [LB632]

WILLIAM SCOTT: (Exhibit 12) Good afternoon, Senator Cornett and members of the Revenue Committee. My name is William Scott, S-c-o-t-t. I am a real estate developer and work primarily in the state of Nebraska. I appear today in support of LB632 to create a sales tax credit for LEED certified commercial buildings. I'd like to offer my prospective as a developer in how this bill will be an important incentive to building green in Nebraska. LEED is about responsible investment of our capital into long-term assets. LEED is about showing leadership in the real estate community. Our national partners recognize that we are a leader in sustainability and put a value on that. As out of state investors assess our market sustainable design implies stability within the marketplace, and this is good for our business. LEED is about quicker lease up and better tenant retention. If we lease our building up faster and retain our tenants longer we are much better off, especially in the current local and global economic situation. LEED means cutting down energy consumption and pollution. The U.S. Department of Energy estimates the building costs for commercial buildings are over \$85 million annually. Gold and platinum LEED buildings can reduce energy consumption by an average of 30 percent according to the Environmental Business Council of New England. This translates into billions of dollars in energy savings for our country. LEED means healthier work environments that contribute to higher worker productivity. A recent study done by the U.S. Environmental Protection Agency attributed a 1 percent productivity and health gain to certified and silver certified LEED buildings, and a 1.5 gain to gold and platinum buildings. A 1.5 percent increase in productivity for the average U.S. worker salary is equal to over \$1,000 per year per worker. These benefits do not come without a cost. Green buildings do cost more both to design and to construct. When compared to conventional buildings these increased costs typically represent initial up-front costs which are incurred at the start of the project. While most investors would like to build green, many developers cannot come up with the equity or financing to pay these up-front costs. I would appreciate your support on LB632 by advancing the bill to General File. Thank you. [LB632]

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Transcriber's Office

Revenue Committee
March 05, 2009

SENATOR CORNETT: Questions from the committee? Seeing none, thank you very much. [LB632]

WILLIAM SCOTT: Thank you. [LB632]

SENATOR CORNETT: Next proponent. [LB632]

MIKE AYARS: (Exhibit 13) Senator Cornett and members of the Revenue Committee, my name is Mike Ayars, M-i-k-e A-y-a-r-s. I am a board member of Nebraska League of Conservation Voters. And I appear today on behalf of the NLCV in support of LB632 to create a sales tax credit for LEED certified commercial buildings. You have heard from others on the savings to our communities through the heating and lighting efficiencies, management of storm water runoff and other simple smart design features. I would like to share my personal experience as a businessman who is implementing this technology, and to explain why we should incentivize this practice so that it may be implemented more widely. Along with being an NLCV board member, I am also a design-build commercial contractor and building owner. Currently, I'm involved in the construction of a commercial building in north Lincoln which when complete will be the home to our business. I would like to note that this building will be certified LEED gold. The Nebraska League of Conservation Voters knows that we are facing difficult economic times and we appreciate conservative fiscal management. But we believe that there is more than one way to be a good conservative, and sometimes that means making smart investments today to position us for a strong and healthy community tomorrow. I would appreciate your support of LB632 by advancing the bill to the General File. [LB632]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB632]

MIKE AYARS: Thank you. [LB632]

CECIL STEWARD: Good afternoon, Senator Cornett, members of the committee. My name is Cecil Steward, C-e-c-i-l S-t-e-w-a-r-d. I am dean emeritus of the College of Architecture at the University of Nebraska and the founder and current president and CEO of the Joslyn Institute for Sustainable Communities. As such, we have on a day-to-day basis projects, contract engagement, interaction, and educational enterprise with many, many people concerned with the characteristics of the LEED program, especially in our communities and our built environment. I am here today to testify as an individual. And I must say that some of...most of the preceding folks who you've heard from as proponents already were former students and I was holding back to see how well they were doing. I almost turned around and went home. But there is one or two points. And I don't want to repeat any of the points that they've so eloquently made to

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Transcriber's Office

Revenue Committee
March 05, 2009

you. I verify and agree with all of their statements. Senator Friend, your earlier question about who is the U.S. Green Building Council, I should emphasize that it is nongovernmental, it's an anomaly of nomenclature that they've selected the U.S. terminology. It is a collection of the industry, representatives from engineering, construction, architecture, developers of real estate professionals who volunteer to arrive at a common set of standards that we could all agree upon and use to improve our built environment. I have only two other points I want to make. One is that we have done a study of the city of Lincoln in terms of existing buildings and energy efficiency. And you would realize, I think, that approximately 80 percent of all of the buildings in this city are 40, 50, 60 years of age. Those are by and large the most inefficient buildings that we have and they are the consumer's of our...a massive part of our energy. Forty to 70 percent of the energy flow goes through buildings, and certainly buildings such as we have around us. What the LEED program will do is give incentive to property owners, not just in the commercial enterprise but ultimately in the residential sector to retrofit and upgrade their energy efficiency characteristics. And it is a fact verified by LES that if Lincoln could cut its energy use by 1.5 percent per year for the next ten years, we would not have to build a planned \$150 million power plant to keep up with the expected growth of this city. If you multiply that through all of the communities in this state and especially the metro region, it is a huge opportunity. And whatever the calculation basis that has been used to give you the impact, fiscal impact on this I would challenge because I think the net consequence is going to be a greater enterprise opportunity than any of us have ever imagined. My last point is that we currently have, we the Joslyn Institute, have a contract with the state's largest healthcare system. They have arrived at a corporate position of becoming the nation's most green healthcare delivery system. There are multiple buildings that we are currently evaluating, auditing for energy efficiency and upgrades. And I can tell you that in our first report of the first building there's some 20 pages of recommendations that can be programmed over time. Every one of these has a job's and economic benefit relationship to this state, and I believe they would be one of the first benefactors to this proposed legislation. So I would encourage your support and I appreciate the opportunity to be here. If there are any questions, I'd be happy to try to respond. [LB632]

SENATOR CORNETT: Senator Utter. [LB632]

SENATOR UTTER: With benefits of a LEED building, does it really need that tax incentive to be a good investment? [LB632]

CECIL STEWARD: Senator, I think the drafter of the bill was very wise in putting a sunset characteristic on the bill. Ultimately, it likely would not and would simply be the standard of acceptance across the board. That's all of our hope and aspirations. At the moment, I believe that we need incentives to help educate the owners and the public and the developers in order to move more quickly, to be able to take advantage of the

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Transcriber's Office

Revenue Committee
March 05, 2009

opportunities that are developing federally and otherwise in front of us. Many cities, as has been mentioned, I think it was mentioned that some 30-plus cities have put in place municipal green building programs. Lincoln and Omaha are both considering such enterprises of incorporating these municipal programs into city government not only for their own public buildings but to better help educate the public. I would have hoped that the bill would have had something about state-owned buildings not just commercial buildings because we can save money, too, and should be trying. [LB632]

SENATOR UTTER: Thank you. [LB632]

SENATOR CORNETT: Senator Louden. [LB632]

SENATOR LOUDEN: Well, thank you for your testimony, sir. What is the average pay back time then if you retrofit one of these buildings. Are you talking about a 5 year payback time for it or 20 years or where does it come in at? [LB632]

CECIL STEWARD: Senator, I think it would depend on the level that you're attempting to achieve. As has been stated, there are multiple levels and the platinum level would be the highest. And you would expect probably that it would be the longest payback period because you're putting a greater investment into the building itself. But I believe on average that it's a five to seven year payback for the silver and gold level. [LB632]

SENATOR LOUDEN: And that would be savings in whatever kind of energy they're using to heat and cool the place? [LB632]

CECIL STEWARD: Those are the principle savings. There is also water efficiency, this evaluation that we're doing on the health facilities, for instance, is looking at the capture of rainwater and installation of grey water systems which would cut down on water usage on sprinkler systems and plant materials on the grounds and landscaping. So there are savings there. There are productivity savings because of the interior health characteristics of a green building. There's...it's been proven in studies of the green buildings that there's less absenteeism, there's higher rates of productivity, there's more healthy workforce in such building. [LB632]

SENATOR LOUDEN: Well, I wondered I'm working on this woody, biomass for heating and cooling. And, of course, we've been doing some of that...Chadron State College has been doing it for 19 years. [LB632]

CECIL STEWARD: Yes, I was present at your earlier testimony. [LB632]

SENATOR LOUDEN: And I am wondering, you know, how woody biomass for your heating and cooling and that's what that bill that I've introduced is for, it's for government buildings. And what...that isn't taking any tax incentives. We're just trying to get a

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

Revenue Committee
March 05, 2009

revolving loan fund. And I'm wondering if something like this would work in your situation, a revolving loan fund rather than a tax incentive? [LB632]

CECIL STEWARD: Well, your proposal is promoting a technology that certainly fits the LEED standards. So to the extent that those two concepts could be married, I would encourage it. [LB632]

SENATOR LOUDEN: Thank you. [LB632]

SENATOR CORNETT: Senator Dierks. [LB632]

SENATOR DIERKS: Thank you, Senator Cornett. Mr. Steward, this is for...they call it the business buildings. Are these programs available as well for our homes? [LB632]

CECIL STEWARD: Absolutely, there is a LEED residence rating program, there's existing building standards program, there's a neighborhood basis rating program. [LB632]

SENATOR DIERKS: Suppose that I wanted to have an examination of my home, which is 175 miles northwest of here,... [LB632]

CECIL STEWARD: Um-hum. [LB632]

SENATOR DIERKS: ...small community. How would I go about contacting someone to do that for me? Who does this type of examination? [LB632]

CECIL STEWARD: I think there are two first potential sources I would recommend to you for an audit basis. One is your local utility supplier and the other is the State Energy Office. If they do not have personnel on their staff to do that for you, they surely maintain a list of registered professionals who would. [LB632]

SENATOR DIERKS: Thank you. [LB632]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you very much for your testimony. [LB632]

CECIL STEWARD: Thank you very much. [LB632]

SENATOR CORNETT: Next proponent. [LB632]

ROBERT BYRNES: Good afternoon, Senator Cornett, members of the Revenue Committee. My name is Robert Byrnes from Oakland, Nebraska, here representing Nebraska Renewable Energy Systems, which is a company that I own in Oakland,

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

Revenue Committee
March 05, 2009

Nebraska. I appreciate this bill, LB632, and I agree with the very astute comments of Mr. Steward. But I believe a bill of this nature that focuses on conservation, good stewardship of the resource, and avoidance of the actual consumption is the highest value energy policy that we can pursue. Putting good money after poor consumption or good money after bad, so to speak, is kind of putting the cart before the horse. When we do these kinds of energy surveys in our local area and hopefully our small budding of Nebraska based renewable energy businesses will undertake this kind of work to do these studies to qualify for these kinds of credits. This is part of the economic development impact that occurs when we do new things to embrace this green economy or this green opportunity that we have. Operating an off-grid farm in northeast Nebraska for five years, I've come to know very...in a very real way that the avoidance of power consumption is a very powerful tool if you can avoid the most efficient, the most cost-effective kilowatt hours, the ones that you never consume. I think LEED construction standards are appropriate. They do cost more, especially on retrofit applications. They do cost considerably more than in new construction. It is a better way to go. It provides longer term value in a number of ways, not only from an increased potential Nebraska business opportunity but also avoidance of future generation capacity. And these things have been discussed and I agree with them. So in short I think this is a good approach. I am uncertain of the costs of getting this type of certification involved. Maybe that might be addressed. Having been through biodiesel related incentives and oftentimes when private industry standards are applied to government benefits sometimes there can be a disconnect. So I would be curious to know what those kind of inspections cost and what the true availability of that service is. I'm not sure if...I don't know that the Nebraska Energy Office and the power companies can do this type of certification. I would be surprised if they did. But I do support the bill and support the conservation focus that it has. [LB632]

SENATOR DIERKS: Thank you, Robert. Questions for Mr. Byrnes? Thank you very much. [LB632]

ROBERT BYRNES: Thank you to the committee. [LB632]

SENATOR DIERKS: Next proponent. [LB632]

KEN WINSTON: (Exhibit 14) Good afternoon, Senator Dierks and members of the Revenue Committee. 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 LB632. A lot of the points that I was planning to make and that were made in my letter have been made by previous testifiers. There are a couple of things that I just wanted to touch on that I don't think have been talked about. First of all is energy efficiency reduces the amount of carbon dioxide admitted into the atmosphere and so that's a very important aspect that we need to mention in this process. I don't know if there was mention of the idea of reducing landfill waste, because that's one of the aspects of

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

Revenue Committee
March 05, 2009

LEED certification. They are required to limit the amount of waste that's generated in the process of constructing the building or renovating the building. And so this reduces the amount of waste that goes to landfills. And as folks may be aware, landfill location and landfill siting can often be an expensive process and sometimes controversial. It also reduces the amount of runoff into the storm water system. And there's been a lot of work that's been done on storm water runoff systems, trying to create a storm water runoff system particularly in the eastern part of the state. And I know the Natural Resources Committee is continuing to struggle with that issue at the present time. So it's an issue that deserves attention. We need to provide ways of addressing storm water runoff and reducing the amount of storm water runoff and providing incentives to reduce the amount of runoff is one way of addressing that. There's...other testifiers have talked about the number of jobs that might be created and the types of jobs, so I won't go into that. But I did want to say that one of the things about the kinds of jobs that are created is that they are jobs that will stay in the community. These aren't jobs that will be outsourced to somewhere else. These are jobs that are going to be created in Lincoln and Omaha and in wherever the buildings are going to be located in the communities where people reside. So and then finally, I guess, I just wanted to mention it's my understanding that one of the reasons for the incentive and one of the reasons that the incentive is necessary is because there are additional costs in order to obtain LEED certification. There's a process that you have to go through and that requires some additional funds just to go through the LEED certification process in addition to the additional costs of, as a couple of the testifiers have indicated, probably a 1 to 3 percent additional cost of construction due to LEED certification. And this kind of incentive would provide...this tax incentive would provide an incentive for businesses to make the investment in the LEED certification process and to construct and follow the principles of LEED in doing the work that they're doing. So I'd be glad to answer questions if I can. [LB632]

SENATOR DIERKS: Thanks, Ken. Questions for Mr. Winston? I think no. Thank you very much. [LB632]

KEN WINSTON: Thank you. [LB632]

SENATOR DIERKS: Is there anymore testimony in favor? [LB632]

MICHAEL SNODGRASS: Thank you, Chairman and members of the committee. I had originally intended not to testify on this bill, but it is so intriguing to me that I just felt the need to do so. My name is Michael Snodgrass. I'm the executive director of NeighborWorks Lincoln. NeighborWorks Lincoln is a not-for-profit community development corporation working within the city of Lincoln and primarily focused on the oldest neighborhoods in Lincoln, the pre-1950 footprint we call that. Most of those neighborhoods are suffering from very old housing stock and building stock as has been previously mentioned. And the biggest threat to sustainability of these neighborhoods is

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

Revenue Committee
March 05, 2009

the energy consumption aspect of the older homes and the older buildings. We are currently in the process of constructing...or we're in the preconstruction phase in Antelope Valley for a mixed use, mixed income LEED gold certified building. And we are also pursuing the LEED neighborhood standard for an entire block with the intent to serve as a model on how to do this within the oldest neighborhoods in the state of Nebraska. LEED is a nationally accredited, well-respected organization. I think it's become the benchmark for how things are certified throughout the country in terms of energy consumption and green building products. So with that, I won't be long. I'll just say I support this amendment or this LB632. And the only comment, I guess, I would have is, you know, this is more for commercial than individual, single family home ownership. That is an aspect that at some point I'd like to see addressed. So thank you. [LB632]

SENATOR DIERKS: Thank you, sir. Questions? I guess not. Thank you very much. Are there more proponents of the bill? Anyone else in support? Does anyone have opposition to LB632? Opposition? Is there anyone who wants to testify in a neutral position on this bill? Well, would you like to close, Senator Mello? [LB632]

SENATOR MELLO: Very, very briefly. I would like to thank the committee for hearing LB632. And a couple questions, Senator Utter and Loudon brought up, which is why make this a tax incentive. Like most tax incentives the state has enacted it's to create jobs or to help create a new market or help a new market grow. And that's what, I think, from a lot of the testifiers emphasized which is businesses aren't doing this right now. They're not investing the money up front to build to these standards because it's expensive and it costs a lot of money up front to invest. And the hope of this bill is by giving a portion of a sales tax rebate back to them for the large investment we're asking them to make not only on the supplies but also the highly skilled jobs that are going to be needed to do this, which is outlined in the report, that qualifies in my mind of why we went the tax incentive route, because we felt that it would help spur job growth in the very sectors that Nebraska needs right now in the future, but also it's good for...frankly it's good for the environment, it's good for the sustainability of Nebraska. And it's not just affecting Omaha or Lincoln. It's affecting Alliance, Hastings, Kearney, Grand Island, York, and it's an opportunity to affect all of our communities from the builders, developers, architects. I think they emphasized that much better than I probably could. And I thank them for that. So with that, I'd take any other questions. [LB632]

SENATOR ADAMS: All right. Thank you, Senator Mello. Are there any final questions for Senator Mello? Guess not, thank you, sir. [LB632]

SENATOR MELLO: Thank you. [LB632]

SENATOR ADAMS: That will close the hearing on LB632 and we'll proceed right onto the hearing on LB539. Senator Coash to introduce. Senator Coash or a representative

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

Revenue Committee
March 05, 2009

of. Okay. Senator Coash is here. Senator, we are ready to go. [LB632]

SENATOR COASH: Thank you. I apologize for being late. I've never been to Revenue before and didn't know where you guys were. [LB539]

SENATOR WHITE: That's all right, Senator. Frequently I don't know where we are either. (Laughter) [LB539]

SENATOR COASH: (Exhibit 15) Okay. Ready to go? Thank you, members of the Revenue Committee. For the record, my name is Colby Coash, C-o-a-s-h, and I represent District 27. I'm here today to introduce LB539, and an amendment to go with it that I'll pass out in a second, as a tool to combat the effects of blight on Nebraska neighborhoods. LB539 would authorize the refund of a sales tax paid on materials purchased for externally refurbishing an owner-occupied home. While campaigning in my district last year, I noticed many homes that would benefit from some external refurbishment. On occasion the owner would tell me that it just costs too much and they were frequently waiting for just the right time to do the needed repairs. I introduced this bill to send a message that now is the right time. I have worked with NeighborWorks and they assure me that if this legislation were passed they would work to ensure qualifying homeowners under this bill would be notified of this incentive. The incentive in this bill is to revitalize the exterior of homes and has many positive outcomes. For example, the increase of the property value and a decrease in crime. Improving the aesthetics and the structures of a home increases its worth, thereby increasing the property tax revenue it can provide. Furthermore, the superficial enhancement of a neighborhood is tied to a reduction in street crime. Further I'll tell you what LB539 will not do. It's not going to open up any areas of Nebraska to some indiscriminate ineligibility for TIF. Per the section in this bill a city or village may adopt an ordinance designating portions of the city blighted for the purposes of this bill only. And this is not a tax break to contractors. What the amendment that's being passed around does is very narrowly focuses this bill to say that if you're going to take advantage of this, you're going to be the owner of the home and that the recipient of the tax refund under this bill goes back...right back to the homeowner. There was some question whether or not contractors and things like that would make this a little bit messy. So we decided to narrow it so that the homeowner could take advantage of this, work with the neighborhood revitalization groups and just get a little bit of a tax break, it's capped at \$1,000, to do some external repairs to try to make the neighborhoods that they live in a little bit more aesthetically pleasing, raise the value, decrease crime. That's all I have for you. [LB539]

SENATOR ADAMS: Are there questions for Senator Coash? Senator Hadley. [LB539]

SENATOR HADLEY: Thank you, Senator Adams. My experience with TIF financing when I was mayor and on the city council it was primarily commercial areas... [LB539]

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

Revenue Committee
March 05, 2009

SENATOR COASH: That's correct. [LB539]

SENATOR HADLEY: ...that we used TIF financing for. And your bill is basically aimed at residential owners. [LB539]

SENATOR COASH: This is all about homes where people live and increasing the value of the property by giving them a little bit of an incentive to take the outside, do what they need to do to make it...to clean it up a little bit. [LB539]

SENATOR HADLEY: I just...I guess, I just wonder if there isn't a little disconnect between a "TIFed" project that is commercially oriented and...does that automatically assume that the homes in the TIF area would also be blighted also? Or... [LB539]

SENATOR COASH: I don't believe so, Senator. We wrote this to say...there's already statutes that identify what neighborhoods can do to consider "themselves" or what cities or villages can do to put a boundary on a blight. And I didn't change those. That's already taken care of. So I just mention the TIF because as I was talking to other people, we're getting that confused. This is not the intent of this bill. [LB539]

SENATOR HADLEY: Okay. [LB539]

SENATOR ADAMS: Other questions? Senator Louden. [LB539]

SENATOR LOUDEN: Yeah. Senator Coash, this would be mostly any...be something done on the outside, the external refurbishment. Now would this, say you put in a set of new steps, or how small of a project would this be? Something a homeowner would do and then he'd just take his receipt and...to file to get his sales tax or what? [LB539]

SENATOR COASH: Well, the way this bill is crafted if the homeowner made a purchase that was designed to improve the external of his home, his or her home, then they would have to go to the store and they're going to have to buy that material and they're going to have to pay taxes on that material. So we're not putting the responsibility of the credit on the seller of the material. They're going to have to pay the sales tax up front. What then they do is submit that receipt, under this bill, the Tax Commissioner will then... [LB539]

SENATOR LOUDEN: What I'm wondering is a \$100 improvement eligible or where is the...is there a bottom line on this thing or a bottom? [LB539]

SENATOR COASH: There's not a bottom line. There's a top line which is \$1,000. [LB539]

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

Revenue Committee
March 05, 2009

SENATOR LOUDEN: It has to be under \$1,000 worth of repair work? [LB539]

SENATOR COASH: Well, you can do \$15,000 worth of repair work, if you want, but you're going to get a refund up to \$1,000. [LB539]

SENATOR LOUDEN: Up to \$1,000. Okay, fine. [LB539]

SENATOR COASH: And this is towards, you know, a repair job that's going to cost probably \$15,000, for example, is probably going to go through a contractor. [LB539]

SENATOR LOUDEN: Yeah. But I'm just looking at how small of a project it could be. And also then do they get the city sales tax back also? [LB539]

SENATOR COASH: I believe so, yes. [LB539]

SENATOR LOUDEN: Do they have to file...they get that all back through the state when they file with the state and get city sales tax back? [LB539]

SENATOR COASH: I believe so. I'll double check on that and make sure that's the way it works. [LB539]

SENATOR LOUDEN: Okay, thank you. [LB539]

SENATOR ADAMS: Are there other questions for the Senator? Senator, this is not TIF because it's not a property tax abatement. However, if the municipality was going to do a blighted and substandard study in order to meet the criteria, and I'm assuming these criteria you describe in 18-2103 are the Tax Increment Financing criteria for blighted and substandard? [LB539]

SENATOR COASH: I don't know if...I couldn't tell you if they are for the TIF blight. We crafted it after what cities use for their regular blight, but it probably is. [LB539]

SENATOR ADAMS: Okay. I guess, one of my question is in terms of process. So if a city...if this were implemented and a city decided they wanted to use this, they would have to designate an area. And I'm assuming...well, there is some kind of criterion, whether it's the TIF criterion or something else in statute they'd have to use. Does the city council or the village board single-handedly, after the study is done, make the determination? Is there a community redevelopment authority? Can the board act as the redevelopment authority as separate? In TIF there is a community redevelopment authority. And I'm wondering, are you following that same track here or is it just simply the elected body that says... [LB539]

SENATOR COASH: The same...I believe it's the same... [LB539]

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

Revenue Committee
March 05, 2009

SENATOR ADAMS: ...we designate the area or not? [LB539]

SENATOR COASH: ...criteria. [LB539]

SENATOR ADAMS: Okay. [LB539]

SENATOR COASH: Because we didn't want to draft new criteria for the purposes of this bill. We said, there's already criteria out there that assists cities, municipalities from...for identifying that. [LB539]

SENATOR ADAMS: One other question. Then with TIF there's a 35 percent cap, I mean 35 percent of your community can be "TIFed." Is there a cap in here? I mean what's to keep the city from in essence saying, let's draw a big circle around a good chunk of the town, I mean, a fair...more than 35 or more than 50 percent of the town, depending on the condition of the community. [LB539]

SENATOR COASH: So that everybody...I'm not sure what would present a...what would prevent a city from doing that. [LB539]

SENATOR ADAMS: Senator Hadley. [LB539]

SENATOR HADLEY: Senator Coash, we've talked at times about the stimulus, how Nebraska gets penalized because we've kind of done things right and other states haven't. Do we...does this kind of lead us down the same path, too, that if I had been a responsible homeowner and have kept up my home and, you know, spent what I should spend or, you know, made that decision I don't get anything. But in...my neighbor, you know, in the same neighborhood my neighbor could not do anything and suddenly we're going to give him or her a 7 percent rebate on the sales tax. I guess it just bothers me that we're not rewarding the person who goes out and actually does it. [LB539]

SENATOR COASH: Sure. And I understand that concern as well. I guess, you know, as I was talking with homeowners about this and I had talked to that homeowner who said, you know, I'm doing my job here, I just wish my neighbor over here would do something. And I said, well, you know, I've talked to your neighbor because I was just there and it happens to be that he can't afford to. And how would you feel if the city helped him out or the state? And typically the answer was that homeowner who's doing the right thing says, well, whatever it takes. And you know, if his property looks better, mine is going to look better and I'm trying to sell my house and nobody wants to buy it because of this guy. So I think that, you know, I was just...I'm trying to give one little thing that would help some areas in my district and districts close to mine that just need that little bit of a bump and say, okay, now I've got the time, I'm going to get a little bit of sales tax back on this and I'm going to repaint or I'm going to fix my step, I'm going to put the new roof

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

Revenue Committee
March 05, 2009

on or whatever it is. [LB539]

SENATOR ADAMS: Senator Cornett, it's all yours again. [LB539]

SENATOR CORNETT: Didn't know if you were going to take over, but yeah. Any further questions from the committee? Senator Utter. [LB539]

SENATOR UTTER: So let me understand that if I hired a contractor to come and put new siding on or what have you, then I wouldn't be eligible for this, even though he paid a sales tax on materials that he used, then I wouldn't be eligible for this rebate. [LB539]

SENATOR COASH: That's correct, unless you... [LB539]

SENATOR UTTER: It has to be applied by the homeowner? [LB539]

SENATOR COASH: Unless...if it were siding, for example, if you went and bought your siding yourself and then you could get the credit. If the contractor did they would not. Now the original version allowed contractors as part of this. And... [LB539]

SENATOR UTTER: Is there any assurance that they're going to complete the job? [LB539]

SENATOR COASH: Could buy it and do something else? No. [LB539]

SENATOR UTTER: Okay, thank you. [LB539]

SENATOR CORNETT: See no further questions. [LB539]

SENATOR COASH: Thank you. [LB539]

SENATOR CORNETT: First proponent. [LB539]

CECIL STEWARD: Senator Cornett, members of the committee, my name is Cecil Steward, C-e-c-i-l S-t-e-w-a-r-d. And as I had introduced myself on LB632, I will not go through that again. I am here to testify in general in support of this bill. I referred to Lincoln and the age of our typical residential structures in our communities and I think this is an area that the state needs to give homeowners some help with. I would suggest that the committee and the drafter of the bill give some consideration to energy retrofit into this same context. I mean, just to say that it's an exterior modification in terms of aesthetics and beauty is not as much as we could be doing and it may mislead residents and small communities. Let me give you just a quick example. The Joslyn Institute is currently engaged in producing workshops all across this state for leadership in sustainability. We had one recently where a city administrator from David City was

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

Revenue Committee
March 05, 2009

present and we were discussing housing needs for the smaller communities. And he made the very astute observation that they need to be able to build or major...in major ways retrofit 12 to 20 homes per year to keep up with the value and the viability of the housing stock of a community that's really not growing that much but has very deep interest in sustainability. So even in the smallest communities there is this kind of need. I think there are two categories that would motivate homeowners--one is in a blighted area to be able to measure up to the best of their neighbors with some financial assistance; and the other is energy efficiency and reducing their energy consumption and their energy bills. So I don't have specific language to recommend to you for bringing the energy efficiency. But, for instance, this is written to be limited to building materials and supplies. What about energy star appliances for replacement? Would that not be an opportunity for qualification? And added insulation that's not just an exterior thing but is within the walls of the structure. Just some thoughts. And otherwise I'm totally in favor. Thank you. Any questions? [LB539]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you very much. [LB539]

CECIL STEWARD: Thank you. [LB539]

SENATOR CORNETT: Next proponent. [LB539]

MICHAEL SNODGRASS: (Exhibit 16) Thank you, Chairwoman Cornett and members of the committee. My name again is Michael Snodgrass, S-n-o-d-g-r-a-s-s. I'm executive director of NeighborWorks Lincoln. NeighborWorks Lincoln is a community development corporation, not-for-profit, working in the oldest neighborhoods in Lincoln some of which surround this Capitol and where you are sitting today. Most of the neighborhoods that we serve, especially those in the pre-1950 footprint, lack home ownership. We are suffering in Lincoln from very low home ownership rates which are well below the state, local and national home ownership. The area just immediately to the south has about a 14 percent home ownership rate. The area immediately to the east...to the west has an 8 percent home ownership rate, and most of them to the north and immediately around well below 30 percent home ownership. Most of the areas also suffer from very low income in these areas, between 50 and 60 percent of the area, city of Lincoln area median income. So incentive tools like this that will help to incent homeowners to do the right thing and fix up their house on the exterior to sustain the neighborhood so others will want to move back in, it's an important tool. This is not the magic bullet, this is not going to fix everything that we need to have done, especially in terms of energy efficiency. As I testified in the previous bill, LB632, home ownership the number one issue facing home ownership in the oldest neighborhoods especially existing will be energy efficiency. But this bill isn't that fix. This bill will help with the exterior so others within the neighborhood will want to live there, so crime will go down, and all the good things that happen with home ownership are maintained. We've tried the stick approach

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

Revenue Committee
March 05, 2009

in Lincoln and many other communities with code enforcement. Code enforcement does have an effect in some cases, but there are certain situations where quite frankly the people just ignore or are waiting for somebody else to do the work for them. Again, this carrot approach, I think, is the right tool to incent people to take that opportunity, to fix it up while it's in place before it goes away. Because as we know, these things are not here forever. NeighborWorks Lincoln, for those that don't know, we provide home buyer education for over 200 families a year. We also do foreclosure prevention counseling. We also do...we had about 250 this last year that have gone through our foreclosure prevention, and we provide down payment assistance and closing cost assistance for up to 100 families a year, all in an effort to provide home ownership into our oldest neighborhoods. There were a lot of questions on TIF that were brought up. And, you know, I would encourage this bill to take on the same language in terms of the blight areas and the number of areas that can be created and the overall authority of who creates it to follow the same kind of language if possible. Again, most of the...to use TIF on a rehab case is very difficult. You just don't get that valuation increase usually in the appraised values that will generate the TIF increment that will allow you to do rehab with TIF. So this kind of a tool again, while it's not the only tool we hope that will come out, we think it is a right first step. So thank you for your...for listening and I'd take any questions. [LB539]

SENATOR CORNETT: Senator Adams. [LB539]

SENATOR ADAMS: Are you familiar with, and I've lost track and that's why I'm asking, what's happened to the CDBG, the Community Block Grant program for owner-occupied rehab? [LB539]

MICHAEL SNODGRASS: We do use CDBG for owner-occupied rehab. We also...NeighborWorks Lincoln and the state of Nebraska, through the Housing Trust Fund, we have owner-occupied rehab and also purchase rehab resale funds. The problem is it's very limited. And it's usually...we can do about 10 or 12 a year, using that...doing the owner-occupied rehab. CDBG over the past eight years... [LB539]

SENATOR ADAMS: What is the limitation on it? Why only 10 or 12 a year? [LB539]

MICHAEL SNODGRASS: Funds. You know, the state of Nebraska, we applied for \$400,000 last year and we received an amount less than that to do owner-occupied rehab. And it's going to be up to \$20,000. But it's going to be more than just exterior. It's going to be to bring it up to code on the interior and the exterior and some of the energy efficiency we've talked about. [LB539]

SENATOR ADAMS: But you could limit the way you distribute it. [LB539]

MICHAEL SNODGRASS: We could limit the way we distribute it to do just exterior.

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

Revenue Committee
March 05, 2009

However, I think the state of Nebraska and the way the rules are written will require us to bring it up to code. And so once we touch or use some of the state funds, the Housing Trust Fund money, because they follow the same CDBG, even those trust funds, they follow the same rules as the home program. And once you put a dollar into a house, you have to bring it up to code. And so that prevents...presents a little bit of a dilemma and it also spikes the costs considerably. The CDBG program is the same way. I mean some of these homes in these neighborhoods are very large old homes. And so if you try to...if you just need to fix the roof or you just need to fix, you know, to make it a better place to live initially, then you get into it, and you have another \$30,000 worth of repairs to bring it up to code. Then you get into the lead-based paint dilemma. And it kind of spirals on you a little bit. So the cost can really elevate very quickly. It's a cumbersome process. Anything...when you get HUD involved it's cumbersome. And so the rules are very thick on how those funds are used. So CDBG is just not a very effective tool for owner-occupied rehab. [LB539]

SENATOR CORNETT: Senator Hadley. [LB539]

SENATOR HADLEY: Yes. Mr. Snodgrass, some of the statements you made here, if I read them correctly, since this bill deals with owner-occupied and many of the neighborhoods are in the 8 to 10 percent home ownership range, we're going to have significant, and I mean I'm just using Lincoln as an example. We would have significant homes that wouldn't qualify for this. [LB539]

MICHAEL SNODGRASS: Absolutely, yes. [LB539]

SENATOR HADLEY: So you end up.... [LB539]

MICHAEL SNODGRASS: It is the challenge of my lifetime in Lincoln and how we are going to address the home ownership rate and the tools that we create. The problem is though a lot of these homeowners have been there for their entire life, you know. They've watched their neighborhood decline over the years. They're doing their best typically just to maintain. They've watched their property values decline as rental property surround, and there's nothing wrong with rental, but over time it ages as well. And pretty soon it gets into that negative spiral in terms of appraised value. So they've watched their neighborhood decline for the last 30, 40, 50 years. And we're trying to help stabilize and start that...build that base to then start the work out of it. For example, in Malone, we've set a goal in Malone which is 14 percent home ownership in the next five years to get it up to 50 to 60 percent home ownership. It's a lofty goal. We have a lot of homes to rehab, purchase and build in that neighborhood. But we think we can do that. But it's going to take tools like this in the toolbox so we can offer something to existing folks as we're trying to lift up the rest of the neighborhood. [LB539]

SENATOR HADLEY: I would follow that up by saying that I actually grew up in Senator

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

Revenue Committee
March 05, 2009

Coash's neighborhood. And my mother lived in her home for 60 years. And I know exactly what you're talking about when I drive by that neighborhood now and look at it versus... [LB539]

MICHAEL SNODGRASS: What it used to be. [LB539]

SENATOR HADLEY: ...what it was, yes, when I was growing up. And it is...it has changed considerably and not for the good. [LB539]

MICHAEL SNODGRASS: Yep. [LB539]

SENATOR CORNETT: Senator Louden. [LB539]

SENATOR LOUDEN: Yes, thank you, Senator. As I look at this, Michael, and you say it's the challenge of your lifetime and all of that, and I was interested down here at the bottom of this presentation on this paper you had. And it said, improvement of tax valuations. Now, and I agree, I mean I have no problem with what you're trying to do and everything else. Because you go down through that part of Lincoln, there's some old houses dying of cancer down there, that's for sure. But when you do this, say you go in there on some of those houses that people own, and you get them to spend \$15,000 or \$20,000 on that home. So then what happens about the next year or so, their valuation of that home would go up. And how quick is it then they lose...any incentive they had evaporated because we do that a lot of times with the state. We give out money and the property valuations come up and whatever incentive we had or we've done evaporated. So I'm wondering where can you get something so that the city...the city and the county are the ones that have the biggest issue in this. They not only are...part of their environment down there, but they're also the ones that probably are cashing in on most of the money. [LB539]

MICHAEL SNODGRASS: Well, the city is, as you may or may not know, has developed a Stronger, Safer Neighborhoods Program, in particular in the area that I just mentioned, just to the south and to the west, in the Everett and Near South neighborhoods, to develop more tools to stabilize. You know if a homeowner goes in and fixes up their property and the rest of the neighborhood doesn't change in value, it's pretty tough to do a reassessment of just that one in relation to the rest of it and say, well, you've gone up 15 or 20 percent, even though the rest of the neighborhood may be going down because you still have to compare apples to apples in the general area. It is a, you know, I've worked in other communities and I grew up in Nebraska, so I'm a native Nebraskan. But I worked in Kansas City in the same type of field for about 15 years. And that was always a challenge as well, you know, at some point you hope from a city, county, and also from a neighbor's perspective that the neighborhood does improve, which means then the assessments will improve. And then there will be some that maybe have a limited income which will be facing higher taxes at some point. There

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

Revenue Committee
March 05, 2009

are other states that have looked at exemptions for those with the most, you know, with very limited income on that increased valuation. Again, that's all state law. And I'm not a lawyer, so I don't pretend to be one. But I know other states have looked at that. My job, though, is to make these neighborhoods better places to live and improve the quality of life for the people that are there. [LB539]

SENATOR LOUDEN: Well, I agree to that. I was just wondering if we're going down the right road here or if we're just putting money out there and somebody sucks it all up in about three years time in tax revenue is all. [LB539]

MICHAEL SNODGRASS: I'm not sure I have an answer for that. [LB539]

SENATOR LOUDEN: Thank you. [LB539]

MICHAEL SNODGRASS: Thank you. [LB539]

SENATOR CORNETT: Any further questions from the committee? Seeing none, thank you. [LB539]

MICHAEL SNODGRASS: Thank you. [LB539]

KEN WINSTON: (Exhibit 17) Good afternoon once again. For the record, my name is Ken Winston. Last name is spelled W-i-n-s-t-o-n, appearing on behalf of the Nebraska Chapter of the Sierra Club. I'm not going to repeat my previous testimony about the environmental benefits of...that energy efficiency can provide. I guess there's a couple of things that I just wanted to say as there are some studies that indicate that improvements to the exterior of a home often have the greatest impact in reducing energy usage and that by improving the residences in the heart of a city, that can reduce commute distances which can have a great benefit on fuel consumption and reduce the stress on roads. I wanted to second Cecil Steward's suggestion that energy efficiency criteria be added to the bill. And then I guess I just wanted to talk just a little bit about my own experience of living in older neighborhoods in the city of Lincoln for 30 years. Chief Casady of the city of Lincoln often talks about the broken window syndrome, where if there is a home that has a broken window, pretty soon...if it doesn't get fixed, pretty soon the home next to it has a broken window. And pretty soon things tend to go up and down in trends. One person takes care of their house. Pretty soon the home next door starts getting spruced up. And so there's kind of a flow depending upon whether the neighborhood is taken care of or not. And I guess I've personally experienced that. I was on the Community Development Block Grant Task Force here in Lincoln. And so I saw some of that happen and was proud of be part of projects where we rehabilitated homes and neighborhoods. And so, I guess, to me this is just another tool where we can try to correct some of those broken windows and try to fix the broken windows so that we don't end up with neighborhoods declining and deteriorating and

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

Revenue Committee
March 05, 2009

instead have neighborhoods that will improve. Would be glad to answer questions.
[LB539]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you.
[LB539]

KEN WINSTON: Thank you. [LB539]

SENATOR CORNETT: Next proponent. [LB539]

KORBY GILBERTSON: Good afternoon, Madam Chair and members of the committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Nebraska Realtors Association and the Nebraska State Homebuilders Association. Both the Realtors and the State Homebuilders Associations support LB539 because they recognize that over the years the Nebraska Legislature has made several public policy decisions to encourage people to do things like TIF, which is what Senator Adams was talking about earlier, which encourages the revitalization of blighted areas and commercial properties. And this seems that it would extend this now into helping homeowners in those same blighted areas to fix up their homes. The impact most likely would be to improve property values and the vitality of the older parts of the cities. Senator Adams asked why would...what would keep a city from just saying the entire city is blighted for purposes of this. I think it's pure and simple money. They wouldn't want to give up the sales tax revenue that they would be losing for this. But they would look at targeted areas of the city and think that there's a cost-benefit analysis and it would be better to have those houses be in better shape, which would help property values and therefore property tax. I did have one question regarding the proposed amendments to the bill. It was my understanding that the amendments wouldn't preclude a homeowner from getting the tax refund if they used a professional contractor. It would just keep the contractor from getting that benefit. So it would be nice to get some clarification on that. I thought that that was the intent of the changes to the legislation. And that is the changes that we would have supported, so with that, I'd be happy to try to answer any questions. [LB539]

SENATOR CORNETT: Seeing none, thank you. [LB539]

KORBY GILBERTSON: Thank you. [LB539]

SENATOR CORNETT: Next proponent. [LB539]

LYNN FISHER: Good afternoon. Thank you, Senator Cornett and committee. My name is Lynn Fisher, L-y-n-n F-i-s-h-e-r, and I own and operate Great Place Properties. We're a landlord, a small landlord that has several rental properties in these blighted areas in Lincoln that we're talking about. And I'm for this bill because I think that anything we can

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

Revenue Committee
March 05, 2009

do to encourage and help homeowners in these neighborhoods to do a better job of taking care of their property will certainly be a benefit to me and how I can better run my business. I think we need more homeowners in these neighborhoods and better homeowners. And displace, hopefully, a lot of the rental properties that are not well maintained and not well operated. And so I think it's another tool that all the organizations that you've heard from today can use to make improvements in these neighborhoods and for the betterment of everyone. It will certainly make my life easier if I can attract tenants more easily to these properties that I have and have a better quality of life there for them. [LB539]

SENATOR CORNETT: Seeing none, questions, thank you. [LB539]

LYNN FISHER: Thank you. [LB539]

SENATOR CORNETT: Next proponent. Are there any further proponents? Are there any opponents? Anyone in a neutral capacity? Senator Coash, you're recognized to close. [LB539]

SENATOR COASH: (Exhibits 18) Thank you, Chairman Cornett and members of the committee. And I also want to, on the record, thank the testifiers that came. You know we had testifiers from the Homebuilders and the Realtors and people representing the landlord industry, at least one landlord. And none of those folks have a dog in this fight. Nobody, you know, as this bill is crafted, Mr. Fisher is not going to see a tax credit for fixing the house right next to the house that somebody might get one. And I think that's commendable that they would come and say, hey, what's good for my neighbor is what's good for me, and I agree with that. John Carlson, who works with the mayor's office here in Lincoln, had to leave before. So I'm going to give you his written testimony that we've made some copies of so that you can see where he's coming from. And then behind his testimony is some more information about the effect that improving a neighborhood has on crime. I've been in Lincoln for almost 15 years now, and I've seen the effect programs similar to this do have on crime in Lincoln. For example, we pretty moved a center of crime from one area of town, cleaned it up, and the whole...unfortunately, the crime just moved to a different neighborhood closer to my district. And so I've a vested interest in this. So there is some information about the successful revitalization programs that have been taking place here in Lincoln and the effects that safety has. I really just saw, in closing, I saw this bill as a good start. My original ideas were pretty broad. We needed to narrow this down to make it something that I felt maybe the state could consider doing. A testifier said this is no magic bullet. I certainly agree with that. I think this is a start slow move, move slowly. I, of course, wanted the whole house to be revitalized, but we decided to start with the outside in. That came from some of the feedback that I got, for example, from Mr. Winston about, you know, you start with the outside, that has something to do with obviously the crime, but also the energy efficiency and things like that. So in closing, I would say I did check

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

Revenue Committee
March 05, 2009

a couple of things that were just brought up in testimony. My intent, I didn't want to give contractors a tax break. That wasn't my intent, so we did narrow it for that reason. This is for homeowners, people who have a vested interest. And we want to...in the neighborhoods that I am familiar with we want to encourage people to stay in their homes and to own them. And I own rental properties too. And I want to see homeowners right next to my rental properties. So what Korby said is correct. We wanted to narrow the focus of this bill so that the refund would go to the homeowners, not that the...to say you couldn't use a contractor. We just...we wanted the beneficiary to be the homeowners. So I'll leave that as my closing. Oh, I do have one more thing. Senator Utter, you had asked what would prevent, you know, somebody from not doing this. This bill gives authority to the Tax Commissioner to set the rules of what needs to be in place for a homeowner to take advantage of this credit. So...and I met with the Tax Commissioner's Office before we were finished crafting this bill. And some of the changes in the amendment kind of came from them. And so my understanding is the Tax Commissioner would say, this is what I'm going to need to see if I'm going to approve this refund for you. So with that, I'll close. Thank you for your time. [LB539]

SENATOR CORNETT: Thank you. Thank you very much. That ends the hearings for today. I assume you all want to go into Executive Session for like an hour now, right? [LB539]

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Revenue Committee
March 05, 2009

Disposition of Bills:

LB58 - Held in committee.
LB234 - Placed on General File.
LB455 - Held in committee.
LB539 - Indefinitely postponed.
LB632 - Indefinitely postponed.

Chairperson

Committee Clerk