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Natural Resources Committee
February 13, 2014

[LB818 LB1100]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, February 13, 2014, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB818 and LB1100. Senators present: Tom Carlson, Chairperson; Lydia Brasch, Vice Chairperson; Annette Dubas; Ken Haar; Jerry Johnson; Rick Kolowski; Ken Schilz; and Jim Smith. Senators absent: None.

SENATOR CARLSON: There's a lull, this is a good time to start. Welcome to the Natural Resources Committee. I'm Tom Carlson, state senator from District 38, Chair of the committee. And committee members present: to my far left is Senator Rick Kolowski from Omaha, District 31; next to him, Senator Ken Haar from Malcolm, District 21; and then Senator Jim Smith from Papillion, District 14; the empty chair will be filled eventually by Senator Ken Schilz from Ogallala, District 47. And to my immediate left is Laurie Lage, our legal counsel for the committee. And then on the Valentine side over here, to my far right is Barb Koehlmoos the committee clerk; and next to her, Senator Lydia Brasch from Bancroft, District 16, also the Vice Chair of the committee; Senator Jerry Johnson from Wahoo, District 23; and then being...coming in and out will be Senator Annette Dubas from Fullerton, District 34. Our pages today are Steven Schubert, a senior at UNL, and J.T. Beck from Virginia who is also a senior at UNL; so they'll be available to help if you need some help with a page. Those of you that are going to testify, you need to have picked up a green sheet and have that filled out in its entirety before you come forward to testify and turn that in to Barb over here. And then when you sit down at the chair, there's no need to adjust the microphone because it will pick up your voice and simply start...I'll give you the go ahead and start by saying your name and spelling it so we have an accurate record on the transcript. If you do not choose to testify, you can submit comments in writing and they will be read into the official record. If you have handouts, please have 12 of them. And if that's a problem, you can ask the page to help you. Nobody on the committee uses electronic devices during our hearings and so we would ask you also either turn off or...your cell phones or put them to vibrate or silence. We don't allow any displays of support or opposition to a bill and we've never had a problem with that, we shouldn't today. We are going to use the light system today. And we're going to go to three minutes. And after you sit down and I welcome you there and you give your name and spell it, the light will go on. The green light will be on for two minutes; the yellow light will be on for a minute; and then the red light comes on and we'd ask you to wrap up your testimony. And if you're not doing that, I'll ask you to do it. Sometimes you might be focusing so hard you don't even see the red light. But I'll let you know that. I would ask testifiers whether you're a proponent or an opponent as you come forward today. In your testimony you might say that you agree with the one in front of you, but don't repeat everything that individual has said. Hopefully, if you're a proponent or an opponent, you can indicate what your position is, but try not to repeat what somebody in front of you has said. And that will move us along a little bit better. Are there any questions before we begin? Okay. Then we'll open

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

Natural Resources Committee
February 13, 2014

the hearing on LB818 and, Senator Haar, welcome.

SENATOR HAAR: Chairman Carlson and members of the committee, today I want to talk about mountain lions...no wait, that's a different discussion. Really simply what LB818 does, it takes Nebraska's net metering program and from a cap of 25 kilowatts to 125. And I don't do this too often, but I'm going to quote...you know, I had something all written out and somebody wrote me a letter that's even better, so I'm going to quote from a letter from the Nebraska Farm Bureau Federation. At our most recent annual meeting, our voting delegates engaged in a robust discussion about the many benefits of expanded net metering operations for agricultural producers, especially those operating livestock facilities. It's our understanding that operators of livestock facilities such as hog finishing units may have the opportunity to invest in energy-generating infrastructure such as manure/methane digesters. The installation of one of these converters allows producers to capture the energy stored in livestock waste products, resulting in the production of electricity or other forms of energy for on-farm use. However, the current 25 kW limit requiring that any electricity generated in excess be released into the system and bought back presents a significant disincentive to livestock producers contemplating such an investment. In a sense, they're being asked to make the initial investment, but also to pay for the right to most of the returns. LB818 would raise this threshold to 125 kW, thereby enabling livestock producers to meaningfully take advantage of their livestock waste as an economically and environmentally-effective manner. And that's my opening and so I'd be more than happy to answer any questions now or later. [LB818]

SENATOR CARLSON: Okay, thank you, Senator Haar. And I don't think we can mistake what this bill is, it, in fact, is four words, three hyphenated words. So are there questions of the committee? Senator Schilz just joined us from Ogallala. Okay, and you'll certainly be here to close? [LB818]

SENATOR HAAR: Four words and no fiscal note. [LB818]

SENATOR CARLSON: Okay, all right, thank you. [LB818]

SENATOR HAAR: Thank you. [LB818]

SENATOR CARLSON: All right. How many proponents do we have? Okay. Well, step right up. There's on-deck seats here and let's be ready to testify. Okay, welcome. [LB818]

DAVID DINGMAN: (Exhibit 1) Thank you, Chairman Carlson, members of the committee, my name is David Dingman, D-a-v-i-d D-i-n-g-m-a-n. I'm the owner of Nebraska Organic Waste Energy Incorporated, located in Lincoln. What I do is to help Nebraska businesses, communities and families conserve and convert organic

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

Natural Resources Committee
February 13, 2014

materials such as food waste, yard waste, pet and livestock waste into renewable energy, essential nutrients, and revenue. I'm testifying today in support of LB818. I have submitted an electronic copy of more detailed written testimony to each of your offices and I am handing out hard copies of that same testimony to you for your convenience here today. I'm not going to read that to you, rather I'm going to use my limited time here just to highlight and reiterate a few of the key takeaways from that and encourage you, if you're interested, to read further. LB818 recommends increasing the rated capacity standard from 25 kilowatts to 125 kilowatts. In my written testimony, I provide two of many real-world experiences demonstrating why this increase is appropriate and should be adopted. In the first example, I recall a story of a family-owned feedlot interested in using an anaerobic digester system to support construction and operations of a new barn on the property. In this particular case, the feedlot would be able to capture about 100 to 120 kilowatts and that represents, oh, about 20 percent of the actual value to that project or that point. But it is also enough to meet the demand of the new barn facility, as well as provide an excess to the utility. In the second example, I recall a story of a family-owned refuse and recycling company that is interested in using an anaerobic digester system to support the development and operations of a new organic waste recycling service for its customers. In this case, that company is able to take about 10 percent of their total collections and generate 65 to 80 kilowatts of power. That too is enough to provide for all of their energy demand, as well as provide an excess to the utility. In each of these examples, the rate of capacity standard of 25 kilowatts is demonstrated to be insufficient in meeting the customer-generator's energy requirements, as well as in matching the capabilities of the qualified technology system. Those details, again, are kind of further highlighted in my written testimony. Whereas, this recommended increase to 125 kilowatts is demonstrated to be both achievable and appropriate in both of those cases highlighted. Having demonstrated this point, I will use the remainder of my time to draw the committee's attention to another key issue in maximizing the value of customer-owned renewable generation and that is the concept of aggregation, allowing customer-generators to aggregate their total generation across their total demand within a reasonable proximity. In that discussion, I've proposed a few specific examples in my written testimony of further changes to the legislation I'd like you to consider. [LB818]

SENATOR CARLSON: You can finish your...go ahead and finish your... [LB818]

DAVID DINGMAN: And with that...I'll just leave it there. All the details are in the paper. [LB818]

SENATOR CARLSON: Okay. All right. Thank you. [LB818]

DAVID DINGMAN: If you've managed to read it all, I'd be happy to entertain any questions. Thank you. [LB818]

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

Natural Resources Committee
February 13, 2014

SENATOR CARLSON: Thank you. Do we have questions of the committee? How long have you been in business? [LB818]

DAVID DINGMAN: About two years, and I've been working with organic waste for close to ten years at this point. [LB818]

SENATOR CARLSON: And how did you get started? [LB818]

DAVID DINGMAN: This has been my passion, renewable energy, agriculture. I'm born and raised here in Lincoln; lived northeast Nebraska with family up there as well, and so that's my motivation for all of this. [LB818]

SENATOR CARLSON: Okay. Thank you. Any other questions? Yes, Senator Johnson. [LB818]

SENATOR JOHNSON: Thank you. Thank you, Mr. Dingman, for coming in. In Senator Haar's opening comments, read a letter dealing with agriculture... [LB818]

DAVID DINGMAN: Um-hum. [LB818]

SENATOR JOHNSON: ...dealing with feedlot. You've expanded a little bit with other waste. I don't even know if this is possible structurally or not, but if the expansion of net metering was limited to certain areas which might be...I think this committee is very supportive of ag and I definitely am, if it was just an ag sector, what would be your feelings toward that? [LB818]

DAVID DINGMAN: I would be supportive of that. I mean, obviously, the ideal would be to treat all customers equally in my opinion. However, in looking at the two different sectors, a lot of what I do in the urban markets, the existing 25 kilowatts would be ideal for such places as a grocery store to be able to digest their own amount of waste, that would be fine under the 25 kilowatt based on the technology that is available today. [LB818]

SENATOR JOHNSON: Thank you. [LB818]

SENATOR CARLSON: Okay. Any other questions? Seeing none, thank you for your testimony. [LB818]

DAVID DINGMAN: Thank you very much. [LB818]

SENATOR CARLSON: Okay. Next testifier. Welcome, Danny. [LB818]

DANNY KLUTHE: Thank you. Danny Kluthe, K-l-u-t-h-e. I'd like to thank Senator

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

Natural Resources Committee
February 13, 2014

Carlson and the other senators for all their good work. What I've got is an anaerobic digester on a hog enterprise system. And what I call that is a manure processing system. And in my opinion, all waste, including municipalities, should process their waste and this is one way of doing it. And in the process of processing the waste, we get a by-product of electricity which is great. And along with that, we can make animals...livestock neighbor friendly. And when you talk about livestock facilities, you're talking about economic development. And that is big when you can take livestock and actually all of the waste that goes through this manure processing system, the anaerobic digester, comes out odorless. And when you can take hog waste and spread it in a field and actually have no odor, that's big. I'm working with Dr. Rick Stowell and Crystal Powers from the university, and we're trying to put an odor footprint value to the digester because there are units being sued because of odor. And they were out taking manure samples one day when we were spreading the manure and I told them where we were spreading it at. And I told them to go downwind and call me back what you smell. And they called me back and they said, Danny, all we smell is fresh earth. I said, great. Now what's my value? And they said, well, not so fast, we need lots and lots of history. So, you know, it will probably be a while before we actually get some value to that. But...getting back...that went fast. Getting back to the point here, I think a good part of our renewable energy projects fall within that 100-125 kW down, you know. I think it's very important that...because I've got...I'll bet you four or five hog enterprise systems that really wanted one of these, but when they got to the point where they couldn't utilize their electricity for themselves and etcetera, they had a real issue. And before long they got high centered and they forgot about all the other attributes of that processing system. So, you know, I think there's a lot of value to this. And when we talk about economic development, that would be huge. And for rural Nebraska, for Nebraska period, I think this would be a worthy cause to look at. [LB818]

SENATOR CARLSON: Okay. All right, we'll ask you some questions. Thank you, Danny. Yes, Senator Brasch. [LB818]

SENATOR BRASCH: Thank you, Chairman. And welcome, Danny. [LB818]

DANNY KLUTHE: Thank you. [LB818]

SENATOR BRASCH: It's good to see you again. And I've been on at least two tours of your facilities with people of different hats. One day it was a group of lawyers going through on a bus that scheduled. How many tours have you held...would you guess? [LB818]

DANNY KLUTHE: Oh, I don't know, Senator. Dozens. [LB818]

SENATOR BRASCH: These weren't from Nebraska either. So you have people from across the country. [LB818]

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

Natural Resources Committee
February 13, 2014

DANNY KLUTHE: Yeah. If somebody wants to look at my project, I'm excited always. [LB818]

SENATOR BRASCH: I know that. [LB818]

DANNY KLUTHE: If somebody wants to talk about renewable energy, I'm excited. So, actually, if we can schedule a time, you know, I'm really welcoming to let individuals come out and see where their juicy, good tasting, heart-healthy pork comes from. [LB818]

SENATOR BRASCH: And you are a very good steward and you've spent a lot of time and research and hours on making sure you do develop a neighborhood-friendly feedlot. And you have how many hogs...do you generally...? [LB818]

DANNY KLUTHE: I've got a DEQ permit for 8,000. [LB818]

SENATOR BRASCH: For 8,000. [LB818]

DANNY KLUTHE: So I don't ever want to go over that. [LB818]

SENATOR BRASCH: And what are your hurdles? We heard from the testifier before, his...he spoke of his hurdles to draw our attention to. Anything specific? [LB818]

DANNY KLUTHE: Well, again, you know I'm mentioning electricity as a by-product, although this digester has to be heated to 100 to 102 degrees. And the 3306 CAT engine that runs my digester, actually I've got a heat exchanger in front of that CAT engine that captures the heat from the engine and the exhaust and sends it down to the digester and that is exactly what heats the digester so we don't have to spend any money...as it's heating the digester it's actually coming back and cooling the engine. So, you know, you say...I learned to compress methane too, but the key is that making electricity as a by-product is actually still a key ingredient because it's needed to heat my digester. So, you know, it...that's the hang up. We need to do that, but the fact that we don't have net metering up to where it is that it seems to get... [LB818]

SENATOR BRASCH: An obstacle. [LB818]

DANNY KLUTHE: ...the high center on most projects. [LB818]

SENATOR BRASCH: Very good. I have no other questions. [LB818]

SENATOR CARLSON: Okay. Any other? Senator Johnson. [LB818]

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

Natural Resources Committee
February 13, 2014

SENATOR JOHNSON: Thank you. The first 25 you can sell or utilize, what would be your cost between where we're at now at 25 and if it went to 125, another...what's it costing you to produce up to 125 and have to buy it back? [LB818]

DANNY KLUTHE: Actually, if you're over 25, you're called a generator and then you sell a hundred percent or you have to give up a hundred percent. So it costs me no more or less. I need to run my engine to heat my digester and that's why I called that a by-product. I'm more interested in this as a manure processing system... [LB818]

SENATOR JOHNSON: Okay. [LB818]

DANNY KLUTHE: ...for economic development to make livestock neighbor friendly, and that is huge. But in the process, you know, we've got the variable that we're talking about that seems to be the turning point on a lot of, you know, prospects that would be very interested in doing this if they could...you know, they just get hung up on that issue. [LB818]

SENATOR JOHNSON: So you're as much concerned on the environmental side of it... [LB818]

DANNY KLUTHE: Oh, yes. Oh, yes, I think all waste should be processed. [LB818]

SENATOR JOHNSON: Yeah, agreed. Okay, thank you. [LB818]

SENATOR CARLSON: Thank you. Senator Smith. [LB818]

SENATOR SMITH: Thank you, Mr. Chair. And, Mr. Kluthe, thank you for coming in and for your testimony. So you have a rate capacity of 8,000 and the current legislation is at 2,500. Is that what I understand? You have a rated...what is your rated capacity in your operation? [LB818]

DANNY KLUTHE: Eight thousand. [LB818]

SENATOR SMITH: Eight thousand. What does this mean to your operations? What is the likely amount of revenue that you're going to get from the change in this bill? Give me just a general idea. [LB818]

DANNY KLUTHE: Oh, well, actually, for myself...I've got a contract with NPPD, you know when I first started, so I've got three years left on a contract. So this bill for myself won't do anything. [LB818]

SENATOR SMITH: All right. [LB818]

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

Natural Resources Committee
February 13, 2014

DANNY KLUTHE: You know, I've got three more years of a contract to fill. But for everybody else that wants to do this, and in the pork industry, if you go to a planning and zoning commission meeting and somebody wants to put in hog facilities, whoa, they find neighbors they never even knew they had. (Laughter) And normally, it's hog odor that's the big issue. This addresses that. So I think for the future of that, this bill is important. [LB818]

SENATOR SMITH: Give me a general idea as to what the economic benefit to an individual generator would be with this bill, do you have any idea? [LB818]

DANNY KLUTHE: Well, for one thing, we've got a renewable energy project; we're neighbor friendly. We...see raw manure can't...a plant can't utilize raw manure, the soil has to break down manure before a plant can utilize it. That's what this digester does. So we've got a more valuable product coming from it that we apply out as fertilizer in the fields. The fact that...you know, not all facilities have odor issues that bother their neighbors. But in a case that you did, the lawsuits can get pretty...pretty hectic. So, you know, when you're talking about the value to this, you know, what do you put on all these? You know I was telling this to a banker and he said, Danny, that's all fine, but do all of these things pay your mortgage? What pays your mortgage on this? Well, the electricity sales is the only thing that we collect a real physical check. So if you're talking to a banker, you know, electric sales is important. When I told him that we were doing this with Dr. Rick Stowell and Crystal Powers from the university, he was excited. He said, that gives us something to hang our hat on. If they can put a value to that, we've got something to talk about. I can jump up and down and say, well, it's odorless and it's exciting and all that, but unless the university says it is, that's when they put a value to it. So the answer to that is kind of all the above. [LB818]

SENATOR SMITH: So the revenues are coming in from the sale of energy from the generation. [LB818]

DANNY KLUTHE: Yes. [LB818]

SENATOR SMITH: Yeah. Now those that...I assume there may be some coming in opposition to the bill. Tell me from your perspective, what you understand to be the downside of this. [LB818]

DANNY KLUTHE: You mean the opposition that's... [LB818]

SENATOR SMITH: Of this bill, the change in this legislation. [LB818]

DANNY KLUTHE: Well, you know, I...what would be the downside to that? [LB818]

SENATOR SMITH: So the power companies, they currently are generating...they

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

Natural Resources Committee
February 13, 2014

currently have enough generating resources that they do not need this additional renewable resource. And so they're having to pay revenues for the generation of energy that they really do not need. And so that's going to be...and that's at their avoided cost. [LB818]

DANNY KLUTHE: I think this bill lets you use your energy and sell the rest at avoided cost. [LB818]

SENATOR SMITH: Right. Right. [LB818]

DANNY KLUTHE: So if you're looking at it that way, yeah, I'm not sure exactly what angle you're coming at. [LB818]

SENATOR SMITH: Yeah, so if they do not need the power...if they do not need that energy that you're generating, do you feel like that it's appropriate to force them to take that energy regardless of whether they need it or not? The excess amount? [LB818]

DANNY KLUTHE: I think...okay, to answer that the way...you know, I'd like to see it. The economic development that we get from this far exceeds 2 cent electricity; it far exceeds that. The economic development that we get from this manure processing system is huge. And, you know, not to take it away, the power company is spending a tremendous amount of money on facilities and infrastructure and upkeep and all the above and I'm proud of them for it, but at the same time, I'm saying that there's more to this bill than 2 cent electricity. [LB818]

SENATOR SMITH: Okay. That's what I was looking for. Thank you. [LB818]

DANNY KLUTHE: Yeah. [LB818]

SENATOR CARLSON: Other questions? How long have you been...have you had your anaerobic digester? [LB818]

DANNY KLUTHE: Six years. [LB818]

SENATOR CARLSON: Is the same one you started with? [LB818]

DANNY KLUTHE: Same digester, the CAT engine runs 24 hours a day, 7 days a week. It got tired a couple of times. (Laughter) [LB818]

SENATOR CARLSON: Okay. But the digester didn't. [LB818]

DANNY KLUTHE: No, no, no, the digester is going to be with me for...I'll be pretty gray when it gets tired. [LB818]

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

Natural Resources Committee
February 13, 2014

SENATOR CARLSON: Okay. All right. Any other questions? Thank you for your testimony. [LB818]

DANNY KLUTHE: You're welcome. Thank you, Senators. [LB818]

SENATOR CARLSON: Welcome, Robert. [LB818]

ROBERT BYRNES: Good afternoon, Senator, members of the committee. I'm grateful to be here today. I hope nobody minds if I switch from the manure focus we've had thus far. (Laughter) But I am a supporter of this bill and I'm grateful to Senator Haar to... [LB818]

SENATOR CARLSON: We need you to say and spell your name. [LB818]

ROBERT BYRNES: (Exhibit 2) Oh, I'm sorry. Robert Byrnes, B-y-r-n-e-s from Lyons. And I'm supportive of LB818. I'm grateful to Senator Haar to bringing it up to get this thing fixed. I think the actual size limit that's in net metering currently is just another layer of protection for public power that in light of the other components of the bill, there is a 1 percent system cap; there is a requirement for the producer to build out the infrastructure if required at their own expense. And then, of course, the owner has to pay for any maintenance and upkeep on this system. So those things kind of lead to limiting net metering to what the application can support to begin with. So the actual numerical cap becomes kind of an additional item. In Winnebago, we work closely with the Winnebago tribe in developing the renewable energy resources up there. They are not eligible for the federal tax credit as most other people are. They lost out on millions of dollars of DOE funding because of this very low system cap on commercial buildings that they own. The buildings that they own could have easily supported a hundred or even more kW, but the grant required that a 30 percent offset to the building consumption was installed and these limits would not be waived or changed in any way despite our request. And that was millions of dollars lost to the tribe because of this very low limit. Dave also mentioned meter aggregation. This is a huge part of making net metering friendly to farmers. If you put a wind or solar system at an irrigation system out yonder, there is only use there for three months of the year. If you're creating power there 12 months of the year, nine months of the year you're giving your power away to public power which they turned around and said sell to retail. If this power produced at this meter could be used against the other of the farmer's seven meters where he's paying retail, that would be a great benefit. I would recommend that that stay within the public power that serves that customer. I have other examples in the provided testimony of cases where meter aggregation could have saved ratepayers thousands in one particular application. Also, the federal tax credit, we got a 30 percent federal credit on the table since 2008 that goes to 100 kW. That means for every \$450,000 or \$500,000 someone spends on a 100 kW system, \$150,000 or more stays in Nebraska. We have

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

Natural Resources Committee
February 13, 2014

not been about to access that federal tax credit and it expires in two years. Okay, that's been a huge loss that counter weighs any other argument we're going to hear today about the cost of net metering. Jobs per watt economic development was brought up. These smaller systems have a 50 times higher jobs per watt ratio than the large commercial wind systems that we see being incented to come here all the time. So this is an economic development winner whether it's wind, solar, or methane that I think we really need to get this done. [LB818]

SENATOR CARLSON: Okay, thank you, Robert. Questions of the committee? [LB818]

SENATOR SMITH: Senator Carlson. [LB818]

SENATOR CARLSON: Yes, Senator Smith. [LB818]

SENATOR SMITH: Thank you, Mr. Chair. What is the load capacity, if you would, on this type of an operation? Is it full out? Is it...how predictable is it? How many months of the year, hours of the day are we talking about? [LB818]

ROBERT BYRNES: We've got...I've got seven years of monitoring data on wind and solar systems that I take every month in Winnebago. So I've got a good feel for what the actual capacity factor, is the term you're looking for, Senator. And it varies by technology. A methane digester that was previously...is 100 percent capacity factor. Any motor-driven generation, whether it's driven by bio-diesel, bio-gas, biomass is 100 percent and that's just on. Obviously, wind and solar do not have that. There's different production profiles for each of those. They average in Nebraska about 20 percent. So for solar, if you have a 10 kW-rated system, it should do about 2 kW 24/7 on average; more in the summer, less in the winter. And on the wind it's reversed. It's a little more challenging to get a 20 percent capacity factor with wind. You've got to get that tower up there pretty tall, but you'll have less in the summer and more in the winter. [LB818]

SENATOR SMITH: In terms of the ag generation, of manure, that's...what percent is that? A hundred percent? [LB818]

ROBERT BYRNES: For manure it's a hundred percent, because those pigs...the only vacillation that Danny or that methane digester will have is if he's had a load out or if he's brought a number of smaller pigs in. Obviously, the volume of manure is reduced, so that will reduce his output capacity, but the thing is on all the time. And that's...if you look at the buy-back program, currently NPPD has a program called the buy-sell agreement and if you're over 25 kW you fall under this parameter and they have it...different technologies get different amounts of money for the power. Solar will get 9 cents, wind will get 7 (cents), and methane will get 5 (cents). I don't know how they came up with that, but to me, the firm generation should be given the greatest amount. But as a solar guy I don't complain about it. (Laughter) [LB818]

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

Natural Resources Committee
February 13, 2014

SENATOR SMITH: Okay. Thank you. [LB818]

SENATOR CARLSON: Okay, Senator Brasch. [LB818]

SENATOR BRASCH: Thank you, Mr. Chairman. And thank you, Robert, for bringing your testimony here. I felt it was only fair to add that you too bring in individuals from...actually internationally have come and seen the work and study you've done in renewables. And you conduct tours, I believe. The one that I went to had individuals, many from urban areas across the state and you're implementing all these in a rural area. So I do believe the economic impact that you mentioned is viable. Have you had any returning students or individuals, I guess, interact with you following the tour? Are you branching little satellite offices in Italy or...? [LB818]

ROBERT BYRNES: Not quite yet, we'd like to see...we're really actually disappointed on the small wind and solar this past year in Nebraska. I think all the suppliers would agree with me that we expected a pretty good year in 2013, and it didn't pan out. But the educational component is huge. And when I...you know, we started making our own power on the farm almost ten years ago now, and I realized right away there was an educational component there that needed to be addressed, kind of a roadblock hole in some ways. And we started this educational program with the Ag Committee's support, actually, at the time under the LB90 funds. And we've had over 50 students go through our program to be...come to Nebraska from all over the world to learn about renewable energy in a renewable, sustainable, agricultural setting. And the more we've done with this, the more we've realized how energy and agriculture is so intricately related. And it's been a real journey to, you know...manure is not a waste; manure is a feedstock for another process that can make things and add value. We've got a project now...related project where we take winery waste and extract grape seed oil and then foods and flours and there's so much waste and opportunity for conservation out there it's incredible. So we're glad to do that as much as we can, I appreciate that, Senator. [LB818]

SENATOR BRASCH: Very good, thank you. I have no other questions. And I have a bill in another committee now. [LB818]

SENATOR CARLSON: Okay. Any other questions? Robert, I'm going to ask you one because I think this will come up as...being in opposition to the bill. But in public power in Nebraska, if we...certainly on an average basis, we produce more power than we use in the state. So why should public power be interested in buying yours? [LB818]

ROBERT BYRNES: It's a great question, Senator. And maybe on a high level it's probably...it's a good question at a high level, I think, for a wind farm. And that's probably why LB1048 requires...to qualify under LB1048 you've got to send that power

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

Natural Resources Committee
February 13, 2014

out of state because we have more than we need. But I think on a local level, net metering is made to counteract the usage that is currently on-site; it's not meant for 100 percent export like a commercial operation. So the amounts that we're seeing that actually go out as excess are very small. Ultimately at the end of the day, 25 kW is like 20 hair dryers. I mean it's not...we're not talking massive...we're not talking megawatts, we're talking kilowatts. So if you say...if you have 10 kW going down your lane excess to public power, public power, the power that we own, the citizens, it goes to the next neighbor or this neighbor. It's consumed locally at the end of the line. And public power is paying avoided cost for that power at the point of retail consumption instead of 150 miles away at the transformer of the new plant. So there's no transmission loss. So that to public power, the excess delivered to them from a renewable energy system is actually more profitable than what comes from the nuclear power plant that they have to maintain, insure, and on and on. The amounts of power that we're talking about, even at 125 kW, Senator, I don't think are going to be any issue for public power to handle. The system will actually handle itself. There's at no time in net metering operator excess is going to cause a coal plant to have to turn down. [LB818]

SENATOR CARLSON: Okay. I appreciate that. Now one other question then, asking it a little bit differently, what is your argument...what is your advantage for public power? What do you offer public power that they can't get? [LB818]

ROBERT BYRNES: What do we offer...a renewable energy producer? [LB818]

SENATOR CARLSON: What do you offer public power? [LB818]

ROBERT BYRNES: If I was a customer... [LB818]

SENATOR CARLSON: That they should be grateful for? [LB818]

ROBERT BYRNES: Well, they should be grateful for it because they're making more money off of me than they are off the nuke plant, because if I deliver them excess at avoided cost, and they have no ownership cost, no maintenance, no insurance, and they're getting it for the same cost as the nuke plant at the point of consumption that they turn around and sell at retail, they're making more money off of me than they are their own investments. So they...that should be...they should be grateful for that. They should also be grateful for...one of the things for that past three decades that we've been told is a benefit to conservation is that if everybody changes the light bulbs or if anybody does this, that's one less power plant that we'll have to build down the road. Okay, or that much less coal we'll have to bring in from Wyoming. And everybody can do their part collectively in working toward that through conservation avenues. Renewable energy production has the same impact to the grid as conservation which is in conservation and high efficiency stuff is all subsidized and supported. But renewable energy production on site reduces demand and could potentially provide clean power

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Transcriber's Office

Natural Resources Committee
February 13, 2014

back to the grid that they can turn around and reutilize to their benefit. [LB818]

SENATOR CARLSON: Okay. All right. Yeah, Senator Smith. [LB818]

SENATOR SMITH: Thank you, Mr. Chair. So kind of going along on the lines of what Senator Carlson was asking, if the ratepayers are currently paying for all the utilities and the cost, the only thing that varies is the, you know, the variable cost of the fuel. Ratepayers are already paying for all of this. And now with this piece of legislation, the ratepayers, public power is just made up of us, we're public power, so we're going to be forced to pay you for more energy than we need. And so we're going to back down, maybe, some variable costs over here or generation on a coal plant or a natural gas combustion turbine or a nuclear plant we back that down, but we're paying you, but we're still going to have to pay for those assets. Those assets are stranded. So isn't this a net increase in cost to the ratepayer? [LB818]

ROBERT BYRNES: I understand your question there, Senator; I appreciate that. But again, that's on a very high level. Okay? When we started to...I mean, I think OPPD just put....or LES just put in another commercial wind farm, I mean... [LB818]

SENATOR SMITH: No, I'm kind of simple, so keep it kind of at a high level for me. [LB818]

ROBERT BYRNES: This is...when we talk about...when we talk about backing down coal plants and stranded assets and things of that nature, that's big, that's MWh, those are megawatt hours, that's big stuff. Okay? We're talking about dinky stuff. This is very small customer applications where some amount of excess may go down the lane, you know, in the middle of the night when the wind is blowing or whatever, but it's not going to go very far. It's not going to get to the point where the transformer isn't putting out power. It's going to go to the next neighbor or maybe the next and then it's dissipated. Okay? And for this power that...you know, you use the term "force", but I think they should be grateful that they're getting anything, especially at avoided cost rates. In most states, in the vast majority of states in this nation, you get retail for what goes down the lane. Here you get avoided costs which means they still mark it up to retail. They don't give you any credit that they didn't have to buy any fuel. They don't give you any credit that they didn't have to pay manpower, pay insurance, or, you know, pay these other things, so they have no cost for generation, yet they're getting it at the, essentially, at the point of use. [LB818]

SENATOR SMITH: Yes or no, at a high level, am I the ratepayer going to pay more for buying that at avoided cost when I'm going to be paying for the stranded assets anyway? [LB818]

ROBERT BYRNES: No, sir. [LB818]

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

Natural Resources Committee
February 13, 2014

SENATOR SMITH: That's not true. [LB818]

ROBERT BYRNES: It's not true because there's also in the bill, it's limited to 1 percent of the grid. And net metering, if we do 100 kW, if we do 500 kW, you could still only have 1 percent, only 1 percent of the state can be net metered; that's all they have to allow. And if 1 percent upsets the apple cart with public power, we've got a bigger problem. I think the 1 percent is too low. But that...that's...I mean, this is their language; they inserted their language into LB436 years ago we did it. So there's ample protections in the bill...in the law already for them. [LB818]

SENATOR SMITH: Thank you. [LB818]

SENATOR CARLSON: Okay, thank you. Any other questions? Thank you for your testimony. [LB818]

ROBERT BYRNES: Thank you very much. [LB818]

SENATOR CARLSON: Next testifier. [LB818]

KEN WINSTON: Good afternoon, Chairman Carlson, members of the Natural Resources Committee. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska Sierra Club. Mr. Byrnes actually said most of the things that I was intending to say, but I'll just provide a little bit of emphasis for some of the things that have been said already. The Nebraska Sierra Club supports LB818 as a means of promoting renewable energy for business and agricultural interests which would, primarily, be the ones who would make use of an increase in the net metering capacity. Most of the net metering applications that I'm aware are in the like 4 kW to 5 kW range. The solar panels you see on people's houses are...they're only...they're very small. So basically, this would be something that businesses could make use of. They could put...if they put up solar panels on a business system, that could be a benefit. If there was a warehouse, for example, we're aware of some warehouses in Lincoln that are looking at putting up solar panels. And primarily, it would be a benefit for agricultural interests. And Mr. Kluthe made some terrific points about the benefits of agriculture, that agriculture could receive from this. And also, he made some terrific points about connecting energy generation with agricultural operations and the idea of making good use of what are considered waste products. And just to follow up on what Mr. Byrnes was talking about, numerous studies have shown that having net metering actually helps grid reliability, because of the fact you've got local generation; it's out there, it just gets out on the...it's used up locally and it's very cheap power as he indicated. There's no need to pay...the utilities are paying the same rate that they pay for the energy that they generate from larger...from other sources. But they don't have to pay for any transmission or any fuel costs or anything of that nature. And so that is a good reason

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

Natural Resources Committee
February 13, 2014

for supporting these kinds of things. The other thing is, right at the present time, it's very small. And Lincoln, last year, it's my understanding there's 175 kilowatts for the whole city, for the entire LES system. So that's a very small amount of the hundreds of megawatts that LES generates and transmits. And then the other thing that I wanted to notice is just the same thing that Mr. Byrnes indicated, for most consumers it's just like energy efficiency which is a value...it's something that we value very highly; we want to make sure that we use energy efficiently. And it just means it's an opportunity to reduce the amount of demand off the grid and reduce the amount of...the need to spend money on generating electricity. So with that I'd be glad to answer any questions. [LB818]

SENATOR CARLSON: Okay, thank you, Ken. Any questions? Okay, seeing none, thank you. [LB818]

KEN WINSTON: Thank you. [LB818]

SENATOR CARLSON: Next testifier. How many more proponents do we have? Okay. Welcome. [LB818]

BEN GOTTSCHALL: Good afternoon. My name Ben Gotschall, that's B-e-n G-o-t-s-c-h-a-l-l, and in the interest of disclosure, I'm the energy director for Bold Nebraska, and I'm also the Lancaster County Farmers Union president. But I'm here representing myself today. What I'm going to talk about is peak demand. I was at a hearing in...for the Hoskins to Neligh transmission line that is proposed up in northeastern Nebraska. And one of the things that was often repeated at that hearing about the need for that transmission line and...was because of the peak demand for irrigation and air conditioning use in northeast Nebraska in the summertime. And the summer of 2012, when we had the heat and the drought was given as an example when people were irrigating and it was very hot. And so to me, I see this distributed generation which net metering promotes as a way of reducing peak demand. And as others have mentioned, it reduces transmission costs, it reduces load loss, again, for those things like irrigation and air conditioning. In regards to irrigation, I've never planted a kernel of corn in my life. I raise cattle on grass. I don't irrigate, but I'm fascinated by the idea of solar powered irrigation because of this idea of peak demand about the energy being at the source when it's needed the most and not pulling load off when other users are pulling load down. And there is a solar irrigation project here in Nebraska. And as I understand it from talking to the installers and other people that have been involved with it, it's a 25 kilowatt system...that number has been thrown about here today, which is about half of what it takes to run a standard irrigation motor. The motor on that system is a 66 horsepower motor which, again, I'm not an expert on irrigation, I don't know much about it, but as I understand, it takes about a horsepower to run 746 watts or .746 kilowatts, so a 66 horsepower motor runs just shy of 45 kilowatts. So a 25 kilowatt system is about half of what you need. And I think the benefit of shaving that peak off and by...being able to have a larger system in some of these

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

Natural Resources Committee
February 13, 2014

areas really is a benefit that we need to think about, because, yeah, in the good times when there's a wet year, there might be a credit for the farmer, but in the tough times when it's a hot dry year, that might be the difference...that might make a lot of difference for a lot of farmers and ranchers to be able to do this. And it might make the difference for a lot of folks living in some of these small towns when the hard decision comes to whose power do we shut off. And I think that, you know, what we see now is the peak demand is in the middle of the night, 11...you know, because of the rate structure, it's cheaper in the evening. So that's...I'll close with that. [LB818]

SENATOR CARLSON: Okay. Thank you. Questions? Okay, thank you for your testimony. Welcome, John. [LB818]

JOHN HANSEN: Good afternoon, Mr. Chairman, members of the committee. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of the Nebraska Farmers Union, also their lobbyist. We are in strong support of LB818. It is an environmentally-friendly bill. It is an economically-friendly bill. It is a bill friendly to the owners of the public power system in our state. And it is a livestock-friendly bill all in one. And as we look at some of the things we've heard today relative to anaerobic digesters, there is no question that the technology is now making it possible for those of us in agriculture to be able to make better use of not only that technology, but also solar and also wind. And so going back to where we began this process, when we did the passage of LB436 we said we're going to take a look, see how it worked. There's been no really significant adverse consequences on the system whatsoever. The one disappointment that we've had is that we don't have more folks who want to do small renewable projects doing them. And so as I gather input from folks, here's the folks I hear from: I hear from, primarily, smaller businesses, I hear from agriculture, I hear from small wind and renewable energy dealers. And they all say Nebraska, as a state, when you look at our system, where we're at compared to other states, is that our single user cap is too low, 25 kW is too low; 125 kW is a much more reasonable cap. Compared to other states, our system cap is too low; our reimbursement rate is too low. And there's...this is...doesn't address all those. It addresses at least the individual cap which puts it at a much more realistic level. I'm familiar with the solar project right near me, west of Lindsay, Nebraska, it's right next to the highway as you go west of town on the south side. We have some exciting opportunities. It seems a waste for us as a state not to take advantage of the opportunities that are staring us in the face and that our folks want to be able to use. So I strongly support LB818 and I think it is a good place to...based on our system experience so far, I think it is a good single change that represents, I think, a good positive change, especially for the folks I represent which is production agriculture because of all the folks who...that the 25 kW doesn't work for, ag as a whole, given the size of our operations and what we can do with the resource base we have, we're the folks who are most adversely impacted. With that I'll end my testimony and be glad to answer any questions if I could. [LB818]

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Transcriber's Office

Natural Resources Committee
February 13, 2014

SENATOR CARLSON: Okay. Thank you. Questions? I meant to ask Danny Kluthe this, and you're some...I imagine you're familiar with his operation. [LB818]

JOHN HANSEN: Somewhat. [LB818]

SENATOR CARLSON: On the anaerobic digester and using the waste and then ending up with fertilizer with no odor. [LB818]

JOHN HANSEN: Yep. [LB818]

SENATOR CARLSON: Is the fertilizer with no odor just as effective or does it lose anything in that process? [LB818]

JOHN HANSEN: I really don't think it loses anything. I mean, most of the stuff you're taking out are not things that you would need necessarily, I don't think. And Danny would be better to answer that question than me. And I don't know what the...you know, I haven't looked at what the fertilizer tag on it is before or after the...the difference. From working in the livestock waste area for a long time on a whole bunch of issues, the fact that you're putting the product out there that doesn't cause the neighbors to be upset when you distribute it is a real plus. [LB818]

SENATOR CARLSON: Well, and it would certainly allow better shipping, wouldn't it? [LB818]

JOHN HANSEN: It would. Having been a former fertilizer dealer, (laugh). [LB818]

SENATOR CARLSON: Okay. [LB818]

JOHN HANSEN: Yes, there's a lot of pluses. And to me this system is innovative, it's positive, it ought to be supported, it ought to be rewarded, it ought to be incented because you're taking a challenge and you're turning it into a bona fide, positive opportunity. [LB818]

SENATOR CARLSON: Okay. All right, thank you. Any other questions? Thank you, John. [LB818]

JOHN HANSEN: Thank you, Mr. Chairman, members of the committee. [LB818]

SENATOR CARLSON: (Exhibit 3) Any other proponents? All right we're ready...we have a letter of support from Anthony Aerts from the Nebraska Farm Bureau Federation. And so now we're ready to hear opponents. How many opponents do we have? Testifying as opponents? Okay. Okay, Kristen, welcome. [LB818]

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Transcriber's Office

Natural Resources Committee
February 13, 2014

KRISTEN GOTTSCHALK: (Exhibits 4, 5, and 6) All right. Senator Carlson, members of the Natural Resources Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association. And I'm testifying on behalf of the Nebraska Rural Electric Association, as well as the Nebraska Power Association which is a statewide organization for rural electricians. And this is a...something we've been over several years in the past so we don't feel the need to educate, but I do have some handouts. One is the basic primer on net metering. One is the NREA's the response to Senator Haar's LR326 request for information on net metering. And the final one is a handout from AWEA which answers a lot of questions dealing with the cost of systems and sizing of systems. We worked very closely with Senator Haar to develop net metering legislation. And one of the things that was very important in the process was the definition of net metering. And that being to offset or meet a customer's needs. And we've heard testimony today that kind of gets away from that focus, what it was intended to be used for. And Danny Kluthe's story, which is a wonderful story, and I've been out to his facility many times, and I could probably give the tour myself, it's very impressive. I'm equally impressed with the efforts that NPPD and Cuming County went through to help make that facility work the way it is. Danny Kluthe generates about twice as much energy as he uses at his facility. And under that circumstance, would not really meet the definition of net metering. Now we also heard testimony that you couldn't interconnect renewable facilities unless they were a 25 kW or smaller which is not correct. Twenty five kW was set as a minimum threshold so that there would be some uniformity. You could not deny less than 25 kW onto a system. But systems do allow and have allowed greater sizes. And they can also go beyond that system cap. So 25 kW is not a limit. The 1 percent average aggregate peak demand, which is not the number of customers, it's the amount of generation on a system, can also be exceeded. The other thing that I should mention too is that PURPA comes into play here, the Public Utilities Regulatory Policy Act, requires the interconnection of any renewable generation up to 80 megawatts. So we can't deny interconnection and there's nothing that would prohibit us from allowing the customer to first use that generation and then put it back on the system. And some of the language that we heard today, we heard that systems in most states are paying more than avoided costs; they're actually paying retail. That actually is not accurate. Most do pay an avoided cost level for excess generation. And the benefits on the system, and there's going to be another testifier following me that can talk more on the technical aspects, the benefits to the system is there is a complicated, it's not as simple as this feeds into the system and everybody benefits. There are some challenges to managing net metering systems on a distribution system. We haven't seen a huge demand for larger systems. We don't think that expanding the cap is necessary at this time. I would be happy to answer any questions you may have. [LB818]

SENATOR CARLSON: Okay. Thank you, Kristen. Questions? Senator Smith. [LB818]

SENATOR SMITH: Thank you, Mr. Chair. Let me go back to some of the questions I

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Natural Resources Committee
February 13, 2014

had, I think it was for Mr. Byrnes, and you touched on this a little bit, but what type of an impact would this have on utility costs and then the cost to the individual ratepayer? [LB818]

KRISTEN GOTTSCHALK: Well, to give you an example, when a net metering comes on line we do have the ability to recoup the cost, if there are things that need to be put in place that wouldn't normally be there, so the customer generator does have to cover that. When you begin exchanging energy with that customer generator, where they're using the utility system essentially as a battery backup, which is the benefit of net metering. Now when they're using energy, they're using the distribution system, their retail rate covers the cost of using that distribution system as well as the cost of the energy involved. When they're feeding their energy back into the distribution system, we pay them for the avoided cost, but we recoup none of those maintenance and distribution charges. So there will be costs there that then must be absorbed by the other consumers. Now the next testifier can talk a little bit more about other line losses used and other costs that may be associated with that. But there is that subsidy involved and the subsidy does then get borne by the other consumers. [LB818]

SENATOR SMITH: So if you look at an aggregate or on a large scale, then this does have an upward effect on the cost to the individual ratepayer that makes up public power. [LB818]

KRISTEN GOTTSCHALK: Yes. And in fact it's actually compounded in transformer losses of energy in the process. So the larger the system, the larger the subsidy that the other customers need to bear. And when we look at who benefits, the customer-generator benefits from using the system as a battery backup, but those that can't afford these systems, then are the ones that have to bear the additional cost or pay that subsidy. [LB818]

SENATOR SMITH: All right, thank you. [LB818]

KRISTEN GOTTSCHALK: Um-hum. [LB818]

SENATOR CARLSON: Okay. Other questions? Seeing none, thank you. Next opponent. Welcome. [LB818]

JERRY ENNS: (Exhibit 7) Hello. Good afternoon, Senator Carlson, members of the Natural Resources Committee. My name is Jerry Enns, J-e-r-r-y E-n-n-s. I am here today to testify in opposition to LB818. I have been with the Norris Public Power District since my graduation from UNL in 1990 as an electrical engineer. I am testifying on behalf of the Norris Public Power District, the Nebraska Rural Electric Association, and the Nebraska Power Association. Due to time constraints, I will highlight my written testimony. I am in the unique position of being both the manager of engineering for the

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Transcriber's Office

Natural Resources Committee
February 13, 2014

Norris Public Power District, as well as a rural residential customer for the public power district. Large single-phased loads, in the addition of large single-phased distributed generation will have a negative effect on the power quality of the other customers in that area. Two-thirds of the district's distribution system is single phase. These small single-phase lines are small conductor and usually they are miles away from the substation. These single-phased lines are constructed of small-gauge conductor and their capability is limited due to the ampacity and the voltage drop constraints of that small conductor. The district actually has policy limits that limit the size of single-phase electric motors that can be used on that line because of voltage drop and flicker issues. Fault detection is another issue. We use fuses and breakers on our system. On these rural single-phase lines, those fuses are small. In a large distribution source like that, like a 125 kW system that's being discussed today, could provide some issues with fault detection by our equipment such that two sources feeding a fault, that fault current then through our system will be lowered and so we could have some protection issues there to protect property and life. Each of the distributed generation sources are required to be physically disconnected and locked in an open position prior to our line people going out and working on the lines. So our people have to visit each of these systems. They have to visibly open it, lock it, go do their work, come back, close it back in, and then finally reenergize. So we slow down the restoration of service to the other customers. A 167 kVA transformer that would be required for 125 kW distributed generation source has six times the losses in the windings and core of that transformer and those are losses that will have to be paid by the other customer because the meter is not going to see those losses. Periodically, a cost of service study is performed to assign purchase power, operation, and maintenance costs to other customers in that rate class. Rates are designed to collect payments that are incurred by those customers. As a Norris Public Power District rural residential customer and a nondistributed generation customer, net metering is unfair to me. Early in the twentieth century, wind turbines were used to charge batteries on farms and today they use the electric system to do that and that's paid for by the other customers. In conclusion, as more and larger net metering systems are allowed, I pay the additional operation, maintenance, and transformer losses that are incurred by the other customers. As a customer, I believe a 25 kW system limit is more than adequate to satisfy the curiosity involving renewable energy. Many people have difficulty in meeting their monthly electric bills. The customers in this situation are the ones that are going to be most likely to cover those additional costs that are left by the distributed generation customers. There are better ways to connect renewable generation. The transmission system is the best way to do that and those costs can be then shared by everybody. [LB818]

SENATOR CARLSON: Okay. [LB818]

JERRY ENNS: So thanks for the opportunity today. I ask that you do kill LB818. And if there are any questions, I'd be happy to answer those. [LB818]

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Transcriber's Office

Natural Resources Committee
February 13, 2014

SENATOR CARLSON: Okay. Good, thank you for your testimony. Questions? Senator Smith. [LB818]

SENATOR SMITH: Thank you, Mr. Chair. And, Mr. Enns, thanks for coming in and testifying. Is there a safety component to the net metering as well? [LB818]

JERRY ENNS: Yeah, I believe there is. In a rural single-phase situation, we'll have a breaker or a fuse that will feed this long single-phase line that's typically miles from the sub. When we have large generation like that, if we experience a fault or say a vehicle hits a pole, the conductors fall on top of the vehicle. Now we have fault current that flows through our system and we also have fault current that's fed from these large DG systems. So as a net, the current flowing through our fuse that would typically open that line now is going to see a lower current now because of the excess generation from the DG systems that are also feeding the fault. So we may be able to have the situation where our fuse does not open to de-energize the line and so we would both be feeding this fault at the same time. [LB818]

SENATOR SMITH: Like a repair crew could be at risk? [LB818]

JERRY ENNS: Well, you know, our system is designed to...if we see a fault, we set a fuse level at a point where we can handle the startup currents on that line segment. We set a fuse limit to handle the base load that happens out there. And then what we want to do is set that fuse to where's it's just above that current level that's needed to provide service to those customers on that line. And whenever we have a line fault or a line on top of a vehicle or so forth with other generation sources then feeding that, our line current may not open our fuse. So those are the things that we are concerned with from a safety aspect. [LB818]

SENATOR SMITH: So you're then saying that this...that the law that is currently in affect has a much more manageable risk to it than adding to that. [LB818]

JERRY ENNS: Right. Right. The larger a distributed generation system is on our line, the more danger to the public and the less likely our system will operate as it was originally intended. [LB818]

SENATOR SMITH: Thank you. [LB818]

SENATOR CARLSON: Thank you. Any other questions? [LB818]

JERRY ENNS: Thank you. [LB818]

SENATOR CARLSON: Thank you for your testimony. Anyone else in opposition? We do have a letter...pardon...okay, okay...that opposition is for the next bill, so do we have

Natural Resources Committee
February 13, 2014

anybody testifying in a neutral position? All right, seeing none, Senator Haar, you're recognized. [LB818]

SENATOR HAAR: I'm not sure what that is. Well, first of all, I guess I'd like to say that I get subsidized by Norris Public Power because they shut off my water heater for an hour every day and I get credit on my bill. So I guess everybody is paying for that. And I think it's a good system, obviously. I got a notice that Nebraska Public Power District...I'm not sure how many of the smaller ones are doing this, but they're subsidizing people who buy LEDs, a dollar a pop, up to 10 LEDs, I believe. So that's a subsidy that goes out to everybody on the system. And by the way, that does kind of the same sort of thing; it cuts back on...it generates "negawatts", it's electricity that won't get used in the first place. Distributive generation is something...is one of the changes that is happening to electricity systems all over the country, and yes, there are going to be some problems here and there and we're going to have to learn how to deal with those. In some ways I look at someone like Danny Kluthe and Robert Byrnes as pioneers. They're figuring out how it can work because we're all going to be using it in the future. To look at some of the other questions that came up, somebody asked about whether manure lost any value by putting it on. My understanding, and I had this whispered in my ear as well, that raw manure will burn crops. And actually once it's gone through the digester it's better for the crops because it's been nitrified. So actually that's...when you take manure and put it through a digester, that's actually an improvement to using it as a fertilizer on the soil. Personally, I like the idea very much that Danny mentioned, and some others, that really there are no wastes involved here if we treat things properly. And I like that idea a lot. We throw away a lot of things in our society because they're waste and here we find that Danny is taking what many consider a waste and he is not only producing electricity and so on, but it's more friendly to his neighbors. It was mentioned that we had come to a 25 kilowatts in developing this whole thing. That was a compromise, and, of course, we compromised. I would have liked to have more up front, but it seems to me that we've tried it for a number of years. The feedback we got, it's not being used very much, that's my...probably my one disappointment, it's not being used very much. And we really haven't heard of any problems. And so I guess you could talk about all the enormous problems that might happen; it's not causing any problems. Yes, distributive generation, as all the other kinds of things we're facing these days with the transformation of the electrical industry, is...faces some challenges. And I think if anything this is useful as we see the people who are going out front to make it work. Right now there's not a huge demand for this. It seems to me that agriculture could be better served by raising this limit. That's really the genesis of coming back to this. Most people that put solar panels on their roofs and stuff are going to be way under the 25 limit, but it's uses such as agriculture and also businesses where the higher value would make a difference. Let's see what else did I want to say. Well, I think that's probably it right now. I do remind you again the Nebraska Farm Bureau sending a letter supporting this that I read from to begin with, this really opens it up to use more and more by agriculture. And that's why I think it's a good bill. I think it's time to up the limit

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Natural Resources Committee
February 13, 2014

and with that I'll be happy to answer any questions. [LB818]

SENATOR CARLSON: All right. Thank you, Senator Haar. Any questions? Senator Johnson. [LB818]

SENATOR JOHNSON: Yeah, hopefully you can hear me from here and it goes on the mike, but I stand because of a back problem. Danny Kluthe commented about a three-year contract out there. And I would have asked it if some others came up. Are you aware of what that contract is or how that was negotiated? [LB818]

SENATOR HAAR: Well, I too visited Danny's operation and I've just got to say this guy is an evangelist for what he's doing. It's really fun to go visit. My understanding of the three-year contract has to do with the fact that he can put so much into the system and what he would be paid for it. But I don't know. [LB818]

SENATOR JOHNSON: So it's a financial agreement? [LB818]

SENATOR HAAR: Yeah, a financial... [LB818]

SENATOR JOHNSON: I mean, I can talk to him off the mike at least. [LB818]

SENATOR HAAR: Yeah, financial agreement that goes on for another three years. [LB818]

SENATOR JOHNSON: So that might have been some sort of an experiment on both sides in order to see how it would work on allowing him bigger credits. [LB818]

SENATOR HAAR: You bet. And his operation is also...I mean, he really is a pioneer. He invested his own money, but, you know, got grants to help him out with that and so on. But every time I talk to him or hear him talk, he's now trying to spread the good word and get other people doing the same sort of thing. One thing he didn't mention, and I haven't heard whether that's being successful, but taking some of the methane and turning it into propane that could be, you know, sold commercially. And so what's really neat about what he's doing, he's taking manure which is usually a waste, and as he said, he is really adding value to that and the one that there's some money involved with, I guess, is the actual electricity that he generates. But it's, you know, odor friendly, it's actually better fertilizer, etcetera, etcetera. [LB818]

SENATOR JOHNSON: Thank you. [LB818]

SENATOR CARLSON: Okay, any other questions? Senator Smith. [LB818]

SENATOR SMITH: Thank you, Mr. Chair and Senator Haar. So, this is a business

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Transcriber's Office

Natural Resources Committee
February 13, 2014

proposition and there's money to be made off of this process and the net metering. And you feel like it's okay for there to be subsidies involved where other ratepayers are paying for this person to have a profitable business venture? [LB818]

SENATOR HAAR: Um-hum. Well, first of all, you can't make much money off of 125 kW. I mean, it just...it just isn't there. Most people are doing this to try to reduce their electricity bills. And I...again, I...and I don't think it's just an economic proposition; I think it's also a social value. I think that today that when we look at what we're turning out in the way of our electricity when it comes to green energy and all those kinds of things, I think it's also a social value that people say this is a better way to do business. So you look at Danny's operation, it's not just a money thing, but it's a social value. He's taking something which is usually a waste and he's making it better and he's charting a path to the future. So if you...all you do is look in terms of the money, nobody is going to make much money off this. They're never going to go into business to do this. If there's a subsidy, it's very small. And again, we do this all the time. I get a subsidy on my water heater. NPPD is subsidizing those who buy LED light bulbs. You look across the board, some public power districts prevent...they will come to your place and do an energy audit and so on. So those are all services. And so in a certain respect, we all subsidize each other in those kinds of things. For example, the energy audit is probably more likely to happen to a lower income person who has a great big heat bill on their house. And so I guess you could call that a subsidy as well. So, yeah, I think it all balances out. If we get to the point, and this has raised that 1 percent limit. If we get to a point where all of a sudden we're blowing fuses and we're, you know, shutting down nuclear power plants because of this, then we're going to have arrived at a whole new place in society and then we're going to have to tackle that. [LB818]

SENATOR SMITH: But would the size of the load that we're talking about, the amount of generation, we're not talking about low income subsidies, we're talking about providing subsidies to businesses, basically, that are probably going to make a bit more money off of it. [LB818]

SENATOR HAAR: Yeah, I don't know, I don't know where Danny's business whether he's low income or middle income or what he is. I just wouldn't know that. [LB818]

SENATOR SMITH: Okay. But those subsidies are just part of the social benefit. [LB818]

SENATOR HAAR: Part of doing business, yeah, I would say. That's my opinion...in my opinion, yeah. [LB818]

SENATOR SMITH: Okay, thank you. [LB818]

SENATOR HAAR: Yep. [LB818]

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

Natural Resources Committee
February 13, 2014

SENATOR CARLSON: Okay, any other questions? Senator Haar, is Danny Kluthe the one that's responsible for making a silk purse out of a sow's ear? (Laughter) [LB818]

SENATOR HAAR: I can't see much value in that, but I can see his value in reducing the odor, reducing the waste, making a better fertilizer. And at some point, if this whole process of turning methane...and I'm not even sure what the difference between methane is and propane, but, boy, that would be a great benefit, not just to him but to his neighbor and so on, yeah. [LB818]

SENATOR CARLSON: Okay. All right, thank you. And with that we'll close the hearing on LB818 and open the hearing on LB1100. Give you a chance to change the files. [LB818]

SENATOR HAAR: Yeah. Thank you. Appreciate that. [LB1100]

SENATOR CARLSON: Okay, Senator Haar. [LB1100]

SENATOR HAAR: (Exhibits 8, 9, and 10) Okay, thank you very much. In the discussion we're going to have today, I see some people that I know very well who are on the other side of the issue. It's not a matter of friends and enemies, it's a matter of getting a good discussion going. And I'm going to talk about going from volume to value. And I will get into that in much more detail in a little while. If you look at LB1100, it's a study of how public power entities should be restructured and modernized and study the goals and mission of public power. And here's the emphasis. The reorganization of public power entities which prioritizes benefits for the state of Nebraska...prioritizes benefits for the state of...and maximizes economic development and the use of resources of the state of Nebraska and which minimizes the cost to residents of the state of Nebraska. And it's these reasons that I'm bringing this bill. And I'll get into much more detail on these as I go along. So, with this bill, and you'll see at the end, I'll be honest up front, I don't think this will come out of committee. I'm not even sure I'm going to ask it to come out of committee, but it's already produced a lot of discussion. But I'm in the Legislature for two more years and we'll talk about that at the end as well. So, certainly I'm not trying to eliminate public power. One person asked me that right up front. No, I'm trying to strengthen the potential of public power for the state of Nebraska. I want to go over the history in a nutshell. And I passed out this sheet that says, public power industry structure as it essentially exists today. So real brief history, and by the way, this is on the Power Review Board's Web site. The first electric municipally-owned electric system in Nebraska was in 1887 in Crete. In 1933, and you can go out...it's really interesting to read this, but I'm going to really skip over this quickly. In 1993, the Nebraska Legislature passed the enabling act that allowed and authorized the formation of public power and irrigation districts as public corporations and political subdivisions of the state. Some people have said, why is it any of your business, Mr. state legislator? Well, because of that act of 1933. And so every public power entity in this state is a political subdivision of

Natural Resources Committee
February 13, 2014

the state of Nebraska. Nebraska's public power industry has undergone changes over the past several decades. And what you see in front of you on this sheet is pretty much where we are today. The major generator is Nebraska Public Power District. And I guess if I were rewriting this, I'd put down OPPD as well. The power districts are Omaha Public Power District, Central Nebraska Public Power and Irrigation and so on. We get down to two G&Ts, Nebraska Electric G&T and Tri-State; 39 rural electric systems; 28 are organized as public power districts; 11 as cooperatives; and then 122 munis, 55 of those which have actual generating facilities. The biggest one, of course, is Lincoln Electric System. So, a brief history...and there have been studies now and again...and I believe that we're at a time in our history where there are new opportunities and that things have changed. And we need to look at this again. Again, not to get rid of public power, but to look at where the opportunities lay these days in public power. Okay, the electric industry...the reason much of this is happening, the electric industry is in a state of rapid change. First of all are the RTOs, the regional transmission organizations. And of course, you all know we're members of Southwest Power Pool. And someone sent me an e-mail and I'm going to quote from this because he says it really best: The structure evolving in marketing and transmission of electrical power within the United States is changing very quickly and I'm not sure that public power is structured to compete in this environment. As of March 1, that's just a few days away, NPPD will be going live with its participation in the Southwest Power Pool that will give the power to dispatch and distribute the resources of NPPD's generating assets within the regional transmission grid based on a day ahead and same day markets. In other words, starting March 1, someone at SPP will be turning the switch to tell who's going to generate power and where and how much in the whole system. That's a big change. No matter what we do here, that's going to happen. Okay, the second big change is federal air pollution rules will provide hundreds of millions of dollars in health benefits for Nebraskans to rethink their use of older polluting power plants. The EPA is a big player. Then the cost of wind and solar energy have been dropping rapidly as the technology improves, while the costs of fossil fuels like coal have been rising rapidly. And nationwide, utilities are responding by closing old coal-fire power plants, building new wind and solar facilities and investing big money in energy efficiency and managing demand. And then we've also seen nationally the consolidation of smaller utilities in other states to take advantage of efficiencies in everything from accounting systems to vehicle and equipment usage. So the electric industry is in a change...in a state of rapid change. So in this time of technological complexity and economic opportunity for the whole state, we have so many, many, entities. There are 165 public power entities in this state. Each of them has a board, a staff, in some cases the staff will be the crew and the administration. And as simply an example, Beatrice Electric Company has one staff member and they're surrounded by Norris Public Power District. And I'm not drawing any conclusion immediately from that, I'm just pointing out the situation we're in. There are a number of small public power districts that have more board members than staff. Some...when you get to munis, some are appointed, some are elected. Strange thing we went through a few years ago, LES, which buys 51 percent of NPPD's

Natural Resources Committee
February 13, 2014

wholesale and that's close, yet there's no representation on the board. And we've seen the case now of where an administrator for a public power district within the state has run for NPPD board, and I believe that's a great conflict of interest that's going on in another committee. And then the services: 165 public power districts that service the customers, not only may, but do vary from district to district, like energy efficiency rebates, the sort of thing I get on my hot water heater that they turn it off an hour a day, I get a buck a month for that. Low Income Home Energy Conservation Act, we heard that yesterday, and some...at least I think what I heard is that probably OPPD and LES are doing something with that, but that many of the other public power boards really weren't doing anything with it because they either didn't have the ability or the money or whatever. Some put out publications, some don't. Some do energy audits, some don't. There are some board members of public power districts that get health insurance; and in many cases they can attend state and national meetings. And many of them do not generate, they only buy and sell electricity. And finally, when you look at all these various public power boards, you go out to the national Web site and look at some of this stuff, very pro fossil fuels, not everybody, but some; and climate change legislation is looked at as harming the whole picture. One of the things I handed out...and I really don't know what it means, and I think it's one of the reasons we need to study, but we had the Legislative Research group...our Legislative Research group, what I asked them is what is the operating expense and what is the administrative cost of all of the public power districts? And I handed out that list, it's unedited. As you notice in many cases, we didn't get any numbers and I would think that a study would get pretty firm numbers once we defined exactly what we mean by administration and operation and so on. You know, who are...which boards are getting health insurance, which aren't? How much is spent on sending people to meetings, and etcetera, etcetera. The thing I've heard a lot about is local control. Okay, 165 public power entities, the question I have to ask, because I'm also on the Education Committee, is what does local control mean? I mean, when you talk about school districts, yeah, you have different kids and you have totally different situations from school district to school district. When it comes to providing electric power, yeah, there may be some differences from district to district, but again, I'm going to go back to the way...the way things are changing, Southwest Power Pool is going to be turning that dial everyday. I mean, so is the...all the cost of local control worth it or not? That's a question I think we need to study. I have a friend who called their board member of a public power district and that board member, first of all, said you're the first person to every call me and then this friend of mine tried to discuss energy efficiency and the board member said, I have no idea what you're talking about. And so that's another question we have to look at: Is it...what's the purpose of local board members and to what extent can they really influence the electricity being delivered to their constituents? I think it would be really interesting to do a statewide poll to see how many people know their public power board members and how many contacts these board members have had. So what I'm talking about is returning to the reason for public power in the first place, to provide great potential for economic benefit to Nebraska. Instead what I've seen happen, in my opinion, is a provincialism. Instead

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

Natural Resources Committee
February 13, 2014

of serving all Nebraska, there's really a narrowness of mind or outlook. It's what, you know, what's happening in my little district; what's happening in my little district? It's sort of like if we looked at our water wealth in this state, one little place at a time. Now, I know we have the 23 NRDs, but that's a broader look. Right now the 165 public power entities...and each of them, as I think probably the law now requires, they're looking at their own special interests. The only way we're going to reap the benefits of our natural resources in Nebraska, especially around wind, is if we all act in concert, if we all act to benefit public...the whole state, the whole state. To give you an example, and again, I don't blame this on these boards, but I need to bring this out, Lincoln Electric System is buying wind power from Nebraska...I'm sorry, from Oklahoma. As we heard yesterday, we're actually importing wind electricity at this time and we're really not exporting wind. Now if you look at, again, low cost, reliable, they had a fiduciary duty to do that and they carried it out. But it doesn't feel very good that we're buying wind power from Oklahoma. The Nebraska...Northeast Public Power District signed a contract to buy electricity generated by coal from Kentucky; that doesn't feel very good. Now it's their fiduciary duty, they came in actually this morning, we had a talk with a half dozen from their board and they felt it was their duty, and I agree, that if they could get a better price from Kentucky, then they owe that to their customers. What I'm saying here is where does this leave public power in Nebraska if all of a sudden...if you look at this chart again, okay, the major generating is Nebraska Public Power District. What if all the, you know, all these people started buying their electricity somewhere else? Certainly we're not going to get the benefit from our wind. So as you can see again, the intent is to study the issue; to look at the goals and the mission of public power, and I believe it should serve all Nebraska, prioritize benefits for the state of Nebraska, maximize its economic development and the use of Nebraska resources, and while at the same time minimizing the cost to residents. Unless we work in concert with one energy policy, we're going to keep shipping our money out of Nebraska. We ship like \$300 million a year in terms of coal to Wyoming so that they don't have any property taxes and no income...very low property taxes and no income tax. And there's just an article that came out from the Los Angeles Times that there's a good likelihood of an \$8 billion project being developed in Wyoming with a thousand...a thousand wind turbines. None of that electricity will be used in Wyoming, it's all going to be shipped to California. Yet we are buying electricity from other places and we have this enormous local resources. So again, I don't...I hope that we don't have enemies amongst us and friends. I think we need to...I think we have a discussion in view of what the electric industry is going through. We've done it in the past; we need to look again, we need to look at the mission and the organization of public power. And I'm sorry for the long introduction, but I felt I had to say all of that. So thank you very much. [LB1100]

SENATOR CARLSON: Okay. Any questions of Senator Haar? Senator Smith. [LB1100]

SENATOR SMITH: Thank you, Mr. Chairman. Senator Haar, in looking through the bill, I'm not seeing...and maybe I missed it, so please correct me if I missed it... [LB1100]

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

Natural Resources Committee
February 13, 2014

SENATOR HAAR: Sure. [LB1100]

SENATOR SMITH: ...reference to the role of the Public Service Commission. Do you see a different role for the Public Service Commission? And the reason I ask that, is you talk about, in your introduction you made some various statements that led me towards the role of what the Public Service Commission is in other states... [LB1100]

SENATOR HAAR: Um-hum. [LB1100]

SENATOR SMITH: ...which is a body to help review rate setting and things of that nature. So, I don't see it here. Is that because you don't see that that is a model to follow? [LB1100]

SENATOR HAAR: I'm not suggesting any models in this bill. I'm suggesting a study, and that could be one of the recommendations of the study. At this point, I don't know whether that would be good or bad, frankly. You know, in many other states the direction to the IOUs comes from the Public Service Commission. So I don't know it that's a good or bad idea, but I would think in looking at the structure of public power, that probably comes up for discussion. [LB1100]

SENATOR SMITH: Because you talk about local control and it sounded as if you were implying that maybe local control is not the best approach or model to making some of these decisions. So, then would you look at a more centralized authority, like a public service commission? [LB1100]

SENATOR HAAR: I'm sure that would come up in the discussion. The question I'm trying to ask about all these 165, does local control...is it worth the cost and does it really make a difference, in the current world, the way electricity is generated and distributed, you know, the fact that if Beatrice has a problem, Norris comes to their rescue and so on. So are we duplicating facilities? I think all those questions need to be asked. [LB1100]

SENATOR SMITH: So it's all open ended about that. [LB1100]

SENATOR HAAR: Yep. [LB1100]

SENATOR SMITH: Would you categorize this as a pro competition bill to increase competition in Nebraska? [LB1100]

SENATOR HAAR: My...my...no, I wouldn't. From my standpoint, it's to...when I stated, it's to maximize the benefits of Nebraska's resources for Nebraska. [LB1100]

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

Natural Resources Committee
February 13, 2014

SENATOR SMITH: But you're committed to keeping that all within the public ownership, the public utilities. [LB1100]

SENATOR HAAR: Oh, yes, oh yeah, yeah, no question. [LB1100]

SENATOR SMITH: Okay. Who else was involved in developing this bill? Did you have some other folks to work...worked with you in developing this? [LB1100]

SENATOR HAAR: Well, sure, I have a sort of energy kitchen cabinet I meet with all the time and we met and within one day my LA had put together the bill. So, yeah, (laugh) I mean, I can name names, but that's really not important. This is really my idea and then I gathered some people together and I said, what do you think? [LB1100]

SENATOR SMITH: Any organizations from outside of Nebraska? [LB1100]

SENATOR HAAR: No. [LB1100]

SENATOR SMITH: No. Okay. [LB1100]

SENATOR HAAR: No, really, uh-huh. This is Nebraska born and bred. (Laugh) [LB1100]

SENATOR SMITH: Okay, all right, thank you. [LB1100]

SENATOR CARLSON: Okay, other questions? I'm just going to ask you one and then maybe some others later on. And then your recommendations for who would be a part of this task force, I can kind of see everything, but there's labor union. How does that fit in with all the others that there are directly energy of one sort or another? [LB1100]

SENATOR HAAR: Senator Carlson, as we put this bill together and got it together, I don't expect this to come out of committee. And Senator Adams has had some...we've had some discussions with him because he doesn't believe we should reach outside of the Legislature for committee members and so on. So were this actually...this year or next year to come out of committee, that membership would be adjusted considerably. [LB1100]

SENATOR CARLSON: Okay, okay, all right, thank you. [LB1100]

SENATOR HAAR: You bet. [LB1100]

SENATOR CARLSON: All right, thank you, Senator Haar. And I know you'll be here to close. [LB1100]

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

Natural Resources Committee
February 13, 2014

SENATOR HAAR: I will be. [LB1100]

SENATOR CARLSON: So we'll put the lights on again. How many proponents do we have? Okay. Mr. Winston, you can come front and center. Welcome back. [LB1100]

KEN WINSTON: (Exhibit 11) Good afternoon, Chairman Carlson, members of the Natural Resources Committee, my name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska Sierra Club in support of LB1100. Nebraska has benefited for many years from its public power system. From our experience, LB1100 represents an opportunity for public power to save itself...save public power from itself. First of all, there was an article in today's paper, today's Omaha World-Herald in which the public power representatives were quoted as saying that they did not believe that a study was necessary. And I notice there's a number of people I recognize sitting on the right-hand side of the room, whom I assume will be testifying against this bill. But anytime you have public entities that say don't look at us and we don't need to study what we're doing, that always raises questions in my mind and it should raise questions in the minds of senators, particularly when you have more than a hundred public entities and we don't even know what some of them do and that should be looked at. The next issue is transparency, or the lack of it. I've worked with lots of public entities over the years; I've sat on a public board myself and I've found that working with public power, I've had more trouble getting information out of the public power districts than any other entity. For example, there was an effort to get information about energy efficiency expenditures by a public power district recently. It took more than two months and the information after it was provided was incomplete. The public should be able to get information about the way their money is being spent without resorting to heroic efforts. Another issue with...is representation on public power district boards. For example, more than 90 percent...and this is actually conservative, I think it's probably more like 95 percent, maybe even as high as 99 percent, of the representatives on rural public power district boards are white males. That's not representative of society in 2014. This is clearly unrepresentative, and yet decisions by these boards impact the way public power is purchased and generated throughout the state. Rates are another cause for concern. We used to always be in the top 10 for our rates. At present time, the last time I looked we were 17th. I think we're going the wrong direction and that's cause for concern. We ought to have a good open discussion about why that's happening. Finally, we need...we believe that many of the decisions of public power are short sighted, looking only at near-term costs while ignoring both the long-term costs and long-term benefits of their decisions. My daughter, my 17-year-old daughter came here today to hang out at the Legislature. She had a day off from school and she came down to hang out at the Legislature because that was something important to her. I think we ought to be thinking more about the impacts on people like her and Mr. Byrnes' children who are sitting over there, than we are about making...people who make six-figure incomes whether we make them uncomfortable or not. For these reasons we believe LB1100 should be advanced to General File for consideration by the entire Legislature. Thank you.

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

Natural Resources Committee
February 13, 2014

[LB1100]

SENATOR CARLSON: Okay, thank you. Questions of Mr. Winston? Senator Smith.
[LB1100]

SENATOR SMITH: Thank you, Mr. Chair. Senator Winston, I'm going to give you a real... [LB1100]

KEN WINSTON: Senator? (Laughter) Did I get demoted? [LB1100]

SENATOR SMITH: I'm sorry, Mr. Winston. [LB1100]

SENATOR CARLSON: You got him riled up. (Laughter) [LB1100]

SENATOR SMITH: The easy...the soft ball one to you today will be, are you or have you every been a member of Senator Haar's kitchen cabinet? (Laughter) [LB1100]

KEN WINSTON: I was...I visit with Senator Haar on a regular basis. Actually, he's a close personal friend of mine. He's...I think he's interrupted dinner on more than one occasion. My girlfriend has said, don't answer the phone. And so, hopefully, he won't call tomorrow night. So... [LB1100]

SENATOR SMITH: I'm glad you brought your daughter to let her see what you do every day and see you in action and that's a good thing to get our kids involved in the process early on. [LB1100]

KEN WINSTON: If I...just want to make another point about that, is the fact that she volunteered to be here. I did not drag her here. She chose to be here because she wanted to be here, because the future of our country is something about...her future is something important to her and she was willing to come to the Legislature on her own. [LB1100]

SENATOR SMITH: Absolutely. Now you talked about the makeup of the boards. And maybe you've had some experiences outside of...dealing with public power. I have too, I've worked with two companies that were investor-owned utilities that they were subject to public service commission in some...one was appointed by...that had members appointed by the Governor; another one that had members that were elected. Nebraska is extremely unique in the makeup of our local boards because they are local. They keep decision making regional and local to those communities. And I've said this before, I'm going to get on my soapbox again, the public power model, there's some things that maybe are not working well, but in terms of accountability and accessibility to the general public, I don't think there's a better model out there. And so I'm a bit concerned when I hear you talk about the makeup of the boards. Whether we like that makeup or

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

Natural Resources Committee
February 13, 2014

not, those are individuals that are elected by voters in their communities. And the only way that we're going to make those regional local boards reflect a much more broad...a broader demographic makeup is that we're going to have to centralize and take that accountability and local connection away from those communities. And so that's a concern I have with what I'm hearing you say. [LB1100]

KEN WINSTON: Well, Senator, it's too bad that you weren't here yesterday when I testified on LB1040 because I gave a speech about how much we value our local public power districts and how it is important to have local representation. But the concern that I have is if that representation...if the people on those power districts don't represent the public at large...and actually, there's some more things in my letter that I didn't get to because it would take longer than three minutes to do and I will make a copy available to the committee, but I didn't have a chance to make copies before the hearing. But the point is, if you have people who are not representatives of society at large, and they're making decisions that don't...and they don't...and they're making decisions that don't represent the will of society at large, then there's something wrong with that. And when the decisions are also having negative impacts on their own customers, then I think it deserves to be examined. Those questions need to be examined and answers need to be obtained. Now I'm sure that people are going to come up after me and say, well, Mr. Winston doesn't understand, he's simple minded and what have you. And maybe I am, but this idea...I think LB1100 is about saving public power from itself, as I said in my opening, because I think there's a lot people who are unhappy about public power. I've certainly heard from people who are unhappy about public power. And they're telling me that, gosh, you'd be better off if Warren Buffett owned the power system in the state. Well I happen to disagree with that. But I think we need to have some answers to some of the questions that Senator Haar is raising. [LB1100]

SENATOR SMITH: Okay. Well, would you go so far as to say that some of the...and I think Senator Haar made reference to some cost issues and I'm not certain whether you mentioned that in your testimony or not, but some of the upward force on cost for utilities has to be driven, I mean, you have to admit that's being driven at the federal level with regulations. And so we're losing local control over some of those decisions that are made dealing with emission standards and such; so your thoughts on that. [LB1100]

KEN WINSTON: Well, some of that is heading, but it's actually more of a potential impact. Most of the rate increases that we've seen over the last 10 years have had nothing to do with compliance issues. They've had mostly to deal with the fact that the cost of coal has gone up. I mean, in 2008, I believe it was, there was a massive leap in energy rates across the state. Almost every other utility increased their rates considerably because of that. And so...and then there's other things like...I mean, OPPD where I pay my rates, I mean, they spent a lot of money getting Fort Calhoun back on-line. And they really...there was public discussion about that, but not public

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

Natural Resources Committee
February 13, 2014

discussion about how much it was going to cost. There's a lot of discussion about the Nuclear Regulatory Commission, but there really wasn't much about how much is this going to cost. And I think we need to have more transparency about those things. I mean, if something is going to cost us a lot of money, that should be something the public knows about. [LB1100]

SENATOR SMITH: All right, thanks, good points. [LB1100]

KEN WINSTON: Thank you. [LB1100]

SENATOR CARLSON: Okay. Other questions? Well, Ken, I agree with you that we've seen rates go from...we were fifth to now we're not. And you're attributing all that to the cost of coal? [LB1100]

KEN WINSTON: I'm not attributing it all of that to the cost of coal, but a big chunk of it is due to the cost of coal. And I've got a chart that I could provide to you, the problem is, I haven't updated it yet, but as of 2012, it's an interesting chart, it shows Iowa and Nebraska and how our energy rates have gone. They used to be quite a bit higher than ours. Now on average they're lower than ours. At the same time, they've gone from...I mean, we've had very little investment in wind and their investment...they invested a lot in wind, and so...so the...if they're able to make it work in a for-profit model, then in a not-for-profit model we ought to be able to make that work too. And as was heard yesterday in the LB1115 testimony, there's a lot of economic benefit that can come from that. And that economic benefit stays in the state of Nebraska. So I think those things need to be factored into our conversations. [LB1100]

SENATOR CARLSON: Well, and I think that's a worthwhile question and it involves a comparison that probably should be made. Are you aware of...some of our public power companies making significant investments in their structures and in their locations over the past several years? [LB1100]

KEN WINSTON: There have been...I know there have been some significant capital costs and that is also significant. But one of the other things...and I guess...20 years ago I sat on a school board for several years. And so one of the things I always think about when I go and talk to public power district boards and they tell me about how accountable they are and I always think, but you guys don't have to go to the public, you don't have to have a public vote every time you make a major capital expenditure like we do when we were...did on the school board. And imagine how that would work if OPPD had to go and get approval from the public if they're going to spend \$188 million on Fort Calhoun. So I think it's a matter of...I think a lot of these things would be better if we had more awareness of what's going on. And Senator Smith talked about a public service commission. And I guess I just wanted to digress for a moment and talk a little bit about that. And I'm not suggesting, necessarily, that that be the way that we go. But I

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Natural Resources Committee
February 13, 2014

know that utilities that operate with public service commissions often disclose far more information in those public service commission processes than are ever considered in the...in the rate making process. And one of the things that is concerning, and I realize that there are a lot of public power districts where nobody shows up at the meetings, they just...you know, they've got a motion and, you know, and the rates get approved without any discussion whatsoever. But I think there needs to be more consideration of all the factors that go into making our rates and that will help us...help protect us in terms of the direction our rates go. [LB1100]

SENATOR CARLSON: Okay. I think you're inferring that public power and some of the money that they've spent in the last several years has been wasteful spending. [LB1100]

KEN WINSTON: I don't know if I would say it was wasteful spending, but I think it could be...there could have been better investments from our viewpoint. Investments that would have been more beneficial to the ratepayers. [LB1100]

SENATOR CARLSON: So part of the...part of our problem here is the cost of coal and poor decisions on investments that they made. [LB1100]

KEN WINSTON: I think there's been decisions that...it's one of these things where I don't want to, necessarily, say that they were poor decisions, but there were decisions that were made that don't necessarily reflect the best long-term interest of their customer-owners. [LB1100]

SENATOR CARLSON: And you're inferring that if our public power was privately owned, we wouldn't be in the position of going from 5th to 17th. [LB1100]

KEN WINSTON: Didn't necessarily infer that. What I was inferring is that there is some examples of ways of doing business and if somebody can do it and make money, then we certainly ought to be able to do it without having a profit motive. And I recognize there are aspects...I mean if we wanted to have a long discussion about the difference between MidAmerican and NPPD, for example, they can point out things they have invested in that...you know, etcetera, etcetera. And there are layers of expertise that people on their staff have that I certainly don't have and I respect that. But I think long term, we need to think about how can we best make...how can we make the best investments. And if there are some private sector models that provide us, and maybe public/private partnerships that can help us...help protect our ratepayers and help public power go forward so that it is a viable system in the twenty-first century, then we ought to do those things. [LB1100]

SENATOR CARLSON: I'll ask you one more question. In your view, is there...there is a justifiable effort, you may not agree that there is, I think there is, but if there is a

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Transcriber's Office

Natural Resources Committee
February 13, 2014

justifiable effort on the part of federal agencies to make fossil fuels more expensive and coal more expensive for the good of society, is this something that's happening?
[LB1100]

KEN WINSTON: Well, I think it's happening, and I think that we do need to factor in the costs of...the outside costs of coal, the costs that aren't reflected in the rates. And I think that's part of what we need to start doing because those have an impact on society at large and they're paid by everybody and would be...we need to start thinking about those kinds of costs and all our decision...energy decisions. [LB1100]

SENATOR CARLSON: Okay. And I think it's an important debate. It seems to me like these kinds of things have come down upon us and whether we agree with it or not, because I consider you a friend, you and I are friends and we can talk, but we're on different sides of an issue and we're on different sides of this issue and I feel like as a citizen of Nebraska, I don't have much choice. My opinion doesn't matter when it comes to the fact that we're having shoved at us that fossil fuels are bad and that coal is dirty and we just accept the fact that our energy costs are going to be higher, but that's okay.
[LB1100]

KEN WINSTON: Well, I guess I would...the one point that I would want to make related to your comment is that we are dealing...we are going to be dealing with higher costs of energy; we are going to be dealing with higher fossil fuels costs. We need to find ways of responding to those. And the good news is the fact that we have lots of good resources here in Nebraska that can help us address those kinds of things, including some of the things...I mean Mr. Kluthe talking about converting waste to energy. I mean there are probably lots of examples of that where we can do that. [LB1100]

SENATOR CARLSON Okay, and I appreciate your taking questions from Senator Smith and you're taking questions from me and perhaps they're a little bit uncomfortable, but part of this is to allow those who are going to be in opposition to address some of these things, so thank you. [LB1100]

KEN WINSTON: Thank you. And I always appreciate your welcoming nature for all the people that appear before the committee, so thank you. [LB1100]

SENATOR CARLSON: Okay. Thank you. Next proponent. Welcome back, Robert.
[LB1100]

ROBERT BYRNES: (Exhibit 12) Good afternoon, Senator. My name is Robert Byrnes, B-y-r-n-e-s. I'm here in support of LB1100. Let me ask you a quick question. If our football team went from number 5 to number 17, do you think heads would roll?
[LB1100]

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Transcriber's Office

Natural Resources Committee
February 13, 2014

SENATOR CARLSON: Robert, unfortunately our procedure here is we ask the questions and not you, so. (Laughter) [LB1100]

ROBERT BYRNES: Okay. Well, I was...a rhetorical question in that regards, no disrespect. I believe in the bill, LB1100, that we have before us, Senator Haar has once again shared a vision that he has for how we can sustain the success of public power into the future. It is clear that much has happened since major parts of public power were formed many decades ago and it is an excellent time for a checkup. And I concur, being on the production side of energy, this is a time of rapid change. And as we see from 5 to 17, that's happened in a relatively brief period of time. And things are moving regardless of what we do because our position is already formed. We're highly dependent on out-of-state coal; we're 90 percent out-of-state energy reliant and that's just the position we're in. It is clear that the Power Review Board and public power in general has done an excellent job to date in keeping costs down and supplying reliable power. However, it should also be clear that the current model will not suffice in many areas in the fast moving regulatory and technology environment. I concur on what I see as federal control coming down and making coal bad and all these things, but these are forces that are beyond our control. I don't agree with them, I don't think many people do, some do, whatever. But regardless, the playing field is changing. Our state lacks an energy plan and clear vision as to how Nebraska should best proceed to meet our future energy needs. And I've discussed...I've mentioned this on a number of occasions. It is also my hope that the executive branch, having been in office so long, would provide guidance on this topic before departing. The Unicameral needs an overarching vision of where we need to be 5, 10, and 20 years from now. We've known about the wind in Cherry County for a long time. To some extent, this is a planning issue. Our public schools went through kind of...there is some similarities, I think, there with that model in taking a look at this system, making sure we're efficient. Many years ago I attended a meeting of NDEQ and NPPD who were talking about their newest power plants in southeast Nebraska. At that power plant it was located next to the Missouri River, they chose an evaporative cooling system for their surface condenser instead of once-through river cooling. When I asked about this, they said, well, it's less paperwork to do evaporative cooling. Well that costs millions of gallons of water a week to do evaporative cooling where it's river water which has no water use. Okay, but that decision was totally arbitrarily based on paperwork I was told. I think public power will benefit from the LB1100 process. But like a boy going to the dentist for a checkup, they'll probably come up with all kinds of reasons why it's not necessary to waste their time. But many years later, that boy with good teeth will thank you for helping him do the right thing which was not evident at that time. That is objective leadership. And just finally, a couple comments on coal. Coal is a tough one because not only is it somehow gotten into D.C.'s cross hairs, but it's also...to get it here is on Buffett's trains that run on diesel. So we've got two fuels that are required, both out of state, to get that stuff even here. If we want to talk about subsidies to the ratepayers, that's probably a good place to start, you know, because we're subsidizing rural communities in Wyoming when

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Transcriber's Office

Natural Resources Committee
February 13, 2014

places like the town I live in are hurting. So with that I'll take any questions. [LB1100]

SENATOR CARLSON: Okay, thank you. Question? Senator Smith. [LB1100]

SENATOR SMITH: Thank you, Mr. Chair and Mr. Byrnes. You know, I'm going to take a shot at answering your first question to us about what you would do with a failing football program. I guess I certainly wouldn't start out by firing the chair of the history department or adding a redundant coaching staff. So, you know, I like the whole concept of looking to improve the model that we have in the state. I think everyone would like to do that. But as I look through this, I don't think anyone can argue that this is not a biased piece of legislation that is tilted towards further developing a renewable program in our state and not really trying to address the issue of reliability of energy supply, the abundance of the energy supply, and the cost component, that is getting a cost as low as possible. I mean, you can see through this bill...riddled throughout this bill, you know, undertones of things that are going to be looked at, that are going to increase the cost, frankly. So, I guess that's more of a statement than a question. [LB1100]

ROBERT BYRNES: Well, I see that there may be...I mean, obviously, Senator Haar is putting this out for discussion, as he stated. And there is certainly room for, I think, development and fine tuning the proposition going forward. However, I think the basic question is sound: Are we in the right direction? And I don't think it's fair to public power to put them in the position to have to assess themselves, yet still be accountable to the public. I think it is a publicly-owned organization and I think...you know, sustainable, renewable energy I think has its place in the future. I think we deny that it doesn't have a role in our future, jeez, I think you just have to look at a couple of DOE graphs to indicate that's not what a lot of people see for our future. And that is going to be an increasing part of the energy mix going forward. But we also have geothermal resources in the western part of the state that...we can pump water into the ground and recover steam and turn a turbine, I mean, no fuel, that's going to be there for a million years; no emissions, no water use. You know, nothing should be off the table and I think that's the benefit of an objective review. But hey, here's...they do a lot right, they do a lot right and I'm for the system. However, you know, let's look out over the vistas and the horizon of what we know right now. Are we going the right way? Because if we make a mistake now, we're really coming to a kind of a crossroads here in terms of the energy, what's out there, the technology, the prices, things are rapidly changing, as the senator, I think, outlined. And we're standing here and if we don't take the right turn, man, our kids are going to pay a steep price. [LB1100]

SENATOR SMITH: All right, thank you. [LB1100]

ROBERT BYRNES: Yeah. [LB1100]

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

Natural Resources Committee
February 13, 2014

SENATOR CARLSON: Okay, thank you, Robert. [LB1100]

ROBERT BYRNES: Thank you, Senator. [LB1100]

SENATOR CARLSON: Next proponent. Welcome back, John. [LB1100]

JOHN HANSEN: Mr. Chair, members of the committee, for the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. Nebraska Farmers Union is in support of the concept of an idea of taking a robust and across the board review of our public power system and how it is that it can be evaluated in order to be able to make sure that it's doing the very best job possible of meeting its goals and objectives. This public power system is one that we deeply believe in. We helped start and champion the cause of public power in 1950 in our organization. We have a lot of history in helping create this system and helping defend it. And I don't really know of anybody that's gone across the state of the Nebraska engaged with the public at large and more consistently defended the values and the benefits of public power than I have in the last 24 years. If there is somebody, I don't know who that would be. But when we turn a deaf ear to criticisms that the public makes, we put the affinity of the public that owns this public cooperative, in our opinion, at risk. And as I go across this state, we're doing some things in public power that make it increasingly difficult for advocates like me of the public power system to defend. And we are not...we do not have our ears on; we're not listening to the owners of this system as well as we could. We're not looking at ways to improve operating efficiency, reduce administrative costs, be friendly to the interests of the owners of the system as much as we could. I had considered the idea of testifying in a neutral/opposed approach or a neutral/supportive approach today, but after yesterday and how well that did not turn out for public power from Senator Haar, I decided I'd better be fairly clear that I'm supportive of the concept, but we have a lot of heartburn with a lot of the particulars of things that are in this bill because we do support local control. And we think that there are better ways of going at this. But we're testifying in support today because we think it is a mistake to say it's not appropriate for the Legislature to take a look under the hood. And if we go down that path, and if we're just going to circle the wagons and say, no, there's nothing that could possibly be gained by taking a look at our system and seeing how it could be made better, that at this point in time, given all the wheels that are in motion, that would be a strategic mistake. And so with that I close my testimony. I would be glad to answer any questions if I could...possibly answer questions, I'd be glad to do so. [LB1100]

SENATOR CARLSON: Okay. Thank you. Questions? Senator Smith. [LB1100]

SENATOR SMITH: Thank you, Mr. Chair. So, you know, going back to one of the questions about the local control, I know you support local control, but would you then also want to see some type of a greater central authority, is that what you're kind of advocating for...that the local control, the local boards are not making the right decisions

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

Natural Resources Committee
February 13, 2014

to where you would want to have some type of an appeals process or some type of a central authority? [LB1100]

JOHN HANSEN: Well, it's...there's pluses and minuses to doing that. And, you know, we're...we do service work. We're the second largest farm organization in this state. We have 6,000 family members...folks call. And, for example, the reaction to the previous bill, net metering, we have some REAs that are more than glad to try to be helpful and figure out what somebody might want to do in that case. We have other folks that say, well, okay, if you're over 25 kW, they don't inform them that, in fact, they have to accept the system under PURPA, they just say no, for example. And then they call us up. So you get this kind of unevenness, and I think that there's times where, you know, we get set in our ways and we kind of bunker in and we're not really listening as much as we should. And we do things today the same way we did it yesterday because that's the way we did it. And yet we're in a very dynamic situation in terms of our population base. We're seeing changes in our cost structure that cause us to do the very same thing that any business that I've ever been an owner/operator of, and I've had a bunch of them...or any organization I've been a part of, the part that I hate which is strategic planning. So to our mind, we thought it would be a good idea for the Legislature to take a look under the hood and the question you raised is one that I think ought to be considered is how do we get a more kind of centralized or uniform approach across the state. There's pluses to that. There's also some minuses in some cases, but I think it's a good idea, whatever business you're in, and we're in the business of providing services, to always take a look at how it is you do a better job and so that concept and how to best do it. And so I'm hopeful today the folks will be coming forward with a lot of good ideas on what would be a better way to proceed. [LB1100]

SENATOR SMITH: So again, your feeling is the local...that local model is not working, the local boards...that model. [LB1100]

JOHN HANSEN: In some cases I think it's working really well. In some cases it's not as well as it could be. I think that there's...you know, it's...we very much support local control. But we also have folks in our shop that say, well, you know, how many school districts do we have compared to 50 years ago? How many, you know, we organized all these cooperatives, we organized 445 cooperatives in the last hundred years. How many of those cooperatives are still...those cream cooperatives are still going? So there's always a need to also be modern, also be efficient. And so I...you know, the part of the study that Senator Haar has proposed that causes us the most heartburn is the one that looks at consolidation, yet I suppose we would have to grudgingly admit that that's one you probably ought to look at. Although our...you know, we're not quick to do that part. [LB1100]

SENATOR SMITH: Thank you. [LB1100]

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Transcriber's Office

Natural Resources Committee
February 13, 2014

JOHN HANSEN: I hate strategic planning, did I mention that? (Laughter) I've been a part of it way too many times and way too many shops and it's painful, but at the end of the day, if it's more clear about what it is you're doing and how it is you do it and you become better at doing it then the gain is worth the pain. [LB1100]

SENATOR CARLSON: Okay. Any other questions? Thank you, John. [LB1100]

JOHN HANSEN: Thank you, Senator. The...if I might just one final comment is that in our experience in cooperatives, and we have organized far more cooperatives than anybody else in the state of Nebraska by a huge margin, is that one of the things that becomes fatal to a cooperative is when you lose affinity. And you lose affinity when folks no longer care about your cooperative and they no longer care where they buy business, and they no longer remember why it is the cooperative was organized in the first place. They lose that sense of ownership. And so that's why it is so very important, in our view, to continually remind folks that this is our system. It's a public power system. It's a tremendous asset. And it's our job as citizens to be involved and be engaged and think about it as managers and owners of the system. And at the same time, we remind the folks in public power, it's your job to have your ears on and listen to those folks. [LB1100]

SENATOR CARLSON: Okay, thank you. [LB1100]

JOHN HANSEN: Thank you. [LB1100]

SENATOR CARLSON: Next proponent. Welcome. [LB1100]

TIM RINNE: Good afternoon, Senators, my name is Tim Rinne, R-i-n-n-e, first name is Tim, T-i-m. I am the state coordinator of Nebraskans for Peace and I had no intention of testifying today. But I opened up my Omaha World-Herald this morning and I saw that there was a statement from a public power official who said that LB1100 was an attack on public power. And I'm here to tell you as a member of Senator Haar's kitchen cabinet, (inaudible), that that is the last thing in the world that anybody intended, at least from our side. Not to take anything away from this august body here, but I think the greatest politician that this state ever produced was George Norris. I love public power. My wife and I have put, with the assistance of the Lincoln Electric System, we have put a geothermal system into our home; we have put 24 solar panels on our roof. If our tax refund is what we hope it's going to be, we're going to put 12 on an investment property that we own. We have made both of these properties energy efficient. We have done this all with the assistance and the cooperation of LES. And we have no intention of getting off the grid. We love public power. We think it is the greatest thing this state has ever produced. We want to see it flourish; we want to see it thrive. And it's terrific; it couldn't be better. We're so excited about it that my wife and I went and bought \$20,000 worth of LES bonds. So we're not people who want to see public power thrown over the

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

Natural Resources Committee
February 13, 2014

side and into the borrow pit. That's not where we're coming from. I want to address specifically, though, this issue of local control. Now I'm from a small town in the Panhandle, I'm from Gering. And I like local control; I like knowing who my politicians are. I like to be able to be in a grocery store or a church and actually run into my elected officials and see them and even if, you know, I'm not happy with them, I can at least point them out on the street and say, well, that's who they are. That's great, there's a lot to be said for it. But there are a couple of things that we need to think about. There are three major...oops, I'm getting dangerous here, there are three major public power districts in the state: NPPD, OPPD, and LES. I don't know very much about NPPD. But what I can tell you about LES is that I don't elect my board. They're appointed by the mayor and confirmed by the city council. So there is an element of local control, but I'm not exercising it through the ballot box. Then with the case of OPPD, you have to understand that OPPD serves a 13-county area. The county that my parents came from, Johnson County, down near the Kansas border, is served by OPPD. I think these people are happy with what they got. I think OPPD...I've never been a ratepayer, but from what I've seen of OPPD, they're a fantastic organization. They do great stuff. As a matter of fact, by the end of 2016, they will be getting over half of their energy from noncarbon sources. This is an excellent entity and they work hard and none...there's my red light. What I would say is that I don't think that any of public power districts have anything to fear from an exploration of this nature. And that I will tell you that I was surprised when I saw that LES bought a hundred megawatts of wind from Oklahoma. But then I realized, you know what, that's not their problem, that's our problem. That's state law. We tell them to look strictly at low cost and reliability. And what's happened here is I think we need to expand their authority and so that they can look at other factors such as local investment, local jobs, things of that nature, and with that I will end my testimony. [LB1100]

SENATOR CARLSON: Okay, all right, thank you, thank you. Questions? Thank you. Well I saw that you were sitting back there and you got up and went and got the green sheet, thank you for your testimony. [LB1100]

TIM RINNE: Thank you, sir. [LB1100]

SENATOR CARLSON: Okay, any other proponents? All right, we're ready for opponents. How many opponents do we have who are going to testify? Okay. Welcome, John. [LB1100]

JOHN McCLURE: (Exhibit 13) Good afternoon, Chairman Carlson, members of the committee. My name is John McClure, J-o-h-n M-c-C-l-u-r-e. I'm vice president and general counsel for Nebraska Public Power District. I'm here today speaking as president of the Nebraska Power Association and have a number of other colleagues who are going to follow me. I've been taking notes today and I want to...I'll try to get through this as quickly as possible. First of all, I think a question came up yesterday that

Natural Resources Committee
February 13, 2014

has sort of been alluded to today and that is can the Legislature ask public power questions and the answer is, absolutely. We live in an accountable, transparent world and we certainly are not afraid to be asked questions and to discuss our business with the Legislature. I also believe that Senator Haar is very pro public power. I don't think there's any doubt about that. I don't think I'm in his kitchen cabinet, but I do know that he asks me questions a lot and I appreciate the dialogue with him; it's always been enjoyable. I think there's a lot of things we agree about today. Our industry is going through incredible transformation. But I think you'll hear from others behind me that the public power industry is looking at the future and is doing a lot of things to be a part of that transformation. We're not sitting back and just watching it. Certainly there are some here that don't think we're moving fast enough and other...in certain areas; other's think we're moving too fast. We certainly have significant diversity of generation. We've invested over \$2.5 billion through public/private partnerships and contracts in place through 2016 in new wind; that's huge, that's huge for what's happening there. At the same time, I think I read recently there are 12,500 railroad workers in Nebraska and they haul a lot of coal and those are a lot of jobs. And so they're important also as we look at the economy. Leadership of public power has come up. All public power districts have elected boards and we certainly need to remember that those people have been elected by their customers. With respect to cities, city councils are elected. They're ultimately responsible for the local utility even when there is an administrative board. They make the ultimate decisions. It's been touched on before, federal policy is driving much of what we do. And I'm going to ask my staff to get a copy of this paper from Senator Murkowski in the U.S. Senate. She is the ranking member on the Senate Energy Committee; hits a lot of real important industries and issues in the transformation of our industry and I would like to encourage you to read it. I think you're going to hear later, while we have 160-some utilities, we're not out of line with states around us in terms of the number of public power utilities. We are focused on reliability; we're focused on affordability; and we're focused on accountability and transparency. Those are the three things that I think drive every electric utility in this state. And we are happy to discuss those issues with you and look forward to the continuing dialogue with you and with Senator Haar. I'd be happy to try and answer any questions. [LB1100]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions? Senator Smith. [LB1100]

SENATOR SMITH: Thank you, Mr. Chair. Mr. McClure, thanks for being here. So that last testimony, I know Mr. Rinne said, you know, this is not an attack on public power and I believe what, you know, he's feeling that...that is sincere. But do you feel that this is an attack on public power? And can you kind of concisely say why you feel that it is, if you think it is? [LB1100]

JOHN McCLURE: That would not be my word to use that it is an attack on public power, I would not use that word, no. [LB1100]

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Natural Resources Committee
February 13, 2014

SENATOR SMITH: Okay. [LB1100]

JOHN McCLURE: I could see how others could see it that way. [LB1100]

SENATOR SMITH: All right. Can you expand on that just a little bit why you think that there...some may feel...maybe set back on their heels a bit over the legislation?
[LB1100]

JOHN McCLURE: Well, I think part of it is because if you look at the way the bill is drafted, it's looking at absolutely every facet of our business as if, maybe, we haven't been doing a good job. Now there was discussion earlier that, you know, at one time we had, as a state, the fifth lowest rates in the country. I think there was one year we may have been that low; I know we were sixth or seventh. But there have been years, and not that far back, where we were out of the top ten. We are, as I understand it, 15th right now, and I can assure you that every public power entity in this state is looking at costs. I know that the two largest public power districts in this state, NPPD and OPPD, had no rate increase in 2014 and have done a lot of things to control costs. We've reduced staff at our utility. We're not operating in a vacuum. We know we have to be competitive on price; we also have to deal with reliability. And, ultimately, we have to be accountable to those we serve. [LB1100]

SENATOR SMITH: And so those costs, would you say some of those cost drivers are being posed by federal government and some of the federal regulations? [LB1100]

JOHN McCLURE: Clearly. And it's not just things like EPA. I mean people talk about EPA--EPA is driving costs up. Again, this paper that I want to have my staff get a copy to you does point out that...and we all know this, we've had this conversation before, you know, coal is under significant attack. Interestingly, it's an American product. We have energy independence with it. We have technology today to significantly reduce the emissions; it's cleaner today than it's ever been. Low sulfur coal from Wyoming is the cleanest coal in the country. But it, at one point, was over 50 percent of the nation's electricity production and now it's shrunk down to under 40 percent. You know, this industry does change. I read a statistic today in 1977 oil was the number two fuel choice in the electric industry in this country. Now it's almost zero. So transformations happen, but they happen over time. Clearly, if you look at EIA projections, and you will see that in this report, they still see coal playing an important role going forward. And one of the things that is really interesting, the cold wave that just hit the eastern United States, one of the regions of multiple states had to bring on power from 89 percent of the coal plants that are going to be shut down next year because of environmental decisions. They needed that to keep the lights on. And that's one of the concerns going forward. We need the right balance of base load generation. And we're fortunate in Nebraska because we do have very good base load resources. We need that in combination with

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Natural Resources Committee
February 13, 2014

renewables as we move forward. And again, I think we're seeing incredible expansion of the renewable industry in this state, probably at a faster rate than in almost any other state, if you look at the growth. You'll see a chart in this little handout that shows how rapidly wind generation is being added in the state. I heard someone mention yesterday that, you know, Texas had all this wind. Well, I looked it up, Texas has 26 million people. We have 1.8 million in Nebraska. Our per capita basis, we're going to probably exceed Texas in another year or two in terms of wind commitment in Nebraska. [LB1100]

SENATOR CARLSON: Okay. Thank you. Senator Schilz. [LB1100]

SENATOR SCHILZ: Thank you. Mr. McClure, thanks for coming in today. I just...as we look at this, and we see bills introduced to look at...to study things and stuff like that, can you tell me what internal processes you have experience with or know of that are out there to do what this bill is talking about, in a sense, to make sure that you're looking at strategic planning, to make sure that you're looking at the efficiencies that are out there. Are there things in place now that look to do that? [LB1100]

JOHN McCLURE: Absolutely. Thank you for the question. First of all, I believe, if you checked with every utility that's here today, they will tell you they do extensive benchmarking. They are comparing their performance with benchmarking data. If they're on the distribution side, what are their outage rates? How frequent are they? What's the duration of them? What's their cost of providing particular services? In the generation sector, we do that all the time. We are able to get confidential data and compare our costs with other power facilities. But it goes beyond that. We've just been through a process at NPPD where we have benchmarked all of support services against other utilities. So there's a lot of industry benchmarking that takes place to see how do you stack up in terms of your performance, whether it's reliability or cost, with others. Then I would also mention, I know that NPPD, OPPD and LES have all done integrated resource plans which are comprehensive looks out 20 years. What's happening on the demand side of my utility? How much energy is going to be used? What's happening on the supply side of my utility? What kind of generation do I need? How much base load? How much intermediate resources? How much renewable can I integrate? So we're constantly updating those studies, looking to the future, and looking at all kinds of issues about what...what external factors will be part of the playing field as these decisions are made. [LB1100]

SENATOR SCHILZ: So you're...so much of what everybody is possibly looking for may be, possibly, being done already. Then the next question I have is, you know, and this is...this is evident in a lot of things that we do, you know that these processes are running there and everything else, the question is, how do you get that information out to the people that need to know it whether they realize it or not? [LB1100]

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Transcriber's Office

Natural Resources Committee
February 13, 2014

JOHN McCLURE: Well, we talk about that frequently at our organization. How do we effectively communicate with our customers and our stakeholders? First of all, we have a public board meeting every month; that's taking place right now. We try to do many things from a communications standpoint on-line. If you go to our Web site, there's a wealth of information. You can go to our Web site right now and see what's happening with our wind generation. With all of our wind generation, you can find that information, real time. There are all kinds of other things you can find. And other utilities here use that technology. Obviously, we have some customers who pay a monthly bill with a paper copy bill; we frequently put inserts in that to provide information. We had an extensive process to go out and gather information from our customers about some future generation choices and we held, I think, close to a dozen public meetings around the state. We only had about 500 people show up. We tried to advertise those. And so we are constantly trying to communicate with our customers. But I take some of the lack of feedback we get as satisfaction that we are being reliable, affordable. One of the things you'll see in here is the average residential customer in Nebraska paid \$3.56 a day for their electricity, compares that with driving through a McDonald's or getting some doughnuts and you think about that \$3.56. In a residence, it's washing your clothes, it's washing your dishes, keeping your food cold, keeping it cooked, charging your cell phone, your computer, there's so many things that our electricity provides to the citizens and businesses of the state that sometimes it's forgotten about. And it's being delivered 24/7. [LB1100]

SENATOR SCHILZ: Thank you very much. [LB1100]

SENATOR CARLSON: Senator Johnson. [LB1100]

SENATOR JOHNSON: You mentioned benchmarking, and I'm familiar with that being on an ethanol board trying to be in the top percentile or whatever, you know, fifth is great, 15th or whatever isn't quite so good. How long have you been involved...has the industry been involved in benchmarking? [LB1100]

JOHN McCLURE: Oh, it's been going on for decades. [LB1100]

SENATOR JOHNSON: Okay. Since we dropped from 5 to 15 in benchmarking, are you aware of what's been the biggest factor that has dropped us down? [LB1100]

JOHN McCLURE: Well again, that's a state average on...that's a state average price per kilowatt hour across all classes. And that, again, it moves around. What are some of the biggest factors? When we were really low, the price of natural gas was really high and we don't rely on a lot of natural gas in Nebraska. That's why we were low and others were high. And everybody has...but what else has happened? As Senator Carlson mentioned, there's been a huge investment in infrastructure in Nebraska. Both NPPD and OPPD have relicensed their nuclear plants for 20 additional years. As has been

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

Natural Resources Committee
February 13, 2014

pointed out previously, that contributes to carbon-free generation. That was looking at the future and issues of carbon and how do you...there's only one source of generation that is base load carbon free and that's nuclear. And so that investment was made. We invested a half a billion dollars. We issued bonds and that goes into our costs. There have been a number of other power plants, new plants built in the state or serving utilities in the state, so there have been investments there. We've also seen a significant investment in transmission. Transmission from Nebraska City plants to Lincoln; from Lincoln to Columbus; from south central Nebraska into Kansas. And as you all know, there is a major project across the north central part of the state. All of that facilitates and improves reliability, but also enhances our ability to export power including new wind development. So those kinds of capital investments...the other factor has been we are net exporters in Nebraska. For a long period of time, we were making maybe \$50 a megawatt hour in the off-system market. When the price of gas came down, that price drop and the economy went in the tank in 2008, that off-system market dropped to about \$25. In 2013, NPPD sold over 4 million megawatt hours off system. If you take \$25 million times 4 million, that's \$100 million less that we got in 2013, if you use \$25. That price is coming up and crazy things have happened just in the last month. The price of electricity and natural gas in the spot market has gone through the roof. This month we're averaging over a million dollars a day in off system sales. And that comes back to benefit our customers. [LB1100]

SENATOR JOHNSON: Well, yeah, I know from the energy side, I just got an e-mail that our ethanol went from \$5.84 up to \$24-something in the last few days and now it's dropped back down again. Those things you can't predict. [LB1100]

JOHN McCLURE: Right. [LB1100]

SENATOR JOHNSON: And it affects different people in different ways depending upon how dependent. [LB1100]

JOHN McCLURE: Natural gas prices have been up around \$4. [LB1100]

SENATOR JOHNSON: Yeah. [LB1100]

JOHN McCLURE: And we saw some spot market prices more than 10 times that in the region when things got real tight with super cold weather. [LB1100]

SENATOR JOHNSON: Yeah. [LB1100]

JOHN McCLURE: And again, that's addressed in this white paper. And gas is an important part of a diverse fuel mix. Again, there's no perfect form of generation out there when you look at all the costs and benefits. We need a diverse mix. I believe we have a diverse mix in Nebraska and it's becoming even more diverse as we go forward.

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Transcriber's Office

Natural Resources Committee
February 13, 2014

[LB1100]

SENATOR JOHNSON: Thank you. [LB1100]

SENATOR CARLSON: Okay. Any other questions? I would just ask one, because I asked it earlier. In this whole period of time, and I've talked to you before about our little bit of slide and where we are in rates, how much is the cost of coal responsible for that? [LB1100]

JOHN McCLURE: I'll have to search to get you a percentage, but it hasn't...the delivered cost of coal has gone up. But if you look at the cost of coal compared to other fuels, it is much more stable. And in Nebraska...and in Nebraska it is still our lowest cost of fuel today by far. [LB1100]

SENATOR CARLSON: By far. [LB1100]

JOHN McCLURE: By far. [LB1100]

SENATOR CARLSON: Okay, thank you. Any other questions? Okay, thank you for your testimony. [LB1100]

JOHN McCLURE: Thank you. [LB1100]

SENATOR CARLSON: Next opponent. Welcome. [LB1100]

KEVIN WAILES: Thank you, Mr. Chairman, members of the committee. My name is Kevin Wailes, K-e-v-i-n W-a-i-l-e-s, I'm the administrator and CEO for the Lincoln Electric System. I'm here in opposition to LB1100 on behalf of LES and on behalf of the Nebraska Power Association. And we're proud to be, at least, on an interim basis, your hometown public power entity for a few weeks during the year as well. I have 38 years in public power. I have managed three electric utilities in three different states. And as a part of that, I've also had the opportunity to work with a number of investor-owned utilities. Those states also, by the way, have some partial regulation associated with public power. And we all know that the difference between public power and, in effect, investor-owned utilities is investor-owned utilities have shareholders and they have customers. And so when they're making decisions, they're looking at balancing the shareholders' interests and the customer's interests. For us, it's simple because our shareholders are our customers and we believe we react that way actually using a whole host of tools, but the four primary characteristics associated with public power have always been and always will be, basically, local control and customer engagement, low rates or low and competitive rates, certainly reliability, and then, really, something that's hard to quantify which is, you know, community service, community support. There's all sorts of things get wrapped into that that really can't be provided in

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

Natural Resources Committee
February 13, 2014

other mechanisms. And they really are specific to local control. First with respect to the local control and customer engagement, we have a nine-member board. As Ken well knows, there are five women and four men, environmentalists, large customers are represented, retirees. Ken spends quite a bit of time, I think, with us both at meetings and engaging our board members and we appreciate that. That's actually what public power is. But on top of that, our customer engagement is not unlike John referred to. We do an immense amount of outreach with large customer groups, environmental groups, whether it's on rates, transmission citing, resource planning, environmental issues. Those are what...that's all what we do and it's really a part of our makeup because we want to reflect the value of our customer specifically. Certainly we have rates that are some of the lowest in the country. We do a national rate survey every year. Last year, we were 13th lowest out of 106 cities in all 50 states. And I'm looking at this from an LES perspective, but that's back to local control. When we talk about reliability, we're some of the most reliable...have some of the best reliability data or indices in the country. We're about 20 minutes of average outage time for our customers compared to an average for investor-owned utilities it's in excess of probably anywhere from 100 to 160 minutes. And then finally when we talk about community support, it's somewhat unique. And the community support for us is not only a payment in lieu of taxes, a city dividend for utility ownership, but it's also our involvement with the district energy corporation which provides heating for this building, provides different types of energy...thermal energy services for the jail, or, in fact, the West Haymarket. So when you look at those coupled with NUCorp which is an interlocal agreement between LES and the university, we're also providing a significant function there for their energy efficiency work which includes thermal energy and a variety of other things. See my time is up; I'd be happy to answer questions about Oklahoma wind or anything else that you'd like to talk about. [LB1100]

SENATOR CARLSON: All right, thank you for your testimony. Questions? Senator Smith. [LB1100]

SENATOR SMITH: Thank you, Mr. Chair. So kind of in a nutshell, what is it you're opposing in this bill? Why do you feel this bill is bad for public power? [LB1100]

KEVIN WAILES: Well, you know, I agree with John's characterization that it doesn't...it's not necessarily an attack on public power, but my concern actually is when we're talking about local control, this bill seems to, basically, deem that there's a better way than local control. And I have a real concern that...I guess given all my experiences in different states and different jurisdictions, the value of making some of those decisions...and let's even use the Oklahoma wind as an example. When we put the RFP out, we got the responses back and we struggled with that because there were Nebraska respondents to that. But when we evaluate them there was a \$50 million difference between buying the Nebraska wind and buying from Oklahoma. So the struggle we had was does it make sense for our customers to pay that additional \$50 million? That is a local

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

Natural Resources Committee
February 13, 2014

decision. And that's the type of decisions that we end up, I guess, looking at whether it's...the Central Lincoln Reliability Project is a transmission line that some of you may be familiar with that we spent an immense amount of time and customer engagement on the routing; it literally goes through the middle of town. Originally it was a lot...there was a lot more overhead transmission included in that because it's much cheaper. We ended up doing a significant amount of that project, about three miles of five are, in effect, underground at a higher cost because that reflected the values of this community. If you take that decision from us and you take it to some other entity, I think that's...I have a concern, will those same decisions be made, will those same values be reflected for that distinct part of our business? So those types of things...I guess it would not be unlike some...the federal government looking at what you all do and saying, you know, I don't know on a per capita basis, I'm not sure that's the most efficient, why don't we have a study group look at combining South Dakota and North Dakota, Montana, and then we'll get enough population in there. Does that make sense? That wouldn't give us local control of the state either. [LB1100]

SENATOR SMITH: So your primary concern is moving from a local representative model to a centralized model of some sort, like a PSC. [LB1100]

KEVIN WAILES: (Inaudible.) And I guess the other piece of this is...although I don't think any of us dispute the need to continue to look at our business. And John did a good job of talking about performance criteria, we take them to our board quarterly. And then we take the benchmarking to them annually looking at like 70 different benchmarks. We can provide it to you; it's done at public meetings. So we go through that process, but when we look at the makeup of the committee that's suggested for this and we look at the technical issues that have to be addressed in such a short period of time, we don't necessarily think the makeup of that group makes sense to do that kind of an evaluation. And that's no disrespect, you know, Senator Haar and I have a lot of lively discussions as well on different issues, but I just don't think that's the right group to make that kind of evaluation. And I think it would have to be done in a different way. [LB1100]

SENATOR SMITH: All right, thank you. [LB1100]

KEVIN WAILES: Thank you. [LB1100]

SENATOR CARLSON: Okay. Thank you. Any other questions? Thank you for your testimony, Kevin. [LB1100]

KEVIN WAILES: Thank you. [LB1100]

SENATOR CARLSON: Welcome. [LB1100]

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Transcriber's Office

Natural Resources Committee
February 13, 2014

GWEN KAUTZ: (Exhibit 14) Hi. My name is Gwen Kautz, K-a-u-t-z. And I am the general manager of Dawson Public Power District in Lexington, Nebraska. I am testifying in opposition of LB1100 primarily with NREA, Nebraska Rural Electric Association, Nebraska Power Association, and my own power district. And for the record, I avoid my kitchen at all costs. (Laughter) I'm testifying against LB1100 because I believe when I read it, the thing that stood out most for me was that it seemed to tell us that we were not operating efficiently, that we were duplicating services. And as the general manager, I know that's not true. I know how we plan. Like our...my earlier testifiers, we do benchmarking. We look at about 400 ratios to make our system as efficient as possible. We look at those things. But I will tell you that I appreciate Senator Smith's comments about investor-owned utilities. I spent 16 years working for an investor-owned utility. I know both sides, I've lived them. And I am honored to be on the public power side. I don't believe LB1100 is an attack on public power either. But I do take issue with whether or not you think we are being efficient. And I do have some examples of systems who work together and that would be Panhandle Rural Electric in 1997 and 2003 looked at consolidating three power districts...or three cooperative systems. And they found out that they weren't going to save any money by fewer employees, fewer vehicles. In fact, it was going to create a hardship and that was because they were taking one less dense service territory and making it a larger less dense service territory. Also, Southwest Public Power District and McCook Public Power District look at the efficiencies all the time and if one system is closer to another, they work with that system. I think that any time there is a GM vacancy, the boards and the employees and the management take a look at what they can do, what is good for their customers. And I believe that it is not as simple...while we are connected with the power lines, it is not as simple as flipping a switch or splicing the line. There are costs associated with putting systems together. And I would like that to be looked at. But I also want you to know my board will tell you, my employees will tell you I believe in transparency. If public power needs to be looked at, then look at us. I believe that it's important to our consumers. Our boards are elected. My board can tell you that their customers do call them, know who they are, and they know who I am. And I do get phone calls myself. LR455 study said that the meter count was not indicative of the cost; and it is not. In fact, it is the service characteristics that really play out in this. And therefore, I would like you to consider that LB1100 is not bad, it just needs not to serve special interests. Thank you, and if I can answer questions I'm happy to. [LB1100]

SENATOR CARLSON: All right, thank you for your testimony. Questions? Senator Smith. [LB1100]

SENATOR SMITH: Thank you, Mr. Chair. And, Ms. Kautz, just that final comment you made, special interests. You don't think it should serve special interests. Can you expand on that just a bit? [LB1100]

GWEN KAUTZ: I can. I think that the political arena from the federal side has

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

Natural Resources Committee
February 13, 2014

demonized coal, when we know, in fact, it is the lowest cost way to produce electricity. Special interest groups...we get challenged all the time about whether or not we are anti-wind, anti-renewable. And we are not, because, quite frankly, if you're producing power for yourself, that's less power that I have to buy and therefore it makes sense. We would love people to know that we are not anti-renewable. But the special interests would be the ones that drive up the need to get rid of coal. [LB1100]

SENATOR SMITH: Thank you. [LB1100]

SENATOR CARLSON: Thank you. Any other questions? Thank you for your testimony. [LB1100]

GWEN KAUTZ: It's hotter up here than you know. (Laughter) [LB1100]

SENATOR CARLSON: Next. Welcome. [LB1100]

DEAN MUELLER: Chairman Carlson, committee senators, my name is Dean Mueller, D-e-a-n M-u-e-l-l-e-r. I'm here representing the Nebraska Power Association and Omaha Public Power District. I'm the division manager of Sustainable Energy. I have three points I want to kind of emphasize here, some of them have been touched on already. But I want to talk a little bit about the generation capacity in the state and the generation mix; a little bit about the generation joint planning activities; and a little bit about the generation shared resources. As far as the generation mix for the state, we have 43 percent coal, 4 percent oil, 19 percent gas, 13 percent nuclear, 3 percent hydro, and 17 percent wind. Of that percentage...or of that mix, 33 percent of that is carbon free; 33 percent of our capacity in this state is carbon free now. And that's made up of the hydro and the nuclear and the wind. As far as the renewable goals, Nebraska itself imposed renewable goals. And all of the utilities in Nebraska are at least meeting or exceeding those goals, and in some cases, far exceeding those goals. As far as renewable installations, the number of renewable installations in Nebraska has quadrupled since 2010. The prices on wind have come down and you're seeing more and more development there. Right now there are currently 17 contracted wind projects in the state, and more are being developed all the time. As far as our overall state peak demand that we're seeing in load growth, we're not seeing a lot of load growth. The load growth in the state is sort of leveled out, but our peak demand for the state is about 6,800 megawatts. In addition to that 6,800 megawatts, we have to have reserve capacity and we have a 15 percent so we have a total of 8,000 megawatts in the state. And that's what...how much capacity is installed right now. And I see I've got a light here so I'll try and continue to hurry. We do a statewide generation study every year with the NPA. The NPA joint planning subcommittee performs an annual statewide generation study every year, so it isn't like we're not aware of what's going on or the changes. In addition to the NPA, the Nebraska Power Review Board at any time can require a deeper study and look at it; and they have done that and the last one was in 2012. That

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

Natural Resources Committee
February 13, 2014

study found that there...we were in pretty good shape and that there were no deficiencies or redundancies in the generation mix that we had in the state. So with that I also want to say that my third and last point is that our joint generation projects, we have studied these project together with the NPA. We have done a number of joint projects; our Nebraska City station has done several utilities, public power utilities. We have six wind projects in the state that are joint with multiple utilities. So I think there's an awareness here. I think what LB1100 seems to imply is that we're not looking into some of these things. And I just want to say that we really are on top of them. What's happening in the state is our load growth is pretty flat. And so we have enough generation with our facilities that we have now that we really don't need new generation. So, you know, we're trying to transition into some of these new options when it makes sense for our customers. If you have good gen...and enough generation now and you add additional, it drives your prices up. So you have this balance you got to try and see. So with that I'll close up. [LB1100]

SENATOR CARLSON: Okay, all right. Thank you. Questions of Dean? Thank you for your testimony. [LB1100]

DEAN MUELLER: Okay, thank you. [LB1100]

SENATOR CARLSON: Next opponent. How many more? Okay. Welcome. [LB1100]

PAUL MALONE: Thank you. Good afternoon. My name is Paul Malone, P-a-u-l M-a-l-o-n-e. I am the transmission compliance and planning manager for Nebraska Public Power District and I'm here today to testify on behalf of NPPD and the Nebraska Power Association in opposition to provisions in LB1100 pertaining to regional transmission organizations, regional energy markets, and energy exports from Nebraska. These provisions are already being provided for; they've been under study for several years as part of the Southwest Power Pool. There may not be an awareness of that, but those things are well in place. I've been working at NPPD for 36 years and I'm involved in all areas of the transmission planning, operations, and engineering, and represent NPPD on several of the Southwest Power Pool committees. As you've heard, Southwest Power Pool is a regional transmission organization subject to the jurisdiction of FERC, Federal Energy Regulatory Commission. And NPPD, OPPD, and LES joined, voluntarily, in 2009, because we wanted to be part of a larger energy market that also provided transmission planning. In addition, Municipal Energy Agency of Nebraska is a transmission network service customer of SPP and a market participant, as are the city of Grand Island, the city of Hastings are market participants through a contract with Tenaska. So all public power entities in Nebraska have the opportunity to participate in SPP should they choose to do so. SPP services include reliability coordination service and real time monitoring the system. Starting March 1 they'll actually be the balancing authority for the entire footprint which means they'll match generation to load on an instantaneous basis. They provide generation reserve sharing, integrated transmission

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

Natural Resources Committee
February 13, 2014

planning, and as I mentioned, starting March 1, a comprehensive energy market very similar to the markets that are provided by the Midcontinent ISO, California ISO and others. So again, that will provide a sustainable market and an ability for any resource in Nebraska to export out of Nebraska into the SPP market. And one final comment, SPP has a seams steering committee. I happen to chair that committee. And the purpose of that committee is to provide SPP staff guidance on how to resolve the issues between SPP and Midcontinent ISO. I know one of the provisions of the bill felt there was concerns about trying to work between RTOs and that's the purpose of that committee is to resolve any of the issues about transmission planning, cost allocation, and things like that. So in conclusion, I just would iterate that we feel that most of those issues about regional transmission organizations, energy markets are being addressed through the Southwest Power Pool currently. Thank you, I'll take any questions. [LB1100]

SENATOR CARLSON: All right, thank you for your testimony. Questions of the committee? I would ask one and that is, does NPPD on a continuing, intentional, and systematic basis really try and look for markets for wind energy from private companies? [LB1100]

PAUL MALONE: I'm not sure I'm following your question. Are we on behalf of the private companies trying to find a market for them? [LB1100]

SENATOR CARLSON: Export market? [LB1100]

PAUL MALONE: No. The market itself provides a mechanism for those private developers to interconnect to the transmission grid and studies will be done. They are the ones that are obligated to go find a customer for that energy that they're going to produce. So we do not work with them that I'm aware of; I don't, certainly. [LB1100]

SENATOR CARLSON: Yeah, and I agree with you. They're obligated to find their own market, aren't they? [LB1100]

PAUL MALONE: That's correct. [LB1100]

SENATOR CARLSON: Yeah, and you're obligated to find your own market, correct? [LB1100]

PAUL MALONE: Correct, for our customers, yes, correct. [LB1100]

SENATOR CARLSON: All right. Thank you. [LB1100]

PAUL MALONE: Um-hum. [LB1100]

SENATOR CARLSON: Any other questions? Thank you. Next. Welcome. [LB1100]

Natural Resources Committee
February 13, 2014

NEAL NIEDFELDT: (Exhibits 15 and 16) Good afternoon. My name is Neal Niedfeldt, N-e-a-l N-i-e-d-f-e-l-d-t. I'm the president and CEO of the Southern Power District. We serve 26,000 customers in the seven-county service area of Merrick, Hamilton, Hall, Adams, Kearney, Franklin, and Phelps Counties. I'm also a current board member of the Nebraska Power Association, so today I represent both the NPA and the interests of the customers served by Southern Power. Of course, both of our entities oppose LB1100. Not to repeat some of the topics that previous testimonies have brought forward, I would like to direct my comments just to one item and that is Section 2 of the bill. It indicates that the task force should study how public power entities can be restructured and modernized. I'd encourage all of you to come and meet with our board or any of the districts' boards or management of the different power districts, spend some time with us reviewing our work plans and our budgets to better understand the modernization efforts being conducted today. We're all investing in distribution and transmission systems to increase reliability and to handle our future load growth. We're invested in demand site management, programs, automated metering infrastructure, energy efficiency programs all to improve our customer service and lower their costs. A prime example that...and it's a great story for Nebraska, and it's one that I've handed out along with my testimony. And it was included in our national industry trade magazine called The Rural Electric Magazine. And if you see that, it's the front cover of this magazine has pictures of two of our general managers from Stanton County PPD and Cuming County PPD. Combined, these two districts probably have less than 7,000 customers. But together, they partnered, they found a way to find funding and they were able to join forces and install a smart grid for both of their districts. They found a way to deploy distribution automation-type technology to their customers and that will improve service for their customers. At Southern Power, we do all the strategic planning and the various planning have been noted before. We've entered into a 10-year work plan with NPPD to upgrade our subtransmission system. We invested SCADA programs; we're looking into automated meter reading. And we're very heavy into load management. We have 9,000 irrigation services that we control and...I mean, that we serve. And we work with NPPD and other wholesale customers to design systems and control summer peaks. We're able to control roughly 25 percent of all the irrigation loads off of that summer peak, saving and eliminating the need for additional generation to meet those loads during the summer months. And for the entire NPPD footprint, I believe, that's about 500 to 600 megawatts, which is equal to just another generating station. And those savings then are passed onto all of our customers. So in conclusion, I believe that we are a...we all have modernization efforts going forward. And for those reasons and others that are in previous testimonies, we would oppose LB1100. Thank you. [LB1100]

SENATOR CARLSON: Okay. [LB1100]

NEAL NIEDFELDT: Any questions? [LB1100]

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Transcriber's Office

Natural Resources Committee
February 13, 2014

SENATOR CARLSON: Thank you for your testimony. Questions? How many service areas, offices, facilities do you have? [LB1100]

NEAL NIEDFELDT: Where operating people work out of? We have...our corporate headquarters are in Grand Island. We have an operation center in Central City, outside of Hastings, Franklin, and Holdrege. We have roughly 50 to 60 linemen located in those areas. [LB1100]

SENATOR CARLSON: All right, thank you. Any other questions? Thank you for your testimony. [LB1100]

NEAL NIEDFELDT: Okay. [LB1100]

SENATOR CARLSON: Welcome. [LB1100]

JOE CITTA: Good afternoon. Chairman Carlson and members of the Natural Resources Committee, my name is Joe Citta, spelled J-o-e C-i-t-t-a. I'm the corporate environmental manager for Nebraska Public Power District. I'm testifying today on behalf of NPPD and the NPA. NPPD and the NPA does not support the need for additional environmental studies associated with public power in Nebraska. Nebraska utilities presently address environmental compliance and sustainability in a proactive manner, taking into consideration the ever-changing regulatory and societal requirements. I'd like to hit just on a few of the main topics. First of all there's compliance. Nebraska utilities comply with all environmental regulations. The EPA is responsible for setting national standards for air, water and waste, and making regulations that protect human health and the environment. These regulations are typically revisited by the EPA every five to seven years and are often made more stringent. The stringency is supposed to be based upon scientific and technical studies. The new regulations that are implemented using an open public process at both the federal, state and local areas. Many times these new standards will require upgrades to pollution control equipment. Nebraska utilities do follow extensive business case evaluations when making decisions regarding upgrades, and before taking any new projects to their boards or councils. Now in addition to EPA, you can imagine, we work with various state, local, county and city officials throughout all of our environmental regulatory requirements. We also interface with many national, state, and local organizations and service groups. I'd like to talk a little bit about water usage. Power plants do use water in the generation of electricity. However, there's a big difference between use and consumption and I'd like to give you an example. Several of our plants are located on large bodies of water or rivers. These plants utilize once-through cooling. Once-through cooling means we draw in the surface water, utilize it to cool our condensers, and then it's returned to the body of water or river to be used by many other users, recreation, industry, agriculture, whatever. So this type of system uses a lot of water, but consumes very little percentage. I'd like to talk about climate change.

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Transcriber's Office

Natural Resources Committee
February 13, 2014

Through utilization of low carbon and carbon-free facilities, Nebraska is positioning themselves for future low-carbon generation portfolios. This includes utilizing natural gas, nuclear, wind, hydro, and landfill methane. We're additionally investing in research and development studies with UN...Nebraska, Department of Energy, EPRI, and others on new technologies to help lead us into the future. Currently, Nebraska utilities are working with the EPA and other organizations on trying to establish the new regulations for carbon reductions at existing power plants that are going to be released in June of this year. I'd like to talk a little bit about innovation. NPA utilities utilize innovation approach to their operations. Some examples, and I've got many, but a few would be utilizing others' wastewater for applications at power plants; our load management to reduce peak loads; solar power tracking systems that following the sun; and ag systems direct-drive wind generators, fish protection systems at our intakes, and many of our...one of our utilities, in fact, has received multiple JD Power awards for some of their innovation. In closing, we believe NPA utilities continue to demonstrate their commitment to sustainability through providing environmentally responsible, reliable, and affordable electric energy. And with that I would certainly welcome any questions. [LB1100]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions? Senator Smith. [LB1100]

SENATOR SMITH: Thank you, Mr. Chair. [LB1100]

JOE CITTA: Yes, sir. [LB1100]

SENATOR SMITH: Mr. Citta, so what is...and you're...you're in opposition to LB1100. What is the basis for your opposition from the (inaudible) of your testimony. [LB1100]

JOE CITTA: I believe there was part of LB1100 that talked about initiating environmental related studies and they talked about compliance, water usage, climate change, whatever, our position is that it's not necessary to repeat those type of studies. I mean, there's...given compliance and the regulatory environment we live in and our approaches to it, I think we're pretty much there. I mean, we represent...I don't know what benefit those studies would have. [LB1100]

SENATOR SMITH: Okay. [LB1100]

JOE CITTA: And therefore we would oppose that. [LB1100]

SENATOR SMITH: Okay, thank you. [LB1100]

JOE CITTA: Certainly. [LB1100]

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

Natural Resources Committee
February 13, 2014

SENATOR CARLSON: Other questions? I have one. [LB1100]

JOE CITTA: Yes, sir. [LB1100]

SENATOR CARLSON: In your comment about once-through cooling. [LB1100]

JOE CITTA: Um-hum. [LB1100]

SENATOR CARLSON: When it comes to talking about things of water, it piques my interest, why did you feel that was necessary to bring that up in your testimony? [LB1100]

JOE CITTA: Because I think...we...I hear a lot traveling throughout the state at different conferences and whatnot where they try...they talk about power usage and water usage and the generation of power and the extreme usage of water. I wanted to point out that our plants may use a lot of water, but especially with once-through cooling, they actually consume a very small percentage of that usage and in turn that usage is returned and used by, you know, it's many other usage down stream. And so I thought that was very important to note and because I think there's a...people trying to make a connection with power generation and maybe abuse of the water resources in Nebraska. [LB1100]

SENATOR CARLSON: Okay. I appreciate that. [LB1100]

JOE CITTA: Can I say one other thing? There was a comment earlier that talked about one of our plants, one of the NPA plants located in southeast Nebraska and the fact that they were located on the river and did not use once-through cooling. Recent EPA regulations have banned the use of once-through cooling and therefore that plant did not have that opportunity due to their compliance with EPA regulations. [LB1100]

SENATOR CARLSON: Okay, all right, thank you. [LB1100]

JOE CITTA: You're welcome. [LB1100]

SENATOR CARLSON: Any other questions? Thank you for your testimony. [LB1100]

JOE CITTA: All right, thank you very much. [LB1100]

SENATOR CARLSON: And how many more opponents do we have? I guess you're it. [LB1100]

GARY STAUFFER: I'm it. [LB1100]

SENATOR CARLSON: One more. Okay. Welcome. [LB1100]

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Transcriber's Office

Natural Resources Committee
February 13, 2014

GARY STAUFFER: (Exhibit 17) Good afternoon, Senator Carlson, members of the committee. My name is Gary Stauffer, G-a-r-y S-t-a-u-f-f-e-r. I'm the chief executive officer of the Municipal Energy Agency of Nebraska. And I also have the honor of serving as the chairman of the board of directors of American Public Power Association, which is an association of public power entities comprising 2,000 utilities across the United States, serving 47,000 end-use customers. And I oppose LB1100 because it's a study searching for a problem. Let me give you a national perspective. There are over 3,000 providers of retail electricity in the United States. To understand that Nebraska is consistently within the top dozen lowest cost of 3,000 is extraordinary. It's something to be celebrated. Additionally, when it comes down to customer service, the major retail utilities in this state have been nationally recognized for years as best in class. And when it comes to reliability, if you take a look at the reliability statistics across the country, Nebraska ranks in the top dozen. So if there was a dog show for electric providers in the United States, you'd win best in class. Now I say that because I've just spent eight months traveling around this country visiting with public power entities across the nation and they envy you. Nebraska is the benchmark of the best there is. I wish you would turn this resolution around and make it in support of the thousands of men and women that work on your behalf to power this economy ahead. They should be congratulated. Senator Carlson, I want to congratulate...or thank you on behalf of American Public Power and the citizens of Nebraska for supporting legislation recognizing line workers; they need that recognition, thank you. That concludes my testimony and I'm open for any questions. [LB1100]

SENATOR CARLSON: Okay, thank you. Questions? I would ask in your travels around the country, I don't know if you meant what you said or I just had the wrong idea, who did you visit? [LB1100]

GARY STAUFFER: I visited with the state associations in Florida, California; I was just at the large public power council in Austin, Texas. I've been at...numerous meetings with... [LB1100]

SENATOR CARLSON: And these are with public power? [LB1100]

GARY STAUFFER: Public power... [LB1100]

SENATOR CARLSON: Okay. [LB1100]

GARY STAUFFER: ...across the country. [LB1100]

SENATOR CARLSON: Thank you. Thank you. Any...yes, Senator Smith. [LB1100]

SENATOR SMITH: Thank you, Mr. Chair. And Mr. Stauffer, I think it's...just want to kind

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

Natural Resources Committee
February 13, 2014

of focus on that just a moment. [LB1100]

GARY STAUFFER: Sure. [LB1100]

SENATOR SMITH: That's a really big deal, having Nebraska represented in American Public Power like that. [LB1100]

GARY STAUFFER: It is. Thank you. [LB1100]

SENATOR SMITH: So really congratulate you and your work with American Public Power and I think that really speaks well for Nebraska too. [LB1100]

GARY STAUFFER: Thank you. I have great colleagues and a great team here in Nebraska. [LB1100]

SENATOR CARLSON: Thank you for your testimony. [LB1100]

GARY STAUFFER: Thank you. [LB1100]

SENATOR CARLSON: All right. Next. Are there any more in opposition? Okay, you are anchor. Welcome. [LB1100]

K.C. BELITZ: (Exhibit 18) Good afternoon, Senator Carlson, members of the committee, I'm K.C. Belitz, K-period C-period, last name is B-e-l-i-t-z. I'm representing the members of the Columbus Area Chamber of Commerce, the legislative committee and board of directors and testifying today in opposition to LB1100. And I'll spare you the repeat of some of the prior testimony and really only focus on one aspect of our experience. And I would submit to you in that way the impact of public power has certainly gone well beyond the basic, but, obvious, imperative role that they fill in providing reliable electric power at below national average cost. In our experience, the impact of the economic and community development work in public power really is almost impossible to measure. Our chamber of commerce, our community has seen firsthand the benefit of public power in those roles since its earliest days in our community in the mid-1930s. Over the course of those years, public power has truly transformed our region, our community, and as it has the state. In the last 25 years alone, some 3,600 jobs have been created through the efforts of Loup Public Power District and Cornhusker Public Power and their economic development teams in the Columbus and Schuyler regions. And certainly it's no overstatement if you look at those jobs and then go back in history, it's no overstatement to say that that work has truly shaped our region, our community into the most industrialized in Nebraska in the place of more jobs, more opportunities than we had people to fill them. The Columbus region certainly has also benefited from the community development work, as I referenced, the quality of life enhancements that are outgrowths of public power. Just to give you one example, Loup Public Power

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

Natural Resources Committee
February 13, 2014

maintains some of the most popular spots for boating and camping, etcetera in our region and offers those to the public at no cost. And, you know, certainly that doesn't translate into dollars and cents on a study, but it is a tremendous benefit. So as we consider all those impacts above and the others that you've heard about earlier, our position would be that it seem that LB1100 is a solution in search of a problem. And given tax dollars being spent on a study like that, and given the time that would be spent in a 60-day session of the Unicameral, it is our position and our request that LB1100 not be moved out of committee. And with that I would answer any questions that there are. [LB1100]

SENATOR CARLSON: All right, thank you for your testimony. Any questions of the committee? Seeing none, thank you. [LB1100]

K.C. BELITZ: Thank you. [LB1100]

SENATOR CARLSON: (Exhibit 19) All right, I think that that was the last one in terms of opposition. Anyone testifying in a neutral? We do have a letter of opposition, two of them, one from John Leach from Veyance Technologies and Charlie Meyer of NEBCO. Former Senator Gay, welcome. [LB1100]

TIM GAY: Thank you, Senator Carlson. My name, for the record, Tim Gay, T-i-m G-a-y. I'm here as an individual representing myself. I need to say that I am a director of the Omaha Public Power District, but I am representing myself. I don't want Tom Richards to have a heart attack or anything. (Laughter) I wasn't going to testify today...I wasn't going to testify today, I'm actually here, but what some of the comments I heard earlier I wanted to address. And the comments were about representation on the public power boards and maybe not being heard and some of those things. I was privileged about...actually just one year ago in February to be appointed by Governor Heineman to serve on the board. A friend of ours passed away and other people in the community said, encouraged me, hey, Tim, you should look into this. And I did. And here's what I'd like to say is, it's the most complex thing, I mean, I've had some experience doing different things; it's very complex issues that are out there. And I jotted down: there's regulatory issues; there's production issues; you need to know about nuclear, coal, gas, wind, everything that Dean Mueller talked about; transmission issues; you have to have labor issues; rate structure; environmental issues. Just today though, OPPD introduced through the stakeholder process...we've had stakeholder processes, we just introduced a new one today that's going on. We make ourselves very much available for that. So I was very pleased to see that. But I think, like any issues you deal with that are very complex, there's different types of opinions and they're very...the energy world is changing and those opinions, you know, butt heads. Today I'm here...like I said, I spent the morning at OPPD meeting; earlier in the week I was at a meeting in the morning, another OPPD meeting, so we spent some time, nothing like what you do, and I admire what you do, of course, I think it's one of the most difficult jobs that you have. But just so

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

Natural Resources Committee
February 13, 2014

you know, in one year what I've found: We attend board meetings, committee meetings, community meetings, individual calls I do get, nuclear power regulatory meetings, OPPD stakeholder meetings, I get e-mails, I get phone calls, I've been to regional and federal planning meetings to learn more, so I read extensively on what's going on. So, I go out of my way to meet with individual environmental groups quarterly. I've met with many of the people who are here who testified and, you know, I take great pride in representing. And I just speak for myself, but I can assure you, talking to my colleagues, they're doing the same thing, I know that. I don't know...I've met a few people on NPPD's board and I've talked to them and they struggle with these issues; they're tough issues. These regulatory issues alone can change things overnight. So...but it's a very capital-intensive industry. We spent a lot of dollars just today. I can assure you when we were spending...we spent millions of dollars this morning on maintenance and things like that. And I did ask questions. We take it very seriously, that's a lot of money and people are watching out. I was waiting for another board member, maybe, to come up, I didn't see one today. I'm privileged that I get to be here a lot. But today I could be at other hearings. I'm here because I want to learn about the net metering, there are things to learn about. I wanted to hear the public policy going on here. But there's a lot of good work being done. And it probably won't help you make up your mind. I know Senator Haar said he's probably not going anywhere with this. But I did want to get on record. There's a lot of good work by elected officials. And by the way, I think there's going to be four new directors, because I consider myself very new and not much experience. But every election that have, we have three open seats right now that are by district, based on what the Legislature did last year, they're all competitive. Every one of us has an opponent and we take it very seriously. Thank you. [LB1100]

SENATOR CARLSON: Okay, all right, thank you for your testimony. Questions? Yes, Senator Johnson. [LB1100]

SENATOR JOHNSON: Thank you. Thank you for coming, Mr. Gay. [LB1100]

TIM GAY: Thanks, Senator. [LB1100]

SENATOR JOHNSON: I wrote down some things that...when I was sitting as mayor of Wahoo and our utility board, and our utility board sits like you do and knows all the facts and knows all those factors. I wrote down some of those that you mentioned and you had more than I did, but we got through that process and they said, well, do you want the city council to sit in and hear all this? And basically they said, we trust you, we probably don't understand everything and it would take the same amount of time it took for you to learn it. Can what we might learn out of a study ease the minds of the public, or will they ever understand really the complexity of it? [LB1100]

TIM GAY: You know, that's a good question and I've made a point to be neutral because I don't know, I'm learning. I'll tell you this, it's so complex to me to go explain

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

Natural Resources Committee
February 13, 2014

to...I'm thinking, how do you even explain this to a constituent or a ratepayer in our case? I mean, where do you start? Do you want to talk about environmental issues? Do you want to start about regulatory issues? It encompasses everything...taxpayer groups. It's just so complex and so wide that I...I don't know if a study narrows it down. And there are so many different, unique, individual things. Like your case, I didn't know that...I mean, the rural electrics, I don't know anything about that. I know about OPPD and I'm trying to learn what we...NPPD has a different market footprint than we do. I just think it's very, very complex and...but I don't have an opinion. One thing, I guess here's my opinion and I'm good at being neutral on these things is, you know, they are subdivisions of state government, so whatever the policy question...it's a policy question for you, not me. But I do think...they do recognize they're a subdivision of the state government, I mean, there's no question on that. [LB1100]

SENATOR CARLSON: Okay, thank you. [LB1100]

SENATOR JOHNSON: Thank you. [LB1100]

SENATOR CARLSON: Other questions? All right, thank you for your testimony. [LB1100]

TIM GAY: Thank you. [LB1100]

SENATOR CARLSON: Anyone else in a neutral position? All right, seeing none, Senator Haar, you're recognized to close. [LB1100]

SENATOR HAAR: Well out of necessity, this will have to be short. I appreciate your listening today. This is a beginning of a process for me. And indeed public power districts are political subdivisions of the state. And I was really pleased that nobody questioned my authority to look into this. It's part of my job. And when I can see concerns, I need to address them. That's how seriously I take my job as a state senator. But I'm going to spend just a short time talking about a study looking...what were the words, I took a lot of notes here: A study searching for a problem. How could it happen that we buy wind energy from Oklahoma? That's a problem. I think it's our problem. I don't think it's LES's problem. And I said that in an OpEd to the Lincoln Journal Star. I said, they did what they were supposed to do, their fiduciary duty. I said the problem is with state law. But isn't it a problem when developing wind energy, and now that the cost of wind is so low, and especially, you know, with the production tax credit, which may or may not get done again by the federal government, but it provides so much potential, for example, for economic development for Nebraska, for farmers, for counties, for school boards, for the taxes. And we see a lot of examples like in Bloomfield, what's happened. How could this happen that we're buying wind from Oklahoma? We need to answer that question. Now if that's an attack on public power, I'm sorry. I don't look at it that way. And I appreciate what some people said, they don't

Natural Resources Committee
February 13, 2014

feel this is an attack. It's me taking my responsibility seriously. How could it be that we're buying electricity generated from coal in Kentucky? How can that be? That is a problem. And it's my problem. And I will continue to look at that. And I really appreciate it. People from Northeast Public Power District came in this morning; we talked for quite awhile. And I really appreciated that and I kind of, you know, people are always afraid when they walk in to meetings with senators; well, I was kind of afraid when I walked into that meeting with those directors. But it was a very productive discussion. And, yeah, it's true that the electrons don't care where they come from, but the fact that we're...and that was their duty. They are getting a 10 percent better deal than if they bought from NPPD. And so it's their duty to make that decision because of what I see as a problem in state law that says, right now as it's interpreted, low cost, reliable, that's it, you know, don't...you may look at economic development, that's in another section of the law, but what about health impacts and those sorts of things. That's my problem. That's our problem. That's not theirs. Because one of the things I thought about...and again, they made the right decision, they did their job for their constituents. But the fact that we're buying coal generate...you know, electricity generated from coal in Kentucky means that children in Kentucky are going to have more asthma and so on, there are health impacts. So, you know, one of the things that we could probably discuss all day long is...and we might not come to an agreement, if all you look at is the lowest cost and what occurs on your electric bill and the lowest price you can pay for it somewhere, then I disagree, because I think it's a broader issue than that. And I even have questions about...if it's only low cost at the lowest cost you can buy it anywhere, what's going to prop up NPPD eventually that is our major generator in this state? Because it's been threatened by at least some groups that if, for example, NPPD if you do more than 10 percent wind energy, we're going to go elsewhere. And now there's a real sting to that because it's happened. I think it's a problem when there's some districts that are so small that there are more board members than staff members, I think that's a problem. And this whole thing again of importing wind, and they did the right thing under current law, is like if we were importing water to grow corn to produce ethanol in the state. To me that's exactly where it is. And I appreciate too that some people have brought up...I've talked with a lot of people, you can tell that. I'm not much one for titles, so we've had some real interesting meetings; small meetings with Nebraska Public Power, LES, and so on, and it's been productive for me. You might imagine that nobody tells me what to do, so, really, there's no outside influence in bringing this bill forward. I'd like to...I'll discuss that with you a little bit later. But at one point I was on the state executive board of the Sierra Club and I quit that a few years ago because I did see that as a...you know, I guess I wanted them to do what I wanted them to do and they wouldn't always. (Laugh) That's probably where that came from. So, in terms of this study, I won't ask that this come out of committee this year, but this is on my mind because I see...I do see problems. This isn't just a study looking for a problem. There are problems. And there are a lot of good things happening. This was not an attack. LB965 is really a companion to this, that's why I handed out what I called CliffsNotes for LB965, because as long as we just say, low cost and it doesn't even say "reliable," it says "adequate" in

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

Natural Resources Committee
February 13, 2014

the law, we're going to continue to buy power all over and we're going to continue to ship money out of this state like we do casino gambling, buying coal from Wyoming, paying their property and income tax, etcetera, etcetera. We ship more money out of this state than I can believe. So, there was a study last year that the committee just never got to, LR323, maybe we ought to look at that one again and (inaudible) how come Iowa can produce electricity cheaper? That might be part of a good study here. That was LR323. So I want to thank everybody for coming and expressing their opinion and this is a beginning of a great conversation. I was surprised there was neutral testimony, because there's a lot of emotion on this, as there should be. We all feel strongly; we all feel strongly about public power and the value of public power. I believe we need some kind of overall energy policy for this state so that when one of these 165 makes a decision, and maybe it doesn't involve farmers that live in their district, but that they should look at the economic benefits to farmers who don't live in their district, the counties that might not just be in their district. So I'm very concerned, that's another problem. The provincialism I see and I think we have to have a state policy that somehow looks at Nebraska, because there are great benefits to be had from this resource that we have. I mean, we have great water; we also have great wind and we're not using it. So, with that probably enough said, thanks for the time and the effort, and, Senator Carlson, for running a good show. [LB1100]

SENATOR CARLSON: Okay. Thank you, Senator Haar. Any questions of the committee? All right, seeing none, we'll close the hearing on LB1100. Thank you all for coming. (See also Exhibits 20 and 21.) [LB1100]