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Urban Affairs Committee
September 03, 2010

[LR324 LR449 LR469]

The Committee on Urban Affairs met at 1:30 p.m. on Friday, September 3, 2010, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR324, LR449, and LR469. Senators present: Amanda McGill, Chairperson; Colby Coash, Vice Chairperson; Tanya Cook; Bob Krist; Steve Lathrop; and Kent Rogert. Senators absent: Tom White. []

SENATOR MCGILL: All right, everyone, I think we have enough members here to start. Welcome to the Urban Affairs Committee and our hearings today. This is--these are interim hearings (recorder malfunction) those for, against, or neutral. We'll just have you all get in line and come on up. If you could please silence your cell phones, that would be great, so that we don't have any disruptions during testimony. When you come up, we will still have you fill out the forms. I think most of you are familiar with them; they're by the doorways. They help us make sure that we log properly your names and who's here to testify. And with that, we'll introduce the members of the committee. We have some who may still be on their way here. But on my right we have Senator Coash; he's from here in Lincoln. And Laurie Holman is our research analyst. And Senator Kent Rogert is there to my left. My committee clerk is Katie. And go ahead, Senator Cook; you can open on the hearing on LR324. [LR324]

SENATOR COOK: Thank you, Senator McGill, and good afternoon, fellow members of the Urban Affairs Committee. I am indeed state Senator Tanya Cook; that's spelled T-a-n-y-a C-o-o-k. And it's great to see everyone here. Thank you for scheduling the hearing today, and thank you for taking time out of your schedule to address an important concern of mine and those I represent. The issue is the heavy impact of utility costs on low-income Nebraska families. Legislative District 13, the area that I represent, is one of the oldest communities in Nebraska. This means that many times the homes that my constituents live in are older. And older homes are less energy efficient, and therefore the utility expenses are greater than those who live in newer homes.

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Additionally, the families that live in these older homes are, many times, on the low end of the socioeconomic spectrum. These two factors--higher utility costs and lower income--create what is many times referred to as an energy burden. That is not a new phenomenon. Public policy is now in place to attempt and address the problem. LR324 is a call to this committee to examine existing ratepayer assistance policies in our state. The resolution asks that we identify shortcomings and forge solutions. Last spring each of you signed LR324, and I want to thank you for that. I'm sure that your cosignature was in recognition of the common needs within each of our districts to address the struggles that low-income families have with utility expenses. I expect the testifiers here today will identify the growing needs of struggling Nebraska families and outline how the existing ratepayer assistance programs are operating in our state. Thank you. [LR324]

SENATOR MCGILL: Thank you, Senator Cook. Are there any questions initially from the committee? No? All right. Thank you, Senator. And we've been joined by Senator Bob Krist from Omaha. [LR324]

SENATOR KRIST: Sorry. [LR324]

SENATOR MCGILL: (Laugh) And Senator Lathrop is walking in the room. All right. Anybody who would like to testify on this? (Laugh) Should have been a round of applause for the person coming in late. (Laugh) Like I said, there won't be "for" or "against" testimony; we'll just hear informative testimony on this issue. Go ahead and say and spell your name for us too. [LR324]

JAMIE MOORE: (Exhibit 1) Okay. My name is Jamie Moore, spelled J-a-m-i-e M-o-o-r-e. Good afternoon, members of the Urban Affairs Committee. My name is Jamie Moore, and I am vice president for volunteer and community services at United Way of the Midlands in Omaha, Nebraska. I am here today to share with you information regarding calls that we have received at 2-1-1, a statewide, comprehensive information and referral system housed by United Way of the Midlands. Ratepayers

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from across the state have called us seeking assistance due to their inability to pay for their utility services. Between January and December 2009, 2-1-1 received 65,038 calls. Of that number, 31,600 calls were regarding housing and shelter, which included all types of shelter, such as rent assistance, mortgage assistance, utility bill payment assistance, home rehabilitation, subsidized housing, moving assistance, housing search assistance, and home loans. Specifically, 11,673 calls, or 36.9 percent, were for assistance with utility payments or deposits. Although 2-1-1 did not become statewide until May of 2010, calls were received from 61 counties, or two-thirds of the state, during 2009. They came from Antelope and Burt Counties in the northeast to Douglas and Lancaster Counties on the east to Adams and Nuckolls Counties in south-central to Furnas and Red Willow Counties in the southwest and Scotts Bluff County on the northwest. Eighty percent of the callers were female; 50 percent were Caucasian; and the largest percent by age was 26 percent, ranging between the age of 25 and 34. Kelly was one of those individuals. Her husband was laid off, and the family of six had trouble keeping up with their utility bills. Two-one-one was able to connect them with a one-time-only emergency fund that helped pay the bill off. Fortunately, Kelly's husband found a new job, and they're back on track. But there are others that are not that fortunate. For many reasons they are expressing difficulties with paying their utility bills. Among them: they've been laid off, and they can't find another job; they're not eligible for unemployment, or their unemployment is pending, and they've exhausted all of their other benefits, including LIHEAP; they've been ill and had no benefits while they were recuperating, and/or their paychecks are garnisheed for medical bills they can't afford to pay; if they still have a job, many of them--their hours have been reduced; and elderly who are living on fixed incomes, who just can't stretch their dollars far enough; or people who are self-employed, and business has slowed down. Two-one-one receives funding from the Omaha World-Herald Goodfellows fund to provide one-time assistance to help families across the state, excluding Lincoln, to meet emergent needs. Otherwise, these people would fall between the cracks. Between March 2009 and February 2010 we were able to assist 577 clients and their 1,620 family members; the total assistance provided was \$190,500. However, there were 43 callers from 11 counties for whom we

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could not find any assistance for their utility bills. During August of 2010, we received over 200 calls for utility and rental assistance. Upon doing initial screening, we took 75 applications. Of those 75, 19 were ineligible because they had already received the one-time-only assistance; their name was not the name on the account; they didn't have a shut-off notice; or their payment history revealed they had not made a payment all year; and they had already received assistance from the LIHEAP fund. Of the 40 people that we helped with utility assistance, one was a single adult from Milford, Nebraska, whose hours had been reduced to part time. Another was a single family of three: a mom and two small children in Columbus. She had been receiving child support and was able to barely get by. But in May that abruptly stopped, and she has not been successful in getting it restarted or finding other ways to supplement that income she lost. Thank you for the opportunity to share this information with you about the calls that we're receiving and the stories they share. I hope this puts a face for you on the ratepayers in Nebraska and some of the struggles that we're seeing across the whole state. Are there any questions for me? [LR324]

SENATOR MCGILL: Thank you, Jamie. Are there any questions? I don't see any. Thank you. Any other testifiers? [LR324]

CORY FUEHRER: (Exhibit 2) Good afternoon, Chairman McGill and members of the Nebraska Urban Affairs Committee. My name is Cory Fuehrer; that's spelled C-o-r-y F-u-e-h-r-e-r. I'm the treasurer for the Nebraska Energy Assistance Network. The Nebraska Energy Efficiency Network believes that the greatest energy assistance results for those with fewer resources will come through using energy wisely as well as managing their energy costs. This happens through education as well as implementation of energy efficiency measures. The Nebraska Energy Assistance Network members voluntarily came together in 2006 and created a partnership of utilities, government agencies, regulators, as well as community leaders. Formal organization was completed recently when the network was incorporated as a nonprofit agency. The Nebraska Energy Assistance Network's mission is to assist Nebraskans in

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addressing their energy needs by providing education, advocacy, and partnership. You're welcome to visit our Web site at www.nebraskaenergyassistance.com (sic). The Nebraska Energy Assistance Network has completed two extensive educational forums: one targeted for senior citizens throughout Nebraska and the other reaching out to families served by Head Start agencies across Nebraska. The training sessions included home weatherization starter kits that included some of the tools and supplies necessary for implementing energy efficiency. A comprehensive, easy to understand and apply curriculum called "Get a Head Start on Energy" was developed by the Nebraska Energy Assistance Network members, and videos are available on the organization's Web site. This curriculum has been expanded to include Spanish language version. And a four-week Webinar on the material recently attracted many energy efficiency facilitators from across the United States. In addition to the federal Low Income Home Energy Assistance Program managed by the Nebraska Department of Health and Human Services, there are a number of energy assistance programs that other organizations and utilities have voluntarily formed to help those in need. The majority of the energy assistance programs are administered independently by service agencies. I'm an energy efficiency program manager with Nebraska Public Power District and ourselves, as well as other utilities, have a variety of energy efficiency and conservation programs that are available to our customer base. NPPD has an employee- and customer-generated fund known as "Pennies for Power," which provides assistance to customers who have difficulty in paying their utility bills. Black Hills Energy has a program, "HeatShare," and that is administered by the Salvation Army. As well, Omaha Public Power District's energy assistance program is administered by the American Red Cross. One of the fortunate things about Nebraska is that energy costs are more affordable in this state than compared to many others. The Nebraska Energy Assistance Network and its members appreciate the difficulties that Nebraskans are facing when it comes to finding enough funding available in helping to assist those who need help in paying their utility bills. We would welcome the opportunity to assist the committee in identifying opportunities for how Nebraskans can both use energy resources wisely and efficiently. I thank the committee for the time today, and I'd be

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happy to address any questions. [LR324]

SENATOR MCGILL: Thank you, Cory. Any questions from the committee? No? Thank you very much... [LR324]

CORY FUEHRER: Thank you. [LR324]

SENATOR MCGILL: ...for sharing your expertise. Next testifier. [LR324]

MARTY GRATE: (Exhibits 3 and 4) Good afternoon, Senator McGill, members of the committee. My name is Marty Grate, M-a-r-t-y G-r-a-t-e. I'm environmental services manager for the city of Omaha, and I'm here today to share with you the concerns from the Omaha metro area over rising utility bills. Whether it's water bills, wastewater bills, gas bills, electricity bills, all of those commodities are going up at more than the rate of inflation, and every month more and more families are struggling to pay those bills. As you may be aware, Omaha also faces somewhat of a unique challenge in that we're implementing a very large sewer project called the Combined Sewer Overflow Project. That has a direct bearing on the wastewater fees, utility charges for our residents. That program right now is estimated to cost \$1.66 billion over the next 15 years. And right now where a typical household in Omaha pays about \$15 a month, by 2014 that same household will be paying \$37. And when we get to 2017, we expect each household will be paying over \$50 every month for their wastewater bill. So those needs, those concerns, those struggles are going to be increasing. When we first started developing this program and the budgets that went along with it back in 2006, our community stakeholder group was quick to point out that they know people in our community that don't have that much money, that they aren't going to be able to afford that \$50 a month and that we should start early trying to figure out how to address that, because we can make all the plans in the world to construct these improvements, but over time people are going to get to where they open up their bills and look at it and say: I don't have this, and they throw it away. And so then it goes into kind of a snowballing effect, where you

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keep raising rates because people can't pay. From a humanitarian perspective, I think it's important that we provide assistance to our ratepayers, because it's the right thing to do. But even from just a strict financial perspective, if we don't keep people participating in the funding, they'll just opt out; they'll quit paying. And we'll have to keep raising rates even more. So it's financially smart to have an assistance program. We had a subcommittee of our stakeholder group look at this issue, again, early on; we've been kind of planning this for quite a while. What our subcommittee learned is, number one, Omaha is not unique in its situation; there are a lot of communities in the same boat here. There are, certainly, many approaches that you can take to ratepayer assistance. One of the big concerns or pitfalls in assistance programs, though, is you want to make sure and get the money to the people that really need it. But if you're not careful, your administrative cost can consume much of your funding and it doesn't really get to the people who need to be helped. So that's a real challenge in this that we've tried to keep in the forefront of our mind. The other thing that we learned is that the Low Income Home Energy Assistance Program is by far the largest source of funding available currently for energy/utility assistance. And what we did as a subcommittee was identify three sort of questions that we felt we had to answer in order to come up with a program that was effective at getting where we needed to be. One is: How do we identify those residents that truly do need assistance? How do we determine how much assistance is appropriate to keep them participating in the funding without giving away too much funding? And how can we control those administrative costs? The answer to the last question that's being recommended by the group that's been looking at energy assistance with our CSO program is that we think that the most cost-effective way is not for the city of Omaha to develop a whole new administrative layer of people that are scrolling through applications trying to figure out who needs assistance, but instead partner with the organization that does our sewer billing now, which is Metropolitan Utilities District. And that district distributes funds that come through Nebraska Health and Human Services already. So our idea was we would kind of opt into that system, give a proportionate share of sewer revenues to kind of match those LIHEAP funds. And so, really, what we're asking is that maybe through this hearing process, that we

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can answer two questions with regard to the LIHEAP program: Are the household guideline--the qualification process or guidelines appropriate? Should we be giving money to more people, fewer people? And then, like I said earlier, are we giving people the right amount of money? Because we've kind of tied our kite to that wagon, and we want to do things efficiently, so. This certainly isn't intended to be any criticism of the Department of Health and Human Services. It's just that circumstances are changing rapidly. So with that, I'd be happy to answer any questions you have about Omaha's perspective. [LR324]

SENATOR MCGILL: All right. Thanks, Marty. Senator Coash. [LR324]

SENATOR COASH: Thank you. You mentioned a partnership with MUD as a way to control some of the administrative costs. Have you had conversations with MUD leadership about that? [LR324]

MARTY GRATE: Yeah, we've been working at a staff level. And, in fact, we've just kind of got a memorandum of understanding and interlocal agreement drafted and through our respective law departments, and we will be taking those in the next month or two to the city council and the MUD board. [LR324]

SENATOR COASH: So you're already starting down that path of working with them, and it's... [LR324]

MARTY GRATE: Yeah. [LR324]

SENATOR COASH: ...going... [LR324]

MARTY GRATE: We're convinced that that's the most effective manner. And we haven't had official briefings, but I think there's an awareness that we're trying to do this. And I think it's pretty hard to find a reason why we wouldn't want to proceed. [LR324]

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SENATOR COASH: Okay. Thank you. [LR324]

SENATOR MCGILL: All right, are there any other questions? Senator Krist. [LR324]

SENATOR KRIST: Who's on the committee you spoke of? [LR324]

MARTY GRATE: This was a subcommittee of our Community Basin Panel, which was a stakeholder group that started in 2006 as we did the overall CSO planning effort. What we did was we took a representative from MUD, from OPPD--Jamie was on that committee, people that are kind of doing these administrative things--and really looked at see how this new program could be developed to respect the fact that sewer use fees are increasing. So it was a technical committee. [LR324]

SENATOR KRIST: Thank you. [LR324]

MARTY GRATE: Um-hum. [LR324]

SENATOR MCGILL: All right. I don't see any more questions, but thank you. [LR324]

MARTY GRATE: Thank you. [LR324]

SENATOR MCGILL: Any more testifiers? I see one. [LR324]

_____: Last one. [LR324]

SENATOR MCGILL: Okay. [LR324]

LISA HALE: Good afternoon. My name is Lisa Hale, and that's spelled L-i-s-a H-a-l-e. I'm the vice president of customer services at Metropolitan Utilities District in Omaha,

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Nebraska. Doug Clark, who is our vice president of governmental affairs and marketing, would be here today, but he has a daughter who is getting married tomorrow, so I'm here speaking on his behalf. Let me begin by saying that MUD does believe that there is a need for public utility ratepayer assistance programs in this state. Nebraskans across the state are experiencing difficulties due to the economy, and our customers are no different. Therefore, MUD appreciates the assistance that the state provides to our customers through the Low Income Energy Assistance Program, because all of our customers' well-being is very important to us. At MUD, our mission is to provide customers low-cost, high-quality natural gas and safe drinking water at a cost consistent with sound management practices. Today we are the only metropolitan utility district in the state of Nebraska. Our strength lies in being a public utility customer-owned and governed by a locally elected board of directors. That means that MUD provides a product and service at lower cost than our area investor-owned utilities. We serve natural gas to over 210,000 customers in Omaha, Bennington, Fort Calhoun, Springfield, Yutan, and most of Bellevue. We provide safe drinking water to nearly 200,000 customer-owners in Omaha, Bellevue, Bennington, Carter Lake, La Vista, Ralston, Waterloo, and the Papio NRD, which supplies water to Fort Calhoun. We provide also a cost-saving service to municipalities such as Omaha by collecting sewer use and trash fees. That being said, of the total 2,664 miles of gas and 2,835 miles of water pipes that serve the Omaha area, right now we have over 500 miles of gas mains and more than 1,200 miles of water mains that must be replaced. The majority of the mains targeted for replacement were installed prior to 1920; others were installed as long ago as the 1880s. Most of the infrastructure replacement will be done in conjunction with the city of Omaha's combined sewer separation work in order to save our ratepayers money. Even though the work will be done as efficiently as possible, there is still a hefty price tag for this infrastructure replacement work. Between 2008, when MUD's infrastructure replacement program officially began, and 2015, it is estimated that initial capital outlays and project costs will reach nearly \$150 million. Unfortunately, those customers that already have difficulty paying their utility bills will be the ones who are impacted the most by these costs. By compounding the increasing

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costs for MUD's gas and water infrastructure replacement with the city's increasing sewer fees due to the CSO program, you have a consolidated bill that will quickly reach unmanageable proportions for many of our low-income customers. Over the years, MUD's customers and employees have been generously donating money to our Heat Aid Fund. These donations total approximately a quarter-million dollars each year. The fund is administered by the Salvation Army and assists customers who are unable to pay their bill. In an effort to better serve those in need, the fund is now available year-round instead of just during the heating season, as it was in years past. In addition to the Heat Aid Fund, many of MUD's low-income customers also rely heavily on LIHEAP money. Since 2007, approximately 11,500 households per year have been helped, with each household receiving an average of \$415 annually in assistance. During the past few years the state of Nebraska has been fortunate to receive additional federal funding for the LIHEAP program. However, if this funding is reduced to what Nebraska has typically received in the past, there will be a huge financial gap in ratepayer assistance that will need to be funded, or how such assistance is administered will need to be modified. While at this time MUD does not have a formal position regarding such policy issues, we would like the committee to be aware that over the years some of our customers have received a very small amount of assistance that doesn't cover a single month's utilities payments, while others have received assistance in the amount that covers nearly an entire year. Some of our customers who obviously have a great financial need for ratepayer assistance are ineligible due to income requirements, while others who receive a direct payment from LIHEAP choose not to use that assistance to pay their utility bills. Many of our elderly customers will go without food, medication, or other necessities so that they can pay their utility bills, because they are too proud to ask for assistance. Unfortunately, we are the last to know in these situations, even though we could help them not to have to make those choices if we would know when the crisis first arises. MUD understands the difficulties Nebraskans are experiencing because of the economy. We are also sensitive to the fact that our infrastructure needs, while necessary to fulfill our mission of providing our customers low-cost, high-quality natural gas and safe drinking water, may also have a

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negative financial impact on our lower-income customers. While MUD has provided you with some of the challenges we have with the existing program, we want to reaffirm that under the existing circumstances just mentioned, public utility ratepayer assistance programs are even more necessary, and MUD is committed to being of assistance in any way that we can. If you have any questions at this time, I would be happy to try and answer them. [LR324]

SENATOR MCGILL: Senator Krist. [LR324]

SENATOR KRIST: Two questions. The first: When you say MUD is committed, are you all in, in terms of administering the program the way the city is talking about you doing? [LR324]

LISA HALE: While our board of directors has not officially voted to approve that, our senior management is in support of it, and we do have a memorandum ready to go to our October board meeting. [LR324]

SENATOR KRIST: Okay. The second question has to do with legislation that we worked in the past session. Obviously the city is moving forward rapidly towards the sewer separation project. I won't comment on that, but I will ask: If that aggressive approach to sewer separation were relaxed, given the economic times that we are in, would you see that benefiting the existing economic base? [LR324]

LISA HALE: I don't think that I would probably be the appropriate person to answer that. I could convey that question to Mr. Clark. I'm more on the administrative side. That would probably be more of a question for our operations senior vice president. [LR324]

SENATOR KRIST: When he gets back from paying the bill for the wedding, (laughter) could you ask him... [LR324]

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LISA HALE: When we pick him up off the floor. [LR324]

SENATOR KRIST: Yeah. [LR324]

LISA HALE: Yeah. [LR324]

SENATOR KRIST: When you pick him up, could you ask him to get back to the committee... [LR324]

LISA HALE: I could definitely do that. [LR324]

SENATOR KRIST: ...because it seems to me that the increased burden--the accelerated rate of the sewer separation project increases the burden on the taxpayers, which, again, compounds the problem. So I would appreciate that. [LR324]

LISA HALE: I do know that--speaking strictly from MUD's perspective, I know that, you know, in the news they hear all the time about this water main break or that water main break, that type of thing. Part of it is just what's prudent on our part also to replace these mains before we do start having costly winter water main breaks and that type of thing. So I know that there's a balance not only to partner with the city of Omaha but also to make sure that we're doing what's most efficient for our company as well. [LR324]

SENATOR KRIST: Thank you very much. [LR324]

LISA HALE: Okay. [LR324]

SENATOR MCGILL: Senator Coash. [LR324]

SENATOR COASH: Thank you. I want to ask you a little bit more about your testimony about MUD's experience. You listed off some scenarios where, you know, someone had

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gotten LIHEAP assistance but chose not to use the assistance to pay their bill, or somebody had gotten, you know, one family may have gotten a small amount of assistance while another got enough for a year. You obviously have access to that kind of data. [LR324]

LISA HALE: Um-hum. [LR324]

SENATOR COASH: How do you...? I'm interested in the process that Nebraska participates in and how the guidelines for LIHEAP, and then how you have access to that data, so that this committee can take a look at that. That part of your testimony was interesting to me about how you find that out and what you do with that. [LR324]

LISA HALE: Well, in my position as the vice president of customer services, our collections department as well as our customer service department fall under my responsibility. And in those areas we process the payments that we receive from the state. We take all the customer calls that when they apply for energy assistance, and they want to call and let us know: Please don't shut off my service; I've applied for energy assistance--that type of thing. And I've been in this capacity or similar capacities for roughly 15 years, so over the years I've seen changes to the way that we receive energy assistance dollars. While I can't say that it has happened in the recent two years or three years, there have been situations where additional monies have been given to the state for low-income energy assistance, and those dollars have been sent directly to customers in the form of a payment to them. And I can say, as a person in my capacity, that we saw very little of that money coming directly to the utility company in the form of a payment. [LR324]

SENATOR COASH: So you're able to see, from your perspective, a family has a bill that they're struggling to pay, and you can see how much assistance they've gotten, and you could see what you've been paid... [LR324]

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LISA HALE: Correct. [LR324]

SENATOR COASH: ...because the assistance goes to the family and... [LR324]

LISA HALE: Um-hum. [LR324]

SENATOR COASH: Can you give me a scope of...? [LR324]

LISA HALE: I don't think that that happens on a very regular...the majority of the money that we receive from the state comes directly to us, the utility, and we apply that money to that customer's account. There are certain guidelines that they follow for income. And sometimes if...right now it's sitting at 125 percent of the poverty level. There's...obviously, if somebody's at 127 percent, they're not eligible, so they get nothing. Then, also, depending upon if you're in an apartment or if you're in a home, you get X amount or Y amount. Sometimes, you know, that may be hardly enough for, you know, a family of...to cover a utility bill for only one month. And other people, we carry a credit balance on their account for, you know, nearly a year, because they've received such a large allotment. And we just want to make sure that we're doing the most good that we can with those dollars. [LR324]

SENATOR COASH: So you described two scenarios, one where the assistance goes to the family to you and another scenario where the assistance goes directly to...you said the majority of the assistance... [LR324]

LISA HALE: Comes directly to us. [LR324]

SENATOR COASH: Directly, okay. [LR324]

LISA HALE: Uh-huh. [LR324]

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SENATOR COASH: Okay. Well, maybe we could get some more information from...
[LR324]

LISA HALE: And I think if you look over the rules for administering those funds, they are very broad. The guidelines that the federal government gives to administer those funds are very broad, and there's quite a bit of leeway for interpretation. [LR324]

SENATOR COASH: Okay. Thank you. [LR324]

SENATOR MCGILL: Yeah, I'd like to know more information, and, like, are there guidelines in terms of what's a reasonable amount of energy use for that family, that they're not overheating or...? [LR324]

LISA HALE: I don't think that there--not that I'm familiar with. [LR324]

SENATOR MCGILL: Okay. It's interesting. Any other questions? No? [LR324]

LISA HALE: Okay. [LR324]

SENATOR MCGILL: Thank you very much. [LR324]

LISA HALE: Thank you very much. [LR324]

SENATOR MCGILL: Is there anyone who'd like to testify? No? Oh, go ahead and come on up. Go ahead and start by saying and spelling your name for us. [LR324]

JON TRAUDT: (Exhibits 5 and 6) My name is Jon Traudt, J-o-n T-r-a-u-d-t. I'm an EPA Energy Star home rater. Thirty-five years ago I was in the wind energy business and solar and became the manager of the Department of Energy's certification program for wind turbines. And I coauthored a guide to commercially available machines.

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Twenty-five years ago I became aware that improving energy efficiency was much more cost effective than wind and can be done in a way that improves indoor air quality and comfort and the resale value of homes. I've worked with the Lung Association and OPPD and seen many families improve their health. For instance, if they have allergies or asthma, if they can improve their homes in a way that reduces their exposure to allergens and other pollutants and improves their comfort, reduces their energy costs, and improves the resale value of their home, now, what's not to like about that? Okay. You know, I've heard some discussion of subsidizing energy costs, and that has many benefits. What I would recommend is more emphasis on reducing energy consumption. For instance, duct leakage typically wastes about 20 percent of the energy. And you're aware last winter there were ice dams and icicles hanging from houses. Part of that is due to air leakage up through the attic, some of it driven by the leaky ductwork. So there's a lot of benefits. And the cost of sealing ductwork, the cost of the materials, is often less than \$25. So I would urge you to help people become aware of the simple things that they can do to protect themselves and lower their energy costs. Another thing that...the CDC ranks Nebraska number one in something that we really don't want to be number one in. It's carbon monoxide deaths; we lead the nation. And I've been testing hundreds and hundreds of homes, and what I often see is the leaky ductwork, the return duct in the basement--when the furnace comes on, it sucks air out of the basement. And you can detect that with a wet hand. Just open the door a little bit to the basement and see if air is gushing toward the basement. And if it is, fix it. It's easy to fix. If you call Lincoln Electric, or OPPD, MUD, or contact the EPA, they can help you identify ways--practical, economical, cost-effective, profitable ways--to reduce energy costs. You know, one reason that's important is that there doesn't appear to be an infinite supply of oil or natural gas. The energy secretary of George W. Bush said we cannot drill our way out of our energy crisis. If we want to get our way to energy independence, a federal government researcher said that it will take at least 20 years. And if we had started back in the '70s, we could have done it. We could be independent today instead of requiring two barrels of oil per month per American, two barrels a month. There is no sources. If you combine all of the known and expected sources of

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energy, there's not enough to supply all of our consumption today. We have to conserve. And the sooner we get started, the better. So I would like to know what questions you might have. And I'd also like to invite you to see a home Energy Star rating. Senator Mello had one, so he could describe what he learned--ways to improve comfort, safety, energy efficiency. [LR324]

SENATOR MCGILL: Thank you for sharing your wisdom and advice with us. Are there any questions from the committee? Nope, I don't see any, but I'm going to take you up on that Energy Star tour. [LR324]

JON TRAUDT: Good. [LR324]

SENATOR MCGILL: All right. [LR324]

JON TRAUDT: Thank you. [LR324]

SENATOR MCGILL: Is there anyone else who'd like to testify on LR324? Okay, seeing none, Senator Cook, would you like to close with a few words? No, she does not. Okay. Then we will move on to our next LR. We switched the last two around on the agenda, so we're going to start with LR469. Is that correct, Senator Mello? All right. Welcome to your home away from home, the Urban Affairs Committee. [LR324]

SENATOR MELLO: Yes, the Urban Affairs Committee. [LR469]

SENATOR LATHROP: We need to get you on this committee. [LR469]

SENATOR MELLO: Well, I only have 25 minutes of testimony today, for the first one, So. (Laughter) [LR469]

SENATOR LATHROP: Really? Seriously? [LR469]

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SENATOR MCGILL: (Laugh) We are...I don't think I noted this at the beginning, but we are using the light system today. It's a five-minute light system, so try to keep your comments to five minutes. [LR469]

SENATOR MELLO: (Exhibit 7) Good afternoon, Chairwoman McGill and members of the Urban Affairs Committee. My name is Senator Heath Mello, M-e-l-l-o, and I represent the 5th Legislative District, which includes south Omaha and Bellevue. In our current economic climate, government at all levels is being forced to do more with less and maximize every dollar of revenue they receive. Now more than ever it is critically important that our state government works in conjunction with our local governments to spur new economic growth and help expand existing companies as well as bring new businesses to Nebraska. It is with this partnership in mind that I introduced LR469, an interim study designed to examine economic development programs currently available to Nebraska municipalities, as well as take a look at programs that have been successful in other states. It is my hope that local government representatives who are here with us today will not only share some of their success stories but also will help the Legislature to identify ways that we can build on our existing economic development portfolio. Most of our current economic development programs fall into three general categories: tax credits, grant programs administered through the Nebraska Department of Economic Development, and financing tools like tax increment financing and local option sales taxes. Since most of the grant programs involve federal dollars, I will just give a brief outline of some of the state-based programs currently available. Probably the most common economic development tool used by Nebraska communities statewide is the Local Option Municipal Economic Development Act, more commonly known as LB840. This tool allows communities that have a local option sales tax to designate a portion of those sales tax receipts for specific, voter-approved economic development activities. LB840 programs are not without strings. There are a set of limitations on the amount of funds that different classes of cities can appropriate, and individual businesses have to meet certain criteria in order to be eligible to receive

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grants or loans out of the LB840 fund. In recent years a number of Nebraska cities have also run into problems with a significant portion of their local option sales taxes being lost to refunds under LB775 and other business tax incentive programs. Senator Schilz and Senator Giese have both made efforts to find a solution to this problem. And Senator Pirsch introduced an interim study to address the issue last session. While I recognize the importance of these critical incentive programs in attracting new businesses to Nebraska, I am hopeful that the Revenue Committee and the Nebraska Legislature will be able to find a solution that ensures some level of stability for local option sales tax revenues. Another current tool is tax increment financing, or TIF, which encourages private investment in deteriorating areas by allowing a municipality to devote an increased property tax revenue in the area to repaying the initial public investment needed to attract a development. Not only is TIF restricted to so-called substandard and blighted areas, but cities must also take out bonds to pay for the initial land acquisition, clearance, and infrastructure improvements. And if the bonds are not paid back within 15 years, then the city is left on the hook for any remaining debts. Finally, the Community Development Assistance Act, the CDAA, authorizes the Department of Economic Development to distribute a 40 percent state tax credit to businesses and individuals who make contributions to nonprofit community-betterment organizations. The projects that ultimately benefit from the program must be in economically distressed areas, and the credits are limited to \$25,000 per project and \$350,000 statewide each year. For the most part, economic development programs in other states closely resemble Nebraska programs. In researching economic development tools being utilized elsewhere, my office has found a number of truly innovative programs that have been successful, which I believe could work well in Nebraska. Certainly this committee is very familiar with the concept of community improvement districts, which has been used in the Kansas City metropolitan area with great success. Other successful techniques include economic gardening, promotion of so-called angel investors, and cluster-based strategies targeting specific related industries. In addition to new programs, many states are also looking heavily at reforming existing programs to make sure they're getting the most bang for the buck.

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The National Conference on State Legislatures released a thorough report in January 2009 that provided an array of guidelines to help state Legislatures assess economic development proposals to make sure they include a cost-benefit analysis, had built-in mechanisms to ensure the programs were not susceptible to fraud or waste, and, most importantly, actually attracted businesses and created new jobs. The National Governors Association Center for Best Practices has put out similar reports. And the Legislative Research Office, working in conjunction with mine, has copies of those available materials for you if you so choose. Unfortunately, my office was informed yesterday that the Department of Economic Development will not be able to send anyone to testify this afternoon. While I'm disappointed that the committee will be unable to benefit from the department's perspective, I've included some materials provided by the department in my handouts. As I stated when I began my opening, this hearing is less about what I would like to accomplish than it is about what our local government and community leaders currently need from us. I would be happy to answer any questions you may have, but otherwise I will turn it over to the many municipal officials that are here behind me. [LR469]

SENATOR MCGILL: Are there any questions for Senator Mello? No? Thank you. Let's get to that list. First testifier. [LR469]

DOUGLAS KINDIG: (Exhibit 8) Good afternoon. I'm Mayor Douglas Kindig, D-o-u-g-l-a-s K-i-n-d-i-g, from the city of La Vista. While some of the examples I speak of today relate to the city of La Vista, I'm also here on behalf of the United Cities of Sarpy County: Bellevue, Gretna, Papillion, Springfield, and La Vista. Mayor Black has joined us today also. We would like to thank Senator Mello for bringing forth the need to study current economic development options available for the municipalities in Nebraska and express our appreciation to you for listening to us this afternoon. For a long time our cities have recognized the need to expand and improve the economic development toolbox available in Nebraska. We believe it is imperative that we continue to be aware and knowledgeable of incentives our competitors in other states are able to

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provide. We understand that some of the points I touch on today may extend beyond the scope of the Urban Affairs Committee, but we want to make you aware of our thoughts nevertheless. We want to work together with the state to improve our economy and continue to make Nebraska the place people wish to work, live, play, and do business. Tax Increment Financing. The first question we are typically asked by a developer considering doing business in our community--new or redevelopment--relates to TIF. To qualify for TIF eligibility, the property must both be blighted and substandard. If you follow the strict letter of the law, most of the areas in our community do not or cannot readily meet the tests for blighted and substandard. La Vista just turned 50 years old this year. I can tell you that the average age of our commercial buildings is not 40 years old, nor do we have property that has been vacant for 40 years. We do, however, have areas of our community suffering the effects of age and vacancies that are the result of new growth and development elsewhere. It seems that TIF regulations have different interpretations amongst the various jurisdictions across the state, which we have voiced our concerns over in the past. Although it has been suggested that we just do it, its questionable compliance is not an option for the city of La Vista. Our most recent economic development initiatives, which have been in complete accordance with the law, have been challenged unsuccessfully by two citizens. We understand there are issues with TIF if it is overutilized and do not believe that TIF is always a good option. We are, however, frustrated that there isn't a greater ability to legally use this mechanism to foster certain types of projects and prevent areas of our communities from becoming substandard and blighted. LB840--Local Option Municipal Economic Development Act. As you know, a municipality can establish an economic incentive program under the Local Option Municipal Economic Development Act if approved by the voters. This allows the city to utilize its local option sales tax or property taxes to provide financial assistance to qualifying businesses. The city of La Vista utilized this voter approved mechanism to provide a \$3 million grant and finance an \$18 million construction loan to facilitate the development of the La Vista conference center. The construction loan is for a 10-year term and will be repaid in full, with interest. However, in the meantime, because the law will not allow us to appropriate more than \$2 million in

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one year, we are unable to pursue any other projects utilizing this funding mechanism. It is our sincere hope that the proposed Constitutional Amendment Number 1, as introduced by Senator Karpisek, if passed by the voters, will expand the sources of revenue that can be utilized for LB840 programs beyond property and sales tax revenues. We also believe that consideration should be given to increasing the annual appropriation limits and expanding the use for which this program may be utilized or making it the same for all classes of cities. As an example, second-class cities can include retail projects, and first-class cities cannot. LB775 and LB312. While it would be very difficult for us to challenge the success of Nebraska's tax incentive programs--LB775 and LB312, the Nebraska Advantage Act--one related concern that continues to be problematic for municipalities is the inability to determine how future sales tax rebates affect our current and long-range forecasts. Because we are not a party to any of the agreements, we have no knowledge of which companies are entitled to rebates, how much might be rebated back, and for what period of time. We understand that businesses have legitimate reasons for not wanting their financial information disclosed, but we have a critical need for better information, especially during these tough economic times. Not only do we have no idea who is paying sales tax in our respective jurisdictions--which is likely a discussion point for another day--but we are on the hook for refunds we cannot anticipate. We believe that at least one person in our jurisdiction should be allowed to have the information and be subject to the same privileges and penalties as state workers with the same knowledge. These are our thoughts in regard to some of the economic development tools currently available to us. We also recognize and appreciate that the Legislature has approved some relatively new measures to expand our economic development toolbox, which include: LB562--creating an enhanced employment area which allows for the financing of certain improvements funded by bonds of the city to be repaid with a specific type of occupation tax; LB1018--upon voter approval, granting the city council authority to rebate up to 1.5 percent of the newly generated local sales tax in a qualifying development back to the project for a 10-year period. As I mentioned, these are two newer mechanisms that while I do not believe have been utilized yet are definitely steps in the right direction.

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The city of La Vista will have LB1018 initiative on the ballot this November. We have really tried to be deliberate and proactive in terms of the growth and development of our community. I am a mayor of a city of 20,000 people. I do not claim to be an expert in the field of economic development, but as we have worked on projects and established relationships with development experts across the country, we have heard some other things that may affect economic development in Nebraska. For example, it is much more difficult to get project financing these days, and it does not appear that that will change any time soon. Even solid, creditworthy businesses are experiencing challenges when it comes to financing. We have been asked about credit enhancements, which are currently unconstitutional in Nebraska. I am not necessarily advocating for this, but it is a mechanism being used in other states and should at least be explored. We have also heard that there are certain liquor laws that make certain types of tourism entertainment destination projects difficult. Again, we don't claim to know all the answers, but we do greatly appreciate your willingness to listen. Thank you for your time this afternoon. I would be happy to try to answer any further questions. If the United Cities of Sarpy County or myself can be of any assistance, please feel free to call. [LR469]

SENATOR MCGILL: Thank you. That was really thorough. Are there any questions from the committee? Senator Lathrop. [LR469]

SENATOR LATHROP: Can I ask you one, Mayor? You had a concern about LB755. And I've heard this from other mayors. And that is that you lose some of your sales tax and you can't budget and anticipate it. What do you need from us to make that work for you? [LR469]

DOUGLAS KINDIG: You know, a couple of the things on... [LR469]

SENATOR LATHROP: Do you need to be a party to it or you just need some information coming to you from the state about agreements that affect your community? [LR469]

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DOUGLAS KINDIG: You know, I mean, I guess the best-case scenario, that we would be a party to the agreement. But if that doesn't happen, we at least need to know when that money is going to be taken out. And this is just strictly my opinion on this, but if we had a year to budget for that money, it would help greatly. Then we could anticipate what we had to come out of our monthly revenue check from the state. As it is right now, we receive the check, and in La Vista's case one month there was \$89,000 missing out of our sales tax revenue. We didn't know what business it was; we didn't know it was coming. But again, La Vista, of all places, has really benefited from LB775, so we do want to make it better. I think the one other thing would be that I know some cities have had issues with their entire sales tax check taken for the entire months of a year--if there would be some way to where maybe there would be a maximum amount that could be taken out of that check so that they didn't lose all of their sales tax revenues. Maybe a fund could be developed by the state that if a city was to lose more than 20 percent--and these are just numbers I'm using--of their sales tax, maybe that city could borrow against that state fund to help pay that enhancement. And then when there was not any dollars taken out of their city check, they could then pay back to that state fund. Just a couple of ideas. [LR469]

SENATOR LATHROP: Okay. Thank you. [LR469]

SENATOR MCGILL: Other questions? I thank you very much, Mayor. [LR469]

DOUGLAS KINDIG: Thank you, Senator. [LR469]

SENATOR MCGILL: Next testifier. If you'd like to be next, then why don't we start a hot seat up here. [LR469]

_____: Bullpen. [LR469]

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SENATOR MCGILL: Yeah, exactly. [LR469]

_____: And we're asking Lynn Rex to (inaudible). [LR469]

_____: Why not? [LR469]

SENATOR MCGILL: Go ahead. [LR469]

RICK CUNNINGHAM: (Exhibit 9) I'm already done. [LR469]

SENATOR MCGILL: Oh. Katie, can you restart the light. Sorry about that. [LR469]

RICK CUNNINGHAM: Good afternoon. My name is Rick Cunningham, C-u-n-n-i-n-g-h-a-m. I'm the city planning director for the city of Omaha. I bring you greetings from the mayor, Jim Suttle. Economic development is an important aspect of his platform for the city and for the state of Nebraska. We appreciate this opportunity to come and share some thoughts with you about economic development. With me today is a colleague from the planning department, Bridget Hadley. She will be available to answer any questions that I can't. I've got three areas that I'll cover. First of all is the current economic development financing tools that we use in the city of Omaha. The first one is tax increment financing. You've heard about that. We have used that considerably. And, in fact, we're working on ten TIF projects right now that could leverage an investment of \$214 million in the city of Omaha. We do use bonds. Redevelopment bonds generally used for public improvements and infrastructure. However, we have maxed out the use of those bonds at this point in time, so that is no longer a tool that we can use. We can use tax increment financing bonds. You've heard about those. And we do use revenue bonds selectively. We also use community development block grant monies. As you know, there are a lot of strings associated with those, especially related to economic development. So we don't use a lot of those. We use our block grant monies for housing and community development-type projects

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predominantly. We also, then, use all of those tools to leverage other city funds, other bond investments to marry and complement and synergize these projects, whether it be sewers or streets or streetscaping and those kinds of things. The second area that I'd like to talk with you a little bit about is possible changes to laws, policies, procedures to enhance economic development within the state of Nebraska. Related to the Nebraska Community Development Law--minor, but we would like to change the terminology "blighted and substandard" to a more positive terminology. I can't tell you how many times we run into the initial roadblock in a public meeting that people are afraid of that terminology. Perhaps we could use terminology such as "redevelopment zone," "economic development zone," or something along those lines--just get past that hurdle of people being afraid of: What is this going to do to my home? Change, perhaps, and give us more options for the clock starting on TIF projects. We have some projects right now that are...the plan has been approved, but because of funding and the economic times, the project has been in abeyance for two years. The clock starts when the plan is approved, not when the agreement is. So it would be good to start the plan when the agreement has been approved and the funds have been made available and the project is going to move forward, rather than when the plan is approved. Change the law regarding TIF, perhaps to give us more options as far as the duration. Instead of just 15 years, maybe up to 20 years--and not necessarily extended automatically to 20 but give us the option, based on the project, based on the benefits, so that we can have that as a negotiation tool. Also, to broadly, more broadly define the eligible uses for TIF. Sometimes that can be somewhat constrictive on how we use those funds, especially as relates to new construction. The Nebraska Redevelopment Act--review it, refine it, and reactivate that act to allow for the use of TIF ten miles outside of the city limits. Improvements to LB775. You've already heard some of those already, but we have the same problem in the city of Omaha. And that is not being able to budget for and have flexibility in how we do our budgeting. So it would be nice if we had 18 months--since we are on a calendar year and you are on fiscal. So that's where the 18 months comes in, so that we can plan ahead and budget accordingly our cash flow for that. We have done some looking at other state environmental (sic) development financing tools. And I

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gave a copy of some of those--some information off the Web sites of some of those states. We will continue looking at those and would love to discuss those further with you. Mostly those are looking at putting together districts and applying different funding incentive measures on a districtwide basis. I will bring your attention to two of those that I find particularly interesting. In the state of Illinois, they have--and this is TIF, but it's a TIF district, so you apply the TIF to the whole district. And in the case of Chicago, they have created certain programs then within that TIF district, for example, a dedicated small business TIF program. They've also created a expedited TIF program. And they've also in Chicago created a program within the TIF district dedicated to laboratories, for example. In other words, a particular use that a city or municipality might identify as being good for the city can then be incentivized to come to that city with this special program in that district. Another one that I would pull your attention to--point your attention to is in Virginia, where they have an authority which has the ability to use both TIF and special assessments. And I will bring your attention to that--particularly in the way that it's applied to areas that are in need of redevelopment, underdeveloped, but perhaps don't meet all the requirements for blighted and substandard. And there, I used that negative term, but I did it anyway. I thank you again for this opportunity. Economic development is very important to the state. Believe me, it's important to the city of Omaha, and it is very important to our department as we continue to guard and enhance the quality of life for our citizens. I'm available and Bridget is available for any and all questions. [LR469]

SENATOR MCGILL: Any questions for Mr. Cunningham? No? You must have done a good job. Well, thank you. [LR469]

RICK CUNNINGHAM: Thank you. [LR469]

LYNN REX: (Exhibit 10) Senator McGill, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities. First of all, we'd like to thank Senator Mello for bringing this legislative resolution forward. We think this is very

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important to discuss some of these issues. Much of this has been discussed in terms of the Revenue Committee, the Government Committee. And what we're going to review with you very quickly--just a quick overview of some of the major programs that are out here, some of which have already been discussed, so I won't focus on those with any great detail. And as soon as you get your books, then I will kind of start. And maybe I will start anyway here because of the time limitation. With the county industrial tracts, the first thing I'd like to review with you is just the county industrial tract legislation. There was legislation in last year which died in the Government Committee, but we're still going to be reviewing that in the upcoming year. The county industrial tract legislation is very important. That is actually behind your first--if you want to look at it, it's actually behind your first folder, of number 1. It does need to be updated. There's land right now and various businesses and county industrial tracts that should no longer be there. This was one of the first economic development tools in the state of Nebraska, even before TIF was being used. Behind the second folder, what you're going to see is 13-315 and 13-316; that represents the two statutes that most municipalities in the state of Nebraska use. It does not require voter approval. It does allow them to have 0.4 percent of valuation to be used for certain types of economic development projects and programs and partnerships with chambers of commerce--not just dues to chambers of commerce, because they don't have authority for that, but for contracts for services rendered. You'll note behind your second folder that it's very limited--if you get time to read this or you need to go to sleep some night and you want to look at this--it's very limited in terms of what they can use that for. The third item is just basically Article XIII, Section 2, of the constitution. And if you do look at that, there are a couple things I'd like to point out for your consideration, one of which involves Amendment 1, which will be on the November ballot. Behind the third folder, the second paragraph, that actually is the enabling--basically the constitutional foundation for LB840 programs. That was passed in 1990. This is very important, because this is what we're amending with Amendment 1, which will be on the ballot in November of this year. And it would give more flexibility to municipalities in terms of the types of programs and the types of ways in which they could fund their LB840 programs. And we do agree with Mayor Kindig that there needs

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to be more flexibility in those programs, because right now it's quite limited. The caps probably are not realistic and need to be updated as well. With that, if you go on to the fourth folder, which you're going to see is basically community development laws in the state of Nebraska. I'm not going to spend a lot of time on that, but you did talk about TIF a little bit. And when you get time to look at this, what you'll see is that, again, the language "substandard and blighted" is language which is problematic, and it is not interpreted the same way by attorneys across the state. Yes. [LR469]

SENATOR LATHROP: Can I ask you a question about that? [LR469]

LYNN REX: Yes. [LR469]

SENATOR LATHROP: The concern over "substandard and blighted", is that really an attempt to change the standard? We heard Mr. Cunningham talk about it, and he said: Well, it causes a problem. And I know in Ralston they wanted to do something with a Legion club, and the guys were real worried about somebody calling their Legion club substandard and blighted. But the effort to change that terminology, isn't that really an effort to change the standard so that it can be used kind of as you want to and not on...? If the original purpose is to have us redevelop areas that look like sort of the beginning of the cancer in a community, and changing it to some other terminology changes the standard and then we're just using TIF anywhere we want. [LR469]

LYNN REX: What we would suggest... [LR469]

SENATOR LATHROP: And is that a good idea or a bad idea? [LR469]

LYNN REX: I think it is a good idea. In fact, Senator Rogert is very familiar with this because he had a proposed constitutional amendment in a few years ago to address this. And prior to that, Senators Matt Connealy and Dave Landis merged two legislative resolutions which did go on the ballot. And I think it failed because it would have given

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counties the authority to do TIF. But that was a very important piece of legislation, and that's one that we would like to see addressed again. And the way that they would address that issue, Senator Lathrop, is they take out the words "substandard and blighted." What Dave Landis would say, and I think he would say if he was here today--he may be. Oh, is he? (Laughter) Oh, hello. Hello, okay. In that case, I'll defer to him to say it. But we think taking the words out and calling this what it is--TIF is an economic development strategy. And TIF itself originally, when this was passed in the state of Nebraska, was intended to be really for Omaha, if you will. But TIF is used all across the state; it is economic development. And I think the terminology of "substandard and blighted" is antiquated; it doesn't apply to what's going on today. And that's why Senator Rogert put in Amendment 2, I believe--LR2CA, was it not--a few years ago. And you had negotiations (inaudible) with us and the counties and others on that. We still have concerns about county having authority on TIF, because we do not want to have TIF projects located right outside the corporate limits of a city; and then that captures the sales tax base, and you end up with doughnut holes all around a city. So our answer to the verbiage is remove the verbiage from the constitution--have a proposed constitutional amendment to do that. Is that responsive, Senator Lathrop, to your question? [LR469]

SENATOR LATHROP: Yes. You've told me...and it's a deliberate attempt to change the standard. [LR469]

LYNN REX: Yes, it is. Yes. Yes. With that, if you look on basically your fifth--behind your fifth folder, what you're going to see is those municipalities that have...the 53 municipalities that have already adopted voter-approved LB840 programs. And there are restrictions. I agree with what Mayor Kindig has said. Clearly, we need to give more uses for this. We also need to do some things to make it clear that they can have higher thresholds to make this effective. And Amendment 1 on the November ballot would, in fact, give them more flexibility in the types of funding that they could use. Right now it's limited to general taxes; that's been applied to mean only sales tax and property tax.

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And there are municipalities that would like to leverage their CDBG. There are municipalities that would like to use USDA grant monies, federal funds, and others. And they're expressly prohibited from doing that by the Nebraska Constitution. And this would allow them to use other sorts of revenue as well. With that, if you look behind your sixth folder, number 6, you're going to see the actual copy of the Local Option Municipal Economic Development Act. I won't bore you with all of that. Also, LB1018, this was passed in 2010. It was a bill by Senator Cornett and Coash. This is behind your seventh folder, if you will. This is the Nebraska Advantage Transformational Tourism and Redevelopment Act. It came from the United Cities of Sarpy County--excellent proposal. This proposal has not yet been put in play but we know will be. And it's a very important piece and I think is sort of out-of-the-box thinking in terms of how economic development needs to be considered in the state of Nebraska. Behind your eighth folder is a copy of the language that will be on the November 2010 ballot. This is Amendment 1. Senator Karpisek was kind enough to put this in; you were kind enough to advance it. So it will be on the ballot. And this does give us more flexibility. It deletes language that is really antiquated on just general sales tax. It allows and puts in expressly the language which you note on page 68 of your packet, which is the second page behind folder 8. The new language which would be used to include local option sales tax, other sources of revenue and make it much, much broader. And we hope that this will pass. This was before the voters in 2008 and failed, but that's because we were not allowed at that time because of the Nebraska Accountability and Disclosure Commission opinion of August 2008, to do certain things relative to how we could communicate with our members. So we're very hopeful that this will pass this year. Behind the ninth folder is a copy of, pardon me, yeah, number 9, is the Convention Center Facility Financing Act, better known as the Qwest Center bill. And basically this is the bill that passed in 1999 with passage of LB382. That was then cleaned up with LB551 in 2007 to make the revenue sources, because prior to that, the Revenue Department took a very restrictive view of what constituted revenue that would go to pay off the bonds. And with the Qwest Center bill, 60 percent...this is throwback sales tax, that concept. As you know, 60 percent goes to the city of Omaha to pay back the bonds, 10 percent goes to north

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Omaha, 30 percent goes to the Local Civic, Cultural, Convention Financing Fund, which we're going to get to in a second. With the arena bill that then subsequently passed--and that passed with LB912 in 2008--Lincoln is on a 70/30 basis, and that's 70 percent to pay off the bonds, 30 percent to go into this fund. And that is behind number 10: The Local Civic, Cultural, and Convention Center Financing Act. This is very important; it's a very important piece of LB382. It is, in my view, the reason why it actually passed, because it took senators from across the state to pass this bill. And this is where the 30 percent of those funds go for limited purposes to do things in their own communities. The Department of Economic Development did a good thing, we think, last year in broadening and increasing the thresholds of how much municipalities could actually access under this fund. And if you turn behind the eleventh folder, what you will see are the municipalities that, in fact, have already received grants from that. And we understand from DED that they've got \$2.7 million that they will be distributing; that will be December 1, 2010. So this is a very important program all across the state of Nebraska. And, of course, Senator Lathrop, your bill that passed last year, LB779, will help add to that. And that actually is one of the upcoming bills, behind number 12. So what you have is a copy of the Sports Arena Facility Financing Assistance Act, which was Senator Lathrop's bill last year, his priority bill, an excellent bill--another excellent bill. And this basically amends both the Qwest Center legislation as well as the Local Civic, Cultural Act, as well as doing some other things, too, which are for the good of the order. And I think that's going to be exciting as Ralston proceeds to move forward with that. The very last thing you have, which I really--is not per se a subject matter of this topic, but I think it is tied in directly. And that is the local option sales tax cities. If you look at the last sheet of the packet, the last two sheets, there are 186 cities currently that have local option sales tax; there are 5 municipalities that have passed it already and that will go on in 2010. So I'd be happy to answer any questions you have relative to this, but I would like to talk about a couple things relative to the local option sales tax if you'd be kind enough to ask me a question about it. (Laughter) [LR469]

SENATOR MCGILL: Any questions for Ms. Rex? [LR469]

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SENATOR LATHROP: No, I'm good. [LR469]

SENATOR MCGILL: (Laugh) [LR469]

LYNN REX: I'm not red yet. Ooh, oh, shoot. Should've moved forward. [LR469]

SENATOR LATHROP: No, I can't think of a question. (Laughter) [LR469]

LYNN REX: Thank you, Senator Lathrop. Thank you. [LR469]

SENATOR MCGILL: Are there any questions? No. Thank you, Lynn. [LR469]

LYNN REX: If not, thank you very much for your time. [LR469]

SENATOR MCGILL: Um-hum. [LR469]

LYNN REX: Appreciate it very much. Thanks. [LR469]

SENATOR MCGILL: Next? It's a good book she put together. [LR469]

KEN BUNGER: Well, good afternoon, Senators. My name is Ken Bunger; I'm a former deputy city attorney for the city of Omaha. And having retired and been out in private practice for the last eight years or so, I've been able to do work for various cities in Nebraska, the city of Chicago--several projects there--Missouri, and some other projects in Illinois. So as...in talking to committee members earlier in the week, I just thought I'd have a little perspective on some of the economic development legislation. I wrote the Qwest Center bill, the Redevelopment Act, a large part of the TIF statutes, and the constitutional amendments. I think one of the real concerns with TIF is--and it's used this way in different states--is you've heard it's really an economic development tool and

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in the city of Omaha not only an economic development tool but a redevelopment tool. The constitution provides for the Legislature to define "blighted and substandard." It doesn't say that all classes of cities have to be defined equally. So I think if one thinks about how it's really used in smaller communities--and I suggest "smaller communities" means everyone but Lincoln and Omaha--that it really could do with some definition and make it more of an economic development tool, whatever we end up calling it. And the city of Omaha--they, you know, can speak for themselves, obviously, but it doesn't really have a whole lot of desire to use it in the suburbs, as was...and the city of Omaha has had a very, very good history of using TIF where it should be used; the rules and regulations have been followed quite well. Having said that, the redevelopment law that was enacted with the Micron legislation, if you recall...it's still on the books. It's been sunsetted, but it needs a project to puff a little life into it. That was set up to provide for large areas outside the city of Omaha--or Lincoln--that would accommodate a national company coming to Omaha. Micron didn't come, which was probably just as well, considering what happened to them. But the city of Omaha ended up using it for the Ak-Sar-Ben redevelopment. It encompassed not only the real property tax, which is in the Community Development Law TIF, but personal property. And with First Data Resources having lots and lots of computers, that worked out very well. And we were able to do the Ak-Sar-Ben redevelopment with the university and First Data Resources and now, as you see, office and commercial development in that area of the city, as well, even though we did declare Warren Buffett's house blighted, which was a bad week for a lot of us. (Laughter) The definition of "blighted and substandard," as I said, can be determined by the Legislature. Also, as was mentioned, the date that the TIF starts can be looked at. There was a bill that was passed five years ago or so that went into that, and it actually made it more convoluted. But that is an excellent suggestion, because a lot of projects get on hold or they don't go ahead, and then the city has to go in and, without particular legal authority, cancel the TIF and start all over again. So if there was a way to go back and put it on hold--not delay it, because that would be a way to kind of get around the constitution, I think, if it, unless it's amended--but to make it easier to essentially, say, put it on hold and have a quicker mechanism for reactivating

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it and have that specifically in the law, so you're not faced with the situation that once you pass a plan and things go awry that it's--you have a 15-year clock running on that piece of property forever. There's a possibility also which the city of Omaha has done and I know the city of Chicago uses quite often, is to have different projects maybe in the same area. A lot of times projects expand and the area has a 15-year limitation, and if it could be arranged that the project itself would have a 15-year, and not related so much to the real estate but as a defined project perhaps. As was stated, different kinds of TIF: a sales tax TIF. Those are STAR bonds that pop up in the Legislature every now and then. And all of that kind of relates to the same thing: economic development and how to package it. The city of Omaha--on the riverfront, we packaged redevelopment bonds, TIF bonds, sales tax bonds together and used that to enhance credit for some developers, as well as doing the public projects. So those are just some ideas. There's a lot of--if this gets looked at, there's a lot of streamlining in the bill. It's the old urban renewal bill from the '40s, so it's probably time to maybe change some of the statutory language. So if there are any questions, I'd be available and also the committee counsel. [LR469]

SENATOR MCGILL: Any questions? No? Well, thank you very much, Ken. [LR469]

KEN BUNGER: Thanks. Um-hum. Right. [LR469]

SENATOR MCGILL: Next testifer. [LR469]

LANCE HEDQUIST: Thank you, Chairman McGill and members of the Urban Affairs Committee. My name is Lance Hedquist, H-e-d-q-u-i-s-t. I'm the city administrator of the city of South Sioux City. And in our case, the city of South Sioux City is the economic development agency for our community. We're located in the tristate area of Iowa, Nebraska, and South Dakota, and so we frequently will have industries come and say: Well, we're looking to go into any one of the three states--and look at how Nebraska compares to the other states around us. And obviously we compete against Texas and

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Louisiana and places across the country. We find that one of the most prominent things in Nebraska is the positive attitude. When you have the positive industrial growth and the positive attitude toward industry, that's tremendously advantage for us as we compete with the other agencies. Taxes and having the state be concerned about taxes and trying to keep taxes down, both by the Governor and by the legislative offices, are very important to us, and we want to see that continue to try to keep those taxes down. The Nebraska Advantage is used by us frequently in our area, is absolutely a outstanding economic development tool as we compete with these other states. But we're also concerned when the income that comes in from the new industries when they get their rebates, it exceeds--they actually get rebates that exceed what they put into the system. We think we should be part of that system, but we also don't think that industries should be able to exceed the amount of money that they put in. In other words, they...if they had sales tax, they paid \$20,000 in sales tax, they can actually withdraw \$40,000 in sales tax revenue. And I don't think everybody really understands how that process always works, and that's--it's a big concern to us. And when that money doesn't come to the city, it means it's not coming to what the public voted for. Our citizens voted on three occasions for sales tax money to go for specific projects. And on occasion we've been for months without getting any income coming into our city because of the rebates. And these rebates come from industries that--we're not party to the agreement; we don't know how much the company can get back if they do apply. And this can last for up to 22 years. So it's quite a long period of time. So we're very concerned about that issue. We also think that we need to rethink the issue in terms of jobs versus wages. It's not always more jobs that's better. If we can increase the wages of people and consolidate jobs, make them more robotics in our communities, I think that enhances the long-term viability of industries and the profitability of those industries. We also want to commend Richard Baier and the Department of Economic Development. I think they do an outstanding job in the distribution of the CDBG funds in helping us attract industries to our area. Locally we've been very successful in terms of having land that is shovel ready: it's got the paving, water, sewer in place. Our council has spent a lot of money in that particular effort. We own our own fiber optics network.

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And we're seeing lots of interest in terms of particularly foreign money and foreign investments coming to our area. Just recently, we just announced Solbar coming in, which is an Israeli company that will be locating in our community. And we see lots more that will follow in that regard. Locally we think it's imperative that the cities do keep their property taxes down. Our property taxes in South Sioux City are half what they are in Sioux City, Iowa. And so it's a tremendous advantage to us as people look at taxes. I'm very glad to work for a city that by 2013 will be debt free in terms of property taxes, and it's been a commitment by our councils for a number of years to get that done. In addition, we see lots of innovation occurring. I think that should be encouraged across the state. We are the only city in the country that aggregates natural gas where we actually make money on buying and selling natural gas within our community. We have buildings where the city receives the rents off of those buildings. They go back into the coffers of the city. We have a tremendous amount of cooperation we have with other governmental bodies. We have the oldest joint city-school-county meeting in the nation where we work together to advance our community. We, on our tax increment financing districts, work closely with the county and the school district, and they have supported every TIF district we've ever looked at. In fact, two members of our TIF board are school board representatives that participate and work with us on making sure those funds are spent in the proper fashion. I'd also like to highlight two programs that I think might be of interest, is that we are working with the city of Dakota City. We have some real prime industrial ground, about 500 acres of ground, and that we could compete with Dakota City over that ground to see who would annex it and who would get the benefit of the new industries coming into that area. Instead, we went with Dakota City, entered into an agreement that if they annex it they give us half the property taxes; if we annex it we give them half the property taxes. Changed that whole situation around to where we're both cooperating now. And you will see major industrial expansions occur because of that cooperative effort between our two communities. We also provide the economic development services for the county and the other cities, and they don't pay us a dime for that service. But if we do succeed in getting industry in that area, they'll give us the first year's property taxes from that new industry. So it's a win-win situation for us, and

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it's created a great atmosphere for us to work in within our particular area. The expansion of business networks is extremely important to us, and it's really created lots of new jobs and economic development in our area. As a result of the activities you had locally is that we have over a thousand acres of land that's optioned by the city--of the city of South Sioux City Community Development Agency. We have \$500 million worth of private sector investments under construction as we speak here today. We'll be adding 1,500 new jobs into our city, both in jobs that have been announced and will be announced before the end of the year. Our wages in our community will be going up within our community. And we have, I think, one of the best atmospheres and attitudes of any community across the Midwest. And I'd, finally, like to thank the Legislature for supporting the Northeast Community College/Wayne State College campus in our community. I think that's an excellent example of cooperation, and it's a great asset for us as we lead into the new industries coming into our area. [LR469]

SENATOR MCGILL: Thank you very much. Do we have any questions? No? Thank you, Lance. [LR469]

GARY KRUMLAND: Senator McGill and members of the committee, my name is Gary Krumland. That's spelled K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities. Without trying to be repetitive, I would just like to talk a little bit about the sales tax refund problem under both LB775 and the Nebraska Advantage Act. You've heard about it a little bit from several other people who've talked today. But basically, as you know, part of the refunds that a company gets for creating jobs or making investments is a sales tax refund, and it includes the local option city sales tax too. For a long time when it first happened, the city knew the refund was coming when they got the check that the Department of Revenue collected for them. And instead of getting the \$100,000 they expected, it was \$50,000. There was absolutely no notice other than that because of certain confidentiality things in the law that the Department of Revenue just said they didn't have authority to do that. We talked to them; they were able just now give a 30-day notice, but if you're in the middle of the fiscal year and it takes a lot of

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money out, it really doesn't do a lot of good for cash flow. Some communities, like Sidney, have had virtually all of their sales tax taken out for several years. So they really do not get much of the sales tax; it's all going for refunds. There's one community, Tecumseh, in southeast Nebraska, where a company came in, applied for the LB775 credits. They got the...they were successful in their application. They hired people, built the company up, and then they moved to Waverly. But there's a 22-year window to apply for the sales tax refunds, so Tecumseh is paying off refunds now for a company that is virtually out of the community. So there's some real problems with some of these. The Nebraska Advantage Act does give a little more notice to communities than the LB775 did. But most of the refunds coming now are under LB775, and so we're just starting to see the Nebraska Advantage Act. However, that doesn't help if it's a huge amount, and the notice may be not as good as it should be--it could be longer. So it is causing a real problem. And, as mentioned, communities have used the revenue for bonds--they're building a swimming pool. And if they take the money, then they're having problems meeting bond payments; they're having to take other resources. So this is a real problem. We've been working with the Revenue Committee, but we will be wanting to talk to all the senators this year about addressing some of these issues. Be happy to answer any questions. [LR469]

SENATOR MCGILL: All right. Senator Krist. [LR469]

SENATOR KRIST: We keep hearing that, you know, when you expect to get your allowance and your allowance is only a dollar, you can't go forward. How do we fix the problem? [LR469]

GARY KRUMLAND: Well, there's been...I think, more notice would be one of the things. The problem is, and I think Tax Commissioner said you have 22 years to file for the refund, so it's real hard to budget for that. But if you had a notice prior to the start of your budget year and you knew how much was going to come out, at least you could adjust things. That would be one thing. On those cities where even if they know how

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much it is but it's virtually all their sales tax, there may need to be some sort of mechanism where they can relay the payments so that maybe they don't have to pay it off in that one year. Maybe they can spread it out. Or one suggestion has been creation of sort of a revolving loan fund where the fund pays off the credits but then the city pays off the amount over time rather than out of that. [LR469]

SENATOR KRIST: What you are describing then is a situation where somebody, somewhere, somehow knows the information. [LR469]

GARY KRUMLAND: Yes. [LR469]

SENATOR KRIST: But because of privacy acts or statements or confidentiality clauses, that person can't tell another person at the city level. [LR469]

GARY KRUMLAND: Right, that's part of the problem, yeah. [LR469]

SENATOR KRIST: Seems to me like, you know, you could solve part of the problem by issuing a security clearance across the board where somebody would be in the know and allow leadership at the municipality to make...at the city level to make good decisions based upon good information. [LR469]

GARY KRUMLAND: I mean, that would be...at least help address some of the problems, yeah. And they would know that in advance, would be able to plan for it. [LR469]

SENATOR KRIST: Thank you. [LR469]

SENATOR MCGILL: Okay, thank you. No other questions? Thank you, Gary. [LR469]

GARY KRUMLAND: Thank you. [LR469]

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SENATOR MCGILL: Anyone else interested in testifying on this resolution? Now he can use his own words. (Laughter) [LR469]

DAVID LANDIS: That's what motivates me to come up. David Landis, in this case private citizen with a history but not here as the Urban Development Department for the city of Lincoln. The city of Lincoln only deputized those of us who are in the audience to watch and observe. And so I'm not speaking in that capacity when I come up here, although I do speak informed by my experience as an Urban Development Director because I've had three different positions on this issue over time. The very first one was when this issue was originally passed and I was in the Legislature and I voted for it. Let me tell you that when I voted for it I voted for it as it was sold to us, the idea, which was a tool to attack poverty. It was a tool to attack the problem with the ghetto, the barrio, the historically longstanding deprived area of town. And we needed those tools and we didn't have any on the books. And it was a good idea to do that and we passed the law and it got passed. It was a surprise then that the very first use of TIF in the entire state was in the city of Lincoln and it was to implode the old Cornhusker Hotel and build a new one, not in a ghetto, not in a barrio, in downtown Lincoln which we had now described as blighted and substandard. So almost from the beginning the use of it was different than the way it had been characterized and sold--a community development tool for most difficult, hard to solve problems, where the market was not doing its natural business, and that is the cycle that occurs from success and then when it comes it's less successful, then it's cheaper, and because it's cheaper then you can get people to come back in and redevelop because it's cheaper. There are places where even though it's cheap, people don't develop. And this tool was sold as the thing that could jump-start that phenomenon. It didn't work. So while I started from this as a community development tool and saw that it was not being used successfully in that way, over time by the time I was almost towards...I was in the Legislature, I acknowledged the fact to myself that it was being used as an economic development tool over and over again. And the reason is the standards themselves, although valuable, do not describe

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necessarily blighted and substandard. Actually, any area of town that's older will meet the standard. You can take practically any area of town and it will be...the infrastructure will be out of date. It will no longer meet current standards, which by its very nature will be...allow it to meet the statutory standards. You can have an older area of town that has very nice housing and it will meet the standard because it's older, but we apply this word "blighted and substandard" which is problematical. So the standards weren't difficult to meet for older areas. Secondly, we had the uses of where people wanted it and smaller cities who wanted growth of any kind were asking. In fact, there was one city that tried to blight their entire city at one point so that they could use it anywhere. When we started using it for ethanol plants at the edge of town or even in the county areas we were well beyond what had originally been intended. And now it was an economic development tool. And if that's what it was then naming it that and declaring it that would have been the point of view that prompted me to do a constitutional amendment which failed at the ballot box. In the intervening four or five years, however, I've come to be in the position of being an Urban Development Director and I've seen a different side of the situation. So I moved from the original community development to no, it's an economic development tool, to, no, it's a hybrid. And I would suggest my own reactions are something like this. First, it has failed as a tool that's going to solve the problem of the ghetto and the barrio. It won't achieve that end. That doesn't mean it shouldn't be available for that. But it won't succeed there. And if that's our goal, it's broader than that now. And even if you narrowed it, I don't think it would be terribly successful. Secondly, the role of standards are important, but they're important in larger communities not in every community. In "small town" Nebraska the town is an entity, from one edge to the other. And there the desire is for growth. In a larger city, however, there are reasons why TIF has a value for some areas but not others. And that's not true, I don't think, in small towns, but in larger towns it is. The market works differently on the edge of a city than it does in the core. At the edge of the city somebody can buy land from one buyer. It's virgin land and the infrastructure that gets run there is new. If you build in an older area of a community and you're going to build a good-sized building, you're going to have three, four, five, or six owners to purchase. And when you

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buy from the first two or three and the third, fourth and fifth hear about it, the price of the land goes up. The marketplace doesn't operate identically at the center of town as it does from the edge of town. There are infrastructure differences and land assembly costs differences. So what TIF does in that situation is to subsidize the area of town that it's more difficult to get growth in and growth that we want. You want growth in the core of a city. You do not want a city that closes at five o'clock at night and everybody flees to the suburbs. A vital, vibrant downtown is important for that purpose economically, but also for community development purposes. So I think we're still in community development purposes for that reason. The name "blighted and substandard" I think is a misnomer. I think Rick Cunningham is right. And one of the fears of a landholder is this--I don't want you to declare my house blighted, it's not, it's gorgeous and I love it. We could change the name and leave the standards and we would be okay. And here's the reason. The reason is the landowner thinks that we're saying your land, your house is blighted and they fear that the property value will go down. Now history tells us that's not true. Our real estate agents will tell you property values remain unchanged, sales remain unchanged where the declaration of an area as blighted and substandard, but that doesn't stop the homeowner of being afraid of that fact. I think Rick's notion that says declare that as an area in which we want to encourage community development because it deserves community development would do much the same thing, it would take off that area of declaring someplace unfit for human habitation but at the same time use standards for those purposes. I wouldn't throw the standards away now. I would have at one time, I would no longer. I think those standards are important in a larger city to identify the areas of the city where the natural marketplace does not operate equally and that we want to encourage the marketplace to operate well. A second thing that I heard that makes perfect sense is if we can stay within the 15 years, well, we're giving one or two of those years away because they're building the project. And so that a TIF project comes in with 13 years of subsidy not 15. By changing the clocks we could make that occur better. It also seems to me that distinguishing between larger cities and smaller cities makes some sense. In the smaller city you don't...oops. [LR469]

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SENATOR MCGILL: You can keep going. Your experience is really valuable to us, so... [LR469]

DAVID LANDIS: All right. In the smaller city the reality of the town is that the whole town is an entity. It's one thing. You don't have barrios and ghettos and the run...you know, this side of town and that side of town, it's an entity where all of the growth is helpful everywhere. So if you take a second-class city or a village, that's not the same. Lincoln and Omaha, Grand Island, now the marketplace is different. And acknowledging that, I think, makes some sense. I think those are the points that I wanted to make. There are a number of ideas that came up here. But I at one time thought it was a tool that has not worked for purely community development in the worst circumstances. And it hasn't succeeded. I moved to the notion that we were all forcing it to be an economic development tool because that was just the reality of what was happening. I now think that there are gradations of places. And the gradation is essentially in larger cities where targeting the subsidy that you use makes sense, linking it to standards does make sense but not declaring part of your town, you know, at odds with the rest or the redheaded stepchild is a phrase we used to use. I'm not sure we are allowed to say that publicly anymore, I don't know. (Laughter) And... [LR469]

SENATOR MCGILL: Especially when I'm a redhead. (Laughter) [LR469]

DAVID LANDIS: Thank you. I can see that I've made a huge, disastrous mistake in this context. (Laughter) [LR469]

SENATOR LATHROP: Just not in the Urban Affairs Committee. [LR469]

DAVID LANDIS: Lathrop might have had red hair some time, we don't know what his color was originally; we know Senator McGill's. (Laughter) [LR469]

SENATOR LATHROP: You've managed to insult two members. (Laughter) [LR469]

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DAVID LANDIS: Anyway, it is a tool that could be sharper. It still has a community development aspect. That doesn't mean that we can't use it as an economic development tool where that's right. But in the context of city building, and you're talking about a city, it does have a continuing role in the context that it operates. It could be better, but I also think it has reason to stay in much the same form that it is and that is a form of subsidy to help in the city building process not just the economic development process. [LR469]

SENATOR MCGILL: Thank you. Senator Lathrop. [LR469]

SENATOR LATHROP: One of the prior speakers represented the issue this way, that the constitution says that this is to be used for blighted and substandard and that it's up to the Legislature to define what that means. And it seems to have evolved into an economic development tool. So can't we just refer to or treat that phrase as a term of art and then let the Legislature define what blighted and substandard means in a way that allows it to be used as an economic development tool? Or do you think we need to amend the constitution... [LR469]

DAVID LANDIS: Under normal circumstances... [LR469]

SENATOR LATHROP: ...because the term is causing problems? [LR469]

DAVID LANDIS: Under normal circumstances the courts would give a Legislature broad authority. There are places where that isn't so. And it's where there is a constitutional standard that you're supposed to meet. I wonder if we aren't in a gray area where we take a constitution provision and nullify it by a definition that means nothing. If this was, you know, a standard grant of authority we could probably do that. But even if we could do that, I think there's a better way to approach the problem. And that would be, it seems to me, that you could lighten the standards in the smaller community and

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acknowledge its economic reality. I would focus...I would acknowledge the fact that we're not really not talking about blighted and substandard as much as we're talking about outdated or market disenfranchised, a place where the market doesn't operate in a neutral fashion but prejudices some areas of the community. And in fact the way the standards operate, and they do operate, but the standards now operate essentially that you can meet that standard in a wide variety of places, Ken Bunger told you, Warren Buffett's house is in a blighted and substandard area. And that can't mean the real meaning of the word blighted and substandard if that's true. There's a disconnect there. And the disconnect really is because that is at the very edge of essentially an older area of the community and an older area in which the marketplace doesn't operate in a neutral fashion compared to the suburbs or the edge of town. To summarize, I think you can stay inside the constitutional provisions and sharpen the tool. I would pick some other designation that...on the far end of the application of the standards that you were declaring for the sensibilities of citizens. But keep, at least in the larger community, the tool as one that is aimed at city building as well as economic development. I wouldn't throw in the towel and say, it's an economic development tool only. And by the way, that's the change of my thinking over the last five years because five years ago I would have said, look, the reality is it's an economic development tool, just call it that, name it and do it. And the fact that the public said, no, we don't want to do that, should tell us something. And now, I think, I understand why that would make sense to not simply throw it out and say it's simply an economic development tool. It does have in the larger city a city building context to neutralize differences in how the market is operating.

[LR469]

SENATOR KRIST: Are you...sorry. [LR469]

SENATOR MCGILL: Go ahead. [LR469]

SENATOR KRIST: Are you suggesting that within the constitutional framework that we could potentially define different levels of TIF at different classes of city? [LR469]

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DAVID LANDIS: Yes. How's that for a short answer? (Laughter) [LR469]

SENATOR KRIST: That's what I heard. Thank you. [LR469]

SENATOR MCGILL: Any other questions? Thank you, Senator. Is there anyone else who would like to testify on LR469? Senator Mello, comments? Senator Mello waives any comments. So we will go on to our last LR of the afternoon, which is LR449. [LR469 LR449]

SENATOR MELLO: (Exhibit 11) Good afternoon, Chairwoman McGill and members of the Urban Affairs Committee. My name is Senator Heath Mello, M-e-l-l-o, and I represent the 5th Legislative District which includes south Omaha and Bellevue. LR449 is designed to help continue the committee's discussion on energy efficiency financing from this past session. As the committee may remember, I introduced LB1098 last session which was enabling legislation to allow municipalities to create sustainable energy financing districts, provided an opportunity for property owners to finance energy efficiency improvements. Not only is there a need for such financing tools to save taxpayer money, but these types of programs are essential to help create a market for energy efficiency and renewable energy products. Expanding opportunities for energy efficiency financing has the immense potential to create green jobs right here in Nebraska that cannot be outsourced to other countries. Every month when your utility bill comes in the mail homeowners and business owners in our districts are literally throwing away money because their home or business is not energy efficient. But they do not have the financial means to make the necessary improvements. Simple changes like replacing light fixtures, installing storm windows and doors, or caulking and weather-stripping can generate significant cost-savings over time. But sometimes the up-front costs are significant hurdles for most Nebraskans. The concept of PACE, or Property Assessed Clean Energy bonds, would eliminate this hurdle by allowing property owners to pay for energy efficiency improvements through their property tax

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bill. Because property taxes transfer with the property when it is sold the costs associated with energy efficiency improvements are repaid over time by the person benefiting from the improvement--the property owner. Some type of PACE systems have been adopted in 24 states, but many of these programs are currently on hold due to concerns that have been brought forward by the Federal Housing Finance Agency, the FHFA, which regulated Fannie Mae, Freddie Mac, and the federal home loan banks. As you may recall, these are the same concerns brought forward by the Nebraska Bankers Association and the Nebraska Independent Community Bankers during our hearing on LB1098. I remain committed, however, to finding an adequate financing mechanism that works for consumers, local governments, and especially the lending industry. The vast majority of current PACE programs treat energy efficiency improvements as an assessment, similar to street, light, or sidewalks, thus making a PACE assessment senior to a home mortgage. Unlike a mortgage, only delinquent amounts would be subject to foreclosure and the remainder of the PACE assessment would stay as a lien on the property to be paid for by future property owners. The primary objection coming from the FHFA is that PACE assessments were in effect loans rather than assessments so they violated standard mortgage provisions requiring priority over any other loan. In addition, the FHFA has begun instructing Fannie Mae and Freddie Mac to use more restrictive mortgage underwriting in jurisdictions with PACE programs. These actions have led to multiple lawsuits against the FHFA and the legislation being introduced in Congress which would strip the FHFA of its authority to apply stricter lending standards in PACE communities. While I'm hopeful that these delays at the federal level will ultimately be resolved, I believe we cannot sit idly by and must consider alternative energy efficiency financing mechanisms. For example, some states and communities with senior lien PACE programs have considered implementing a PACE program where the assessment liens are subordinate to home mortgages; others are dropping their residential PACE programs altogether and moving forward with PACE programs solely for commercial property. One alternative to PACE that has been put to use in other states is what is known as on-bill financing, a mechanism that allows customers to pay for energy efficiency improvements through their utility bills.

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On-bill financing programs are typically set up so that the utility pays the cost of the improvement and the customers pay back the utility through a charge on their monthly bill. These type of financing programs overcome the hurdle of up-front costs and also take advantage of the established billing relationship between utilities and their customers. While on-bill financing programs are run by the utilities themselves, there are a number of ways for the state to encourage their adoption that do not generate a fiscal note. For example, we could establish a long-term energy efficiency goal for our public and private utilities, or require the Public Service Commission to adopt rate structures that would remove disincentives to investing in energy efficiency by the utilities themselves. Another option is what is known as energy performance contracting where the property owner contracts with the private energy service company, an ESCO, to identify and evaluate energy-saving opportunities and then recommend a package of improvements to be paid for through those savings. More frequently used in a business or government building context, the contracts are structured so that the energy savings meet or exceed the costs of the annual payments over a typical contract term of seven to ten years. In the event that the savings do not cover the full cost, the ESCO has to pay the difference. Most EPC programs focus on energy efficiency retrofits in existing buildings although adopting the latest building efficiency codes or offering design assistance or training and certification programs for energy efficiency builders can encourage the use of EPCs in new construction. There is one existing program in the state of Nebraska that I should mention. And I believe the Nebraska Energy Office is here today to provide additional information. The Dollar and Energy Savings Loan Program, through the Nebraska Energy Office, partners with local banks throughout the state and offers reduced interest loans for home building and system energy improvements. The loans can be used to pay for a wide variety of energy efficiency improvements and homeowners, businesses, and even local government entities are eligible to apply. The success of the energy efficiency grants provided in the American Recovery and Reinvestment Act demonstrates that there is a clear need for these type of financing options. I would be happy to answer any basic questions about the programs I have discussed. But otherwise, I would like to allow other people who have

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more expert in the area to testify after me. [LR449]

SENATOR MCGILL: Thank you, Senator Mello. Any questions? Seeing none, thank you. We'll take the first testifier. [LR449]

KEN MASS: Senator McGill and members of the committee, my name is Ken Mass, that's M-a-s-s. I represent the Nebraska AFL-CIO today. And as I did when Senator Mello introduced LB1098, we stand in support of the efforts of creating, creating economic development for Nebraska citizens in today's...and more, since this letter was written in the early part of the year until now. Addressing the challenges of economic development within the communities and providing opportunities to create jobs. Jobs is a must and all economic development must follow that and launching new models into the economic development and recovery. We can put Nebraskans back to work by investing in a clean economy and energy dealing with the green and the blue energy throughout Nebraska. And you can get into where it benefits Nebraska citizens. But we must ensure that creating the good family and the community-sustained jobs will strengthen our economy over the long run. So in order to succeed Nebraska needs a work force to capitalize on these new opportunities and the labor movement stands and will play a key role in ensuring that our membership are well trained and working with their skills. Any questions, I'll feel free to answer. [LR449]

SENATOR MCGILL: Any questions for Mr. Mass? I don't see any, Ken. Thank you. [LR449]

KEN MASS: Thank you. [LR449]

GINGER WILLSON: (Exhibits 12, 13) Chairman McGill and members of the Urban Affairs Committee, good afternoon. My name is Ginger Willson and I am the director of the Nebraska Energy Office. It's G-i-n-g-e-r W-i-l-l-s-o-n. Thank you for the opportunity to provide testimony on LR449 today and the energy efficiency financing tools available

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through the Nebraska Energy Office. While the Energy Office operates what may be the nation's oldest loan program for energy efficiency improvements, use of the revolving loan model by the agency began many years prior to 1990 when Dollar and Energy Saving Loans became available. Using a variety of one-time revenue streams, the agency created a series of revolving loan models beginning in 1983. Here are a couple of examples: \$50,000 in oil overcharge funds capitalized a revolving loan program for the purchase of load management equipment in small towns. The fund revolved ten times in 15 years and garnered savings totaling \$6.5 million. This program was so revolutionary that at the time federal officials required the agency to call it a "refundable grant program." Oil overage funds were also used to establish a number of small revolving loan programs in Schuyler, Stuart, and South Sioux City. The thousands of Nebraskans know the agency because they have used the low-interest Dollar and Energy Saving Loans for installing energy efficient improvements. In 1990, the Nebraska Energy Office established the Dollar and Energy Savings Loan program with oil overage funds, also known as the Petroleum Escrow, excuse me, Petroleum Violation Escrow Funds. These funds were a result of several court actions against oil companies that overcharged their customers during the period of federal price controls from 1973 to 1981. Since direct restitution to injured consumers was not practical, the courts ordered the money distributed to states and used within parameters established by the courts and a federal regulator to fund weatherization and efficiency programs. Nebraska received the final Petroleum Violation Escrow payment from the U.S. Department of Energy on September 7, 2007. Dollar and Energy Saving Loans provide low-cost financing to Nebraskans for energy efficiency improvements in homes, businesses, transportation, agriculture systems, local government, and school buildings. In March 2009, the Nebraska Public Power District partnered with the Nebraska Energy Office to offer customers of the NPPD service area 2.5 percent Dollar and Energy Saving Loans for heat pumps, qualifying thermostats, and backup natural gas or propane furnaces. This partnership is infusing dollars into the Energy Office loan program to provide the funds to purchase an additional 25 percent of a qualifying loan from the lender. This will allow the Energy Office to purchase 75 percent of the

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qualifying loan at zero interest while allowing lenders to still realize a 10 percent return on the remaining 25 percent of the loan that they hold. To date, \$1 million has been added to the loan pool by NPPD. The American Recovery and Reinvestment Act of 2009 funds were also used to expand the revolving loan program by \$11 million to lower interest rates for energy efficiency projects. Now 2.5 percent Dollar and Energy Saving Loans up to \$750,000 are available for businesses, industries, nonprofits, institutions such as public, private, and postsecondary schools, hospitals, and local governments. With these additions, the loan pool totals \$36 million which is continually recharged with payments from borrowers. As of June 30, 2010, the Energy Office has financed 26,260 projects totaling \$211.8 million for energy improvements in all 93 Nebraska counties, of which \$100.1 million or 47.2 percent was leveraged from Nebraska financial institutions. An additional \$27 million was leveraged from the borrowers. Since 1990, the loan pool has revolved nearly five times, or about every four years. There are more than 300 Nebraska lenders at over 900 locations that provide 2.5 percent and 5 percent financing for up to ten years on loans for energy efficiency improvements and waste minimization projects. With 5 percent loans, the Energy Office purchased 50 percent of the loan, with all of the interest payments going to the lender who serviced the loan. There are no income guidelines for loans, but the borrower must be a Nebraska resident and the property or operation must be located in Nebraska. The loan must be issued by a Nebraska-chartered bank, savings institution or credit union. To date, 98.5 percent of the loan funds have financed energy improvements in three areas--residential, commercial-industrial, and agriculture. In the residential sector, loans have been utilized to finance energy saving improvements to replace furnaces, air conditioners, heat pumps, windows, doors, insulation in attics and side walls. The average loan amount is \$6,854. The commercial-industrial sector ranks second highest in active loans. Energy improvements include replacement of heating and cooling equipment, installation of insulation, and replacement of doors and windows. Loans for the energy efficient housing sector were reintroduced for the construction of single family detached homes which will be built to ENERGY STAR Five Star Plus standards. The construction loans can include the cost of the lot, Home Energy Rating, design and plans, material and

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equipment to be installed in the house. Also, building permits, as well as loan fees charged by the lender may be financed. The lender may loan 100 percent of the total cost of the project, up to the appraised value of the home completed or \$417,000, whichever is less. The new home's owner will access to long-term below market mortgage financing. The agriculture sector includes low-interest financing for low pressure irrigation systems, replacement of irrigation pumps and motors, replacement of grain dryers and well modifications. Other types of projects that have been financed include ENERGY STAR certified office equipment, home appliances, dedicated alternative fuel vehicles, and telecommunication equipment, and 2.5 percent loans for renewable energy projects such as wind turbines, solar systems, and fuel cells. Included in my testimony you will find charts showing the Dollar and Energy Saving Loans total dollar amount of loans processed, total number of projects by sector and legislative district. An evaluation of \$43.9 million in project loans for the first four years documented \$3.6 million from reduced utility bills. Economic activity in the state over the next ten years was estimated to add \$28.3 million to Nebraska's Gross State Product. Since these improvements typically last for 20 years or longer, the economic impacts will be considerably larger. The agency is currently preparing a request for proposals for an updated evaluation of the loan program to quantify the dollar and energy savings as well as the impact of those savings on the state's economy. There are more than 26,000 success stories resulting from these loans. And I'll share with you today the Centennial United Methodist in Beatrice dedicated to make energy efficiency improvements in their church when utility costs reached \$6,000 a month during winter months. The church used the Dollar and Energy Savings Loan for the purchase of 170 thermal windows. The church also installed a geothermal heating and cooling system not financed with the loan. Those energy efficiency improvements saved the church nearly \$22,500 in utility costs in the first year alone. In conclusion, I would like to thank you for this opportunity to report on the Nebraska loan program model and its use of one-time revenue sources. The success of this financing tool was developed with an innovative framework that wisely invested funds to benefit as many Nebraskans as possible for as long as possible with the goal of maximizing energy efficiency. This loan program has

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operated 20 years without the use of state General Funds. The oil overage are restricted by federal court order and the agency is required to submit an annual report of expenditures to the U.S. Department of Energy. Thank you. I'd be happy to answer any questions. [LR449]

SENATOR MCGILL: Thank you, Director Willson. Senator Rogert. [LR449]

SENATOR ROBERT: Ginger, you have a new name and a new job. [LR449]

GINGER WILLSON: I do. (Laugh) [LR449]

SENATOR ROBERT: All right. On the information you handed out to us, I ought to have the most energy efficient district in the state. [LR449]

GINGER WILLSON: Um-hum. [LR449]

SENATOR ROBERT: Can you elaborate why I'm more than ten times higher on projects than some of these guys. [LR449]

GINGER WILLSON: I don't know exactly what kinds of projects were financed in your legislative district. I would, I guess, speculate that because you are a heavily agricultural area and some of the loans in those areas are maybe more costly that that could be part of it. As I mentioned, the agriculture sector is a large sector. [LR449]

SENATOR ROBERT: The grain dryers and the irrigation motors. [LR449]

GINGER WILLSON: So irrigation systems, grain dryers, those kinds of things would probably apply in your area. I will add an interesting point. Because you are more of a rural Senator, I guess, compared to others on this committee, our rural areas do more financing than urban areas. Not exactly sure why, but it's just something that we've

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realized that Nebraska rural bankers are maybe a little bit more active in the loan.
[LR449]

SENATOR ROBERT: Okay, thanks. [LR449]

SENATOR MCGILL: Any other questions? Thank you, Director. [LR449]

GINGER WILLSON: Thank you. [LR449]

SENATOR MCGILL: Next testifier. I was going to say, there's got to be somebody.
(Laugh) [LR449]

MILO MUMGAARD: (Exhibit 14) Good afternoon, committee members. My name is Milo Mumgaard, M-u-m-g-a-a-r-d. I'm senior policy aide to Mayor Chris Beutler and the city of Lincoln and legal counsel. And I'm here today to share his point of view as well as the city of Lincoln's position as to some of the issues presented with respect to LR449, some observations about financing options for energy efficiency and the possibilities for new financing mechanisms. Very quickly, very briefly, the city of Lincoln is a strong supporter of the Unicameral taking steps to strengthen the existing financial option that you've just heard about, for example, as well to facilitate new financing options and directions. We have both a number of initiatives going on within the city of Lincoln using both federal Recovery Act funds as well as our own local funds to significantly increase energy savings and reduce the amount of energy costs that consumers have, create good jobs and so on, lower carbon emissions. And in that light, we also have a program that we're doing with the city of Omaha with Recovery Act funds called the "BetterBuildings" program that will be investing about \$10 million in funds in both cities to lower energy...to create additional energy efficiencies and savings in not just the residential but also the commercial and industrial sector and public sector, building sector. And that's slated to start next year. Well, to cut to the chase, in our opinion, based upon this recent work we have a very, I think, somewhat educated now

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perspective on the financing options that are available both in the city of Lincoln and in the state. And we believe that there are two things--there's both strong market and policy reasons why the state of Nebraska and the Legislature should go ahead to expand the amount of capital available for energy savings and efficiency upgrades, particularly in the residential market area. As we all know, the demand for energy efficiency in buildings is growing, I wouldn't say exponentially, but certainly growing fast. But nonetheless, despite what you may hear at various times, the existing financing infrastructure is presently woefully inadequate, frankly, to support that growth, especially in the residential market. Energy efficiency upgrades in most residential settings are fairly modest and deliver a very quick return on investment. Nevertheless, private financing for this market in Nebraska is largely premised on traditional real estate secured financing models rather than potentially more flexible alternatives. This has led to a slow response to this market by most financial institutions given the high cost of this approach to relatively small loans. In addition, the existing public financing for residential markets is very limited to small segments of the overall residential market and the amount of public capital available and able to be leveraged is quite modest. The weatherization programs, for example, which are targeted to those folks who are 200 percent of the poverty level or below, is certainly reaching that aspect of the market and is providing...what we look at and refer to as free or full financing for a particular energy efficiency upgrade. But nevertheless, it just reaches part of that market and the inability of that market sector to access private financing due to traditional credit scoring, severely limits the opportunities for these upgrades to occur much more aggressively in that market. Above this income level you've just heard from the state Energy Office, of course, about the Dollars and Energy Savings program, I repeatedly call it the Dollars and Energy Sense program because I think it makes so much sense, I guess. But nevertheless, these loan programs through participating banks, while highly successful, and while it has recapitalized itself many times over and has a strong presence within Nebraska's banking community, the program, though, from our perspective is still constrained by the costs of the traditional real estate loan model, including its reliance upon traditional underwriting considerations and eligible borrowers and therefore only

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reaches a small fraction of the market that it could be. The public electric utilities, which we haven't heard yet from, have also become a very good source of capital, including loan funds, credits to contractors, credits to individual consumers and so on. But our point of view on this is that these amounts while growing, are still exceedingly modest given the potential scope of the market. I think the utilities would agree. And finally, there are both federal and state tax credits and rebates that essentially reward residential households for making the investments in energy efficiency and renewable energy that we all like to see happen. But from our point of view, these capital benefits do not necessarily expand the amount of capital that's available. They're rather at this point in time merely acting as a motivation to act for those who do have access to capital. So then in effect is that there exists today a growing market for energy efficiency upgrades in Nebraska, especially in the residential context, yet the financing mechanisms and the tools are woefully...they're not keeping pace. They're acting as a definite break on this part of our state's economic growth. Now there are other aspects to the restraints on the growth that we need to consider, such as the limited numbers of auditors and contractors qualified to do a lot of the work that needs to be done. And that, of course, needs to be addressed in other contexts. But the bottom line is that the ready availability of finance is the fuel that feeds this market. And without this fuel, the economic opportunity in the market and the real savings to thousands of Nebraskans really is being lost. So from the perspective of the city of Lincoln, Mayor Beutler and our activities in the city, there is a clear need for legislative action. First, we would agree with Senator Mello's perspective that we can, in fact should be looking into the continued development of the underlying concepts embodied in property assessed clean energy financing. We did support his legislation in the most recent session, LB1098, which would have created the Sustainable Energy Financing Districts. And the reason for that is that we viewed this...we testified in favor of this legislation because, one, there was...it's to be considered very similar to the assessment districts we were all very comfortable with. And, two, it is already something that...it would also be something that would be very voluntary. So in that context, we believe that it's, one, the taxpayers and lenders are already familiar with and generally support the concept, and therefore

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it's something that we can comfortably do. But also, we think it will pass and does pass legal muster despite some of the issues that have been raised by the FHA and by Fannie Mae and so on and so forth, particularly in light of some examples that are out there at other places, such as the state of Maine has a program which is an assessment district and subordinate lien program that might actually cure some of the problems we have here, potential problems we have here. We think that has great potential. Secondly, we also are very intrigued and interested in how the Legislature could boost or promote or otherwise facilitate the approaches to how residential energy efficiencies can be financed and repaid as part of an electric utility bill, whether it's considered a personal loan or it's attached to the meter so that repayment transfers with tenancy. In that light there are quite a few utilities active in this area around the country. And frankly, it provides a nontraditional approach to creditworthiness, that is utility bill repayment history. Midwest Energy's "How\$mart" program in central and western Kansas is a very successful model for that. And while it's very flexible and while, of course, it means that we're dealing here with creditworthiness issues that don't necessarily go to traditional concerns about credit scores and so on, it would likely reach market segments that are currently outside private lending criteria. And frankly, in some cities in Nebraska and some areas of Nebraska that's the majority of the market. And lastly, we would definitely support energy being put into the actual work of facilitating credit enhancement tools. Now we understand, of course, there are some legal considerations and constitutional considerations in Nebraska. But there are some examples from around the country that we think should be looked at in terms of helping to create loss reserve funds and loan reserve funds that actually backup some of the capital activity in this area. Our "BetterBuildings" program that the cities of Lincoln and Omaha are doing together is actively investigating how we could use a percentage of those federal funds to create a loan loss reserve fund that would enable unsecured loans for energy efficiency upgrades in those areas that we're spending these Recovery Act funds. So to conclude, as you can see, the city of Lincoln is actively engaged in this area. And also we're actively engaged in the ideas around how to facilitate more capital being generated in this area as well. So with that, I'm happy to conclude and ask if you

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have any questions. [LR449]

SENATOR MCGILL: All right. Committee, any questions? Thank you, Milo. [LR449]

MILO MUMGAARD: Thank you very much. [LR449]

SENATOR MCGILL: Bob, I think you're up next. [LR449]

ROBERT HALLSTROM: (Exhibits 15, 16) Thank you. Madam Chairman, members of the committee, my name is Robert J. Hallstrom. I appear before you today as registered lobbyist for the Nebraska Bankers Association. As Senator Mello started out with his comments, the NBA was interested in LB1098 that was introduced last session. And since LR449 is a continuation of that discussion, I thought I'd come before the committee today and indicate that we did, throughout the session, work with Senator Mello and other interested parties in trying to find some alternatives to the original green copy of LB1098. We had expressed our concerns to the committee last year from the banking industry perspective, which in detail were that we have concerns over public entities making loans in direct competition with financial institutions. We have great concerns with the super lien priority status which impairs the viability and value of the first lien position of existing creditors. We have some concerns with regard to the risks that are created for homeowners if this program and its super lien priority position were to be adopted we see the potential for increased interest rates, reduced credit available, more restrictive underwriting standards, and additional escrow requirements. We have talked to Senator Mello about a number of alternatives. We did talk about loan guarantees, loan participations. We talked at great length with regard to the interest rate buy-downs that have been described today through the Dollar and Energy Savings Loan program that the state Energy Office is involved with, as the director had proposed. A lot has happened since the session was over in terms of action by the Federal Housing Finance Agency and Fannie Mae and Freddie Mac. The documents that I've handed out to you feature a July 6, 2010 financial institution letter and then

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more recently, just within the past week, an August 31 dictate from the Federal Housing Finance Agency. In July, the financial institution letter had indicated a great concern over these types of programs and the super lien priority status that was granted to them. It had basically asked the states and local political subdivisions to put a hold on the implementation of those programs to await further guidelines which were embodied in the August 31 Freddie Mac bulletin, which essentially in a nutshell has said that Freddie Mac will not purchase loans secured by real estate subject to the PACE loans that have the first lien priority status that are issued after July 6, 2010. And for any loans prior to that time, while they will recognize the first lien priority status in order to refinance them, they will have to pay off the entire balance, not just the delinquency. So I think those are important and significant activities that have occurred with regard to the original version of LB1098. Obviously, there are a number of other alternatives that have been discussed today--the subordinate lien position issue, I believe, from the state of Maine and what some other states have looked at--if going down a similar path to LB1098 is to be looked at seriously or other financial alternatives that would not be in direct competition with financial institutions are certainly things that we'd be willing to work with Senator Mello and the committee on. Be happy to address any questions? [LR449]

SENATOR MCGILL: Any questions? Senator Lathrop. [LR449]

SENATOR LATHROP: I have some and maybe it's one. And that is, when this bill was introduced the last time they were going to be giving loans out and it would be in the traditional, like a loan model. And what I heard during the introduction of this resolution at least is the idea of having this instead of run with the real estate have it run with the utility bill and use the utilities as essentially someone who would advance money to someone and it's collected back from them on the utility bill. And that, of course, means that there's not a lien on the real estate. So you don't have a subordination issue. Am I right? [LR449]

ROBERT HALLSTROM: That would be correct, Senator. [LR449]

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SENATOR LATHROP: And do the bankers in this model where the utility advances the money and essentially collects it back from the savings in a utility bill, does...do the bankers have an issue with that? [LR449]

ROBERT HALLSTROM: I think traditionally we've still had some issues with that, Senator, in that what we've found is that in a number of occasions in the past, and that's where some of the loan participation issues have come up is that where we had legislation in the past and even some that's been adopted and codified where we have the utilities getting into the lending business. We've had some concerns over the direct competition of those public entities. It's a little different type of scenario. And we've certainly visited with them before. I think, Senator Haar may have walked into the room, he had a bill a couple of years ago where the utilities basically came in and said, you know, we're really not too crazy about becoming lenders; we don't have any experience in the underwriting and the servicing and the collection area. [LR449]

SENATOR LATHROP: The thing that piqued my interest today listening to this is the idea that a lot of these people that need that kind of help, if most people, and I'll say just most middle-class people, if they need to throw a little more insulation upstairs, they're probably not going to need a loan. Maybe if they do they can qualify for one. But we're talking about a lot of people who are in poorer neighborhoods. Their homes are not energy efficient or they're at the opposite of not energy efficient, whatever that might be, and they're wasting energy. And they probably aren't likely to get a loan from a bank because of just their financial situation. And it seems like...I mean, is there a middle ground like if they get turned down by a bank then we can do this through a utility that would make you happy? [LR449]

ROBERT HALLSTROM: We've certainly looked at some of those types of programs in the past, Senator. And would be willing to do so again. I know there's been some NIFA programs and things in the past that one of the concerns that you might just logically

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think through as you go through that process is that if the loan has been turned down by the bank, in this case the NIFA loans where you needed two turndowns. If you had two turndowns from a financial institution, then the real question became if we're expecting this to be a loan program as opposed to a grant program, are we really going to expect it to be repaid if the banks aren't willing to underwrite it and decide that it's a "bookable" loan? [LR449]

SENATOR LATHROP: Well, one thing that's going to happen for them, though, and if I understand the way this would be set up is they would...they'd pay it back on their utility bill with the savings from their utilities. So essentially, they might have some savings. Their utility bill may go down just a little bit. In the meantime, they're paying back what's been advanced to make their home more energy efficient. It seems like everybody is winning in that situation. [LR449]

ROBERT HALLSTROM: Yeah, and that may make the underwriting acceptable in that type of situation. [LR449]

SENATOR MCGILL: All right. Senator Krist. [LR449]

SENATOR KRIST: During the debate last time around, 100 percent of the value is 100 percent of the value. You're not going to loan over 100 percent of the value. So if I owe \$90,000 on a \$90,000 home and I want to do \$10,000 worth of energy efficient upgrades, there is no collateral available on the traditional model to do that. [LR449]

ROBERT HALLSTROM: No equity, yes, yeah. [LR449]

SENATOR KRIST: And essentially what I'm hearing is that if we do come up with this inventive way to do that, and the homeowner, whether he be low class, middle class, upper class, whatever it might be, is seriously going to pay back on the loan. What I'm hearing from you now is that there may be a way that we could codify or change the

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criteria. My concern, and I want to make it public, is this, in some neighborhoods in Omaha over 20 percent of the homes are rental units who are, if I use the word "slumlord" I would be politically incorrect. However, I'm going to use it, not interested in the energy efficiency of the home. And therefore the utility company getting involved with house A in the same block uses three times the energy, house B on that block has gone through an energy efficient upgrade. I see the energy...the utility, if you will, as an integral part of identifying those homes that need to be upgraded. I see the legislation potentially helping those that want to help themselves. And, I guess, my question is in the...in between we have an incredible amount of homes that no one has any interest in upgrading because that's less money in their pocket when it comes to collecting the rent. Aren't we talking about a partnership here in the whole thing where the utility and the... [LR449]

ROBERT HALLSTROM: Yeah, Senator, there are, you know, certain aspects and one of them was referenced on the subordinate lien issue. I know there are other states, and we've researched this not exhaustively, but we've looked at what other states have done. Some of the states more recently where these federal concerns are being levied and they're still moving forward on them are putting caps. And quite frankly, we talked with Senator Mello about some of these issues. And we're working toward a resolution or at least closer to a resolution on those issues in terms of capping the amount of the loan that can be from the combination of the traditional financing, the utility upgrade, the energy efficiency loan, and taxes and assessments. And if you're not over X percent, somewhere less than 100 percent of the tax assessed value or some predetermined figure, some of those types of issues could possibly work to provide that buffer, if you will, of equity so everybody has an expectation that nobody is going to get caught short at the end of the day. [LR449]

SENATOR KRIST: But the banker would have access to that low interest or he would have the information to make it accessible for some one if they had equity to get them into a low interest loan and add it as a second mortgage or another kind. [LR449]

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ROBERT HALLSTROM: Most certainly. [LR449]

SENATOR KRIST: Okay. Thank you. [LR449]

SENATOR MCGILL: Any other questions? Thank you. [LR449]

ROBERT HALLSTROM: Thank you. [LR449]

SENATOR MCGILL: Next testifier. Welcome, Senator Haar. [LR449]

SENATOR HAAR: Thank you. Madam Chair and members of the committee, thanks for your time today. It's so beautiful outside, you're missing a good opportunity. [LR449]

SENATOR MCGILL: Thanks for rubbing it in. [LR449]

SENATOR LATHROP: It's funny you'd bring that up. (Laughter) [LR449]

SENATOR MCGILL: Yeah. [LR449]

SENATOR HAAR: (Exhibit 17) But I will have copies of my talk available, I'll leave you some. First of all, I'd like to thank the committee again. But also thank Senator Mello for his bill. And you may have noticed my new bling today, a little green apple. Okay. I'm really excited about a concept that I'm working on right now. And it starts with this statistic that 20 percent of Americans are in a school right now, 20 percent of all Americans are in a school. Last year, I introduced a bill, LB1096, which we called high performance schools. We're going to call them green schools now. And that didn't pass. But we're working, as you can see from the sheet that's going around, we're working with the University of Nebraska at Lincoln, Peter Kiewit Institute, the U.S. Green Building Council in cooperation with the Nebraska Energy Office, the Nebraska State

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Education Association, school boards, Department of Education, school administrators, and the Rural Community Schools Association to put on, in October, what we're calling the Green Schools Summit. Green Schools are about air quality, good air quality, good lighting, and they save money. What a deal. And research has shown that kids in a good environmental situation--good air, good light--perform better on tests, they're healthier, they miss less school, they're happier, the teachers miss less school. So that's...and they save money, the schools save money and create jobs. So what I want to talk about today is the Green Schools Summit that we're putting on. And part of that is financing, and that's why I came to this committee today. Again, green schools are about a better environment for children and teachers, but also save money. And at this Green Schools Summit we're going to talk about what are green schools, how you do energy audits, which is a part of them, how you use technology for monitoring schools. And a big part of it is going to be how do you finance schools, how do you finance green schools. And in the long run, as I said, green schools can save money. So some of the things we're talking about, one of them would be the ESCOs that were brought up before, energy service companies that will come in and do an audit and guarantee a certain energy savings. And then they will provide those energy upgrades and pay for them with savings. We're going to have somebody from Ameritus who helped Lincoln Public Schools with their \$250 million bond issue. Lincoln Public Schools has upgraded all of its schools with ground source heat pumps. And I had a teacher at Southeast who told me that he used to use his nebulizer two or three times a day and now he doesn't have to use it. It's a healthier place for teachers and students. So we're going to have somebody from a national ESCO group come in. We're having quite a few speakers with national experience. We're going to actually have some ESCOs tell how these projects have worked. We've had some schools in Nebraska, in particular in Grand Island, where they've actually used ESCOs to upgrade their schools and basically create a green school. And the new superintendent of Lincoln Public Schools, Steve Joel, was in charge when that happened. And then we're...I'm really interested in this concept of other ways of bonding that work with this, some that you don't have to take to the voters because you can pay them off with other funds. And we're going to find out

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about that. Senator Mello talked about on-bill financing where the utility company gets the money and basically loans it out and you pay it back with your energy savings. There's also another way that's actually in operation right now for residences in Hastings, the Hastings electric utility is doing this. It's called "on-bill pay." And the utility puts up none of the money. What they do is they take the savings from energy and they pay the company who's put in the improvements. If a consumer does not pay their electric bill, the electric company is not out any money. I don't know how this could work yet for financing schools, but I think it's an interesting concept of using on-bill pay, in other words, using the energy savings money to pay back the upgrades to make green schools. So I'm very interested in your topic, as you know. I hope we can work together on that. And I would like to invite any and everyone, and I've got some extra of these little one-pagers about the Green Schools Summit, October 22 and 23. Anyone is welcome to attend. Senators can go free, it's "comped." This is not a football weekend. So I would...like I say, we're going to have various national speakers come in. And as it's really a two-day seminar, we hope to have many school administrators and school board people. We're going to have a lot of architects and engineers, bring all these people together, talk about "greening" schools. So with that, I would invite you to come. On the handout I have the Web site at UNL where you can sign up for this. Again, for senators it is free. And it's going to be a good conference. [LR449]

SENATOR MCGILL: Thank you. Thank you, Senator. [LR449]

SENATOR HAAR: Thank you very much. [LR449]

SENATOR MCGILL: Questions? Nope. Thank you again. [LR449]

SENATOR HAAR: Okay. You all come. (Laugh) [LR449]

SENATOR MCGILL: How many testifiers do we have left? Just so we have an idea. Three more. Okay. Whoever would like to come up next. [LR449]

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SENATOR HAAR: Senator, I'm just going to leave these here afterwards. [LR449]

SENATOR MCGILL: Sounds good, then anybody can pick one of those up as you head out. [LR449]

KRISTI WAMSTAD-EVANS: Senator McGill and committee, my name is Kristi Wamstad-Evans, it's K-r-i-s-t-i, and Wamstad-Evans is W-a-m-s-t-a-d dash E-v-a-n-s. It's a long one. I'm the sustainability coordinator for the city of Omaha. And I'll apologize up front for sounding a little bit disjointed in my comments. I had not intended to testify, primarily because I don't feel that I'm a finance expert. And so I'm not sure that I would contribute a lot to the specific energy efficient financing discussion. However, in partnership with the city of Lincoln and Milo Mumgaard, who's described the "BetterBuildings" program that we're working on, that is something that I know. And I wanted to, I guess, provide some information or describe what that program is because it could put some context into what the future might hold in terms of energy efficiency markets, specifically in the greater Omaha, greater Lincoln area. When we initially applied for this grant we took a step back and said, well, what types of activities could we do to help foster energy efficiency in the greater Omaha, greater Lincoln areas? And a number of things came up. I mean, we were taking a look and all these things were kind of connected with one another. When we talked about, you know, let's go out and retrofit 3,000 homes. We said, do we have the work force that could actually do that to the level of quality that we want to see it? Do we have the financing to show that people could actually participate in a program like that? And do we have the consumer base, the information that exists that consumers can make wise decisions and can be confident in their decisions? And I think what it came down to was that building a retrofit market really is a systematic approach. There are many different components, they are all interrelated. And one of the things that we have to do is look at how do we build all of those pieces up at the same time. That's what the goal of the Omaha-Lincoln "BetterBuildings" program is, is to take a look at all the different pieces that would need

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to happen in a market and to catalyze those things by building the programmatic tools and testing those tools over two years with a variety of markets, including lower income, middle income, rental, owner-occupied, commercial, residential, you know, a number of different types of buildings and taking and refining those tools through five stages. So I think that that's going to be something that's going to be very informative. The financing mechanisms piece of it will definitely be a key component of this program as we roll it out. Milo mentioned that we were setting up a loan loss reserve program. That's kind of our intent is to create one that will...I mentioned before the confidence of the consumer in this process. But I think it's more than just the consumer and the decision making, it's also the confidence of the banking industry, it's the confidence of the retrofit work force. There's a lot of things that we need to kind of build up in this retrofit market. And that's what we're hoping to do with this programmatic tool. Hopefully, we'll have at the end of this models that can be built and utilized again not only through greater Omaha, greater Lincoln but can be replicated in communities throughout the Midwest. So with that, I'm open for any questions. [LR449]

SENATOR MCGILL: Thanks, Kristi. Any questions? No, thank you for coming to Lincoln today. [LR449]

KRISTI WAMSTAD-EVANS: All right, thank you. [LR449]

SENATOR MCGILL: Next. [LR449]

DUANE HOVORKA: Good afternoon, senators. My name is Duane Hovorka, that's D-u-a-n-e. Hovorka is H-o-v-o-r-k-a. I'm executive director of the Nebraska Wildlife Federation. Pleased to be here. I want to thank Senator Mello and the committee for keeping this conversation going. I think it's a very important one. Certainly, private financing has a role, will continue to play an important role where people have the equity or the income in order to afford at a residential level or even a commercial level those energy efficient upgrades. The public programs that we've heard described today

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and also some of the innovative ideas that we've heard described today, again, really good ideas. We'd certainly like to see a lot more effort going forward in terms of financing and availability to carry out some of this energy conservation. I'm going to throw something at you a little bit different, something you might not have considered and it's also at maybe a scale that you might not have considered. Nebraska now has roughly 8,000 megawatts of electric generating capacity in place. The demand is growing now roughly 1.6 percent per year, that's what the projections are. So if you look at the numbers, before the end of this decade Nebraska is going to have to build another major power plant or a series of minor power plants in order to make up for that capacity that we don't now have but that we expect to have in the next ten years. If you look at the cost of a new power plant these days, we're talking about \$1 billion to build roughly a 600 megawatt power plant. And actually with recent increases in costs in other parts of the nation they're talking maybe \$2 billion to build that size of a power plant. That's a pretty big chunk of change. Then you throw on top of that the fuel and operating costs to haul the coal in, to burn the coal, to maintain the facilities, to get rid of the waste. Whether you're talking about coal, or nuclear, gas, coal-fired, or whatever you're talking about, you're talking about some real cash. Well, what if, what if we thought of conservation differently? Not just as something on the expense ledger for a utility where we'll spend \$1 million or so because it sounds good and will help out some of our customers, but really thought about it as a resource to exploit, a resource to invest in. What if our electric utilities came together, focused on and actively pursued conservation investments, and projects, retrofits and measures that would be real, that would be dependable, that would be predictable in terms of reducing the kilowatt hours that we needed to generate? So that the electric utilities themselves could depend on those savings and know, just as they now depend on electric power plants, that they could depend on those savings and would not have to build that next electric utility power plant. So what I'm suggesting is that we build a conservation power plant in Nebraska. They've done this...taken this concept, big or small, in places like Idaho, in California, and New England. Even our next-door neighbors in Iowa, some of the small utilities there found that they could with focused strategic investments in conservation at

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the residential and commercial levels, that they could generate kilowatt hours for something like 2 to 3 cents a kilowatt hour. Now that's less than you can generate with any new power plant that you can build with any kind of fuel. So it makes sense. It makes sense economically. In Nebraska we have people, we have utilities who have great success in load management, in irrigation control. They said if we can do some irrigation scheduling, we can knock down those peak loads in the summer. We can do the same thing with air conditioners in the summer, one of the big loads that drives those peak sources. And again, that money is far less than we could generate that electricity with new power plants. So if you look at it and you look at the benefits that you could achieve, they're pretty substantial. One, we helped the individuals who actually get the conservation done because their utility bills go down. Second, and that includes public buildings--schools, state, local buildings could also benefit where they're currently out of date, where they need upgrading, where energy conservation makes sense. Second, we help all ratepayers. Instead of having them fund an expensive new power plant they get to fund conservation for their neighbors. They come out ahead because they're paying less per kilowatt hour for that conservation than we would pay with a new power plant. Third, you provide jobs and economic benefits all across the states, from the businesses that are taking care of the conservation to the people who have their utility bills lowered. In addition, we reduce the jobs that now chase those energy dollars out of state every time we send money to buy coal from Wyoming or natural gas from Canada. You reduce the need for large new transmission lines that will otherwise have to be built to haul the electricity from those new power plants to markets. You also improve the environment and, of course, that's where we come in, improve the environment by cutting the fossil fuel consumption, so you reduce both greenhouse gases like carbon dioxide that are contributing to climate change, but you also can reduce mercury, nitrous oxides, sulfur dioxides, particulates that are causing health problems in the state and pollution in the state. You also conserve water in the state that would otherwise be needed in order to cool those new power plants. The interesting thing is it doesn't really take a change in the law to do this. It takes a change in the attitude. What we need to do is get our electric utilities to come together and to

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think about conservation as a resource to be actively pursued, actively financed, actively planned so that we can develop those strategic investments in the high return conservation that will allow us to provide that conservation that's dependable, that's economical, that makes more sense and is less costly than building the new power plants. So I thank you for your attention. It's a concept I hope we've got some folks in the room who are willing to work on. We're certainly going to be talking to our electric utilities about it and trying to generate some momentum. So thank you. [LR449]

SENATOR MCGILL: Thank you, Duane. Any questions? No? Thank you. Any other testifiers? Come on up. Welcome back. [LR449]

JON TRAUDT: Thanks for giving me a chance. My name is still Jon Traudt. (Laugh) So the...as I mentioned before, I've been involved in energy, renewable energy and energy efficiency since the oil embargo's of the seventies. I can't tell you if those oil embargo's will occur again. I can't tell you how long the fossil fuels will last. By some estimates, we may have 30 years of oil left worldwide. And we're consuming about a thirtieth of that each year at the present consumption. So we're going to have to get serious about this or we're going to suffer the consequences. I'm hoping that we will make a smooth transition to the post petroleum era. I'm not trying to oversell this, but if you had seen the evidence I've seen I think you would want to accelerate our progress. I'm hoping that Nebraska will set goals, serious goals to avoid serious problems. We can...and as Senator...or the Secretary of Energy, Steven Chu, said, energy efficiency is not only low-hanging fruit, it's fruit on the ground. And from my experience, there are a lot of simple things we can do which turn out to be profitable. It's not a great sacrifice. But we need to act while we still have the time, the talent, and the resources to do it. One objection to the PACE program voiced by one banker was that, what if somebody spends \$20,000 to make...add something to the house that really is never going to pay for itself? Well, I can tell you that the EPA has gone to great lengths to make sure that that does not happen in the ENERGY STAR program. It will not happen in Omaha or Lincoln's retrofit ramp-up program because people like me won't let it happen. Okay? I

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try to be fair. But I'm not going to believe some of the salesmen's talk. One friend in the Energy Office added up all of the savings from the energy salesmen--windows, furnaces, insulation and so forth. And he said if he bought all of them he could save 140 percent. Well, ENERGY STAR program requires me to model the home thoroughly, not only the insulation value or U-value of windows but which direction is it facing, how much overhang is there, how exposed to the wind. Okay? So we go to great detail to carefully analyze the homes. And we're...I don't think the bankers realize how carefully the analysis is done. Okay? It's important that the money be spent wisely, that the savings be real. So I try to make that happen. And if you check the energystar.gov Web site, you'll see that the program is successful. We can do the same thing on existing homes. It is not unrealistic to have 30 percent or more savings. OPPD funded a study by UNO on 100 homes. And these homes, without replacing the heating system or the cooling system or the windows, the average savings was \$500 a year. It's real money. So I think I would invite any banker, anybody that objects to the PACE program or thinks like it to see what a real ENERGY STAR analysis is like. Okay? [LR449]

SENATOR MCGILL: All right, thank you. Any questions? Thank you very much. [LR449]

JON TRAUDT: Thank you, thanks for having me. [LR449]

SENATOR MCGILL: Is there anyone else who is here to testify for this resolution? Okay, I don't see any. Senator Mello, anything left to say? [LR449]

SENATOR MELLO: We can talk for probably another 35 minutes, so we'll keep it going here. (Laughter) No. Thank you, Chairwoman McGill and thank you for the Urban Affairs Committee for listening to both LR449 and LR469. You know, I think of anything that we take from this interim study is some, I guess, two basic points. One, that there is a good program that the state does have that does fit and I think does serve traditional, more traditional, standard audiences which I think Director Willson went over. It's a program that has a longstanding history. It's something that I think we can look to build on. I was

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hoping to get some more information from the Energy Office on ways that we can improve that program, we can enhance that program, and expand it. But that's a conversation we will obviously have after the hearing. I think the second point, though, and it's the main point of this interim study was to emphasize that there is a need to look beyond traditional financing, particularly not just in the sense of the environmental aspects that come with energy conservation, but more importantly the savings that comes to the taxpayer. I think one of the testifiers explained the cost that comes with a new power plant, one new power plant with our growing energy needs. That is a billion dollar cost to the Nebraska taxpayers that all energy ratepayers will end up paying. And I think if we are not willing to look at different ways of financing ways to conserve energy, ultimately that's going to become a tax on all of us. There's a way that we can stave off that future tax increase which is essentially what it will be. I think through collaboration, whether it's through public power, whether it's through the lending industry, businesses, the private sector such as home energy auditors, company energy auditors but also the policymakers. And I think I would be mistaken if I didn't emphasize that the Nebraska Bankers Association, the Nebraska Community of Independent Bankers have been working with my office since I last came and presented this concept to the committee. And we're looking at ways to make this work and looking at innovative ways to provide a new stream of financing for people who either wouldn't qualify for your traditional bank loan or would not use Dollar and Savings Loan Program because it's the traditional loan that they could get from a bank. So we're working on it. It's my hope that...for some reason everything comes to...everything I do comes to Urban Affairs. So I think at some point in time this issue will probably be coming back in front of you. And I think with what Ms. Evans and Mr. Mumgaard described in regards to what the cities of Omaha and Lincoln are looking at, this is really, I think, a vital component to the future of the new market that could come from this. And really the job opportunity, the economic development opportunities that come with this is available, but we're going to have to continue that conversation. So I appreciate it. Thank you and enjoy your Labor Day weekend. [LR449]

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SENATOR MCGILL: Thank you, Senator Mello. And that concludes our hearings for the day. Thank you all. [LR449]