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Natural Resources Committee
February 15, 2012

[LB950 LB1125]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, February 15, 2012, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB950 and LB1125. Senators present: Chris Langemeier, Chairperson; Ken Schilz, Vice Chairperson; Tom Carlson; Mark Christensen; Annette Dubas; Ken Haar; Beau McCoy; and Jim Smith. Senators absent: None. [LB950]

SENATOR LANGEMEIER: Good afternoon, everyone, and welcome to the Natural Resources Committee hearings. My name is Chris Langemeier. I'm the Chairman of the Natural Resources Committee. I'd like to introduce my committee members that are here at this point. We have, to my far left or to your far right, we have Senator Ken Haar from Malcolm. And then sitting next to him, in shortly, will be Senator Mark Christensen, who is at the front table getting ready to introduce his bill. To my immediate left is Laurie Lage; she is the legal counsel for the Natural Resources Committee. To my immediate right or your immediate left, we have Senator Annette Dubas who will be right back, from Fullerton; and then we have Senator Tom Carlson from Holdrege; and then we have Senator Beau McCoy from western Douglas County in the Elkhorn area. At the far end of the table, we have Barb Koehlmoos; she is the committee clerk. As you come forward to testify today, you'll give her your testifier sheet and any handouts you'd like to share with the committee. We have two pages that are with the Natural Resources Committee this year. First, we have Brian Eulie from Omaha, who is a student at UNL; and then we have Alex Wunrow, who is here from Los Angeles, California, and is a student at Southeast Community College. Joining us is Senator Jim Smith from Papillion. So we are going to take the two bills in the order they were posted. If you care to testify today, there's a green sheet in the corner. We ask that you fill that out in its entirety as you come forward. If you'll give that to Barb, it helps us keep an accurate record of today's hearings. If you're here and you want to be on the record in support or opposition to a bill, there's another spreadsheet kind of form in the corner that you can fill out and put on there whether you support or are in opposition if you don't care to testify; you don't have to do both. As you come forward to testify, we ask that the first thing you do is say and spell your name. It helps us keep a more accurate record of today's events. I will tell you that the microphone is just for recording purposes only; it does not amplify in the room, so don't feel the urge to grab it. If it gets too close to you, it muffles it and then we have a tough time making a transcript, so we ask that you just leave the mike where it is. And again, it's there only to record. If you're going to hand something out to the committee, we ask that you have 12 copies. If you know right now you don't have 12 copies, raise your hand and one of the pages will help you get those additional copies to make those available to the committee. The other thing is if you give the committee something to look at as some sort of testimony--a family photo of the farming operation or something like that--if you give it to the committee, we will keep it for the record. And so if it's something you want to show us, but you don't want us to

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keep, just show it to us from the testifier's table and that way you'll leave yourself available after the hearing if a senator wants to look at it in more detail. In Natural Resources Committee, we do use the lights system at the front of the table. You do get five minutes to testify. The light will come on green and it will remain green for four minutes; and then when the yellow light comes on, that's your one-minute warning; and then the red light comes on and we ask you to stop and then avail yourself for questions from the committee. So with that, we will open the first bill of the day, which is...well, they're both Senator Christensen's bill, but I think we're going to start with LB950. So we will open with LB950 and welcome, Senator Christensen. [LB950]

SENATOR CHRISTENSEN: (Exhibit 1) Thank you, Chairman Langemeier and members of the Natural Resources Committee. I'm Senator Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District. I'm here today to introduce LB950. LB950 is a bill that would redirect the remaining payments from the Republican River natural resource districts that were given assistance in 2008 pursuant to LB1094 from the Water Contingency Cash Fund to the Water Resources Cash Fund. The Legislature has made it clear over the last several years that wisely managing, protecting Nebraska's significant water resources is a priority that needs to be funded. Recently, the Legislature passed LB229 in 2011 to provide funding for water resources management. Natural Resources Committee is also in the middle of a thorough study, LR314, examining current and future state water needs and funding sources to develop recommendations for necessary funding for management of Nebraska's water resources into the future. LB950 follows the intent of the Legislature to adequately fund water resources management by redirecting repayments to the Water Resources Cash Fund. I've handed out a repayment schedule for the three Republican NRDs that receive assistance. This shows the amounts and the timing of the payments that are currently going back to the Water Contingency Cash Fund. If you look at the fiscal note, you'll see the amount would be redirected to the Water Resources Cash Fund. In addition, we recently determined that--from the Legislative Fiscal Office--if an emergency clause was attached to LB950 by the committee, it would allow an additional \$3 million to go to addressing the state's many water needs. I'd be glad to work with the committee and all parties on any concerns it may have, and I ask for advancement of LB950 to General File. [LB950]

SENATOR LANGEMEIER: Very good. You have heard the opening on LB950. Are there any questions for Senator Christensen? Seeing none, well done. Now we will move to those that would like to testify as in support--or a proponent--to LB950. Welcome. [LB950]

DEAN EDSON: (Exhibit 2) Yeah. Senator Langemeier and members of the Natural Resources Committee, I'm Dean Edson, D-e-a-n E-d-s-o-n, executive director of the Nebraska Association of Resources Districts, presenting testimony today in behalf of the association in support of LB950. There is definitely a need for additional funding for

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water projects in Nebraska. This past interim we've worked with this committee on LR314. In that process, entities were asked to provide a list of water projects and sources of revenue. These included water banking, water purchases, leases, water conservation programs, cost-share programs, some development fund projects, water studies and other related programs. Just as a reminder, from that report, these are the numbers that were gathered for existing projects over the next five years, a total of \$470 million. From that, of that total, \$64 million was identified as coming from the state, \$283 million from the NRD, and \$122 million from other sources. For new projects over the next five years, the total is \$196 million. Of that, \$52 million from the state, \$70 million from the NRD, \$73 million from other sources, so the totals for those new and existing projects are \$667 million. Over the next five years, \$117 million from the state, \$354 million from the NRD, \$195 million from other sources. Of that \$8.8 million loan to the NRDs, just over \$1 million has already been paid back. The repayment schedule has the last payment due in June of 2013. Adding \$7.8 million to the water resources funding over the next two years would definitely help progress these water funding needs as proposed in LB950. Therefore, we'd urge you to advance LB950 and we... [LB950]

SENATOR LANGEMEIER: Very good. Are there questions? Senator Carlson. [LB950]

SENATOR CARLSON: Thank you, Senator Langemeier. Dean, the first payments that were made back, where did that money go? It's paid back to the state; they've been paid. [LB950]

DEAN EDSON: Yeah. My understanding is they're going back into the Cash Reserve Fund. [LB950]

SENATOR CARLSON: Okay, because Director Dunnigan's letter here in opposition refers to the Water Contingency Cash Fund. And it was my bill, LB1094, that released this money, but I guess I didn't realize that went out of the Cash Reserve into the Water Contingency Cash Fund and then out to the NRDs. [LB950]

DEAN EDSON: Right. [LB950]

SENATOR CARLSON: Okay, so that's...we don't have the full... [LB950]

DEAN EDSON: And then my understanding is they go back that route and then eventually back into the Cash Reserve Fund. [LB950]

SENATOR CARLSON: Okay, all right. Thank you. [LB950]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you. Is there anyone else that would like to testify as a proponent or in support? Welcome.

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[LB950]

JAY REMPE: Welcome, thanks. Senator Langemeier, members of the committee, my name is Jay Rempe, J-a-y R-e-m-p-e, vice president of governmental relations for Nebraska Farm Bureau, here today on behalf of Nebraska Farm Bureau in support of LB950. I think Dean and Senator Christensen did an excellent job of outlining the issues and I'll basically just appear to say ditto, we're very supportive of this legislation. The committee knows we've gone through the LR314 process, we understand the needs that are there, and I think it just makes perfect sense to...these dollars went out and they were in the water area, if you will. The Republican NRDs paid the irrigators in those districts for some water rights and it makes perfect sense to keep the dollars into the water arena. And I think going into the Water Resources Cash Fund adds a little extra bonus in the sense that, if you recall, all dollars that go into the Water Resources Cash Fund, when they go out to the NRDs there has to be a 40 percent matching requirement, so you're kind of leveraging your dollars, if you will, to get some more bang for your buck out of it. So with that, Nebraska Farm Bureau supports the bill and I'd be happy to answer any questions you might have. [LB950]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB950]

SENATOR CARLSON: Thank you, Senator Langemeier. Jay, you may not want to answer this because I'm going to put you on the spot a little bit. But we have the letter here of opposition from the Department of Natural Resources and it's saying that money should go back into the Cash Reserve. Why would they be opposed to this? [LB950]

JAY REMPE: I don't know. I didn't realize...well, I'd heard late this morning that there was going to be a letter, so I'm not sure why they would oppose. I think the needs are well documented out there in terms of the dollars that are needed in the water area, so I'm not sure, Senator. [LB950]

SENATOR CARLSON: I agree with you because the needs are obviously almost overwhelming for...and that money was used for good purpose and it is coming back and so I think that LB950 is a meritorious bill. [LB950]

JAY REMPE: Um-hum. [LB950]

SENATOR CARLSON: Thank you. [LB950]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none, thank you very much. [LB950]

JAY REMPE: Yeah. [LB950]

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SENATOR LANGEMEIER: (Exhibits 3-4) Further testimony in support or a proponent? Seeing no...oh, I have a letter from Lee Orton with the Water Coalition in support for LB950. Is there anyone that would like to testify in opposition/against? We do have a letter offered to us by the Department of Natural Resources in opposition, signed by Brian Dunnigan, director, in opposition to LB950. Is there anyone that would like to testify in a neutral capacity? Yeah, I asked for opposition. Nobody stood up, so I read the letter. Is there anyone that would like to testify in a neutral capacity? Seeing none, Senator Christensen, would you like to close? Senator Christensen waives closing. That concludes our hearing for LB950. We will now open the hearing on LB1125. Welcome back. [LB950]

SENATOR CHRISTENSEN: (Exhibit 5) Thank you, Chairman Langemeier and members of the Natural Resources Committee. I'm Senator Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District and I'm here today to introduce LB1125. Let me begin by saying that I have an amendment to LB1125 that I will pass out to the committee. This amendment, I believe, addresses the concerns of other districts that LB1125, as introduced, was too broad. Other NRDs still have concerns leading up to the hearing about the language and asked that I consider a sunset clause for the new section, which I agreed to consider and would gladly continue to work with other...to work on additional language to satisfy concerns of any other NRDs. I introduced LB1125 to fix a problem that occurred in the Republican River Basin. As you are aware of, this committee worked hard to find ways to give the NRDs tools to deal with water shortages and to find ways to augment streamflow and work on vegetation management and acquire or lease water rights. All of these cost money, so we gave the NRDs the ability to implement the occupation tax to help with these costs. But in order to implement the occupation tax, the NRD had to sign the IMP that said they would use the money for these projects. The occupation tax is a tax on irrigated acres, so in order not to be taxed...so in order not to tax acres that aren't irrigated, we give any farmer the right, in subsection 2-3226.05, to come in on or before March 1 and certify that his or her acres are nonirrigated. Here's where the problem comes up. The Lower didn't enter into an IMP until September of 2011 and when they implemented an occupation tax, six months after a farmer could come in and say I want to certify my nonirrigated so they're not to be taxed. Back in March of 2011, there was no way that the district could have implemented that tax because the IMP was not signed, so the farmers in the basin did not have any notice that they would need to come in and certify acres as nonirrigated. What LB1125 does is give the farmers the right to come in to the NRD board and present evidence that they would have certified their acres nonirrigated and that they didn't irrigate and if they do so, the board has the ability to refund the occupation tax. The new language says that there is only one time when a farmer can do this and that is when two conditions have occurred. First, there must have been an occupation tax issued in the...sorry, there must not have been an occupation tax issued in the prior year. The reason for the first part is there was an occupation tax in the prior

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year, the farmer has noticed that they might be taxed in the next year, and they should certify by March 1. The second reason, the district must enter into an IMP that allows for an occupation tax after March 1. That means a farmer wouldn't have any reason to think they could have...could be a tax on March 1, and so it is unfair not to give him a chance to certify that after the fact. The language doesn't harm any other NRD that I...that have implemented occupation taxes right now, but it is broad enough to apply in the future if another basin wants to issue occupation taxes and farmers don't have significant notice to certify the acres nonirrigated before the tax is implemented. You will hear from the Lower about why this is important for them and from a lawyer who will tell you why the district needs this legislation to give farmers relief. I believe this is a good bill and one that fixes a problem that the Lower didn't expect to happen when they did what they needed to do and signed the IMP. I will be glad to work with the committee and all other parties on any concerns that they may have, and I thank you for your consideration of LB1125 and would urge the advancement to General File. [LB1125]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB1125]

SENATOR CARLSON: Thank you, Senator Langemeier. Senator Christensen, I appreciate that you brought this forward. And it says pretty specifically in here on the new language that the landowner may present evidence--so it's not a shall--and the district, the NRD, may refund--and that's not shall refund--so there's...that leaves it open as an option, correct? [LB1125]

SENATOR CHRISTENSEN: Correct. [LB1125]

SENATOR CARLSON: And I understand why this is necessary to completely clear it up so that a refund can be made that doesn't jeopardize anybody else. That's part of the purpose of this, isn't it? [LB1125]

SENATOR CHRISTENSEN: Yes, it is. [LB1125]

SENATOR CARLSON: Okay. And you had mentioned a sunset date, but you don't have that in here. [LB1125]

SENATOR CHRISTENSEN: I don't. That was brought to us shortly before the noon hour and we didn't take time, but we'd be glad to add that if people see that it is necessary. I guess what I thought was I would discuss this with you guys because the same thing could happen on the Platte. They develop an IMP after March 1 and people wouldn't have the opportunity to exempt out acres of CREP, EQIP, AWEP, any of these programs, and they may want that opportunity also. But I'll defer to the committee and be glad to add that language if you see fit to do so. And if you go back to the Kiplinger case on the occupation tax when it was found to be a valid tax, they said since it is due

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to the activity of irrigation and you have the ability to exempt out, they did not believe it was an unjust taxation. And I think that is another clarification that, if everybody would like to see, I could bring a copy of that lawsuit in and you can see the language on that also. Thank you. [LB1125]

SENATOR CARLSON: Thank you. [LB1125]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much. You have heard the opening on LB1125. We will now move to proponents, those that support. Welcome. [LB1125]

MIKE CLEMENTS: (Exhibit 6) Senator Langemeier and members of the Natural Resources Committee, my name is Mike Clements, that's M-i-k-e C-l-e-m-e-n-t-s, and I'm the manager of the Lower Republican NRD in Alma, Nebraska. I'd like to say first of all, I think that Senator Christensen did an outstanding job of kind of giving you a background of what this is all about, so I don't want to repeat a lot of what he has said. I would say ditto to everything that he covered. A couple things that I would like to clarify. When our board adopted the new integrated management plan last September, we had an existing integrated management plan in place, so it's not like we were adopting a plan for the first time. The existing plan that we had in place just did not have the necessary wording to allow us to implement an occupation tax that was...I think that came out in LB862 back in 2010, so I did want to clarify that with you. But as Senator Christensen said, you know, we implemented, we adopted a new integrated management plan in September. Because of the augmentation projects that we have pending and that we are working on, we felt the need to implement an occupation tax right away because some of these projects are out there with huge price tags. And obviously, the way LB701 was worded, you had to come in by March 1 to declare nonirrigation status on acres for that particular year. We didn't implement the tax until September. The producers missed out on that opportunity. We're doing this to find a legal means to refund this money to those people that did not irrigate in 2011. And our intentions are good; we're doing it to...because we think it's the right thing to do and it's the fair thing to do. And according to our attorney, we need legislation to be able to do this. We can't take it upon ourselves to make a motion and say we're going to do it. We have a legal opinion that says we can't do that. So with that, I just would encourage you to advance this bill out of committee. It's critically important to our district and I think it could be helpful to other districts at some point down the road too, if they run into a similar situation. So with that, I'd be happy to answer any questions. [LB1125]

SENATOR LANGEMEIER: Very good. Are there any questions? I just...I do have one. You talked about a motion. It's my understanding that the Middle Republican and the Upper Republican, when they implemented their tax, they added to their motion that they were not going to apply that tax to CREP and those similar acres. Do you think that is not a legal way to do it or why didn't you do the same? [LB1125]

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MIKE CLEMENTS: If I could, I would refer that to our legal counsel who is going to provide testimony following me, and I think he can give you the legal reason why we could not do it that way, or that they recommend that we not do it that way. [LB1125]

SENATOR LANGEMEIER: Okay. Any other questions? Seeing none, very good. Thank you, well done. [LB1125]

MIKE CLEMENTS: Thank you. [LB1125]

SENATOR LANGEMEIER: Further testimony in support of LB1125? Welcome, welcome. [LB1125]

ROCKY WEBER: (Exhibit 7) Thank you. Senator Langemeier, members of the committee, my name is Rocky Weber. I'm a lawyer with the Crosby Guenzel law firm here in Lincoln. Our office represents the Lower Republican Natural Resources District. I was asked today to come over and provide some information and some of the legal basis that stands behind the reason for this bill, and in our discussions with the district, why we believe that this legislation is important. The county assessor in every county is responsible for collecting an occupation tax and then turning that tax over to the taxing entity. Our statutes provide that the county board nor the county assessor charged with collecting an occupation tax, neither one of them have the power to remit, forgive, refund, or do anything with regard to that tax once it is levied and collected. That's explicitly set forth in the state tax code. So once this tax was levied in 2011, there was no statutory way for the county board or assessor to permit any opt out to be recognized because the tax was, in fact, levied. With regard to the natural resources district board, the natural resources district obviously is a political subdivision of the state of Nebraska. Like any other political subdivision, it derives its power solely from the Legislature. And without legislative authority, it cannot take action unless expressly given to it by the Legislature, which is no different than school districts, county boards, our municipalities and those kinds of things. So today we're left with a situation that a landowner who was not allowed the opportunity to opt out, once they pay the tax they can sue, claiming the tax is illegal, but they have to do that within 30 days and, of course, that's a financial burden on them to do so. And the only other way was the opt-out provisions that were currently provided by law which had, of course, as a prerequisite, the integrated management plan and the March 1 deadline. And due to circumstances which have been previously addressed this afternoon, those things didn't happen in the right order, so several farmers didn't have the opportunity to opt out by March 1, 2011. Our opinion is that without the authority to refund the tax expressly stated in state law, that the NRD board does not have the ability to just, on its own, adopt a motion to do so. And that is really unfair in this situation for the farmers that were affected by this and were not given that opportunity to opt out. We think that the legislative answer that's before you is narrow, it's fair, and we believe that it is the appropriate way to address the issue of fair

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taxation for those farmers who would not have paid the tax, in any event, had they had the opportunity to opt out before March 1, 2011. And with that, I'll answer any questions. [LB1125]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much. [LB1125]

ROCKY WEBER: Thank you. [LB1125]

SENATOR LANGEMEIER: (Exhibit 8) Well done. Further testimony in support? Seeing no other support testimony, is there any testimony in opposition? We do have a letter of opposition submitted by the Water Coalition, signed by Lee Orton in opposition to LB1125. We now move to...still opposition? [LB1125]

DEAN EDSON: Well, I'm waiting to find out where we're at and then I'll mark the right box. [LB1125]

SENATOR LANGEMEIER: We're in opposition, headed to neutral. [LB1125]

DEAN EDSON: I'll wait just a minute. [LB1125]

SENATOR LANGEMEIER: Okay, now we will go to neutral testifiers. We'll judge where you...if you were in the right category when you're done. [LB1125]

DEAN EDSON: (Exhibit 9) Okay. Well, let's hope this works. There's those sheets, too. Okay, sorry for the delay. My name is Dean Edson, D-e-a-n E-d-s-o-n, executive director of the Nebraska Association of Resources Districts, presenting testimony today on behalf of the association in a neutral capacity to LB1125, with the compromise amendment that was agreed to this morning and about a minute-and-a-half ago. I want to point out that at a recent legislative conference, the voting delegates of the association reviewed the legislation and voted to oppose the bill because it was wide open and allows anybody to come in to request a refund after the irrigation season. This could create an administrative nightmare for the other districts that have or are considering implementing the tax. We do understand that the Lower Republican had not implemented the tax in the previous year and they wanted to give the landowners an opportunity to update records. If the intent is to exempt acres that are enrolled in conservation programs that are otherwise classified as nonirrigated for that tax year, I believe the compromise agreement agreed to this morning will address that issue. If not included, opening up a refund provision for everybody after the season is over could create more problems than it fixes. We would be left to the landowner's word that they did not irrigate and have to prove that they did or did not irrigate. The language in the amendment prevents a free-for-all after the irrigation season. I don't think it'd be too difficult to envision the number of individuals that would claim that they did not irrigate

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last year and would want to ask for a refund. It would be difficult to prove by the NRD that the person did or did not irrigate after the season. The language in the compromise amendment would prevent an exemption or refund if the owner maintains irrigated status on such acres. This can be cross-referenced and verified with the property tax status of the land in question either by checking the property tax record and/or the farm program status with the USDA Farm Service Agency. Late this morning, an agreement was reached to address those concerns. I believe the language would consider...would address the conservation program issue and also prevent administrative problems for the districts. That compromise language is as follows, and I'll just read the underlined: the record owner may present evidence of nonirrigated status of the acres subject to the tax within the 12 months of the date the tax was levied, and the district may refund amounts collected upon such acres if an occupation tax was not levied by the districts in the previous year and the district had not adopted an integrated management plan as described in subsection 1 of Section 2-3226.01 by March 1 in the current year. The additional language that's added here is the safeguard that we're looking for. A district is prohibited from providing the exemption from or to allow a request of a local refund of an occupation tax on irrigated acres, regardless of the irrigation source, while the record owner still maintains irrigated status on such acres in the same tax year. Our opposition to the bill would go away if this language is adopted by the committee and advanced. And the key words I'm trying to get at here is the nonirrigated status. That's fine. But if you're going to maintain your irrigated status, you shouldn't be getting a refund. [LB1125]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB1125]

SENATOR CARLSON: Yeah, thank you, Senator Langemeier. So Dean, what you're presenting us here, the only thing different than what Senator Christensen just handed out to us was the addition of this last statement: a district is prohibited from providing an exemption from or allow a request--there's a word missing or something. [LB1125]

DEAN EDSON: Yeah, to the... [LB1125]

SENATOR CARLSON: ...allow a request of local refund of an occupation tax on irrigated acres, regardless of the irrigation source, while the record owner still maintains irrigated status. That's what you've added to what we have here; that's the only difference, I believe. [LB1125]

DEAN EDSON: Yeah. [LB1125]

SENATOR CARLSON: I tried to read them both as you were going through it. [LB1125]

DEAN EDSON: Yeah. [LB1125]

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SENATOR CARLSON: Okay. [LB1125]

DEAN EDSON: Yeah, and that might need just a different phrase than allow a request of a local refund. [LB1125]

SENATOR CARLSON: Allow a request of...okay. [LB1125]

DEAN EDSON: From... [LB1125]

SENATOR CARLSON: Okay, thank you. [LB1125]

DEAN EDSON: But the...and again, that's what I'm trying to get at is this, don't leave it in irrigated status and provide refunds. [LB1125]

SENATOR LANGEMEIER: So you're trying to prevent the guy--the individual--from coming in and saying hey, I didn't irrigate last year, but I kept it irrigated taxes, I kept everything else irrigated, I want a refund. [LB1125]

DEAN EDSON: Correct, correct. And then it leaves it up to the NRD to try to prove that he did or didn't. And there is ways to do that, various different ways an individual can do that to change their irrigated status. They can do it with FSA records. You go in as a producer and you sign up your farm and your farm program, they'll ask you is this irrigated or dryland, and there's your certification right there. [LB1125]

SENATOR LANGEMEIER: Um-hum. [LB1125]

DEAN EDSON: And you can go to the NRD if you're involved in the NRD program and want to enroll this land as nonirrigated and they can make the corrections. And what we're trying to just avoid is let's don't get everybody into this ball game and then make the NRDs sort it out. [LB1125]

SENATOR LANGEMEIER: Senator Carlson? [LB1125]

SENATOR CARLSON: Thank you, Senator Langemeier. So it goes back to the wording of "may" rather than "shall" in the previous language because if an NRD does a little investigating and doesn't believe that, in fact, that wasn't nonirrigated, they retain the option. There's no "shall" to this; it's a "may." [LB1125]

DEAN EDSON: Correct. [LB1125]

SENATOR CARLSON: Okay, thank you. [LB1125]

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SENATOR LANGEMEIER: Very good. Any other questions? Seeing none, thank you very much. Any other testimony in a neutral capacity? Seeing none, Senator Christensen, you are recognized to close. [LB1125]

SENATOR CHRISTENSEN: Thank you for the opportunity to introduce this bill here today. And just in talking with Dean and clarification here, you guys mentioned in a question here making sure that they weren't in irrigated property tax and want an exemption. Don't think you can go there, because on CREP acres you are forced to pay irrigated property tax in that program and still not irrigate. I just want to make sure we don't, in trying to correct one situation, put another one in a problem, and that's why I said I will gladly work with him with wordsmithing this and...because if property tax isn't involved in this, then I'm fine. If we are saying that they can't change their irrigated status to dry land on property tax and still request a repayment, then that misses the idea of trying to take care of CREP/AWEP programs this way. I'm pretty sure we're on the same page and am glad to work with any wordsmithing that the committee sees that we need, Dean sees that we need, and the Lower and things this way. So that's my only caution here is--if I remember correctly, and you guys can correct me now or later--on like CREP, you stay irrigated status, but you can't irrigate as far as property tax. So I believe that is correct and that's why I want to make sure we wordsmith this correctly. Thank you. [LB1125]

SENATOR LANGEMEIER: Are there any questions? So within the concept of this newfound agreement, you're on board except for dealing with the irrigated in noncropped designation. [LB1125]

SENATOR CHRISTENSEN: Yeah. I just want to make sure that we are not taking a group out of here that is set aside in a program that can't certify as nonirrigated property tax, we don't take them and throw...leave them in the occupation tax, which was the intent of this to remove them. So, wordsmithing gets difficult. [LB1125]

SENATOR LANGEMEIER: It's all in the details. Seeing no other questions, thank you very much. That concludes our hearings for today on LB1125 and the hearings for the day. [LB1125]