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Natural Resources Committee
January 22, 2009

[LB5 LB14 LB53 CONFIRMATION]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, January 22, 2009, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on gubernatorial appointments, LB53, LB14, and LB5. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tanya Cook; Deb Fischer; Ken Haar; Beau McCoy; and Ken Schilz. Senators absent: Tom Carlson. []

SENATOR LANGEMEIER: Welcome to the Natural Resources Committee. I'd like to welcome everybody in the crowd today as well as those that are watching via close-captioned, and as well as those that are watching on our new Internet streaming feed that you can get off a Web site if you'd like to watch that. My name is Chris Langemeier, I'm the chairman of Natural Resources Committee, again, welcome. I'd like to introduce our committee that's with us here today. We're going to start off on to my right or your left: committee clerk is Barb Koehlmoos; then we're going to move on to Senator Tanya Cook, from District 13 out of Omaha; Senator Tom Carlson who is not with us today; but Senator Deb Fischer is next, in District 43 and resides at Valentine, Nebraska; starting on my left, I'm going to go clear out to Senator Beau McCoy from District 39, is out of Omaha; Senator Ken Haar who is District 21, which is north Lincoln, south Saunders County; Senator Ken Schilz from District 47 in Ogallala; and then the vice chair of the committee is Annette Dubas who has been on this committee for awhile, from District 34, Fullerton; and then Laurie Lage is our committee counsel. Helping us throughout this day we have two pages, Malinda Frevert, from Omaha is one; and Justin Escamilla is from Scottsbluff, Nebraska, and they will be handing out if you have anything you'd like to hand out just give it to them and they will pass it out to the committee. We will proceed in the order that you saw out there. We have two confirmation hearings to do first, and then we'll proceed to LB53, then LB14, and then LB5. After the introducer comes forward and introduces the bill or in this case the confirmation hearing we will take any supporters, any opposition to the bill, and then neutral testimony. And then the introducer will have an opportunity to close. If you do come to testify, we ask that you fill out one of these green sheets that you saw back by the doors. We'll ask you to fill it out in its entirety and when you come up to testify please give that to the committee clerk, as we do keep a very detailed record in the Nebraska Legislature. We need to know who you are and why you're here, it helps with the process of keeping track of that. If you want to have on record that you were here but you don't care to come up and testify, you'll also find this form that's back by the back doors and we ask you to fill it out with your name, the bill number, whether you support or oppose it, give us your name and address so we have a record that you were here and that you do have an opinion. However you didn't want to come up and testify before us. If you are going to hand out anything to the committee we ask that you have ten copies of it, so if there's anybody out there that has something to hand out that does not have that many copies please let us know now. We'll have the pages get some additional copies to help you with that. At this time we would ask you to turn your cell

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phones off so you don't interrupt the process. We'd like you to focus on the testimony given before us and not have any outside interruptions. We ask that when you come up you state your name, both first and last. No matter how simple you think your name is, it helps our system if you do spell it, both first and last. So we do appreciate your cooperation with that. And the one finally thing is, I think we're going to have a lot of testifiers here today so we ask that always more is not always the best situation. We ask you to keep to the point and try not to repetitively give us the same comments that were given before. Give us something new that is an example or something on your mind. And with that, we will proceed. We will start out today with Brian Dunnigan, who has been appointed by the Governor for the director of the Department of Natural Resources. And welcome, Brian. []

BRIAN DUNNIGAN: Thank you, Senator. [CONFIRMATION]

SENATOR LANGEMEIER: Go ahead. Tell us your name and then tell us a little bit about the position, your experience, and why you want the job. [CONFIRMATION]

BRIAN DUNNIGAN: (Exhibit 1) Sure. Brian Dunnigan, B-r-i-a-n D-u-n-n-i-g-a-n. My experience is that I have a Bachelor of Science Degree in civil engineering from the University of Nebraska. I've been with the state for 26 years, 23 years with the Department of Natural Resources and the former Natural Resources Commission. I worked in a variety of areas with my employment with the state from structural design to hydrology, and hydraulics to water administration, and have served as the acting director of the department for the last ten months. Prior to that, I was the deputy director for about two years and I've been the division head and other positions within the department before that. [CONFIRMATION]

SENATOR LANGEMEIER: Thank you. Are there any questions for Director Dunnigan? Senator Fischer. [CONFIRMATION]

SENATOR FISCHER: Thank you, Senator Langemeier. Welcome, Mr. Dunnigan. You've been acting director for a number of months now. What has been your biggest challenge so far with the department and the issues that we face in the state, and what do you see as the biggest challenge in the future? [CONFIRMATION]

BRIAN DUNNIGAN: Every day is a pretty big challenge in the department. Certainly, with water, everything is important. Our compact with the Republican River with Kansas and Colorado has been a big part of my job in the last ten months and will continue to be a big job in the coming months with our ongoing nonbinding arbitration. That's probably been the biggest challenge for me because I was not exposed to that very much in my previous duties with the department. But we have a number of issues across the state dealing with water. Almost every basin has its issues and they all present unique problems and challenges for the state and for the department.

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[CONFIRMATION]

SENATOR FISCHER: Okay. Thank you. [CONFIRMATION]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, you're going to get off easy. [CONFIRMATION]

BRIAN DUNNIGAN: Thank you. [CONFIRMATION]

SENATOR LANGEMEIER: Thank you, Director Dunnigan. I know we appreciate you coming before the committee and giving us some information; thank you. The next confirmation hearing we have...oh, excuse me. Are there any that want to testify in support of the...with the nomination of Brian Dunnigan as the director of Natural Resources? Is there anyone that would like to testify in opposition? Is there anyone that would like to testify neutral? Seeing none, thank you. Now we'll continue on to Mr. Rex Fischer, please come up. Mr. Fischer has been appointed by the Governor to the Nebraska Game and Parks Commission for a term serving January 15, 2009, until January 15, 2014, has been referred to us. Mr. Fischer, tell us. [CONFIRMATION]

REX FISHER: (Exhibit 2) Again, I'm Rex Fischer. R-e-x F-i-s-h-e-r, no c. I reside at 10925 Fairway Drive in Omaha, that's in Sarpy County. [CONFIRMATION]

SENATOR LANGEMEIER: Tell us a little bit about your background. Go ahead. [CONFIRMATION]

REX FISHER: Okay. Basically I was born in Norfolk, I really grew up in Norfolk and Omaha. I graduated from Benson High School in Omaha, graduated from the University of Nebraska in Lincoln. Started with Northwestern Bell back at when I graduated in 1980. And I've moved around but I spent the majority of my career with them, Northwestern Bell then U S West now Qwest in Nebraska. Both my parents grew up on farms and I was very fortunate to spend a lot of my time, summers, vacations, semester breaks hunting, fishing, trapping, doing a lot of outdoor activities like that. I own a farm myself in north central Nebraska north of O'Neill just south of the Niobrara. And I'm currently president of Qwest Communications for Nebraska. [CONFIRMATION]

SENATOR LANGEMEIER: Thank you. Are there any questions? We'll start here, Senator Dubas. [CONFIRMATION]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Fisher for your willingness to serve in this capacity. I guess I would just ask you what do you feel are your unique strengths that you would bring to this position? [CONFIRMATION]

REX FISHER: Well this position is the at-large position which the Legislature created

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recently. So I think there is a couple of things. First, I have of course, I have a background in agriculture, hunting, fishing. So I understand some of the issues there. My company serves 63 communities statewide so I get an opportunity to travel across the state of Nebraska, so I think I have a feel for the differences and similarities in the culture statewide and what different parts of the state face in talking to our customers on a daily basis. So I think that brings some experience that may be particularly relevant to this at-large position. [CONFIRMATION]

SENATOR DUBAS: Thank you very much. [CONFIRMATION]

SENATOR LANGEMEIER: Senator Haar. [CONFIRMATION]

SENATOR HAAR: Thank you. Do you have any ideas of how we get kids more involved in, you know, hunting, fishing, using the parks and away from their little games they play all the time? [CONFIRMATION]

REX FISHER: Well, I've quickly learned, already, that it's difficult to come up with an opinion when you look at the complexity of the issues that the Game and Parks faces. It's amazing all of the different considerations that have to be taken into account in terms of science, just what's good business decision, factoring in the rights of landowners. Most of our resources are privately held and so it's difficult. We come in as hunters, fisherman, whatever it might be and we think we're experts and you quickly find out that it's very complicated. I think the commission has created a lot of programs to try and encourage more youth hunting. I think if you look at what's been done with permits, I think what they've been done with mentoring, I think what's been done in public lands there's some issues facing them now that may make it a little bit easier for youth to get into hunting in terms of what equipment they can use. So I think it's been a real focus, certainly, I think the youth hunting has declined across the country from somewhere around \$18 to \$20 million kids. So I think we need to continue to look at that, certainly deer hunting and turkey hunting, the numbers are as good and it's better than it has ever been. Bird hunting and accessibility to areas is really critical for kids so that the average person can bring their son or daughter out hunting. I think the commission has implemented some programs recently, and some programs to compensate landowners if they're willing to let people come on the land. I think those kind of creative programs are good, because for me, one of the priorities is to make sure we get more youth hunting. Because then they're hunters and fishermen for life but I think it gives them an appreciation for the resource. For me, it's an honor and a privilege to get this opportunity just because I think it's a tremendous stewardship responsibility looking after one of the most important resources we have in terms of Game and Parks for our citizens plus it's a great economic development tool if utilized properly. [CONFIRMATION]

SENATOR HAAR: Thank you. [CONFIRMATION]

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SENATOR LANGEMEIER: Senator Fischer. [CONFIRMATION]

SENATOR FISCHER: Thank you, Senator Langemeier. Welcome, Mr. Fisher, without the c. [CONFIRMATION]

REX FISHER: Thank you. Thank you. [CONFIRMATION]

SENATOR FISCHER: You mentioned the hunter mentoring program for the youth is a priority for you. What other area interest do you have? You know, Game and Parks Commission, of course you deal with hunting, you deal with fishing, you have a number of parks that are great around the state of Nebraska, we're fortunate to have those, there's a number of wildlife management areas. What's your particular interest? [CONFIRMATION]

REX FISHER: Well, I think we all probably come in with a background that creates an interest and I may get in and find out that there are some areas that I'm going to get more interested in once I learn more, but certainly hunting, and what we're doing in the hunting area. As you know, the majority of our revenues come from licenses and permits so I think continuing to grow that. I think we have some...there's a lot of different hunting opportunities so that's an area that I'll be interested in. I think there's a lot of issues around the water resources in this state in terms of our involvement there and I think that's something that's critical because you're always balancing. And I think also, in general, I think making sure that we have a good relationship with all of the people that are paying us for permits which are our customers and the landowners in this state. Because the landowners, that's where 90 plus percent of the land that's used by the people that buy our permits go. So I think making sure we have a good relationship with landowners is critical. [CONFIRMATION]

SENATOR FISCHER: Okay. Thank you. Thank you for your willingness to serve. [CONFIRMATION]

REX FISHER: Thank you. [CONFIRMATION]

SENATOR LANGEMEIER: I have a couple questions I'll do at this point. Mr. Fisher, you're looking to be on the board of Game and Parks. And Game and Parks is an agency that's been around quite awhile. It's kind of an agency that has well-ingrained thought processes, it has people that work in the facility that are highly knowledgeable in fisheries and hunting and things out there. How do you see your role on the board and making decisions? Is it, will you take the advice of a very knowledgeable staff and...or do we see some leadership to guide those staff to do things or where do you feel your role as a director is in that regard? [CONFIRMATION]

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REX FISHER: Well, I think one of the things about the Game and Parks is you want a diverse group of commissioners that bring different skill sets. We have doctors, dentists, farmers, ranchers, business people. So I'm probably coming with more of a business background and can maybe bring some of the things I've seen work. Whether that's helping on the administration side or the finance side or the decisions we make. So I'll try to bring that experience to bear on the commission. I think in terms of decisions, it's a balance. We have incredibly dedicated and knowledgeable professionals in the organization but I think the commissioners have a policy setting role to play. They don't micromanage the department, they set policy and when you're looking at economic development, you're going to have to put a lot of factors in. You're going to have to make business decisions, in my opinion, sometimes that are going to factor a lot of things in. It may not be exactly what any one group wants to see or maybe the specific recommendation but I think you take all of that and make the best decision you can. Consider risks, rewards, all of that. [CONFIRMATION]

SENATOR LANGEMEIER: Sure. Thank you. Are there any other questions? Seeing none, thank you very much for your opening. [CONFIRMATION]

REX FISHER: Thank you very much. [CONFIRMATION]

SENATOR LANGEMEIER: Is there anyone wishing to testify in support of the nomination of Mr. Rex Fisher. Welcome. [CONFIRMATION]

JOE HERROD: My name is Joe Herrod, J-o-e H-e-r-r-o-d. And I'm here representing the Nebraska Council of Sportsmen's Clubs. And I think it's probably fairly obvious based on Rex's answers to the question and presentation today why we sportsmen are so wildly enthusiastic about his appointment to the commission. [CONFIRMATION]

SENATOR LANGEMEIER: Okay. Thank you. Are there any questions? Seeing none, thank you very much. Is there anyone else wishing to testify in support? Seeing none, anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral position? Seeing none there. Thank you very much for taking your time to come before us. Thank you. That will close the hearing on the nomination of Mr. Rex Fisher to the Nebraska Game and Parks. Thank you very much. Moving on in our agenda, we move on to LB53 and at this time I open the hearing on LB53. Senator Fischer is here to do the introduction, and when you're ready, welcome. [CONFIRMATION LB53]

SENATOR FISCHER: Thank you, Senator Langemeier. Good afternoon Senator Langemeier and members of the committee. For the record my name is Deb Fischer, F-i-s-c-h-e-r. I am the senator for the 43rd District and I represent that district here in the Nebraska Unicameral. I appear before you today to present to you LB53. LB53 will make changes to the chartered territories of public power districts to establish one set of rules for all public power districts regardless of the number of counties that those

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districts may serve or operate in. The statute currently differentiates between districts that operate in 50 counties or less and districts operating in more than 50 counties. Nebraska Public Power District is the only district that operates in more than 50 counties in Nebraska and because of this according to statute, NPPD must include the entire state in their charter service territory with very few exclusions. The current exclusions from the service territory are Douglas and Sarpy Counties, Alliance, Blair, Fremont, Nebraska City, and Sidney. Because of the current statutory guidelines for chartered territories, many Nebraska residents with limited or no financial interest in the operation of NPPD are eligible to vote for and serve on the NPPD board of directors. In theory, I believe 11 out of the 11 directors on the NPPD board of directors could come from communities that are not vested in NPPD. In order to address the issues of equality and fairness for governing public power districts, LB53 will establish a single set of guidelines for public power district chartered territories. LB53 adds a provision to require municipalities and wholesale customers to purchase 50 percent or more of their firm wholesale annual energy from a public power district to be included in the chartered territory of that supply district. LB53 allows voters who are directly impacted by the decisions of NPPD's board of directors to receive equal and fair representation on all of the board's actions. I would point out that this legislation in no way diminishes any citizen's representation on a public power board of directors. Consumers continue to have a voice through their currently elected officials as part of a municipality, public power district and/or cooperative. However, it is important to address the differences of public power customers and recognize the stake that our citizens have with regards to their costs and services. I believe that the testimony to follow will indicated a widespread support of these proposed changes to chartered territories from a number of perspectives and consumer relationships with NPPD. Thank you. [LB53]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Are there any questions at this time for Senator Fischer? Seeing none, thank you. We've heard the opening and we'll continue with supporters. Those wishing to testify in support of LB53. Go ahead when you're ready. [LB53]

JOHN McCLURE: (Exhibit 3) Thank you, Chairman Langemeier, members of the committee. My name is John McClure, J-o-h-n M-c-C-l-u-r-e. I am vice president and general counsel for Nebraska Public Power District and am testifying today in support of LB53. As Senator Fischer has stated, this proposed legislation involves the chartered territory of public power districts. The chartered territory is the area from which individuals may vote and run for public power district board of directors. Let me begin with some brief background information on the general structure of the Nebraska electric industry. There are currently 31 public power districts operating in the state of Nebraska. Under current law, every public power district in the state except NPPD has a chartered territory that is very similar to its service territory, that is, the area where the public power district is either the retail or wholesale power supplier. Retail supplier means a local utility that serves the ultimate customer such as a residence, commercial

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business, industry, or farming operation. A wholesale supplier supplies electricity to the local utility which then distributes the electricity to the end-use customer. A second form of utility is a municipal electric utility. The state had more than 100 municipal electric utilities which may generate their own electricity or purchase the power from a power supplier such as NPPD. The municipal electric utilities are ultimately governed by their respective city council and may have an appointed board. It is also possible for municipalities to join together in a joint action entity to provide power supply. The third form of electric utility is an electric membership cooperative. They are traditional cooperatives that are member owned. They are governed by a board selected from the cooperative membership. Most of the electric cooperatives in the state are located in the Panhandle. NPPD is the wholesale power supplier for 24 public power districts in the state. The public power districts served by NPPD are depicted on map number 1, which is part of your packet. The rural areas in the western part of the state are generally served by Tri-State Generation and Transmission Cooperative and the rural areas in the southeast part of the state are generally served by Omaha Public Power District. Again, those would be the two white areas in the Panhandle and in the southeast corner of the state on map 1. By rural areas, I mean those residences, businesses, and farming operations located outside of municipalities. Map number 2 indicates the municipalities in the state that are served at retail by NPPD. Comparing map number 1 and map number 2, you can see that while NPPD provides electricity to municipalities in the Panhandle, and that's depicted on the blue map, and the southeast corner of the state, again depicted on the blue map, it does not supply electricity to the rural customers in those areas with limited exceptions. Map number 3 depicts the current chartered territory of NPPD, which by state statute is the entire state except for Douglas and Sarpy counties and five first-class cities which are not electrically interconnected with NPPD: Alliance, Blair, Fremont, Nebraska City, and Sidney. Consequently, NPPD's chartered territory includes many areas, both rural and municipal, where the citizens do not receive their electricity either directly or indirectly from NPPD's power supply, but are nevertheless included in NPPD's chartered territory with the authority to vote and run for NPPD's board of directors. The 30 other public power districts in the state are not required to include areas and citizens within their chartered territories who are not customers of the public power district. NPPD and its total requirements customers are concerned about the growing disparity between the operation of the statutes establishing representation on the NPPD board and those that are applicable to all other public power districts. In NPPD's case, communities and rural areas with limited or no financial or operational interest in NPPD are included in the NPPD chartered territory. This disparate treatment of public power districts is neither fair nor reasonable. Customers relying exclusively on NPPD for power supply are seeing their voices diluted by citizens who have limited or no stake in the outcome of NPPD's actions, but are getting an increasing voice in governance due to population shifts to larger communities such as Grand Island, Hastings, and Lincoln that either have limited or no long-term power supply contracts with NPPD. Fairness and equity require that all public power districts be subject to the same general governance requirements. There is no rational

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basis for treating NPPD differently than the other 30 public power districts in the state. Grand Island has long-term contracts with NPPD for two megawatts of wind generation, but that constitutes a very small percentage of the electricity consumed by customers in Grand Island which has its own municipal electric utility and generating facilities. Hastings also has its own municipal electric utility and has no long-term generation contracts with NPPD, yet each of those communities are included in NPPD's chartered territory. Why should these two communities have the same voice in NPPD as a Kearney, Norfolk, Ogallala, or South Sioux City, by way of example, which receive all of their electricity from NPPD? It doesn't make sense and isn't fair public policy especially when no similar requirement to include unserved or limited service areas or communities is imposed upon all other public power districts. So you may ask, why are there two sets of chartered territory statutes? In 1986 the Legislature passed LB949 at the request of the electric industry. The 1986 legislation created two categories of public power districts, those operating in 50 counties or less and those operating in more than 50 counties. The end result was to create statutory requirements that essentially preserved NPPD's chartered territory as it existed in the early 1980s. Unfortunately, changes in population and changes in contractual relationships are creating unintended consequences, ambiguities, and inequalities for NPPD's total requirements customers who rely upon NPPD for power supply. The simple solution is to return to one set of statutory requirements for the chartered territory of all public power districts. It is also necessary to clarify who is a wholesale customer entitled to inclusion in the chartered territory by specifying that 50 percent or more of the firm annual power and energy requirements of a wholesale customer must be supplied by the public power district in order for the purchasing utility's service area to be included. I would be pleased to attempt to answer any questions you may have regarding this unique subject of public power district chartered territory. [LB53]

SENATOR LANGEMEIER: Thank you. Are there any questions for Mr. McClure?
Senator Dubas. [LB53]

SENATOR DUBAS: Thank you, Chairman Langemeier. Thank you, Mr. McClure, for being here today. What initiated the request for this change in the '80s? Where did that come from? [LB53]

JOHN McCLURE: There had been a proceeding in front of the Power Review Board regarding NPPD's chartered territory. NPPD has, as you would see on map number 3, 11 subdivisions and periodically we must go in and make certain that those subdivisions have approximately the same population following the census. We went in and did that. A challenge was brought by some public power districts regarding the inclusion of several communities and areas including Hastings, Grand Island, Lincoln, municipalities in the southeast part of the state, a number of the areas that we've talked about here today. The Power Review Board found that under the statutes existing at that time that Hastings, Grand Island, the unserved areas in southeast Nebraska should all be

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excluded from NPPD's chartered territory. Lincoln, which at that time had moved from one form of contract with NPPD that relied on all of NPPD's generating resources to a contract that involves only two of our power plants, was found to be still a wholesale customer buying 50 percent of their electricity from NPPD. So the result was going to be to make certain changes. The electric industry looked at it and said why don't we just keep things the way they are? And so the more than 50 county requirement was written to describe what was essentially our chartered territory at the time and it kept the representation essentially the same. As a practical matter, Lincoln probably would have moved to three directors at that time, if you would have excluded these other areas, Hastings and Grand Island, and there was a concern about the equity of that in light of what they're contractual arrangement was with NPPD compared to other total requirements customers. [LB53]

SENATOR DUBAS: Have there ever been instances where board members were elected but didn't have a vested interest in NPPD or the services you provide? [LB53]

JOHN McCLURE: That's a challenging question, and not that I'm aware of, as far as a vested interest. I'm not aware of that happening. [LB53]

SENATOR DUBAS: Thank you. I've got one more question. Is it just been a slow evolution of change that has brought the desire to revisit this issue or... [LB53]

JOHN McCLURE: I think there are two things, Senator. One, because of population changes we expect to see the city of Lincoln and Lancaster County...Lancaster County constitutes two of the subdivisions. It's highly possible that representation would be increased 50 percent, going from two to three in that location. There have also been since 1986, significant changes in the electric industry in terms of how we contract with each other. For example, NPPD has a contract with Omaha Public Power District today to buy 157 megawatts out of the Nebraska City 2 Plant. That's almost 25 percent of the plant. OPPD has a participation contract with NPPD to buy 10 megawatts out of the Ainsworth Wind Project, so we are seeing these contracts between utilities for a fraction of the output of a particular power plant. And the question is, should that make you qualified to be represented on the board, your customers on the board of that supplying district? This 50 percent clarification or firm power will take that issue off the table. [LB53]

SENATOR DUBAS: Thank you. [LB53]

SENATOR LANGEMEIER: Any other questions? Senator Haar. [LB53]

SENATOR HAAR: Yes. Thank you. John, thanks for coming. [LB53]

JOHN McCLURE: Thank you. [LB53]

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SENATOR HAAR: You may not have these figures but just give me some estimates here. What percent of OPPD's electricity comes from NPPD? [LB53]

JOHN McCLURE: Today, 10 megawatts of Ainsworth Wind facility would be way less than 1 percent. [LB53]

SENATOR HAAR: Less than 1 percent. Okay. And so what percent of OPPD's electricity then do they get from NPPD? See the difference in my question? [LB53]

JOHN McCLURE: No. I don't. I'm sorry. [LB53]

SENATOR HAAR: Okay, let me go back, I'm sorry. [LB53]

JOHN McCLURE: Maybe I didn't answer the right question to begin...question properly to begin with. [LB53]

SENATOR HAAR: Okay. My first question is what percent of NPPD's energy is purchased by OPPD. [LB53]

JOHN McCLURE: Less than 1 percent. [LB53]

SENATOR HAAR: Less than 1 percent. Okay. What about Hastings? That you mentioned... [LB53]

JOHN McCLURE: I don't know. Hastings buys some non-firm energy from NPPD. [LB53]

SENATOR HAAR: But not much. [LB53]

JOHN McCLURE: But they don't have any long-term contracts with us for power supply. [LB53]

SENATOR HAAR: Okay. Grand Island, no? [LB53]

JOHN McCLURE: Grand Island, as I indicated in my testimony has a 1 megawatt contract for the Ainsworth Wind facility and they have a 1 megawatt contract for the wind project up near Bloomfield that will become commercial shortly. That again, I would say is less than 1 percent... [LB53]

SENATOR HAAR: Okay. [LB53]

JOHN McCLURE: ...of Grand Island's electricity. [LB53]

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SENATOR HAAR: Okay. And LES, I think I talked to you about this earlier, something like 8 percent of NPPD's output goes to LES? [LB53]

JOHN McCLURE: It's not quite that high. I believe, let me see if I have the numbers here in terms of generation, I believe that LES through their two contracts... [LB53]

SENATOR HAAR: Um-hum. Cooper, yeah. [LB53]

JOHN McCLURE: ...with two of our power plants gets about 30 percent of their electricity from NPPD and that energy I believe is about 1.2 million megawatt hours... [LB53]

SENATOR HAAR: Okay. [LB53]

JOHN McCLURE: ...that NPPD produces, I think, last year over 18 million megawatt hours. So it's whatever percent of 18 million, 1.2 million would be. [LB53]

SENATOR HAAR: Okay, okay. Well, I'd like those figures and I can come to you afterwards and get more precise. [LB53]

JOHN McCLURE: We can supply those numbers. [LB53]

SENATOR HAAR: And in the case of renewable energy, LES as it goes to some kind of renewable energy standards probably will be buying it from NPPD. [LB53]

JOHN McCLURE: They are participating in the Bloomfield project... [LB53]

SENATOR HAAR: Okay. [LB53]

JOHN McCLURE: ...and, you know, there may be opportunities to partner in future under contracts, yes. [LB53]

SENATOR HAAR: Okay. Okay. Well, one of the things that concerns me, obviously, I agree that the current system isn't fair because if you take two out of the 11 board members, that's 18 percent of the representation of the board comes from Lancaster County. What I'm concerned, I guess, is that it goes to zero. And if you look at if that was reduced to one out of 11 then it would be reduced to 9 percent of the representation on the board. And it just seems to me that, you know, going to zero is disenfranchising LES because really, if they buy something like 30 to 40 percent of their electricity from NPPD they really do have a stake in what NPPD does. So, you know, part of my question is where does the 50 percent come from? I mean, that's sort of an arbitrary... [LB53]

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JOHN McCLURE: Fifty percent was actually originally proposed by the Lincoln senators back in the mid 1960s when the power supply for Lincoln was Consumer's Public Power District which was a predecessor of NPPD. [LB53]

SENATOR HAAR: Um-hum. Uh-hum. [LB53]

JOHN McCLURE: The Lincoln Electric System which serves Lincoln today was emerging in the city. There were actually two electric utilities and it was decided to have Consumer's pull out of the community at retail, let all the local service come from LES and have Consumer's provide wholesale power supply to the city which was a firm 175 megawatt contract. There was a recognition there was no provision in the statute to deal with representation. So the Lincoln senators brought forth a bill that said if a municipality buys 50 percent of its electricity at wholesale from a public power district, then it shall be entitled to representation on the board. That standard was removed back in 1986. [LB53]

SENATOR HAAR: Okay. [LB53]

JOHN McCLURE: And we're talking about putting that back in. One other comment I would make, Senator, in response to your equity question. The city of Lincoln has contracted with NPPD for very specific rights associated with two power plants. That is where all of the city of Lincoln's rights are established. [LB53]

SENATOR HAAR: Um-hum. [LB53]

JOHN McCLURE: The city of Lincoln doesn't rely on NPPD to provide--build--new plants for Lincoln or serve other loads, it's...those rights are spelled out in contract, and those are different rights than what our other customers have, their life of the plant rights. And so I would argue that Lincoln's interests have been clearly protected through those contracts, just as when OPPD signs a 10 megawatt participation contract with NPPD that's how their customer's rights are protected, just as when we sign a 157 megawatt participation contract with OPPD we're not asking to become part of their chartered territory. We have rights in one facility and it's all addressed by contract. [LB53]

SENATOR HAAR: Um-hum. Okay. Well, this should be interesting debate on the floor. (Laughter). Thank you. [LB53]

SENATOR LANGEMEIER: Thank you, Senator Haar. Are there any other questions? I have one more for you, Mr. McClure. As Senator Haar, asked it, LES buys, using your numbers there, LES buys 30 percent of their required load... [LB53]

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JOHN McCLURE: Um-hum. [LB53]

SENATOR LANGEMEIER: ...from Nebraska Public Power, using the number you gave us? [LB53]

JOHN McCLURE: Yes. [LB53]

SENATOR LANGEMEIER: Now I want to flip that. Of Nebraska Public Power's load, how much do they sell to LES? [LB53]

JOHN McCLURE: Again, assuming that my number is about right that we produce around--and we'll get you numbers on this, I'll get you precise numbers--that we produce about 18 million megawatt hours a year, I believe 1.2 million were delivered to Lincoln Electric System. [LB53]

SENATOR LANGEMEIER: So that's somewhere 3, 3.5 percent, something like that if my... [LB53]

JOHN McCLURE: Maybe somewhere around 5 percent... [LB53]

SENATOR LANGEMEIER: ...okay. Okay. [LB53]

JOHN McCLURE: ...we can get a calculator out. We'll get the exact numbers, we'll supply that to the committee. [LB53]

SENATOR LANGEMEIER: Thank you. Are there any questions? Seeing none, thank you for your testimony. [LB53]

JOHN McCLURE: Thank you. [LB53]

SENATOR LANGEMEIER: Next proponent. [LB53]

DENNIS RASMUSSEN: I do have a handout here, Mr. Chairman, my testimony. [LB53]

SENATOR LANGEMEIER: You bet, Senator Rasmussen. Go ahead, when you're ready. [LB53]

DENNIS RASMUSSEN: I am Dennis Rasmussen, and I'm happy to appear before the chairman and the rest of the committee. The spelling is R-a-s-m-u-s-s-e-n. And today I'm chairman of the Nebraska Public Power District board of directors. I've lived here in Lincoln approximately 35, 6 years. Most of it's been right here in the capitol, inside the glass and outside the glass. (Laughter) And I was recently re-elected to subdistrict 1 along with Director Harding who was re-elected to subdistrict 2 which encompasses

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Lancaster County. And Senator Haar, I've got to tell you this, I got 73 percent of the vote. He and I were talking about he won by 20 votes, so I was very happy with that. So I'm here to support LB53 and I'll tell you why. It would require that customers must purchase that 50 percent from a public power district in order to be included in district chartered territory. As an NPPD board chairman, I boarded the head of board of this ad-hoc committee that put this creature together. And when we studied and debated it, I recommended and voted for this change when the full NPPD board voted to ask the Legislature to change the existing statute. And is it perfect? I don't know, but I do know that when you have a problem the quicker--perceived problem--the quicker we can correct it, the better it is for everybody. And we've got to remember that public power is the greatest jewel that this state could possibly have. I feel...really believe that it's an area that must be addressed and I know is in capable hands. I've served on the board for 12 years and I've found this position very rewarding, it's been very interesting, very rewarding and I think if you check the record you'd find that Lincoln too have been right along with whatever is good for NPPD, which in the long run is good for the rest of the public power. And I'm not eager to give up my seat, but I am also believe that if we do got a problem, and it appears we do, it should be tried to be addressed. The city of Lincoln, of course as you mentioned, John, gets 30 percent of its energy from NPPD. And of course, this as he also said will affect other areas of Nebraska which is Hastings, Grand Island, and some rural areas. As you've heard others testify, it's quite likely that Lancaster County and most specifically the city of Lincoln, could get another seat on the NPPD board following the 2010 census. When I came to Lincoln, there was about 125,000 people here in 1973 and I would presume we're right at the 250 now, maybe not quite but close. And outstate Nebraska will likely lose a seat due to this population shift that's coming from the west to the east. If this were to occur, I believe that Lancaster County would probably, in common sense, have a disproportionate voice on the NPPD board compared to the rural customers who purchase their total energy from NPPD. And as chairman of the board, I would go on record supporting this bill, Mr. Chairman. [LB53]

SENATOR LANGEMEIER: Thank you very much. Are there any questions?
Seeing...Senator Haar. [LB53]

SENATOR HAAR: Yes. Thank you. Well, first of all, we talked about it a little early. All it takes is one vote over 50 percent. Could you explain, and maybe it would take John to explain this, the prediction that there would be three members from Lancaster County. How would that be arrived at? [LB53]

DENNIS RASMUSSEN: Well, that would be arrived at the 2010 census where there would be more people than yet, than there is now in the... [LB53]

SENATOR HAAR: Right, yeah. [LB53]

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DENNIS RASMUSSEN: ...and if they go somewhere close, I don't know if it...public power I don't think has to be exact, but one man one vote would really put Lincoln with a huge share of population that would probably equal to three directorship spots. [LB53]

SENATOR HAAR: Okay. I was wondering how that's arrived at? [LB53]

DENNIS RASMUSSEN: Yeah. It's on the...the proven shift from the west to the east and the amount of people that Lincoln has gained in the last few years is just staggering, and. [LB53]

SENATOR HAAR: So does the board draw the maps based on census? Who draws, who does the gerrymandering with the? [LB53]

DENNIS RASMUSSEN: Well, since I've been on the board, I've never encountered that; I could not honestly tell you. But I would presume that the Power Review Board would have some influence on it. [LB53]

SENATOR HAAR: Okay. At some point could we ask someone who could answer that question? [LB53]

SENATOR LANGEMEIER: If they chose to testify, they will come up. [LB53]

SENATOR HAAR: If they choose, okay. [LB53]

DENNIS RASMUSSEN: Yeah, John, might, could because I don't know. I just see when you read the statute that the Legislature changed this and that's the reasons how they come about, I don't know. [LB53]

SENATOR HAAR: Yeah. And the other part of that then would be when this was changed back in the '80s were the district boundaries the same or have those been...did those get changed with it? So. [LB53]

DENNIS RASMUSSEN: Well, now that I couldn't answer that, Senator... [LB53]

SENATOR HAAR: Oh, okay. [LB53]

DENNIS RASMUSSEN: ...because I don't know how, I don't know how they came up with the idea to divide this the way they did in 1986. [LB53]

SENATOR HAAR: Okay. Great, great, well maybe we can get that. [LB53]

DENNIS RASMUSSEN: At that given time I was here but I was not paying too much attention to public power. [LB53]

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SENATOR HAAR: Well thank you very much. [LB53]

DENNIS RASMUSSEN: Yes. Thank you. [LB53]

SENATOR LANGEMEIER: Thank you. Senator Haar, you'll find that as if they can't answer questions they will beat your door down to bring you the proper information (Laughter)... [LB53]

SENATOR HAAR: Well I won't ask him too many questions. [LB53]

SENATOR LANGEMEIER: ...upon the conclusion of the hearing, they will bring you answers, trust me. Next supporter. [LB53]

TOM RICHARDS: Good afternoon, Chairman Langemeier. [LB53]

SENATOR LANGEMEIER: Okay. Welcome. [LB53]

TOM RICHARDS: Members of the Natural Resources Committee, I'm Tom Richards. I am the...T-o-m, my first time this year so I have to get back in practice. T-o-m R-i-c-h-a-r-d-s, manager of governmental and community relations for the Omaha Public Power District. I have left my green sheet in support, I will operate under the premise that less is more and I will keep this short. While this bill doesn't directly impact OPPD and it's election of directors, OPPD supports the move making public power districts and their elections for boards of directors consistent across the state of Nebraska. The second part to the technical aspect of the bill that OPPD believes that the threshold of 50 percent energy requirement is a proper and a reasonable level of participation to have representation. And with that, I will stop and I will answer any questions that you might have about OPPD or our position on the bill. [LB53]

SENATOR LANGEMEIER: Okay. Are there any questions? Seeing none, Mr. Richards, thank you very much. [LB53]

TOM RICHARDS: Thank you. [LB53]

SENATOR LANGEMEIER: Next supporter. We're ready when you are, sir. [LB53]

RICK NELSON: (Exhibit 4) Thank you. My name is Rick Nelson, R-i-c-k N-e-l-s-o-n. Good afternoon, Chairman Langemeier and senators of the committee. As I said, my name is Rick Nelson. I'm general manager of Custer Public Power District and a member of the Nebraska Rural Electric Association and the NEG&T, (phonetic) the Nebraska G&T. Custer serves about 8,000 square miles in the central part of the state; got about 9,500 meters. Wholesale power actually represents for Custer about 60

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percent of our total budget. Currently in my mind there is two different state statutes for public power districts. One, the consumers of the local public power district are...well, the consumers elect and can run for the board of directors of like Custer Public Power. And the other is for public power districts with more service territory in more than 50 counties. In my viewpoint, being the general manager of a small rural public power district, I see firsthand that election process, especially for our board of directors. Consumers of Custer Public Power vote for their own local public power district director and in that sense, there are areas within our charter territory that do not vote for and cannot run for our board of directors. An example is, our headquarters is in Broken Bow, Nebraska, and that is not served by either Custer or NPPD and those customers of Broken Bow do not...are not able to vote. The same's true in our service territory of Arnold, Callaway, Ansley, and Sargent. For us, local control is very, very important and a part of public power. The principles that I've talked about so far, locally elected board of directors, the change in statute would bring that principle also to NPPD and in doing so eliminates a distinction between the two. Quite frankly, that distinction or that difference doesn't really make sense to me and I don't think it serves the best interest of the consumers. We are a 100 percent all requirements wholesale power contract with NPPD. Decisions made by the NPPD board of directors impacts the amount that we charge our customers. You know, in that sense, NPPD doesn't direct what we charge our customers but when they have a wholesale power increase or just their current rates, we pass those along to our customers. LB53 would align areas served by the principal electric supplier with its firm and retail and wholesale customers, not just large areas of voters that are not directly impacted by the decisions of the board. Again, I want to mention the cost in wholesale power. When that increases, we pass that along to the customers. I am accountable for that rate increase to the customers and so are our board of directors. They're the ones that are caught in the local coffee shops to ask why did our rates just increase. Part of that is for Custer's increase sometimes, and sometimes it's for a wholesale power increase. So we need to justify to our customers why we're raising rates. I believe this bill brings accountability to the board of directors of NPPD by having voting districts on a chartered territory that are representative of consumers that actually purchase power either through a wholesale power contract or retail from NPPD. The changes that this bill makes in state statute makes representation, I think, more equitable for those who are 100 percent vested in decisions of the NPPD board of directors. Again, we are 100 percent all requirements contract with NPPD. LB53 will allow all power districts to use the same set of statutes and thus provide equality and fairness for the governance of all public power districts. It would also remove any current statutory ambiguities. With that, I would open it up for questions. [LB53]

SENATOR LANGEMEIER: Thank you. Are there any questions for Mr. Nelson? Senator Haar. [LB53]

SENATOR HAAR: Senator. How many customers do you have, again? [LB53]

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RICK NELSON: We have about 9,500 customers. [LB53]

SENATOR HAAR: Ninety-five hundred. Okay. And you said at one point during your testimony that actually, what NPPD does, does affect your customers. If they raise rates, whatever. [LB53]

RICK NELSON: That is correct. [LB53]

SENATOR HAAR: Okay. Okay. [LB53]

RICK NELSON: Let me clarify that a little bit. When NPPD changes their rates, whether they're going up or shifting internally between demand and energy and I don't want to get into the physics of that, I'm sorry, but there can be some shifting there that causes different classes of customers to have increases. When they do that, they're not directing us to say, well you've got to raise your rates by 7 percent... [LB53]

SENATOR HAAR: Sure. It's up to you to decide on. [LB53]

RICK NELSON: Yeah. We need to fit that into our budget and see what the impact is, yeah. [LB53]

SENATOR HAAR: Yeah, yeah. Yeah. Well, there was a statement in the memo, and I guess, Laurie you prepare the memo, but it says that the result is that the city of Lincoln where the voters have little or no financial stake in the decisions made by NPPD's board, that's the first part of the sentence. But actually, if LES buys 30 some percent of its electricity from NPPD, but what NPPD does, would you say, impacts the customers for LES? [LB53]

RICK NELSON: I would go back to John's statement. They have a participation contract where they have legal means of solving problems but in a legal aspect of it, not through the board of directors. And also to go one step further, I mentioned that I am up here as part of the Nebraska G&T. The Nebraska G&T... [LB53]

SENATOR HAAR: What is, I'm sorry what is? [LB53]

RICK NELSON: ...okay, I'll describe it a little bit. [LB53]

SENATOR HAAR: What is the G&T, I don't know all the... [LB53]

RICK NELSON: Generation and Transmission, I'm sorry. [LB53]

SENATOR HAAR: Okay. Thanks. [LB53]

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RICK NELSON: NPPD is a wholesale supplier. Nebraska Generation and Transmission, well, cooperative, I am a member of that organization and the NEG&T, or the Nebraska Generation and Transmission has their contract through NPPD. Technically I'm a customer of, or a member of the NEG&T. And then they buy their power from Nebraska Public Power. When you look at the overall membership of the NEG&T, the Nebraska Generation and Transmission, that represents, and I'm probably going to get this number incorrect, somewhere between 35 and 40 percent of NPPD's total power requirements. So if you take, if you step back from the public power districts, that G&T actually represents about 40 percent. [LB53]

SENATOR HAAR: Okay. And this is just a quick question. Do you have any renewable energy stuff going on in your district? [LB53]

RICK NELSON: Well, at what level? There is... [LB53]

SENATOR HAAR: Do you have any turbines in your area? [LB53]

RICK NELSON: No. Currently NPPD has an RFP, request for proposal out for two locations in Nebraska. One is Broken Bow... [LB53]

SENATOR HAAR: Um-hum [LB53]

RICK NELSON: And one is Petersburg. I think it'll take until this fall to figure out if we get one or not. [LB53]

SENATOR HAAR: I hope that works out. [LB53]

RICK NELSON: Well, we do too. [LB53]

SENATOR HAAR: Yeah, thank you. [LB53]

SENATOR LANGEMEIER: Senator Fischer, do you have a question? [LB53]

SENATOR FISCHER: Thank you, Chairman Langemeier. Welcome, Mr. Nelson, I have to say hello to you since you are one of my constituents. [LB53]

RICK NELSON: Yes. [LB53]

SENATOR FISCHER: Thank you for being here today. You did finish up with Senator Haar on the renewable part in your area. There is a group looking at putting up turbines, correct? [LB53]

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RICK NELSON: That is correct. [LB53]

SENATOR FISCHER: And a number of turbines, I know, about 15 miles from Broken Bow. Is that correct? [LB53]

RICK NELSON: Actually there are two separate locations, one east of Broken Bow and one west of Broken Bow. [LB53]

SENATOR FISCHER: Okay. And at one time there was also a move on to get an ethanol plant by Broken Bow, too. Isn't that correct? [LB53]

RICK NELSON: That is very much correct. [LB53]

SENATOR FISCHER: So we're progressive out there and looking for alternative energy sources. [LB53]

RICK NELSON: We're trying. [LB53]

SENATOR FISCHER: Yes, we try. So thank you for being here. [LB53]

RICK NELSON: Yes, Thank you. [LB53]

SENATOR LANGEMEIER: Thank you, Senator...excuse me, Mr. Nelson I appreciate you taking the trip down here. [LB53]

RICK NELSON: Don't promote me that far. [LB53]

SENATOR LANGEMEIER: You don't want the job? [LB53]

RICK NELSON: No, thank you. Thanks for your time. [LB53]

SENATOR LANGEMEIER: Next supporter. Go morning, or afternoon. It's going to be awhile. Go ahead when you're ready. [LB53]

NEAL SUESS: Thank you, Senator Langemeier and the rest of the Natural Resources subcommittee for allowing me to testify before you today. My name is Neal Suess, first name N-e-a-l, last name S-u-e-s-s. And I'm the president and CEO of Loup River Public Power District, 2404 15th Street, Columbus, Nebraska. I come before you today to provide my support for LB53. I would like to provide you with a brief background of Loup River Power District. Loup Power District provides retail and wholesale electric service to the urban areas of Boone, Colfax, Nance, and Platte Counties as well as a small portion of Madison County. Additionally, Loup Power District generates power from our two hydroelectric facilities, one in Monroe and the other in Columbus. The power

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generated from these facilities is sold to NPPD. Loup purchases our entire energy requirements for both retail and wholesale customers from NPPD. Loup Power District was the first public power district in the state of Nebraska and has paid an important role in the development of energy policy for the state of Nebraska. In the early years of our existence, Loup was a statewide generator and transmitter of electricity. At that time, Loup Power District consisted of a board made up of individuals only from Platte County. During the reformation of the Nebraska electric industry in the late 1960s and the early 1970s, Loup Power District became a retail and wholesale supplier of electric energy in the four-county area mentioned previously and our board was modified to represent the areas that were served by Loup Power District at that time. Loup Power District is NPPD's largest wholesale customer and the management and board of Loup Power District works closely with NPPD's management and board. Given that 75 percent of Loup's annual operation and maintenance costs are to purchase power expenses from NPPD, Loup Power District is very concerned with the decisions that are made by NPPD's board of directors that effect cost, which are in turn borne by NPPD's customers. Ensuring that NPPD's board of directors represent the needs of actual customers who benefit and are effected by these decisions is important to Loup Power District. Currently, there are individuals who are on NPPD's board of directors with constituents who have little or no financial interest in NPPD. While these board members make act appropriately on NPPD matters, they do not represent the consumers who have a direct financial stake in NPPD. This seems unfair and misguided. The legislation introduced by Senator Fischer would allow better representation on NPPD's board of directors for those electric customers in the state who have a financial interest in NPPD's power supply cost. Loup Power District board of directors and I support this change in legislation and urge the Natural Resources subcommittee to move forward to ensure this legislation becomes part of the state of Nebraska statutes. I thank you for allowing me to speak before you this afternoon. If you have any questions, I would be happy to answer them at this time. [LB53]

SENATOR LANGEMEIER: Thank you. Senator Haar. Do you have a question? [LB53]

SENATOR HAAR: Senator, yes. You said Loup Public Power is the biggest user of NPPD? [LB53]

NEAL SUESS: We are NPPD's largest wholesale customer. [LB53]

SENATOR HAAR: Okay. [LB53]

NEAL SUESS: We purchase approximately 1.5 million...yeah 1.5 million, is it kilos...megawatt hours every year. So, you were talking about Lincoln before as 1.2, we are 1.5 million. [LB53]

SENATOR HAAR: Interesting. Okay, and then give me the percent again that you get

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from NPPD? [LB53]

NEAL SUESS: We purchase 100 percent of our energy requirements from NPPD. [LB53]

SENATOR HAAR: Okay. [LB53]

NEAL SUESS: We do generate power from our hydroelectric facilities, approximately 150,000 megawatt hours per year, but we sell all of that to NPPD and then purchase our entire requirement back from NPPD. [LB53]

SENATOR HAAR: Okay. Do you have any kind of renewable energy going on in your area? [LB53]

NEAL SUESS: Well, I would make the argument that hydroelectric energy is renewable energy so yes, we were one of the first power districts in the state to have renewable energy and our hydroenergy. As Mr. Nelson indicated, NPPD has request for proposals out for wind turbines in the Petersburg and Broken Bow area. The Petersburg area is within the service area of Loup Power District, although the wind turbines would probably be in the rural areas of the Petersburg area. We serve the urban area in Petersburg. [LB53]

SENATOR HAAR: Okay, thank you. [LB53]

SENATOR LANGEMEIER: Any other questions? Mr. Suess, thank you. Next supporter? Just to get an idea, how many more supporters are we going to have to testify on this? Two more. Any opponents, just to get an idea. Can you put your hand up, opponents? Neutral testimony, okay. Just so we have an idea. Thank you. Go ahead when you're ready. [LB53]

LARRY UMBERGER: I'll try to be short here. Larry Umberger, L-a-r-r-y U-m-b-e-r-g-e-r. I'm Larry Umberger. Thank you, Chairman Langemeier. Larry Umberger, I'm the general manager for Midwest Electric Cooperative in western Nebraska. Also represent the Nebraska Rural Electric Association; we're one of the members here. Mr. McClure gave you a map, map 1 and our area is right in the corner of the Panhandle going into Colorado. I represent members that have no vested interest in NPPD. There is about 11 members out in western Nebraska which takes care of about 25 percent of the territory of Nebraska. Of these, there's four public power districts, three cooperatives that are--excuse me--two cooperatives that are truly in the state of Nebraska and a number of other ones that go into Wyoming and Colorado. Our board of directors are elected by our members and our members must reside on our territories. They must have meters on our territory, reside in our area to do it. All of our generation, all of our power comes from Tri-State Generation and Transmission Company; they're out of Westminster,

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Colorado. They have 44 members, cooperative members, out there in public power district numbers and of those, there's 44 director seats on there. Each one of the members have one voice on their board. They do it a little differently, they don't do it because of population, they do it so each member has the same value out there to make decisions. They have a vested interest of what's going on, they also are able to help establish rates, do the capital improvements and things like that. Excuse me. The...I guess what I'm coming down to is that I believe that LB53...it's very important these changes are made. That way, the members that are truly involved with what's going on, the in-line customers, have say so on what, how the rates are established. If capital improvements or things needed to truly improve their lifestyles is there, then it makes a difference for them. Senator Dubas asked the question, was there ever anybody out of the area that, nonvested interest in there, we did have one of our consumers out of the Midwest Electric area, Ralph Holzfaster, used to sit on the board of NPPD. Don't believe he ever had any meter there but he was one of the consumers out there in our area. We actually have Gerald Gentleman power plant right in our territory out there but any of the decisions that are made does not directly affect us. So therefore, we pay attention to what's best for our consumers there. Anything they do does not affect our rates. All our power comes from--excuse me--our all requirements contract through Tri-State so we...anything they do or NPPD does has no affect on us, so I'm willing to take some questions now. [LB53]

SENATOR LANGEMEIER: Thank you. Are there any questions? Seeing no questions, thank you, Mr. Umberger. We appreciate you coming down. [LB53]

LARRY UMBERGER: Thank you. [LB53]

SENATOR LANGEMEIER: Next testifier. [LB53]

GARY HEDMAN: (Exhibit 5) Senator Langemeier, members of the committee, my name is Gary Hedman. That's G-a-r-y, last name is H-e-d-m-a-n, and I'm president and CEO of Southern Public Power District. We are the number two largest wholesale customer of NPPD and unlike the previous testimony, we this year, and I'm very proud of it, just for the first time sold 1 billion kilowatt hours in 2008. In 2009 we expect to spend about \$46 million with NPPD, so it's a significant amount of money that we're spending with them and we are concerned about representation on that board. The power costs, you've heard, I'm not going to, you've had some great testimony; I am not going to repeat a lot of that stuff. I passed out some stuff but that's for you to read if you like. I'm going to skip around just a little bit. Seventy-two percent of what we charge in expenses comes from NPPD. One of the things you've heard is an all requirements contract with NPPD. But what you haven't heard, and what makes it different from participation contracts is, that we are responsible to keep them whole. And that means all of their expenses and margin, and if their budget...if they don't meet that budget, they carry that over to the next rate period and we make it up in higher rates the next rate period.

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Those provisions I don't believe are in participation contracts. So the efficiency of NPPD and the decisions of the board related to that are extremely important. There seems to be a lot of Lincoln emphasis to this and I would tell you it's far more than that. From where I come out of the Grand Island central Nebraska area, in 2004 Subdivision 3 of NPPD, which consists of Hall and Buffalo County, a good friend of mine who was mayor of Grand Island at the time, very popular person, decided he wanted to run for the NPPD board. Kind of put me on the spot because he wanted me to help him, even though I believe that that was probably wrong. He ran against a popular person from Kearney. So there are more registered voters in Hall County and most of them in Grand Island, and so the potential there was for someone who really was a customer to lose an election from somebody who wasn't. And my friend was Ken Gnadt, mayor of Grand Island, again a popular person. It could have happened. I think Ken might have done a good job but was it right? In my opinion, no, I don't think it was. Luckily that didn't happen. The other thing I wondered and I know all of you have run for election, but how do you campaign for votes from someone who you really don't affect their lives? I mean, you don't change anything. The last two years we've have double digit rate increases at Southern Public Power, some of them coming from NPPD and, you know, we've got to be responsible for that. I don't think Lincoln has seen that, based upon the participation contracts that they have. Going forward, what we're really concerned about is this industry is changing an awful lot and there are some predictions for some very large increases in cost. And, you know, if you go back maybe when Mr. Rasmussen started on that board, or others when we had 1 or 2 percent rate increases every other year, it wasn't quite so critical. Twelve percent last year, we did 11 percent ourselves this year. It starts to make your customers wonder what's going on. I think pretty much, that's most of my testimony except for one final area. One of the things that we are concerned with is as this is written, it would be the next census that would change, six months after that, roughly 2012. In 2010 there are three positions up for election on the NPPD board and all three of those have the potential to be skewed by noncustomer votes. Potentially you could have a noncustomer be elected. One of those positions in 2004, I think it's roughly seven or eight counties of Subdivision 8, two of those counties or so are served by NPPD. There was a race in that subdivision. The person who won the counties served by NPPD lost the election because the incumbent won the other counties. And those principally were served by OPPD. I don't think that's right. I think we need representation by people who get an electric bill in their hand and feel the brunt of the decisions of that board. So, I guess I would request that possibly you look at some sort of amendment or change that would at least allow the NPPD board to make that change sooner if they so saw fit. And with that I'll just stop and answer any questions you might have. [LB53]

SENATOR LANGEMEIER: Are there any questions? Senator Haar. [LB53]

SENATOR HAAR: Yes, Senator. How many million megawatt hours do you buy, again? [LB53]

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GARY HEDMAN: We bought one billion. We can translate that into megawatt hours or whatever, but when you get a bill, it doesn't say megawatts, it says kilowatts. [LB53]

SENATOR HAAR: Right. [LB53]

GARY HEDMAN: And we sold one billion kilowatt hours this last year. [LB53]

SENATOR HAAR: My question is, how much of that...you said 72 percent came from NPPD. [LB53]

GARY HEDMAN: All of it did. All of it did. What the 72 percent was is all the costs of our district, 72 percent of those costs are related to the decisions and the efficiency of the NPPD board and operations. So when they do something it effects 72 percent of my cost which I've got to pass on to my customers. Rarely do we have a rate increase that doesn't involve some sort of wholesale rate increase as a reason for doing that. [LB53]

SENATOR HAAR: You had said you see some large increases in cost coming. Where do you see those coming? [LB53]

GARY HEDMAN: Well, I think primarily a lot of them are coming in the environmental area. There's environmental controls and things like that there will be some fairly huge capital expenditures. There is, right or wrong, global warming type legislation coming along that makes one of our lowest cost generation resources possibly not the generation resource of the future, coal. And those are costs that, and decisions that are going to have to be addressed. And they're going to be expensive, so. [LB53]

SENATOR HAAR: Thank you. [LB53]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much. [LB53]

GARY HEDMAN: Thank you. [LB53]

SENATOR LANGEMEIER: (Exhibit 6, 7, 8, 9) Any other supporters? At this time I'm going to read in, I have three letters to submit in the support category. Michael Morgan with the city...who is a the city manager of the city of Kearney has submitted a letter in support. Lance Hedquist, city administrator from the city of South Sioux City, and Tom Rudloff with Elkhorn Rural Public Power District. Those three would like to submit letters in support. Now we'll move on to opposition. Do we have anyone that would like to testify in an opposition stance? Seeing no one to come forward on that, I do have one letter to submit in opposition offered by Chris Beutler, mayor of the city of Lincoln. Seeing no other opposition, is there any neutral testimony? Seeing no neutral testimony, Senator Fischer you are recognized to close on LB53. [LB53]

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SENATOR HAAR: Senator, is there any way to ask a few more questions of John?
[LB53]

SENATOR LANGEMEIER: No. [LB53]

SENATOR HAAR: Okay, I'll ask later. [LB53]

SENATOR LANGEMEIER: You'll have to do that afterwards, thank you. [LB53]

SENATOR HAAR: I'll see you in my office later. [LB53]

SENATOR LANGEMEIER: He will be there, trust me. (Laughter) He will follow you there, today yet. Senator Fischer, you are recognized to close. [LB53]

SENATOR FISCHER: Thank you, Chairman Langemeier. Thank you to the members of the committee, I think we had an excellent presentation on this bill today and hopefully you have gained a little more understanding on why I am introducing it. I truly believe that this is a question of fairness, it's a question of equity and it needs to be addressed. Those who are served by NPPD should have representation and they should be the ones that vote for that board of directors. I understand the concerns with Lincoln. I think that has been addressed in the fact that they participate in two contracts and they have legal recourse with those two contracts. They also elect members to their municipal board to Lincoln Electric System, which is what I was referring to in my opening when I said all citizens of this state do have representation on some public power board or municipal board and we need to keep that in our thoughts too, that we are not disenfranchising any citizen in regard to their representation with their electricity. I would like to point out that every current board member on NPPD will keep their position because this bill will not take effect until after their term has expired. We're not out to try and throw a board member off of the current board. They will complete their term that they were elected to. Also, I am not targeting certain areas of the state in introducing this legislation. I have areas in my district that are affected by it. The city of Broken Bow will be affected by this. Currently a member of the NPPD board lives in Broken Bow. He supported this bill. He supported on the vote of NPPD's board of directors this idea, knowing full well that he could not run again for a position on that board. Also this doesn't, in Mayor Beutler's letter when I read through that at the beginning it refers to Lincoln and Lancaster County not being able to have representation on the board. I would like to point out that Lincoln, Waverly, and Bennet are the only cities in Lancaster County that would be affected by it. Davey, Denton, Firth, Hallam, Hickman, Malcolm, Raymond, Roca, they will not be affected by this bill and they are still able to vote for representation on the board at NPPD. Again, I thank you for your attention to this. I hope that you will realize that the purpose of this bill is to address fairness and equity on the board of directors of NPPD. Thank you. [LB53]

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SENATOR LANGEMEIER: Thank you, Senator Fischer. And with that, that closes the hearing on LB53. I want to thank everybody that took the time to come down and participate. We'll now move on to LB14 and Senator White is here to do his introduction, and we might wait just a second, Senator White, to allow the room to clear. We would ask that you take your conversations outside so we can continue with our hearing today, thank you. Senator White, I think we're ready if you are. [LB53]

SENATOR WHITE: Yes. Thank you, Senator Langemeier. Tom White, W-h-i-t-e, I am senator from District 8 and I want to express my appreciation to the Natural Resources Committee and Senator Langemeier for allowing me to introduce this bill today. I would like to explain, generally, what LB14 would do and talk to you about why it is necessary and where it stands in historic context. LB14, if this committee saw fit to advance it and were it passed by the Legislature, would require state agencies, community college, University of Nebraska system to achieve a 10 percent reduction in energy use per unit of floor energy by 2014 and a 15 percent reduction by 2017. Additionally, LB14 would require state agencies to purchase cost effective Energy Star or Federal Management Program-designated energy efficient products and require that new state buildings meet energy conservation standards developed by the State Energy Office. The Energy Office standards will be consistent with those used in two widely adopted model energy conservation codes, The American Society Heating, Refrigerating and Air Conditioning Engineers and the International Energy Conservation Code. I would ask committee that should they decide to take this bill and work with it and try to move it forward, there was a drafting oversight that I take responsibility for, state colleges were left out of the bill; that was by oversight and should be included. I would like to talk now to the committee about the public policy behind this bill and some of the considerations both before and against it. First of all, this bill will save dollars. How we are, everyone will tell us in a time of economic crisis there has been statement after statement made by, I think all elected officials, that government needs to cut costs, do more with less. And yet, I have yet to see very many bills if any other than this one that would actually mandate a cost savings for government. So I would tell you the first thing is, this bill is a serious effort to address the fiscal crisis that we face across all aspects of government. The amount of money that we're talking about in this bill is significant in today's dollars, but because of the way it is drafted, which is a percentage reduction of actual energy used on a per square foot basis rather than on a dollar basis paid today, the savings will increase as energy costs increase and they will increase substantially. What kind of money are we talking about potential savings? Because I do want to get to the fiscal note which I have some serious concerns about for a number of reasons that we'll talk about. And they indicate that they have no clue what might be saved or not. And that is one of the really disconcerting aspects of trying to save money and operate a lean governmental program. It is extremely difficult to get actual reliable numbers on what the state spends on utilities. My office worked on it for two years. We have a letter that we received and a spreadsheet and these numbers, we have gotten a number of different ones estimated

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at us, sent to us. But in September of 2008, we were advised that the electrical costs in fiscal 2008 year was \$38,838,116.96, but that includes some repairs. So what is actually going to be a pure consumption of electrical cost is not really clear. Then the estimate on total utilities for all state agencies, at the same time, it was an estimate of \$64.5 million in utilities and then \$38.8 million in electrical expenses. We are talking about huge numbers, here, enormous numbers. Now, one of the questions and concerns in the fiscal note is whether or not this is achievable and whether or not it's affordable. I would tell you to begin with it's not affordable not to. The state must do the same thing that homeowners are doing. They must find ways to cut their utility bills. And this follows on a bill that was introduced two years ago in this committee that I introduced, that simply asked all state agencies, Department of Administrative Services, to institute audits of all state buildings to determine what were the electrical consumptions and what could be done to save money should they decide to retrofit. That was fought by many of those agencies. I want to tell you all that University of Nebraska has been wonderful with regard to this bill. They understand that with a 1 percent increase, they cannot continue to provide services unless they cut costs and that they have been most willing to work with us and most understanding that this is a real opportunity to not reduce services, but to cut costs. Now, what are the potential savings? Well, if we take the existing numbers, 10 and 15 percent will give you a pretty good minimum cost savings because no one predicts substantial decreases in the cost of energy, just the contrary. In terms of what is fiscally possible or physically possible in terms of savings, well, two years ago and then since I've worked with a number of electrical contractors, heating people, and they will tell you huge savings are quite possible and the returns depending on what you elect to do can be very rapid. We could, literally, be talking about significant percentage savings with nothing more than caulk and new sealing units around doors and windows. If you look at different types of electrical light bulbs you could be looking at substantial issues. You're not necessarily looking at major expenditures. But we are in an era now where energy efficiency is much more affordable and practical. One of the specific examples I can think tell you about because it is a friend who runs it is the new Methodist Women's Hospital. The estimates are with off-the-shelf, computer-controlled damper shuttering in that hospital they will save in excess in electricity alone of \$150,000 a year, in the operation of the same square footage over what they would have done seven, eight years ago. So what we would propose to you is what this states is not that you must do it one way, in fact we would encourage you to do the most effective way, but we're asking now, functionally asking state government to do what the people of this state have demanded anyway. Cut your costs, act like a business, act like a family under financial pressure. I wish that the bill had been advanced in past, two years ago, so we'd now be sitting on top of audits to see what was economically feasible and possible but that was blocked. I think we are past that now that the economic crisis is on us, the energy crisis is on us. Now we have to just tell them to perform. That they can do this, that they can save money, I have no doubt that that will, in fact, be possible. And, in fact, as costs of energy go up the cost of saving it just by blocking drafts, just by putting in better

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windows, the returns become higher, not lower. Thank you for your attention; I'd be happy to try to answer any questions anyone may have. [LB14]

SENATOR LANGEMEIER: Thank you, Senator White. Are there any questions? We'll start here...Senator Dubas. [LB14]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Senator White, for your information. Are you aware of any projects maybe that are currently going on within any of these agencies? [LB14]

SENATOR WHITE: I am told that the University is already working on this and that they're looking at trying, and have looked at trying some of the savings of the programs. What this would do is institutionalize that across the board. I would also hope that with reports, we can actually see what they're doing because if the University is finding this is a good cost benefit project that then the Department of Administrative Services could look at that for state office buildings. That if we do it as a state across the way, we'll get better at it and we'll share that information. [LB14]

SENATOR DUBAS: So would you see that these different groups could approach this in phases? Like something, starting out with something as simple as just changing the light bulbs and putting come caulk around windows... [LB14]

SENATOR WHITE: Absolutely. [LB14]

SENATOR DUBAS: ...and then move on from there. You're not looking at this as, you know, rip all the windows out... [LB14]

SENATOR WHITE: Oh, no. [LB14]

SENATOR DUBAS: ...you know put in insulation, that type of thing. [LB14]

SENATOR WHITE: Oh, no. And I would urge the low-hanging fruit be picked first. You know, if it simply is, and often it is as simple as going in, taking an infrared picture of a building and blocking obvious signs of heat loss. Of going in and changing bulbs to either a lower wattage bulb or a different type of bulb. To changing motors in your air handling to a much more efficient motor. To buying more efficient, energy efficient refrigerators and other items because the economic changes have been...and they're environmental and their efficiency changes have been incredible. And I would urge them and we clearly leave that, that I'd expect that they'd get the most reduction for the least money. We don't dictate that because I don't think it's the right...each group should try to make their own decisions in this way. [LB14]

SENATOR DUBAS: Okay. Thank you, very much. [LB14]

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SENATOR LANGEMEIER: Senator Haar, you had a question. [LB14]

SENATOR HAAR: Senator. Couple questions, well first of all I'd just like to relate my...in response to your question. The Lincoln Public Schools are a great model. They're putting ground source heat pumps in all their schools and payback period, with a payback period of around five years. We can now heat and cool the buildings for less than they heated them before. [LB14]

SENATOR WHITE: Yes. [LB14]

SENATOR HAAR: Yeah, and so... [LB14]

SENATOR WHITE: And I think Mr. Winston will be testifying behind me and he was instrumental on the board to get that policy into place many years ago. [LB14]

SENATOR HAAR: So there's exciting things out there. Now does this refer to the state only or to all levels of government? [LB14]

SENATOR WHITE: All...state only at this point, only state buildings. [LB14]

SENATOR HAAR: Okay. [LB14]

SENATOR WHITE: It does not try to order cities or counties to do it. I think we should lead by example and, in fact, as you point out, Lincoln Public Schools are way ahead of where we could probably tell them anyway. So, you know, I fear somehow we might actually hold them back by these standards; they're already quite far advanced of us. [LB14]

SENATOR HAAR: Okay. Do you have any kind of time line on this? Have you thought of that? [LB14]

SENATOR WHITE: Well it would be...the proposals, and they are proposals, obviously this committee can look at feasibility, change dates... [LB14]

SENATOR HAAR: Sure, sure. [LB14]

SENATOR WHITE: ...and should. But it would be 10 percent by 2014, and 15 percent by 2017. [LB14]

SENATOR HAAR: Oh, okay. I'm...yeah. [LB14]

SENATOR WHITE: And that would be the proposed deadline in there. And again, you

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know, that's far enough out that if there are good faith efforts and that's not realistic, thought I doubt that, then certainly they could approach this committee for a modification as we move forward. But I do think we need to move now. If they're right, as we heard in the last hearing, carbon tax is coming on coal. If we're looking at the other things, we could easily see energy costs doubling in the next four to five years and a bill like this will produce enormous savings for the people of the state of Nebraska. [LB14]

SENATOR HAAR: Now, you're saying, for example, that these conservation things must be in place by 2014 or simply the study done by 2014? [LB14]

SENATOR WHITE: No I...this bill we had done before, we'd asked two years ago, Senator, that we do audits...that self-audit report and what could you save and what would be the most cost efficient and that just got nowhere. To be honest with you, bureaucracy was not pleased and it died. This bill says fix it. [LB14]

SENATOR HAAR: By 2014? [LB14]

SENATOR WHITE: Fix it, you're out of time and the people are out of patience and to be honest with you the economic crisis and the energy crunch, it's too close now. We can no longer just do the warm and fuzzy and, you know, now fix it. My best understanding based on talking to experts, these are very achievable numbers. [LB14]

SENATOR HAAR: Okay. Thank you. [LB14]

SENATOR LANGEMEIER: Senator Schilz. [LB14]

SENATOR SCHILZ: Senator Langemeier, thank you. Senator White, thank you. I...and you just touched on that a little bit, I guess my one concern would be on this...I think you're exactly right, I think there's ways that you could save some pretty large sums of money if everybody would get on board. I do have a question, though, on the time lines. I guess, to me, I wouldn't want to put a time line out there and then have somebody say, well in order to reach this I have to take out this perfectly good piece of equipment and replace it with something that is...and is there some of that thinking in there, is there room for some of that thinking to say, hey, look as equipment needs to be replaced to take care of that? [LB14]

SENATOR WHITE: I, Senator, I think that's all well within this committee's view as you do further studies. You have greater expertise certainly than I do. The only thing that I would urge you to consider is that we tried that approach two years ago, which was much more mild than that. Just look at your building, tell us how you could save it, give us estimates what it would cost to save it and what the return would be and it was, yeah, it was just really unpopular. Well, you know, if you can't get people to just...come

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on, it's in your own best interest and, you know, to look at this, then I think at some point we did change tacks and we put them, you know, should this committee decide those are unrealistic upon further reconsideration or there are better ways to approach it, I would applaud any of that. What I think we absolutely need to do, though, is force state government to deal with the fact that we can't just burn energy blindly because we don't have the money anymore, the cost of energy is going up too high, and the people won't stand for it. [LB14]

SENATOR SCHILZ: And there are simple things that we can do to save money. [LB14]

SENATOR WHITE: Yes, absolutely. [LB14]

SENATOR SCHILZ: I understand, thank you. [LB14]

SENATOR LANGEMEIER: Senator Haar. [LB14]

SENATOR HAAR: Senator Langemeier. One thing I think you might want to consider here is that, for example, you say using July 1, 2007, and so as a baseline your, for example, the Lincoln Public Schools, some of them were really made very energy efficient before that time... [LB14]

SENATOR WHITE: Right. [LB14]

SENATOR HAAR: ...so you might want to build something into this. [LB14]

SENATOR WHITE: And to the extent that that becomes an issue, Senator, I agree that's within the purview of this committee. Again, I think, my own personal experience is frustrated because that's the kind of information that should have been available with the bill past two years, we should be able to sit with you, you should have in front of you from every agency, detailed studies on the buildings, and saying, okay, look, this is what we consume in this building, this is what--and by the way, many of these at the time were free or no cost, NPPD or OPPD would have done the energy analysis for them at that time. But there are many, HDR there are a number of engineering people, those are the kinds of things that should have been done, should be available, and they should be able to look at it. The other thing I would very much would have appreciated is if we had that kind of information we could look at a revolving fund where perhaps we eat the money one time to put it in an energy efficiency fund and then as that building improvement is made with that fund, their savings go back into the fund... [LB14]

SENATOR HAAR: Yes. [LB14]

SENATOR WHITE: ...so then we can rotate it to the next most best economic payback. These are things that could be done but until we can get the bureaucracy and the

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agencies to really face the problem and look at a hard, critical level at their energy consumption and the economic costs of trying to reduce it, we can't do real planning. So I guess I would say, this is now the committee's bill to do with it what it is. It is no longer, in my opinion, my bill. As long as the committee is moving this state towards economically hard decisions to be energy efficient, I think anything would be an improvement. [LB14]

SENATOR HAAR: Thank you very much. [LB14]

SENATOR LANGEMEIER: Senator White, I have one...I don't know if it's a question or a comment, but as state agencies that we're a part of, put everything out for bids and it's always low bid, low bid, low bid. I'm thinking of a way, and this is something I'm going to challenge you to help me with, is there a system we could go out there then says if we buy this furnace that's 20 percent more efficient... [LB14]

SENATOR WHITE: Um-hum. [LB14]

SENATOR LANGEMEIER: ...how do we create a value for that to counteract the additional cost? [LB14]

SENATOR WHITE: Well, I think the law right now, and I'm not sure in the state but certainly on the city and counties is the best bid, which certainly low price is a major component, but not always the only component. And so this, if it's necessary and I'd ask your legal counsel to review that, but I would say you could, for example, put in the bill that in computing the best bid and the lowest cost, the lifetime energy use of the piece of equipment shall be considered in comparison to the purchase cost. Certainly, I think we do that now on warranties, things like that where we might be able to get a cheaper piece of equipment but it has no warranty so we opt for something that's more expensive initially but less expensive over the life of the product. [LB14]

SENATOR LANGEMEIER: Okay. Any questions? Seeing none, thank you. [LB14]

SENATOR WHITE: Thank you for your courtesy and with your permission I'll waive my closing unless you believe it's necessary. [LB14]

SENATOR LANGEMEIER: That was going to be my question. Thank you very much. [LB14]

SENATOR WHITE: Thank you. [LB14]

SENATOR LANGEMEIER: You have heard the opening on LB14, we'll go to continued support. Mr. Winston. [LB14]

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KEN WINSTON: (Exhibit 10) Thank you. Thank you. Senator Langemeier, members of the Natural Resources Committee, my name is Ken Winston. My last name is spelled W-i-n-s-t-o-n, and I'm here representing the Nebraska Chapter of the Sierra Club. And Senator Haar already stole about half of my testimony so... [LB14]

SENATOR HAAR: I am sorry. [LB14]

KEN WINSTON: No, no, that's great. It's always good to hear things come out of the mouths of senators; it eliminates part of what I have to say. The things that I wanted to talk about a little bit this afternoon in relation to our support of LB14. I guess one of the first things I want to talk about is the idea that this is really a conservative idea. The idea that saving energy is saving money and anything that I know about Nebraskans is they like to save money, and so the idea that we can save some money by becoming more energy efficient is consistent with our Nebraska conservative heritage. Then I just talked a little bit about...in my second paragraph is what Senator Haar talked about. Back in 1991 I got elected to the Lincoln School Board and one of the things the school board did at that time was we were developing and we were going to build some new school buildings. And so we went to, we had to put together a construction review committee, and one of the recommendations of that construction review committee was that we use ground-coupled heat pumps, or I've heard lots of different terms for them, but geothermal heat pumps. And originally at that time there was a lot of controversy. People said it wouldn't work for school buildings. They knew it would work for smaller buildings but people said, well, that's not going to work for buildings as large as school buildings. And so at the time there was six buildings that were built. Four of them used the ground-coupled heat pumps and two did not. And the four that used ground-coupled heat pumps, their energy usage was way down, and the two that did not, their energy usage was way up. And so you had an immediate case study of showing that the ground-coupled heat pumps did work and as a result of that, the Lincoln Public Schools has come back and they're retrofitting all of their buildings, they're currently in the process of retrofitting all of their buildings to make them energy efficient. And, of course, they're doing more than just the ground-coupled heat pumps but they are doing the ground-coupled heat pumps and one of the examples that I included was an elementary school that cost 79 cents a square foot to just heat. And now that they've retrofitted the building it costs 66 cents a square foot to heat and air condition so that you're getting more use out of the building for a longer period of the year and it's a more comfortable building for students and teachers but at the same time, they're saving more than 15 percent of their energy savings over their previous energy costs. And I don't have the current energy costs, but the last that I heard the Lincoln Public Schools was saving over \$1 million a year in energy costs by virtue of the efficiency measures that they're using. And then I guess the third thing that I wanted to talk about is the idea that this can be paid for through the savings. And there...one of the things that I would have liked to see this bill contain would have been a funding mechanism. And I understand that that no one likes to have their name next to an appropriation, particularly in the current

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legislative environment or economic environment. But a funding mechanism would have made a lot of sense so that there could be funds to acquire the kind of efficiency systems that we're looking at. Now, I know that there are a number of loan programs out there. The Energy Office themselves have a loan program, of course, the state doesn't...as far as I know they don't loan money to themselves but it's mostly for private sector loans and it's a good loan program. They've got...last I heard they have \$24 million in it and lots of people are taking advantage of it and most of it's being used for residential projects but there's also some private schools that are borrowing money and for energy efficiency and they've had really good success with that program, and I'm sure they can tell you a lot more about it than I could. But there are also private sector loan programs that use the same idea, which is that the money is...a private lender will provide the funding up front and then the loan is paid back by means of the energy savings. And so that's another way that something like this could be funded. I guess the third thing that I wanted to mention is that the new federal administration is talking a lot about providing funding for energy efficiency and this also might be a means of funding something of this nature. And I guess the final thing would be the thing that Senator Haar also mentioned, we would like to see credit for people who are already doing the right things. You wouldn't want to have them to have to make additional expenditures for people who have already gone out and made those expenditures to become more energy efficient. There ought to be some sort of bonus or some sort of credit for their efforts in that regard. And then I think the thing that Senator Langemeier, the question you were asking...it's a question of first cost versus life cycle cost and I think you can look at how much does it cost up front or how much does it cost over the course of operation and I believe that there are some mechanisms for doing that. There's a gentleman who is an engineer who I believe is going to testify after me and he probably...I know that he knows more about that than I do. So, but with that I would be glad to answer questions. [LB14]

SENATOR LANGEMEIER: Okay. Are there any questions? Senator Haar. [LB14]

SENATOR HAAR: Senator. Well, I'll steal a little more of your thunder, maybe. One of the interesting things about conservation is it often brings new jobs to the area and there's a company, a well drilling company from Texas that was doing so much drilling at Lincoln Public Schools they now opened a branched office in Lincoln. So along with conservation comes other benefits which includes local jobs. [LB14]

SENATOR LANGEMEIER: Seeing no other questions, thank you for your testimony. [LB14]

KEN WINSTON: Thank you. [LB14]

SENATOR LANGEMEIER: Further support for LB14? [LB14]

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NATE MANIKTALA: Good afternoon, Senator Chris Langemeier and the committee. My name is Nate Maniktala, M-a-n-i-k-t-a-l-a. I come here for the first time to represent the U.S. Green Building Council. I am a regional representative of the U.S. Green Building Council. I am also the vice president and cofounder of M.E. Group Green Services Division. M.E. Group is an engineering firm who has been in Nebraska for 30 years. I founded the green services division and what we do is we focus on projects that improve energy efficiency and the environmental footprint of buildings all over the country. Currently working throughout the United States, Canada, Mexico, and Dubai. I come and offer my support for this bill because I believe it's important for the state of Nebraska to emphasize conservation in buildings. Buildings represent nearly 40 percent of the energy consumption in the United States so it is a big source, it's the largest source of energy consumption greater than transportation and greater than industry. In addition, it represents nearly 70 percent of all the electricity consumption in the United States. So if we can improve efficiency in our buildings we will make a significant impact in our energy consumption. This is not going to be the first of its kind if legislation is passed. There are other precedents that have been set by other states. In addition, by the federal government. My company and others work for the federal government to improve the energy efficiency of their buildings and they have an executive mandate to improve the energy efficiency of their public buildings, this is the General Services Administration of the federal government, by 3 percent every year for the next ten years resulting in a 30 percent improved efficiency. So when you look at these benchmarks I think, again, kind of accounting for correcting perhaps the baseline issue and there are some other things that can be modified in this bill to make it more effective. The goals, I think, are realistic. In addition to, you know, similar mandates there is also other incentives out there for energy efficiency that have been put forth by utility companies including Lincoln Electric System who is putting forth also an incentive to have their customers evaluate their building's consumption. And so they're looking at offering incentives as well, where they can provide some subsidy for having an engineer come and do an evaluation of the building and look for opportunities to save energy. The federal government has through EPact...does provide a tax deduction for energy efficiency as well that can equal a total of \$1.60 a square foot--\$1.80 a square foot is what it is--in tax deduction for buildings that improve energy efficiency over a baseline. Oftentimes the baseline that is used is a industry standard. There are a couple other standards that can be used ASHRAE, is one that's been referred to in here as well, which will give you typical building, typical square footage in a geographic location and give you what that building standard should achieve and you can use that as a baseline for buildings perhaps that are already perceived as being efficient to kind of help level that out. In addition, the benefits that we see for this and the reason why I'm a big proponent of it is that currently probably 90 percent of my work is done out of state. But I live and I've been a resident of Lincoln all my life. We are, you know, headquartered here and we'd like to see Nebraska take some steps forward and pursue energy conservation. This will help, obviously, reduce operating costs, reduce infrastructure expenses in the future and improve jobs. This is obviously a time when the engineering

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community in Nebraska is seeing a slowdown in new construction and in new developments in the private sector and so I believe we have the intellectual power in this state to provide these services. And it will help stimulate that industry while providing a benefit to the state in terms of costs as well. If you have any other questions, I'll take questions now. [LB14]

SENATOR LANGEMEIER: Okay. Thank you. Are there any questions? Senator Schilz. [LB14]

SENATOR SCHILZ: When you talk about that, I think you were talking about the federal government and a certain agency was it that was trying to cut back 3 percent a year for 10 years? [LB14]

NATE MANIKTALA: The General Services Administration. [LB14]

SENATOR SCHILZ: Thank you. Is that a progressive thing, I mean, or was it taken from a baseline and then 3 percent from that baseline every year? [LB14]

NATE MANIKTALA: Right. It will be 3 percent from the baseline. [LB14]

SENATOR SCHILZ: So every year it gets even tougher. [LB14]

NATE MANIKTALA: Every year it goes from three then six over the baseline, nine, until you get to 30 percent. Thirty percent is something that there's, you know, 2030 is another group there where the people are looking at it in terms of carbon versus in terms of energy savings. And so there is a push also in addition to that for the federal buildings to reduce their fossil fuel consumption which is a little bit separate than just looking at energy. They have a goal by 2030 to have 100 percent reduction in fossil fuel consumption in their buildings, so. [LB14]

SENATOR SCHILZ: Who is this? [LB14]

NATE MANIKTALA: This is the federal government. [LB14]

SENATOR SCHILZ: One hundred percent? [LB14]

NATE MANIKTALA: One hundred percent. [LB14]

SENATOR SCHILZ: Interesting. Okay. [LB14]

SENATOR LANGEMEIER: Senator Haar. [LB14]

SENATOR HAAR: Thank you, Senator. Obviously, with new buildings they are

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constructed to be energy efficient, I mean, they can be. But what kind of changes do you often see in your line of work as people improve efficiency in other buildings. [LB14]

NATE MANIKTALA: Thank you, Senator, for that question. That brings up a good point. There is a term called commissioning. Commissioning is an industry within the engineering community that looks at buildings and identifies ways to improve the efficiency of those buildings and make them operate closer to the needs of the users. [LB14]

SENATOR HAAR: Um-hum. [LB14]

NATE MANIKTALA: Even buildings that have been built two years ago oftentimes do not perform the way they were supposed to be performing. When you look at a building that's a very complex structure, when...they're usually custom, you know, this is the first...this is one of its kind. There's a lot of different moving parts and a lot of different parties that go into constructing a building. And even though the engineer, and we are engineers and we design buildings in our firm and what we put on paper is supposed to work the way we want it to, but oftentimes in the field the way the building is being operated, the way it was even constructed, they aren't operating near what they were predicted to operate. Oftentimes they are less efficient. And so what is necessary is for someone to come in and evaluate the performance of that building using the actual data and then create modifications that may not even involve construction. They can involve just the way the systems are being controlled. Buildings are more and more sophisticated now and so you have the ability through controls to reduce your energy consumption even to meet that 10 percent, 15 percent. If you think of a large building, one room might be on heating mode and another might be on cooling mode and they can be sometimes working against one another. There are...we've gone into buildings where we've had, we've seen fans that were installed backwards. I mean, it's a 300,000 square foot building and your technician who is putting these things together, you don't have the manpower to look at every little piece of thing that's done when it's constructed. And so that's a courthouse that we did this year in Massachusetts and we literally went in and we saw wiring backwards and all these different types of things and it was renovated in 2004. And so we're predicting energy savings that are significant just from what it was doing this year to next year by making some modifications that are minor. [LB14]

SENATOR HAAR: Okay. And then real quickly because this term will come up sooner or later, LEED Certification. [LB14]

NATE MANIKTALA: Yes. LEED is a rating system. I mentioned that I am a representative of the U.S. Green Building Council as well. They are the authors of the LEED Certification; it stands for Leadership in Energy and Environmental Design. The certification quantifies, it's intended to quantify how green a building is. By green, we

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mean has a low impact onsite, uses less water, is more energy efficient and produces less harmful emissions and has a healthier, more productive indoor environment. Those are the components that make up a green building as it's defined by LEED. So LEED is just a third-party certification of a building that shows that it meets those standards. [LB14]

SENATOR HAAR: Thanks. [LB14]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LB14]

NATE MANIKTALA: Thank you. [LB14]

SENATOR LANGEMEIER: Further support of LB14? Excuse me. [LB14]

RUTH CHERMOK: Senator Langemeier and members of the Natural Resources Committee, I'm Ruth Chermok, R-u-t-h C-h-e-r-m-o-k, executive director of the National Electrical Contractors Association, representing our member firms and also conveying the support of the 1,500 electricians that we employ in the state that are members of the International Brotherhood of Electrical Workers. I want to thank Senator White for starting this conversation and initiating this idea and having the foresight. You know, this is not only probably the right thing to do, but it's just really the smart thing to do. The private sector has already led the way. Senator White referred earlier to a friend of his that happened to be my president of my association and he tried to share his expertise with me. I hope he did a fairly good job because I know just enough about construction to be really dangerous. But he's the contractor that was referenced that's doing the work at the Methodist Women's Hospital on West Dodge. I would love to take you all there and show you the technology that's in that building. And it's all very affordable under today's standards. On new construction, many times the systems that can be installed are actually cheaper, you know, than the old way of doing it. There's also a difference between green and LEED buildings, although we do work and install a lot of those systems and just trying to adapt and start with small steps to reach the goals that have been set forth for reduction by Senator White's bill. There are real dollars that can be saved on retrofits. He spoke about some of the practical, tangible light bulbs and so forth but the advances in technology have been incredible. Only a few years ago almost all systems that had an automated monitoring function were proprietary. If you installed a certain HVAC system and it was a certain company, you know, you could only monitor and run it with their systems. Through the advance of some early systems such as LonWorks which were not terribly cheap we have now reached a level in the electrical construction industry where we have what we call open protocol designs. And we can install really what are, as my contractor described, just pieces and parts leaving the existing infrastructure, leaving the existing wires and manage to get to systems that are uniform and actually create what most people would define as a smart building. The

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smart buildings can reduce energy costs but they can actually make buildings safer and safer for the personnel that are involved in using them. Through we, I'm sure in state government there's all kinds of card access systems. Through these open protocol systems for very little bit of money and some design effort you can actually get to where the card knows that I'm going in knows what building, knows what office I'm going to adjust the heating and cooling and turns on the lights just on that floor. I would love to tell you about the Methodist project because it's almost space age in its advances. I understand it's going to be set up so that a schedule, a surgery schedule will be provided and if I was the surgeon in this certain time slot it will know what temperature I want the OR and adjust it. And it's even being used to monitor patients in a safety standard. All of those things in that application are designed for hospitals but they're available in all lines of buildings. And another thing that I discussed with our contractors was, you know, what are the costs of people in this in terms of gearing people up for the technology and getting them up to speed? But it seems that most building managers, maintenance managers, they type of people we have throughout the state agencies are already very sophisticated in running auto systems. It's just that oftentimes they've got eight or ten systems that they're managing and as the engineer spoke about before, you'd be surprised that you can find that certain systems just because of the way they've been set up are actually fighting each other. It really requires little or no training. Most of these systems in the open protocol have become so sophisticated it's like a lot of things we do now, we just punch buttons on a screen and you can literally turn things up or down and monitor them. And one of the other side benefits is that some of the alarms and so forth that are set up in these systems are so sophisticated that if...well, one my contractor mentioned, he gets an e-mail on his Blackberry if there's a problem at Children's Hospital, any time of the day or night and then is in a position to work with that building engineer or to respond himself. So, again, there's even savings and things involved in how personnel are placed to monitor and follow a building. So we would strongly encourage you to advance the bill and we would look forward to working with you and providing any expertise we could on the matter. [LB14]

SENATOR LANGEMEIER: Thank you very much. Are there any questions? Senator Haar. [LB14]

SENATOR HAAR: Senator. Obviously conservation is a good idea but you come from the electrical contractors. Talk about the job creation aspect which would seem to be your interest. [LB14]

RUTH CHERMOK: Well, certainly, we'd like to install these systems and we know how. I mentioned we have 1,500 IBEW electricians that we employ between about 40 member firms. Our training center happens to be...we have one here in Lincoln and we have one in Omaha. [LB14]

SENATOR HAAR: Okay. [LB14]

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RUTH CHERMOK: We have electricians trained and ready to go. At this current time, in the current economy we have about 140 electricians in the Omaha market that are not working and probably about 100 in Lincoln and, you know, kind of...the thing is, Senator, in terms of up or down employment we are ready to go on these systems. And often, I should have mentioned earlier too, the comment about auditing or whatever, so much of the time well utilities have led the way in being available to do some energy audits, but suppliers of these systems and contractors and engineers are all equipped and will do so at no charge if you'll just take a look at the system. But it would definitely employ some folks. [LB14]

SENATOR HAAR: Thank you, yeah, thank you. [LB14]

SENATOR LANGEMEIER: Senator Schilz. [LB14]

SENATOR SCHILZ: Senator Langemeier, thank you. And I just want to play, or thanks for coming in, I just want to play devil's advocate here for just a moment. If by July 1 of 2014, we're going to cut back 10 percent and we want to do some expansion or new building someplace else, would that then fall under that 10 percent and then you'll have to reduce even more to make that fit and does that really create jobs or does that provide us a problem as we move forward with the deadline and how that works? [LB14]

RUTH CHERMOK: You mean as far as new construction? [LB14]

SENATOR SCHILZ: Absolutely. [LB14]

RUTH CHERMOK: And I would have to defer to Senator White as to his intent on that, Senator, I'm really not aware. I would tell you that in all likelihood in new buildings that are being designed, most of the systems I'm describing are commonplace but there are usually always a few more things that could be done. I appreciated Senator Langemeier's question about the equipment earlier. [LB14]

SENATOR SCHILZ: Sure. [LB14]

RUTH CHERMOK: Because that is one of the biggest issues we hit. Nobody seems to respond to best bid, it's always the lowest bid. So it probably would be a good idea to work out a way that we can achieve on new construction something through some identification. [LB14]

SENATOR SCHILZ: Because what you may have is you may have all the savings everywhere else and then you have a new building that wants to go in. If you have a flat bar that says, hey, you can't. You have to reduce by 10 percent. You put a new building in and all of a sudden because of that new building's energy use you're out of

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compliance in your thing and now what do you do? [LB14]

RUTH CHERMOK: That's a good point. [LB14]

SENATOR SCHILZ: I'm not sure that would create jobs, so. [LB14]

RUTH CHERMOK: The only thing I might offer is that in the last three to four years with what's occurred with the technology and I can't tell you that it will continue to grow at the rate it is, it almost seems like just through small devices and chips and connectors you can get great bang every year you're in...you're at... [LB14]

SENATOR SCHILZ: Oh, I'm not disputing that, I know what you're saying. [LB14]

RUTH CHERMOK: ...yeah, I understand your point. [LB14]

SENATOR SCHILZ: Thank you, very much. [LB14]

RUTH CHERMOK: Thank you. [LB14]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LB14]

RUTH CHERMOK: Thank you. [LB14]

SENATOR LANGEMEIER: Next supporter. Welcome. [LB14]

MARY CAMPBELL: Senator Langemeier, members of the committee, I'm Mary Campbell, C-a-m-p-b-e-l-l. I'll try not to pile on here because much has been said about the Lincoln Public Schools. I'm the registered lobbyist for LPS. We are supportive of this but I'd like to just echo a couple of the provisos or qualifiers that at least two of the senators have already hit on. It might be helpful to let you know how we got into this very enviable position to be doing what we're doing with our school housing. A couple of years ago the voters of Lincoln very generously, and wisely I think passed what turned out to be the currently the biggest school bond issue in the history of the state. And it was after about a year's community involvement and building the process for a ten-year project, where all quadrants of the city, all types of schools and facilities will either be experiencing new construction or will be renovated retrofitted. And in all of those instances, energy efficiency has been one of the very high priorities in those projects. Since passage of the bond, we immediately embarked on the first phase of this ten-year project and that involved 28 of our 62 school buildings are either new construction or are being retrofitted and that includes our very oldest school, Lincoln High. If you've driven past that over the last year, you've seen the field to the south of it all torn up and that was to put in the underground thermal heat pumps. So we're very committed to this

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and very serious about it. The qualifiers, the provisos that I would raise is just to know what are the base standards and also that through these things, through the current projects that we're involved in we have effected 20 to 30 percent consumption reductions and again, as you pointed out, Senator, will passage of this bill subject us to another 10 percent further reduction? That could be problematic, that could be very costly and might delay us moving into phase two, phase three of our ten-year project. I'd add...I just have to proudly say too, all of our, these 28 projects in first phase are coming in ahead of time and under budget and because of those savings and things like bond premium payments and so forth we're able to be looking further and further down the line and doing more to create facility equity in all of our neighborhoods throughout the community. So very pleased for the support I'm certainly hearing for what we've been doing. And I would offer up Scott Weiskamp from our buildings and maintenance, he's an architect on staff who is managing all of these projects as well as overseeing all of the building and maintenance needs of the district. He has a PowerPoint program that was shown to many staffers this summer here in the Capitol and is a wonderful resource should that be helpful to your drafting needs. And so, with that. [LB14]

SENATOR LANGEMEIER: Thank you. Are there any questions? Senator Fischer. [LB14]

SENATOR FISCHER: Thank you, Chairman Langemeier. Thank you, Ms. Campbell, for being here today. Congratulations on your new job, by the way. [LB14]

MARY CAMPBELL: I appreciate that. Happy to be the new Virg Horne. [LB14]

SENATOR FISCHER: I know you've always had an interest in education, so it's nice to see you're in that field. I congratulate Lincoln on passing that bond. You said it's the largest bond issue in the history of the state of Nebraska, is that correct? [LB14]

MARY CAMPBELL: That's my understanding. [LB14]

SENATOR FISCHER: There's a number of districts, and I would say the majority of districts across the state that have put forth bond issues have not been able to get them passed. With this bill's requirements the school districts have to implement these, well, they'd be mandated requirements from the state on school districts, another state mandate on school districts and they can't get a bond issue passed and they have to live under lids and levies, how are school districts going to meet this? [LB14]

MARY CAMPBELL: You raise a very good question and that's why I'm truly grateful that our timing was such that it was. I think there are some other provisions in the hopper. I believe Senator Harms has something perhaps on capital construction needs. We have to be creative for the students across the state in trying to find ways to effectuate these things. Spending money up front to save money in the long-term is a very difficult

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proposition but one that I think, increasingly, society has to try to address. I hear you, maybe again, offering up a resource. Senator Campbell was one of the co-chairs of the bond issue initiative and I think she could be a real resource for any school districts on how you get the kind of community buy-in information and participation to pull off a vote like that. I know it's increasingly difficult. [LB14]

SENATOR FISCHER: I was on a school board for over 20 years before I came down here and was demoted when I came down here to Lincoln. What I heard from people when I was on that school board and what I hear from my constituents today is that property taxes are too high in the state of Nebraska and we certainly, they tell me we certainly need any more state mandates. And being on a school board, that had to be the biggest complaint that I heard from our teachers, from our administrators, and from the public that we don't need any more state mandates. Most of the time that was referring to curriculum and the direct education and the instruction of students. This is a state mandate; it affects school districts. And as I said, if they can't get a bond issue passed, there's no way they can meet it. This affects community colleges that are definitely supported by property tax dollars. I guess I just see some problems with this bill. Not in the intent of the bill, necessarily, I'm not saying it's a bad idea. I'm just saying, I don't care how hard we try to look outside the box, I don't see how this can be financed. Do you have comments? [LB14]

MARY CAMPBELL: All right. LPS certainly shares your position on unfunded mandates. As I explained, we were in a financial position with our very high bond rating and the acquiescence of the citizens of this community to take these initiatives without a mandate. And my concern is, if the bill creates a mandate on top of what we voluntarily did, then we too might be bemoaning that fact. But timing is everything and unless the state together tries to find another way to address construction needs of schools across the state, it will be a very sad thing for our students. How we house them and the facilities inside those buildings, the health, the safety, the protection. I mean, some of our construction just involves the entrances, to secure them against threats we don't even want to think that could come to our students. So, I mean, we're putting money into things like that when we would want to be putting it into classroom delivery, but it is all part of our society today. I'm rambling there, but I share your concerns and I appreciate that our timing allowed us to do as much as we've been able to do before all of this, these other realties have hit. [LB14]

SENATOR FISCHER: Short question, short answer. Did you mention that energy efficiency was in the language of your bond issue? [LB14]

MARY CAMPBELL: I'd have to go back and look, I can't answer that. I'd be happy to do that. [LB14]

SENATOR FISCHER: Thank you. [LB14]

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MARY CAMPBELL: Um-hum. [LB14]

SENATOR LANGEMEIER: Any other questions? Seeing no other questions, thank you Ms. Campbell. [LB14]

MARY CAMPBELL: Thank you. [LB14]

SENATOR LANGEMEIER: Further supporters? [LB14]

MARSHA BABCOCK: Senator Langemeier, members of the committee, my name is Marsha Babcock. It's spelled M-a-r-s-h-a B-a-b-c-o-c-k. And I'm here representing the mechanical side of the industry. You've heard from the electrical, I represent the Mechanical Contractors Association of Omaha. We have 78 members that employ approximately 1,000 workers that are members of Steamfitters Local 464 and Plumbers Local 16. Our companies range everywhere from a two-person shop to a 300-person shop, so we have a variety of people involved in a number of things. But primarily we do do commercial, government, and industrial construction. We've had the pleasure of doing a number of state projects and look forward to doing more. My board of directors asked me to support this bill and identify three reasons for you. First of all, it's just the right thing to do. Our national association has invested a number of dollars in research and education and training to bring contractors and workers up to speed with regard to new technologies in anticipation of the challenges, the energy challenges, that our country and our state will face. Secondly, the standards that are set forth in this bill are entirely possible to achieve. On new construction, ASHRAE will set minimum standards. Those standards will continue to change as technology changes in order to become even more and more energy efficient as we go forward. And we've also got a number of systems and technologies available to take those minimum standards and improve upon them. The real challenge, I think, for the state currently will be the retrofit that my colleague, Ruth, mentioned earlier. But even at that, the standards that are set in here are very achievable. Thirdly, we think it's important that the state demonstrate leadership and set the example for what's expected in this state with regard to energy reduction and energy conservation. Some suggestions that we would have in looking at the bill would be in Section 1, you identify ASHRAE standards. There are nearly 900 ASHRAE standards and so we would like to take a look at how that might be made more specific to apply to the kinds of buildings that you're looking at right now, the state-owned buildings. Also, in that same section in subsection 3 there's...where we appreciate the specificity in terms of what they want to achieve in this bill in terms of reduction, we would just bring to your attention the fact that depending on the building that you have, they may or may not be able to meet even this reduction. For example, I don't know for sure, but if you have a state building, say prison industries that does some manufacturing, sometimes buildings in which there is manufacturing will not even be able to meet these reductions because of the purpose for which it was established

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and the technology available. But in the vast majority of the buildings that you have, it's easily achievable. So we would like to see or work with you in establishing some flexibility in how you set that forth to make sure that you can be successful in meeting your goals. We also have some concerns about measuring whether or not you have met success. There isn't anything currently in the bill with regard to the measurement that would be used. There are a number of measurements out there that can be used and we think it's important that that be identified and that the industries that are involved in this, the engineering community and the contractor community, along with the state Energy Department, come to some consensus as to what that measurement should be. With that, we would like to, again, thank Senator White for his leadership on this issue and I'd be happy to answer any questions. [LB14]

SENATOR LANGEMEIER: Are there any questions for Ms. Babcock? Seeing none, thank you. I need you to fill out a testifier sheet you can pick up by the door. [LB14]

MARSHA BABCOCK: I will do that. [LB14]

SENATOR LANGEMEIER: Thank you very much. [LB14]

MARSHA BABCOCK: Thank you. [LB14]

SENATOR LANGEMEIER: Further supporters? [LB14]

EVA SOHL: (Exhibit 11) Good afternoon, Chairman and members of the Natural Resources Committee. My name is Eva Sohl and I'm representing the Nebraska League of Conservation Voters today. [LB14]

SENATOR LANGEMEIER: Eva, I need you to spell that for me. [LB14]

EVA SOHL: Oh, sorry, E-v-a, last name S-o-h-l. [LB14]

SENATOR LANGEMEIER: Thank you. [LB14]

EVA SOHL: I want to kind of keep this short, and so instead of reading from my letter, I'll just sort of highlight a few points and add a few personal sentiments. I think one of the important points about this bill is that it evaluates...focuses on evaluating life cycle cost as opposed to just looking at up-front costs when we're making long-term investments and considering how much money we're saving taxpayer's dollars in the long run. The other thing about energy efficiency that I think is really interesting about, you know, developments in the industry is that you know, we used to think that, you know, the cheapest kilowatt is the one you don't have to generate and, you know, in order to save money and save energy you adjust your thermostats so that, you know, you're putting up with a little bit colder rooms in the winter or, you know, a little bit warmer

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temperatures in the summer. But, you know, in embracing twenty-first century type technology, we have the ability to get more bang out of our kilowatt buck than we ever have been able to before. And that rather new efficiencies would allow us to power more offices with the same amount of kilowatt hours. So this is a common sense strategic approach to planning for our future. We cannot be short sighted when investing taxpayer dollars in the construction of buildings and infrastructure. One other comment that I'd like to make as that a young person in Nebraska, I've lived here my entire life and I just graduated from the University a few months ago. And I think that being part of the community, not only of people who embrace the environment, but people who are also seeing all of the developments that are happening with energy and the emerging clean energy economy and they want to be a part of that. And so I've worked with young people for a long time and organizations trying to curb the effects of the brain drain in our state and our communities and this is one way to be a part of that. That the state can take steps to appeal to young people and say, we've got a vision for Nebraska that embraces the technologies that you are all creating and want to be a part of and so I think that this is an important...this bill has the ability to send an important message to young people that Nebraska is moving along with the rest of everyone else in the twenty-first century utilizing the technologies that we are willing to develop. Any questions? [LB14]

SENATOR LANGEMEIER: Thank you. Are there any questions for Ms. Sohl? Seeing none, thank you very much for your testimony. [LB14]

EVA SOHL: Thanks. [LB14]

SENATOR LANGEMEIER: Further supporters for LB14? Seeing none, we'll move to opponents to LB14. Are there anyone wishing to testify in opposition? Seeing none. Anyone wanting to testify in a neutral position on LB14? Come on down. How many do we have to testify in the neutral? Show of hands, one, two, three, four. Okay, all right, thank you. Go ahead when you're ready. [LB14]

REBECCA KOLLER: (Exhibit 12) Mr. Chairman, members of the Natural Resources Committee, my name is Rebecca Koller. That's R-e-b-e-c-c-a K-o-l-l-e-r, and I am director of facilities for the University of Nebraska system. In addition to my testimony, you will be hearing from Ken Hansen, the facility director for the University Medical Center and our expert on energy. I'm here in a neutral position on LB14. While the University is strongly supportive of the goals of energy reduction that are laid out in the bill, because of some provisions in the bill, we cannot fully support the legislation as introduced. Prior to commenting on specific items in the bill I would like to provide you with some information regarding energy usage at UNL. Ted Weidner, director of facilities at the Lincoln campus prepared the information that was distributed to you and he would have been here today were it not for an unavoidable conflict. In the information before you, you will see the three types of energy sources used at UNL,

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steam, chilled water, and electricity, how the energy is used, the types of energy conservation improvements that UNL has already made and examples of three projects that have produced substantial energy savings. In addition, on page 6 which I will refer to again, you will see typical energy consumption for three major building types. The two primary concerns this information illustrates are first, the University of Nebraska has made substantial strides in reducing energy consumption; and second, we have a multitude of building types. And as our research initiative grows, so too will our energy needs. As a means of demonstrating our issues with the legislation, I would like to take the case of an office classroom building of 28,000 square feet that happens to be the home of Central Administration, Varner Hall. In 2006, Central Administration served as a guinea pig for UNL who installed a new generation of occupancy sensor controls. In the 18 months following the installation we experienced a 19 percent reduction in steam, a 16 percent reduction in electricity, and a 42 percent reduction in chilled water use. The controls reduced the total annual energy cost by 20 percent, from almost \$58,000 per year to just under \$46,000. To achieve a further 10 to 15 percent reduction in our current energy use, we'd need to invest in costly new technology such as LED lighting. While it would be difficult to further reduce energy usage at Varner Hall, an office classroom type building is the simplest type of building in which to gain energy savings. The building type is occupied at specific hours, allowing for night setback, extinguishing of lights and unplugging of computers. Not so with our research enterprise. I would like to direct your attention to page 6 on the UNL handout and to look at the last group or building type, research laboratories. On this page you can see the typical energy usage of those types of building. As the University constructs more research space, it will prove difficult not to increase our energy usage. From our perspective, the baseline outlined in the legislation disadvantages the University from our proactive efforts in energy reduction and the requirements of overall reduction based on square footage disadvantages the University from building new research space. Our concerns aside, we remain committed to the goal of energy reduction and would be happy to work with Senator White and others to determine what an appropriate baseline might be given work already completed, how energy use is determined and defined, and what standards would best reach the goal. While not an expert, I would be happy to address any questions you might have. [LB14]

SENATOR LANGEMEIER: Thank you. Are there any questions for Ms. Koller? Senator Haar. [LB14]

SENATOR HAAR: Senator Langemeier. On page 7, I find those charts really interesting. I graduated from the University 40 some years ago and those are all existing buildings and so you were able to achieve energy savings in old buildings, not just in new construction? [LB14]

REBECCA KOLLER: We were, but I also need to let you know that some of the buildings that we've retrofitted have cost us substantially. For example, Richards Hall...

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[LB14]

SENATOR HAAR: Um-hum. [LB14]

REBECCA KOLLER: ...we had to, because for pottery we needed to put fume hoods in, safety features, so the energy usage in that building increased dramatically when we improved it. So it depends on the usage of the building and the building type, but yes, we are very proud of the energy savings we achieved. [LB14]

SENATOR HAAR: That's very neat, yeah. And I think from what you've said and we've heard from other people there has to be a provision in this if it's passed on or whatever to allow for energy upgrades in the near past. It seems to me that... [LB14]

REBECCA KOLLER: Yes. [LB14]

SENATOR LANGEMEIER: Senator Schilz. [LB14]

SENATOR SCHILZ: Thank you, Senator Langemeier. Ms. Koller, do you have any idea of the University's intentions over the next 10 to 15 years or during the timeframe of what the bill is setting out as the compliance time period, of how much expansion you plan to do? [LB14]

REBECCA KOLLER With the current economy that's a difficult question to answer. [LB14]

SENATOR SCHILZ: You have a research park that you're trying to... [LB14]

REBECCA KOLLER: We do. We have Innovation Park here at the Lincoln campus. The Medical Center, as Ken will tell you has had a huge amount of expansion of research space. We have a long list of new buildings and renovations that we would like to see come to fruition. In the past, I've been in Nebraska for ten years, the majority of our new construction has been donor funded and given the fact that some people's wealth has decreased, I don't know how soon donor funded projects will be coming forward. [LB14]

SENATOR SCHILZ: Well, then I guess my next question for you is would you still be neutral on this bill if those donations were available and yet you couldn't make the expansion because you couldn't stay under your lid of reducing by 10 percent? [LB14]

REBECCA KOLLER: Most likely not. [LB14]

SENATOR SCHILZ: Thank you very much. [LB14]

SENATOR LANGEMEIER: Thank you very much for your testimony. Seeing no further

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questions, next neutral testimony. [LB14]

KEN HANSEN: I want to thank you, Chairman Langemeier and the Natural Resources Committee for allowing me to testify today. My name is Ken Hansen, K-e-n H-a-n-s-e-n. I have the pleasure of being the assistant vice chancellor of facilities at the University of Nebraska Medical Center. We are under unprecedented growth at the medical center, both in education, research, and health care facilities. I have had that pleasure for the last three years. Prior to that I spent 30 years at Omaha Public Power District in various energy-related positions. The last ten years was starting up a new division to provide energy solutions to large commercial and industrial customers in Omaha, Nebraska, actually the state. We work very closely through the state Energy Office in Nebraska. We were granted some federal dollars to do audits in 40 facilities. We completed those audits over the years of 2000 to 2003-2004 and during that process we partnered not only with OPPD, we partnered with electricians and mechanical contractors in Omaha. We also partnered with the University of Nebraska-Lincoln engineering group out at the PKI building. With that partnership what our goal was, was one to provide building renewal and upgrades in facilities to one, improve comfort in the facility, to provide energy savings and energy reductions and three, the three major goals, and to provide a major economic stimulus to the Omaha area back at that time. Over the five-year period I built a group of 14 personnel at OPPD working with the University of Nebraska Ph.D. students, implemented energy upgrades with minimal cost in facilities--in over 40 facilities--in Omaha ranging in millions of dollars of savings for those companies. The average reduction in energy use went anywhere from 25 to 50 percent and we spent over \$40 million total, including customers like Mutual of Omaha, Offutt Air Force Base, just about every public school district in the Omaha area and outside. I have a lot of experience in what you need to measure and verify and spend the least amount of money to do those things. So coming to the medical center was a real experience. My first week in the office, I called the team together and we put the engineering and operations folks together in a team and with the half a million square feet of space on the board, knowing that energy prices were going up, specifically the natural gas at that time, and looking at what we had "budget wise" and "capacity wise" to serve those buildings, we made a very tough goal. And that was to bring all those facilities online with a zero percent increase in energy and also a zero percent growth in capacity to take care of the education and research facilities. We have reached that. We have been able to--in the last three years--implement several projects. We installed electric boilers. The electric boilers had a payback and basically it helped us diversify natural gas, so whatever's the best price, that's what we run. We were able to save over \$1 million per year. We paid for the boilers within two years. We also had a gas driven chiller for peak times. It was very clear we were going to have to run that chiller all the time once the facilities came on board. Implementing the gas to electric conversion gave us a cost avoidance of over a half a million dollars. We are now installing heat recovery chillers out in the plant areas to provide heat reclaimed back to the research towers. That will provide us in 2009 a \$650,000 reduction in our steam cost. There are several others I

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won't go into. One of the main ones, though, was recommissioning facilities. We have, at UNL and OPPD a lot of experience in recommissioning--in continuous commissioning--and we have recommissioned our existing research tower in the last 24 months, resulting in more than \$200,000 worth of savings and we are presently commissioning the new tower that comes online here in about another month to those same standards. Totally, in the last three years we've achieved more than \$2.6 million in energy savings "dollar wise". Now here's my concern within this bill, is how do we measure and you've heard that already. How do we measure and verify that cost? I know how to do it through the state of Nebraska Energy Office. It's complicated and it's difficult. Also, what happens when we do a baseline and how do we do that baseline? Do we do it off of dollars or do we do it off of energy? I think we need to be specific. I think the biggest plus of this bill that could help folks is we were not only able to save the money, \$2.6 million per year, but we were able to basically defer capacity in the chilled water plant. So what we thought we were going to have to do when I came three years ago was build a new building addition for more chillers for the new buildings. We are now sitting at a point where we have enough capacity right now to add one more research tower on and we can mitigate those costs or defer those costs out five more years. That's huge when you're talking about a \$10 to \$15 million plant addition. Concerns are, we saved \$2.6 million. I worked for OPPD for 30 years, I love OPPD, they were great to me, took an early retirement, but they are challenged with today's economy. They are challenged with coal transportation costs and they had an average of a 14.5 percent rate increase January 1 of this year. That's an average, and I say average because the increase for the University of Nebraska Medical Center and UNO was 28.4 percent. It amounted to \$1.9 million per year. So we have to be very careful how we draw our base. Do I believe that we can get more savings over the next five years? Absolutely. But it will take more dollars for newer technology. We will have to spend the dollars on facilities. And new facilities that we do, we'll have to be prudent with those dollars that we spend. But what we thought we were going to have is \$2 million to put back into the business and into the facilities, is going to go for a rate increase so we are challenged with that. With that I will be quiet now and answer any questions you might have. [LB14]

SENATOR LANGEMEIER: Are there any questions for Mr. Hansen? Seeing none, thank you very much for your testimony. [LB14]

KEN HANSEN: Thank you. [LB14]

SENATOR LANGEMEIER: Further testimony in the neutral capacity? We are ready when you are. [LB14]

CARLOS CASTILLO: Okay. Good afternoon, Senator Langemeier, members of the committee. My name is Carlos Castillo, C-a-r-l-o-s C-a-s-t-i-l-l-o. I'm the director of Administrative Services and I appear today in a neutral capacity on LB14. First of all,

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the department would like to thank Senator White for addressing such an important issue as energy consumption. Our department shares Senator White's interest in being good stewards of energy and of state resources. The Department of Administrative Services through its various divisions has been actively engaged in reducing the state's energy consumption as well as making efforts toward more environmentally conscious operations. To the extent, the department is focused on reducing energy, the focus has been on nonrenewable energy resources and we would encourage the committee to add such a definition if the bill were to be advanced. Projects and activities such as installing energy efficient equipment, HVAC night setbacks, bulb replacements, low water use landscaping, and window replacements are just a few examples of the things our department has been doing. Walmart recently actually selected us and one of our buildings to participate in their greening state capitols program and as a result of their visit to Nebraska, we have been recognized as having an ideal model for funding deferred maintenance projects for our facilities, which includes energy improvements outside of operational budgets which is actually very unique for state government. In addition, the department in conjunction with the Energy Office has an energy and environmental efficiency workgroup made up of individuals from both agencies with knowledge of energy conservation and with the responsibility for operational functions for state government where energy reduction can be targeted. This group is documenting past accomplishments and assisting in current and future efforts toward their goal of energy reduction for items controlled by the Department of Administrative Services. But it's not only limited to things operated by the building division, but also purchasing, transportation, recycling. The department will continue to focus on reducing energy consumption. Based on the strong efforts so far and the continued dedication of these efforts, the department questions whether the stringent requirements of this bill should replace some more administratively flexible process currently being pursued. For example, Section 1(1) of the bill requires the department to adopt and publish energy conservation standards for new construction. However, the International Energy Conservation Code is already in effect for state buildings and we do typically use ASHRAE codes as guidelines. It is not clear that the administrative burden of creating and publishing such guidelines is necessary to accomplish our shared energy conservation goals. Section 1(3) of the bill requires a specified percentage of reduction of energy use per square foot in each building. While the department shares the goal of reducing energy consumption, we prefer an approach that is more flexible than specifying the percentage of reduction for each building. The reason for this more flexible approach would be to allow for us...allow more cost beneficial programs to be undertaken first and to recognize that some buildings, for example, newly constructed buildings that utilized energy efficient construction, would have extreme difficulty in achieving the required savings as outlined in the bill. The up-front cost to recognize the savings mandate in the bill can very greatly depend on the building. Because of the per building mandate, you can see the large potential cost reflected in the department's fiscal note. The department estimates that some facilities could recognize significant energy savings by implementing energy management control systems which are

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estimated to cost about \$25,000 per facility. Other facilities may benefit most from window replacement efforts. For example, the Craft State Office Building is one such facility and the cost to replace that building's windows is estimated to be about half a million dollars. Other buildings would require significant capital outlay to gain the required savings. For example, the current HVAC system in the state's largest office building is over 30 years old and many components function inefficiently compared to current standards. This facility could reduce its electricity by an estimated 30 percent if a new upgrade was installed but the cost of this upgrade is estimated to be about \$25 million. But by providing administrative flexibility in implementing energy efficiencies, we could select the most cost-effective projects and facilities rather than being required to take on all projects regardless of the cost benefit to gain savings in each building. We understand and share the desire to show measurable reductions in energy usage and the Department of Administrative Services is already taking steps necessary to fulfill these goals and we encourage you to consider the need for administrative flexibility as we proceed. I would be happy to answer any questions that you might have. [LB14]

SENATOR LANGEMEIER: Are there any...thank you, are there any questions for Mr. Castillo? Seeing none, thank you very much for your testimony. [LB14]

CARLOS CASTILLO: Thank you. [LB14]

SENATOR LANGEMEIER: I think we have one more neutral testifier. Mr. Moseman. [LB14]

NEIL MOSEMAN: Thank you [LB14]

SENATOR LANGEMEIER: I think we're ready when you are. [LB14]

NEIL MOSEMAN: (Exhibit 13) Senator Langemeier, members of the Natural Resources Committee, good afternoon. My name is Neil Moseman I'm director of the Nebraska Energy Office. Thank you for the opportunity to provide testimony today on LB14. The Energy Office supports the concept of energy efficiency in state buildings and in reducing the state's expenditures for electricity, natural gas and other fossil fuels to light, heat and cool our buildings. There are approximately 1,500 buildings owned by the agencies referred in the bill. Depending on the definition of public buildings, some of the 1,500 may not fall under the bill's jurisdiction. For example, the Department of Roads has buildings that are used for storage, but aren't necessarily accessible by the public. We believe it would probably be useful to probably have a more precise definition of public buildings and that definition should also include state colleges and state agencies such as Corrections, Health and Human Services, and Game and Parks. Under LB14 the Energy Office will be required to provide ongoing technical assistance to state agencies and political subdivisions. In addition, the Energy Office would be required to measure annual compliance toward meeting the percentage reductions specified in the

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bill. Since the bill is silent on any consequence for not reaching these reductions, I suggest the committee consider including in the bill provision allowing agencies to keep a portion of the dollar savings as reimbursement for the actual expenses of the actual energy efficiency improvements made. And in closing, it is a priority of the Energy Office to collaborate with and to support the listed agencies in meeting energy conservation goals. Currently, the Energy Office encourages local governments to utilize the Nebraska Energy Office's Dollar and Energy Savings Loan Program as a source of financing for financing energy efficiency improvements to public buildings. The Energy Office will continue to provide technical assistance to state agencies and political subdivisions to maximize energy efficiency. That concludes my remarks and I'd be happy to answer any questions. [LB14]

SENATOR LANGEMEIER: Thank you very much. Are there any questions? Senator Fischer has a question. [LB14]

SENATOR FISCHER: Thank you, Senator Langemeier. Thank you, Mr. Moseman for being here. On the fiscal note, did you have a chance to look that over? [LB14]

NEIL MOSEMAN: Is this the one estimated by the Energy Office or? [LB14]

SENATOR FISCHER: Part of it's Energy Office, part of it I should have asked our previous testifier with DAS. Under DAS they're anticipating that there could be \$24 million to meet these requirements, I was just wondering what you think would happen to that if we included state colleges, Game and Parks, Health and Human Services buildings too? [LB14]

NEIL MOSEMAN: Likely to increase, because a significant part of that, of course, is improvements and energy efficient improvements so. Yes, ma'am. [LB14]

SENATOR FISCHER: Okay. Thank you. [LB14]

SENATOR LANGEMEIER: Seeing no other questions? Thank you, Mr. Moseman, for your testimony. [LB14]

NEIL MOSEMAN: Thank you. [LB14]

SENATOR LANGEMEIER: And then no other neutral testifiers, that concludes the hearing on LB14, and we're going to move on to LB5. Now, I can see we've got a lot of people in the audience. How many are planning to testify in some fashion on LB5? Okay, we're going to...we don't have a lot of time, we're going to ask you to be precise. I know this is a very emotional issue but I want to hear, as a committee we want to stick to the facts, and please don't repeat the testimony you hear before you. We also remind you that we do not allow props of any sort in our hearings, and so we would ask that

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you keep it to your testimony as you can. With that, we'll proceed to move on to LB5 and Senator Christensen. And you've all waited so patiently, I give you that. Senator Christensen, you are recognized to start your opening on LB5. [LB14 LB5]

SENATOR CHRISTENSEN: (Exhibits 14, 15) Thank you, Chairman Langemeier and fellow senators. I am 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 to introduce LB5. LB5 would repeal the prohibition on trapping in county road right-of-ways which was passed into law in 2007 after an amendment was adopted to LB299 on Select File. Last session I introduced LB743 to repeal the ban; it advanced to General File. It was prioritized but failed to see any debate due to the time constraints. LB5 would fix what I believe to be poor public policy that is not based on a broad picture of what is best and reasonable for the whole state. The ban on trapping in the county road right-of-ways ignores legitimate interest and needs of local government, wildlife management, rural economic interest, and agriculture. Instead, the ban evolved from what I believe is an unrealistic notion that the public was being exposed to too high of safety risk. I believe you will see that the facts do not support the conclusion. I believe you will see that the facts do not support the conclusion. The current law does nothing to stop those who ignore the law and set illegal traps as we have recently read about in the paper, but burdens those who do obey the law. Poorly thought out laws create negative consequences. In this instant, some of the negative consequences are the loss of income and economic activity, loss of public service to local political subdivisions, and increase in damage to roads, crops and other property. Several testifiers following me will talk more specifically regarding some of the negative consequences of the ban. They will also touch on several of the technical aspects regarding the size and type of traps allowed prior to the ban. I also have some information to hand out regarding regulations under Game and Parks Commission that were in place prior to the ban to protect the public and statistics on fur harvesting in Nebraska. I want to thank you for your consideration and encourage you to advance LB5 to General File. Here's some handouts I'd like everybody to have. There are some highlighted points in here that give out the size of traps, it gives out the law as it was written previously to the change, as well as statistics, and I'd be willing to...and also some more to submit to the record. I'd be glad to entertain any questions. [LB5]

SENATOR LANGEMEIER: Thank you, Senator Christensen. Do we have any questions so far? Seeing none, I want to commend your group for coming right to the front. We appreciate that, and I don't know if they've established who wants to go first, but we'll go with supporters. If you'd like to testify, please move to the front. [LB5]

JOE JACK: (Exhibit 16) My name is Joe Jack, J-o-e J-a-c-k. One of the things that I want to give you so that you can be looking at them, are four pictures of badger holes that are dug directly under roads and will damage the road when they cave in. And they will cave in, eventually. And if high water should come, that will make a big washout

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where those holes are in the road grade, right under the roads. Some of this is black top and some of it's gravel road. [LB5]

SENATOR LANGEMEIER: Mr. Jack, typically if you submit pictures we don't give them back, is that okay? [LB5]

JOE JACK: Yes. [LB5]

SENATOR LANGEMEIER: Because they become part of our record; thank you. [LB5]

JOE JACK: Okay. I'm 72 years old, I've trapped for 60 years. Fifty-eight of those years I was able to trap right-of-ways and I did a big service to the state, the county, and farmers by harvesting badgers and raccoons, especially, in the right-of-ways. The last two years I have not been able to trap right-of-ways. I've had three farmers tell me I'm not doing my job, and besides that, it's cost me literally hundreds of dollars, literally. Because of where I trap, there's a lot of raccoons that go across the road to cornfields where they feed. There has been information submitted to you about the economic damage that raccoons do in the cornfields for farmers and other people will probably talk about it. Anyone have any questions? [LB5]

SENATOR LANGEMEIER: Is there any questions for Mr. Jack? Seeing none, we appreciate your testimony and your patience to this point. Thank you for the photos. [LB5]

JOE JACK: Thank you. [LB5]

SENATOR LANGEMEIER: Next supporter. [LB5]

SAM WILSON: (Exhibit 17) My name is Sam Wilson, that's spelled S-a-m W-i-l-s-o-n. I'm the fur bearer program manager for the Nebraska Game and Parks Commission, and I would like to thank Chairman Langemeier and the members of the committee for the opportunity, here to speak on behalf of the Game and Parks Commission and address LB5. To start with, I'd like to mention that modern trapping is highly regulated. And trapping for fur bearers in Nebraska can only be conducted by licensed individuals who must obey specific laws about the types of traps that can be used and the frequency that those traps have to be checked. Trapping is also an integral and important management tool that's necessary to alleviate conflicts between wildlife and human interests, and I'll talk about that a bit more in a minute. But fur bearer nongame animals, such as coyotes, can cause a variety of problems including livestock depredation, crop damage, property damage, flooding that can be caused by beavers damming both ditches where water runs off and streams and rivers and those animals also, such as beavers and muskrats can burrow into the road right-of-way and into banks and that can cause damage, as well, to the actual structure. So for years in

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Nebraska these trappers have provided a free service, as the man before me mentioned, and have used their expertise to address specific conflicts with wildlife through legal harvest that provides a benefit to both the trapper and the landowner and the public. And with the trapper, that includes the additional income to them from the sale of the pelts. In previous years when trapping in the road right-of-way was allowed, we had a set of rules that we believe included a safe environment in which trappers could harvest specific target animals in the trap...in the road right-of-way and could avoid any dangers posed to people, livestock, pets or nontarget wildlife. Some of those rules that were enacted previously included that the trapper needed to have permission from the person who owned the land adjacent or the right-of-way itself, actually. So that left the decision on whether or not the trapper could trap on the road right-of-way next to someone's ranch or farm or property up to the property owner. We also had limits on the Conibear traps, on the size of jaw spread that they could have. And there have been a few highly publicized incidents with traps that were illegally set where the jaw spreads were too large. The jaw spreads that were allowed previously were five inches. Any traps that were larger than that needed to be set completely under water. And the trapping seasons, again, are generally November through March, so the winter months, when it's very cold. A lot of those larger traps are set sometimes under ice, but in the very cold water and they're mainly meant for beaver. And they're a very effective management tool and they're very necessary for controlling beaver problems. Additionally, trapping is prohibited within 200 yards of a dwelling or a livestock crossing, which includes a road or a bridge or a feedlot unless permission has been obtained. And all traps in Nebraska have to have an identification tag that shows the driver's license number of the owner of the trap so that our law enforcement division can contact that person if need be. And again, all of these rules and regulations were set in place to ensure the safety of the people, pets, livestock, and other nontarget wildlife. I'd also like to point out that trapping in the road right-of-way is an integral tool and is necessary for the management of fur bearers and the problems associated with them. And it's important for the fur harvesters in the state of Nebraska. The well-maintained road system allowed trappers in the state of Nebraska to access areas that had been plowed, because again, the trapping season is during the winter months when the pelts are in prime and when not a lot of other people are out using areas like the road right-of-way. And these plowed roads give the trappers the ability to reach more landowners and help more landowners prevent livestock depredation and damage to their crops. From our survey, which I conducted in 2006 and 2007 from all licensed fur harvesters, we have between 5,000 and 10,000 licensed fur harvesters per year. We estimated that more than 900 trappers trapped wildlife in the county road right-of-way, including more than 14,500 raccoons, more than 5,000 muskrats, and more than 400 beaver. The total value of those pelts to the fur harvesters was over \$189,000 in that year. And then there's an additional value prevented by, for instance, the raccoon damage to corn alone. The value for those raccoons that were trapped in the road right-of-way to preventing that damage is over \$615,000, in that year. Muskrat and beaver harvest in the road right-of-way is also of particular importance due to the

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problems these animals cause by burrowing and damming and blocking culverts and ditches. It's the natural behavior of those animals to dam up water that's flowing. In recent headlines, including headlines of muskrats causing the collapse of levees in Missouri, highlight this issue. Some of the flooding that happened along the Mississippi River in the state of Missouri happened because muskrats were burrowing into the levees and it weakens the structure. Beaver dens, also, can pose...also pose problems because they can build large dens underneath road rights-of-way and underneath roads themselves that can cause heavy equipment to collapse those dens. And at the present time there are no allowances for trapping animals such as beaver that are damming or damaging the county road right-of-way. So, again, I believe that trapping in the county road right-of-way is important for a management tool for the Game and Parks Commission to address complaints that landowners have between wildlife and their property. And the Game and Parks Commission believes that this benefits, provided by law abiding and highly skilled trappers in a manner that is mutually beneficial to the trapper and the landowner, is the best management option available and we fully support this bill. The commission would like to thank the committee for their consideration and I'm going to provide a copy of the testimony here that has those numbers on the value of the pelts and the damage to corn crop. [LB5]

SENATOR LANGEMEIER: Thank you. Are there any questions? Senator Fischer. [LB5]

SENATOR FISCHER: Thank you, Senator Langemeier. Thank you, Mr. Wilson, for being here. You've provided us with a lot of good important information. If the law is followed and if these traps are set by individuals who are licensed and responsible, do you know of any incidences that have occurred, any complaints of any kind? We've all read a story or two in the paper about incidences, and it always seems like it's an illegal trap and we can't control that. That's an enforcement issue. If the law is followed, how many incidences do you hear about? [LB5]

SAM WILSON: I haven't heard of any incidences. I haven't received complaints from anyone that involved trapping in the road right-of-way where the laws were followed correctly. [LB5]

SENATOR FISCHER: So... [LB5]

SAM WILSON: Again, the laws that were enacted previously were conservative, and they were meant to target specific animals and also prohibited traps that could be dangerous to pets, livestock, and nontarget animals. [LB5]

SENATOR FISCHER: And you never had a complaint if the law was followed to the letter? [LB5]

SAM WILSON: I didn't received any complaints, no. [LB5]

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SENATOR FISCHER: Thank you, very much. [LB5]

SENATOR LANGEMEIER: Any other questions? Senator Haar. [LB5]

SENATOR HAAR: Senator. Do you know if the laws proposed would allow me as a landowner to not have trapping in my right-of-way? [LB5]

SAM WILSON: Absolutely true. [LB5]

SENATOR HAAR: Okay. [LB5]

SAM WILSON: Well, yeah, generally you have to have permission. Previously... [LB5]

SENATOR HAAR: To do it. [LB5]

SAM WILSON: ...you had to have permission from the landowner, so it's the landowner's choice whether or not they would like to have someone trapping in the right-of-way or not. [LB5]

SENATOR LANGEMEIER: Senator Schilz. [LB5]

SENATOR SCHILZ: Senator Langemeier, thank you. Mr. Wilson, thank you so much for coming in today. Back to a little bit more on Senator Fischer's question. Are you saying that you've never had a complaint in all the years? I don't know how long you've worked with the commission. [LB5]

SAM WILSON: I have not received a complaint. [LB5]

SENATOR SCHILZ: Not one. And before the law was...before the ban or after the ban, correct? [LB5]

SAM WILSON: I've received two complaints and both of them involved issues where traps were set illegally. [LB5]

SENATOR SCHILZ: Illegally. [LB5]

SAM WILSON: I haven't received complaints from people who are trapping legally. [LB5]

SENATOR SCHILZ: Where a pet or livestock has been hurt. [LB5]

SAM WILSON: Right. [LB5]

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SENATOR SCHILZ: Okay, thank you. [LB5]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. [LB5]

SAM WILSON: Thank you very much. [LB5]

SENATOR LANGEMEIER: Further support? I like the eagerness here, I do. Go ahead when you're ready. [LB5]

JOHNNY BARTA: Good afternoon. I'm Johnny Barta, J-o-h-n-n-y B-a-r-t-a. I live by the small town of Western, Nebraska; that's southeast or southwest of Lincoln here. I am a lifelong member, or livelong resident of Nebraska. I'm also a member of the Saline County Planning and Zoning Board. I'm also chairman of the Saline County Variance Board, but under no circumstances am I here today representing them. I am here on my own and I am not a member of the Nebraska Fur Harvesters Association. I have hunted or trapped all my life, probably since I was about five or so years old. My son also has done that. I also work with a lot of youth groups on getting kids out in the outdoors and doing stuff with them. You have heard that most of the articles that have been in the paper would have brought this issue to light. The traps, I feel have been set illegal, it said in the paper have been set illegal and Mr. Wilson touched on that. Also, a vast majority of Nebraska's rural areas, and we do rely heavily on agricultural products and income. Mr. Wilson touched on some of the benefits of that. There are groups out there that will act, and probably will testify before you today, acting on emotions, not too many facts. Probably doesn't deal with a lot of the rural areas as far as them living out there. We just want you to consider the rural people and some of the stuff that goes along. It's a tragic when a dog or a pet is killed by a trap or a car. And one of the instances that brought this to light a couple of years ago, I was told a person was walking several dogs down the road; one dog did not return. I don't know if walking a dog down the road is illegal but certainly if you don't have them on their leash, several of them could have been...one could have gotten killed with a car, and would we be here today if one was killed with a car? No, you know, I mean accidents happen. I don't want...I'm asking you today not to penalize the honest people who are law abiding citizens and we do things legally and we work hard at trying to minimize our animals that are nontarget. If somebody does kill a dog with a car, if it's legally we don't do anything about it, it's just a tragic accident. If somebody gets hurt in a car, if it's a drunken driver, we go after that person if we can catch them. If not, they're breaking the law. In the same way trappers, I think you've heard and the stories in the papers have talked about illegal traps and illegal sets of traps and that's where the problem has been. And that's all I have. [LB5]

SENATOR LANGEMEIER: Thank you. Are there any questions for Mr. Barta? Seeing none, thank you very much and thank you again for your patience. Next testifier. We're

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ready when you are. [LB5]

ROGER RHODES: My name is Roger Rhodes, R-o-g-e-r R-h-o-d-e-s. I live in Seward. I am a sponsor for Ducks Unlimited and Pheasants Forever. And I'm a local chairman for Ducks Unlimited in Seward County area. I've been a trapper for 57 years, proud to say that. As I've seen a lot of laws, good and bad, come into effect during that time. The law that was put into effect two years ago affected me quite a bit because, like I say, I am a disabled veteran. And I trap the road ditches because I'm unable to get around to get out into the fields and do my trapping. And so when the law was put into effect, I could no longer trap the road ditches. I do do some trapping for the farmers around the Seward area and stuff and Utica area. If it's got Pheasants Forever property, and stuff, they'll call me for to do some predator trapping. I tell them, I say, I've got to be able to drive to where I'm going because I can't walk there. They said, that's no problem. So that's why I'm here today. And there's two instances this year I had to tell the farmers no, that we couldn't do it. One farmer called me, he said he had coyotes going out of his Pheasants Forever property through the road ditch. He said we should come out and catch them for him. And I said, well I can't. I said, I can't trap in the road ditches. He says, why not? And I said, because the state put a law into effect. He had no idea it was in effect, even. And another one had beavers in the road ditch and wanted me to trap them. And I said, I can't do it. It's against the law to trap in the road ditches. So that's part of what is my reason to be here, to not only for myself to enjoy what I've done for all these years, but also to continue doing some of the damage trapping that I've done for farmers in the past years and hopefully, in the future to do it. That's about all I've got to say. Any questions? [LB5]

SENATOR LANGEMEIER: Thank you, Mr. Rhodes. Is there any questions for Mr. Rhodes? Seeing none, thank you very much for your testimony. Go ahead, when you're ready. [LB5]

DICK RHODES: My name is Dick Rhodes, D-i-c-k R-h-o-d-e-s, rural Utica, Nebraska. I guess the main reason I'm here is I think you people are being pushed hard by outside sources. I am a landowner, I own livestock. In reference to you, Ms. Fischer, I take cattle to the Callaway area, rural area. I talk to landowners out there. I, you know, what I don't understand is when this law was put in place, is the fact of, this is the land, this pencil is the fence line to the end of the land. If this person is going to walk a dog off of a leash, what's staying...what's keeping this dog from walking one more foot and being there? So if we're using that for an excuse, you know, I think to put...to install this, you know, this law into force, somebody's off base because my wife walks our dog every night, but it's on a leash. And I don't understand...if that's my biggest problem. I've got livestock...but people ask, I have no problem with letting people trap. The trap is only as good as...as same as a weapon, a gun, it's in the person's hands. That's the responsible party of the thing. They're the one that should be responsible for the whole situation. You give a trap to the wrong person, they can...sure, they can get in trouble. But they

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can get in trouble with a weapon or whatever. So and the biggest thing is that we have to, you know, in as far as I'm concerned is being a property owner is...make sure, you know, the permission is granted, you know. Otherwise you can install all the laws you want, but you're not going to...you know, you're not going to stop the lawbreakers from crossing that fine line of saying, well, you know, whatever. I can trap here and whether it's law or not. So and tagging it and being responsible. I guess that's where I'll stop. [LB5]

SENATOR LANGEMEIER: Okay, thank you. Are there any questions? Seeing none, thank you for your testimony. [LB5]

STEPHEN VANTASSEL: My name is Stephen Vantassel, S-t-e-p-h-e-n V-a-n-t-a-s-s-e-l. I'm an expert in wildlife damage control, which means if you have a raccoon sitting on your table, you call me. Let me just be...there's a siren song that you're going to hear later, I'm sure, where people say, well, you know we don't need fur trappers to take care of the work along roads because there are "non-lethal" ways of protecting roads. And the answer is, exactly yes. That's true. One problem, however, is the cost. You can put crushed gravel along all of your roads, maybe use stainless steel wire mesh, put it along all your roads and you can stop the burrowing badger. But at what cost? So you can do it, but just make sure you don't have any money left over for the poor, for the indigent, maybe for the disabled and that's the cost. And that's really what this is all about, it's opportunity cost. What are you willing...I'm always shocked, I'm not much of a fur trapper myself. I'm really in the industry of teaching people how to handle wildlife damage problems. Because the reality is, these are gentlemen who work, and occasional woman, but generally men, these are people who pay the state for the privilege to work for free. Why would you want to punish that? And that's all I'll leave you with. I do give you one resource, icwdm.org, that's the Web site that I'm responsible for and that's part of my job here in Nebraska. [LB5]

SENATOR LANGEMEIER: Thank you, are there any questions? Senator Fischer. [LB5]

SENATOR FISCHER: Thank you. Can you tell me who you work for? [LB5]

STEPHEN VANTASSEL: I work for the University of Nebraska-Lincoln, but I'm not here representing them. I want to make that clear. [LB5]

SENATOR FISCHER: I realize that. I was just curious, though. Thank you very much. [LB5]

SENATOR LANGEMEIER: You thought he was going to say he was an expert, he works at Scheel's, didn't you? [LB5]

SENATOR FISCHER: I was just curious. [LB5]

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SENATOR LANGEMEIER: Yes. Thank you very much for your testimony. Next testifier.
[LB5]

JANICE SPICHA: Good afternoon, Senator or Chairman Langemeier and distinguished members of this committee. I'm here...my name is Janice Spicha spelled J-a-n-i-c-e, the last name is S-p-i-c-h-a. I want to thank you on behalf of the National Council of Sportsmen's Club for whom I'm testifying, and myself for the opportunity to address this bill. I'm from Lincoln, Nebraska, and am testifying on behalf of the Sportsmen's Council, which I think you have been told is a group of sportsmen's clubs from throughout the state. We represent thousands of sportsmen throughout the state, clubs that are boating, fishing, trapping, hunting, any outdoor activities. And we all form...send representatives and then we form opinions on this bill. This was a priority bill last year that did not get through. The bill that this seeks to repeal, in the council's feelings, is a bill that was made and passed on emotions. You've heard testimony from others on things and I will try and skip what I had that they said. I was told that you, as legislators, have received more e-mails, phone calls, letters, in opposition to this than you have in support. I'd like to say to that the sportsmen, as a whole, aren't an organized, well-funded lobby group and so you probably won't get as many pieces of paper from the sportsmen of this state. However, PETA, on the other hand, is using a case like this, they are well-funded, they're extremely well-funded and organized, to get you a barrage of things opposing this bill. So I hope you keep in mind when you're voting on this bill to use the intellect, the facts presented to you, not the number of pieces of paper you have or the emotions that are involved in this bill. The bill to ban road trapping in the county right-of-ways came about, primarily, because a dog was caught in an illegally placed trap along the county right-of-way. I read in the paper there will be testimony, also, from a farmer who got his foot caught in an illegally placed trap. The council sympathizes and is sorry for both the farmer and the dog. This is not the fault of the farmer, the dog, the dog owner, or the trappers, per se, the legal trappers. This is the fault of illegal trappers. These trappers would be trapping illegally whether this bill that we're trying to repeal was in place or not. So the fault lies with an illegal trapper which we have law enforcement and we have laws in place to rid them. So the instances, as you've heard, of legal trapping, we haven't heard of any. Both instances involved trapping violations that were already covered in past existing laws prior to this law that we're trying to repeal. The law had good intentions but what's been done in the years since this law has become enacted has had grave consequences. Landowners can no longer legally trap coyotes and other animals on land, on right-of-ways. These animals have caused a great concern to farmers and landowners. And in the crop depredation, you heard Scott Wilson testify about the 14,500 raccoons alone that were trapped along the right-of-ways in the year prior to the enactment of this law. So you've got \$615,000 out of landowners', farmers', and ranchers' pockets from the depredation that these raccoons have caused in one year due to the enactment of this bill. People from Lincoln County have talked to the council members and cited incidences where the roads have

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flooded and have been damaged due to beavers and muskrats blocking culverts, and they can't now have these animals legally trapped. And these animals are destroying property and roadways, and we need to repeal this law so that these animals can be legally removed from the roadsides. Some of you are landowners, many of your constituents or landowners. The landowners and some of the members of the Cattlemen's Association that I've heard from, they're very tired of undue regulations put on land they own. They blame you legislators for constantly regulating land that they feel they own. We're trying to repeal a law that does just this. It restricts what landowners can do with their land, and until last year, until the enactment of this law, these landowners could give permission or not to trap their land, part of their land being the right-of-way. So the law serves, to me, no purpose except to stop these landowners from controlling their land, basically. Now the landowners have no say and the sportsmen of this state, we rely on the landowners for the preservation, protection, and management of our wildlife and we like working with the landowners. We don't want to further restrict them in the use of the land. We desire to have this law repealed and I guess with that, I will ask if you have any questions at all? [LB5]

SENATOR LANGEMEIER: Are there any questions? Senator Fischer. [LB5]

SENATOR FISCHER: Thank you, Senator Langemeier. Thank you for being here today, I appreciate the work that your council does. I think you have explained pretty well how this happened, how this law came about. I served on this committee the last two years and the bill that we sent out of this committee was not the bill that ended up being passed on the floor. [LB5]

JANICE SPICHA: I realize that. [LB5]

SENATOR FISCHER: During the second round of debate, an amendment was put on, which the committee did not agree to at the time that we passed it out of committee. So I did not vote for that amendment, and I did not vote for the bill on Final Reading either, because that is not the bill that the committee agreed to that we sent out on the floor. So I appreciate your testimony and especially for pointing that out. Thank you. [LB5]

JANICE SPICHA: And I thank you for your clarification to the rest of the group on that, because I was well aware of that. Thank you. [LB5]

SENATOR LANGEMEIER: Thank you very much. Next supporter. [LB5]

WES SHEETS: Good afternoon this late hour, Senator Langemeier and members of the committee. My name is Wes Sheets and that's spelled W-e-s S-h-e-e-t-s. I'm here on behalf of the Nebraska Division of Izaak Walton League. As you know, we're a statewide conservation organization that's nearly 85 years old now. I just want...since much of the things that I had written down here have already been said, I'll be very brief.

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But I want you to know that our membership supports LB5 and they support trapping as a wildlife management tool, and a very important wildlife management tool. True, there's trapping will be allowed in other places besides road ditches if the law is not changed, however, it's one little brick in the building that is important to the total picture. The one thing that I did want to add, though, you know, as a solution for getting at the problem of these illegal traps that are out there now as a result of the Game and Parks rules and regulations, and that is, that if you feel comfortable and favorable in the bill that was presented last...yesterday afternoon and see fit to raise some penalties sufficiently, I think that may go a long way toward removing some of those bad actors that are out there on the roads today. And for Senator Haar's response to his question yesterday, I went home and found the telephone number of Wildlife Crimestoppers which is a twenty-four hour hotline that anyone, citizens, trappers, hunters, fisherman, may call the hotline and hope to get some more timely response to those things that are violating, whether it be trespassing, shooting from the road, or in this case trapping in an inappropriate way. So with that, I would just urge the committee to feel favorable on LB5 and advance it to the floor and support its passage into law. And thank you very much for the opportunity to be here. [LB5]

SENATOR LANGEMEIER: Thank you, Mr. Sheets. Senator Haar, question? [LB5]

SENATOR HAAR: Thank you, Senator. What's the hotline number? [LB5]

WES SHEETS: Oh, I knew you'd ask me. (Laughter) Someone might tell...I'll get it. I'll pass it over to you. [LB5]

SENATOR HAAR: Okay. [LB5]

WES SHEETS: So, thank you very much. [LB5]

SENATOR LANGEMEIER: We'll see to it that you get it. [LB5]

SENATOR SCHILZ: You're going to have a long line at your door tonight. It'll take you a long time to get home. [LB5]

SENATOR LANGEMEIER: You're going to be busy. Thank you, Mr. Sheets. Next supporter. [LB5]

GEORGE WAGNER: (Exhibit 18) Senators, my name is George Wagner, G-e-o-r-g-e W-a-g-n-e-r. First off, I'd like to thank Senator Christensen and I'd like to thank part of the process that I'm seeing here today. When this whole issue first started, there was a number of things that made me active in it. And one of it was this lack of transparency, this lack of the understanding that something couldn't have been correct there. To see that there's a process going now to correct that, I think is very important. I still have

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some concern in the future. People have told me that one of the reasons I'm active here is because this supposedly happened to me, which is correct, and I understand the full--what was the full impact or the proper impact of road trapping. And so I understand that part, but what I'm concerned with, too, is this...if there is this lack of transparency, what can be done in the future to make sure such a situation doesn't occur again throughout the entire Legislature, on any issue? I'm here today with the support of my county supervisor, which his letter in support of LB5 was placed in the written testimony. I am a 20-year Army veteran, I am 100 percent disabled due to unemployability. Last year, in the spring of 2008, almost ten years since I've been retired from the military, I've finally paid off my land in Knox County. That I'm disabled, the VA can attest to that my land is paid off in Knox County and became mine, the Knox County courthouse can attest to. When I paid off that land and this ongoing situation today, I asked, what are my landowner's rights? Because I think they've been stepped on, and I think I'm correct about that. I'm submitting quite a bit of written testimony and this morning I sent a letter to you people that I'd written to a friend. And what I was trying to do with that letter is bring up some of the holistic management points of what I'm doing out there. When you start getting into the emotional aspect, I see where controlling fur bearers and predators, especially in countries that are not as advantaged as we are, the overall understanding of that is...could benefit those people a lot more since they don't have the assets that we do. I realize a lot of that I put in quite a bit of written type things in support of LB5 to you senators. I'd hope that you'd look at the majority of that and try to gain an understanding of what I'm saying here and that I understand an impact here that we don't understand here but it's important to us to understand if we want to influence correctly in other countries throughout the world that do not have the resources that we do. I may be the only person in the state of Nebraska right now who is running goats on pasture year-round. I have a number of cattlemen, especially from ranch country and eastern Nebraska, that have come to look at my operation and try to understand the full concept of what's going on there. A lot of these guys, and women, are very interested in weed control and especially leafy spurge. Where I'm at right now, when I put goats in a section of my pasture, I no longer worry about leafy spurge; it becomes a nonissue. Along with, even to a great extent, musk thistles, and cedar trees, sumac, we see the impact on all of that. These other guys that are trying to bring goats into their operation to control their pastures have an absolute myriad of problems with goats. You know, from fence to if you can't keep the dog with them, a predator dog, what have you. I use road trapping as a means to keep predation down on my goats. I see other guys come and look at my operation that they have lost this tool that I can show them, with all the other problems with trying to bring balance in their ecosystem, that I know will take that into consideration. Understand, I'd like to hit on a labor point again too that was actually brought up. Here in Nebraska, we have people paying the government for the privilege to produce, that labor that the fur harvester is. Interesting concept, we should understand it maybe. That's all I have. [LB5]

SENATOR LANGEMEIER: I have one quick question, are these pictures from you?

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[LB5]

GEORGE WAGNER: Yes. [LB5]

SENATOR LANGEMEIER: You submitted those? Okay, thank you. [LB5]

GEORGE WAGNER: Yes, Senator. [LB5]

SENATOR LANGEMEIER: We'll pass those along. Other questions? Senator Schilz. [LB5]

SENATOR SCHILZ: George? [LB5]

GEORGE WAGNER: Yes, correct, Senator. [LB5]

SENATOR SCHILZ: Where are you from? [LB5]

GEORGE WAGNER: Knox County...almost... [LB5]

SENATOR SCHILZ: That's all right, okay, thank you. [LB5]

SENATOR LANGEMEIER: Other questions? Seeing none, thank you very much for your testimony. [LB5]

GEORGE WAGNER: Thank you, Senators. [LB5]

SENATOR LANGEMEIER: Thank you. Other supporters? Come on up. Go ahead when you're ready. [LB5]

DON MILLER: Thank you, Senator Langemeier and committee. I'm Don Miller, M-i-l-l-e-r, with Nebraska Fur Harvesters. Last year I spoke with a person at Nebraska Park...Department of Roads and was told Nebraska has 78,000 miles of county, township road. Approximate, of course. They figure 66 foot of width and calculate that there's eight acres per mile at this rate. So that's quite a bit of area that we're talking about. That figures out to 624,000 acres that this is access to this law, or removes access to. Access is, access is an important thing. These roads range from a well traveled, well maintained road down to minimum maintenance and they're all included in the same classification. This fall I was on a landowner's farm and he wanted me to trap some beaver. He said the beaver dam is down there and, he said, it's not hard to find. You just pull off the highway where this drive-in is, drive across the end of the field until you get up to that drainage ditch. He says, actually it's still a county road there. He says, you can't tell it, it's part of the field but there was a power line through there. So I'm sure he was right, he works for the county. But, so that would be covered under this law but

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it's actually part of a soybean field. That's just kind of an interest thing. Last year there was a gentleman, and I think this perhaps has been touched on, he had...he sat with us, he did not testify but he sat with us in support. And when this first started, he had called me and being quite upset about this because he used the county right-of-way a lot, and it was due to his age and he wasn't able to get down into a creek. But he said he still managed to trap a few coons in his eighties by being able to just stop his vehicle. And he can only go just a short ways and he would be able to make sets. The other side of that coin is perhaps high schoolers, teenagers, youngsters, they're very busy today, and when they get into school they've got football, they've got band, music, speech, drama, and if they are able to run a short trap line utilizing the right-of-way, that saves them a lot of time. And they may be able to squeeze in a little time in the trip to school or home or between school and when they go back for their drama class after school. So you can look at that as convenience if you want to, but it is a vehicle that gives them an opportunity to, without taking up a lot of their precious time, and nowadays anything that we can do that's an outdoor type activity or sport is definitely good because there's a big tendency to want to spend all of the time with computer games or that sort of stuff. But it does provide an opportunity for busy high school or young people. Another thing that was testified about last year, was that a person using the right-of-way was perhaps endangering traffic by stopping a vehicle and getting out to check. Basically that's what a county road is for. If I'm a farmer, I pull out on a county road and drive down a quarter of a mile and then pull off of it and go into my pasture to see if the tank still has water in it there. Or I pull out of the field onto the county road with a load of bales and run down the road for a couple of miles and pull into the feedlot or the pasture with those bales. We've got mail carriers, garbage trucks out in the country now. Everybody pulls up and stops and goes on and off the roads, so I can't see that that could be an issue. But I just thought I'd touch on that because they had spoke after us last year. And I guess with that, I'll let that be all and if there is questions. [LB5]

SENATOR LANGEMEIER: Sounds good. Thank you, Mr. Miller. Are there any questions for Mr. Miller? Seeing none, thank you very much for taking the time to testify. [LB5]

DON MILLER: Okay. Thank you for your time. [LB5]

SENATOR LANGEMEIER: Next supporter. How many more supporters do we have? This is the last one? Nope, one more, oh, two more, okay. [LB5]

JIM CRONIN: My name is Jim Cronin, C-r-o-n-i-n. I live between Ravenna and Loup City, kind of centrally located. And thank you, Senator Langemeier and council. I'm just going to make this real short. A lot of this boils down to just common sense. And as it does anything, instead of making a big thing out of nothing, you know, a lot of this is just common sense. And also, I've been a member of the Nebraska Fur Harvesters over 35 years and there isn't one of them...I know the Game Commission is spread thin on the

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game laws, I mean, they've got a lot of land to cover. And there isn't one person that I know that's a licensed trapper that I know that if they didn't see an illegal situation going on they'd be the first ones to turn them in or to make sure there was some kind of justice done. And, you know, there isn't anyone I know in the whole organization, or as far as that goes any licensed trapper, and I know a lot of them, that would do anything illegal. And if they did see anything done, they would be the first to see something done about it. And that's really all I have to say, and I thank you. [LB5]

SENATOR LANGEMEIER: Thank you. Are there any questions? Seeing none, thank you again... [LB5]

JIM CRONIN: Yes. [LB5]

SENATOR LANGEMEIER: ...for coming clear from Grand Island to testify. We appreciate that. Two more. I hope that didn't happen with a trap. (Laughter) [LB5]

JOHN SELF: No. There's some bad rumors going around that it did, but it didn't. [LB5]

SENATOR LANGEMEIER: Just checking, just checking. I don't want to know, then, I don't want to know. Go ahead when you're ready. [LB5]

JOHN SELF: My name is John Self, J-o-h-n S-e-l-f. I live up by Hooper, Nebraska. [LB5]

SENATOR LANGEMEIER: Say that last name again for me. [LB5]

JOHN SELF: Self. S-e-l-f. [LB5]

SENATOR LANGEMEIER: Okay, thank you. [LB5]

JOHN SELF: I'll make this short and quick here, as I can. In the state of Nebraska, a lot of our pheasants are hatched in the road ditches. That's another benefit of trapping in the road ditches is you eliminate the coon, the possum, the skunk that are destroying our hatch on our pheasants and we can get our hatch up. Senator Haar, you asked earlier to the appointee for the Game and Parks what we could do to increase the number of youth involved in the sport? One of the things is allowing that roadside trapping. My boys, I have a 17-year-old and a 13-year-old, they were running a trap line to and from school. Before this ban went into effect, they were running anywhere from 35 to 50 traps at any given time. They would check half of them on their way to school, half of them on their way home from school. That's down to where they're running, at most, 15 traps. That's quite a substantial amount of money for a 17- and a 13-year-old. Whenever they're catching 60, 70, 80 coon less a year at an average price of a coon and carcass is, you know, at \$12 or \$14. That's a substantial amount of money for them that they're using to buy other traps and put money back into the state and into the

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program. That's about all I have. [LB5]

SENATOR LANGEMEIER: (Exhibits 19, 20, 21, 22, 23) Okay. Are there any questions for Mr. Self? Thank you very much, we appreciate you coming down today and I hope you get better. Further supporters? I have...at this time I'm going to read in, I have received a number of letters in support at this time to enter in the record; Bernie Fehringer, from Sidney, Nebraska; Dave Hastings from Ord, Nebraska; Jim Fuchtmann, I hope I didn't say that wrong, from Creighton, Nebraska; Dawson County Board of Commissioners; and Michael Lance from Stanton, Nebraska; submitted letters in support for the record. Moving on, now we are to opponents. Can I see just a raise of hands how many opponents we have? Okay, a couple. Okay. We are ready for opponents. Don't be bashful. [LB5]

KRISTEN GOTTSCHALK: I'll go first. I think Larry wanted to go first, but he's... [LB5]

SENATOR LANGEMEIER: Oh, okay. Do you want to wait just a second and get him? [LB5]

KRISTEN GOTTSCHALK: ...out in the hall. Do you want to go first, Larry? [LB5]

SENATOR LANGEMEIER: Commissioner Hudkins, welcome. [LB5]

LARRY HUDKINS: Chairman Langemeier and members of the Natural Resources Committee, it's a pleasure to be before you this afternoon, and I've really enjoyed sitting the last couple of hours and listening to the testimony. My name is Larry Hudkins, H-u-d-k-i-n-s. And I am a farmer and I'm not anti-trapping. And I do serve as a Lancaster County Commissioner, and I am here today to represent myself, as a farmer, the position of the Lancaster County Board of Commissioners, and the Nebraska Association of County Officials in opposition to LB5. I'd like to tell you what happened to me about 5 p.m. December 4, 2008. As I stated, I am a farmer. I was checking a field fence along 154th in northwest Seward County. I was walking in the right-of-way, left my pickup and was walking, checking out a field to make sure the fence was up before I could put my cattle in the cornstalks. And as I was walking along, snap, I was caught in a trap. I do have one of those traps with me, but I understand you don't allow props in here and so I'd be happy to show it but it's in a bag at the back of the room. [LB5]

SENATOR LANGEMEIER: I would encourage you to show it to the members in their offices, yes. [LB5]

LARRY HUDKINS: Okay. And I thought...I trapped when I was a kid. I probably...lots of times I had to trap, get a little money so I could take my wife, Senator Carol, out when we first were high school sweethearts together. So I certainly don't have anything against trapping. I've asked the Game Commission to come out and trap beavers in

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certain spots on the backside of Branched Oak. And so I bring this to you. I just want to make you aware of the situation that I was in and how it can happen to somebody else. After that snap I was totally surprised, I mean, I didn't expect it. I had no idea that this trap would be in there along the fence, and I was caught in a Conibear trap about six inches square. My foot was in there, luckily I had a good heavy pair of leather boots on with a big thick sole, but it was just a shock. And as I was walking forward, I fell forward and I got to the end of the cable that was on the Conibear trap and I fell over the embankment. It was just before I got to a creek. So there I hang, by my back left foot. Hanging over a bank, it's getting dark, it's cold, I'm not as athletic as I used to be. I weigh too much. I had a heck of a time getting myself suspended around so I could get back up to even really analyze it. And then I looked back and I saw my leg in this trap, and it probably took me ten minutes to position myself and claw myself back up the bank, make some footholds, it was slick, it was snowy, it was cold, and try to get to a position where I could get a hold of the trap. I tried to grab the two springs and open them, and I'm fairly strong, I milked four cows everyday before I went to school as a kid, and I consider myself a strong person. There was no way that I could open that trap up, and so then I tried to assess the situation. What else do I do? I was down in a hole where Alltel doesn't get to. I knew that, I did have a cell phone with me and this would have been even worse because I was down over the bank. And so I just tried to think, what can I do? So I jerked on the trap and jerked on it. Well, it was cross-pinned through the rings so...and it was frozen in, there's no way that I could pull that loose. And so I just was sitting there frustrated, and knowing it was getting dark, and it's a county road without too many people going on so what can I do? And I got to thinking, well I've got this pair of pliers and this was attached to a small cable. And so I just took those pliers out, they were good new ones and I started "chawing" through there. And it took me quite a while, but I finally cut the cable and was able to free myself. Ended up falling down into the creek and got myself up with the trap on my foot, walked back almost a quarter of a mile to the pickup, and I still, standing on a trap, couldn't free it. I had to get a crowbar out of the pickup, put it underneath the tire, and pry it down to get it off. Next morning, I called the state Game Commission and told them about the incident. They informed that it was an illegal trap, it was bigger than the normal one that should have been there. And I certainly agree with that. But I'm here today to talk to you about...I wish there was some way that we could solve this because these trappers, the people that are sitting here are not the problem. They are responsible trappers. This trap did not have a license number on it. The thing of it is, is anyone could be in that right-of-way just like I was. And there should be some way of protecting or knowing that these traps are there and that we have warning to a private citizen. This ground was technically my ground, it's on a county road, 66 foot right-of-way. I own it to the center of the road. I allow trapping on my farm where there isn't cattle and where I know they're at. But under LB5, I see no provision in there that says that they will...that I would have control, whether I allowed trapping on my ground in the public right-of-way. The other thing that I worry about is, I, as a landowner even if I was informed, I worry about our neighbor girls. Got two little neighbor girls seven and nine years old that regularly walk

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along this right-of-way to their grandmother's house which is about a mile and a half away. And I'm just glad those little girls didn't get caught in this trap, I'm glad it was me instead of one of them. Please don't allow these traps to be set in right-of-ways where unsuspecting children and domestic animals and farmers like me can be harmed. We also run cattle up and down this road with calves along the cows. They're between the two fences, they could have stepped in this trap. And a lot is being made about the fact that I stepped into an illegal trap. Well, I could have just as well stepped into a legal trap. And earlier, the gentleman from the Game Commission said that they'd never had a reported incident. Well, I asked him in the hallway and he's been there with them some four or five years. Back in 1987, when I served as president of the Nebraska Cattlemen, we initiated this law that you couldn't trap between a cattle crossing, a feedlot, or a domestic facility. I think it was like at least 200 feet. Because many of us have permission to go onto the road from one property to another in box culverts. And I did have a calf that we lost the foot on the animal because it got caught in a domestic trap. And the trappers don't always know that this is a box culvert and where cattle can go through. And we have many of these in Lancaster County. The newest one that we approved just three years ago is the dairy out at Firth, Nebraska, Nebraskaland Dairy. So, again, the problem is that we don't know these traps are there. That was the biggest surprise in the world for me. I was going on, looking my fence, checking it, had no idea that that trap was there. This could have been a real bad situation had I not had that pair of pliers with me. [LB5]

SENATOR LANGEMEIER: Thank you, Commissioner Hudkins. Are there any questions? Senator McCoy. [LB5]

SENATOR McCOY: Thank you, Senator Langemeier. Commissioner Hudkins, quick point of clarification, if I might? Would you describe to me again the date that this event occurred, that unfortunate occurred that you describe. [LB5]

LARRY HUDKINS: December 4, 2008, this previous December. [LB5]

SENATOR McCOY: Thank you. As a follow up to that, can you describe to me, if you could, what you feel would have been a difference? You obviously would prefer to not have the passage of LB5. How do you feel that that would have helped with the situation that you personally experienced since it was an illegally placed trap? And the reason I asked you the point of clarification on the date, and I know you mentioned it earlier, was that obviously was after LB299 was passed in 2007. So an illegally placed trap, even though the ban was in place for roadside trapping. So I guess my question to you is how do you feel that maintaining the law as it is would have helped in your particular situation? [LB5]

LARRY HUDKINS: Well, I think the awareness is just starting to get out there that it is illegal to trap in the right-of-ways. I think there's still a lot of these people that are back

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here are responsible trappers, obviously they're well aware of the law. But the general John Q. Public, I went to a neighbor and I asked them if they saw anybody setting this trap or something like that and they said, well, they can still do it can't they? They said, we don't even pay attention because we thought it was still legal and they're referred to as bridge trappers. A lot of these people that do that they just drive up, pull beside a bridge, run down and set some traps because that's usually a pretty good place to catch it. And they're not the type of people that are leaving their registration number on it or, you know, probably paying the proper fees and obviously they're not following the law. But I don't think, after...I would not be here testifying against them because I see a need for trapping. I allow beaver trapping on my farm, but I do it with permission. I know where they're at. I know who is going to be responsible. In this regard, I still own that ground out to the center of the road. But I wouldn't know who is trapping there and who isn't trapping as I read LB5. So, and then they, even as a landowner if I did have notification, those two little neighbor girls, and I'll tell you another one that I thought of just today, we have a lot of elderly people that walk these roads and pick up cans, aluminum cans. I've seen them out there, I've stopped and talked to them. And they're walking around picking them up. I if they had no idea there's traps there, I don't care if it's a five-inch trap, a six-inch trap or what it is, that trap can do damage. Those little girls' feet would fit in a five-inch trap. [LB5]

SENATOR McCOY: Thank you. [LB5]

SENATOR LANGEMEIER: Senator Schilz. [LB5]

SENATOR SCHILZ: Thank you, Senator Langemeier. Commissioner Hudkins, thank you for coming in and testifying today. I appreciate your time and patience. [LB5]

LARRY HUDKINS: Appreciate yours. [LB5]

SENATOR SCHILZ: Thank you. You know I'm a landowner from out in Keith County. And as you said, you own the land from...I mean, when people go out to hunt on your property, do you normally like them to ask you permission before you allow them to go? [LB5]

LARRY HUDKINS: Yes, I do. [LB5]

SENATOR SCHILZ: Okay. And I do the same thing, and if I find somebody on my land that is not supposed to be there, I usually tell them to get off. [LB5]

LARRY HUDKINS: I do too. And I want that ability and even though my land is posted, when somebody stops me on a combine and says hey, I want to take my little boy out and go hunting, I always find a place for them. [LB5]

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SENATOR SCHILZ: Oh sure. Yeah, absolutely, as I do too. I guess I just...so even if it would have been a legal trap, it still would have been illegal because that person would not have asked permission. [LB5]

LARRY HUDKINS: That's right. [LB5]

SENATOR SCHILZ: Okay, thank you. And then the other thing is, you know, is it's extremely unfortunate of what happened to you with the trap that was there. Luckily you did have a pair of pliers, which is always a good thing to carry when you're out in the bush, so to speak. I would just ask this, you did call the Game Commission. Did you call the sheriff to report the trespassing and the illegal setting of a trap? [LB5]

LARRY HUDKINS: I am in a position where I am able to talk with the sheriff and the chief deputy as a county commissioner. [LB5]

SENATOR SCHILZ: Did you file a complaint? [LB5]

LARRY HUDKINS: Well, I don't know who to complain about. [LB5]

SENATOR SCHILZ: Well, it's trespassing isn't it? Aren't there laws against trespassing? [LB5]

LARRY HUDKINS: But I don't have the person and I don't have a number on the trap. I mean, you know, we talked about...I sure felt with the gentleman that talked about transparency here. [LB5]

SENATOR SCHILZ: Uh-huh. Yeah. [LB5]

LARRY HUDKINS: This is what we need, we need transparency on both ends. We need to know who is doing this. [LB5]

SENATOR SCHILZ: Right. [LB5]

LARRY HUDKINS: And be it on the property that is under our full control or under partial control as a right-of-way. [LB5]

SENATOR SCHILZ: Um-hum. [LB5]

LARRY HUDKINS: Another aspect that we have here is our county engineer talked to us about this at the county staff meeting where the rest of the commissioners authorized me to come visit with you today about it. We have county road crews and they said other than trapping there aren't hardly any people in the right-of-ways. I still see these elderly people out there picking up cans and our county road crews go out and clear

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plum brush and brush in those right-of-ways and here they're walking around and they may not know that there's a trap set there. [LB5]

SENATOR SCHILZ: Okay. But if somebody is hunting on your land illegally, obviously you know to call the sheriff to tell them not to hunt. [LB5]

LARRY HUDKINS: You bet. But I know who they are. [LB5]

SENATOR SCHILZ: But, but still isn't there an opportunity...isn't that what the sheriff does is investigate crimes that go on? Maybe that would have been a deterrent as well. [LB5]

LARRY HUDKINS: And I did speak to him about it. And he says, you know, I don't know where to start. [LB5]

SENATOR SCHILZ: Okay. That's all I was asking. [LB5]

LARRY HUDKINS: Sure. [LB5]

SENATOR SCHILZ: Just wanted to make sure that you understood that it is illegal to trespass. [LB5]

LARRY HUDKINS: Oh, absolutely. [LB5]

SENATOR SCHILZ: Okay. Thank you. [LB5]

SENATOR LANGEMEIER: Senator Fischer. [LB5]

SENATOR FISCHER: Thank you, Senator Langemeier. Thank you, Commissioner Hudkins, for being here today. I believe you said at the beginning that you were representing NACO, is that correct? [LB5]

LARRY HUDKINS: The position of NACO, I... [LB5]

SENATOR FISCHER: Can you tell me why NACO is opposed to the bill? [LB5]

LARRY HUDKINS: Well, the discussion was for the same reasons the county engineer that represents on the NACO board, I think, probably made the motion. And I think it was unanimous if I recall correctly. It was last Friday at the Holiday Inn Hotel and because of the county people, surveyors, county crews that are clearing brush have encountered these traps in the past, and they never know where they're there. And they really felt that the law the last few years gave them some protection. And now they wonder, again if they're going to lose that protection. [LB5]

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SENATOR FISCHER: Do you know if any county officials...have you heard any stories about county officials being caught in a trap? [LB5]

LARRY HUDKINS: Yes. Me. [LB5]

SENATOR LANGEMEIER: You baited yourself there. [LB5]

LARRY HUDKINS: Couldn't resist that, Senator. [LB5]

SENATOR FISCHER: Let me clarify my question, maybe. Do you know of any county official that was on the job at the time, doing their work for the county, running into a trap at any time? [LB5]

LARRY HUDKINS: None come to mind but I haven't asked that question. We have 1,200 employees at Lancaster County. [LB5]

SENATOR FISCHER: Okay. Thank you. [LB5]

SENATOR LANGEMEIER: You led yourself into that one. Seeing no other questions, Senator Hudkins, thank you for your... [LB5]

LARRY HUDKINS: Thank you for your consideration. [LB5]

SENATOR LANGEMEIER: ...or excuse me, Commissioner Hudkins, thank you for your testimony. We'll get to Senator Hudkins. Next person testifying in opposition, Mr. Dix. [LB5]

LARRY DIX: Senator--excuse me--Senator Langemeier, members of the committee, for the record my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials and here today in a position of opposition to LB5. A couple things that I've listened to and sort of want to help make sure and clarify. This was a bill certainly discussed by the NACO board. I have had e-mails, so we have full disclosure, I've had e-mails from county board members who support this bill. I've had e-mails from county board members who oppose this bill. This is one, certainly, where I would tell you NACO understands the benefits of it. We understand the problems that go along with it. In the discussion within the NACO board, which we had a good discussion about it, we certainly appreciate what the trappers do. We certainly appreciate when they do it legally. What it--sort of the decision--comes down to is, we weighed in and they said, we believe our position is based on the safety of the general public in the county right-of-ways. That's what weighed that decision. We've been involved in this bill, really, since it began. We've thrown out ideas before. I'm one to realize it sounds as if this bill...it's either you're on one side or on the other. It sort of sounds like that. And I'm

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looking, and certainly hoping, that at some point in time maybe we could find some middle ground. And I'm not one to come here and talk about middle ground and then say, okay, so I talked about it. Let me head out the door. Let me throw out some ideas, and I'll tell you the ideas that we had discussed before. I'll tell you the pros and cons of those ideas because I'm here to tell you, we certainly don't, I don't think we have all the answers. But if we throw out some of these ideas, maybe it's something that the committee can grasp onto and maybe we can move forward. Maybe we can find middle ground. At times we talked about flagging traps, some type of visual aspect that they're there in the roadway. That would give notification. I would be the first to tell you, I'm not a trapper. I don't know like these gentlemen would know. My understanding is, you flag it, the flags make noise. Animals will become aware of that. You flag it, other people who don't like trappers are going to go out, steal the traps, take them away because they don't want trapping. And so those are some of the things that we hear, pros and cons. I'm just throwing out ideas. We talked about maybe a stronger limitation in the types of traps that can be placed in roadways. And again, I would state, I'm not any official on trapping. I don't know if that's a possibility. These folks may be able to give some input that maybe there is a type of trap that is safer in nature that could be placed along our right-of-ways. The...maybe there's an area where we need to strengthen the laws on notification of the property owners so that there is something there that, before they're ever set, there's some strengthening in that area. Another thought that came forward is give the counties ordinance authority to pass it county by county because we do have some counties who would say, yeah, that's fine in our county. There's been resistance to give counties ordinance authorities but I would tell you that's it. I would tell you that if you do that, the state would be checker boarded. There would be some counties, and you tend to blur the lines of when do you step across the county line or not. Just another idea. The last one that I would throw out is, it sounds like through the two years of hearing this, and going through this, and talking about this, we keep coming back to the fact, you know, if everybody is doing everything legally we wouldn't have a problem. Well, we have the problem. We've got the people that aren't doing this legal. I don't know, is there a need for some mandatory education before people obtain a trapping permit? Maybe that's middle ground. I have no idea if it is. I have no idea if it isn't. But education sure can't hurt. And so those are some of the things. We realize this is a problem. We realize it's a safety problem. You know, if somebody is out there in the right-of-ways from time to time we...in some counties they'll even have prisoners out picking up trash, cleaning up roadside ditches. We don't like a lot of things in our right-of-ways. And some of the things that we get in our right-of-ways are used tires, washers, dishwashers, all kinds of appliances that we have to send somebody out to clean up. And so we look at it seriously from a liability issue. And so that is why we're here today, so that you understand that NACO has had some pretty serious discussion, pros and cons, about this particular issue. But as the board voted, they did a vote to oppose it and my job is to bring forth the position of the NACO board. I'd be happy to answer any questions anybody has. [LB5]

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SENATOR LANGEMEIER: Are there any questions for Mr. Dix? Seeing none, thank you very much for your testimony. [LB5]

LARRY DIX: Thank you. [LB5]

SENATOR LANGEMEIER: Further opposition. [LB5]

KRISTEN GOTTSCHALK: Senator Langemeier, members of the Natural Resources Committee, my name is Kristen Gottschalk. K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. While I am a registered lobbyist for the Nebraska Rural Electric Association, I'm not here in that capacity. Rather, I'm here representing my own personal interest. And I have been referenced in several of the earlier testimony today, so I feel it's important that I do get up here. But I also feel it's important to give you a little bit of my background so you understand where I came from on this issue when I approached Senator Hudkins three years ago about putting an amendment on the Game and Parks bill. For those of you who don't know, my background is in agriculture, natural resources, and wildlife management. In fact, while I worked in wildlife management in college I also did hunter safety training and worked with hunters. And I also am a hunter myself. I do not oppose hunting, I do not oppose trapping, and I am not a member of PETA. I just thought I'd bring that up as well. Yes, it was my dog that was killed in a trap. And when I saw the dog dead in the trap, I immediately knew that it was an illegal situation. My assumption was, first assumption was, that it's illegal to trap in the right-of-way and that trap was placed illegally. That was an incorrect assumption. The correct assumption was that the trap was baited; that was incorrect. There was no labelling on the trap; that was incorrect. And the trap, again, that was there was too large for the application that it was used. It was a Conibear that we heard referenced before that should only be placed under water. When I called the conservation officer and we discussed this, you know, it was a surprise to me. And, you know, of course it's tragic when you lose an animal and I was there with it. And I also heard reference that I was illegally walking my dogs off leash in the country. That's not illegal to walk off leash in the country, and the dogs are generally under my control as well. I don't let my dogs run wild. Just when I do walk them, we walk off leash. But this issue really isn't just about a dog. As a landowner, I do see this as a landowner rights issue. And we heard that issue come up several times in the discussion as well. As a landowner, I do own the property to the center of the road. The county does have right-of-way access and that's for the public need and convenience, an important role. But as a member of the public, I take...I have availability, I have access to that right-of-way, not just what is on my property, but what is on other people's property. If your car breaks down, we've heard this before, you may go into the ditch. If I'm walking with my dogs on the road, cars are coming, semi/grain truck is coming down the road. The safe place, or so I thought at that time, was to go down into the right-of-way off the road away from the traffic, and that's what we generally did. But now, as a landowner, the county does have some control over my ability to use the right-of-way for my own purposes. I can't hay the right-of-way. I can't

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use that to graze my horses. And I can't generate an income off of that right-of-way. To allow trapping in the public access area, the public right-of-way, does seem to come into conflict with some of those issues. You're allowing one person to derive a benefit while not allowing another person to derive a benefit. I don't see how haying my road ditch would cause a harm to the public, after all, I am required to mow it twice a year. But I did want to bring that up. Other issues that I feel are important, and I did discuss this with our local conservation officer. I'm not sure that all incidences of contact with traps in the right-of-way make it to the headquarters office of the Game and Parks Commission. I think many of those are local comments. In fact, our local CO made a comment that he would prefer trapping not be allowed in the right-of-way because of conflict issues with the public. Through this process, you know, we did visit quite a bit with Game and Parks, and it was not my original intent to come to the Legislature asking for a ban of trapping in the right-of-way. As a former Game and Parks employee, I spent a great deal of time working in the resource services division, and I've kicked out a lot of beaver dams out of culverts and understand the damage that can happen. I also am a rural resident, I do see the damages that happen and do believe that wildlife damage issues need to have some kind of remediation. In fact, we have laws on the books that prohibit harming of any migratory birds such as a great horned owl. However, we do have provisions in statute in the state of Nebraska and elsewhere that do allow you to get a depredation permit if that species of wildlife is causing damage on your property. So as we look at this and we're listening to the testimony and we heard a lot of testimony about the needs of the landowners, protection of county roads, and protection of crops from damage. It would seem to me that the more appropriate solution in this case is one, not to remove the ban for trapping in the right-of-way, but to make a provision so that in those areas where there are damage issues that need to be addressed, they can be addressed in an effective manner. And perhaps because the county has the interest and control of that right-of-way, those permits need to go through the county so that the county is aware that traps are being placed. And perhaps other provisions would need to be put into play that would say, adjacent landowners have to be notified. Perhaps you're not flagging an individual trap, but you're flagging corner ends of where traps may be in a certain span. Knowing what is in the right-of-way would solve, you know, part of the problem. Had I known traps would be in the right-of-way in the area that I was walking my dogs, I would not have gone into the ditch, would not have walked in that area with my dogs, would not have let them off leash, and that's the issue. I do feel very strongly that wildlife damages control issues are important. Those are legitimate concerns, need to be addressed, but removing the ban may not be the best way to do that. One of the things that was brought up earlier, also, in Larry Dix's testimony was the possibility...you know, we've done so much to try to preserve the right to trap or hunt and fish in the state of Nebraska. We have hunter safety education and ethics training that are required for young people before they're able to participate in that sport. We have bow hunter safety education programs and training for those individuals. They also must take training in ethics and wildlife conservation, so that they understand their role as a hunter or trapper. We don't have such provisions in statute for trappers. I would

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think as we listen to the testimony and there was excellent testimony from the members of the trapper's association. I think they focused very well, and I think it's an organization that wants to preserve, and I would hope to see perhaps that they bring legislation in the future, an amendment to legislation in the future that would address that ethics training. Now having provided my testimony, you know, I've been maligned in the comments on the Web sites dealing with the trapping and probably had some derogatory comments in the commissioner...with the Game Commission as well, but I do feel very strongly about this issue. And while, again, I said it was a tragic issue that I had to witness my dog dying, the fact that my dog died was not the center focus of the reason for the testimony. Unfortunately, it did get a lot of press. So if you have any questions, I'd be happy to answer those. [LB5]

SENATOR LANGEMEIER: Senator Schilz. [LB5]

SENATOR SCHILZ: Thank you, Senator Langemeier, Ms. Gottschalk. This county road, I take it, is near your... [LB5]

KRISTEN GOTTSCHALK: Near my... [LB5]

SENATOR SCHILZ: ...residence. [LB5]

KRISTEN GOTTSCHALK: ...residence. [LB5]

SENATOR SCHILZ: But it's not your land. [LB5]

KRISTEN GOTTSCHALK: No. [LB5]

SENATOR SCHILZ: Is that correct? [LB5]

KRISTEN GOTTSCHALK: We were about a quarter mile from our home. [LB5]

SENATOR SCHILZ: Uh-huh. And I probably guess you know the landowner, then? [LB5]

KRISTEN GOTTSCHALK: Yeah, we know our landowners adjacent to us. [LB5]

SENATOR SCHILZ: Sure. Sure. And did they know that the traps were there? [LB5]

KRISTEN GOTTSCHALK: As I mentioned, it was an illegal trap and that trap was set illegally and without permission. But one of the things that I wonder in this talk about managing the right-of-way, is a trap less effective on the opposite side of the fence than it is in the right-of-way, when it...be on the landowners...off the right-of-way but just adjacent to the right-of-way? I'm not sure that those traps are any less effective. [LB5]

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SENATOR SCHILZ: Yeah. I couldn't tell you. [LB5]

KRISTEN GOTTSCHALK: Um-hum. [LB5]

SENATOR SCHILZ: We might have some folks here that could. I don't know, but thank you. That was my question. I was just wondering if the landowner that was there had known... [LB5]

KRISTEN GOTTSCHALK: No, No. [LB5]

SENATOR SCHILZ: ...that there was any trapping going on. [LB5]

KRISTEN GOTTSCHALK: And it was a bad actor, it was definitely a bad actor. [LB5]

SENATOR SCHILZ: Okay, thank you. [LB5]

SENATOR LANGEMEIER: Senator Haar. [LB5]

SENATOR HAAR: Thank you, Senator. I live on an acreage and I've taken my grandkids walking in the ditches to get cans, and I guess I didn't ever consider that there may be danger. Now, you said that the public has a right to go in that right-of-way? [LB5]

KRISTEN GOTTSCHALK: Well, the right-of-way is there for need and convenience, and I think also for the safety of the public. And so, in situations, yes, we do have the right to go into the right-of-way. When there are cleanup, you know, the Girl Scouts go and do their cleanup in the right-of-way, I don't believe that there is a requirement that they have to go and get landowner permission to do that. They have access to that right-of-way, and they're serving a public purpose in that right, too. [LB5]

SENATOR HAAR: Um-hum. [LB5]

KRISTEN GOTTSCHALK: But I'm like you, my children were young when we first moved out to the farm, and it never crossed my mind that that was something I had to look out for since it is illegal to hunt in the right-of-way. [LB5]

SENATOR HAAR: Um-hum. Well, your suggestion that maybe there's a special provision for trapping, I would imagine then that that area should be marked. It wouldn't have to be a flag that's waving but some kind of indicator to grandparents not to walk their kids in the ditch. [LB5]

KRISTEN GOTTSCHALK: You know, and I understand their concern if you put a road

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mark flag and it's flapping in the wind it probably is going to be a deterrent to any animal coming into that trap, if the intent is to trap a problem animal. But I do think that in some way there should be some kind of notification or ability to mark an area where traps would be present, but perhaps not mark individual traps. If I know from this quarter mile to the end of the road that there are going to be traps in that right-of-way, you know, common sense, we've heard that word a lot too, I'm going to avoid that. [LB5]

SENATOR LANGEMEIER: Senator McCoy. [LB5]

SENATOR McCOY: Thank you, Senator Langemeier and thank you, Ms. Gottschalk, for coming in and talking about what I'm sure is a difficult experience and would be very traumatic for any of us that have pets that we love dearly. I guess a clarifying question to kind of follow up to what Senator Schilz asked, it appears to me we're kind of talking about two different issues here, somewhat. One, being a number of suggestions that you had for--that are extremely well-meaning--that perhaps some education or what the case may be for trapping. I guess my question to you, quite simply, is this incident obviously with you happened with you before LB299 became a statute. [LB5]

KRISTEN GOTTSCHALK: Yes. [LB5]

SENATOR McCOY: Can you explain to me if you could, how you would have felt that that statute that's now in effect that we're seeking, or that I should say Senator Christensen is seeking with LB5 to repeal, how that would have helped you with your particular situation, based upon the fact that, as you've very accurately described, your situation was illegal on a number of different fronts. The trap was illegal, it was illegally...permission wasn't granted... [LB5]

KRISTEN GOTTSCHALK: Right. [LB5]

SENATOR McCOY: ...it was baited, it was a number of different issues that were illegal. [LB5]

KRISTEN GOTTSCHALK: A number of things. [LB5]

SENATOR McCOY: Can you explain to me, I guess, how LB299 would have helped you? What good would have that statute done in your particular situation? [LB5]

KRISTEN GOTTSCHALK: In my situation, I cannot say that having one more law in effect at that time would have prevented a bad actor... [LB5]

SENATOR McCOY: Um-hum. [LB5]

KRISTEN GOTTSCHALK: ...from continuing to be a bad actor. However, my thought in

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this process was to the future or, in other situations where if it is illegal to trap or if there's various significantly regulated trapping in the right-of-way it would prevent inadvertent injuries or death to animals or injury to people or, you know, other damage by legal trappers. [LB5]

SENATOR McCOY: Um-hum. [LB5]

KRISTEN GOTTSCHALK: You know, a legal trap is just as lethal as a trap placed illegally. One of the things that becomes a problem with trapping, and again, I say I'm not in opposition to trapping. If I go hunting with my shotgun, when I see my prey I point and I shoot. I know what I'm targeting. When you set a trap legally, same as if you set the trap illegally, you set the trap designed for a specific species of wildlife that you hope to catch. But when you walk away from that trap, you have no control. So if, let's say, my same dog and I are walking down past a landowner who does have a legal trap in their ditch, he steps in that trap, it's successful, the trap was successful. It did what it was intended to do, it caught something. However, the trap couldn't differentiate between what it was going to catch. Now had I known, you know, walking in a legal situation that a trap was present, I would not have gone that way with my dog. It's a risk I would not have taken. So to prevent an illegal actor, yeah, no sense of law is going to prevent bad actors from continuing to be bad actors. [LB5]

SENATOR McCOY: Because I would assume that it...and all of us have neighbors and I'm sure, hopefully we get along with very well, that your neighbor...if that, if those traps or trap would have been placed legally and would have been a legal size trap, and your neighbor knowing you probably regularly walked your dogs on that route... [LB5]

KRISTEN GOTTSCHALK: Yeah. [LB5]

SENATOR McCOY: ...had they had that trapper obtain permission from your neighbor as a landowner, probably more than likely, hopefully would have suggested to you, hey, there's a legally placed trap here. [LB5]

KRISTEN GOTTSCHALK: Hopefully. [LB5]

SENATOR McCOY: ...and hopefully would have safeguarded against that. [LB5]

KRISTEN GOTTSCHALK: Hopefully. I think sometimes those things aren't always thought about... [LB5]

SENATOR McCOY: Right. [LB5]

KRISTEN GOTTSCHALK: ...to notify your neighbors... [LB5]

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SENATOR McCOY: Um-hum. [LB5]

KRISTEN GOTTSCHALK: ...if it's not a requirement to do so. [LB5]

SENATOR McCOY: Right. [LB5]

KRISTEN GOTTSCHALK: I mean I have a great relationship with my neighbors. [LB5]

SENATOR McCOY: Um-hum. [LB5]

KRISTEN GOTTSCHALK: That neighbor whose property I was on. And I don't, I don't live in a quasi-rural area, I live in a very rural area. I'm four miles from pavement on a road that Ts, not a lot of traffic. I do live in a very rural area. [LB5]

SENATOR McCOY: Um-hum. [LB5]

KRISTEN GOTTSCHALK: So, you know, we do have pretty good contact with our neighbors. [LB5]

SENATOR McCOY: Thank you. [LB5]

SENATOR LANGEMEIER: Seeing no other questions, thank you, Ms. Gottschalk, for your testimony. I think we have one more opponent. Senator Hudkins, welcome back. [LB5]

CAROL HUDKINS: (Exhibit 24) Thank you. It's hard to stay away. I do have testimony from an opposition, in opposition, from a gentleman who had to leave due to other commitments. [LB5]

SENATOR LANGEMEIER: Correct. [LB5]

CAROL HUDKINS: His name is Robert Downey, he's the executive director of the Capital Humane Society here in Lincoln. There is a letter attached, there are several pictures included, and so if there is a page that would like to pass those out, I will begin my testimony. Thank you, Senator Langemeier and members of the committee, for staying this late in the afternoon. I know it's the first of many. [LB5]

SENATOR LANGEMEIER: You've got to do your name first. [LB5]

CAROL HUDKINS: I'm sorry... [LB5]

SENATOR LANGEMEIER: Please. [LB5]

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CAROL HUDKINS: ...I'm just so used to being here. [LB5]

SENATOR LANGEMEIER: I know, everybody's got to do it. [LB5]

CAROL HUDKINS: My name is Carol Hudkins, H-u-d-k-i-n-s and I am the immediate past senator of District 21 that Senator Haar now represents, welcome. And there is a lot of new faces on this committee, so you're going to be hearing lots of new issues that you probably have never thought about before. I have been on this committee a number of years, ten I think, but I'm not sure, at least a long time. And with all due respect to Senator Christensen, I am here speaking in opposition to LB5. I'm disappointed in the introduction of this bill, but not surprised. You have heard how the current law came to be, because of Ms. Gottschalk's situation. That was introduced on behalf of a constituent and Senator Christensen is doing the same for his constituent. Since there are no props allowed, over next to the wall there is a big white sack that has two traps in it. One of them is about this big, and one of them is about this big and both of them go like this (claps hands together). And if you have your foot caught in one, it's going to smart. It can cause some damage, so any of you that would care to see those, one of those traps is identical to the one that my husband was caught in. And yes, Larry is my husband and as much as I'm sorry that he got hurt, I'm glad it was him and not me, (laughter) because, because he has much more upper body strength. If he could not get this trap released, there is no way that I could have. He was wearing heavy boots, I'd have been wearing tennis shoes. So I would be here today in a cast and on crutches. So if you want to see those traps, we'll show them to you. You've heard testimony from the supporters and they have good points. You've heard testimony from the opposition and they have good points. I would like to say, though, that Senator Christensen, if you have your bills in front of you go to page 2, line 10, excuse me, line 10, where it addresses the trapping of raptors. I think that Senator Christensen deleted this by mistake. He wanted to get everything out of there. Well, raptors are birds of prey and they are trapped with an entirely different method with entirely different traps. And this particular language relating to raptors should be left in to allow the trapping of raptors. I worked with that group in the original bill to include that language for their benefit. Now on this committee there are at least one, two, three, four, there is four new senators, some of you urban, some of you rural, but I would venture a guess that probably none of you trap wildlife. It is difficult, you have to handle these traps, you have to set them up, hopefully legally, and then you have to go afterwards and get the prey, take care of it in a humane manner if the animal is not dead. You also have to skin the animal and hopefully you are picking up after yourselves, not leaving the dead animals out there, and I know, coyotes have to eat too. But that is one of the points made by Mr. Downey, that the Lancaster...or the Humane Society in Lincoln has had to go out and clean up the remains of those trappings. The carcasses were left, the skins, the furs were taken. We are looking at safety. Now, why do the snare traps, the wires that catch you around the neck, and the teeth traps that smack you around the leg, have to be in the right-of-way? You've heard from these supporters that you have to do this because of

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badgers that burrow under the road and raccoons that go into the fields to eat corn. There is no reason why those same traps cannot be placed on that private property, outside of that right-of-way. I appreciate the comments that the supporters have made, but I would like to address a few of their comments. Senator Christensen, I'll start with you. You said that this bill does nothing to address illegal traps, and unfortunately that's true. But you know what, we have laws against robbery, bank robbery. Guess what, there was a bank robbery this morning, in Lincoln. We have laws against murder but they still go on. Laws keep honest people honest. Mr. Jack said that he harvests raccoons and badgers. Even so, the traps could be set inside the fence or along the creeks. If you are asking permission to trap in the right-of-way, you can just as easily ask for permission to put that trap inside the fence where something or someone unsuspecting isn't going to get caught. Mr. Wilson talked about raccoons and trapping them, and again, why does the trap need to be in the ditch? Mr. Wilson also said that he had heard of no incidents. I think he might have prefaced that by saying no incidents concerning legally set traps. Well, obviously there have been, you've heard them, today, at least three instances of cases that have been reported to Game and Parks. Mr. Barta said don't penalize the honest people. I agree with that, and I am not against trapping. I think there is a place for trapping. We had Game and Parks people come out and try to catch a woodchuck that was doing all kinds of damage in a building, but I think we need a higher penalty for those that are dishonest, as Mr. Dix mentioned. Mr. Rhodes mentioned that he traps coyotes on private property and also beaver. Again, if it's on private property, terrific, you don't need the traps in the ditch. Ms. Spicha said that she has received e-mails and calls in opposition, well obviously, most of those letters were probably from the Ethical Treatment of Animals, and you know the group. I do not support that group, I am not a card carrying member. In fact, I had a confrontation with them on the steps of the Capitol a few years ago. She also said what this restricts what landowners can do. I don't think so, because if the landowner gives permission, you can trap on their ground. And then Ms. Fischer, Senator Fischer, said that the bills get changed after they leave the committee and that's why she didn't vote for it. Well, this happens all the time. The committee hears the speakers, the testifiers, and then it goes to the floor. They listen to the chair of the committee wherever that bill is heard. But you know, sometimes people on the floor have different ideas. Perhaps better, perhaps not, but they are different. Mr. Wagner said that if he--he's disabled--and he wanted to know what the landowner's rights were. I say if traps can be put in the ditch, they can be put on private property. Just get permission. Mr. Miller said that high schoolers could run a short trap line. Well, sure they can, but do it legally and out of the right-of-way. Now, it would be much easier for them, they're going home from football practice, going to school for band at 7:30 in the morning, it would be a lot easier for them to set up an illegal trap in the right-of-way. Are we suggesting that high schoolers should be encouraged to engage in illegal activities? Senator Christensen is responding to constituents, and most of them were in central or western Nebraska, not in the higher populated eastern counties. I responded at the time to a former constituent, since I'm no longer a senator, and to recent problems. We do not need, and we do not want traps,

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legal or illegal, and you've heard the reasons why we don't even want the legal ones. The unsuspecting public does not know that they're there. We do not need those traps in Douglas County, Lancaster County, Sarpy County, Seward, Hall, and so forth, wherever there are a lot of people. If the trappers in very rural, western counties are saying that this current law is jeopardizing their income, I sympathize, I really do. But how difficult is it to get permission from the landowner and to place their traps where unsuspecting people and innocent livestock would not be victims? Based on the opposition testimony you have heard today, I would ask you to not advance this bill. However, if you do, please amend it by adding back the language on page 2 referring to raptors and then continue to prohibit the right-of-way trapping in the counties that I mentioned earlier and any others that you think necessary because of the higher populations. The current law was originally introduced, excuse me, and passed for safety reasons, safety of domestic animals not intended to be trapped, and also, the safety of people. Every bill that is passed by this Legislature is done so for one of three reasons: safety, convenience, or greed. My bill two years ago was for safety. I would say that this bill before you is for convenience. It's much easier to slap a trap in the ditch than it is to go inside that fence line and set it up. Please don't let some unsuspecting child or adult or domestic animal be caught in a trap where permission was not given and no warning given. And even if this law before you passes, there still could be unsuspecting people as Ms. Gottschalk said and as you heard before. People that are cleaning the road ditches, I do that too, I could very easily be caught in a trap. Let's continue trapping with safety in mind. Thank you; are there any questions? [LB5]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. Are there any questions for the senator? Senator Schilz. [LB5]

SENATOR SCHILZ: Senator Hudkins, thank you so much. It's getting late in the evening I won't keep you for very long, and you mentioned before that you'd served on this committee for ten years? [LB5]

CAROL HUDKINS: I think so, it was a long time. [LB5]

SENATOR SCHILZ: Quite a while, anyway, yeah. [LB5]

CAROL HUDKINS: Yeah, a long time. [LB5]

SENATOR SCHILZ: Well, that's fine. And I was just wondering the incident where, unfortunately, Ms. Gottschalk lost her pet. Was that two years ago, three years ago? [LB5]

CAROL HUDKINS: The...my bill was introduced two years ago; I don't remember if she came to me. Before that... [LB5]

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SENATOR SCHILZ: I guess you introduced the bill because of... [LB5]

CAROL HUDKINS: Yes. Yes. [LB5]

SENATOR SCHILZ: ...of what she had told you. So you knew about that situation while you were on this committee. [LB5]

CAROL HUDKINS: Yes. [LB5]

SENATOR SCHILZ: Yeah. Wouldn't it have been, wouldn't it have been the right thing to do to bring it up in the committee hearing if you knew that something was going on rather than waiting until it gets onto the floor? [LB5]

CAROL HUDKINS: Well, unfortunately, you can only introduce bills in the first ten days. [LB5]

SENATOR SCHILZ: Okay. [LB5]

CAROL HUDKINS: And so I could not have... [LB5]

SENATOR SCHILZ: But you... [LB5]

CAROL HUDKINS: ...introduced it any earlier than I did. [LB5]

SENATOR SCHILZ: Okay. So you didn't understand that there was a problem before... [LB5]

CAROL HUDKINS: I was not aware. [LB5]

SENATOR SCHILZ: ...before the ten days? [LB5]

CAROL HUDKINS: No I, well, no. Go back and say that again. [LB5]

SENATOR SCHILZ: I said you didn't realize it was a problem during the ten days of bill introductions? [LB5]

CAROL HUDKINS: Well, I don't think I understand the question. [LB5]

SENATOR SCHILZ: Okay. [LB5]

CAROL HUDKINS: But I saw a problem of a trap in a road right-of-way. [LB5]

SENATOR SCHILZ: Sure. [LB5]

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CAROL HUDKINS: I see no need for traps to be in road right-of-ways. [LB5]

SENATOR SCHILZ: I understand. [LB5]

CAROL HUDKINS: And that...even though hers was an illegal trap, the one that Larry was caught in, my husband, was caught in an illegal trap. And probably that's where most of the problems are... [LB5]

SENATOR SCHILZ: Right. [LB5]

CAROL HUDKINS: ...are the illegal traps. But, if they are legal, if this bill goes forward and traps are allowed in right-of-ways, what is going to protect the public? We don't know they're there. [LB5]

SENATOR SCHILZ: Okay. Thank you. [LB5]

SENATOR LANGEMEIER: Seeing no other questions, Senator Hudkins, thank you much...very much for your testimony. [LB5]

CAROL HUDKINS: Thank you very much for your attention and staying so late. [LB5]

SENATOR LANGEMEIER: Is there any other opposition? Seeing none, neutral testimony. We've got two neutral. I need you to fill out a green sheet, just a reminder. [LB5]

JOE HERROD: I'll fill it out afterwards. I didn't...my name is Joe Herrod, H-e-r-r-o-d. And I'm here only representing myself, but I want to say that I have researched this subject and it is illegal to trap the roadsides in Lancaster County that are owned by the county. It is only illegal to trap the roadsides in Lancaster County that are an easement roadside, and I know that for a fact. Also, it is legal to trap the roadsides in state highways. There is no law against trapping the roadsides in state highways except on divided highways and the interstate. So I only offer that as a point of clarification. And I'm sorry to add more time to this, but... [LB5]

SENATOR LANGEMEIER: I need you to spell your name. [LB5]

JOE HERROD: H-e-r-r-o-d. [LB5]

SENATOR LANGEMEIER: Thank you. [LB5]

JOE HERROD: Thanks. [LB5]

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SENATOR LANGEMEIER: And fill out a sheet. Continue with neutral testimony, thank you. [LB5]

DUANE GANGWISH: Good evening, good evening, senators. My name is Duane Gangwish, D-u-a-n-e G-a-n-g-w-i-s-h. I'm last, I'll be brief and try not to provide you as much entertainment as yesterday. [LB5]

SENATOR LANGEMEIER: We'd appreciate it. [LB5]

DUANE GANGWISH: I'm before you on behalf of Nebraska Cattlemen at the request of our board of directors in a neutral position. I testified last year on this issue and in a neutral position, also, with two caveats. One, is that NC, Nebraska Cattlemen deplores any kind of illegal activity of any kind. And second of all, at that time we had some modest concerns regarding the safety of horsemen and livestock and activities. Our members find value in the services of private and public parties who assist in the control of all kinds of predators. We voice our concerns regarding some of the safety, but we support the safe and legal taking of game and pest control. I'd be happy to answer any questions or to leave quickly. [LB5]

SENATOR LANGEMEIER: Are there any questions? Thank you. [LB5]

DUANE GANGWISH: Thank you. [LB5]

SENATOR LANGEMEIER: Are there anyone else wishing to testify neutral? Seeing none, Senator Christensen, I assume you have a very, very short closing for us. (Laughter) [LB5]

SENATOR CHRISTENSEN: Wishful. Thank you. I'll address a couple of things quickly, here. The reason that the raptor part of it is omitted, taken out of the bill, it's not that I oppose that, is if trapping comes back as LB5 would bring it, it would be allowed, just like it was previously. We added the language last year to just bring that back in, so that's not necessary to leave in there. So that's why it was taken out as excess language. Trapping on either side of the right-of-way really isn't the main issue. If you've got a fence here or just an arbitrary right-of-way, a dog doesn't know the difference. A fence he may see, a right-of-way without a fence they're not going to know one inch difference where it becomes legal. That's a function to think about here. And, you know, when we're dealing with illegal traps, it wouldn't have mattered on that right-of-way question for Larry either. If it'd been on the inside the fence or outside the fence, it was still an illegal trap and would have still got him because he didn't know about it. It wasn't...there is a notification of this trapping season. It was announced November through March, there's a Web site with Game and Parks. So anybody that does want to exercise their dogs and want them to remain leashed during trapping season, that's a very easy way to look up the trapping season and know when it is. And, you know, this

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is a very emotional bill. It's a bill that affects people's lives that have lost dogs or pets. It affects people that have been caught in traps, and also it affects people's second income or primary income. So we must look at what is the best policy for the state. Look at the facts, both instances were with unidentified traps and they didn't have permission to be there. Another fact, they were misused, not allowed currently, or previously when the law allowed trapping. Another unfortunate fact that has been brought out today, is you can't legislate against criminals. And that's a policy question I'm asking you. Fact, first criminal has been caught and prosecuted. Second one has not had enough time yet. I'm very hopeful that they will be found. They should be. I bring you a thought. There was a 26-year-old lady, a very dear friend of our family. Fact it was the harvesting operation of my family that seen a dust on a county road. She was struck by a drunk motorist. She pushed her three-year-old into the ditch and saved her and she was killed. It was a criminal driving. Did we outlaw cars from county roads because a lady was killed? No, we prosecuted the criminal, which has been done. That applies a lot right here to this policy. We have to prosecute the illegal people here. We have it in place, Game and Parks has the rules, what's legal, what isn't, and they can be prosecuted. So we have a illegal trap that killed a dog. Did we legislate against traps on county roadways? Yes. Why? Emotion or good policy? Can we legislate laws to stop criminals? No. Can we stop illegal trapping done by criminals? No. Should we legislate against law abiding trappers? Again, no. Larry Hudkins is a friend of mine. His wife is a colleague. I am very sorry they had to go through this pain and agony of this illegal trap. I believe this is the very reason, though, that proves the point that you cannot legislate against criminals. This shows that the ban hasn't worked and it will not work against those that are, as I call them, criminals, not obeying the laws. So I'm asking the committee to repeal the ban on trapping and allow the law abiding citizens to be able to trap on right-of-ways. Now I ask the committee to advance the bill to General File. Thank you. [LB5]

SENATOR LANGEMEIER: Thank you, Senator Christensen. Seeing no questions, I close the hearing on LB5 (see also Exhibits 25, 26, 27, and 28), and thank everyone for their patience and their testimony. [LB5]

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Disposition of Bills:

LB5 - Placed on General File.

LB14 - Held in committee.

LB53 - Placed on General File.

Chairperson

Committee Clerk