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Natural Resources Committee
January 25, 2017

[LB182]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, January 25, 2017, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB182. Senators present: Dan Hughes, Chairperson; Bruce Bostelman, Vice Chairperson; Joni Albrecht; Suzanne Geist; Rick Kolowski; John McCollister; Dan Quick; and Lynne Walz. Senators absent: None.

SENATOR HUGHES: Okay. I see it's 1:30. Thank you, everybody, for coming. Welcome to the Natural Resources Committee. I'm Senator Dan Hughes. I'm from Venango, Nebraska and represent the 44th Legislative District. I serve as the Chair of this committee. The committee will take up the bill. We have one bill today. Our hearing today is the public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is just part of the process as we have bills to introduce in other committees. I will ask you to abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserved seats when you are ready to testify. These are the first two chairs on either side of the aisle labeled "The Queue." Introducers will make additional statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only or committee counsel. If you are planning to testify, please pick up the green sheet at the door that is on the table at the back of the room. Please fill it out and before you testify, please print, and it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to the committee clerk or a page and they will help us to keep an accurate public record. If you do not wish to testify but you would like your name entered into the official record as being at the hearing, there is a separate white sheet on the tables that you can sign-in for that purpose. This will be part of the official record of the hearing. Written materials may be distributed to committee members as exhibits only when testimony is being offered. If you have handouts, please make sure you have 12 copies to give...and give them to the page to distribute to the committee. When you come up to testify, please speak clearly into the microphone, tell us your name, and please spell your first and last name to ensure that we get an accurate record. We have one bill today. We will be using the light system for all testifiers, will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining, and the red light indicates that your time has ended, you need to wrap up your comments. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, is allowed at a public hearing. The committee members with us today will introduce themselves, beginning with my far left.

SENATOR KOLOWSKI: Senator Rick Kolowski, District 31, southwest Omaha.

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SENATOR GEIST: Senator Suzanne Geist from District 25, which is the east, south, and north part of Lincoln.

SENATOR QUICK: Dan Quick. I'm from District 35, Grand Island, Nebraska.

SENATOR WALZ: Lynne Walz, District 15, all of Dodge County.

SENATOR HUGHES: And to my far right.

SENATOR ALBRECHT: Hi. I'm Joni Albrecht with District 17, up in northeast Nebraska: Wayne, Thurston, and Dakota Counties.

SENATOR McCOLLISTER: John McCollister, District 20, central Omaha.

SENATOR BOSTELMAN: Bruce Bostelman, District 23: Saunders, Butler and Colfax Counties.

SENATOR HUGHES: To my left is committee counsel...legal counsel, Laurie Lage, and to my far right is committee clerk, Mandy Mizerski. Our pages for the committee are Heather Bentley from Miller, Nebraska. She's a freshman at UNL studying agriculture and economics, and Lee-Ann Sims from Lincoln. She is a sophomore at UNL as well studying political science and global studies. The first bill up today is mine, so I will...the only bill up today is mine, so I will turn the committee over to the Vice Chair, Senator Bostelman.

SENATOR BOSTELMAN: Senator Hughes, we'll invite you to open.

SENATOR HUGHES: Thank you. Thank you, Senator Bostelman and members of the Natural Resources Committee. My name is Dan Hughes, that's D-a-n H-u-g-h-e-s. I represent the 44th Legislative District. I'm here today to introduce LB182. Last fall the Nebraska Association of Resources Districts passed a resolution at its annual conference to request that the state's drinking water, State Revolving Loan Fund statute, be amended to clarify eligibility requirements for funding. Created under the federal Safe Drinking Water Act, the Drinking Water State Revolving Loan Fund is a financial assistance program to help public water systems meet health protection objectives...meet the health protection objectives of the act. Federal funds with about a 20 percent match by the state are granted through Estate Revolving Fund. State statute 71-5322 currently authorizes the Department of Environmental Quality to grant this assistance, including loan forgiveness to public water systems operated by political subdivisions with populations of 10,000 inhabitants or less, that can demonstrate a serious financial hardship. LB182 would make the clarification that the qualified applicant is a public water system that

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serves a population of 10,000 or less operated by a political subdivision and can demonstrate serious financial hardships. The wording reflects the intention of the federal law that the population requirement applies to those served by the public water system rather than the population of the political subdivision. Annette Sudbeck, manager of the Lewis and Clark Natural Resources District, is here to describe the issue in more detail. I'd be happy to try to answer any questions, but I believe those coming behind me will. I may have to leave for another bill introduction. If that happens, I've talked to counsel Lage that she may close if there's a question. If not, I will waive closing. [LB182]

SENATOR BOSTELMAN: Thank you, Senator Hughes. Do any committee members have a question? Yes, Senator McCollister. [LB182]

SENATOR McCOLLISTER: Thank you, Senator. You indicated that this is a revolving fund. Is that correct, Senator Hughes? [LB182]

SENATOR HUGHES: Yes. [LB182]

SENATOR McCOLLISTER: How much money is in that fund now? [LB182]

SENATOR HUGHES: I don't have that, but I can certainly get that information for the committee. [LB182]

SENATOR McCOLLISTER: And the match is 20 percent from the state, correct? [LB182]

SENATOR HUGHES: From the local subdivision. [LB182]

SENATOR McCOLLISTER: From the local subdivision, and how much from the state? [LB182]

SENATOR HUGHES: I don't have that information either. [LB182]

SENATOR McCOLLISTER: Okay. We were talking before the meeting started about the USDA. Why would a jurisdiction want to utilize this particular mechanism if they can get funds...100 percent of the funds from the USDA? [LB182]

SENATOR HUGHES: I would imagine anytime they're...as we deal with in state funds and we'd like to attach strings to the funds that we disburse at the state level, I've done enough with federal funds, that there are more strings attached to those funds, so I think they probably have certain

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criteria that's met to get whatever types of program or whatever types of grant or loan funds that the federal government is putting out. They may not qualify. There may be something in those USDA, that program that we discussed, that may disqualify what we're dealing with here. [LB182]

SENATOR McCOLLISTER: Okay. One last question. The use of this mechanism, is it widely used or is it rarely used? Does it occur often? [LB182]

SENATOR HUGHES: What this bill does is there are NRDs in certain parts of the state that have taken over, or have developed or taken over rural water systems. So, in essence, this clarifies that the NRD being less than the 10,000 population is the 10,000 of the rural water system, not the population of the subdivision which is the NRD itself. So the NRD could cover multiple counties, but within one county they would have a smaller rural water system and this would allow that water system administered by the NRD to qualify for these matching funds or grants, and the reloan fund. [LB182]

SENATOR McCOLLISTER: Thank you for the clarification. [LB182]

SENATOR BOSTELMAN: Are there...Senator Kolowski. [LB182]

SENATOR KOLOWSKI: Thank you, sir. Dan, on the...you mentioned the NRDs and the Papiio NRD does have a water service in Washington County. [LB182]

SENATOR HUGHES: Okay. [LB182]

SENATOR KOLOWSKI: And it works very well and it's a great opportunity. How many other entities like that are there in the state that...this is a question I never thought of before from that angle, but how many more are there that are out there that would fall under this bill's jurisdiction or NRDs or X, Y or Z? Do you know how many exist in the state as a whole? [LB182]

SENATOR HUGHES: I do not have that information. I can certainly get that for you, or someone coming behind me may have that information, but it is some rural water systems are a political subdivision unto themselves. NRDs do manage some of those and because of the population thresholds, the way it's worded, an NRD has more population than what a water...rural water system may have that is serving the people. [LB182]

SENATOR KOLOWSKI: Sure. Through the whole five, six counties, whatever else it might be. [LB182]

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SENATOR HUGHES: Yes, yes, that's why we're making the distinction here. [LB182]

SENATOR KOLOWSKI: Okay. Thank you. [LB182]

SENATOR BOSTELMAN: Are there any other questions from the committee? Since there's no other questions, thank you, Senator Hughes. [LB182]

SENATOR HUGHES: Thank you. [LB182]

SENATOR BOSTELMAN: I would now ask that any proponents of this bill to please step forward, any proponents. Welcome. [LB182]

ANNETTE SUDBECK: (Exhibits 1 and 2) Thank you. Senator Hughes and members of the Natural Resources Committee, I am Annette Sudbeck, A-n-n-e-t-t-e S-u-d-b-e-c-k, and I'm general manager of the Lewis and Clark Natural Resources District. I'm here today providing testimony on behalf of the Nebraska Association of Resources Districts in support of LB182. I would first like to thank Senator Hughes and his staff for working with us on this proposal. The Lewis and Clark NRD operates the Cedar-Knox Rural Water Project, which serves 875 rural hookups and the communities of Crofton, St. Helena, Fordyce and Obert in northeast Nebraska. We estimate the total population served to be around 3,200. The service area has very limited groundwater supplies, and the rural water project includes a treatment plant located in the bluffs of the Devil's Nest Region along Lewis and Clark Lake. Surface water is pumped from the lake to the plant and treated water is distributed to rural customers and communities along 400 miles of service line. It is about 40 miles from the plant to the farthest point of service, and the system is paid for by the fees on customers receiving water from the system. As is the case for rural water systems operated by NRDs, the project is operated separately from the NRD general operating budget and property taxes are not used to pay for the service. Between 2003 and 2015 the project has received \$250,000 in loan forgiveness on treatment plant projects that totaled \$633,000. The project also received grant funds of \$28,000 for projects related to security of the plant and the system. The total cost of those projects was \$86,000. Currently, the project is working to improve the water treatment process to address excess trihalomethane or THM production, which is a by-product of chlorination. We had been in contact with the Department of Environmental Quality and Health and Human Services about access to the funds to address our needs. That is when the issue was discovered that a bill passed in 2007 included language that determines eligibility by the population of the political subdivision, not the population served by the system. When we reviewed the federal guidelines for this program, we could not find a reference to the population of the subdivision, but only reference to the population served. I have provided a handout to show the systems operated by the NRDs. There are fifteen systems operated by NRDs, only the Lower Niobrara NRD has a population of less than 10,000 and a

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system serving a population of approximately 1,800. Eight other NRDs operate fourteen systems serving populations of 150 to 6,000. All eight of these NRDs have district populations of more than 10,000. Even though they serve less than the population threshold, most NRD rural water systems and some county operated rural water systems are ineligible because the population of the entire subdivision must be counted which takes them over the population threshold. The rural water systems are very beneficial for rural customers and small communities. By hooking up several communities and residents in-between, we can gain some economies of scale to provide clean potable water at a reasonable cost. Again, the systems are paid for by fees on the rural water customers, not the general property taxes. Thus, we would encourage you to advance LB182 so the rural water systems that serve populations of 10,000 or less, and operated by political subdivisions, would be eligible for low-interest loans and grants for the development, treatment, and distribution of drinking water supplies to rural customers and small communities. [LB182]

SENATOR BOSTELMAN: Thank you, Ms. Sudbeck. Are there any questions from the committee? Any questions from committee members? Thank you very much for you testimony. [LB182]

ANNETTE SUDBECK: Thank you. [LB182]

SENATOR BOSTELMAN: Welcome. [LB182]

MATT WEINANDT: (Exhibit 3) Hi, guys. Senator Hughes and members of the Natural Resources Committee, my name is Matt Weinandt, M-a-t-t W-e-i-n-a-n-d-t. My full name is Mathias, M-a-t-h-i-a-s. I'm a director for the Lewis and Clark Natural Resources District in Hartington. I also serve on the NRD as a representative of the Advisory Committee for the Cedar-Knox Rural Water Project. I'm here to provide testimony in support of LB182. As testified by our NRD manager, Annette Sudbeck, state revolving funds have been used for certain loans and grants utilized by the water project over the last fourteen years. The funding which has helped the water project make system improvements and upgrades, which are often very expensive, and enabled the project to continue to serve high quality, safe drinking water to the four communities and 875 rural customer hookups along the system. Accessibility to the State Revolving Fund has given the water project the ability to make necessary changes to the system while maintaining affordable rates to water customers. Changing the population requirements from 10,000 inhabitants or less of the political subdivision to those of the population served will make our system, and others, eligible to receive certain loans and grants again. The Lewis and Clark NRD encourages you to advance LB182 so water systems serving populations of 10,000 or less that are operated by a political subdivision will have access to funding enabling continued service to our customers. And now from a personal standpoint, my father...why do we need rural

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systems out there is the water is extremely hard out there and it's okay for livestock, but for human consumption it's really high in total dissolved solids and it's got a lot of rust qualities to it. And so my father invested in this a long time ago, in 1983, I believe, and we provide that water for our house and for our family and our relatives. If you're not familiar with our water and you travel from Iowa, they would have dysentery problems. I mean, that's how hard the water is in some of these rural areas and that's why it's necessary. [LB182]

SENATOR BOSTELMAN: Okay, Thank you. Are there any questions from committee members? Any questions from committee members? Seeing none, thank you very much, Mr. Weinandt. Welcome. [LB182]

DAVID CLABAUGH: (Exhibit 4) Thank you. Members of the committee, Senator Hughes, my name is Dave Clabaugh, Dave, D-a-v-e, Clabaugh, C-l-a-b-a-u-g-h, and I'm the general manager of the Lower Big Blue NRD. Our office is located in Beatrice, Nebraska. I am here today to provide testimony in support of LB182. The Lower Big Blue NRD operates two rural water systems in Gage County. Our Beatrice West Project serves users, believe it or not, to the west of Beatrice along Highway 4. This also includes water provided to the Homestead National Monument. This project was started in 2000. Our newest project is our Wymore-Holmesville rural water project that was put into service in 2013 and serves customers in southeast and southern Gage County. And we also cross into a small portion of Pawnee County with that system. These two projects serve a population of over 1,000 users. Again, rural water systems are paid for by fees charged to the customers who are on the system. They are run separately from NRD's budget so they are standalone, self-supporting projects. The population of the Lower Big Blue NRD is over the 10,000 threshold limit that currently prohibits our use of certain loans and grants that would help us maintain and upgrade our systems to continue to provide safe, affordable drinking water to our customers. I would ask for your support for LB182 changing the requirement to the population served by the system, not the population of the NRD, so systems like ours would be eligible for the funding alternatives. That concludes my testimony. Thank you. [LB182]

SENATOR BOSTELMAN: Are there any questions? Yes, Mr. Kolowski. [LB182]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Dave, good to see you again. [LB182]

DAVID CLABAUGH: You bet. [LB182]

SENATOR KOLOWSKI: Thank you. I hope you've had a good conference this week. [LB182]

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DAVID CLABAUGH: Awesome. [LB182]

SENATOR KOLOWSKI: And it looked like it was a lot of fun last night. The things that are happening in water across the country are remarkable or having infrastructure issues that plague places like Flint, Michigan, and other locations across the country. One of the tremendous resources we have, of course, is water and tapping into that water and developing it, delivering it, as you're doing, is an answer to a prayer for many, many people. Washington County has some very difficult situations where they need the water and we've extended that all over the area. What are the greatest needs that you have in maintaining a water system like this because you have to work on infrastructure, things do wear out over time,... [LB182]

DAVID CLABAUGH: Right. [LB182]

SENATOR KOLOWSKI: ...what stands out that would help you, not with just getting it going, but then the maintenance in the long-term involvement? [LB182]

DAVID CLABAUGH: You know, all the water systems are different. Some of the water systems have their own wells and pumps which is...that's a tremendous amount. A municipal well is a million dollars. We are fortunate in my two systems that we get to buy water from the city of Beatrice and we buy the water from the town of Wymore. So our infrastructure is not huge, but we do have a water tower and we do have a pump station to pump the water to the tower. And those are constantly need to be upgraded, the towers. We've got maintenance on that. We pay a company for...that's got to be painted every so often inside and out. There's always...you know, testing requirements we have to meet for HHS. And just general maintenance in our...Beatrice West, it started in 2000, you know, we're to the point now where we need to replace probably the meters, change out different things with that because it's getting some age on it, so. [LB182]

SENATOR KOLOWSKI: And then again, the water system is separate from your NRD budget. [LB182]

DAVID CLABAUGH: Correct. [LB182]

SENATOR KOLOWSKI: So it's important that we keep that in mind. It's not... [LB182]

DAVID CLABAUGH: Yes, very important. It's the customers' systems, just like the community. [LB182]

SENATOR KOLOWSKI: Yeah. Thank you. Appreciate it very much. [LB182]

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SENATOR BOSTELMAN: Are there any other questions from committee members? My question would be, this setting the population, the 10,000 and that, there must be...are there other grants? This obviously kept you perhaps from at one point in time to applying for these funds or having these funds... [LB182]

DAVID CLABAUGH: Well, USDA grants have been mentioned and that's how we initially...those are usually used for initial start-up. You know, our Wymore project was \$5 million and that was about 50 percent USDA grant, 50 percent loan. So that's where that came in. USDA really doesn't give you money for replacing parts of your system. They like to do new things or if you have to upgrade due to regulations. [LB182]

SENATOR BOSTELMAN: And do you see that this will create greater opportunities for use of these funds? In other words, as Senator McCollister asked earlier, you know, the amount of dollars, how often this was used or would be used within the state? [LB182]

DAVID CLABAUGH: Well, we would definitely take a look and see what's available for us to use since we haven't been able to in the past, correct. [LB182]

SENATOR BOSTELMAN: Okay. Senator Kolowski. [LB182]

SENATOR KOLOWSKI: I'd ask another one if I could, please. Thank you. This seems like a really commonsense solution. (Laughter) How long has it taken us to wake up to the fact that this would be a very viable way to do this. [LB182]

DAVID CLABAUGH: Well, I think the mistake was made in 2006 when they were changing some rules and regs and it just...the wrong word got put in. And that's happened before, you know. [LB182]

SENATOR KOLOWSKI: Our experiences as well, I think. It's not the total NRD. That would be impossible in the metro area. [LB182]

DAVID CLABAUGH: What I think is rural water system that serves over 10,000 people. You know, that's a big...yeah. [LB182]

SENATOR KOLOWSKI: Thank you very much. [LB182]

DAVID CLABAUGH: You bet. [LB182]

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SENATOR BOSTELMAN: Are there any other questions? Seeing none, thank you, Mr. Clabaugh. [LB182]

DAVID CLABAUGH: You bet. [LB182]

SENATOR BOSTELMAN: Is there anyone else who would like to testify as a proponent for this bill? Anyone else as a proponent for the bill? Then I would ask anyone who is an opponent of the bill to please step forward to testify. Do we have any opponents to the bill? Then, is there anyone here who would like to testify in a neutral capacity? Ask again, anyone here would like to testify in a neutral capacity? Seeing none, Senator Hughes waives closing so this will conclude the hearing. Thank you very much for coming. [LB182]