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Natural Resources Committee
March 02, 2017

[LB352 LB533]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, March 2, 2017, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB533 and LB352. Senators present: Dan Hughes, Chairperson; Bruce Bostelman, Vice Chairperson; Joni Albrecht; Suzanne Geist; Rick Kolowski; Dan Quick; and Lynne Walz. Senators absent: John McCollister.

SENATOR HUGHES: Good afternoon, everyone. It's 1:30 and we will begin our hearing. This is the Natural Resources Committee hearing. Welcome. I am Senator Dan Hughes; I'm from Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your 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 ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the front row of chairs when you are ready to testify. The introducer will make initial statements followed by proponents, opponents, and neutral testimony, closing remarks for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet 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 to a page; this will help us make a more accurate public record. If you do not wish to testify, but would like your name entered into the official record as being present at the hearing, there's a separate white sheet on the tables that you can sign in for that purpose. This will become part of the official record of the hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. If you have handouts, please make sure you have 12 copies 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 will be using the light system today for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light, that means you have one minute remaining, and the red light indicates your time has ended and 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 in the public hearing. The committee members with us today will introduce themselves beginning on my left.

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

SENATOR WALZ: I'm Lynne Walz, District 15, which is all of Dodge County.

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SENATOR HUGHES: And on my right.

SENATOR ALBRECHT: Good afternoon, I'm Joni Albrecht from District 17, Wayne, Thurston, and Dakota Counties, northeast Nebraska.

SENATOR BOSTELMAN: I'm Bruce Bostelman, District 23, Saunders, Butler, and most of Colfax Counties.

SENATOR HUGHES: To my left is the committee legal counsel, Laurie Lage. And to my far right is committee clerk Mandy Mizerski. Our pages for the committee today are Lee-Ann Sims from Lincoln; she is a sophomore at UNL studying political science and global studies. And Jade Krivanek from Omaha; he is a junior at UNL studying economics as well. So with that we will welcome Senator Geist to the hearing. And, Senator Vargas, you're welcome to open on LB533. Welcome to the Natural Resources Committee.

SENATOR VARGAS: (Exhibits 1 and 2) Thank you. Thank you, Chairman Hughes. Good afternoon, members of the Natural Resources Committee. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I'm here now to talk about LB533, a bill that would require companies involved in drilling and fracking activity to carry liability insurance. For members of the committee who were here last year, I want you to note that LB533 is a carry over from Senator Ken Haar's office. Last year, he introduced LB1070. I'll give a brief background on that bill before I begin on LB533. Last year's LB1070 largely stemmed from controversy surrounding the application for an injection well in Sioux County in 2014. Opponents of the well objected to the Oil and Gas Commission's approval of the permit and further objected to the way the commission conducted the public hearing of the permit. The flurry of activity around the drilling and fracking issues specifically potential negative side effects of development resulted in a public desire to put additional financial assurances in place. There was opposition to LB1070 and some of the issues have been resolved in LB533. LB533 still requires companies involved in drilling and fracking...any activity to carry liability insurance of \$5 million which would, hopefully, cover any pollution that resulted from that activity. What's different between the two bills is the second part of the bill which places a restriction on drilling and fracking in areas where water is less than 50 feet from the ground surface and prohibits it entirely from one of Nebraska's sacred and significant ecosystems, the Sandhills. There was opposition to that section in LB1070 last year by the oil and gas industry which specified that the prohibited area included anywhere groundwater was saturated more than 100 feet below ground surface. LB533 addresses that objection with the change in language to specify the protected area is the Sandhills. I will not say a lot about fracking and drilling, that issue in particular, as there are a few testifiers that will speak and come after me who are policy experts in that arena and will address those concerns in their testimony. What I will say briefly is that drilling and fracking has very clearly caused

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negative reactions in our environment around the country including water pollution and increased seismic activity. While there may not have been any accidents in Nebraska yet, it doesn't mean that there won't be as oil and gas extraction continues. The state must take preventative steps to protect itself from carrying the financial burden of any potential accident that could occur. Speaking as a member of the Appropriations Committee, in a year where we've had to address significant deficits for the remainder of this fiscal year, and even greater reductions for the next biennium considering the latest revenue forecast, the state, local governments, and even more importantly, taxpayers, simply cannot afford to be on the hook for an accident that could cost millions to clean up. That financial burden should be carried by a private company conducting the activity, not the taxpayers, not local governments, and not the state. I'll end with that, and I'll be happy to answer any questions. Thank you. [LB533]

SENATOR HUGHES: Thank you, Senator Vargas. Are there any questions? I do have a couple of questions. The portion that you added where the Ecoregion 44 is defined in the United States Environmental Protection Agency, commonly known as the Nebraska Sandhills, that is a very vague definition, I guess, not necessarily vague but I think probably subject to interpretation. [LB533]

SENATOR VARGAS: Um-hum. [LB533]

SENATOR HUGHES: We had a hearing here yesterday dealing with the moratorium on wind development in the Nebraska Sandhills. And my concern with that bill as well was the same as yours that that is a significantly...a vague description of a territory that I think there needs to be more, say, man-made lines defined as starts and stops for different activities, be it roads, be it county lines, be it highways, something like that. Just saying that on this side of the room there is Sandhills on this side and where you sit is not...is not sufficiently accurate. Just if the bill moves forward, that would be something I would wish you would consider, to think about that. [LB533]

SENATOR VARGAS: Yeah. [LB533]

SENATOR HUGHES: And then the other issue I have is in the bill on page 6, line 17, in an area where the depth of the drinking water aquifer begins less than 50 feet below the surface of the ground. Where I live, I'm not sure where the aquifer begins. It is rain fed. So in essence, the aquifer begins at the surface of the ground. We have wells that were drilled in the '40s that the water table was 46 feet; so that is within 50 feet of the surface, but yet, I think the aquifer probably begins at the surface. Currently, the water table is 100 feet. So, I mean, there is a lot of variance. So just a couple of comments that should we move forward with this, I think there may be some things that need to be thought through just a little bit additional. And I'm

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certainly...would appreciate your comments on those two issues, if you want to now or if we move forward something we need to work on. [LB533]

SENATOR VARGAS: Yeah. So first I'll say thank you very much. I'm happy and willing to better define how we define this specific ecosystem...Ecoregion 44. We utilize this from the EPA. And there is a map, and I'm happy to get you more copies of this afterwards as a follow-up, that defines a Level III Ecoregions and designates on this map what the Sandhills is, and that's what we're referencing. But if there's additional language that would help support and clarify where it begins and ends, specific to roads, happy to work on that. And also happy to have a further conversation and get more information around this 50 feet below the surface of the ground. I think we're just trying to be more intentional and give an actual level knowing that that is information that the industry does use and does have and they take that into account. And so it's public information...well, it's information that they happen to use when they're doing the work they do. [LB533]

SENATOR HUGHES: Okay, thank you. Other questions? Senator Albrecht. [LB533]

SENATOR ALBRECHT: Thank you, Chairman Hughes. And thank you for your testimony. Just looking this over, and on page 6 at the top, number (3), where it says they have to issue insurance. Do they not currently carry any insurance when they do this or the commission required them? [LB533]

SENATOR VARGAS: Yes, so there is...they're...so I like to say that there's a difference between...as practices and statutes. So there are...there's EPA regulations that require some type of insurance. And I know that...I've even spoken to the industry, there's some people in the industry, some private companies that choose to take on more insurance because they believe it's the right thing or the better thing to do; and some don't take on much because it's not required. And I think that that's...but there is a limit to when you define what a bond or insurance does cover. So some of the liability, and I'll let the industry speak to the different liabilities they have, it covers bodily harm to an individual. It might cover actually plugging up a well. But it won't cover the impact or the effect of pollution. For some of them it might, but it's not a standard. And so we're talking about creating a new standard to ensure that if there were something to happen to a county; and again, acknowledging that, there hasn't been anything; that the money is not...the burden is not put on the counties. And as somebody that was a locally-elected official, you were as well, we want to be proactive to ensure that that doesn't...the taxpayers are not put on the hook for something. And in particular, that there is a standard that we expect from any company that is doing this type of work across the state. Because it is something we're seeing as a national conversation, a real potential risk, we're seeing from this work, and we want to be proactive. [LB533]

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SENATOR ALBRECHT: And where did you come up with the \$5 million? I mean, did you just...is it what other states are doing? [LB533]

SENATOR VARGAS: So we looked at what some other states are doing. Not everyone is doing the same thing; they do different things and I think some states do it by wells or do it by...they have \$1 million, but the reason why we do \$5 million is that was a number that we...that carried over from the previous legislation and we're figuring that given that this industry...if there was something to happen that there are really, really tremendous effects that would be potential costs to make sure that we're covering everything that's needed to support and protect the environment, homes, anything that would impact the city or county. [LB533]

SENATOR ALBRECHT: Thank you. [LB533]

SENATOR HUGHES: Additional questions? Seeing none, I'm assuming you'll stay to close. [LB533]

SENATOR VARGAS: I will stay to close. [LB533]

SENATOR HUGHES: Okay. Thank you, Senator Vargas. [LB533]

SENATOR VARGAS: Thank you very much. [LB533]

SENATOR HUGHES: So we will begin with proponents of LB533. Welcome. [LB533]

KEN WINSTON: (Exhibit 3) Thank you. Thank you, Chairman Hughes. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, and I'm appearing on behalf of the Bold Alliance in support of LB533. While I'm not going to read my testimony because it's being handed out, but I just wanted to kind of hit on some of the points that are being made here. Just following up on what Senator Vargas said, we think that requiring liability insurance for injection wells is just a commonsense thing. And one of the things that...I've done quite a bit of research in this area and discovered that there have been numerous incidents that have caused considerable damage including...there was one spill in North Dakota where the damage...the estimate to clean up was more than \$3 million. And then of course, in Oklahoma they've had thousands of earthquakes in the past few years. Like last year, they had 623 earthquakes that were directly connected to injection well operations. And this is from the Oklahoma government Web site. So this is not something that is...well, I assume that they're reliable. And the idea is that liability insurance would protect all that are concerned including the operator, the public, and the state. And I also wanted to mention the fact that we've had...that there's a lot of support for this idea. Bold put out

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a petition on our Web site just on Tuesday. We've already gotten more than 500 responses of people...it's one of these click through kinds of petitions where it sends a message to Senator saying that they support LB533. And we had a petition on our Web site for the past two years and have collected more than 12,000 signatures supporting and protecting land and water from injection wells. One of the other things that the research that I've done indicates that there's lots of leaks that go undetected. And so sometimes the fact that somebody will say, well, there's never been a leak or a spill, well, that's a good thing; we certainly hope there won't be. But that doesn't mean that we shouldn't protect...be protected in the event that that does happen. And sometimes those things are happening that people aren't aware of them. And then I just wanted to follow up on the testimony from yesterday and just to acknowledge the fact that there was a lot of testimony about the value of the Sandhills, and I participated in that hearing as well, and so just to acknowledge that again to say that we think that that is worthy of the committee considering in regard to this bill as well. And then would be glad to work with the committee in terms of defining what the boundaries of the Sandhills are. As Senator Vargas indicated, there is a map that based upon Ecoregion 44 and that can be accessed. And then just to finish, the Ogallala Aquifer, I'm sure there are going to be other people to talk about it, but it is an extremely valuable resource, probably the state's most valuable resource and it deserves protection. So I would be glad to answer questions if I can. [LB533]

SENATOR HUGHES: Thank you, Mr. Winston. Are there questions? Senator Quick. [LB533]

SENATOR QUICK: Yeah, thank you, Chairman Hughes; and thank you for testifying. And maybe Senator Vargas touched on it, but how many other states, maybe, are doing something or have legislation like this, or is anybody else doing it, do you know? [LB533]

KEN WINSTON: Sure, well, in...I don't have all the research right at my fingertips, but I recall specifically that Colorado has a requirement of a \$1 million liability insurance provision. So, and I know that there are several other states, the state of Ohio has liability insurance requirement, and I'm trying to think of other states right off the top of my head. I'm sorry I don't have it all right on the top of my head,... [LB533]

SENATOR QUICK: Yeah, (inaudible). [LB533]

KEN WINSTON: ...but Colorado I recall specifically has a \$1 million insurance requirement. [LB533]

SENATOR QUICK: Yeah. And was any of these states, you mentioned that too, but where...you said there was a leak somewhere, did they have...did they use this? [LB533]

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KEN WINSTON: Well, sure, well, I'm sorry if I don't have all the information. [LB533]

SENATOR QUICK: That's fine. [LB533]

KEN WINSTON: But I do know that...for example, like I said, in the North Dakota example that I mentioned, the estimate to clean it up was around \$3 million. Now, and so they...and there was a spill that covered...it was, basically, fracking fluid that spilled out on a field and caused the vegetation to die. And so it was going to cause...and I can get some more definite information to you about how that would work. But I don't recall whether North Dakota has any kind of a provision like that. I don't believe that they do. [LB533]

SENATOR QUICK: Oh, okay. Thank you. [LB533]

SENATOR HUGHES: Any additional questions? Seeing none, thank you, Mr. Winston. [LB533]

KEN WINSTON: Thank you, Chairman Hughes. [LB533]

SENATOR HUGHES: Welcome. [LB533]

JAMES CAVANAUGH: Thank you, Chairman Hughes, members of the Natural Resources Committee. My name is James Cavanaugh; I'm counsel for and registered lobbyist of the Nebraska Chapter of the Sierra Club, appearing before you today in support of LB533. And we commend Senator Vargas for bringing this important piece of legislation to your attention. [LB533]

SENATOR HUGHES: Mr. Cavanaugh, please spell your name. Thank you. [LB533]

JAMES CAVANAUGH: James, J-a-m-e-s, Cavanaugh, C-a-v-a-n-a-u-g-h. You only have to ask yourself one question to get your head around what we're trying to deal with here. And that question is: What could possibly go wrong? We sit over one of the largest fresh water aquifers on earth. And the proposal is to cover the liability of people who would bring in liquid materials to pump into the ground that sits over the largest fresh water aquifer in North America, one of the largest on earth. And what could possibly go wrong? I think that we could all envision what could possibly go wrong and that's why we helped bring LB1072 before this body last year, and portions of that are incorporated in statute today relative to some requirements that you must meet in order to bring those materials into the state and pump them into the ground. The one that was not incorporated into the statute last year is the one dealing with the liability insurance. So,

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presuming that we all have cars in the family, you have to ask yourself--why does the state require us by statute to have insurance on our car, which, you know, granted, could cause an accident and hurt people and damage their property. But it doesn't require by statute for us to have the same liability protections for the largest fresh water aquifer in North America and one of the largest on earth. What's the possible damage that could be done there? And insurance companies rate insurance policies by risk, what's the possible risk? And so if you look at your insurance policy, the statute in Nebraska says they have to have \$25,000 and \$50,000 in minimum coverage; most of us have far more. But we have none for this activity, no statutory requirement. If you look around the country, many states, as Mr. Winston indicated, are beginning to require this. Contracting and consulting, and these are insurance industry documents that I'm quoting from, and transporting products for new oil and gas discoveries in the continental United States we are seeing many new risks coming to us from North Dakota, Pennsylvania and Ohio as a revolution in fracking technology continues. And they go on to say: and here's the products that we are marketing to cover that. These are readily available. And I think that you're going to hear from some oil and gas industry representatives after me. You should ask them what products they actually use today in other states. There are general liability coverage for sudden and accidental pollution products that are available today. There's environmental professional liability products available today. There are maximum limits of liability from \$1 (million) to \$5 million available today. And their clients purchased these products in other states; they're not required to purchase them in Nebraska. What you need to look at is the reason for the \$5 million increment in Nebraska is based on the risk that the insurance industry has already calculated; and they're very good at this. Coverage generally runs in the \$1 (million) to \$5 million aggregate policy range. And believe me, I can go over this in minute detail with you, but I want to be respectful of the committee's time. There are actually premium ranges that I could provide to you. They range from, for these \$1 (million) to \$5 million policies for environmental damages, from about \$20,000 to about twice that. I'd be happy to answer any questions you might have. [LB533]

SENATOR HUGHES: Thank you, Mr. Cavanaugh. Are there questions? Seeing none, thank you for your testimony. [LB533]

JAMES CAVANAUGH: Thank you. [LB533]

SENATOR HUGHES: Next proponent. Welcome. [LB533]

MARY PIPHER: Hello. Hi. Hi. My name is Mary Pipher, M-a-r-y P-i-p-h-e-r. Thank you in advance for hearing my testimony. I'm a member of a group called Guardians of the Aquifer. We've worked for seven years to protect water in Nebraska. Our group is committed to monitoring potential dangers to our water and educating our citizens about these dangers. Our

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goal is to preserve our fresh water for all of posterity. And I might mention here, I have five grandchildren living in the state of Nebraska, so I have specific, personal interest in this. We're a state that is highly dependent on our bountiful water supply for agriculture, wineries, recreation, tourism, and livestock production, as well as drinking water. Any serious trouble with our aquifer could doom our way of life in this state. We believe also that it's the primary responsibility of government, and particularly this committee, to take care of our health and our shared natural resources. It is not the government's responsibility to worry about profits for a private party such as the truckers and companies bringing in wastewater from these injection wells. Rather, it is the job of this committee and our state government to protect our citizens and our water supply. As a group, the Guardians of the Aquifer do not support any injection wells for fracking or wastewater in this state. It's a very high risk procedure with virtually no benefits to the citizens of our state. However, if injection wells are going to be in our state, they must be well regulated. We support Senator Vargas' LB533. As you know, this bill requires companies to carry significant liability insurance which means that we the taxpayers will not pay for damage inflicted on our aquifer or on our farmers and ranchers. We're also in favor of prohibiting wastewater disposal wells anywhere in the Sandhills or where the aquifer is less than 50 feet below the surface, although I take your point that these all need to be clearly defined. Committee members, please do your duty and recommend this bill proceed to the floor of the Legislature for a vote. For one thing, it's too important a topic not to proceed to the Legislature for a public discussion of our most precious resource in this state. We expect you to take care of our state's resources and commend you in advance for doing so. Thank you. Thank you. [LB533]

SENATOR HUGHES: Thank you, Ms. Pipher. Are there any questions? Senator Walz. [LB533]

MARY PIPHER: Excuse me. Sure, hi. [LB533]

SENATOR WALZ: Thank you, Chairman. How are you? Thank you for coming today. [LB533]

MARY PIPHER: Okay. [LB533]

SENATOR WALZ: I do have a question. [LB533]

MARY PIPHER: Sure. [LB533]

SENATOR WALZ: I am not real familiar with monitoring water results. [LB533]

MARY PIPHER: Uh-huh, yeah. [LB533]

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SENATOR WALZ: So as the Guardians of the Aquifer, how...like what specific process do you use to monitor that the aquifer, and how often do you do that? [LB533]

MARY PIPHER: Right. Well, we don't actually go out and test the water. What we do is stay on top of the research that has been provided by various state agencies. So for example, we know the nitrate levels of water in this Lincoln area. And one of our other projects is we're very concerned about the enormous Costco plant that may be built in Fremont that has a great deal of potential to actually affect the water in southeast Nebraska. So we're doing a lot of work with the natural resources districts and the city of Omaha and the city of Lincoln to make sure that water supply is safe. The other water supply we were very concerned with was...our original name was the Coalition to Stop the Keystone XL Pipeline. And we did a lot of research on exactly how many river systems is that going to cross. And at one time, that was mapped to go through the Sandhills. So we don't do the water testing ourselves. What we do is we have people in our committee...our group is...ranges...probably had 75 people over the years, but usually it's about 20 people at any one time. And there's always water experts from the university on that committee who are bringing us reports about water quality. So that's how we monitor water is through reports. [LB533]

SENATOR WALZ: Okay. [LB533]

MARY PIPHER: Many of them from the state actually. [LB533]

SENATOR WALZ: And historically, what have those results shown, like...? [LB533]

MARY PIPHER: In general? [LB533]

SENATOR WALZ: In general. [LB533]

MARY PIPHER: Well, the water quality varies a lot in this state. But, of course, one very significant concern is nitrates. There's also a lot of concern about...for example, southeast Nebraska is the Parkinson's capital of the world. And that has to do with not only the nitrate levels which are very much related to Parkinson's, but it also has to do with a particular quality of soil we have in this part of the state. And I'm neither a soil scientist nor an expert on water, but I can answer your question in a general way. When it comes to the aquifer, as you know, the aquifer is sometimes pooling on the surface of the land in the Sandhills. It's very porous in the Sandhills so that anything that happens to water in the area we call the Sandhills has great deal of potential risk of somehow becoming, you know, polluting our aquifer. I also have seen the list of the chemicals in this wastewater...injection water...this fracking wastewater that will be injected

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into wells in the Sandhills, and the chemicals are neuro...they're neurotoxins and they're carcinogenic, so they have a tremendous possibility to do damage to fetuses, babies in utero, to children, and to really all of us. We're already dealing with Parkinson's as a serious neurological disease in our state, in part because of water problems. So, you know, from our point of view as a group, nobody in our group makes any money in any way connected with water, except I guess you could say the people at the university do, but as scholars and academics. But our only concern is keeping our water clean enough that we can safely drink it without getting diseases, children can, you know, safely have water, even when they're in the womb and not be risking neurotoxic diseases and so on. And there's really quite a lot of evidence that the water that's being put in these wells is very dangerous water and that the risks are high. So, that's what we know and that's what I'm basing this testimony on. [LB533]

SENATOR WALZ: All right, thank you. [LB533]

MARY PIPHER: Thank you for asking that question. Any other? [LB533]

SENATOR HUGHES: Are there additional questions? Seeing none, thank you, Ms. Pipher. [LB533]

MARY PIPHER: You're welcome. [LB533]

SENATOR HUGHES: Welcome. [LB533]

GRAHAM CHRISTENSEN: (Exhibit 4) Thank you, Chairman Hughes, members of the Natural Resources Committee. My name is Graham Christensen, spelled G-r-a-h-a-m, last name, C-h-r-i-s-t-e-n-s-e-n; and today I'm here on behalf of the Nebraska Farmers Union. I'm the state secretary and District 6 Director which represents, Senator Walz, your district and Senator Kolowski's district, Omaha, Fremont, and up to my farm area which is in Burt County. Today, I am here as John Hansen could not be with us today to add my support to LB533. I wanted to share a story that I heard from a director that...former director of the Nebraska Farmers Union that had a fairly recent board meeting had talked about the incident in Sioux County that initially brought this conversation to a larger public discussion. And, you know, it was simply that there's some ranchers out there that caught some folks doing some feasibility looks on some of their wells and they were on the property without permission. And they were, you know, fully planning on moving forward. And it was because these folks were not informed and caught this, they were upset and started asking questions and therefore we had a public process and so here we are today. In Nebraska, this is a conversation that's becoming more and more familiar with companies that we may not be the most familiar with. In the case of TransCanada, we saw also concerns arriving there in which if there was a pipeline spill that the landowner would be stuck

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with the liability, even though it was not their project. And more recently, in examining some of these grower contracts and the Costco project, we've also seen environmental issues the liability for that being exempted from the contracts from the company. And so what we need to look to do is ensure that companies that come into our state do business the way that our principles ask us to do business in the state of Nebraska. I would, Senator Hughes, also support the idea of looking at the depth of the water. As a landowner in northeast Nebraska, I have concerns. Our wells are deeper. I would be scared to death if someone was going to inject these fluids under the ground in the land that we farm, especially seeing what's happened in Oklahoma with the recent tremors and earthquakes. But at very least, if it's the state's will, we need to ensure that the companies...that our citizens in Nebraska and our landowners, our farmers and ranchers are protected if there are any environmental consequences. Liability insurance would go a long way to protect us Nebraska residents and landowners from environmental degradation. On the farm, we are familiar with fixing equipment. We know that this equipment, man-made equipment breaks down, it's a continual process; man-made stuff breaks down, it wears out over time. At some point there's going to be an issue with a lot of the infrastructure that we're building. So once again, just being proactive to ensure that people are not affected when the worst does happen. As we know, that as humans we're not perfect. So with that I just would like to one more time state--let's simply protect the citizens of Nebraska in this case and let's do what we can to ensure that businesses coming into Nebraska are doing standards that are based on Nebraska principle. With that I'd take any questions and answer if I could. [LB533]

SENATOR HUGHES: Thank you, Mr. Christensen. Are there questions? Seeing none, thank you for your testimony. [LB533]

GRAHAM CHRISTENSEN: Thank you. [LB533]

SENATOR HUGHES: Next proponent. Welcome. [LB533]

JUDY KING: (Exhibit 5) Hi. My name is Judy King, J-u-d-y K-i-n-g. And I was here yesterday for the turbines bill. And I just care about clean water. That's all I care about. And I care about the Sandhills, too; I'm sorry. We cannot live without water. Water is life. And if we're so interested in the wind turbine issue, we should care about the water underneath and make sure that it's protected. Each year the world generates five to ten billion tons of industrial waste, much of which is pumped untreated into rivers and other waterways and eventually into the world's oceans. Water is being attacked by contamination from so many different ways: pipeline spills, leaking underground storage tanks, and toxic water from oil and gas industry drilling that's being disposed of, and underground injection wells. And then like other states like Omaha (sic-Oklahoma) have already come up with emergency reductions in the number of wells and volume of wastewater being injected underground to stop the man-made earthquakes. We have seen how

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much toxic cleanup sites have cost not only in millions of dollars, but in long-term damage to the land and the environment. Farmers and ranchers here in Nebraska cannot afford the damage to the land or the contamination to their water. LB533 would place a sensible requirement of just \$5 million in liability insurance on every wastewater disposal in the state. I urge you to support LB533. Thank you. [LB533]

SENATOR HUGHES: Thank you, Ms. King. Are there questions? Seeing none, thank you for your testimony again. [LB533]

JUDY KING: Thank you. [LB533]

SENATOR HUGHES: Are there additional proponents to LB533? Welcome. [LB533]

CHELSEA JOHNSON: Hello. Chelsea Johnson, C-h-e-l-s-e-a J-o-h-n-s-o-n. I am here representing the Nebraska League of Conservation Voters and we are, essentially...I mean we support protecting water. And my testimony is just going to reflect that these sorts of regulations exist in other states as well. According to the National Association of Insurance Commissioners and the Center for Insurance Policy and Research, given the plethora of risks involved in shale gas production, it is important that drilling companies have the proper insurance coverage. Most drilling companies carry commercial general liability insurance which protects them against third-party bodily injury and property damage claims. However environmental exclusions and other limitations placed on such policies mean other types of coverage will need to be in place to protect fully against environmental and seismic claims. It should also be noted that homeowners' insurance does not cover damage incurred from seismic activity; therefore, homeowners exposed to this risk will need to purchase earthquake specific coverage as well. So again, the insurance industry, of course, wants people to purchase insurance, but there's also real recommendations for these companies to have this type of insurance to protect the homeowners if something does go wrong. In 2012, Ohio Governor, John Kasich, signed landmark oil and gas regulatory legislation. Ohio has requirements for liability insurance, including not less than \$1 million for bodily injury coverage and property damage to pay for injury to persons or damage to property caused by the drilling, operation, or plugging of all owners' wells in the state. If the well is within an urbanized area or the well receives coverage from an insurer authorized in Ohio, the insurance is required to be no less than \$3 million and \$5 million respectively. Water is undeniably the biggest asset to the agricultural economy of Nebraska and needs safeguards in order to protect its sustainability. A Duke University study of water wells in New York and Pennsylvania released last year in the Proceedings of the National Academy of Sciences concluded that methane levels were significantly higher in wells closer to hydraulic fracturing operations. Unlike spilled oil, which starts to break down in soil, these spilled brines consist of inorganic chemicals, metals, and salts that are resistant to biodegradation, said Nancy Lauer, a

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Ph.D. student and lead author of a 2016 study done at the Nicholas School of Environment at Duke University. In 2012, HB1950 was passed by the Pennsylvania General Assembly and approved by the Governor. This bill prohibited unconventional gas wells from being drilled within 1,000 feet measured horizontally from the vertical well bore to any existing water well, surface water intake, reservoir or other water supply extraction point. It is not unusual for other states to restrict hydraulic fracturing based on its geographical proximity to water sources. The 50-foot restriction from the Ogallala Aquifer is designated to protect the water supply of Nebraskans. Again, this is not the first time a regulatory body has restricted the development of hydraulic fracturing near a vital water source. For example, the Delaware River watershed remains extraordinarily well protected. That encompasses four states: New York, New Jersey, Pennsylvania, and Delaware. And in May 2010, the five commissioners on that commission voted unanimously to hold off any decisions regarding drilling in the basin until regulations were adopted concerning the safety of water quality. Pennsylvania offers an example for the necessity of having precautions for injection wells. In July, 2014, the Pennsylvania state auditor issued a report concluding that the Department of Environmental Protection was unprepared to enforce existing drinking water regulations when the shale gas industry began to grow rapidly. That same year, the department made public 248 cases of drinking water contamination directly caused by hydraulic fracturing. There are also examples of induced earthquakes, as many as 7.9 million people in parts of Kansas, Colorado, New Mexico, Texas, Oklahoma, and Arkansas now face the same earthquake risks as those in California due to practices of hydraulic fracturing. I'm going to skip the rest since I'm on a red light now. But I just wanted to kind of read through some of the regulations that do exist in other states and encourage you to consider putting precautions in place in Nebraska as well, especially since the states are the regulatory body that has predominance over federal regulations when it comes to these type of wells...not predominance over, but they're the leading source of protection. [LB533]

SENATOR HUGHES: Okay, thank you, Ms. Johnson. Are there questions? Seeing none, thank you for your testimony. [LB533]

CHELSEA JOHNSON: Thank you. [LB533]

SENATOR HUGHES: (Exhibits 6-15) Next proponent? We have letters for the record from: Nancy Meyer, Cedar Bluffs; John Berge, North Platte Natural Resource District; Melissa Konecky, Mead; Amy Cherko, Omaha; Teri Hlava, Lincoln; Mary Scott, Waterloo; Diane Herman, Curtis; Peggy Smith, Maywood; Sally Herrin, Lincoln; and Tim Fickenscher, Omaha. Okay, with that we will open it up to the opponents of LB533. Welcome. [LB533]

CHRIS PETERSON: Mr. Chairman, members of the committee, my name is Chris Peterson, C-h-r-i-s P-e-t-e-r-s-o-n. I'm appearing today in opposition to LB533 on behalf of the Nebraska

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Petroleum Producers Association. I will share some comments at a high level about the industry, and I know there will be some folks who will follow me that will get into the details about our opposition to LB533. Nebraska's oil and gas industry supports our state's economy and our local economies. In 2016, a Western Energy Alliance study said that Nebraska's oil and gas industry is responsible for more than 1,700 jobs and generates over \$915 million in direct and indirect economic benefits. And these very much are...this study is very much tied to actual oil and gas production in the state. The oil industry more broadly has even a bigger impact on our state's economy and jobs. Nebraska's oil and gas producers paid over \$2.9 million in severance tax in 2015, of which \$2.6 million was directed to support K-12 public education. Another \$300,000 of those dollars helped to fund the state energy office, and \$30,000 goes to the state's Public Service Commission. In addition, in 2015, Nebraska's oil and gas producers paid more than \$340,000 in conservation tax which goes to the Nebraska Oil and Gas Commission to fund their operations and regulatory oversight. The Nebraska Oil and Gas Commission doesn't receive any funding from state sales or income tax. Nebraska's oil and gas industry is well regulated. Kurt Hildebrandt, an environmental scientist for EPA Region 7 called the Nebraska Oil and Gas Commission's efforts "strong in all aspects" and among the best in the region based on a federal review that was conducted just 18 months ago. Mike Nickolaus, special projects director for the Groundwater Protection Council called Nebraska's program...Nebraska's regulatory program "well run, efficient, and effective" at a Natural Resources Committee hearing in December of 2015. Nebraska's oil and gas industry operates safely for our state's environment. There's been no known environmental contamination of drinking water in the decades that oil and gas producers have been operating within Nebraska. I'm just going to repeat that: There have been no known environmental contamination of drinking water in the decades that oil and gas producers have been operating within Nebraska. You might say that LB533 is a solution in search of a problem. At a December, 2015, Natural Resources Committee hearing, Mike Nickolaus from the Groundwater Protection Council said the state's Oil and Gas Commission is a national leader in developing data management systems resulting in "more environmentally sound and protective regulation" and achieves "a maximum of environmental protection." And finally, Leon Rodak, vice president of production at Murfin Drilling expressed the importance of fresh water to the oil and gas industry during his testimony at the February, 2016, hearing of this committee saying "we are subject to the rules of the EPA and the Oil and Gas Commission and we fully support those rules. We don't take any chances with fresh water." And then I might just state a couple of things in response to some things I've heard in the hearing so far. First of all, there's no evidence of earthquakes in Nebraska attributed to oil production. In fact, this committee in 2015 had a hearing in Sidney heard from an expert at the University of Nebraska who stated that there was no evidence of earthquakes in Nebraska attributed to oil and gas production. I would also mention that Colorado has imposed greater regulations on the industry and the impact has been devastating on small oil and gas producers as their regulatory costs have increased; they've had to sell their businesses to larger producers. And finally, with respect to the requirement tying in

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having insurance for your car and insurance for oil and gas...for the oil and gas industry, I might comment--there are car accidents...oh, that's the end of my time. [LB533]

SENATOR HUGHES: Go ahead and finish your statement. [LB533]

CHRIS PETERSON: Thank you. There are car accidents in this city every day. There are thousands of car accidents in this state every year. So it might make some sense that we all carry some form of liability insurance on our cars. As I said in my testimony earlier, there has been no known environmental contamination of drinking water in the decades that oil and gas producers have been operating within Nebraska. And so I would suggest that to make a comparison between requirements for insurance for those of us who have automobiles and the need for requirements for insurance for the oil and gas industry is, at minimum, an apples and oranges comparison. [LB533]

SENATOR HUGHES: Thank you, Mr. Peterson. Are there questions? Senator Albrecht. [LB533]

SENATOR ALBRECHT: Thank you, Chairman Hughes. Thank you for your testimony. Can you...are these regulation costs when you talk about \$2.6 million going back to K-12? How is that money given back from the gas and oil people? [LB533]

CHRIS PETERSON: Those are...that is a severance tax that is paid by oil and gas producers. [LB533]

SENATOR ALBRECHT: Okay. [LB533]

CHRIS PETERSON: And when those funds are paid, it goes directly into the K-12, I believe, available into the TEEOSA Fund. [LB533]

SENATOR ALBRECHT: So you talked about that and some money going to Public Service Commission and to the state environmental folks as well? Right? Three hundred thousand? [LB533]

CHRIS PETERSON: Right. Three hundred thousand to the state energy office; they fund \$30,000 toward the Public Service Commission; and they also pay \$340,000 in a conservation tax that funds the management and the oversight at the state's Oil and Gas Commission. [LB533]

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SENATOR ALBRECHT: So when they were putting all those funds together, or the severance taxes, was insurance ever talked about at that time? [LB533]

CHRIS PETERSON: Those taxes have been in place for a great number of years. And I believe someone from the Oil and Gas Commission will be testifying later. [LB533]

SENATOR ALBRECHT: Okay. [LB533]

CHRIS PETERSON: And so they may be able to talk better to the history of those funds. [LB533]

SENATOR ALBRECHT: Thank you. [LB533]

SENATOR HUGHES: Additional questions? Senator Geist. [LB533]

SENATOR GEIST: A brief follow-up--are those funds annual...the numbers you were giving? [LB533]

CHRIS PETERSON: Yes. Those were 2015 taxes-paid numbers. [LB533]

SENATOR GEIST: Thank you. [LB533]

SENATOR HUGHES: Additional questions? I guess I do have one. Can you walk through a little bit of what the insurance requirements are currently on the oil and gas industry in Nebraska? [LB533]

CHRIS PETERSON: Mr. Chairman, I might leave, if you would agree, I might leave that question to some folks who actually operate in the industry and can speak more to what those requirements are. [LB533]

SENATOR HUGHES: Very well. Any other questions? Seeing none, thank you, Mr. Peterson, for your testimony. [LB533]

CHRIS PETERSON: Thank you. [LB533]

SENATOR HUGHES: Welcome. [LB533]

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DANA WREATH: (Exhibit 16) Thank you, Chairman Hughes. My name is Dana Wreath, D-a-n-a W-r-e-a-t-h. And I have a handout that's being passed around. And I'd like to make a couple of opening comments first, and I have my background here. I believe I'm the first person to testify before this committee today that actually has a technical degree or a scientific degree. And I think one of the things that happens is people have some emotional responses, but don't always have all the facts. And even in the relatively short amount of testimony this morning, I managed to write down nearly a full page of factual errors, and we may not have time to talk about them, but I do appreciate the fact that Mr. Cavanaugh and the young lady that testified stayed. I've been in this...I've testified before this commission...before this committee more than once and frequently folks leave and don't get to hear factual discussions about why many of these bills are not really necessary. I work for a company called Berexco, LLC; we're the largest producer of oil in Nebraska and we operate in eight other states, so I have a reasonable familiarity with what regulations happen and rules in other states. And if you'll flip to the second page of my handout, and I'm not going to go through it all, but really the first...the typewritten pages. The fundamental thing to know is that the existing Nebraska Oil and Gas Commission rules for injection wells, disposal wells, those are ultimately dictated by US EPA and they're consistent amongst all the states. Nebraska doesn't have its own completely different program, it's really run very consistently, it's proven effective for decades, there's been injection wells in Nebraska for over 60 years. A recent Peer Review and EPA Review of the Nebraska Oil and Gas Commission shows they're doing an excellent job. And also, perhaps, more germane to the idea of talking about the Legislature making rules, the commission already has a place in...a process in place for rule making. As rules come up or possible rules are discussed, the commission has that process in place to be handled without the Legislature. And when you start legislating rules from Lincoln, it's difficult for senators to know the entire factual basis. It's also possible to have unintended consequences. And that really speaks to number 3 which is disposal injection wells are essential for oil production to continue in this state. LB533 would effectively ban the oil and gas industry from being able to operate in the western two-thirds of the state. I cannot imagine that is an intended consequence or I wouldn't like to think it's an intended consequence of LB533. And oil and gas in those counties, for example in southwest Nebraska and western Nebraska is very important to the local economy. It means jobs; it's basic production; it's dollars that's created in those communities. And those dollars flow throughout the community. If we didn't have that tax base in those counties, property taxes would most likely bear the burden for funding schools. And number 4, there's no historical record of environmental damage caused by oil and gas operations in Nebraska. You heard speakers come up here and talk about something that may have happened related to fracturing or in other states, but LB533 doesn't even talk about fracturing. And so let me just address quickly here these two things on the third page. The \$5 million of liability insurance, that requirement is not necessary; there's no evidence of contamination that would indicate a need for that and no one before me said that that a specific example in Nebraska. And further, we operate in eight states and we do not have liability insurance requirements in those eight states, and they're listed on the front page. Maybe they do

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in Ohio or Illinois, but they don't in the main oil producing states. And then in (B), this business of fresh water beginning shallower than 50 feet: that rule is, again, unnecessary and would eliminate the oil and gas industry in, basically, most of the state of Nebraska. And it's important to know, as I say, Nebraska Oil and Gas Commission rules protect shallow fresh water no matter the depth. The oil and gas industry is going to protect fresh water with the commission's rules whether it's 49, 51, or 451 feet deep. I'd also like you to consider in the Sandhills, if you ban oil and gas activity, you're effectively taking the oil and gas mineral rights of those landowners. How would you like to be a farmer in the Sandhills who may or may not have the opportunity to have royalty income? You're taking that from them, which I think is...there's an ethical consideration there. And I'm running out time here, but the bottom line which is at the bottom of the fourth page is the existing rules in rule making system works. LB533 is really a solution looking for a problem and it's not needed. [LB533]

SENATOR HUGHES: Thank you, Mr. Wreath. Are there questions? Senator Geist. [LB533]

SENATOR GEIST: Thank you for your testimony. And I'm just looking at this...I guess I don't know what the number of the page is, but it's "Injection Well Mechanical Overview" and I noticed where you have fresh water zone at the top and then the injection zone, would you explain how that works just so I can understand that better. [LB533]

DANA WREATH: Certainly. What I've done is appended on after the first four pages a document prepared by Phil Kriz who is a petroleum engineer with the Evertson Company in Kimball that talks about injection well construction in an overview of how salt water injection wells work. And if you turn after that first initial page, I believe it's the fifth page in, there's one that says "Injection Well Mechanical Overview" it's kind of an orange look to it on the left hand side, I'll let you turn to that. And what I'm going to go through very briefly is mandated by the Nebraska Oil and Gas Commission's rules. If you want to drill an injection well or convert an existing producing well to injection, the mechanical construction is required by the Oil and Gas Commission rules and by, ultimately, EPA rules. And here's the way it works. Shallow fresh water is first protected in...well, it's really protected in four to five layers of either steel or cement. And I'll just go through it very briefly, I don't want to speak too long, Senator Geist, but when you first drill a well, you would run what's called surface casing, and it's listed there as number one with a little octagonal "circleish" thing around it, and that is steel pipe about nine inches in diameter that is run down, typically, to 400 to 500 feet and then it is cemented in place. And that isolates the fresh water from the deeper formations and the surface. So then after you set that steel pipe and cemented it, you then come in with a bit that's smaller, typically, maybe seven inches, and you drill down to 4,000 to 5,000 feet of depth. Then inside, after you remove the bit, you run steel casing there, five inch, typically, and you cement that in place. And then, down at the bottom of the well, you would punch holes in the horizon you want to inject into and then run in another string of tubing...pipe, which we call tubing that's, typically, two and a half

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inches in diameter to the bottom of the well where it's sealed off. And this is a fundamental factual well construction thing that I think a lot of people don't appreciate. So let me add up the mechanical barriers that separate the salt water that's being injected from the fresh water. You have the steel of the tubing, the inner two and half inch diameter pipe; you have the steel of the five-inch casing; the cement outside that; then the steel of the nine-inch casing, and the cement outside that. And it should be noted that these rules have been in place for decades and that is the real reason you don't have folks coming to this committee from McCook, Trenton, Sidney, saying--those dirty rotten oil companies damaged my groundwater at my farm. There isn't anybody here today from Kimball, or Sidney, or McCook. There's folks from Omaha, Lincoln, but not...if you understand what I'm saying, people who are directly familiar with the situation. And so, the bottom line of it all is you could say, and I've heard people say this to me, well, what about a leak? Maybe you could have a leak in the pipe. Shouldn't we protect everything? But the reality is, with five different layers of protection, you're not going to have five sequential failures all at once. And further, the Nebraska Oil and Gas Commission requires regular testing and monitoring of the wells. So if there is a leak, it's caught promptly. [LB533]

SENATOR GEIST: Thank you. [LB533]

SENATOR HUGHES: Senator Bostelman. [LB533]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Thank you, Mr. Wreath, for being here. Could you speak to the insurance requirements? [LB533]

DANA WREATH: Certainly. The insurance requirements are basically an unnecessary burden. If there were a history of continual damage to groundwater that was somehow not being taken care of, perhaps there would be some merit to the argument; but there is none. Further, when you start talking about imposing liability insurance, what if you're a small company that only operates a few wells. You're faced with a \$5 million liability insurance policy, might put you out of business. Larger companies probably carry that type of insurance as part of their overall insurance requirements. And there was some discussion by a proponent about how back east shale gas drilling said you have to have insurance, but there is no shale gas drilling in Nebraska. And further, this insurance does not in any way address fracturing or oil and gas production operations; and it was sort of implied by a earlier proponent that they had something to do with this bill, but this is really strictly liability insurance for injection and disposal wells. And that's really going to impose a lot of extra cost on a smaller company that's just not necessary. [LB533]

SENATOR BOSTELMAN: Do you...is there existing insurances being carried now and what is that? [LB533]

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DANA WREATH: Okay, and let me speak briefly to the difference between bonding and liability insurance, because that's frequently confused. All states require financial assurance documents from operators in the form of bonding to cover plugging and cleanup of oil and gas sites if the operator is not able financially to do the work itself. And that is a different subject than commercial liability insurance, which is the subject of LB533. And in fact, the Nebraska Oil and Gas Commission recently increased the bonding dollar amounts within the last few years as part of some rule changes that came through here not too long ago. And I'll leave the testimony from the Oil and Gas Commission folks to speak about the increased bonding requirements. And those serve to protect the citizens from oil and gas companies that might go out of business and not be able to plug out and clean up their leases. [LB533]

SENATOR BOSTELMAN: How much...my last question for you, is how much of this type of drilling that's being active right now, or I'd say soon to be or, you know, within the planned out would this affect? I mean I...I understand if you're talking (inaudible) that's a major thing, but do you have...are there of active wells, active things going on out, is it a large number? Is it a relatively small number of what's already being (inaudible)? [LB533]

DANA WREATH: Okay. Almost none is the answer. It's a very small amount. And again, I would encourage you to speak with the folks from the Oil and Gas Commission, but the number of wells drilled in total in the state of Nebraska, within the last year or two, has reached the lowest level in almost 70 years. Further, it's actually very rare that one would drill an injection well directly. Usually, you would take an existing producing well and convert it to injection. And so, in fact, the way the bill is crafted, it would apply to a very small number of newly drilled wells. But that's, actually, not the most common mode of creating a new injection well which is rather to convert an existing producing well. And the other thing, and it's listed in the middle of my document on page 4 where I want to point out, Nebraska is not a state that's had tremendous amounts of horizontal drilling, hydraulic fracturing; there is no oil boom in Nebraska. Frankly, we're like the ag industry; we're hanging tough on low commodity prices, trying to keep our people employed, trying to generate income in the communities in which we operate. There is no out-of-control oil and gas business. And people try to imply that Nebraska is going to become North Dakota, and maybe that would...might be a good thing to some extent to add a lot of economic activity, but the bad news I can report to the committee today is that the geology in Nebraska has not proven that those kinds of horizontal drilling and fracturing techniques work here. I don't anticipate any significant upswing in oil and gas activity in the state of Nebraska for the foreseeable future. [LB533]

SENATOR BOSTELMAN: Thank you. [LB533]

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SENATOR HUGHES: Additional questions? I do have one. So your company...you have to be bonded on every single well that you drill, or is it by field, as a company as a whole? [LB533]

DANA WREATH: The way it works in most states is if you have a relatively small number of wells, the bonding is a dollar amount per well. If you have a larger amount, bonding is usually done in an aggregate sense; and that's the way it is in Nebraska. And so it's...every well that you are the operator of is listed on your bond and so there's a specific level...or listing of responsibility for the oil and gas companies to...responsibilities for each well bore, but the total dollar amount of the bond, once you get above, maybe, 10 or 20, depending upon the state, is usually done in an aggregate sense. [LB533]

SENATOR HUGHES: Okay. Does your company carry any kind of liability insurance at all? [LB533]

DANA WREATH: The company I work for carries commercial liability insurance. We have employees driving trucks around; we have equipment, we have tanks that could catch fire, and so, yes, we have...we have the type of insurance that this bill seeks to mandate. But it does not mean that the Legislature should mandate that every employee...I'm sorry, every oil and gas company should have that type of insurance. And I would just add, you start talking about insurance for every possible thing, should we have liability insurance for farmers to apply herbicide or...I hate to even bring it up, you know, you don't want to hear me say it, but we could dream up all kinds of possibilities that might affect groundwater and say, golly gee, every farmer in the state of Nebraska ought to have a \$5 million policy before they could apply atrazine. I don't think that makes any sense at all. I hope no one picks that up, but... [LB533]

SENATOR HUGHES: I'll say that's enough. [LB533]

DANA WREATH: It doesn't mean it should be required. [LB533]

SENATOR HUGHES: Okay. Are there any other questions? Seeing none, thank you, Mr. Wreath. [LB533]

DANA WREATH: Thank you. [LB533]

SENATOR HUGHES: Next opponent. Welcome. [LB533]

DAVID HAACK: (Exhibit 17) Thank you, senators, for letting me testify today. My name is David Haack, D-a-v-i-d H-a-a-c-k. I'm the president of Z&S Construction, we're a small business

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that supplies oil field services to...in the western end of the state and we do some in northeast Colorado and southeastern Wyoming. I own one of the few commercial disposal wells in the state of Nebraska and have operated disposal wells for over two decades in this state. One of them which was right in the city limits of Kimball itself. It was in there for several years. And one of the reasons I oppose this is that there's already safety and precautionary measures in place and piling on more regulations would prove to be more burdensome. It was stated earlier that it could quell the future of our industry. As they have mentioned, the groundwater levels are, you know, most of the state are in that 50 feet range, but not only do we protect the Ogallala Aquifer, but there are fresh water zones that are below the Ogallala Aquifer. There's some zones that have gone up to a thousand feet below, so the Nebraska Oil and Gas Commission, they determine when you have a permit, they determine...they know where the fresh water zones are so they make sure that there's surface pipe that goes well beyond the fresh...any fresh water zone, not only the Ogallala Aquifer, but any of the others. I've seen surface pipe sitting anywhere from 200 feet to over a thousand feet clear on the western edge of the state. Dana did a fine job of explaining how these wells work. As an operator of them, the state requires that you monitor these wells and they do...the state comes and does a personal witness of a mechanical integrity on each one of these wells every year. And then our responsibility...I have a maintenance person that goes and checks the pressures on these wells every day and then we report to the state the pressures. And if we discover a problem, then it's our responsibility to take care of the problem right on the spot. So as Dana described this, several layers of protection so that you would discover that there's a problem before it every had a chance to get to the fresh water zones. I mean, it's a pretty simple process and it's worked for the last 60-some years, but there has never been any contamination process. So that's with respect to the insurance. If there's never been any contamination, why would you increase the liability fivefold for something that we've never had a problem to begin with. I checked with my insurance company to see how much that would affect our business and our insurance premiums would go up by 60 percent. So a lot of these wells that we have that we haul the production water in to dispose, their profit margins are pretty slim to begin to with, and if you keep adding increased cost, it's going to require that you shut down a well probably before its time. We try and get as much oil extracted out of these wells before we have to get to the plugging process. So with all the revenues, the jobs, the tax revenues, supporting the local government agencies, to put burdensome regulations on that would, in essence, shove the oil industry out of the state. It doesn't seem like it would make sense to me. In the early '50s, the state was...they were offering incentives to bring oil and gas companies in. And now with these types of regulations, they're trying to...they would shove the oil industry out of the state. That's all I have. [LB533]

SENATOR HUGHES: Thank you, Mr. Haack. Are there any questions? Senator Geist. [LB533]

SENATOR GEIST: So I guess I would just ask what do you think is the bottom line, is...of this legislation? [LB533]

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DAVID HAACK: Well, I oppose it. I just think it would be very harmful to the oil and gas industry. It's just putting additional rules and regulations on the industry that aren't needed. It's just piling on more additional regulations and I don't think there would be that much accomplished by passing this bill. [LB533]

SENATOR GEIST: Thank you. [LB533]

SENATOR HUGHES: Okay. Any additional questions? Seeing none, thank you, Mr. Haack. [LB533]

DAVID HAACK: Thank you. [LB533]

SENATOR HUGHES: Welcome. [LB533]

SCOTT HORNAFIUS: (Exhibit 18) Good afternoon, members of the committee. My name is Scott Hornafius. I'm the president of Elk Petroleum. My name is spelled S-c-o-t-t, last name Hornafius, H-o-r-n-a-f-i-u-s. I came to testify today because of my concern about the impact that LB533 would have, not just on the oil industry, but also the ethanol industry in Nebraska. One thing that wasn't mentioned in Senator Vargas' testimony is that the second part of the amendment to the existing legislation would prohibit the drilling of oil and gas wells in the western three-quarters of the state for the purposes of enhanced oil recovery. That's the business my company is in. And one form of enhanced oil recovery that would be prohibited and shown on page 3 is the use of CO2 for enhanced oil recovery in which you inject CO2 into a depleted reservoir and it allows the last amount of recoverable oil to be produced. And the Colorado School of Mines has done a study on just 11 of the dozens of oil fields in western Nebraska that you could, potentially, recover oil from with CO2 EOR. And assuming a \$50 oil price, our current price, the potential loss of revenue to those western counties and the state would be about \$72 million. So this legislation could have a big impact on the future revenues of the state. In addition, it has impacts on the ethanol industry. And the reason for that is there's three products that come from the ethanol production. First, of course, is the ethanol; the second is the dried distillers grains, those both have markets. But the third product, which is not being sold and it's just vented into the atmosphere currently in almost all cases is the carbon dioxide that comes from fermentation emissions. And Nebraska having...being the second biggest ethanol-producing state has an enormous amount of CO2 emissions being vented to the atmosphere currently as shown on page 6. If instead of venting these CO2 emissions to the atmosphere, that CO2 was captured and stored in oil formation, for enhanced oil recovery, that would make corn ethanol production carbon negative. And because of that, the California low carbon fuel standard would award for that activity a large amount of carbon credits starting in 2018. And on page 6 is shown the location of all these ethanol plants in Nebraska that could be beneficiaries of that. There's on

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pages 9 and 10, explanation of low-carbon fuel standard in California. Currently, the majority of ethanol plants in Nebraska currently receive those carbon credits, but this new credit they're going to start issuing in 2018 for carbon capture and storage would directly benefit any ethanol plant that did capture their CO₂ emissions. And on page 11, I've summarized, based on the CO₂ being vented to the atmosphere from these plants, the potential revenue that each of these ethanol plants could earn from this form of carbon credits related to carbon capture and storage. It totals up to a potential revenue for the industry of almost \$250 million a year. And if you look at page 12, you can see that that kind of additional carbon credits would make the difference between a profit and loss for many of these ethanol plants in the future. A year ago, with just the low carbon fuel standard carbon credits that were being received for the fact that it's a bi-fuel not oil and gas, in California kept some of these plants from being in the red. With the addition of this additional credit for carbon capture and storage that would put these plants solidly in the black if they were able to capture and store their CO₂ emissions and inject them into oil fields in the state. However, LB533 would prohibit that activity. And so for that reason I ask the committee not advance this legislation out of committee for consideration by the assembly. Thank you. [LB533]

SENATOR BOSTELMAN: Thank you, sir. Are there any questions from the committee? Seeing none, thank you...oh, I'm sorry, Senator Geist. [LB533]

SENATOR GEIST: I'm sorry, I...I don't mean to be annoying, I don't quite understand how the CO₂ work. Are you saying that that's pushed down the injection well to push the oil out up into the oil well? [LB533]

SCOTT HORNAFIUS: So what happens in the life of an oil field, first you drill a well, you know, wells naturally flow, that's primary production. Then the stage of recovery that the state is currently in is secondary recovery where you inject water and push the oil to the producer. That is almost at the end of its life in this state. It's been going on since the '60s. So the third and last phase is called enhanced oil recovery. One of the ways that you can do that is inject CO₂. And what CO₂ does is when it contacts the oil, it makes the oil swell up and viscosity drops so that last bit of oil that's clinging in the rocks is liberated and can be produced to the surface. And in that process, what happens is the oil that's displaced is replaced by carbon dioxide. So this turns the oil field into a carbon storage field. That's the end of the life of a oil field at the end of CO₂-EOR. Then when the field is permanently banned, all that CO₂ that was withdrawn from the atmosphere and permanently sequestered in the subsurface is left there for millions of years because it's geologically stored. This has been, you know, something the country has been trying to achieve for decades now to implement commercial CO₂ storage. And Nebraska is very well positioned to be the first state to lead the way in that because you have ethanol plants, you have oil fields, and there's these carbon credits, and California will be starting to award for that activity next year and it's...California has the healthiest carbon market in the world. They're

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currently...the cost of those carbon credits is \$100 a ton, which if you know anything about carbon markets it's like ten times anybody else's prices. So there's a real windfall for the state of Nebraska with this CO2 enhanced oil recovery coupled with the partnership between the oil industry and the ethanol industry to purchase the CO2 from the ethanol plants. [LB533]

SENATOR GEIST: Thank you, that helps. Thank you. [LB533]

SENATOR BOSTELMAN: Are there any other questions from the committee? Seeing none, thank you, sir, appreciate it. [LB533]

SCOTT HORNAFIUS: Thank you for your time. [LB533]

SENATOR BOSTELMAN: Are there any other opponents? Welcome. [LB533]

JOE KOHOUT: (Exhibit 19) Good afternoon, Vice Chairman Bostelman and members of the Natural Resources Committee. For the record, my name is Joe Kohout, K-o-h-o-u-t, and I appear before you today on behalf of the American Petroleum Institute in opposition to LB533. API's members include energy companies in many sectors of the oil and gas industry. You've heard opposition from several companies today about the specifics of how that works and how their businesses will be impacted. We agree with their positions, but would like to provide the committee with some nationwide industry perspective on the requirement of liability insurance. As the committee is aware, LB533 requires the Nebraska Oil and Gas Commission to withhold a permit for a drilling of an underground enhanced recovery or injection well until an applicant has provided proof to the commission of liability of insurance in an amount not lower than \$5 million. Based on API's experience in other states, this approach and amount is significantly out of line with national trends including in states that border Nebraska and states with significant industry activity. First, no other state that API is aware of and poses financial responsibility requirements in the form of liability insurance, every other state requires bonds or in some cases letters of credit or other equivalence. Second, those states that require forms of financial assurance other than liability insurance I would like to note that five states have dramatically different total financial assurance amount requirements smaller than that in LB533. Colorado and North Dakota have requirements of \$50,000 per well. Texas varies, but provides for a default rule of \$25,000 per well. Utah varies, but most UIC wells would be in the range of \$30,000 to \$60,000 per well. And Wyoming varies with a maximum of \$100,000 per well. I would note that last year when the Natural Resources Committee considered LB1070, we provided to Senator McCollister, who had requested it on the committee at that time, a chart indicating what the individual requirements were as far as bonding and other financial assurances. I believe that was also forwarded at that time to Senator Schilz as this committee chairman, and we would be happy to make that chart available to the committee again if that's something that the committee

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would desire. We would ask the committee for the reasons listed by those before me in opposition, as well as the fact that LB533 would place Nebraska out of the mainstream in the financial assurance requirements with other states to indefinitely postpone LB533. Just a few comments based on questions that were raised. Senator Walz, one of the questions that you asked was with regards to the Ogallala Aquifer, I would encourage you to look at some of the research that was done by Bruce Goeke (sic) who is one of the leading experts on the...Jim Goeke, excuse me, who is one of the leading experts on the Ogallala Aquifer from the University of Nebraska. He had done a tremendous amount of work on that issue; it's made it his life study, so I would encourage you to look at some of the research that he has done in that area. I would also note that we've heard a couple of mentions of Colorado and Ohio requirements. I was getting some information from my folks on those. It's important to note that the liability requirements there are limited in scope to bodily injury and property damage. So they do not have the scope...quite the scope that we're talking about with the liability insurance requirements here. So just wanted to make sure the committee is aware that there are some significant restrictions on what...if we're going to compare those things, that that's a significant...we're not talking about all incidences or environmental damage or anything like that. Finally, there was a comment made and it...about...and I don't profess to be an expert, but there was a comment made here about liability and landowners on a certain...on TransCanada's Keystone pipeline. I did have some correspondence while we were here just to make sure the record is clear that landowners have zero responsibility for the life of the pipeline under their agreements. And even if the pipeline is decommissioned, unless there is an active move by the landowner to either damage or somehow cause damage to that pipe, so just...so everybody is aware that is the, obviously, then it's a different scenario, but just wanted to be clear about that. [LB533]

SENATOR BOSTELMAN: Thank you, sir. Are there any questions? Yes, Senator Walz. [LB533]

SENATOR WALZ: Yes. Thank you, Chairman. Just a quick question. You were going over the cost per well--Colorado, North Dakota, \$50,000, is this \$5 million per well? [LB533]

JOE KOHOUT: What's that? In the legislation? No, it's \$5,000...as I read the bill, it's \$5 million in the aggregate. So I would argue that these...these vary how those requirements are, so if they're a bonding requirement or somehow other assurances that they receive through a letter of credit or something, that's what those specific...those financial assurances are that I've listed in my testimony. [LB533]

SENATOR WALZ: All right. [LB533]

SENATOR BOSTELMAN: Any other questions? Okay, thank you, sir. [LB533]

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JOE KOHOUT: Thank you. [LB533]

SENATOR BOSTELMAN: (Exhibits 20 and 21) Are there any other opponents who wish to speak? Any other opponents? Okay, we do have...seeing none, we do have two letters: one is from Rod Horn from South Platte Natural Resources District. Another one is from Curtis Kayton, Southwest Public Power District. We'll move on to those who wish to testify in the neutral. [LB533]

BILL SYDOW: (Exhibit 22) Good afternoon. Members of the committee, my name is Bill Sydow, B-i-l-l S-y-d-o-w. I live in Sidney, Nebraska. I'm the director of our state's Oil and Gas Conservation Commission which would regulate all of the activity of that nature in our state, including the injection wells. I'm appearing in a neutral position today, but I have five points that I want to speak to about this bill, LB533; and a handout is coming out. First, we have a small staff; we have eight people. No insurance has ever been required in this state. And I will tell you that I believe that will take at least one day a week of some person tracking that. The bill requires our commission to collect proof of liability and that's going to mean that we have a 150 bonded operators, 110 have production, and probably nearly half of that group has some kind of an injection well that would be affected by this. So we will have to coordinate with, really, our Department of Insurance to see if there's reciprocity among states and we'll have to do that, actually, on a weekly basis because these certificates are ephemeral, they will change, they're going to go out of date, or new policies, and so we'll be required to collect that and ultimately destroy that. Our agency is really charged with collecting information of all kind that's going to be used, I believe, hundreds of years from now. These insurance certificates are not of that nature. As far as the liability insurance, I personally believe, not speaking for our commission, I personally believe that that's a business decision for the companies. And I've been director for 22 years. To my knowledge we have never had any kind of a pollution event, certainly caused by an injection well, because I'll categorically state since our primacy of injection wells from US EPA in 1983, we've never had a contamination event. Anyway, that concerns me. My item number 4 is some specific wording in LB533. It speaks about having a facility's permits. We do not permit the facilities, per se. We permit the injection well, but not the associated equipment that goes with it. So I have some issue with that. As well, the new section that would be written in article (4) of our 57-906 defines "injection well wastewater" to mean the salt water substance generated as waste from an injection well. Well, injection wells don't create any waste. They accept produced fluids from oil and gas, and this bill is all designed for enhanced oil recovery injection wells or salt water disposal wells whether they be commercial or privately owned, but those wells do not generate any type of waste. So that definition in LB533 is, in fact, incorrect. The thing that personally gives me the most concern, and Senator Hughes actually talked about this right up front, but I'd like you to go to the first map, I have two maps there for you, and you might have seen it before because I included something like that with my economic evaluation for what I had to submit. But that's a geological bedrock map of Nebraska that's prepared by our

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geological survey. Everything in yellow or orange in the western part of the state is Ogallala...that's the yellow. There's another formation, the Arikaree and the Brule, those are drinking water formations and they are absent in, pretty much, eastern Nebraska. I've superimposed really the big Sandhills as we have it. The legislation in LB533 says that no drilling permit for an injection well can be granted if the aquifer is less than 50 feet from the surface. That doesn't mean the water table, it doesn't mean the groundwater, that means the rocks that hold the groundwater. And I will submit to you that we virtually walk on our aquifers all over the western three-quarters of the state of Nebraska. So this bill, LB533, would preclude the granting of drilling permits west of that line of the Ogallala and in the Sandhills. Map number 2 is the same map, maybe a little bit squashed, but I've shown on that with red triangles those counties where we currently have active injection wells, of enhanced oil recovery wells, or salt water disposal wells; and with the exception of Richardson County, way down in District 1 there in southeastern Nebraska, we have operations currently every day for those types of injection wells. So I'll just...I'll thank the committee...and I'll make this offer, I get to stay here tomorrow so I can go to the Appropriations Committee, and if any of you want to get a hold of me and ask me questions, I would be glad to come by and see you at your convenience. Thank you, Mr. Chairman. [LB533]

SENATOR BOSTELMAN: Thank you, sir. Are there any questions from the committee?
Senator Albrecht. [LB533]

SENATOR ALBRECHT: Thank you, Vice Chair. Okay, so you came in neutral, but I didn't hear anything positive, so help me understand what you liked about LB533. [LB533]

BILL SYDOW: Well... [LB533]

SENATOR ALBRECHT: You're being neutral for a reason, so help me understand. [LB533]

BILL SYDOW: Honestly, LB533 is unnecessary. [LB533]

SENATOR ALBRECHT: Okay. Thank you. [LB533]

SENATOR BOSTELMAN: Other questions? My question would be if you could talk a little bit more about the bonding. [LB533]

BILL SYDOW: Yes. In Nebraska, we have a surety bond that is required by our commission before any company or individual can permit the drilling of a well. Two years ago, effective in 2015, it will be in the summer, we went through a two and a half year process to update our

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rules. Our bonding levels are currently this: An operator must put up \$100,000 bond for each...for each well up to ten wells. At ten wells he's posted...or she's posted \$100,000, that's our blanket bond level. That bonding requirement is not insurance; it's really in the form of cash or certificates of deposit...I don't like cash...but certificates of deposit and it has to be on a Nebraska bank or it can be underwritten by an insurance company. But it's a performance bond so that if that company does not plug and abandon and clean up their wells, then the commission can have what's called a "show cause" hearing and ask that party to come and show cause why they haven't complied with the rules. And if they have not, then our commission will garnish those funds and we will go plug and abandon those wells on behalf of the operator, but at the cost of the bond, and if it goes above that, then our agency...I didn't tell you this, we're cash funded, and so part of our appropriation tomorrow is to put some funds in, cash funds, that these oil and gas operators contribute through the taxes, as well as the mineral interest owners pay a portion of our taxes. So it will be our responsibility to not only write the procedure but to line up the contractors and we will go supervise the plugging of those wells at no cost to the surface owner who may be the mineral owner. So effectively we're the state of Nebraska, we're going to bear the cost of that. But it's not going to come out of the General Fund or any kind of tax money; it will be funded by the industry. And as well, we have a collection that's going on that legally we collect what's called an inactive well fee if wells have been inactive for two or more years, that goes to a plugging trust fund, plugging and abandonment trust fund, that we would be able to access as well. And that's paid solely by the industry for these inactive wells. We...I'll quit there. [LB533]

SENATOR BOSTELMAN: A follow-up to that is have you ever had to use that or take those actions on any wells? [LB533]

BILL SYDOW: Yes, sir, we have. We have had a long period of time, but when we increased our bonding levels, they were at \$5,000 per well with a \$25,000 blanket bond, when we went to \$10,000 and \$100,000, there was some individual...really individuals that have not come up to that level. And so we have called, in the end of really 2015, we called some bonds. And we have plugged...in fact, this last year we plugged ten wells as a commission, and I've got another 11 to plug and abandon, and they're all in Senator Hughes' district, so he'd be glad to hear that. But we will on occasion have to do that. And so that's just the nature of it. That's a very small percentage of the companies or individuals that operate. And I guess that's a part of the risk of being in business, you know. [LB533]

SENATOR BOSTELMAN: Okay. Are there any other questions? Okay, seeing none, thank you for your testimony. [LB533]

BILL SYDOW: Thank you. [LB533]

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SENATOR BOSTELMAN: Others testifying in the neutral? Welcome. [LB533]

BILL HAWKINS: Senators, Senator Bostelman, and senators of the Natural Resources Committee, my name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. As testimonies have proceeded, my testimony has changed some. I come in a neutral position because I'm not an uneducated citizen, but I've learned to be watchful and I appreciate your diligence in this issue, because we're not just talking...you've heard the experts dance around with carbon taxes, with rules and regulations, with bonding, and I greatly appreciate Senator Vargas continuing this with this liability insurance. We are simply stating that they want liability insurance, \$5 million, for accidents; not to clean up of wells. We've heard about the safety where it never breaks. I appreciated Mr. Wrath with the description of an injection well is what we're talking about. We take toxic waste and injects it into what has been determined by our Natural Resources Department and Department of Environmental Quality as an injection aquifer that underlies the state of Nebraska; we're open for business. All these experts that have testified make their livelihood off the oil and gas business. You just heard the commissioner state, if he was, the safety of wells, but then they had to plug ten wells in Senator Hughes' district that an operator abandoned. The bond worked, thank goodness, and they were plugged. He has 11 more. So that isn't just a small percentage, that's 20 wells that have been abandoned by these safety experts. So I called the Oil and Gas Commission because I am concerned about this. There's over 600 injection wells in the state of Nebraska. That's a lot of injection wells. If you want to talk about scientific evidence, the U.S. geological agency, their scientists determined that in Oklahoma the cause of the earthquakes is the injection well fields and not the oil recovery fields. They stated that. That earthquake, the biggest one in Oklahoma shook buildings in Lincoln. I don't know what it did to this building, because I don't think anybody was in it, but buildings in Nebraska are not built for earthquake protection, they aren't that way. I'm not a geology expert, I'm not an oil expert, but I'm an educated citizen that is concerned. That's something we haven't talked about is the earthquake possibilities. Last time I testified before this committee last year that most of these newer senators weren't there, they laughed at me when I suggested that what happens if Chimney Rock topples in an earthquake. Earthquakes don't happen in Nebraska is what I was told. In southwest Nebraska in abandoned oil fields that they are using as injection wells, there are tremors and earthquakes happening out there. If you look at the history in Nebraska, we do have earthquakes and fault lines in Nebraska. So for them to laugh at me and say they're experts and say it won't happen in Nebraska, nobody has been down one or two miles in the state in the earth and looked at what will happen. The gentleman in Kimball discussed his wells. That's what kind of started this was an injection well that happened to be in the city of Kimball that was receiving hundreds of tanker loads from the fracking fields in Wyoming. He stated in the next testimony at the last Oil and Gas Commission deal that that well broke containment, that means the safe concrete, but never cracks, you can go out in our streets and our foundations and see that, and the steel broke containment. They had to plug that well and then go eight miles south of Kimball to inject...to put in another well. So these wells do break containment; they aren't safe. But the main concern we have is earthquakes. And

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that's what I'm worried about. It's happening around the country in other injection well fields. And they do contaminate groundwater; there is documentation of that. And so we've heard from the experts who make their living in the oil and gas. So I thank you for your time and you do represent the safety of citizens here in Nebraska, so I appreciate your attention to this. [LB533]

SENATOR BOSTELMAN: Thank you, Mr. Hawkins. Does the committee have any questions for him? [LB533]

BILL HAWKINS: Thank you for your time. [LB533]

SENATOR BOSTELMAN: Thank you for coming. Next testifier in the neutral capacity, please. [LB533]

SENATOR HUGHES: Welcome. [LB533]

STAN BELIEU: (Exhibit 23) Thank you, Mr. Chairman. For purposes of the record, my name is Stan Belieu, S-t-a-n B-e-l-i-e-u, and I'm currently the deputy director of the Nebraska Oil and Gas Conservation Commission and I have direct charge over the UIC Program. I would like to say I worked for the commission now for 25 years, and the first 20 years I only came to Lincoln for football games, to bring my kids to school, and for the state girls basketball tournament. But in the last five years that's changed. During the summer of 2015, we had LR154 and LR247, these studies were conducted to really look at our injection well program and the rules and regulations in the state of Nebraska to ensure that they were properly protecting the citizens from all the things that we've heard. Part of that is being passed out. That part of it is the comprehensive review that was done by the nationwide Groundwater Protection Council that looked at all aspects of our program and compared it to other programs throughout the country. The next thing that happened with that, too, is US EPA through Region 7 has direct oversight of our program. They also did a full comprehensive review and that was all made part of the record. During those processes, we tried to keep this as open as we possibly could. We had representatives from this committee present at that; legal counsel from this committee present; US EPA members; we had environmental committee members from major and biomineral organizations all present. So this was a very transparent process. And I think the conclusions spoke well for us and for the program that we run that we were really doing the utmost that we possibly could to look at the environmental laws of the state of Nebraska and stay in-tuned with the trends throughout the country and to stay current. One of the things that...and I'm going to quote one thing...several areas in which the Nebraska Oil and Gas Commission operates a very strong program, one of these includes permit processing. NOGCC has a well-developed permit process in which all aspects of permitting are addressed. We went on to look at well integrity as part of this. And we've heard those conclusions here stated today. We've really had no issues with

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well integrity throughout the history of the UIC program. And I believe that's because we are very diligent. We really take our job seriously. We're all citizens of this state. Many of us have lived...many generations in this state and continue to do that, far more generations in the future. The part of the thing that governs this, and this is what the committee found out, is what we're really doing here is we're running a federal program. And this federal program has very specific requirements and very specific conditions that must be maintained for us to maintain our primacy. And some of the provisions that are contained in LB533 are really outside those federal requirements and federal things. One is the proof and the program talks about we need to have...the operators have insurance in place but only for bonding purposes, not for liability insurance. So that part of it is outside the scope. So it kind of changes the definition. So what we will always strive to do is stay current with the rules, to look at future events; believe me, we're very much focused on what's happening in Oklahoma and other states when it comes to earthquake and seismic activities, we're very well aware of those and we want to constantly be improving our program and making sure we're protecting the citizens. That's it. [LB533]

SENATOR HUGHES: Thank you, Mr. Belieu. Are there questions? Senator Walz. [LB533]

SENATOR WALZ: I have a question. Thank you, Chairman. Why do you have to plug up the well, for what reason? [LB533]

STAN BELIEU: There could be a lot of reasons, but for a lot...what we're talking about plugging wells aren't necessarily injection wells, but rather producing wells. So those are some of the wells that we're plugging. If you look at the ratio, it's about 25 percent of our total well count, our injection wells, 75 percent are producing wells. So we're talking about producing wells that we're plugging for the most part. And you're plugging those simply for the fact that they're economic limits are spent and they have no further use. In the case of injection wells being plugged, once again, it really comes down to economic limits, it comes down to...those different levels of protection that are designed to fail independently at the point where that is no longer economic to fix those, then they're plugged. [LB533]

SENATOR WALZ: So not necessarily it was because of a hazard or something happened, it was to prevent something from happening. [LB533]

STAN BELIEU: It was prevention, it's prevention, yes. [LB533]

SENATOR WALZ: Thank you. [LB533]

SENATOR HUGHES: Senator Bostelman. [LB533]

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SENATOR BOSTELMAN: Thank you, Mr. Chairman. These wells we're talking about in LB533, how long have they existed in the state? [LB533]

STAN BELIEU: We've had injection wells in Nebraska probably for over 60 years now. [LB533]

SENATOR BOSTELMAN: Sixty? [LB533]

STAN BELIEU: Sixty, yes. [LB533]

SENATOR BOSTELMAN: Thank you. [LB533]

SENATOR HUGHES: Any other questions? Seeing none, thank you, Mr. Belieu. [LB533]

STAN BELIEU: Thank you. [LB533]

SENATOR HUGHES: Additional neutral testimony? Seeing none, Senator Vargas, you're welcome to close. Welcome back. [LB533]

SENATOR VARGAS: (*See Exhibit 1) Thank you very much. Yeah, I didn't go too far. Thank you, Chairman Hughes; thank you, members of the committee. I want to thank the testifiers, both...on all sides, neutral and opposition and in support. I think it's important that this conversation is happening and we are beginning to coalesce all this information to make more informed decisions about how we better protect our environment and how we better protect our Nebraska. You should have before you, I handed out this letter earlier, it is from John Berge, the manager of the North Platte Natural Resources District. I'll read just a few significant sentences from the letter: This first sentence--given the potential for aquifer contamination and soil quality degradation if a contaminant excursion should occur with one of these wells, entities managing injection and disposal must be financially prepared to address such impacts. If they are not, the burden of remedying and monitoring environmental impacts will fall on organizations such as ours. And without the liability insurance proposed in LB533, both local and state water management entities may be obligated to respond to problems without sufficient available funds to respond effectively. Most importantly, once an aquifer is compromised, its quality and safety cannot fully be restored. I'm going to state that again--once an aquifer is compromised, its quality and safety cannot fully be restored. Those few sentences truly summarize the need for this bill. I would just conclude with the fact that LB533, I believe, is an important precautionary measure for our state to make sure that we are both environmentally and fiscally sound. You don't want to have...there was an analogy around car insurance. Yes, you don't want to have a car

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accident before you get car insurance. You don't want to wait to until there's a fire to get homeowner's insurance. We shouldn't wait until there's a costly accident to ask for private drilling and fracking companies to bear the risk and financial burden for those activities. I did want to react to a couple of things that we talked about. One of the conversations that we had is about this analogy about insurance and car insurance. I think the truth is, yeah, there are car accidents that happen and comparing apples to oranges was one of the comments made. However, I think what we do see is even though there haven't been any accident drilling fracking in the state, there have been in the country. To say that we wait...we will wait and see doesn't merit this conversation to not do it. And I think it's prudent for us when we are looking at...or even asking ourself this question whether or not a company that is both being environmentally and fiscally sound should have insurance to make sure that citizens are protected. I think the answer is yes. We ask for liability insurance in many different other industries and we ask it from people. And this is not the only state that would even consider this. And there was a mention from somebody else that Ohio recently passed in legislation signed by Governor Kasich that there was a million dollar liability insurance in addition to the bonding. I think we're just telling a different story that there are some states that believe we need to be more proactive about protecting our land and our water. And I would say there's no more important land than ours and no more important water source than the Ogallala Aquifer. And so I think that when we're seeing leaders in this, and we also have had some regulation that helps provide protection that this is a more preventative measure to ensure that it's not falling on our cities and our state...cities and our counties. I know there's another conversation about whether or not it is potentially too costly. I think we heard different stories around the...some companies said that they already carry this insurance. In my mind that says it must not be too much of a burden because they're still able to profit, and those are larger companies. In some of the other states where we do have some liability insurance, they are able to profit and they're still able to be in business, which, again, leads me to dispel this myth that they cannot profit or they cannot still be effective in doing their industry. And so I want to make sure that's very clear because I think this...the argument being more black or white that either you put the business out of business or you keep it open and it's successful for something that's precautionary like this doesn't seem to stand if we have other states that have additional things beyond the bond. And for this bond conversation, I know we've said this is a upon will, be sort of a backup plan for plugging. There hasn't been a conversation on what happens if...beyond plugging. There are impacts environmentally to a county, a town, a city beyond plugging, who is that? Who is accountable to that? Who pays for that? That's not coming from the bond and that's not what we heard which is why we are seeing some states making sure there's additional liability coverage so that those things can be covered and not be put onto the taxpayers. The last one I'll make is around the CO2 capture. I did have an opportunity to speak with some of the industry beforehand and hear their concerns because I think, you know, making sure we understand the other side is always important when we introduce bills and we heard about the CO2 capture and we're going to do a little bit more research on that. I think the one thing I want to clarify is there is...selling to California next year

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that there's this anticipated revenue source; that is...we are not...there's nothing in this bill specifically stating that that CO2 capture from ethanol plants can't happen. I understand their connection to it as a result of maybe it not being able to happen if there are some wells that you can't operate in certain parts of Nebraska. However, this specific point about CO2 and these carbon tax credits are not yet in place and so making that...I think that is a leap to say that that's a lost revenue stream when it isn't a current one. And I would hate for that to be the only...one of the main arguments that we get is to not doing something that is precautionary. And with that I just wanted to thank you all for making sure we're protecting our land; making sure we're looking out for taxpayers; also making sure that we're doing everything we can to not be a wait-for-and-see state and follow and being and continuing to be a leader in protecting our environment because we do know and we are seeing when instances of fracking or drilling gone wrong in other states from other companies, and potentially these companies as well, just because it's not happening here doesn't mean it can't and the impact...the financial impact...the economic impact...the environmental impact on our cities and states and our state is a tremendous amount which is why this \$5 million we put out there because of risk. Insurance companies sell this because they know it's risk, it is being utilized across the country. And I think our aquifer is worth making sure we protect that risk. So thank you very much. [LB533]

SENATOR HUGHES: Thank you, Senator Vargas. Are there any questions? Seeing none, that will close our hearing today on LB533. And we will transition into LB352. Senator Vargas, welcome back. [LB533]

SENATOR VARGAS: Like I didn't even leave. [LB352]

SENATOR HUGHES: Almost. Whenever you're ready. [LB352]

SENATOR VARGAS: (Exhibit 1) Oh, I'm ready, Senator. I'm just waiting for the transition. Thank you, Chairman Hughes; good afternoon, members of the committee. I want to thank you again for having me and this being a day full of bills that I'm proposing. My name is Tony Vargas, T-o-n-y V-a-r-g-a-s. I'm here today to talk about LB352, the Wind, Solar, and Fuel Cell Business Financing Act. LB352 is a pro-business measure that directs the Nebraska Energy Office to create an on-line version of Form 20, the Wind, Solar, and Fuel Cell Application. I believe there's copies that have been handed out, the on-line version of Form 20 that you should have in front of you. Has that already been handed out? I just want to make sure. I apologize. We'll make sure you have Form 20 so you can reference it. But I'll start talking about it, this way we're using time. Form 20 is part of a bundle of materials that is required for an individual who is applying for a low-interest loan through the Nebraska Energy Office to finance a wind or solar project. For those unfamiliar with the application process, I'm going to give a very brief overview. When an individual decides that they would like wind or solar energy for their home,

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their farm, ranch, or business, they contact a developer or developers to get a cost estimate or bid for the project. Once they agree on a cost with the developer or developers, the individual then goes to their bank to apply for a loan, just like you'd apply for any other loan. The loan application process at their bank is just like any other loan you would take out. The bank collects information and then performs a very basic underwriting to determine your credit worthiness. If the individual is approved for the loan, the bank then sends the approval, along with three completed signed forms: Form A, which attests the individual is a U.S. citizen; Form B, which is an agreement to not begin construction or contractually obligate yourself until the project is approved by the energy office; and Form 20, the form I'm referencing. Forms A and B are very simple enough. But Form 20 is where it gets tricky, and you'll see once we get this to you, for Form 20 it requires technical information about the type of equipment that will be installed, including the manufacturer name and equipment specs. LB352 was brought to my local...was brought to me by local renewable energy developers, which you'll hear from a few soon, who are having trouble submitting the application accurately and completely, and as a result, are also experiencing delays in turnaround time. Because all of the application materials for these projects are sent between the bank and the energy office, if there's a missing or incomplete form or information, that is communicated back to the bank who then has to contact the borrower who then has to contact the developer to obtain the information so it's a little bit of a run around. And then the updated information has to be communicated back the same way from the developer to the customer to the bank and then back to the energy office where the application then again awaits review and approval. LB352's aim is to take the middle man...or middle person out and just allow the developer to communicate the technical information about utilities and equipment directly to the Nebraska Energy Office. In addition to hearing from developers today, I believe there is also a letter from a local banker who has worked with developers on these projects and believes that creating an on-line Form 20 will make the application process more efficient; that should also be in the record. The last thing I'll mention is about the fiscal note on this bill. My staff communicated with the energy office about this bill and the fiscal note attached to it earlier this week. I would argue that the fiscal note is much too high. We've seen other agencies and departments that have moved applications on-line for a cost much less than what is indicated on that fiscal note, more in the ballpark of around \$50,000 to \$60,000. I believe the reason the fiscal note is so high is that the energy office took a more broad interpretation about what we were asking them to do. There are many other forms, and so it is possible that this was extended to all the forms that are available currently for people to fill out, not just Form 20. And you'll see that they estimated the cost for the on-line submission does apply to all materials, but that's not what the intention of this bill is. LB352 just asks for Form 20 to be put on-line, not the loan approval documents from the bank or other supporting documents. The OCIO's estimate of a thousand hours to put what is now a three-page application on-line is, in my opinion, an overestimate likely stemming from a misunderstanding about the intent of the bill. I would be more than happy to work with the committee and the energy office to clarify the bill's language if necessary

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to get the fiscal note revised. With that I'd be happy to answer any questions. And I believe you have Form 20 now, right? Okay, that's the thumbs up. Thank you. [LB352]

SENATOR HUGHES: Thank you, Senator Vargas. Are there questions? Senator Geist. [LB352]

SENATOR GEIST: Just for clarity for me, so you're simply trying to just put this form on-line? So it's available for whoever needs to and you need to have a signature and you need to put in information? [LB352]

SENATOR VARGAS: That is correct. That's... [LB352]

SENATOR GEIST: Yeah, that fiscal note is shocking. [LB352]

SENATOR VARGAS: That's why we want to work on that. And I... [LB352]

SENATOR GEIST: I just wanted to make sure I'm tracking with you. [LB352]

SENATOR VARGAS: No, you've accurately simplified that we're wanting to move this application on-line to streamline this for the consumer and for developers so that it can better be implemented quicker and there's less cumbersome, even explaining it to you, and we prepare for it to be more simple...was...is difficult because it is cumbersome. So that's it. [LB352]

SENATOR GEIST: Thank you. [LB352]

SENATOR HUGHES: Any other questions? Senator Albrecht. [LB352]

SENATOR ALBRECHT: Thank you, Chairman Hughes. And thank you for your testimony on this particular bill. Now, you're just talking about having this electronically. But you're also talking about farmers. And you're talking about people that don't always have access to a computer. So would it still be in this form? [LB352]

SENATOR VARGAS: So we are moving it on-line. There's still certain forms that would need to be submitted, and I talked about Form A and B, there are still some forms that would need to be submitted and signed. That is required. It's this specific application which if you view this, this is really information that needs to be filled out by the developer, not the person that owns a farm or a ranch or a house, but we are asking them to do that. In reality, this form is really filled out by

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the developer and the information comes from them and so that's why those individuals are...do have the ability and are operating on-line so it's streamlining for them. [LB352]

SENATOR ALBRECHT: Okay. Would you consider putting it in there if this were to come out of committee to have a paper form as well as electronic form? [LB352]

SENATOR VARGAS: As another option for people that prefer it that way, yes. But we want to make sure the on-line form is there too. [LB352]

SENATOR ALBRECHT: Thank you. [LB352]

SENATOR HUGHES: Any other questions? Senator Bostelman. [LB352]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Thank you, Senator Vargas. A couple of questions on this, this is the format as it currently exists with the state, there's nothing...no changes? [LB352]

SENATOR VARGAS: No. [LB352]

SENATOR BOSTELMAN: On this stream...I just want to understand, on the streamlined portion of this, are we eliminating any steps, any reviews, any technical aspects, or does it all remain the same? [LB352]

SENATOR VARGAS: We're not removing...we're not changing anything about the form, we're just changing the process to make sure that there isn't miscommunication as we're...I was even explaining it having the developer communicating with the bank and then the bank communicate with the office and there being just this litany of steps; when in reality, if this is filled out on-line and is filled out by the developer, you know, in support on behalf of a homeowner, a ranch, a farmer, it is streamlining it for them and making sure that the person that has the most information can get to it. So there's nothing in addition to this. And the Department of Energy has a...and again, this is why we want to work with them, they have a better idea of exactly how to make sure the same information is collected on-line so that it's easier. But this, as you can see right now, is very technical and provides a lot of back and forth. [LB352]

SENATOR BOSTELMAN: Right. Well, and that's the question is we're losing that and that's going to maintain... [LB352]

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SENATOR VARGAS: No. [LB352]

SENATOR BOSTELMAN: We're just trying to make it so either the energy office, whatever, has...you can, let's say, have an account, for lack of a better term, and that account has this project in it. So if three or four of us need to work on this document, we can get into that account and do the reviews or do the signatures that we want, is that fair assessment? I mean, in simplistic form, I guess. [LB352]

SENATOR VARGAS: The intention is to have the form on-line. The Department of Energy determining how to make the form on-line still meet the requirements which, as you can see what the form is, I think that's possible. I don't know about having multiple people being able to access the same information, but if we're able to do it for other applications through our state department, I believe that is something that I'm willing and ready to work with the Department of Energy to make sure it's possible. [LB352]

SENATOR BOSTELMAN: Thank you. [LB352]

SENATOR HUGHES: Okay. Any additional questions for Senator Vargas? Seeing none, you'll stay to close? [LB352]

SENATOR VARGAS: Um-hum. [LB352]

SENATOR HUGHES: Okay. Thank you. [LB352]

SENATOR VARGAS: Thank you very much, members of the committee. [LB352]

SENATOR HUGHES: We will open it up for proponents. Welcome. [LB352]

JAMES CAVANAUGH: Mr. Chairman, thank you. Members of the Natural Resources Committee, my name is James Cavanaugh, J-a-m-e-s C-a-v-a-n-a-u-g-h, counsel and registered lobbyist for the Nebraska Sierra Club appear today in favor of LB352. I would just very briefly say--oh my goodness, \$135,648. I tell you what, our law firm will hire a lawyer out of law school who has the computer skills to do this for half of that amount. This is an absurd number. Secondly, aren't we here to help business and get government out of the way? Didn't I just hear that on the previous bill? That's what this bill does. So why don't we do a couple of things. Why don't we tell the energy office that we'll farm this out for...half would be generous, of what their fiscal note asks for. And we'll tell the business community we're doing something for you to enhance business in Nebraska. I'd be happy to answer any questions you might have. [LB352]

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SENATOR HUGHES: Thank you, Mr. Cavanaugh. Any questions? Seeing none, next proponent. Welcome. [LB352]

MICHAEL SHONKA: Yes. Thank you, committee. My name is Michael Shonka, M-i-c-h-a-e-l S-h-o-n-k-a. I'm the owner of Solar Heat and Electric in Omaha. I've been in the business for over 30 years and I gladly recommend this process to many of my clients. However, in this last year, the system was plagued by numerous breakdowns in communication and short staff, quite frankly, of NEO's, they weren't able to get to things in a timely manner. This process has cost my business money. It's cost extra labor, extra time, strained relations with my customers, and even bankers. It's broke. It needs to be fixed. The process is very simple when it is a streamlined system with only a few applicants a month, it works just fine by hand. When it starts to get volume, it breaks down, just like any hand process is, it's going to break down. And so we need to automate this system. It's not a big deal. It's a couple of pages. It can be all done on-line with e-mails. It just needs to get into the modern age. It is literally a cut-and-paste project with software today. It is not that complicated. So I'm urging the committee to take this seriously. It does have a bottom line effect on a number of businesses in the community. It will help reduce the two-month delays I've been experiencing this last year to the point where I can no longer recommend to my customers to use this very wonderful service, a service that actually makes money for the state because they earn some interest back and it's a very profitable operation. We'd like to see it streamlined so it can continue. Any questions? [LB352]

SENATOR HUGHES: Thank you, Mr. Shonka. Any questions? Seeing none, thank you for your testimony. [LB352]

MICHAEL SHONKA: Sure. [LB352]

SENATOR HUGHES: Additional proponents. Welcome. [LB352]

GRAHAM CHRISTENSEN: (Exhibit 2) Thank you, Chairman Hughes. Thank you, again, members of the Natural Resources Committee. My name is Graham Christensen, G-r-a-h-a-m C-h-r-i-s-t-e-n-s-e-n. Today, I'm here representing my businesses, one being an alternative energy general contracting company that we spoke about a little bit last week, and also the Nebraska Farmers Union, as well, is going to testify in support so I'm also representing their testimony. But I'm going to speak a little more from the contracting side, I think, today. Thank you, Senator Vargas, for this business-friendly bill. This bill would go a long ways in helping speed up a cumbersome process. It's a great program. The concept has been here for about eight years, passed through the Legislature. It gives 2.5 percent interest financing. A lot of times, this is what drives the project actually forward for many folks that need to utilize financing. And over the last year and a half, actually over the last year, I've utilized the program a total of seven times. And,

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essentially, what that amounts to is \$488,000 of new revenues that have come into the state, of projects that I've worked on that have utilized the program. So we're driving serious new revenues into the state. I mean, I know I'm a small business, but those are big numbers to somebody like me who is just starting his business career. The application in itself, as you can read on the Form 20, is very straightforward. It's not a complex process. It's not over lengthy and it's, frankly, a big, big relief. But all seven projects I've done have ended up being a multi-month process with the last three projects in which applications were placed in the very beginning of August, so three projects in which applications were placed in the very beginning of August I wasn't able to get approved until mid-November, so we're over three months in an application process. And when you're trying to start a new business, that really hurts. I made it; I'm here. But we could use just a little bit of help in streamlining this so that we can be able to get these things out the door quicker and be on to bigger and better things. And I'm very grateful for the folks back home that started these projects with me and my businesses and to hang on and have faith. Most of this uses this process were not personnel issues. And I know there were some personnel being short of staff in the Nebraska Energy Office, I'm very aware of that, but rather it's about having excess motions. So it goes from the developer who has to fill in the numbers and the breakdowns in the equipment as most of the time the customers don't understand, so we end up doing this Form 20 specifically for the customer and it goes to the lender, to the energy office. The energy office has an issue with our application, it goes back to the lender, back to me. And then I fix that modification, I hunt down signatures again, then it goes back to the lender, back to the energy office and then back to the lender, back to me. And that's what's going on. We just want to be able to simply fill out an application on line, have the information go right to Nebraska Energy Office so they can have an easier time dealing with these as well, and we can stay out of their hair and they can keep doing the business that they want to be able to do with the short staff and the tight budget that I know we're all aware that they have already. So that's kind of the stories. I can elaborate more on some of the issues we've had if you would like, but I'm just...I'm very grateful, another pro-business bill, it's an exciting day in solar. I hope we can move some of these things forward to allow us to develop this business in the state of Nebraska in the future. Thanks for your consideration and I appreciate any questions that you might bring. Thank you. [LB352]

SENATOR HUGHES: Thank you, Mr. Christensen. Are there questions? Senator Albrecht. [LB352]

SENATOR ALBRECHT: Thank you, Chairman Hughes. Thank you for your testimony. So I see there's only really three pages here and really only two that would involve you as the developer, right? [LB352]

GRAHAM CHRISTENSEN: Correct. [LB352]

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SENATOR ALBRECHT: So when those forms kept coming back to you, what was it that they were looking for that you didn't have on there? [LB352]

GRAHAM CHRISTENSEN: So the...one of the issues was is the sales tax. In previous applications I'd done I just simply listed out the sales taxes as a separate line item. There's not really a place for that. And it was accepted as an application form. However, the next time around, or at least with these three last applications that put me into the wintertime on development, we were asked to just separate them simply into each line item of the equipment. So a very easy deal, but it ended up taking about a month before it went through the whole process. [LB352]

SENATOR ALBRECHT: Okay, but was it really the state's problem? Was it the bank's problem? Or was it your problem? [LB352]

GRAHAM CHRISTENSEN: Well, that was something... [LB352]

SENATOR ALBRECHT: Because if it keeps coming back and forth, it's coming back and forth for a reason, whether it was electronic or whether you had to mail it, so I'm trying to understand what is it that you're missing or maybe there should be something else on the form that helps you not have to bring it back and forth so many times? [LB352]

GRAHAM CHRISTENSEN: It was a communication problem. And so it was a process that we had done one way, and so the process changed just a little bit, that was a little piece that wasn't clarified. [LB352]

SENATOR ALBRECHT: Okay. [LB352]

GRAHAM CHRISTENSEN: And if you notice the second part of this piece of legislation, it actually asks for just simply on-line templates, maybe highlighted or circled, you know, what it is... [LB352]

SENATOR ALBRECHT: Things that have to be... [LB352]

GRAHAM CHRISTENSEN: ...exactly how they want so we can just look at the template and be able to do it exactly how the energy office was without a lot of back and forth communication that spends a lot of extra time and resources. [LB352]

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SENATOR ALBRECHT: Very good. Thanks. [LB352]

SENATOR HUGHES: Okay, Senator Bostelman. [LB352]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. Thank you for testifying today. I'm kind of following up on Senator Albrecht's, just...I'm trying to understand the process. One, is this a loan? Is this a government type of a grant loan...not a grant, but a loan you get through the bank? (Inaudible) Is that why it has to keep coming back through the bank? I'm trying to understand if you're filling it out then you...see what I'm saying, your process. You're saying it goes and if we take that...if we take that one portion out, you know, if it's the bank or whoever it is, between you and the energy office, why is it going back...there must be a reason that it goes back and forth? And that kind of comes back to that comment I was wondering before, you know, someone, you know, here's the account...here's this application set out so then if there's two or three offices that look at it, so the same thing you're talking about, so you submit it, they pull it down, okay, they said, yep, here...oh, we reject it. And then so, we know, and that's what I'm trying to understand, and I think maybe something you're... [LB352]

SENATOR ALBRECHT: Well, there must be something that's causing things to go back and forth. [LB352]

SENATOR BOSTELMAN: So why does it go back through? [LB352]

GRAHAM CHRISTENSEN: I think the program is intended more for the local lender to work directly with the state energy office. It's just the information that's being asked on the form when you have to break down the numbers and the equipment, specs with model numbers, typically the bank doesn't know that, and of course the customer doesn't know it...so...the specifics of it, so essentially everything always comes back to us and we have to fill it out anyway. And so by us just being able...or the customer being able to simply fill it out on-line just on the Form 20 we can circumvent that to help aid the bank who puts a package together that's very simple and straightforward. [LB352]

SENATOR BOSTELMAN: Right. And potentially what I'm hearing is is maybe it was rejected out of the energy office instead of the bank potentially. [LB352]

GRAHAM CHRISTENSEN: Yeah, the bank... [LB352]

SENATOR BOSTELMAN: Before you may have known about it, I mean it was just a communication between those steps. [LB352]

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GRAHAM CHRISTENSEN: I think absolutely. I think absolutely you're right. It wasn't a bank issue, you know, they were waiting to move forward on things as well. I just think there's an extra step on this one form that there is other information, as Senator Vargas pointed out, in the application that the bank puts together and we don't even look at, we don't want to see, we have nothing to do with, that's between the state energy office, you know, and this program and the lender. But in this case, this is something that we're getting drug into over and over again. And so, we just want an easy route that saves the bank, us, and the folks...the staff in the energy office trouble, just make it quick. [LB352]

SENATOR BOSTELMAN: Thank you. [LB352]

SENATOR HUGHES: Additional questions? Seeing none, thank you, Mr. Christensen. [LB352]

GRAHAM CHRISTENSEN: I appreciate your time. [LB352]

SENATOR HUGHES: (Exhibits 3-11) Additional proponents? We have letters of proponents: Nancy Meyer, Cedar Bluffs; Mary Pipher; Tim Fickenschler, Omaha; Kathleen Hughes; Sally Herrin, Lincoln; Leverne Barrett; Moni Usasz; John Rohlf; and Jordan Johnson. Are there any who wish to testify in opposition to LB352? Welcome, Director Bracht. [LB352]

DAVID BRACHT: (Exhibits 12 and 13) Thank you for having me, and I appreciate the opportunity to talk through this and share with you our viewpoint of this. But first, to properly introduce myself--good afternoon, Chairman Hughes and members of the Natural Resources Committee, my name is David Bracht, that's D-a-v-i-d, last name is spelled B as in boy-r-a-c-h-t. I'm the director of the Nebraska Energy Office and I appear before you today to testify in opposition to LB352. As you know, LB352 would direct the energy office to create a standard and simple on-line version of Form 20, Wind, Solar, and Fuel Cell Application, that can be completed and submitted electronically by an applicant in the Dollar Energy Savings and Loan program. And we often refer to that as the DESL and so if I slip into that, please forgive me. This change would require the development of a computer program to first capture the information on the form and then interface both with the energy office's computer system and with the computer systems of the nearly 300 Nebraska lenders eligible to participate in the program. Since I've given you the written testimony, I'm really going to summarize and maybe bullet point some of that. First, and at the outset, I want to say that very definitely the energy office wants to and does everything we can to try and streamline our process and automate our process, and, in fact, we do have a Nebraska Energy Office system where all of our loans are tracked and the loan program, and including wind and solar projects, has actually been in existence since 1990. You've heard me talk before about the programs so I won't go through that except for a couple of things that I think are notable. In that time, we've done nearly 29,000 projects. And last year, we

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did 266 projects, of which 30 were solar projects using the Form 20. So while I very much support and look for any way we can to be more efficient to help support that, in particular solar projects; and I note that last year we did 30 solar projects. Those solar projects totaled in loans over \$4 million, nearly \$5 million of loans went to support solar projects. And those ranged from small homeowner rooftop systems to larger systems that were installed by...particularly in the central part of the state, in the Sandhills, we've seen some projects that are 600, 700 kilowatts, and the cost for constructing those will be in excess of a million dollars. Our concern for the bill is that this process...what it's suggesting does not...the benefit won't justify the cost. And we certainly want to try and do everything we can do work with developers including the developers and try to when we do that. They pointed out, and I want to focus in on that cost, because I know that had been questioned, the Form 20 itself is today available on...by PDF on-line, and it's a fillable PDF. So anyone can go to our Nebraska Energy Office, and in fact, if you go to the front page, there's a place where it says Dollar Energy Savings and Loans and it also has a block for the type...the wind...solar, wind, and fuel cell loans. If you click that box, it takes you right to the page that talks about the loans; has information about the limits. And then there's, really, a how to and it lists all of the different kinds of forms that you would need for the different types of loans that are under the DESL loan program which is...of which the solar Form 20 is just one. There's really eight pre-qualified types. And as the fact sheet that I handed out to you, 30 were solar; the majority in a number account is loans that homeowners would take out to help either pay for a high-efficiency furnace or put in windows. And we process multiple hundreds of those in a year. So where the challenge comes from, it's not putting that form on the Web site, and in fact, there would be nothing wrong with and if we haven't...if my staff hasn't encouraged, I'd encourage now and I'll have them encourage, we would encourage in this Form 20 situation that the developer work specifically with the homeowner, or the customer, in whatever form they are, bring it up on their...and fill in all that information. As you saw, it is relatively short and we really haven't had the problem with the filling out of the form, it's the additional information that our program requires to do that. And for that point I would point you to page 2 of that form. So it's a four-page form. On the top it says--Requirements. And I'll let you stop me if you think I'm going on too long, Mr. Vice Chairman. So the short of it is though, all of that where we've really run into problems is...or the cost is because we're having to interface with all these different banks; it's already on-line. And we work...have about 300 banks that are eligible and that's what made that cost more. And frankly, I had the same reaction as you did, and so we spent quite a little bit of time understanding why it was that high. And I can also tell you others had that reaction. So this was a conversation that OCIO had multiple times. And it's really cost driven by the fact that we're communicating with those banks. The second aspect, and this is to some of the time delays that can happen sometimes, I want to go to a point that was made, is that this form applies to many different things. And if you read that requirements part, it lays out that we have to have the manufacturer information. In other words, while having a template that would have the developer fill in that number, and in fact, that's essentially what happened here...or in a couple of the instances where it took multiple times, the problem was is the manufacturer's

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documents didn't match what was on the form. And, ultimately, frankly what my staff did, we have an engineer on staff and we weren't getting where and could tell the frustration, we basically called up the manufacturer and got the right specs and determined that. In fact, the documents we had hadn't...didn't include what this asked for and we had a call up Underwriters Laboratory the requirements are, and for most homeowners insurance, they're going to require Underwriters Lab and the documents didn't indicate that they had been underwritten. So that's what makes it complicated. [LB352]

SENATOR BOSTELMAN: Thank you, Director. Do we have any questions from the committee? I guess I...you did answer some of the questions we talked about already. [LB352]

DAVID BRACHT: Sure. [LB352]

SENATOR BOSTELMAN: And that was one thing I had asked before, is the form, if you put it on, I believe what you're saying there is you have the different financial institutions that also have to have access then how you connect that as far as a cost for setting this up. But is there other reasons why there's a delay, what we're talking...the testifier before was talking about, there seems to be a disconnect between the person who originates the form, the lending institution, your office, back to the lending institution, back to...is there a way to...is there a streamlining within that process without going to on-line? [LB352]

DAVID BRACHT: So I think the answer to that is yes. And I have encouraged staff, and as I, ultimately, we did have multiple conversations with...in a couple of instances, several instances with developers because the information we were receiving wasn't meeting the requirements...didn't include the stuff that was required on the form. And so we wouldn't...we certainly...we don't have any rule that you can't talk to the developer or anything like that. I mean I...and what I've encouraged my staff is, certainly, maybe not at the first instance, because it's still the borrower is the bank's customer so we have to be somewhat sensitive to the fact that not our customer, it's the bank's customer, not to get in between that, but to encourage if there's technical questions that it can come to us as soon as possible. And that we can try and ask the questions in a way that it gets delivered right. [LB352]

SENATOR BOSTELMAN: So is your involvement in this because you're the funding source for these loans? [LB352]

DAVID BRACHT: Yes. So the way the loan works is...the DESL program works is the bank...we, basically, help by through our program, and a correction here--the state doesn't earn any interest on it, so we have a pool of funds that we put out and then we get paid back, but, essentially, what we're able to do is by working with and buying a participation in a loan that the

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bank makes, they're able to offer a lower interest loan to that customer. And the focus there should be...so the key point there is the bank is making the loan, we're buying a participation in that loan, and that's how the customer gets a lower interest rate. To your original point though, we don't have any problem with having direct communication, and in some instances, and I'm certainly not going to...although I did review the file, here...a number of these interchanges were us asking for things and not getting it. And as I said, at least in one or two occasions, we ultimately said...and my engineer basically went out, found the number for the manufacturer, called them up and said--here's what we're looking for. And it's the standard testing conditions. [LB352]

SENATOR BOSTELMAN: Okay. Thank you. Any other questions from the committee? Thank you, Director Bracht. [LB352]

DAVID BRACHT: Thank you. [LB352]

SENATOR BOSTELMAN: Do we have anyone else wish to testify in opposition? Any others wish to testify in opposition? Then I'd ask for anyone who would like to testify in the neutral capacity. Having that, Senator Vargas, would you like to close? [LB352]

SENATOR VARGAS: Thank you very much, Vice Chair Bostelman. Members of the committee, first I'd like to start off by thanking the developers and others who took their time today to testify. I just want to reiterate to the committee that I think taking this step to create more efficiency in the application process for wind and solar projects is a simple thing that we can do to create a more business-friendly atmosphere in our state. I hope the committee will move this bill onto General File. And then I think what we've heard is even in asking questions, there is confusion in the application itself. I think about my times filling in on-line applications and very discreet pieces of information that are asked in different sections; and what we see here is this is available as a PDF on-line and I urge you to go to the Web site and navigate the site and make a judgment on how easy this is for an individual business owner that there is a way to streamline this on-line that can get the exact information more specified in a way that's going to make it easier for the developers and the people that are trying to have these projects done quickly that they can be done more efficiently. I also say, and I think this was mentioned, is that there are other automated or sort of on-line application programs happening in other departments in the state of Nebraska. So I think that there is a clarity that it is possible to happen and for us to do that. I think the Liquor Commission actually has an application process as well that is on-line. One other thing I wanted to clarify is for this form, I think one of the other additional steps, is that there needs to be some additional documents sent from the bank that is doing the underwriting to determine credit worthiness that needs to be sent to the department. I do have more questions and I'll connect with the Department of Energy this on why we would need to

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have access to a bigger database if it's on-line if it currently can still be accessed through paper. If it could be done through paper previously and now we're just doing it on-line, why would there need to be an additional cost, some additional database. I don't see a security because we have paper, so there must be some other reason and I want to figure out what that is. But there is a miscommunication on exactly the information that is needed from the Department of Energy and making sure that it is streamlined and in a place that the data can be collected and then can easily be accessed and make it easier for developers and people that are trying to be more energy sustainable with their homes. So I wanted to thank you very much and see if you had any other questions. [LB352]

SENATOR BOSTELMAN: Are there any other questions from the committee members? Seeing none, thank you very much, Senator Vargas. And that will conclude our hearing for today. [LB352]

SENATOR VARGAS: Thank you for taking a very long time with me today. [LB352]