

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**HUGHES:** [RECORDER MALFUNCTION] --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 may come and go during this hearing. This is just part of the process, as we have bills to introduce in other committees. I ask you to abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Introducers will make initial statements, followed by proponents, opponents, and then neutral testimony. Closing remarks are reserved for introducing senators only. If you are beginning-- if you are planning to testify, please pick up a green sign-in sheet that is on the table by 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 green sign-in sheet to a page or the committee clerk. This will help us make a more accurate public record. If you do not wish to testify today, but would like, would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign in for that purpose. This will be part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify. They will be distributed for you 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 we get an accurate record. We will be using the light system today. You will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining. And the red light indicates your time has ended and we would like you to wrap up. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, is allowed in a public hearing. The committee members with us today will introduce themselves starting on my far left.

**MOSER:** Hi, I'm Mike Moser from District 22. I represent Platte County, Stanton County, and a little part of Colfax County.

**HALLORAN:** Good afternoon. Steve Halloran, I represent District 33, which is Adams and parts of Hall County.

**QUICK:** I'm Dan Quick, I represent District 35, which is Grand Island.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**GEIST:** Good afternoon, my name is Suzanne Geist. I represent District 25, which is the east side of Lincoln and Lancaster County.

**HUGHES:** And on my far right.

**GRAGERT:** Good afternoon. Senator Tim Gragert, representing District 40 up in northeast Nebraska.

**ALBRECHT:** Hi, I'm Joni Albrecht, northeast Nebraska: Wayne, Thurston, and Dakota Counties.

**BOSTELMAN:** Bruce Bostelman, District 23: Saunders, Butler, and the majority of Colfax Counties.

**HUGHES:** And to my left we have our committee counsel, Andrew Vinton. And on my far right is our committee clerk, Mandy Mizerski. Our page with us today is Veronica Miller, she is a junior at the University of Nebraska-Lincoln, majoring in political science and Spanish. Before we get started with our first confirmation, I would like to recognize the Water Leaders Academy who have joined us today. This is the 10th year of the Water Leaders Academy. So if you would please stand so we could recognize you, and appreciate you being here. Thank you for coming. And it is quite appropriate that we do have someone from the Environmental Trust Board here for confirmation because the Environmental Trust fund does support the Water Leaders, Leaders Academy, and we certainly appreciate that. So with that, first up will be the appointment of Jeff Kanger-- Kanger to the Environ-- Environmental Trust Board. So if you would like to come up, Mr. Kanger, and have a seat and give us just a little bit of background about yourself and tell us why you'd like to be on the Environmental Trust fund board. Welcome.

**JEFF KANGER:** Thank you. My name is Jeff Kanger, J-e-f-f K-a-n-g-e-r. And first I'd just like to begin by thanking the senators here for being public servants and essentially volunteering in that capacity and stepping forward. I know it's a huge commitment of time. Because we have a shared passion for our state and it's, it's that passion of volunteerism that has me here today. And appreciation for the Governor's nomination to serve on, serve on this board. It's my understanding you've received a little bit of my formal resumé, but you can imagine as I prepared for these comments, my anxiety when I first reach out to someone to ask what, what was involved. And they said, well, just have about 45 minutes of comments. And I thought, my goodness. And then I realized they said four to five minutes. So for

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Natural Resources Committee January 23, 2020

everyone's sake, I'll try and keep it in that, in that bandwidth. But without boring you and repeating the resume, just some brief background points. But then I'd like to touch on a few things about myself that are off resumé, so to speak, that might help color my passion and interests for this particular opportunity. I was born and raised in Omaha. I went to school, fourth of five kids, and did my undergrad at Northwest Missouri State in Maryville, came back to Nebraska, went to the University Nebraska College of Law. While I don't practice the law, that was instrumental in forming my thoughts on public policy and things like that. And I was very fortunate upon graduation to get a job with a community bank here. I've always wanted to be in Nebraska and stay in Nebraska, and I'm thankful for that, that opportunity. But a couple of things kind off, off the resume that might have you wondering what's a law grad and a banker doing before a Natural Resources Committee? My first toy growing up was a farm set, and in the suburbs of West Omaha, that's a little odd. But I'd put it up, take it down every weekend. And I cleared a little small piece of land about the size of a shoebox and planted my first garden. And can't grow much very well, but there was a passion there that I was trying to develop. When my family would go out to Two Rivers State Park for Memorial Day, I wouldn't eat until I caught a fish, and I was focused on that. When we would take brief family trips out to Colorado, my parents stood there patiently while I took my \$10 bait and tackle and tried to catch a trout in the Big Thompson Canyon. But they were there to support that passion of mine. No one in my family was really involved in the outdoors outside of my grandfather. He took me a few times, and I shot my first pheasant by an old family place just west of Wahoo. And it was one of those days that grandpa picked me up that really kind of changed my trajectory and my exposure to conservation and agriculture. A neighbor down the street, a gentleman named Kevin Mark [PHONETIC] saw a 10-year-old standing there with a shotgun and a hunting vest and reached out to my parents and said, hey, does this kid have an interest in this? Can I, can I mentor him? And from there, he would take me out on weekends to his family spot out near Ericson, Nebraska, where an Omaha kid got exposed to ranching and the Sandhills and the aquifer and the Cedar River. And I shot my first deer and duck and grouse and learned what prairie dogs were and ranching. But in addition to that, I learned about being a steward of the land and being grateful for the opportunity to see those resources in our state, to help someone with fence, to let them know if there was something going on with the cattle, to let them know if there were other people on the property that shouldn't be there, and appreciate the relationship and the back and forth between agriculture and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

conservation. I then had opportunities through a Game and Parks program, a mentorship program where I could bow hunt on MUD property just south of Omaha. And that afforded me an opportunity I wouldn't have otherwise had. And a gentleman named Don Combs [PHONETIC] would pick me up and take me out there to sit in a tree on 10-degree days and try and shoot a deer. And I, without those public opportunities and those mentors in my life, I wouldn't have been exposed as an Omaha person to the outdoors, so to speak. And so as I've kind of grown and developed and now working in a largely agriculture bank, I've been exposed to the pressures of agriculture as well and row production-- or crop production and raising livestock. And the general consensus, you know, those things have been nurtured in my life, that there's a balance in a relationship there. And, you know, bringing common interests to the table and talking about conservation and ag production and affording opportunities for those that don't generally have it and exposing people to our state's natural resources, whether it's to hunt, fish, hike, camp, take a picture. I think we all have a common interest in facilitating that, but being responsible stewards of that and bringing stakeholders to the table to talk about how we do it for everyone's everyone's benefit and everyone's sake. So I'm thankful for the opportunity to stand before you today and to share some of my thoughts and my backgrounds in those personal passions that I hope to facilitate with some of the educational and technical background to be a value add to the Trust Board. So I appreciate your time and would certainly be available for questions.

**HUGHES:** Thank you, Mr. Kanger. Are there any questions from the committee? Senator Bostelman.

**BOSTELMAN:** Thank you, Chairman Hughes. Thank you, Mr. Kanger for being here. Can you tell me what your responsibilities are on the Board of Public Accountability [SIC]?

**JEFF KANGER:** Sure. The public accountancy board sits as a regulating body for accountants throughout the state.

**BOSTELMAN:** So is that, how does that meet, and then how does that-- what are the meetings with Environmental Trust? Are those going to overlap at the same time? Could you talk about that?

**JEFF KANGER:** Yeah, I did look into that a little bit beforehand. And fortunately, there doesn't appear to be any, you know, scheduled overlaps for the upcoming year

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**BOSTELMAN:** Sure. Could you just explain a little bit maybe what, what do you think your role-- where do you fit within the 17 members of the Environmental Trust?

**JEFF KANGER:** Sure. You know, first, as a, as a citizen-member and a non-agency member from the 1st Congressional District, and fulfilling that initial duty and, and obligation in terms of some of the skills, I guess, that I'd hope to bring would be some of the formal background in education I've had? And then also the banking side and the dealing with money and finance, the trust, to my understanding, handles quite a bit of financial resources and working through that process as well.

**BOSTELMAN:** OK, thank you.

**JEFF KANGER:** You bet.

**HUGHES:** Thank you, Senator Bostelman. Senator Geist.

**GEIST:** Yes, thank you. And I welcome you here. I know we go back and know each other a bit from-- and I believe that your bank is in my district, so I--

**JEFF KANGER:** Correct.

**GEIST:** --appreciate the work that you've done. And so actually, Senator Bostelman took my question and my ask, what your role you see as being on the committee. But beyond that, I would just like to welcome you and I appreciate your desire to serve and volunteer for this position. I appreciate that.

**JEFF KANGER:** Thank you, Senator.

**HUGHES:** Thank you, Senator Geist. Other questions? Seeing none, very good. Thank you for your willingness to serve the state of Nebraska.

**JEFF KANGER:** Thank you.

**HUGHES:** So is there anyone who wishes to testify as a proponent of the appointment of Mr. Kanger to the Nebraska Environmental Trust Board? Seeing none, is there anyone wishing to testify in opposition to his appointment? Anyone wishing to testify in the neutral position? Seeing none, that will close our appointment hearing for Mr. Jeff Kanger to the Nebraska Environmental Trust Board. With that, we will move on to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

the next agenda item, LB856, Senator Moser. Welcome to the Nebraska Natural Resources Committee.

**MOSER:** Thank you so much for that warm welcome. I hope you guys are as nice to me as you were to the last guy. Good afternoon, Chairman Hughes and members of the Natural Resources Committee. My name is Mike Moser, it's spelled M-i-k-e M-o-s-e-r. I represent District 22, which includes Platte County, Stanton County, and a part of Colfax County, and I live in Columbus. I'm introducing bill LB856, which would extend the sunset dates of the Petroleum Release Remedial Action Cash Fund. The authorization of this fund is set to expire June 30th, 2020, and this bill seeks to extend that date to June 20-- June 30, 2024. I think you all got this sheet that gives you some data on the fund. There's some interesting numbers there. The known leaking tank sites, there are 917. Estimated future tank sites that may leak, 216. Leak--leaking sites closed, 6,858. Total reimbursements, this number kind of caught my eye, \$159,985,796. So lest anybody think that this doesn't matter, it really is an important fund. And then there are some graphs to just kind of show you the cash flow as it comes in and then what their projections are into the future. Petroleum retailers pay a per-gallon fee into this fund, provide financial assistance for the cleanup of petroleum storage tank contamination. Currently the fund has approximately \$4.5 million, according to the information compiled by the Legislative Fiscal Office. This fund is overseen by the Nebraska Department of Environmental Quality, and the fund can reimburse for the cost of remedial action, including reimbursement for damages and cleanup. And then there will be testifiers following me that would be more knowledgeable about some of the technical facts. But if you have any questions at this point, I'd be glad to ask them. One other slight tangent would be I know that the bill asks to extend this four years, but then in four years we'll be back doing this again. So I asked Chairman Hughes whether it might not be sensible to consider extending it for eight years, should the committee agree, and should the petroleum retailers feel like that's a workable solution. You know how much we have to do in so little time. And that would eliminate another hearing, it would eliminate some time on the floor. Give us more time to do, to do other things. So we'll see how they respond to that suggestion and, and we'll also consider how you as committee members feel about that. So are there any questions?

**HUGHES:** Thank you, Senator Moser. Are there any questions from the committee? Seeing none, we'll ask for the first proponent.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**MOSER:** Thank you.

**HUGHES:** LB856.

**MARK WHITEHEAD:** Do you all have this chart?

**HUGHES:** Yes.

**MARK WHITEHEAD:** OK, good. So I won't be [INAUDIBLE].

**HUGHES:** Welcome.

**MARK WHITEHEAD:** Tickled to death to be here. Senator Hughes, members of the committee, thank you very much for the opportunity to testify today. My name is Mark Whitehead, that's W-h-i-t-e-h-e-a-d. I'm with Whitehead Oil Company here in beautiful Lincoln, Nebraska. But for today's purposes, I'm representing the Nebraska Petroleum Marketers Association, as well as my own business. Let me give you a little bit of a history on, on how all this happened. Unfortunately, I've been around this industry for my entire life. Fortunately, I've been much longer than I'd like to admit, actually. First of all, let me thank Senator Moser for introducing this bill on our behalf. Throughout the history of the industry prior to the '80s, if somebody had a leaking underground storage tank, you replaced it. And that's what, that's what you did. And around the mid-80s, people, the EPA recognized that leaking underground storage tanks was a real concern, as well as technology began to evolve on how you could actually clean up petroleum product that released, was released out of a tank. Prior to that, I don't think the technology was even there. And in fact, the technology wasn't there to even prevent a tank from eroding-- corroding. What happened was we went through a brief period of time where it was the wild, wild west. The government didn't define what clean was. If there was any petroleum product down there, you had to clean it up. And there was insurance available for a while, but it was like insuring a burning building. Soon, all of the insurance companies went out of business. For a period of time, if you had over 100 tanks, you were opted in to financial responsibility first. And then by the time it was with everybody, these state funds across the country began to come up. Different states deal with it a little bit differently, but for the most part it is the industry taking care of the industry's problem. So the industry has funded this on a per-gallon basis, and it's ebbed and flowed back and forth. They went with a risk-based assessment after a while because again, it was just a matter of you had to prioritize the sites. The handout that you got in front of you,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

I can explain a little bit of this to you possibly. The known blank-- the known leaking tank sites were 917, of which most of those for the most part have, have been, have been cleaned up, or, or different stages. In fact, for our own oil organization, every single site is now, it's not active. It's been cleaned up to a level sufficient. There are 216 sites that, that are on the priority list to be phased in. One of the things that they're finding as these sites come on through, due to a variety of different circumstances, it's not as much of an issue as they originally thought it might be. And so kind of a pleasant surprise from that perspective. Your bottom chart is a result of RBCA or the risk-based assessment. The Department of Environmental Quality does, does a remarkable job of dealing with the risk-based assessments to bring sites on that the fund is capable of doing it. At the same time, making sure that we recognize that those sites that are the most serious environmental consequence are the ones that are taken care of first, and then those of lower are not on that as well. Where we're at right now, the fund is, is their, funded by our industry. Frankly, for us personally, we spent about \$350,000 into the fund. It would be cheaper for me to do private insurance. But the problem is, is that you don't do both. You can't do both. Basically, the paying into the fund is like your own insurance. So from that standpoint, if I could get private insurance and not have to pay into the fund then that's the happy medium in between. As we move forward and as, as this backlog continues to go down, I think Nebraska Petroleum Marketers and Nebraska Department of Environmental Quality will be able to come up with a solution to be able to mediate that and, and be able to deal with that. But at this point, we aren't there yet. So with that, I got the red light, which is perfect timing. I'd be glad to answer any kind of questions you might have.

**HUGHES:** OK. Thank you, Mr. Whitehead. Are there questions from the committee? Senator Geist.

**GEIST:** Thank you. Thank you, Chairman. May I ask just a very remedial question? I am not up on my petroleum information. So can you tell me where these tanks are? I know they're underground, but are we talking about something in a service station or are they stored somewhere else?

**MARK WHITEHEAD:** Yes. In fact, I should have mentioned this. There are approximately 1,800 retail locations around the state and, and there are 6,300 registered tanks.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**GEIST:** OK.

**MARK WHITEHEAD:** Every site has got multiple tanks. Of course every part, every hose that you pick up, unless it's a blender dispenser, which is a rather unique dispenser, has-- is attached to a separate tank, whether it's unleaded, premium unleaded, or whatever product that you use. So that's, that's the difference between the 1,800 locations and 6,300 tanks.

**GEIST:** OK. So they are under the service station?

**MARK WHITEHEAD:** Yes, and in fact--

**GEIST:** OK.

**MARK WHITEHEAD:** --this, this fund is for-- we refer to it as LUST, leaking underground storage tanks.

**GEIST:** OK.

**MARK WHITEHEAD:** Or USTs, underground storage tanks.

**HUGHES:** Any additional questions? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Hughes? Thanks for being here. And you're going to enlighten me a little bit, too, because it's a new subject for me. So is there an actual board that determines how this is going to, who is gonna get taken care of, or is it the Nebraska Department of Environmental Quality that determines which tank needs to be taken care of?

**MARK WHITEHEAD:** Thankfully, it's the Nebraska Department of Environmental Quality. They've got a division that deals with the underground storage tanks and in the remediation of them. And so they are the ones that all underground storage tank releases are, are, are dealt with. Actually, the Nebraska Fire Marshal deals with most site observations. When you're taking out an underground storage tank, that's regulated, and installers or removers, I guess it would be, of underground storage tanks are licensed. So they bring in the State Fire Marshal, in Lincoln and Omaha it happens to be the city that inspects those sites. But they come in and based on what they find, reports are taken. At every site what happens is there's basically a \$25,000 exposure for the site owner. They take care of the first

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

\$10,000, and from \$10,000 to \$70,000 they take care of 25 percent and--

**ALBRECHT:** That was gonna be [INAUDIBLE].

**MARK WHITEHEAD:** --75 percent comes out of the fund for a maximum exposure. And then \$70,000 up to a million dollars comes out of the fund. And anything over a million would be the site owner's responsibility. But knock on wood, so far we haven't gotten there in the state.

**ALBRECHT:** That's what I was going to ask is, are there any sites that have been abandoned? Then what would you do? I mean, have--

**MARK WHITEHEAD:** Those are called orphan sites and that comes out of a separate fund.

**ALBRECHT:** OK, but would they cover it completely just to get it out of the area and--

**MARK WHITEHEAD:** I've got to be honest with you, that's not something that I deal with on a regular basis. Orphan sites, I believe are-- go under federal jurisdiction, I believe. But I, I don't know that for a fact.

**ALBRECHT:** And one other question. How do you feel about the four years versus eight? Do you normally come back every four years to talk about this?

**MARK WHITEHEAD:** We were just approached with that. I think, and I, and I hesitate to, to put a position on our board, but I think that if it were eight and it's the, and as the underground, underground storage tanks goes down, we've got an excellent rapport with the Nebraska Department of Environmental Quality and we can work hand in hand. Again, the 800 pound gorilla in the room is to figure out a way to, if you've got private insurance, not pay into the fund and, and kind of wean those sites off, and the more we can do that. But as long as there is, is a need out of the fund, that need-- that fund still needs to be funded. So if it did go to eight, we can always come back and, and revisit the issue again. So I wouldn't be hesitant to support eight. And again, recognizing that if a solution comes up within the next, within that time period, or if need, if need is there we can-- we, we would, in fact, we'd want to come back. We've got a lot of-- and I shouldn't say that. I'd say, you know, apart from my own

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

experience, because we've got a lot of underground storage tanks, but we represent members that are, in some cases, have got only one or two sites. And so, again, that's a-- that, that would be a board decision. But as a general rule of thumb, I think most would like to be able to take care of our own problem.

**ALBRECHT:** All right, thank you.

**HUGHES:** Thank you, Senator Albrecht. Senator Gragert.

**GRAGERT:** Thank you, Chair Senator Hughes. Real quick, where is the 216, the estimated? What, is that per year or where does that number come from, that you're estimating future leaking?

**MARK WHITEHEAD:** Well, there was the EPA gave us 10 years, starting in 1989, to get all the old tanks up and out of the ground. All the new tanks that were put in during that 10-year period have got either fiberglass tanks or got sacrificial anodes on it to keep them from deteriorating, basically rusting and, and having releases. Having said that, it's still not a perfect world. We're, we're delivering products now, ultra low sulfur diesel, they used to have 5,000 parts per million sulfur. Now it's down to only 15 parts per million. Bacteria grows on the inside of the tanks and actually is eating the tanks out from the inside. So, you know, as different products come up and, and that sort of thing, there are still foreseen issues that, that can happen and, and that there will continue to be releases. In fact, since there have been a couple of amendments to the underground storage tank regulations since 1999, which was a sunset of, I think I said '89 to '99, all the tanks, that's what I meant to say. But dramatic changes of responsibilities for tank owners are going to be phased in over the course of the next three years, less than three years, that will create more investigations and may trigger more observations. In some cases, I've been on a national-- I was a chairman for our national association, in a lot of cases it just became kind of a frustrating thing that see-- as, as we get, as we started living with these new regulations, I think some of the tank owners are going to find some issues that they didn't know they had prior to that. So some of that may be a recognition of that as well.

**GRAGERT:** So that being said, then I'll go back and ask the same question, you know, four years versus eight. Do you see a need for regulation within four, you know, not within four years but--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**MARK WHITEHEAD:** Possibly, possibly in retrospect.

**GRAGERT:** OK. Thank you.

**MARK WHITEHEAD:** Yeah, and, and as I indicated, I, I shouldn't say we wouldn't be opposed to it. We would probably be a proponent of that, of the eight years. Again, that gives the flexibility. And then you, it's the industry taking care of the industry's problem by virtue of the funding of it. And from that standpoint, if that, if it needs to be taken, taken off from prior to that then, then we would certainly work with the NDEQ to do that.

**GRAGERT:** Thank you.

**HUGHES:** Thank you, Senator Gragert. Other questions? I've got just-- so today, what if you were to put a new underground tank in, what's the life expectancy of with today's technology for an underground tank?

**MARK WHITEHEAD:** Indefinite. I mean, obviously, fiberglass tanks don't rust.

**HUGHES:** OK.

**MARK WHITEHEAD:** But, and steel tanks with double wall containment are a much safer scenario. But the light, I don't know. I don't know that, I don't know that. It's obviously not indefinite, but I don't know that there's an exact, there's a sunset or there's certain-- there are no warranties from that standpoint.

**HUGHES:** So that the tanks that are-- do you see the need for this fund to become less as the older tanks are replaced with the newer tanks?

**MARK WHITEHEAD:** I think most of what has been happening in the top half of your sheet here has been due to cleaning up some of the history of the problems. But as I just indicated, with new regulations coming out, coming down and ultra low sulfur diesel is a fairly new issue. It hasn't been-- it's been around for about five or six years now, I think. And as bacteria continues to grow, that may become a growing problem. We don't know yet. Other studies being done by the, by API, American Petroleum Institute, along with some others to, to fully measure some of the extent of that. But right now, even the industry doesn't know for sure.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**HUGHES:** What, what type of measures do you have to detect leaks? I mean, do you, do you place sensors around the tank or you just measure volume in, volume out?

**MARK WHITEHEAD:** New tanks going-- yeah. New tanks going in right now are, are double walled. And, and so there are sensors within that cavity--

**HUGHES:** OK.

**MARK WHITEHEAD:** --that can, that can sense that. As well as simple as daily inventories and in tank monitors on the-- at every one of the locations to measure that with alarms that would indicate that there is a problem.

**HUGHES:** OK, thank you. Any additional questions? Senator Gragert.

**GRAGERT:** Thank you. So I see your total revenue, your average annual total revenue is \$11,332,000. It's below the chart 1 there.

**MARK WHITEHEAD:** I don't--

**GRAGERT:** It says, well, after you--

**MARK WHITEHEAD:** Oh, yeah. Yes, OK. Right.

**GRAGERT:** So you have estimated liability of known and future sites at \$75 million. And I guess I'm just backing up with Senator Hughes just said-- or adding onto. That's about seven more years. Are you gonna be-- but beyond that though, there could be a need for this?

**MARK WHITEHEAD:** There could be. But again, the, the discussion here realistically is should-- is it, is it a manageable level that private insurance can handle it versus coming out of a state fund funded by the users?

**GRAGERT:** OK. Thanks.

**HUGHES:** OK. Any additional questions? Seeing none, thank you, Mr. Whitehead, for coming today.

**MARK WHITEHEAD:** Thank you.

**HUGHES:** Are there additional proponents to LB856? Seeing none, are there any opponents to LB856? Seeing none, anyone wishing to testify

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

in the neutral position to LB856? Seeing none, Senator Moser, you're welcome to close.

**MOSER:** A couple of things that came up during the testimony, I believe this chart came from the DEQ. I think these are their numbers. And I believe the orphan sites are cleaned up from within this fund. The concern about the necessity for this fund going far into the future, if you look at the middle graph and then read the fine print below, it says the annual average revenue to this fund is \$11 million. And the balance in the fund is, I don't have that number. I think it's \$4.5 million. So that means they've spent \$6.5 million this year roughly. So there are ongoing costs. And each retailer pays in, I believe, nine-tenths of a cent per gallon from what goes through their pumps for gasoline and then 0.3 cents for diesel. Why the disparity? I don't know, maybe there's more volume in diesel. I don't know. Maybe diesel isn't as much of a contaminant, that I don't have a good answer for. But I think the need for the fund going forward is, is-- I don't want to say great, but it's an important thing for us to continue. And at some point, you know, maybe it won't be necessary. Maybe it will be, you know, cheaper. The gentleman that testified before, who pays \$350,000 into it, and if he has no losses, you know, you can see why he would just as soon, you know, to get his own insurance to do it. But we have these orphan sites that I do believe are being paid out of this fund, where we can't identify who was there or we don't have a responsible party that we can bill back for this damage, even if we do know who they are. And then we have the ongoing cleanup at the sites that we currently know about. So that's why I was thinking four years, I don't think, is going to solve the problem. And eight years, I think, probably won't solve the problem either, but it would make half as much work for us. We wouldn't have another hearing and another bill to do. And the transcribers have to listen to us. And, you know, it just we generate a lot of paperwork around here. And if we can do something twice as much work at one time and save effort, I think that's a smart thing. Any other questions? Anything--

**HALLORAN:** OK. Thank you, Senator Moser. Senator Bostelman.

**BOSTELMAN:** Yeah. Senator Moser, do you have your green copy with you?

**MOSER:** Do I have the green copy? I don't know if I do. What is your question?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**BOSTELMAN:** Well, on page 3, line 18, it says June 30th, underlined 2024, stricken out 2020. What's the difference?

**MOSER:** It expires 2020, and we want to extend it to 2024. So that's that change.

**BOSTELMAN:** So it's about four years, right?

**MOSER:** Right, four years, which isn't that far out, the way government works.

**BOSTELMAN:** Got you.

**MOSER:** You know, four years is right now, the way we operate.

**BOSTELMAN:** Thank you.

**HUGHES:** Any other questions for Senator Moser? Seeing none, we do have one letter of support from Rocky Weber of the Nebraska Cooperative Council. So with that, that will close our hearing on LB856. And I will turn the chair over to Vice Chairman Bostelman.

**BOSTELMAN:** We will open the hearing on LB899. Senator Hughes, you are welcome to open when you're ready.

**HUGHES:** Good afternoon, Vice Chairman Bostelman, members of the Natural Resources Committee. For the record, my name is Dan Hughes, D-a-n H-u-g-h-e-s, I represent the 44th District. I'm here today to introduce LB899. This bill was brought to me by one of the public power companies. This bill will allow any public power district to develop, manufacture, use, purchase or sell biofuel and biofuel products. Biofuel is defined as any fuel that is derived from biomass, plant or algae material, or animal waste. Since such feedstock material can be replenished readily, biofuel is considered to be a source of renewable energy, unlike fossil fuels such as petroleum, coal, and natural gas. Therefore, it has the potential to reduce greenhouse gas emissions. The public power industry has already entered the biofuel market by being allowed to sell ethanol. So it seems appropriate that they would be allowed to explore new technologies and products that could be financially benef-- beneficial to public power. After the bill was introduced, a few groups got together and wanted a few minor changes to the bill. So I would appreciate it if the committee would consider the amendment that I just passed out. It changes biofuels to "advanced" biofuels, and adds on page 23: and their-- and their byproducts so long as the

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Natural Resources Committee January 23, 2020

development, manufacturing, use, purchase, or sale of such biofuels is done to help offset. I'd be happy to try and answer any questions the committee may have. Thank you.

**BOSTELMAN:** Thank you, Senator Hughes. Does committee members have any questions? Senator Albrecht.

**ALBRECHT:** Sorry, you talk too fast for me there. Thank you. Tell me again that the amendment is on page 3, did you say? And you're going to change the green copy?

**HUGHES:** The amendment is on the-- the first portion of the amendment is on line 3 and it's one-- it changed "advanced," it changed biofuels to "advanced" biofuels.

**ALBRECHT:** OK, thank you.

**HUGHES:** And then the second part of the amendment is on page 23, and that's the portion that says, "and fuel byproducts so long as the development, manufacture, use, purchase or sale of such biofuels and biofuel products and other fuels and fuel by-- byproducts is done to help offset."

**ALBRECHT:** OK, what, what you got me when you said page 23. It's page 3, line 22.

**HUGHES:** I'm sorry.

**ALBRECHT:** Thank you. I just wanted to be sure we were singing the same song. Thank you.

**HUGHES:** Sorry, typo in my opening speech.

**ALBRECHT:** You're good. That's all right, thank you.

**HUGHES:** Senator, Senator Geist.

**GEIST:** And I just want to ask you about your amendment because, and maybe it's a question for someone coming behind you. What is an advanced biofuel?

**HUGHES:** I have, I would defer that to someone who is coming behind me.

**GEIST:** All right, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**HUGHES:** If you don't mind.

**GEIST:** Sure.

**BOSTELMAN:** OK, other questions from the committee members? Seeing none, will you stay for closing?

**HUGHES:** Absolutely.

**BOSTELMAN:** Thank you, Senator Hughes. First proponent. Welcome.

**JOHN SWANSON:** Thank you. Good afternoon, Vice Chairman Bostelman and members of the Natural Resources Committee. My name is John Swanson, J-o-h-n S-w-a-n-s-o-n. I'm here today in support of LB899 on behalf of the Nebraska Public Power District and the Nebraska Power Association, which is a voluntary organization representing 166 members from all segments of the power industry in the state of Nebraska. I am the director of Generation Strategies for NPPD. I grew up in Geneva, attended the University Nebraska in Lincoln, graduating with a mechanical engineering degree, and having worked now for NPPD for almost 35 years. The generation strategies group was formed several years ago to monitor new regulations and emerging technologies that could have an impact on NPPD's current and future gener-- electric generation power mix. The electric industry is changing rapidly and NPPD strives to stay in step with the latest advances and technologies. LB899 is about helping to mitigate greenhouse gases, including carbon. One of our major goals is to work with the agricultural community to help improve our respective carbon profiles. Nationally, of course, there's a lot of conversation about carbon credits, carbon offsets, and carbon taxes. NPPD is looking at innovative ways to manage its carbon intensity, including low-carbon fuels for quick-start engines, carbon capture, and carbon sequestration technologies. NPPD currently serves its Nebraska electric customers with an energy mix that averages well over 50 percent carbon free. A diverse fuel mix enhances NPPD's reliability, affordability, and sustainability. NPPD's generation mix today includes a variety of fuels, including hydro, nuclear, coal, natural gas, wind, and solar. In the future, we are working to further diversify and add hydrogen to that mix. NPPD is continually researching thoughtful ways to reduce its carbon footprint without negatively impacting reliability or affordability for Nebraska residents and businesses. One of the new generation strategies projects is Monolith Materials, the carbon black manufacturing facility which recently located near Hallam, Nebraska. A co-product of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

manufacturing carbon black from natural gas is a hydrogen-rich gas, which NPPD plans to purchase from Monolith. Our current plan is to burn the hydrogen in a converted boiler at Sheldon Station to produce electricity. This would be the first utility-scale hydrogen fuel plant in the world. In addition, we are looking to other uses for the hydrogen-rich co-product, which could include using it to make other fuels and other byproducts. One such fuel would be methanol. Methanol is produced by combining hydrogen and carbon dioxide, which would come from our generation facilities or possibly from one of Nebraska ethanol plants. As we examine possible innovations, we want to be proactive and ensure that we have statutory authority to support new technologies. For instance, NPPD came to the Legislature in 2005 seeking authority to be in the hydrogen business. At that time, many viewed hydrogen as the fuel of the future. It was not until 2015, when NPPD met with Monolith Materials, that the significance of having that authority became apparent. Many of the opportunities we are researching are closely tied to the agricultural sector. NPPD serves customers directly or indirectly in all or part of 86 of the 93 counties in the state, so the rural Nebraska economy is very important to us. We are actively looking for opportunities in the energy space that would be beneficial to power producers and the ag sector, including capturing methane, carbon-neutral oil, and carbon-neutral oils from agricultural waste streams to produce the clean energy resources. Public power districts have the statute authority today to get into the ethanol business, and have had since 1986. But we want to be clear, NPPD is not interested in getting into the ethanol industry. NPPD does not want to compete with our important ethanol customers. The opportunities we are interested in could improve the electric sector carbon intensity scores, which help open additional markets for our state's ethanol exports. In fact, we have worked now with the Renewable Fuels Nebraska on a friendly amendment to make clear that our intentions in this, in this area are not to produce or get into the ethanol business. In addition, we want to make clear that we do not have an interest in getting into the natural gas business. In fact, in the same section of law that we are amending, there remains a specific prohibition on the public power district's ownership or operating natural gas services in this state. And you'll find that on page 4, lines 1 and 2 of LB899. That is the existing law. So how do alternate fuels help produce-- reduce the greenhouse gas or help reduce greenhouse gas emissions? Traditional combustion of fossil fuels produce CO<sub>2</sub>, which increases the overall carbon footprint. Some other fuels, like methanol, for instance, utilize CO<sub>2</sub> in their manufacture, thereby reducing the overall carbon footprint. And

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

capturing methane from agricultural waste streams can also reduce greenhouse gas emissions, helping both the ag and the electric sectors. NPPD has a long track record of supporting Nebraska's agricultural industry, from the electrification of the irrigation systems to our support of the University of Nebraska's Energy Science Research Center's research on optimization of distillers, grains, and cattle feed, and our current research efforts with the U.S. Department of Energy on capturing and utilizing ethanol facilities' CO2. We believe LB899 will allow public power utilities to reduce their carbon footprint while serving customers with low-cost and reliable electricity and contributing to the economic development of the state. Thank you, I'll be glad to answer any questions.

**BOSTELMAN:** Thank you, Mr. Swanson. Are there any questions from the committee? Senator Geist.

**GEIST:** So maybe you're the right person to ask--

**JOHN SWANSON:** We'll find out.

**GEIST:** What a advanced biofuel is?

**JOHN SWANSON:** Yes. What we'll call today, the existing ethanol industry as it exists today, what we call the first or the initial round of, of biofuels. Advanced biofuels are essentially anything that comes after that. They are made essentially from nonfood-based ag sources. That could be animal waste, that can be anything on a corn plant other than the kernel, any of the nonedible parts of the plants. So any of the biofuels-- bio, first of all, and then anything that is basically doesn't have any tie to any food connection. So in advanced biofuels, you'll have no food-for-fuel argument as you may have today with ethanol.

**GEIST:** OK. May I ask one follow-up, please? So can you explain what the difference then is of saying to help offset versus help reduce greenhouse gas emissions?

**JOHN SWANSON:** Sure. Today we, in our asset mix, we still consume and burn some fossil fuels, coal and natural gas, at our power plants. Those produce CO2, which are the greenhouse gas emissions. If we can do some of the things that we're talking about doing, which is go to an ag sector, let's look at a cornfield, for instance, and we can do something perhaps with that corn stover. Again, already-- a plant, of course, takes CO2 out of the atmosphere, puts it into the plant, puts

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

it into the corn kernel. And if we can take that stover and, for instance, turn it into a material that can be used with the hydrogen from our Monoliths facility, we can make a new fuel, a new advanced grade biofuel that has a lower-- or at least a recycled footprint on that CO2. So it actually reduces the CO2 emission, which would then reduce the greenhouse gas impact.

**GEIST:** Wow. All right, thank you.

**BOSTELMAN:** Other questions? Senator Gragert.

**GRAGERT:** Thank you, Vice Chairman Bostelman. That's interesting, the corn. Is that same with switchgrass?

**JOHN SWANSON:** You probably could use any biomass material, yes. We're working actually with Iowa State University on some of the technology that they're doing right now, where they convert biomass material into, it's an actual oil that comes off of the, of the stover or off the switchgrass. And that oil then is what we use and take with the hydrogen or could take with the hydrogen to make then a renewable fuel.

**GRAGERT:** Thank you.

**BOSTELMAN:** Senator Albrecht.

**ALBRECHT:** Thank you, Vice Chair Bostelman. And thank you for being here. And you'll get to answer all these crazy questions that we don't know about. So if this were granted, that you would be able to do this, NPPD, would you have to build a new facility?

**JOHN SWANSON:** Right now, Monolith Materials down south by Hallam, is already well under construction of their first facility, their first module, if you will. So they will be producing carbon black and hydrogen in 2020. So they're going to be, they're out in front of us already. So, yes, there would be some type of processing facility built in this state. And I say that because you'll want to put this facility close to the hydrogen. It's a lot easier to bring corn stover or switchgrass or any of these other biomaterials to the hydrogen than it is to take the hydrogen to them.

**ALBRECHT:** And how many hydrogen plants do you have?

**JOHN SWANSON:** The OC 1 plant is unique. It is the, in fact, the only one in the world that is doing what they're going to be doing. I thank

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

you, I'd like to emphasize that one point. The hydrogen that we're going to be getting off of that 1 plant from the Monolith Material folks makes Nebraska and actually sets us in a position of being very unique in the world. And that is because of the quantity of the hydrogen that will be available to us. And it's not, they're not in this role and not in this-- their, their primary business is not to make hydrogen, it's to make carbon black. So consequently, the coal product of hydrogen, which we have access to based on our arrangement and agreements with them, is a unique situation whereby we could step into some of these biofuels and do some of these other things that honestly the rest of the world can't do right now because it's a cheaper source and a more, there's more of it. There's more volume of the hydrogen available to us than there would be in the other sources. If I want to go to hydrogen someplace else in the world right now, I'm talking about taking water and electricity and electrolizing that water into hydrogen and oxygen. That is how the rest of the world typically does it today. It's an expensive process. And what we're talking about dealing with our friends at Monolith is a much cheaper source of hydrogen. And again, a lot more of it.

**ALBRECHT:** And so when you say you would work with the ethanol plants possibly, so would that be taking something from them and bringing it to your plant?

**JOHN SWANSON:** Absolutely. We could do a couple of different things there that we're evaluating. One would be, for instance, corn today at an ethanol plant. Farmers actually sign, of course, and sell their corn to that ethanol plant. If I were to take that same stover off that same cornfield that provide corn to that ethanol plant, there's potential that that stover, that if I turn it into a fuel like we're talking about doing with the hydrogen, would then be eligible not only for California credits, because you're making a renewable fuel, but it would also lower the carbon intensity score of the ethanol plants, which makes your ethanol more valuable and makes them much more competitive in the worldwide marketplace. So, yes, it would help the ethanol plants. It would help us lower our overall car-- carbon emissions profile, and make their ethanol more viable on a worldwide market scene too so.

**ALBRECHT:** Thank you for your information and for being here.

**BOSTELMAN:** Any questions? Senator Geist.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**GEIST:** I'm sorry, I have one more question. I'm just thinking-- I'll just be straight. So if we expand your capacity to do this as a company, as a, as a public company, does this in any way infringe on a private company getting into this same type of business?

**JOHN SWANSON:** We, as in, NPPD, because of being the public power, power supplier in the state and because we are today burning coal at Sheldon Station, that's what originally attracted us, attracted Monolith to us and us to Monolith. Again today, the first round of the first course of the Monolith hydrogen is scheduled to be used to displace coal at Sheldon Station, and we're going to burn it instead of coal and make electricity. We're talking basically that, and then on top of that, more hydrogen coming with future expansions at the Monolith facility. And then that hydrogen would be the stuff that we would take forward. We're not interested in competing with any existing Nebraska industry. But at the same time, we're interested in pushing some of these technologies forward in areas that these things are not being done. And to my knowledge, no one is doing anything like what we're talking about doing.

**GEIST:** But if they wanted to, would this keep them from doing that, from competing in this space?

**JOHN SWANSON:** Only from the standpoint of-- no, it would not, because they still have to go out and find their own source of hydrogen, however. Which would be a challenge. Which-- but I'll just say no, it would not put at them at a disadvantage. Or it would not preclude them from doing it.

**GEIST:** OK, thank you.

**BOSTELMAN:** Senator Moser.

**MOSER:** I just have a couple of questions to make sure I understand the process of what we're doing here. Generally, you can't create energy, you just kind of change it from different forms. And you have some byproducts at this plant that are slightly higher energy that you could utilize. You're not creating energy, but you're putting it in a form that could be used more easily or more ecologically.

**JOHN SWANSON:** That is correct.

**MOSER:** So you're not creating something out of nothing.

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Natural Resources Committee January 23, 2020

**JOHN SWANSON:** Correct.

**MOSER:** But kind of why electrolysis is so expensive is when you separate the oxygen and the hydrogen, it takes a lot of electricity, and then the hydrogen is hard to capture. And so, so they-- it's somewhat experimental. It may not make money, may not make sense for the real world so-- not that they're not real world, don't get me wrong. But I mean, the, the for-profit companies may not want to risk the billions or the millions that NPPD is investing in this. And it works for them, I believe, and I don't want to speak for them. But I think, because they have these things available to them, they can utilize it. And they're kind of like recycling that energy, getting more use from it, instead of just letting it go into the atmosphere.

**JOHN SWANSON:** And tying that, hopefully, to the ag sector in the state of Nebraska and providing benefit for them as well. Yep.

**BOSTELMAN:** Senator Halloran.

**HALLORAN:** Thank you, Vice Chair Bostelman. Welcome, Mr. Swanson, I assume the technology isn't quite there yet for hydrogen as a fuel source by itself. Is that pretty much correct?

**JOHN SWANSON:** It depends on the technologies that you're opting for, but actually in most situations you are correct. Hydrogen is hard to compress. It's a slippery molecule. It is the smallest atom. I should say it's a slippery atom, not molecule. So, yes, it has its challenges, without a doubt. It has to be very pure for uses in things like fuel cells, which makes it, again, more expensive. So the electricity coming out of a fuel cell will still be expensive because of the cost of the hydrogen that went into it. But what we're talking about doing is actually kind of the simplest form when it comes to converting Sheldon from coal to hydrogen. It's the simplest thing that you could do with the hydrogen at this phase, which is simply burn it. We will be using it just like you use natural gas in a boiler, you'll just blow the gas in basically to the boiler. Create heat, the heat will turn, you know, make steam. Steam will turn a turbine and will make electricity at Sheldon Station just like we do today. It's just that we won't have the emissions profile of coal because we'll be burning hydrogen instead of coal. So upfront, this is actually a fairly elegant solution for the first round, the first generation of this hydrogen in this kind of-- in this state. Going forward, though, that's where I'm looking more, more intently, I would say, in terms of how we can take that hydrogen. And again, it is such a unique

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

commodity that we're-- we have the benefit of dealing with to try to turn that into the most beneficial energy, greenhouse gas reduction and ag sector benefit product that we can.

**HALLORAN:** OK. So using hydrogen in fuel cells isn't all that efficient?

**JOHN SWANSON:** No, it's very efficient.

**HALLORAN:** It is efficient?

**JOHN SWANSON:** Very efficient. It's just that it takes a lot of money to put the hydrogen in the fuel cell to begin with and then regenerate it.

**HALLORAN:** OK. Thank you.

**BOSTELMAN:** Other questions? I have a question.

**JOHN SWANSON:** Yes, sir.

**BOSTELMAN:** So you're testifying on behalf of NPPD and the NPA, 165 other members. I know NPPD has an interest in what we're talking about today, what about that other 165 members? What are they doing in this field? What are, what's their interest and who, and whom are they? And in generality.

**JOHN SWANSON:** Of the NPA?

**BOSTELMAN:** Well, there's 166 members. So there's NPPD, OPPD, I would assume LES. Are there co-ops? Are there a MEAN--

**JOHN SWANSON:** I am, I am-- unfortunately, I can't answer that. I do not know who all is members of the NPA. So sorry.

**BOSTELMAN:** And do you know, are any of the others looking to do something similar? I mean, in your work, I would imagine you probably would connect with others.

**JOHN SWANSON:** My best guess is that no. None of them have the access to the hydrogen that we do, and consequently they do not have the same opportunities.

**BOSTELMAN:** Well, there would be other advanced fuels.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**JOHN SWANSON:** Yes.

**BOSTELMAN:** So there may be other, other opportunities there besides that.

**JOHN SWANSON:** There sure could be. Yes.

**BOSTELMAN:** But you're not aware of any?

**JOHN SWANSON:** The focus I have today is how to best use that hydrogen. Yes, sir.

**BOSTELMAN:** OK, thank you. Any other questions? Seeing none, thank you, Mr. Swanson, for your testimony.

**JOHN SWANSON:** Thank you.

**BOSTELMAN:** Next proponent, please. Would anyone else like to testify in support of LB899? Seeing none, we have three letters of support. One from Mr. Rocky Weber from Nebraska Cooperative Council; one from Mr. Tim Burke, Omaha Public Power District; and one from Mr. Steve Nelson, Nebraska Farm Bureau. I would ask for anyone would-- opponents who would like to testify today to please come forward. Welcome.

**JILL BECKER:** Good afternoon, Senator Bostelman and members of the committee. My name is Jill Becker, J-i-l-l B-e-c-k-e-r, and I appear before you today as a registered lobbyist on behalf of, on behalf of Black Hills Energy. We are in opposition to LB899 today, and I would encourage you just to take a look at the green copy of the bill. On line 23 it says, "and other fuels." And Black Hills Energy is concerned that in spite of language and statements to the contrary, that really this does allow public power into the market for natural gas. As a company and as an industry, we too are involved in advanced biofuels and we would be greatly concerned if essentially we are competing in a space that is really the natural gas market. We have great concerns that, even though you didn't hear this topic today, that this is part of an effort that is going across the country to really marginalize natural gas as a fuel source. It is called electrification. And while we may not have heard it here very much in Nebraska, we are certainly seeing it across the country and we have deep concerns about that. We serve many customers in our state that rely on us providing safe, efficient natural gas. And we believe that this bill provides a path into what is essentially our core business.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

So with that, I would be happy to take any questions from the committee.

**BOSTELMAN:** Thank you, Inspector. Are there any questions from committee? Yes, Senator Moser.

**MOSER:** Smile when you say yes. I just had one question. So if their biofuels are gaseous, you're opposed to them making them, or if they're liquid you're also opposed to them?

**JILL BECKER:** So the language in the bill, the way that I read this, is incredibly wide open. And I think we would need to be very clear about what we're allowing public power to do. So I don't know that I can answer that we would be for or against any particular type of fuel. But clearly, renewable natural gas is an area that we are greatly interested in. And similarly to public power, I think all utilities are looking at greenhouse gas emissions and how to appropriately reduce them and be, I mean, I think all of us are quite environmentally conscious.

**MOSER:** Do you supply natural gas to some power plants?

**JILL BECKER:** We do.

**MOSER:** Do you sell some to NPPD?

**JILL BECKER:** I think so. I'm looking at the audience. I believe so, but don't quote me on that. I'm not sure if it-- I can't say for sure about NPPD, but certainly other power districts we do. Oh, I guess I'll answer it that way.

**MOSER:** Yeah, OK. That's good enough. Thank you very much.

**JILL BECKER:** You're welcome.

**BOSTELMAN:** Other questions from the committee members. So on the green copy, on page 4, line 2, line 1 and 2, it says: but not include natural gas services. So do you still feel that that does not state strongly enough that they would not become involved in the natural gas industry?

**JILL BECKER:** Well, certainly it is not the same language as the new language in-- or on page three. And so there may be a question about whether services include develop, manufacture, use, purchase, or sell. So I would just point out that at least the words are not the same.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

And so maybe they're not providing the service, if we would think about service, you know, to-- directly to a customer. But they would be doing those other pieces that maybe are essentially the same thing.

**BOSTELMAN:** So the question on the-- is the wording in the amendment, have you seen the amendment?

**JILL BECKER:** I have seen a draft of the amendment. I don't know if that totally relieves our opposition to the bill or not. I don't know.

**BOSTELMAN:** And that's kind of where my question was gonna lead into is, is there-- are there words or is there some terminology that Black Hills will feel more comfortable with if there would be an amendment to the bill, what that language would be?

**JILL BECKER:** Yeah, I think we would be happy to work with the committee and the proponents to see if that might be something we could work through.

**BOSTELMAN:** OK. Are there any other questions? Seeing none, thank you, Ms. Becker, for your testimony.

**JILL BECKER:** Thank you.

**BOSTELMAN:** Is there anyone else who would like to testify in opposition to this bill?

**MARK WHITEHEAD:** Just in case you have a short memory, it's Mark Whitehead, W-h-i-t-e-h-e-a-d, again representing primarily Nebraska Petroleum Marketers, but from a, from a seat at being involved with the Whitehead Oil Company here in Lincoln. We've had a-- Whitehead Oil Company is celebrating their 61st anniversary this year. We've been in the industry for an awful long time. Obviously the industry was around long before Whitehead Oil company was, but certainly within that brief 61-year period the fuels that we have delivered for the motoring public has changed and changed fairly significantly over the course of 61 years. And that's going to continue to change. One thing that the Nebraska Petroleum Marketers members are committed to is being the best alternative for over-the-road transportation for the state of Nebraska. And we think we're positioned pretty well to do that. Having said that, it's, it's addressed here, and Senator Geist, you alluded to it a little bit possibly, is that private industry competing against a public entity is incredibly difficult. And it remains to be seen, we've had a meeting with the Nebraska Patrol-- with the Nebraska

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

Public Power District, and it's not of their intention to compete directly with our members in the industry that we represent. But certainly, I think the language of the bill would allow that. That's the only reason that we testify in, I would call it lite opposition to this. I think Nebraska Pub-- Public Power District has got a tremendous record on the environment. In fact, I, I served on the Environmental Quality Council for 12 years, many of those years with Joe Citta, who represents Nebraska Public Power. And he's done an incredible job of doing that. We commend the Nebraska Public Power District for, for taking these aggressive measures to reduce the carbon footprint. Because likewise, our membership is concerned about many of those same environmental concerns. Our, our only concern here, again, is, is, is figuring out a way to, again, just make sure that the word-- we have no problem with competition. We've got it every day and we compete more fiercely on the street for our product than most other industries, I think. But when we're talking about a public entity versus a private industry, that's, that's where our concern comes in. Be glad to answer any kind of questions.

**BOSTELMAN:** Thank you, Mr. Whitehead. Are there any questions from committee members? Do you see any language-- you may or may not have seen the amendment, and you said you spoke with NPPD. Do you think there's some language that could maybe strengthen your position or--

**MARK WHITEHEAD:** I have not seen that. I had heard the testimony in the opening that there might be some amendments that would help alleviate some of those. And certainly that was the language that we, that we had in our discussions with NPPD as well. But again, we vacillated neutral or opposed, so this is, this is a fairly lite opposition. And they clearly stated that they don't have intentions of competing against the private sector that we represent.

**BOSTELMAN:** Right. And I appreciate that. And that was one question I asked Mr. Swanson before, there's 165 other members potentially. Where are they, do you know, is there anything out of those members, of the other public power entities that, that's a part of the NPA?

**MARK WHITEHEAD:** I can't answer that.

**BOSTELMAN:** You've not heard of anything, any interest in anything?

**MARK WHITEHEAD:** I can't answer that.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 23, 2020

**BOSTELMAN:** OK.

**MARK WHITEHEAD:** Unless Tim is aware? But I don't think so.

**BOSTELMAN:** Any other questions? Thank you, Mr. Whitehead.

**MARK WHITEHEAD:** Thank you very much.

**BOSTELMAN:** Is there anyone else who would like to testify an opponent, as opposition to the bill? Seeing none, anyone who would like to testify in the neutral capacity? Welcome.

**TROY BREDEKAMP:** Vice Chairman, Bostelman, members of the committee, my name is Troy Bredenkamp, B-r-e-d-e-n-k-a-m-p, serve as executive director of Renewable Fuels Nebraska. We are the trade association for 25 ethanol plants. Just for background, Nebraska ranks second in the nation in ethanol production: 2.5 billion gallons of ethanol capacity on an annual basis, about a \$5 billion annual economic impact. Nebraska's economy. Very few people know that 4 in 10 bushels of Nebraska corn start their journey to value added agriculture at a Nebraska ethanol plant, and that ethanol is blended obviously for the good in the environment. And we clean the air. Even a small blended portion of as little as 10 percent can reduce greenhouse gas emissions by up to 42 percent. So it's a pretty valuable product to Nebraska. I would say we are in the neutral chair today simply because my board has not had a chance to actually meet and vote on this particular piece of legislation. I will say initially we did have concerns, many of them that have been mentioned here before, that it was broad to begin with. We certainly understand public power district's desire to explore alternatives. We support that. Certainly anything that would reduce greenhouse gas emissions, CO2, is a help to us. Public power's ability to lower their greenhouse gas emissions would be a benefit to my ethanol plants simply because we can then lower our carbon intensity score for the ethanol that we produce, and that increases the value of our ethanol when we sell it into low-carbon fuel markets like California. So it is an important aspect to what they're trying to do. We do appreciate and support the committee amendment that you have been shared. The word advanced is an important word. It is everything that is not corn-based ethanol. So that's why it's an important word for us. It is your cellulosic ethanol, it is your ethanol that comes from potentially corn stover, switchgrass, other byproducts, anything that would rank at least 50 percent in greenhouse gas reductions would be considered second generation or advanced biofuel. And I think that's exactly what they're shooting for. Also,

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to put some, some sideboards on this in terms of offsets for greenhouse gas emissions, that was also something that we thought added clarity and certainly some-- set some parameters for this authority. So with that, again, we're in a neutral chair, but certainly appreciative of Nebraska Public Power District's willingness to work with us to allay some of our concerns on this particular legislation. I'd be happy to answer any questions you may have

**BOSTELMAN:** Thank you, Mr. Bredenkamp. Is there any questions from the committee? Seeing none, thank you for your testimony.

**TROY BREDEKAMP:** Thank you.

**BOSTELMAN:** Anyone else like to testify in the neutral capacity? Seeing none, Senator Hughes, you're welcome to close.

**HUGHES:** Thank you, Vice Chairman Bostelman, members of the committee. I think there's an opportunity here to make some progress in the biofuels industry. As we all know, I think we're going to see more and more electric cars going on the road and the things that we can do to create fuels that will generate electricity, that increase or decrease the carbon footprint is probably very important and getting us ahead of the curve. The challenges that the industry faces, the power industry, whether it's, you know, electricity or gasoline, diesel, you know, natural gas, certainly are going to be increasing exponentially as time goes on, as the push for more green energy becomes available. So I certainly am committed to working with everyone who testified today to try and make this bill a bill that will work for all those people concerned and look forward to the process. You know, that's why we have these hearings, to take input from all sides to try and make the laws that we make better. So with that, I'll-- happy to answer any questions, if I can.

**BOSTELMAN:** Thank you, Senator Hughes. Are there any further questions from the committee members? That closes our hearing on LB899. Thank you, everyone, for coming today to your Natural Resources Committee.