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Natural Resources Committee
January 28, 2010

[LB696 LB885 LB895]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, January 28, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB895, LB696 and LB885. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Tanya Cook; Ken Haar, Beau McCoy; and Ken Schilz. Senators absent: Deb Fischer. []

SENATOR LANGEMEIER: Welcome...are we on? Welcome to the Natural Resources Committee. I'm Senator Chris Langemeier, Chairman of the committee. I'd like to introduce the members of the committee that are here. More will come in as they're dealing with bills in other committees, so we will gain people as we go. I'm going to start this time to my far left, or to your right, with Senator Beau McCoy from Elkhorn and Omaha. We have Senator Haar who will be here in a little bit; represents Malcolm. We have Senator Ken Schilz too, will be joining us from Ogallala. Senator Annette Dubas sits there and she is the Vice Chair of the committee and she will be with us shortly. Laurie Lage is the legal counsel for the committee. Senator Fischer will not be with us today. Senator Carlson, Senator Tom Carlson from Holdrege, Nebraska and Senator Tanya Cook from Omaha, Nebraska. And on my far right at the end of the table is Barb Koehlmoos, she is the committee clerk for the Natural Resources Committee. We have two pages that are helping us this year throughout our hearing schedule. We have Tony Pastrana from Colorado; he is a freshman student at Union College. And we have Kiana Mathew who is...will be back, she is from Omaha and she is a sophomore at UNL. At this time I want to bring your attention to, if you care to testify today on any of the bills, we ask that you pick up one of these green sheets and they're located in the back corners of the room and fill those out in their...completely. When you come up to testify, we ask that you give it to Barb Koehlmoos, the committee clerk so we use it in making sure our record is correct. If you're here today and you want to be on the record of being here, but you don't care to testify, we have also a white, kind of a spreadsheet type form in the back corners of the room. We ask that you sign in and then check whether you're an opponent or a supporter of the bill that you would like to be here about. At this time we'd ask that you turn your cell phones off so we do not interrupt those that are wishing to speak. When you come up to testify today, you'll see there's a little light bar in front of you. We give everybody in Natural Resources Committee five minutes to testify. You'll see a green light will remain on for four of those minutes; it will move over to yellow indicating you have one minute left and then when you get to the red light, we ask that you conclude, then open yourselves up for questions from the committee. We ask that if you have anything you'd like to hand out, we ask that you have 12 copies. If you know right now you don't have 12 copies, raise your hand and one of...the page will come help you make a few extra copies. Also, we advise you if there's anything you want to show us and you hand it to the committee to look at, we're going to keep it and make it part of the official record. So if you have something that you want us to see but you don't want us to take it, I ask that you just hold it up at counter as you testify and those

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members that want to see it in more detail will catch you after the hearing is over. When you come up, we ask that you state and spell your name for the record as your first activity when you come up and then you can begin your testimony after that. With that, that concludes all my introductions. We will open the floor up and I see Senator Janssen is here. I'd like to welcome Senator Janssen up to open on LB895. Welcome. []

SENATOR JANSSEN: Thank you, Senator Langemeier, members of the Natural Resources Committee. For the record my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent District 15, which is right next to Senator Langemeier's district and also shares a border with Senator McCoy's district and could not be any further away than Senator Schilz's district. Thank you for the opportunity to introduce LB895 today. LB895 would change the process for filling vacancies on the natural resource district boards. Presently if a vacancy occurs on an NRD board, the remaining board members select a new member to fill out the remainder of the term. LB895 would change NRD vacancy provisions to mirror the process for state senators. If a person is appointed to fill a vacancy in the first or second year of a term, that individual would have to run again in the next general election. NRD boards are no longer the little noticed, little publicized public bodies of yesterday. They're making hugely important and sometime hugely expensive decisions that affect thousands of taxpayers. The property tax levy assessed to each property owner is becoming more noticed and more scrutinized. Since this is the case, I think it may be time to examine how we treat vacancies. Appointees to the boards should have to face the voters at the next available opportunity in order to ensure that the boards are truly represented by the districts they represent. I think the vacancy provisions currently in place for state senators would also serve NRD boards well. Thank you for considering this idea, happy to entertain some questions and I know there's going to be at least a few...at least one person testifying in favor of this that will be able to answer some questions as well. [LB895]

SENATOR LANGEMEIER: Thank you, Senator Janssen. Are there any questions for the senator? Seeing none. Thank you very much for the introduction. [LB895]

SENATOR JANSSEN: Thank you, Senator Langemeier. [LB895]

SENATOR LANGEMEIER: At this time I'd recognize that Senator Schilz has joined us and Senator Dubas, Vice Chair of the committee has joined us. You have heard the opening on LB895. We'll now take testimony in support or proponents of LB895. And welcome to the Natural Resources Committee. [LB895]

SHAWN MELOTZ: (Exhibit 1) Thank you. Good afternoon. My name is Shawn Melotz, S-h-a-w-n M-e-l-o-t-z and again, good afternoon to Chairman Langemeier and members of the Natural Resources Committee. I come before you to testify in support of LB895 and therefore respectfully request this committee to pass this out to the floor. LB895 is a very simple bill so my testimony will be, hopefully, brief. Under existing law, NRD

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director vacancies are filled by NRD board appointment. As such, should the vacancy occur early in a term, taxpayers in the affected subdistrict would not be represented by an elected official for several years. I would like to thank Senator Janssen for recognizing this deficiency in the democratic process by introducing LB895. LB895 would remedy the current practice by legislating a method for replacing NRD director vacancies should the situation occur within the first two years. It legislates a procedure to provide elected NRD representation, utilizing language from existing law for replacing seats vacated by state senators. And it does so with a minimal cost to taxpayers, just merely the ink on a ballot. I'd like to share with you a situation that occurred in my NRD, which is the Papio NRD in Omaha. In 2004, an elected NRD director moved from the district and thereby vacated his seat and that was done after...I believe it was 14 months of serving. The individual that replaced him, the procedure on the NRD...our NRD's policies is that three names should come to the board and there would be a secret ballot as far as replacing that individual. Unfortunately the process that occurred was an executive committee was...or an executive committee was formed and the individuals were ferreted by that committee and only one individual was taken to the board for approval. Subject to some opposition from the public, that process was changed to what the policy's as written and two individuals were then placed to the board to vote on the replacement for the vacated position. Interesting enough, the individual that was passed to the board by the subcommittee was not the individual that ended up taking that seat. So I feel that the process could be skewed if we don't use it through a ballot process. I feel that the...it's important that the taxpayers are represented by those individuals that are serving them. And that's why I believe LB895 is an important piece to add to the NRD election process. In conclusion, since this bill is an enhancement to the democratic process, I respectfully request it come to the floor. And I will serve any questions and I appreciate the time that you've allotted me. [LB895]

SENATOR LANGEMEIER: Are there any questions? Senator Carlson. [LB895]

SENATOR CARLSON: Thank you, Senator Langemeier. You mentioned three names. How would these three names come to the board? [LB895]

SHAWN MELOTZ: I believe they...at the process that occurred was through an advertisement in the newspaper. [LB895]

SENATOR CARLSON: So through public notice. [LB895]

SHAWN MELOTZ: Correct. [LB895]

SENATOR CARLSON: And then the executive committee pared that to two. [LB895]

SHAWN MELOTZ: Pared it to one. [LB895]

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SENATOR CARLSON: To one. And made that recommendation to the board? [LB895]

SHAWN MELOTZ: To the board. And then the board was to vote on that. [LB895]

SENATOR CARLSON: But this bill doesn't address that. [LB895]

SHAWN MELOTZ: No, but it...in my opinion, this bill would eliminate those types of situations where the public wouldn't have the opportunity to vote that person into place. [LB895]

SENATOR CARLSON: But if it occurred in 14 months, then it would have been 10 months to the next election. You're... [LB895]

SHAWN MELOTZ: It occurred before...I believe, excuse me. [LB895]

SENATOR CARLSON: Well, you're saying that there would be an election...at the next general election, then there would be an election for that vacated position. And you said it occurred 14 months into the term, so the next general election would have been 10 months later then. Is that correct? [LB895]

SHAWN MELOTZ: No, it occurred before September 1. The way this bill is written, I believe, if it occurs before September 1, he would have been on the November ballot; or the replacement would have been on the November of 2006 ballot for that position, in that particular situation. [LB895]

SENATOR CARLSON: Because...yes, but didn't you say that somebody served 14 months and then left? [LB895]

SHAWN MELOTZ: Yes. [LB895]

SENATOR CARLSON: And 14 months would be a year and 2 months. The next election would then be 10 months later, wouldn't it? [LB895]

SHAWN MELOTZ: No, it would have been in the fall of 2006, I believe. It was an even year, November of 2004 he was elected. [LB895]

SENATOR CARLSON: Okay. Okay. Yeah, I'm tracking now. I guess...and I'm not arguing with the request, but there still has to be an appointment to that position for a certain period of time. [LB895]

SHAWN MELOTZ: Correct. Yes. [LB895]

SENATOR CARLSON: And whether they handled it the way they did or handled it

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another way, realistically it's probably...it's going to go the way the board chooses. You aren't arguing with how they did that, are you? [LB895]

SHAWN MELOTZ: Um, well, I guess stepping back, the procedures they used were inaccurate and would have not followed the proper process had the public not been involved and objected to the process that was used. The executive committee in this situation chose one person to the board and then the board chose whether that one person was to place in that seat. Whether that was against the policy or not is irrespective of the need for this bill. I agree. [LB895]

SENATOR CARLSON: That's aside from this, okay. [LB895]

SHAWN MELOTZ: Yeah, that's just of a side situation. But had that situation, the public not been involved to stop what had occurred, this bill...or this law would have allowed the public to be involved in that process three months later... [LB895]

SENATOR CARLSON: Okay. [LB895]

SHAWN MELOTZ: ...through the election process. [LB895]

SENATOR CARLSON: Okay. Thank you. [LB895]

SHAWN MELOTZ: Yes. [LB895]

SENATOR LANGEMEIER: Senator Dubas. [LB895]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Shawn, for being here and sharing your personal experience with this issue. If the board would have done it under...done it the way... [LB895]

SHAWN MELOTZ: Sure. [LB895]

SENATOR DUBAS: ...it's been traditionally done in the past, by just taking those people and presenting them to the full board to make the decision, would this have been an issue for you? [LB895]

SHAWN MELOTZ: Yes. I think it's still important that the public is involved in this process. [LB895]

SENATOR DUBAS: So this, in your mind is just making it...giving you, as a voter, more of an opportunity... [LB895]

SHAWN MELOTZ: Correct. [LB895]

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SENATOR DUBAS: to have someone put in place that the voters have made the decision on. [LB895]

SHAWN MELOTZ: Yes and understanding the issues by each candidate. You know, the public would have an opportunity of knowing where the candidates stand on different issues as well. [LB895]

SENATOR DUBAS: Well I think in Senator Janssen's opening he did reference how NRDs have become much more visible and the issues that NRDs are dealing with are much more...they're a higher priority for the state, I should say, as far as water issues goes. So you feel that by having this kind of a process in place, you're going to have that opportunity to vote for the people that you think that will represent the water issues in your area, true and actual. [LB895]

SHAWN MELOTZ: Yes, and across the entire state, as well. You know, water is very important in whatever area of Nebraska you're in. [LB895]

SENATOR DUBAS: Well we definitely know that, so. [LB895]

SHAWN MELOTZ: Yep, yep. [LB895]

SENATOR DUBAS: Thank you for your time. [LB895]

SHAWN MELOTZ: Thank you. [LB895]

SENATOR LANGEMEIER: Senator Schilz. [LB895]

SENATOR SCHILZ: Thank you, Senator Langemeier. Thank you for coming in today. Just so...I think I understand this right, what you're talking about in this bill would then become a, basically, a special election. [LB895]

SHAWN MELOTZ: No, no. [LB895]

SENATOR SCHILZ: Okay. Hold up. [LB895]

SHAWN MELOTZ: Oh, sorry. [LB895]

SENATOR SCHILZ: So what you're saying is you've got a four-year term for an NRD seat, okay? [LB895]

SHAWN MELOTZ: Yes. [LB895]

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SENATOR SCHILZ: If somebody has served two years of that, then when they come back up for election in that second year, or whenever that three months like you talked about, then are they then voted in for another four years or would it just be to take over that term that was vacated? [LB895]

SHAWN MELOTZ: It would just to take over that term that was vacated. No different than the state senators. [LB895]

SENATOR SCHILZ: So it would be "a special election", even though it was held during the regular election because you're not filling a full term. [LB895]

SHAWN MELOTZ: Right. But it wouldn't create the cost of a special election, it would just merely add to the ballot. [LB895]

SENATOR SCHILZ: I understand. Yeah, I understand. [LB895]

SHAWN MELOTZ: Yes. Yeah. [LB895]

SENATOR SCHILZ: But it's...but you're not voting... [LB895]

SHAWN MELOTZ: No, it would not, no, not at all. [LB895]

SENATOR SCHILZ: ...for a four year term. You're voting to take over the rest of the term that was there. [LB895]

SHAWN MELOTZ: To complete the term. [LB895]

SENATOR SCHILZ: Okay. Thank you. [LB895]

SHAWN MELOTZ: Yep. Yep. [LB895]

SENATOR LANGEMEIER: I have one question. You talked about the method to fill the Papio seat you didn't like and it didn't quite work. I guess the way I read the bill, is...is you don't think we can fix that method that happened. So if you have more than two years left on your term, let's have an election. If you have less than that, we're just going to put up with this selection system the way it works. [LB895]

SHAWN MELOTZ: Um-hum [LB895]

SENATOR LANGEMEIER: So we're writing off the selection system, but if it's over two years we're going to try and do an election. [LB895]

SHAWN MELOTZ: That's how I understand the bill. [LB895]

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SENATOR LANGEMEIER: That's relative? [LB895]

SHAWN MELOTZ: Yeah. [LB895]

SENATOR LANGEMEIER: Okay. Thank you very much. [LB895]

SHAWN MELOTZ: You bet. [LB895]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you. [LB895]

SHAWN MELOTZ: Thank you. [LB895]

SENATOR LANGEMEIER: Very good. Further testimony in support of LB895? Seeing none. Is there any testimony in opposition of LB895? Welcome. [LB895]

AUGUSTUS BROWN: (Exhibit 2) Good afternoon, Senator Langemeier, members of the committee. I'm Augustus M. Brown, Jr. A-u-g-u-s-t-u-s M. Brown B-r-o-w-n. I am chairman of the Upper Big Blue Natural Resource board of directors and I am testifying on behalf of the district as well as the Nebraska Association of Resources Districts. I am testifying in opposition to LB895. In addition to my testimony, I am providing a memo from our manager, John Turnbull, as a reference for you of our procedure in filling a vacancy and the number of vacancies we've had in the Upper Big Blue Natural Resource District. We have 17 members on the Upper Big Blue NRD board of directors. Our experience is on the average since 1975 we have a vacancy about every two years on the board. Half of those vacancies are because of resignations or deaths; the other half because no one fills the position to be elected. I don't know why. It's maybe because of the controversial nature of some of the business, or maybe it's just a lack of interest. Our NRD district encompasses all or parts of nine counties, is approximately 75 miles long and 50 miles deep, including 41 towns and villages. Our district is divided into eight subdistricts and one district at large. The subdistricts are based on population of the district. One is elected each year...each two years at the general election. With this bill, it's going to be possible that two directors would be elected at a general election for a subdistrict, one for a two-year term to fill a vacancy and one for a normal four-year term. In our NRD, the voters currently vote for one director for each subdistrict at each general election. If there are two director positions to fill in one subdistrict, the question would be, would the voters vote for two in that one subdistrict and then who would fill the four-year term and who would fill the two-year term? The one elected with the most votes? A campaign is an additional expense for a nonpaying position who would have to be repeated for the candidate with the two-year term. I'm thinking about the cost of the candidate to run in an NRD election. He has to campaign in nine counties, including the Upper Big Blue NRD that stretches over 75 miles. If he gets appointed to the first two years, he would have to campaign at the end of the new short term, and then again two

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years later if I understand the bill correctly. That would be a double cost to him, them. This would be a burden that could discourage someone from wanting to be a director when it's hard enough to fill the vacancy. I know it would make a difference to me if I knew I had to run twice in less than four years. This is different than the election for a state senator running to fill an appointed term. This is a paid position, although I...you probably wonder about that with \$12,000 salary. This district is generally smaller and the ballot of the election is for one and not two positions. The present system of replacing a director is simple. It works, and it does not confuse the voter. Again, on behalf of the Nebraska Association of Natural Resource Districts, I urge you to indefinitely postpone LB895. Thank you for the opportunity to testify and do you have any questions? [LB895]

SENATOR LANGEMEIER: Thank you, Mr. Brown. Senator McCoy has a question. [LB895]

SENATOR McCOY: Thank you, Chairman Langemeier and thank you for coming in today, Mr. Brown. In your handout here, could you address for me, if you could, what would be the second page, I believe. In your general election costs, it shows your costs from 2000 down through as recently as 2008. Notice the cost for 2008 is significantly higher. Just curious on that; could you give some clarity on that? [LB895]

AUGUSTUS BROWN: Yes, I think I could because I am also on our county board of commissioners and sometimes when the election is held, some of those costs sometimes is...our fiscal year is June...July 1 and so when there is a primary, maybe some of those costs doesn't all get in until the next fiscal year and my belief is that in 2008 actually some of those costs were probably bumped back to 2006 instead of 2008. So if...it was a couple thousand dollars, you would start falling kind of into place of that...around \$10,000 a year. [LB895]

SENATOR McCOY: Even though I'm going back to the last page, it shows that there were no vacancies in 2008, the costs were actually significantly more is what you're saying. [LB895]

AUGUSTUS BROWN: The vacancies would not have any difference on the cost of the election for this particular NRD because you are electing someone each...out of that district, every two years anyway. And it would...on the ballot it would be just adding another two or three lines. So you would still have the same cost. I don't think there's a factor in how much it costs to run the election. [LB895]

SENATOR McCOY: Another question I would have, as you look at this bill and you're testifying in opposition to it, can you speak to, Mr. Brown, the theory that this would help with like folks in the NRD district be a little more involved with vacancies? [LB895]

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AUGUSTUS BROWN: I'm not sure... [LB895]

SENATOR McCOY: Your opposition seems to be more on the organizational side of it. [LB895]

AUGUSTUS BROWN: Yes. [LB895]

SENATOR McCOY: More than the actual nature of the bill, I think. [LB895]

AUGUSTUS BROWN: Yes. [LB895]

SENATOR McCOY: Could you maybe address that? [LB895]

AUGUSTUS BROWN: You know, the organizational side is that we have a system that does work; it's not broke and the voters are not confused with it. Whether it does it...I don't see that it would. State your question again. [LB895]

SENATOR McCOY: Well I just would like your comment on are you opposed to it more from the organizational side of things. [LB895]

AUGUSTUS BROWN: I'm opposed to the organization side of it. [LB895]

SENATOR McCOY: Or are you opposed to the premise that this would give folks in the NRD districts a little more involvement in the vacancy replacement process? [LB895]

AUGUSTUS BROWN: Well when there is a vacancy, they do have involvement in applying for that position. It's advertised and then it's voted on amongst the other directors to fill that vacancy. So I don't know if it's a lot different because there isn't...in an election time, there isn't a lot you have to do, fill out form and send it in. There's no fee or anything. [LB895]

SENATOR McCOY: Thank you. [LB895]

SENATOR LANGEMEIER: Senator Schilz. [LB895]

SENATOR SCHILZ: Thank you. Mr. Brown, thank you for coming in today, appreciate your testimony. Can you tell me, and maybe you know this, maybe you don't, but having all of the vacancies that you have, after someone is appointed to fill those vacancies, do they tend to run after that? [LB895]

AUGUSTUS BROWN: I've been on the board 12 years and yes, every one of them has ran after that, that I'm aware of, since I've been on the board. [LB895]

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SENATOR SCHILZ: Okay. So actually, when they're appointed, they don't have to spend any money on an election, correct? [LB895]

AUGUSTUS BROWN: At the election time? [LB895]

SENATOR SCHILZ: No, no. When they're appointed. [LB895]

AUGUSTUS BROWN: No, when they're appointed, they do not have to spend any money at that time. [LB895]

SENATOR SCHILZ: So actually, once they get appointed to the board, they'd only really be spending their money on one election just like anyone else, right? [LB895]

AUGUSTUS BROWN: Unless under this system they would have to run in less than two years and then two years later they'd have to run again. [LB895]

SENATOR SCHILZ: Um-hum, but they'd...Okay, I understand. Yeah. But to get into the process, it's not like they're doubling up right up front... [LB895]

AUGUSTUS BROWN: No. [LB895]

SENATOR SCHILZ: ...to where there's a disincentive or a disenfranchisement for somebody to step up at that point. [LB895]

AUGUSTUS BROWN: Yeah, it's not a four-year term, probably. It's something less. [LB895]

SENATOR SCHILZ: Right. Absolutely. Okay. I understand. Thank you very much. [LB895]

AUGUSTUS BROWN: Um-hum. [LB895]

SENATOR LANGEMEIER: Senator Dubas. [LB895]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Brown. As I read through the statutes the way it is set up to fill these vacancies, it appears pretty cut and dried to how it's supposed to be done. You advertise that this position is vacant, the general manager gives notice to those who have previously indicated an interest, the executive committee reviews them and forwards all that are lawfully qualified for the vacancy. What does lawfully mean? [LB895]

AUGUSTUS BROWN: Well they have to live in that district and they have to be a registered voter. That's probably the two criteria. [LB895]

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SENATOR DUBAS: So as long as they meet those two criteria, any name that meets those two criteria should be forwarded to the full board for their consideration? [LB895]

AUGUSTUS BROWN: That's correct, the way I understand it. [LB895]

SENATOR DUBAS: So, okay, that's the way it reads to me also, so this particular NRD seemed to have used a different kind of process where they, more or less, vetted those who came forward and said they were interested in, only presented one name to the board. Would that be, in your opinion, knowing what you know about it, would that be outside of the directive of this current statutes? [LB895]

AUGUSTUS BROWN: You're talking about the previous testifier's NRD? [LB895]

SENATOR DUBAS: Yes. [LB895]

AUGUSTUS BROWN: It sort of sounds that way to me and we also vote in open session. [LB895]

SENATOR DUBAS: Okay. So really as long as they're in the district and are a registered voter, those are the two criteria that would either... [LB895]

AUGUSTUS BROWN: Those are the two qualifications. [LB895]

SENATOR DUBAS: ...say you're qualified or you're not. There's no other qualifications to fill in. [LB895]

AUGUSTUS BROWN: No. [LB895]

SENATOR DUBAS: All right. Thank you very much. [LB895]

SENATOR LANGEMEIER: Senator Carlson. [LB895]

SENATOR CARLSON: Thank you, Senator Langemeier. You have these eight districts and there are two board members from each district so they are elected by the subdistrict, right? [LB895]

AUGUSTUS BROWN: Correct. [LB895]

SENATOR CARLSON: Okay. I'm going to jab you a little bit here, just for the record, because you say there's a...different than the election for state senator and we do have a paid position and their district is generally smaller and the valid election is for one and not two positions. Were you referring to a state senator there? [LB895]

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AUGUSTUS BROWN: That's correct. [LB895]

SENATOR CARLSON: Okay. And my district 38, I've got 150 miles from the northwest corner down to the southeast corner, it's 46 towns, not 41; and most people don't understand that the only mileage that you as a taxpayer pay is that that it takes me to get from Holdrege to Lincoln and back and all the traveling in the district is at my expense, so I don't think it's quite the same. [LB895]

AUGUSTUS BROWN: Well our state senator had two counties and there's some NRD districts that have a lot more spread than 75 miles too. [LB895]

SENATOR CARLSON: Okay. Now on the...that page where its got general election costs at the bottom by the years, what makes up those costs? [LB895]

AUGUSTUS BROWN: That is the cost that's the...it comes from the counties for running the election; it's divided out in proportion to the expenses that's incurred. And it's...each county will take those proportions and send it back to all the different precincts or different, like the cities and the school districts and that that had somebody running and bill the district back for that amount. [LB895]

SENATOR CARLSON: Okay. So this is actually cost of election and has nothing to do with the money that the candidates may have spent. [LB895]

AUGUSTUS BROWN: Has nothing to do with the candidates to the district. [LB895]

SENATOR CARLSON: Okay. Thank you. [LB895]

SENATOR LANGEMEIER: Senator Schilz. [LB895]

SENATOR SCHILZ: Thank you, Senator Langemeier. I guess Senator Carlson made me think of this as you're answering your question there. Wouldn't that cost be incurred anyway? You're already running the election. [LB895]

AUGUSTUS BROWN: That's what I said, this cost, somebody, I think McCoy might have asked that question. [LB895]

SENATOR SCHILZ: Okay. Then... [LB895]

AUGUSTUS BROWN: The cost isn't going to change. I don't...that's not a factor. I just...that was...when we were doing our research that was some of the numbers... [LB895]

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SENATOR SCHILZ: Some of the stuff that came up. Okay. I understand. [LB895]

AUGUSTUS BROWN: Yeah, and it's not going to change the cost of the election. [LB895]

SENATOR SCHILZ: But at some point, but at some point you mentioned that cost was a factor, now... [LB895]

AUGUSTUS BROWN: It was cost as a factor... [LB895]

SENATOR SCHILZ: And I thought you were talking about... [LB895]

AUGUSTUS BROWN: ...and the person that's running. [LB895]

SENATOR SCHILZ: How much did you spend on your campaign then? [LB895]

AUGUSTUS BROWN: The first year I spent probably a few hundred dollars. [LB895]

SENATOR SCHILZ: Uh-huh. [LB895]

AUGUSTUS BROWN: I didn't spend too much. I've never had anybody run against me. [LB895]

SENATOR SCHILZ: Hmm. Okay. [LB895]

AUGUSTUS BROWN: But I do have a lot of different...I got it from Hastings to Seward to...and they all vote. [LB895]

SENATOR SCHILZ: Sure. [LB895]

AUGUSTUS BROWN: It's not like you vote on a...just those in that subdistrict. Now, other NRDs are different, but this is the way our NRD is. [LB895]

SENATOR SCHILZ: Sure. I understand. Okay. Thank you. [LB895]

AUGUSTUS BROWN: So you have a big area to cover. [LB895]

SENATOR SCHILZ: Thank you very much. [LB895]

SENATOR LANGEMEIER: Senator McCoy. [LB895]

SENATOR McCOY: Thank you, Senator Langemeier. Mr. Brown, I guess to dovetail into what Senator Schilz asked, I'm still trying to...and pardon me if I'm not, maybe,

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tracking along with you. I'm still trying to understand why the association of NRDs then would be in opposition if we're talking about costs that would already be the case for the elections and then you just said a moment ago to Senator Schilz that you're more or less thinking about the cost to candidates. I'm trying to understand as an association why that...why that would cause you then to come in in opposition to the bill? [LB895]

AUGUSTUS BROWN: It's the process of the...going through the election. You're electing...in a confusing, possibly to the voter, because you're going down and you're checking off one, you're voting for one in each one of these districts. And in our case you'd have eight unless there's a year that there's an at-large and then you'd have nine different districts to check off. Except for this one where you're running...have two, then you've got two that are running for that or if you've got two or three more candidates, you may have several there and then are you going to vote for one or are you going to vote for two? It's confusing. And then which one is going to run for...which one is going to receive the four-year term and which one is going to receive the two term? [LB895]

SENATOR McCOY: Well I would tend to think that the folks across Nebraska, typically, our voters are pretty educated voters and do a pretty good job of educating themselves on elections. We have a long history of that in our state. And by and large I would think folks would probably be able to figure that out, at least that would be my view. Again, I, just perhaps, don't quite understand exactly what the opposition might be, but thank you Mr. Brown. [LB895]

AUGUSTUS BROWN: I probably don't have the same view. [LB895]

SENATOR McCOY: Okay. Well thank you, Mr. Brown. [LB895]

SENATOR LANGEMEIER: Senator Schilz. [LB895]

SENATOR SCHILZ: Thank you. Okay, now, now I want to ask you the real question. On here you say that you're concerned about individual expenses...well actually it says, the campaign is an additional expense for a nonpaying position. You're talking about the person. [LB895]

AUGUSTUS BROWN: Right. [LB895]

SENATOR SCHILZ: Correct. But then over here, you come down, you don't say anything about that, you just say general election costs. Why was that not specified more as to what that actually was until we asked the question? Okay, sir, here's my problem. [LB895]

AUGUSTUS BROWN: Okay. [LB895]

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SENATOR SCHILZ: You tell me that it costs you two to three hundred dollars to run an election. Okay. As I read this and then I looked at the third page, I see general election costs. Was I suppose to get the idea that this is what it costs you to run that election? [LB895]

AUGUSTUS BROWN: That was the...that is the election costs for the... [LB895]

SENATOR SCHILZ: Okay. [LB895]

AUGUSTUS BROWN: ...district. Yes. [LB895]

SENATOR SCHILZ: I appreciate that. [LB895]

AUGUSTUS BROWN: Just as... [LB895]

SENATOR SCHILZ: From now on... [LB895]

AUGUSTUS BROWN: ...it doesn't...it would not make... [LB895]

SENATOR SCHILZ: Excuse me, sir. From now on when you come in here and testify, I would really appreciate it if you would explain exactly what the costs are and not make inferences in places because it makes it very confusing for us to make an educated decision. Thank you very much. [LB895]

SENATOR LANGEMEIER: I just want to clarify one thing. The district you represent is obviously not one-to-one ratio in your districts. Are you a one to three? In your eight districts, each district doesn't have equal amount of people? [LB895]

AUGUSTUS BROWN: Yes, they do. [LB895]

SENATOR LANGEMEIER: Because I take it you're getting elected currently; you run in a district... [LB895]

AUGUSTUS BROWN: Right. [LB895]

SENATOR LANGEMEIER: ...but you're getting elected basin-wide... [LB895]

AUGUSTUS BROWN: Basin wide. [LB895]

SENATOR LANGEMEIER: ...or your whole NRD wide. [LB895]

AUGUSTUS BROWN: Right. The whole... [LB895]

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SENATOR LANGEMEIER: So in my case, when I ran, I lived in Schuyler and I was in a little district that just had Schuyler, but everybody in Fremont voted for me, because it was a district-wide basin. [LB895]

AUGUSTUS BROWN: Yeah, it's district-wide. [LB895]

SENATOR LANGEMEIER: Okay. Thank you. Seeing no other questions, thank you very much for your testimony. Very good. [LB895]

AUGUSTUS BROWN: Thank you very much for the opportunity to testify. [LB895]

SENATOR LANGEMEIER: Further testimony in opposition to LB895? Seeing none, is there any testimony in a neutral capacity? Seeing none. Senator Janssen, would you like to close? Welcome back. [LB895]

SENATOR JANSSEN: Thank you, Senator Langemeier. I wanted to come back up just to make a few more comments and then take any questions. I think you had a lot of great questions on both sides of this. I just want to talk from a personal experience. This bill, like many of them, was actually brought to me, but I took a special interest in this bill. Many of us have served in other capacities before and when I was on the city council of Fremont we had eight members and I looked...we currently, in Fremont, I think we appoint people when they, for whatever reason resign from office. The mayor appoints them. I never have agreed with that. I have no problem with the mayor appointing them, but he appoints them much like the NRDs do now for the entire term. And as I looked around, at one point while I was serving on the council, five out of the eight positions were actually appointed by the mayor and so we had three people that actually ran and got elected for the position. And these positions, generally when you get appointed, now when I say they were appointed, they were appointed, then they ran eventually for the seat. So, there is some powers to incumbency in these positions and that's something that when they're appointing somebody that's been there, they could, in this case, be there for three plus years and actually did happen in the city of Fremont where you had a very tightly contested election. Two people ran for it, it came down to a run-off. The person fell ill, resigned. The actual person that replaced them passed away two months later and then we had three and a half years left on the term. The mayor appointed for that term. So I would like to see the city of Fremont change the way they do it as well. So this...I took a special interest to me. In talking...some of Mr. Brown's concerns that he had, he brought up how are you going to designate who gets the four-year term and two-year term in the appointed case. I'd be surprised if they're not doing it the way the city of Fremont does it right now. We have four different wards; we have two representatives from each ward. Each one of those seats runs off two years. So every two years one of those seats is up for election. In the case of the city of Fremont, in that particular ward the city councilman had served for three years and is coming up for election this year, yet the other person was just appointed to the...it's

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ward two, the ward two seat, so while the person elected is standing for reelection right away, the person that was appointed is getting a free pass for three and a half years, in what was a hotly contested seat. It sounds to me that Upper Big Blue doesn't probably have as many contested seats and I can certainly understand Mr. Brown's caution there. I do think Mr. Brown would probably run since he basically said he's currently serving on the county board and the NRD and their county board probably pays better than we're making, if it's anything like our county board. The cost for election, minimal. It's...the cost is the cost, so I don't think that's an issue. What it really is, and I think, I don't know if this is a personal issue that came up somewhere. I know a lot of times it is when there's appointments, but it does make sense to put it in front of the voters, much the way we do. I think examples of how it works, ask Senator Lautenbaugh. When he came in he served the last year of a term and ran again. I believe Senator Fulton did the same thing and Senator Krist is going to have to go through the exact same thing. And I think Senator Lautenbaugh and Senator Fulton could definitely testify that it's not a free pass and they definitely had to go in front of the voters. And I agree the NRDs are becoming more and more scrutinized and the people should have the right to vote for them every two years. I'll take any questions if you need clarification or anything, but... [LB895]

SENATOR LANGEMEIER: Are there any questions for Senator Janssen? I'm going to ask one. Did they reappoint your seat or were you done on the city council when you got elected to the Legislature? [LB895]

SENATOR JANSSEN: They reappointed...no, I was in midterm. They reappointed and that person will stand for reelection this next...this coming election and he does have an opponent. [LB895]

SENATOR LANGEMEIER: Very good. Seeing no other questions, very good, thank you for your testimony. [LB895]

SENATOR JANSSEN: Thank you. [LB895]

SENATOR LANGEMEIER: You've heard the testimony on LB895. That concludes the hearing on that. (See also Exhibit 16) We will now open LB696. Senator Pahls? And Senator Pahls cannot be with us today, so his legislative aide will be assisting. So we have to be really nice. Isn't that what you told me before we started? Just kidding. Go ahead. [LB895]

RON SCHROEDER: (Exhibit 3, Exhibit 4, Exhibit 5, Exhibit 6) Good afternoon, my name is Ron Schroeder, R-o-n S-c-h-r-o-e-d-e-r. I'm the legislative aide for Senator Rich Pahls who represents District 31 in Omaha who is unable to be here today. I'm going to explain this bill to you and talk about some of the handouts that you're getting. LB696 directs the Department of Environmental Quality to collect solid waste disposal fees on

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waste generated in this state, but hauled to landfills in other states. The waste disposal fee is typically referred to as a tipping fee. The purpose of this bill is to collect the fee on waste generated in our state, regardless of whether it is disposed in our state or outside the state. The tipping fee supports, by statute, a variety of state environmental programs, not just issues related to landfills. The tipping fee is collected by the operator of the landfill when the waste arrives. Under this bill, transfer stations would collect the fee if the waste is intended to be dumped outside the state. After Senator Pahls introduced this bill, it came to his attention that we needed to broaden the bill to include waste from what are called material recovery facilities or salvaging and recycling facilities that dump outside the state. We have drafted an amendment that accomplishes that goal. We tried to figure out how much waste is being hauled outside the state from these facilities, but no one knows because no one keeps track of it. We do know that there is a material recovery facility in Douglas County that has a permit from DEQ to handle 800 tons of waste daily. We've been told that this facility dumps its waste in Iowa after it finishes sorting the recycling materials. But we don't know how much of that 800 tons would be what's left after the recycling. By dumping the waste in Iowa, the facility skips out on the state tipping fee and any fees that are charged by local landfills, including the Douglas County landfill, if that's where they were going to dump their waste. They're not required to dump it in Douglas County, and as I understand in the past, that they have actually hauled it as far as Butler County landfill to deposit it there. So we would have gotten the tipping fee on that, as long as they were dumping in the state. But when they started doing it in Iowa, that's when we lose the tipping fee and, of course, Douglas County loses out on what the amount would be for their own landfill fees. Now I'm going to go through the handouts here explaining what all I've got here. This one here just tells what the tipping fee is, \$1.25 on six cubic yards of uncompacted waste or \$1.25 on compacted waste or \$1.25 on a ton of solid waste and I'm not sure how they make the decision about which one they're going to use. I assume it depends on how it comes in. But also on that page I list where the tipping fee is distributed. Half of it goes into the Integrated Solid Waste Management Cash Fund, which by statute the Department of Environmental Quality can use to clean up spills or environmental emergencies. They can monitor waste disposal facilities. It goes towards livestock waste management and litter reduction and recycling. The other 50 percent goes into the Waste Reduction and Recycling Incentive Fund and out of that there is a 10 cent rebate that goes back to the city or county where the waste was generated and then the rest is used for waste reduction and recycling grants. So you can see it...the funds from the tipping fee are used for more than just the landfill issues themselves. The other thing is, I gave you the amendment that broadens the bill from just saying "transfer sites" and we're using the term "solid waste processing facility." In the statutes there is a definition of solid waste and the processing facility, so we're going to cover what we call "material recover facilities", which is a term that they use in the rules and regulations, and recycling or salvaging facilities, but it's only going to catch those that already have a permit from DEQ. So we're not going to...and the reason that I mentioned that is because in the fiscal note, DEQ mentions that they were concerned

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about the green copy of the bill, that they would have to go out and actually find who it is that's hauling waste and we don't want them to do that. We're going to restrict it to organizations that already have our permit. And there's a certain amount of...that you have to already be dealing with in order to have our permit, so that catches that. There's a letter in support of the bill. And then I also have a handout that shows where the funds that the fees are deposited in and I have a copy of what the landfill fees would be for Douglas County. So, that's it, unless you have questions and there won't be any closing unless you have questions. [LB696]

SENATOR LANGEMEIER: Are there any questions from the committee? I do have a question. And you don't have to answer it if you don't want to. In the...I got a number of calls from my dumps, I'm going to call them dumps which they probably have a better word than they would like to be called dumps. On that 10 cent rebate back to the city and county, it is my understanding the city has to make their request for that. That doesn't just automatically go back and my understanding is that there's a lot of communities that don't make that request because they don't know they're suppose to. [LB696]

RON SCHROEDER: As I understand it, and there are others that may know about it better, they have to actually apply for it and there's an application that has to be approved. They have to show that they're doing some kind of recycling effort in order to qualify to get that dime back. [LB696]

SENATOR LANGEMEIER: Okay. And then the other concern they had, and again back to there may be others, that at the landfill there's some confusion to if I bring in a pickup load of shingles because I resingled my house, and I've been there, I've done it and it's not...it's a pretty frequent occasion, that there's a gap in there where I'm getting charged for this, but it's not necessarily getting tagged back to my city where it came from. [LB696]

RON SCHROEDER: Um-hum. [LB696]

SENATOR LANGEMEIER: And so there was some discussion of can...could the county where the dump resides after some amount of time, could they be eligible to request those kind of unclaimed monies, because Douglas...so if...and I'm going to use the dump close to me is Butler County, Butler County has collected these...Butler County landfill's collected these extra funds. It's not like Douglas County can come in and get more than what they paid in and Holdrege can't make a claim for more than they put in, so you have this amount of money that becomes no-man's country. [LB696]

RON SCHROEDER: I see that. I don't have an answer for you. [LB696]

SENATOR LANGEMEIER: They want some provision in there to say, can at least the

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county in which the dump is located try and claim that unclaimed property as you might say? [LB696]

RON SCHROEDER: Yeah. [LB696]

SENATOR LANGEMEIER: So anyway, I just throw that out there to...it was a concern, I happened to go to the dump with some shingles a few weeks ago...I guess it was longer than that, it was before we got in session, so it would have been November, and I got jumped out in the middle of the dump when I was dumping, like, hey, I want to talk you. So anyway, I appreciate it. [LB696]

RON SCHROEDER: You bet. [LB696]

SENATOR LANGEMEIER: Are there any other questions? Senator Carlson. [LB696]

SENATOR CARLSON: Senator Langemeier. Ron, help me understand, I'm...look at...if something goes to a landfill in Nebraska, obviously I understand where the fee would be paid, but physically, how does it work when you go out of state? [LB696]

RON SCHROEDER: I assume that, you know, in this case that they're probably hauling it to a landfill in another state... [LB696]

SENATOR CARLSON: Yeah. [LB696]

RON SCHROEDER: Iowa, Iowa has a tipping fee of some kind that, you know, I don't know what their schedule of fee is. So they're probably paying a tipping fee when they get to Iowa, depending, you know, I'm assuming again that they're putting it in a kind of a landfill that has some kind of regulation in Iowa, just like it, you know, if it would be in Nebraska, but it would be a different fee schedule than what we have and I don't... [LB696]

SENATOR CARLSON: It wouldn't be a different one? [LB696]

RON SCHROEDER: It could be a different...yeah, it could be a different fee, clearly. [LB696]

SENATOR CARLSON: But how do we get the money back here? [LB696]

RON SCHROEDER: We don't. [LB696]

SENATOR CARLSON: But the bill is to address that. [LB696]

RON SCHROEDER: Under this bill...under the amendment, the Department of

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Environmental Quality will collect that amount from what are called solid waste processing facilities that hold a permit from the department and they will collect that amount that they dump out of state. It's the same rate as if they were going to dump it in Nebraska. [LB696]

SENATOR CARLSON: Okay. I have to understand it better. But thank you. [LB696]

SENATOR LANGEMEIER: Just to clarify that, what you're...and my understanding is we're seeing some loads of trash from Omaha go to Council Bluffs... [LB696]

RON SCHROEDER: That's right. [LB696]

SENATOR LANGEMEIER: ...to a "recycling center" and they're sorting through the trash? [LB696]

RON SCHROEDER: I think the... [LB696]

SENATOR LANGEMEIER: And then you still generate some trash plus some recyclables? [LB696]

RON SCHROEDER: I think it's being...the trash is being disposed at a recycling facility in Omaha... [LB696]

SENATOR LANGEMEIER: Okay. [LB696]

RON SCHROEDER: ...that has sorted, then the recyclable part out of it and then there's part, you know, that you can't recycle that they need to haul to a landfill and that is what's going to Council Bluffs and there's no fee at that point on it. It's just being deposited in another state and even though the waste was generated here, and if they deposited it at the landfill in Douglas County or any other county around there, we would get the tipping fee. But by the fact that they just drive across the river, the state of Nebraska doesn't get the fee. [LB696]

SENATOR LANGEMEIER: Any other questions? A lot of discussion behind you. So I'm sure we're going to get more education as we go here. [LB696]

RON SCHROEDER: Good. I hope so. [LB696]

SENATOR LANGEMEIER: Thank you for your introduction. We appreciate it. Did a great job. [LB696]

RON SCHROEDER: You bet. [LB696]

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SENATOR LANGEMEIER: Further testimony, now we'll take testimony in support of LB696. Come on up. Welcome to the Natural Resources Committee. [LB696]

KENT HOLM: (Exhibit 7) Thank you, Senator. My name is Kent Holm, Kent K-e-n-t Holm H-o-l-m. I'm director of environmental services for Douglas County, Nebraska. I did have a handout which is quite simply a Douglas County Board resolution which was passed this past Tuesday. I'd just like to read that into the record, if I would...if I may. Motion by Commissioner Boyle, seconded by Commissioner Tusa; I move this board support LB696 with the additional language that this bill include, in addition to transfer stations, materials recovery facilities and I believe the previous...the introducer covered that. And it's my understanding that that amendment is going to be proposed so Douglas County Board is certainly in support of that. I really don't have any other specific things to say other than I think this particular bill, as proposed, helps to get to the real spirit and intent of the statute and that this is...the materials recovery facilities, the transfer stations that are actually transporting waste out of state are essentially skipping that portion of their responsibility under the existing statute and this helps to close that loophole, if you will. And I'd be happy to address any questions that you may have. [LB696]

SENATOR LANGEMEIER: Are there any questions? Senator Carlson. [LB696]

SENATOR CARLSON: Senator Langemeier. Okay, now you're Douglas County. [LB696]

KENT HOLM: Correct. [LB696]

SENATOR CARLSON: And I'm all for more revenue so I'm not trying to be ornery here, but somebody in Omaha takes their trash over to Council Bluffs. Now you don't have to mess with it because it's over there. Let them fill their landfill. But you still want a fee. [LB696]

KENT HOLM: That fee...the fee that we're talking about is the fee that goes to DEQ, that at least indirectly, then, can come back to Douglas County, at least a portion of it coming back to Douglas County. DEQ is charged with the responsibility, and you mentioned the...and the introducer mentioned the responsibility for spills, other types of environmental situations. If, you know, I'll just use an example, if the waste that's being transported out of state, there is some type of an accident occurring with that waste and DEQ is called out to that, I mean, they're not seeing any revenue to help them with that type of situation, just to give you an example. Does this...your previous example about the revenue going out of state and the filling up their landfill as opposed to our landfill, well, we also want to look at the liability aspect of that from the Solid Waste Management Act that does put the responsibility on cities and counties for the waste that's generated in those particular municipalities and counties. So maybe there's an

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aspect of that too. I mean, that wasn't specifically what I was going to address and I don't think it's specifically...or directly noted in this particular bill. But I think that's also kind of an underlying piece of it. Okay. [LB696]

SENATOR CARLSON: So when somebody disposes of this material at your place, you're charging a fee and a portion of that fee goes to DEQ. [LB696]

KENT HOLM: The scenario that plays out for the landfills within the state is that the trash, solid waste is taken to the landfill; the landfill operator is going to pay that \$1.25 per ton fee to the state. The haulers, the county, per se, does not do that. It's actually the landfill operator that actually does that. [LB696]

SENATOR CARLSON: Okay. Thank you. [LB696]

SENATOR LANGEMEIER: I have a question. [LB696]

KENT HOLM: Yes. [LB696]

SENATOR LANGEMEIER: First of all, I want to commend Douglas County for being a champion of supporting DEQ. I think that in my legislative career of six years, I've seen nobody come to the defense of DEQ to get them more money. So...but I don't really believe that's why you brought the bill. Of this money that goes back to the county, it's supposed to be used for recycling grants and recycling programs, yet, those that are recycling are causing the problem that we're hoping to fix here. Correct? [LB696]

KENT HOLM: I believe... [LB696]

SENATOR LANGEMEIER: That product, that solid waste that's going out is recycleables, right? [LB696]

KENT HOLM: I'm not quite sure what all is going over there. I mean, I know that the facility that was mentioned this morning is a recycling facility, but it's also serving as a transfer station where there's a lot of solid waste that's just simply coming there and then it's being transferred out. In terms of the...they are doing some recycling there and there are other programs in Douglas County that do recycling and certainly some of those programs benefit from the funds that were identified in the statute. The grants that come back, our household hazardous waste facility there, are very dependent upon some of those types of funding. So those...I don't know if that's getting to your...answering your question or not. [LB696]

SENATOR LANGEMEIER: Well, what it looks like we're doing is, is we're...we now want to put a tax back on recycling so we can put it through a pool to give it back to Douglas County to do recycling. [LB696]

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KENT HOLM: I guess I would disagree... [LB696]

SENATOR LANGEMEIER: It's kind of a vicious circle we're making. [LB696]

KENT HOLM: I guess I would disagree that we're taxing the recycling part of it. We're taxing the portion of the solid...the solid waste portion that's not being recycled and simply being sent to the landfill. There's no...once it leaves that facility it's not being source separated or anything else for recycling purposes. That's just solid waste that's going to the landfill that's not a part of recycling anymore. [LB696]

SENATOR LANGEMEIER: So we would only charge this \$1.25 to that excess nonrecyclable portion that's going out, not to their total intake. [LB696]

KENT HOLM: Oh, correct. That's my understanding. No, this is not taxing the recyclable portion of it. [LB696]

SENATOR LANGEMEIER: Okay. [LB696]

KENT HOLM: That's my understanding of it anyway. [LB696]

SENATOR LANGEMEIER: That would be good. [LB696]

KENT HOLM: Yes. [LB696]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you. [LB696]

KENT HOLM: Okay. [LB696]

SENATOR LANGEMEIER: Did a great job. [LB696]

KENT HOLM: Thank you. [LB696]

SENATOR LANGEMEIER: (Exhibit 8) Further testimony in support of LB696? It's a quiet group today. Yeah, I have a letter. I have a letter of support from Larry Dix with the Nebraska Association of County Officials in support of LB696. Is there any testimony in opposition to LB696? Seeing none. Is there any testimony in a neutral capacity? Seeing none. He waives closing. That concludes the hearing on LB696; very good. We thank you. We now move on to LB885. And he's coming. We'll take a little break until he gets here. I know Senator Nordquist is in Appropriations. We didn't expect that to go quite so quick. (BREAK) Senator Nordquist. [LB696]

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SENATOR NORDQUIST: Thank you, Senator Langemeier. I apologize for being a few minutes late. [LB885]

SENATOR LANGEMEIER: You're recognized to open on LB885. [LB885]

SENATOR NORDQUIST: (Exhibit 9) Thank you. Thank you, Chairman and members of the committee. My name is Jeremy Nordquist, I represent District 7 in Omaha. LB885 seeks to create the Nebraska Energy Commission, as what I believe could be the first step in putting together and building on the work that you guys have already done to create a comprehensive state energy policy by creating a comprehensive state energy agency. The size of the bill might be a little misleading to you. LB885 contains a significant amount of cleanup language when you combine these agencies. What LB885 seeks to do, and I've provided the committee with a section by section, is relatively simple in concept anyway. LB885 restructures the Oil and Gas Conservation Commission by adding two new members. One of these new members has to have experience in renewable energy production; the other new member has to have experience in energy conservation. Currently there are three members on the committee, one of those having to have experience in oil and gas production. The new commission would be named the Energy...the Nebraska Energy Commission. To match its expanded scope, it is given the resources and responsibilities that are also under the purview of the State Energy Office. Under this bill the Energy Office would then be eliminated. Serving on the Appropriations Committee, I'm well aware that Nebraska currently has over 70 state agencies and several of these have responsibilities for different parts of energy policy and energy economy in our state and we really don't have a...we really haven't established benchmarks or goals for energy production in the state and that really have that comprehensive energy policy from everything from fossil fuel production in our state, renewable energy production, energy conservation and I think it's time we moved in that direction and I believe this bill would help us in that area. Those are the basics of it, Mr. Chairman, and I'd appreciate your consideration of this legislation. [LB885]

SENATOR LANGEMEIER: Very good. Are there any questions for Senator Nordquist? Seeing none. [LB885]

SENATOR NORDQUIST: All right. Well I hate to run, we have a number of agencies up today in Appropriations I don't want to miss out on, so I'm going to waive my closing now. But I'd be happy to work with all of you after the hearing on any concerns you may have. [LB885]

SENATOR LANGEMEIER: Senator McCoy, do you have a question? [LB885]

SENATOR MCCOY: In light of that, if I might, I was going to ask at closing, but with Chairman Langemeier's permission I guess I'll ask now. Would you mind, Senator

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Nordquist, going a little more detail... [LB885]

SENATOR NORDQUIST: Sure. [LB885]

SENATOR McCOY: ...with what you refer to as a comprehensive state energy policy or the lack thereof in your mind? [LB885]

SENATOR NORDQUIST: Yeah, well I think it's something that needs to coordinate all the resources that we have as a state and really...maybe not the policy. You guys are working hard on, I know, a coordinated renewable energy policy and a lot of that's under your purview, but maybe more of an agency to implement what we come up with in the Legislature as a coordinated policy. So the Oil and Gas Commission right now is kind of siloed in production of fossil fuels. The Energy Commission, under their current responsibilities, which this bill takes the responsibilities of both and just puts them under a single agency, the Energy Office is responsible for the assessment of trends and availability, consumption and development of all forms of energy, but yet we have the Oil and Gas Commission separated on their issues. Also, duties of the Energy Office to recommend to the Legislature and to the Governor energy policies and conservation measures for the state and to carry out such measures so I think one agency...they're...I would hope, this is a cash fund, both of these are cash funded agencies so we wouldn't see a lot of General Fund savings. We probably wouldn't see any. But hopefully there would be some efficiencies found by putting this together and having one agency oversee our state's energy policy going forward. [LB885]

SENATOR McCOY: Thank you, Senator, and can you speak to the State Energy Plan and how that would apply to the comprehensive state energy policy as you described it? [LB885]

SENATOR NORDQUIST: Well I would see the agency taking a lead on that. That's currently under the purview of the Energy Office so they would continue to go forward with that. [LB885]

SENATOR McCOY: But the State Energy Office has prepared a State Energy Plan, correct? [LB885]

SENATOR NORDQUIST: Yeah, they have. And they work closely with us. I just think that having the Oil and Gas Commission as a, potentially, a division under the...that agency would make sense logistically for the state...for state government. [LB885]

SENATOR McCOY: Um-hum. Can you go into a little more detail though, vis a vis, a State Energy Plan by the Nebraska Energy Office and the need for it in your mind, a comprehensive state energy policy. Would that not be... [LB885]

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SENATOR NORDQUIST: No, I'm sorry...yeah, I guess we're just having a little mix-up on words here. The plan that's...the policy...the plan that's developed by the Energy Office is what this agency would be responsible for. But I think having the Oil and Gas Commission under that...as one agency with that plan in mind would create a more seamless flow of information and policy and implementation of those policies. [LB885]

SENATOR McCOY: So your comment that there really needs to be a comprehensive state energy policy, maybe you'd want to rephrase that as to... [LB885]

SENATOR NORDQUIST: Yeah, maybe I misspoke. I think we're just a little siloed by...our agencies being siloed, maybe, doesn't allow for it to be as seamless as it should be with the implementation of that plan. [LB885]

SENATOR McCOY: Thank you, Senator. [LB885]

SENATOR NORDQUIST: Yeah. [LB885]

SENATOR LANGEMEIER: Are there other...Senator Carlson. [LB885]

SENATOR CARLSON: Thank you, Senator Langemeier. So since you are waiving your closing, I'll ask a question too, Senator Nordquist. [LB885]

SENATOR NORDQUIST: Sure. [LB885]

SENATOR CARLSON: So currently there are three members on the Nebraska Oil and Gas Conservation Commission. [LB885]

SENATOR NORDQUIST: Um-hum. [LB885]

SENATOR CARLSON: Those three would move to the new position... [LB885]

SENATOR NORDQUIST: Yeah, essentially we would... [LB885]

SENATOR CARLSON: ...and the Governor would appoint two more. [LB885]

SENATOR NORDQUIST: Yeah, essentially we would just be adding on two new members to that commission and ultimately, I think the Oil and Gas Commission does good work. When they've come before the Appropriation's Committee their director is very well spoken, he knows his mission, does a good job carrying it out and I...one thing, when we worked on this legislation, I didn't want to upset the apple cart by overloading the commission with a number of commissioners. You know, the people that are running it now seem to be doing a good job so I thought it was important to maintain that as a majority of the commission by only adding two new members to the

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three that are already there. But also having a voice, a person who has experience in renewable energy and energy conservation. [LB885]

SENATOR CARLSON: Okay, but we have a new commission; we have...so we're going from three to five members; we have a new director, but the position and the current State Energy Office would be eliminate, correct? [LB885]

SENATOR NORDQUIST: Um-hum. [LB885]

SENATOR CARLSON: So we're eliminating one and hiring another and then going from three to five and part of the reason is efficiency here, so expound a little bit on the efficiency would you? [LB885]

SENATOR NORDQUIST: Well certainly right now we have two offices, one in Sidney for the Oil and Gas Commission and then the Energy Office here. Potentially there are savings there. I read the fiscal note and, you know, potentially there could be...finding the appropriate home for this would be...is going to be a challenge whether it stays in Sidney because that's where a significant amount of the oil and gas production is in the panhandle area, or whether we keep...move it to Lincoln. I think those are...there are issues that we would have to see, but as far as efficiencies, I just think having one director with a mission of comprehensive state energy policy I think makes sense. We have a very divided state government comparatively to other states, number of agencies and departments relative to other states. So I think pulling that together into one agency to oversee that entire policy area, I think, would be appropriate. [LB885]

SENATOR CARLSON: Okay. Thank you. [LB885]

SENATOR NORDQUIST: Yep. [LB885]

SENATOR LANGEMEIER: Senator Haar. [LB885]

SENATOR HAAR: I apologize for being late, I was giving testimony on another (inaudible). [LB885]

SENATOR NORDQUIST: It's a busy day. [LB885]

SENATOR HAAR: Yeah, it's a busy day. By the way, I was talking about transparency in another committee. Okay. [LB885]

SENATOR NORDQUIST: Buzz word of the day. [LB885]

SENATOR HAAR: In the summary that the committee chair and our legal counsel do, which I really appreciate, by the way, I like the way you summarize it, it says Senator

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Nordquist came up with the idea for this bill during special session. I'm always kind of interested where ideas came from and I wonder whether you could talk about that a little bit? [LB885]

SENATOR NORDQUIST: Well just having all those...all the agencies come before us and looking for potential ways to create efficiencies and streamline our operations and this just seemed to make sense that we didn't have one agency kind of running the entire gamut of energy policy and production and reviewing those issues in our state that it was...seemed kind of siloed and so that's why I'm bringing this idea forward. [LB885]

SENATOR HAAR: And your terminology, I've heard it before, but just to make sure I'm clear in this, talking about siloed...talk about that just a little bit because I've heard that in a number of sessions I've gone to now. [LB885]

SENATOR NORDQUIST: Well it seems to me just reading there that the operations of these states...or of these agencies, you have one agency that's responsible for oil and gas production by monitoring and drilling and wells and charging fees on that and that's how they're funded. And then over here you have the Energy Office which is responsible for data collection, analysis of energy and energy policies and making recommendations on energy policies, be it...the coordination I don't think is as good as it should be between these two agencies. So bringing them together under one house, I think, would increase that collaboration. [LB885]

SENATOR HAAR: Okay. Thank you very much. [LB885]

SENATOR NORDQUIST: Um-hum [LB885]

SENATOR LANGEMEIER: Senator McCoy. [LB885]

SENATOR McCOY: Thank you, Chairman Langemeier. Senator Nordquist, can you address, and I noticed in your statement of intent that the commission, speaking of your proposed Nebraska Energy Commission will be an independent agency. [LB885]

SENATOR NORDQUIST: Um-hum. [LB885]

SENATOR McCOY: Could you expound on...are you speaking of that meaning that it would no longer be a cabinet level agency? [LB885]

SENATOR NORDQUIST: Yeah, it would be a...the Governor would make all the appointments to it, but it would no longer be a code agency. It would be much like...probably modeled after the Game and Parks Commission. [LB885]

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SENATOR McCOY: And what would be your intent with that, the reason for that?
[LB885]

SENATOR NORDQUIST: You know, I...because I like the structure of the Oil and Gas Commission, the work that they were doing and the experience that they have being on there, that, you know, that's not a sticking point, you know. I think the point of bringing this together is more important than where it's housed. I still think the Governor, obviously, needs to have a say in it by appointing all the members, but having...bringing experts in to kind of set those policies whether it's a someone with experience in energy or oil and gas production or whether it's someone with experience in energy conservation, whether that's a green builder or someone from a...working at one of our public power agencies that has worked on those areas. I think having those voices of experience there running, kind of directing the flow would be beneficial to the state.
[LB885]

SENATOR McCOY: Do you have a reason to believe that needs to be somewhat separate from a cabinet level agency for some particular reason? The reason I ask that question is, we very recently, before your or I's time in the Legislature, I believe it was Senator Dubas when this was established as a cabinet level position back in...maybe July 1, 2008, if I recall correctly, or I know it was in 2008, and it would seem that in light of the advances of renewable energy resources and the work on that that we are doing in our committee and are doing across the state, that it would be very important for a governor, any governor, to have a big impact on that, as it relates to jobs and the economy, which I know both you and I care very deeply about. And it would seem to me that we would be going about a fairly significant course correction here with what you're proposing and for what reason I'm trying to determine. [LB885]

SENATOR NORDQUIST: Sure. Well I think by appointing those members, he would...the Governor would have that kind of say on it. But if the committee, you know, thought this to be an appropriate idea to go forward with, the idea of combining these agencies, you know, I would not be opposed to having a discussion on making this an agency inside of...or a code agency, and then having an advisory committee where those members would serve. One way or another though, I think you have to have those voices of experience in this process. [LB885]

SENATOR McCOY: Thank you and I guess the last question that I would ask is, it appears that, you know, we have some definite fiscal concerns as it relates to the fiscal note, particularly the potential loss of expertise with moving the...with the prospect of moving offices which I have concerns about. In light of the economic situation that our state is in at this particular juncture, can you expound, if you would please, on the cost of this and why that may or may not be a good idea. [LB885]

SENATOR NORDQUIST: Well the...some of the questions as the fiscal analyst wrote

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on the note that that certainly portrays the worse case scenario that we wouldn't be able to retain or find appropriate people to run this agency and that's why there would be a reduction in appropriations. You know, I don't know if that's the case. I think that's something that as we go forward with this, we will need to look at. You know, I think we can find...we will find appropriate people to run this operation one way or another. But the dollars there are cash fund dollars. It would have no General Fund impact on the state. [LB885]

SENATOR McCOY: Thank you. [LB885]

SENATOR NORDQUIST: Yep. [LB885]

SENATOR LANGEMEIER: I think Senator Schilz has a question. [LB885]

SENATOR SCHILZ: Thank you, Senator Langemeier. Senator Nordquist, thanks for coming in today. [LB885]

SENATOR NORDQUIST: Yeah. [LB885]

SENATOR SCHILZ: You know as I'm reading through this and I look here, it says here that, well obviously the Oil and Gas Commission is located in Sidney, Nebraska. [LB885]

SENATOR NORDQUIST: Yeah, yeah, I did...I...you know...Sidney may be an appropriate home for it. I don't want to go...you know, upsetting the apple cart too much. [LB885]

SENATOR SCHILZ: I like the sound of that, to be honest with you. [LB885]

SENATOR NORDQUIST: They do a good job. [LB885]

SENATOR SCHILZ: And the reason I ask is, you know, it states right in here that Lincoln is 350 miles away. Where's the closest oil well to here? [LB885]

SENATOR NORDQUIST: That is a good question that I do not know. [LB885]

SENATOR SCHILZ: Well I can tell you this, it's out around Sidney. [LB885]

SENATOR NORDQUIST: Yeah. [LB885]

SENATOR SCHILZ: And because this is a commission that's created to encourage and promote the development, production and use of oil and gas in the state, it's my opinion that it's right where it needs to be. [LB885]

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SENATOR NORDQUIST: Sure. [LB885]

SENATOR SCHILZ: And with all the producers and all the people that are in that industry. [LB885]

SENATOR NORDQUIST: And I would say too that as we look for renewable energy production, we know that northwest Nebraska is certainly a great place for renewable energy production too. [LB885]

SENATOR SCHILZ: Sure. [LB885]

SENATOR NORDQUIST: So I don't know why, you know, maybe we do need to locate the home of energy production in Nebraska in Sidney, so. [LB885]

SENATOR SCHILZ: You know what, I was just going to go in that direction. [LB885]

SENATOR NORDQUIST: I would not disagree with that. [LB885]

SENATOR SCHILZ: Thank you, Senator Nordquist. [LB885]

SENATOR NORDQUIST: Yep, you bet. [LB885]

SENATOR LANGEMEIER: Senator Haar, did you have a question? [LB885]

SENATOR HAAR: Yes, mainly a comment, in the latest issue of the magazine that we get as state legislators and I can't remember the name of the magazine right now, but... [LB885]

SENATOR NORDQUIST: NCSL's, yeah. [LB885]

SENATOR HAAR: Yeah, yeah. They talked about what other states are doing to save money and it talked...I think this was maybe Washington State...something like that, where one state senator took a look and found a huge number of commissions and committees and they actually whittled those down a little bit, so whether or not this particular idea goes through, I want to thank you for your thoughts in this way, because I think we're going to be doing the same sort of thing. [LB885]

SENATOR NORDQUIST: Yeah, some of us on the Appropriations Committee have some other ideas too about agencies that we could find potential savings in and some...we need to continue to study those. And I don't know if this idea has been vetted enough, but I certainly think we should start down that road. Just as a comparison, not that we need to look at every state, but Michigan, their governor, they only have 18

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departments to begin with and they're leading an effort to consolidate down to eight departments, state agency departments, so, you know, having 70 separate agencies, you know, may be something we need to study. [LB885]

SENATOR LANGEMEIER: Senator Nordquist, you made some ground by saying maybe we could put this in Sidney. We could make some more ground here; why don't I appoint the members? [LB885]

SENATOR NORDQUIST: There we go. Yeah, we can have you have a voice with the... [LB885]

SENATOR LANGEMEIER: As chair in Natural Resource Committee. [LB885]

SENATOR NORDQUIST: ...advice and consent of the Natural Resource Committee Chairman. [LB885]

SENATOR LANGEMEIER: See, we're making progress now. Senator Haar, I think, has another question. [LB885]

SENATOR HAAR: I was just going to address you as Governor Langemeier. (Laughter) [LB885]

SENATOR NORDQUIST: That's the way to do it too. Just might be easier, so. [LB885]

SENATOR LANGEMEIER: I don't think we want to go there. Seeing no other questions, before this gets carried away. [LB885]

SENATOR NORDQUIST: Thank you. Thank you all. Yep. [LB885]

SENATOR LANGEMEIER: Is there any other testimony in support of LB885? Seeing...check my sheet, where did that list go? Oh, here it is. Nope. Now we'll move on to opposition. Who...those that would like to testify in opposition of LB885. Okay. Welcome back to the Natural Resources Committee. [LB885]

NEIL MOSEMAN: (Exhibit 10) Thank you very much, Mr. Chairman. Chairman Langemeier and members of the Natural Resources Committee, good afternoon. My name is Neil Moseman, N-e-i-l M-o-s-e-m-a-n, and I'm the director of the Nebraska Energy Office. Thank you for the opportunity to testify on LB885. The Energy Office advises state officials, private industry leaders and the public on an array of energy issues. In addition, the office manages several state and federal programs which include, but are not limited to, the disbursement of U.S. Department of Energy grants and funds, partnering with Nebraska lending institutions to provide low-interest loans for energy efficiency upgrades, weatherization of low income homes, and providing support

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to the Nebraska Wind Working Group. The U.S. Department of Energy funds are used for the Low Income Weatherization Assistance Program, Energy Efficiency Conservation Block Grant Program, State Energy Program, Energy Star Appliance Rebate Program and an energy assurance grant. The Energy Office is opposed to LB885. Currently, the Energy Office reports directly to the Governor, who is elected, of course, by the citizens of Nebraska. Being a code agency provides a direct line of authority and accountability for energy programs. LB885 would combine the Energy Office and the Oil and Gas Commission to form a new independent commission, as has been explained. We believe this action would greatly reduce the accountability of the Energy Office to the executive branch and by extension, to the citizens of the state of Nebraska. Even though the five person commission would be appointed by the Governor, the Energy Office believes this would be...create an informal barrier between the agencies and Nebraskans. The U.S. Department of Energy holds...and also taxpayers, hold the Governor ultimately responsible for any federal funds dispersed by the Energy Office, as well as many other statutory requirements enacted by federal legislation. It's our view that combining the Nebraska Energy Office and the Oil and Gas Conservation Commission would not lead to a streamlining of government services. To provide the best services possible to the citizens of the state when combining agencies, we always have to look at...make a determination if the mission and the synergies of the agencies are similar. To achieve a budget reduction, we also have to take a look if there will be a reduction in fees due to a duplication of services. However, the purpose and mission of the Energy Office and the Oil and Gas Conservation Commission are completely different. The Energy Office's mission is to promote the efficient, economic and environmentally responsible use of energy. And as you know, the Energy Office maintains the loan program and, as I mentioned before, we administer the Low Income Weatherization Program, State Energy Program among others. The purpose of the Oil and Gas Conservation Commission is very different and I'll allow them to explain their role. Should these agencies be combined, we believe a western Nebraska office would still be needed to be maintained, because again, all the oil and gas wells in Nebraska, except for one in Richardson County are located in western and southwestern Nebraska. When the Energy Office was designated as a separate code agency it presented the opportunity to elevate many of Nebraska's components for our energy industry to the next level. The Nebraska Energy Office has become an authoritative voice on energy issues for the state of Nebraska, and I'm proud of the work our agency has done to try to advance this mission in this short time since elevation to a code agency. And there was a discussion of a state energy plan. Let me tell you where we're at with that. Since its designation as a code agency, the Energy Office, we made a priority to update the state's 1992 energy plan. That needed to be done. Nine public meetings were held across the state. In 2008, to gather information from citizens, we had our Web site up. We took input for three months from citizens in terms of their views of what Nebraskans thought the energy policy for the state should look like. A copy of the interim plan is currently on the Energy Office Web site and we're going to finalize that plan here within the next ten days. During the development of that plan, we

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received input from everyone: citizens, business leaders, academic experts, you name it. The...representation ...represented a plan was built from the ground up really to do several things. The 2010 Nebraska Energy Plan will provide three key services that demonstrates the impact of the stimulus funding, American Recovery and Reinvestment Act, on Nebraska's energy landscape. It establishes the role of the Nebraska Energy Office in supporting a successful transition to a new clean energy economy and provides policy recommendations and empower Nebraska businesses, industry, policymakers, and residents to make informed energy decisions. One last point before questions, if I may, indicative of how things have gone the last year and a half, our agency has done...has worked hard to try to update, especially provide information to citizens on our Web site. A number of hits from the Energy Office's Web site prior to becoming code agency was roughly less than a million hits per year between fiscal...in the fiscal year 2008-2009. July 1, 2008 to June 30, 2009 we experienced roughly nearly two million hits and in the six months since that time, since...from August to December of 2009, we've had nearly two million hits on our Web site. So we've experienced exponential growth in that regard. I believe maintaining the Energy Office as a code agency will ensure that Nebraska will continue to expand our renewable energy industry, achieve greater energy efficiency and lead the way in the energy economy. This concludes my testimony and I'm happy to answer any questions. [LB885]

SENATOR LANGEMEIER: Very good. Are there questions? Senator Haar. [LB885]

SENATOR HAAR: A number of things. I would be curious, do you kind of categorize the...do you have some idea why people hit your Web site? What are people really interested in right now? [LB885]

NEIL MOSEMAN: I'd say two things. You still see a lot of interest in the historical energy consumption issues or data that we have maintained on our Web site. And then, clearly, the stimulus or the American Recovery and Reinvestment Act, ARRA, if you will, that information has just, obviously, sent the interest and the hits on the Web site substantially through the roof. I mean, we just see a great interest in the stimulus package and what that represents for the state. [LB885]

SENATOR HAAR: Do you find that...like, I mean, there's weatherization programs which, I'm sure is of great concern, do you find many people who are talking about going to solar or wind or that sort of thing. [LB885]

NEIL MOSEMAN: We do. If I had to rank them, actually, between wind and solar, pretty close in terms of first and second, in terms of hits to the...interest via our Web site, but geothermal in the last 12 months, a great amount of interest in that. I'm trying to think...the... also biomass and some cellulosic, but considering the methane resources we have here in the state as well, a lot of interest in that as well. So it just continues to climb from month to month. [LB885]

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SENATOR HAAR: Well I'd be really interested to get some feedback in terms of, you know, what are people saying about wind and solar and so on, because we started, of course, with net metering last year, but we may need to take the next step and I think that could be really valuable information that I would appreciate. [LB885]

NEIL MOSEMAN: Okay [LB885]

SENATOR HAAR: Another question, and I should probably know this date off the top of my head, but when...there was the \$30 million, I believe or so, that was...people applied for grants and so on, and that decision was to be made who's going to be funded. Has that been decided already? [LB885]

NEIL MOSEMAN: The \$5 million... [LB885]

SENATOR HAAR: The five...okay. [LB885]

NEIL MOSEMAN: ...the renewable...the renewable demonstration project, that program? Very good question, as a matter of fact just this week a review committee that we put together under the auspice of the U.S. Department of Energy, we had...we contracted with some U.S. Department of Energy employees, some folks that are retired from the National Renewable Energy Laboratory, we had a...Doctor Nelson, retired dean of the ag research college, chaired this committee for us and we had some representatives from Iowa State, some biomass experts, University of Missouri, University of Nebraska as well. They have ranked these...we now have...we boil it down to ten...a top ten list, if you will, that are eligible for funding and prior to making that announcement what we need to do here in the next couple weeks, we submit that, we're required to submit that to the Department of Energy to do a NEPA review, National Environmental Policy Act so there would be...so the federal government take a look at that and make sure that they were all qualified under NEPA. Here's the really underlying issue. If we find, by law, under this grant these projects have to be producing energy by March 31, 2012. If...through NEPA if they are delayed, for example, their environmental...a environmental review or an environmental impact statement is required, and that takes...if that prolongs a project into, say, 2011, and we have to start looking at dates and realizing can this project get energy up and produced by March of 2012. So it's a timing issue. But other than that, we'll make an announcement here very quick as soon as we get that NEPA determination from the U.S. Department of Energy. [LB885]

SENATOR HAAR: Great, great. [LB885]

NEIL MOSEMAN: We're ready to go. [LB885]

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SENATOR HAAR: Just a couple more. I know a question that some people are asking me is, who are the retailers for, you know, if I want solar panels or a small turbine or so on, do you deal with lists at all like that or... [LB885]

NEIL MOSEMAN: We try to be careful, we try not to show favoritism to any particular retailer, if you will. So what we've done in terms of the wind area or solar area, we will...we have links to industry Web sites that will list or that will provide the information where folks can go and look at...within the solar industry who they recommend or what recommendations they may have as to vendors and further background on that. [LB885]

SENATOR HAAR: So there would be, maybe you could follow links to local distributors in Omaha or Lincoln or whatever. [LB885]

NEIL MOSEMAN: Yes, sir. [LB885]

SENATOR HAAR: Okay, And then just to pick your brain since we got you there and we've had other talks, so...the term clean energy economy is tossed around a lot. And this is not a trick question, I'd just like to know because I ask people their definition of that. What do you see in...as... what do you mean by clean energy economy? [LB885]

NEIL MOSEMAN: I guess in my mind, part of this is moving toward, maybe a cleaner economy. A lot of what we do in the Energy Office is...Secretary of the...I should say, the U.S. Department of Energy Secretary Chu calls it picking up...not the low hanging fruit, but fruit that is laying on the ground, is how he described energy efficiency and I think that's probably about as good a definition as I've heard. Most of what we do through the loan program, the weatherization program, state energy program and that's the...that's also the statutory requirement of those programs. But it's to achieve energy efficiency and reduction in energy usage. So I'd...in some regards we may not be handing out a big incentive...have a large incentive program for, say, wind manufacturers, something like that, to come into the state; that's probably the purview of DED or some other agency. But in terms of helping folks, the smaller residential folks who want a solar panel or want to...small wind turbine, residential wind turbine, that's where we're helping those folks. Also, obviously reducing energy efficiency, getting everyone's home a little more greener and more efficient, very important. One other thing that we will do here in 2010 and this...I think will be a big help as well, we're going to establish a green portal, a Web site, if you will, and in the past, I actually have to credit a Nebraskan from my hometown even, Robert Byrnes who had suggested we do this sometime back and we will complete that here this year. But that's really a...it will be a Web site portal or a repository, if you will, for renewable energy information to go in if you're trying to set up a, oh say, an anaerobic digester, where do you go, links to federal resources, industry resources, that sort of thing. Really help walk people through this process and just give them a complete catalog of information, if you will, as to how they, whether it's pursuing some sort of renewable energy or, in this case, if they want to find,

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you know, energy efficient windows, that sort of thing. A lot of information on that. Also contacts to academic resources. I mean it is a...I'm not an IT person, but this would be, I think and I'm told by renewable energy experts this will be a real plus for the state. [LB885]

SENATOR HAAR: Okay. Thank you very much. [LB885]

SENATOR LANGEMEIER: Senator Dubas [LB885]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you senator or...Director Moseman for being here. You know there's no secret that this is an issue that I've been working on since coming down to the Legislature and getting the Energy Office elevated to a position where I think that, you know, need to be...you're getting the work done that needs to be done to move us forward in the renewable energy field, I think it's important. Now early on in my tenure, I held a meeting where I just kind of invited everybody who had anything to do with any kind of energy to gather just, you know, to let them talk amongst themselves, and one of the things that came out of that meeting was, you know, we don't get this opportunity to talk to each other very often and we didn't even realize that person over there was doing that kind of work and...so that's what kind of drove me to think the Energy Office needs to be much more involved in a coordinating kind of position, working with, I think...I think we counted like ten different agencies that have something to do with energy in some capacity. So I guess my question to you would be are you doing any kind of coordinated efforts with other agencies like DED or the Ethanol Board or such agencies as that to work towards energy independence and the development of our energy economy? [LB885]

NEIL MOSEMAN: Um, you know, yes ma'am we do. The DEQ example we just joined with them in terms of a methane working group and also working with the region, the EPA Region 5 group down in Kansas City to put that together. And, you know, I...in terms of a suggestion, maybe, I'm happy to think through this and actually work with you or your office, maybe the sort of thing on a regular basis get this group together, kind of a work group together again, and...so everyone is not a stranger and...but I'm happy to do it, because I think that's part of our mission, part of our goal too to keep interacting and keep bringing these folks together because there's times...I use Mr. Byrnes as an example, that green portal, you know, that was a great idea and that was just something we hadn't seen and really through the State Energy Plan that I process, that was just one suggestion, but, you know, that's just a home run. So, I'm happy to work with you on that because I think it's a good idea. [LB885]

SENATOR DUBAS: You know, I think, as I said, those people really enjoyed the opportunity of coming together and just...you know, we just...we get so involved in our own particular issues, our own particular turf that we don't always get to know what people who are working on similar issues are doing. So it was a productive gathering of

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people and an exchange of ideas and an understanding of what they're doing. So, yeah, I would be happy to work with you on that. [LB885]

NEIL MOSEMAN: Thank you. [LB885]

SENATOR DUBAS: You mentioned this idea of the green portal and I think that's really important because another vision that I thought the Energy Office should be working on is kind of that clearing-house, you know. If I've got an energy question, I can call the Department of Energy in Nebraska and you can point me a particular direction to help me understand if I want to develop wind energy or get windows or whatever. Do you have anything else besides that green portal that you're able to offer to anyone who is needing information on energy or questions such as that? [LB885]

NEIL MOSEMAN: We have through the stimulus funding added a couple of...or several engineers, as well, who help answer a lot of these questions and in particular we find a lot of these questions come through interest in the revolving loan program which has been a great success for the state as well. But once we...so we'll continue in that regard and through the portal, once we get the portal implemented we'll have to see what else we need to do too, so. Thank you. [LB885]

SENATOR DUBAS: Thank you. I know a lot of your time and energy is definitely been consumed with what's been happening at the federal level and trying to get those programs in place. But you did bring up the State Energy Plan and looking through it, I think there's about ten different policy statements or recommendations that you think the Energy...that's been put together for the Energy Office to work on. So I was just wondering, have you prioritized those policy recommendations? Do you have some benchmarks put in place as to, you know, this is where we want to be by this certain time period or has the State Energy Plan kind of had to take kind of a backseat to working on the federal issues right now? [LB885]

NEIL MOSEMAN: Well, I'd say for the past 12 months, work on it has slowed and a lot...some of it has just been waiting for, once the federal energy stimulus dollars come in, how does that play and how does that fit into the State Energy Plan and, you know, we make application, for example, for the weatherization program soon come...pretty soon we'll have the appliance rebate program will be...will be implemented, that sort of thing. But until we...I try to be careful until we actually have approval for these programs from the federal government. We didn't want to get ahead of ourselves and put it into the plan. Probably the driving force in terms of a timing or a timeline in priorities for the State Energy Plan would be the Energy Policy Act of 2005, the EPACT, if you will, of 2005, which encourages states to reduce energy consumption by 25 percent from over 22 years and those base years, of course, 1990 to 2012. So that said, that will be...probably a pretty good foot race here to meet that goal here by 2012. But in terms of a federal requirement that, I'd say that that's one of our first priorities for a state is try

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to meet that and of course other renewable energy issues as they come along too.
[LB885]

SENATOR DUBAS: Well you referenced the last plan we had was like in '91, I think Governor Nelson tried to put a plan together and it's a great plan. I've read through it multiple times. Unfortunately, we just didn't follow through with putting a lot of those recommendations into place. So I would hate for us to see..for us to put together another plan and then not actively work to putting those objectives into play. And I think again, if we can keep bringing the players to the table, there's a huge interest in energy of all types right now so we need to take advantage of that. And I think a State Energy Plan is important to map out where we need to go, whether we're talking about wind or solar or whatever it is. And so...as I said, I know you're working on a lot of the federal issues now, but I think this plan that we have that you're recommending right now is a great step to get us started. I just don't want to see us drop the ball and kind of let it roll back and have the same thing we had in '91 where we do a lot of work and put a plan in place and then that's the end of it. So I hope that we can continue to work together on the recommendations that are in the plan and really help move Nebraska forward in this particular arena. [LB885]

NEIL MOSEMAN: Well I think, Senator, I agree, if it gets dust, you know, collects dust on a shelf, that's my fault. One thing, in that regard or if I may respond, we recently...the beginning of this month, we were able through stimulus funds to hire on an environmental engineer, a young man who is doing graduate work through the University of Nebraska and he also is a...he's been trained by Mr. Byrnes up in Lyons and he's spent a summer up at Lyons with Robert so he is very well qualified. As a matter of fact, his expertise is in methane and I was really looking for someone who could do that, you know, in terms of what environmental...particularly regulations, that sort of thing coming down the road and renewable energy production. If you look at our resources, methane is going to be a huge issue, obviously, with the livestock that...numbers that we have in the state of Nebraska and so I really sought out somebody who had expertise in that and I...his...one of the...probably the main task I've given this young man, David Dingman is his name, Mr. Dingman is to help me implement this plan and day by day, week by week move this thing ahead and so it doesn't sit on a shelf and so it's an active, living document that we keep moving with and if we need to make changes to it, we can do that too, so. [LB885]

SENATOR DUBAS: Glad to hear that. Thank you very much. [LB885]

SENATOR LANGEMEIER: Before we go to the next question, I just...so the committee knows that the director and I have been working on putting together a briefing for the committee on what their activities are so we will have that. Senator Schilz, then we will...
[LB885]

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SENATOR SCHILZ: Thank you, Senator Langemeier. Director Moseman, thanks for coming in today. You know when I first saw this bill, I was, you know, rather taken aback and absolutely completely against it. But as we've heard Senator Nordquist today and his willingness to maybe work with us, do you like the town of Sidney? (Laughter) [LB885]

NEIL MOSEMAN: I love western Nebraska. [LB885]

SENATOR SCHILZ: Okay. Thank you. [LB885]

NEIL MOSEMAN: Senator, how much snow do they have today? I'm...given this winter, maybe we should all move out there. [LB885]

SENATOR SCHILZ: Actually we've been...we had our snow in October. No I was just wondering...we could sure use the jobs in western Nebraska, so I...just kind of a little joke. Thank you very much. [LB885]

SENATOR LANGEMEIER: Senator Haar. [LB885]

SENATOR HAAR: As my colleagues would probably agree, I'm an impatient person and the stimulus money is going to create a lot of green jobs and not just jobs, but also better environment and homes that are tighter and so on. And I wish we could have started it a year ago, but just...and I want some ballpark numbers. How much money do you think we've gotten now from stimulus funds in terms of your department, energy money? [LB885]

NEIL MOSEMAN: Of the...well of the \$93 million allotted to the state, actually...by last September...the original plan, I should...let me back up a little bit. U.S. Department of Energy, the original plan was once we submitted our applications for the weatherization programs, state energy program, appliance rebates and the Energy Efficiency Community Block Grant Program, once your application was approved, you received...once you submitted your application, I should say, you received 25 percent of the funds or access to 25 percent of the funds and once the plan was approved, you received another 25 percent and then the plan...really last summer from the Department of Energy was to...the department was going to take a look and see where we were at, every state was at, late 2009 and in 2010 and at some point 2000...and probably the middle of the year, give everyone access to the remainder of those funds. Well, unemployment, different things, various issues popped up, so in September the Department of Energy said, hey, now you have access to all your funds and we'll come back later, of course, and audit and make sure you're utilizing these funds to...as you...as well as you should. During this briefing I think that we're going to have late...I shouldn't say this month, in February, next month, I'm happy to give specific numbers and we just actually turned in our quarterly report, as required by law, to the Department

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of Energy in terms of where we're at in terms of those funds. Probably the big one, weatherization. We probably spent 5 to 10 percent of those funds, but also bear in mind in the weatherization program we have LIHEAP funds, Low Income Heat Assistance Program funds and then there's an annual weatherization program fund and those funds had due dates or drop dead dates, if you will. The LIHEAP program, we had to spend that money by December 31st and then the annual appropriation funds have to be spent by June 30th of this year. In addition, last year we had to wait five months for a determination from the U.S. Department of Energy in terms of the Davis-Bacon prevailing wage issue, but that's behind us. And our community action agencies, I'll tell you, have really ramped up...done very well. The Weatherization Trust in Douglas County now, for one example, they're on track here to do...winterize a thousand houses this year alone. And you count in the rest of the community action agencies in the state, that's probably another 500 or 600 additional houses here this year. So once they finally got the green light they've moved forward. And I'm happy to walk through the state energy program, if you will, and Energy Efficiency Community Block Grant, that hasn't...those fees are still outstanding, they're due in February. But we'll come to tell you where we're at in that area too. But... [LB885]

SENATOR HAAR: Okay. Well I certainly appreciate the good planning. I mean, the alternative is like what happened in Iraq, I guess, when they took pallets of money and unloaded them and that money just disappeared. We certainly don't want that to happen. At some point I'd just like to...and this isn't pointing a finger or anything, but I'm kind of curious to know what percent of our stimulus money we've received. I sort of get the impression, not just from Energy Office, but other places that probably only maybe 10 or 20 percent of the stimulus money is actually been spent. And that's okay, I'd just like to get kind of an idea of what that is. [LB885]

NEIL MOSEMAN: Sure, yes, sir. [LB885]

SENATOR LANGEMEIER: Senator McCoy. [LB885]

SENATOR McCOY: Thank you, Chairman Langemeier. Thank you for your testimony, Director Moseman, and the great information you've given us so far. A couple of questions, maybe more back on LB885. The introducer, Senator Nordquist, commented in his opening and in our questions afterwards that and talked about a siloed focus, is the word that he used, and a need for a comprehensive state energy policy. I want to give you the opportunity to maybe comment on that and...would you have, I guess, a comment to that? [LB885]

NEIL MOSEMAN: Well um, my initial read on the bill, my first thought was, was the old apples to apples analogy, and I think what we do and the Oil and Gas Commission does is probably more apples to oranges. And so you're probably, even if you combine the two, we're still...you still have two small silos maybe within one larger silo. I don't know

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how you just get around that. You still have the same statutory duties and responsibilities each agency has. You know, all for streamlining, but I just...duties are just too diverse and I remember in the '90s, to some degree, working when the U.S. Department of Agriculture was trying to merge county offices and that's apples to apples and that was very hard. So if...it's hard to find how to really save money by doing this given the fact that, really, I mean we're reshuffling chairs, but our responsibilities really haven't changed or none of them have gone away, if you will, so. [LB885]

SENATOR McCOY: Thank you. Would it be fair to say that it may complicate things from a focus and a responsibility nature going the route of an independent agency versus a code agency that you would currently be, as far as...your responsibilities aren't going to change. Would that then complicate things being an independent agency? [LB885]

NEIL MOSEMAN: I think, frankly, now focusing, you know, on green jobs and renewable energy and that sort...it, the oil and gas duties, and no...it would be a distraction in terms of what we're trying to do in terms of implementing a State Energy Plan in this regard. Yeah, it just...I keep coming back to, there just aren't the similarities there that would probably help actually do things, you know, in a streamline manner. [LB885]

SENATOR McCOY: And another question and a comment as well; it would seem that if you have the ability to be a code agency, which again is a relatively new occurrence for us having that being settled in July of 2008, that that would allow any governor to work hand-in-hand, as you report directly to the Governor, to find improvements in economic development and job creation, things that have high intrinsic value to our state and to what we're trying to do across our state, especially in economic downturn and it would seem to me that as an independent agency, that would change somewhat while not lessening the responsibilities and actually complicate things. Again, that's more of a comment than anything else and thank you again for your testimony this afternoon, Director Moseman. [LB885]

NEIL MOSEMAN: Yes, sir. [LB885]

SENATOR LANGEMEIER: Senator Cook. [LB885]

SENATOR COOK: Thank you, Mr. Chairman. And thank you for being here, Director Moseman. The comment has been made that the Energy Office was just made a code agency in the 2008, and in a previous life I'm recalling that the director of the Policy Research Office also served as a member of the Governor's cabinet and as director of the Energy Office. Do you know how long the Energy Office had been under the Governor's purview prior to it being a code agency on its own? [LB885]

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NEIL MOSEMAN: Well, since...I recall since 1977 it had been, yeah. [LB885]

SENATOR COOK: Okay. So it's had some relationship with the Governor's office since 1977 as far as you know. [LB885]

NEIL MOSEMAN: Since it was formed, yes, ma'am. [LB885]

SENATOR COOK: All right. Thank you very much. [LB885]

SENATOR LANGEMEIER: I just have one more question. When you talk about the stimulus dollars that Senator Haar alluded to that are coming to Nebraska, they come with some strings attached that you're suppose to use them in a certain way. Who is liable if we don't use them that way? I mean, does that go back to the Governor's problem? And if they want them back, then it would be up to him to get them back or do you have any idea? [LB885]

NEIL MOSEMAN: It is, the Governor is accountable. [LB885]

SENATOR LANGEMEIER: Okay, so the Governor is accountable, the Governor currently appoints you to your position in the Energy Office. So if we took it and made it a separate...working under its own little board and they don't do it right, the Governor is liable, not that it's my job to protect the Governor, but I see a trailing problem there. [LB885]

NEIL MOSEMAN: Yeah, I...you have probably five people, or this commission...commissioners pointing fingers probably at each other versus the Governor pointing at the energy director and...as I think he should, say, you know, you are ultimately responsible and accountable to the taxpayers so. [LB885]

SENATOR LANGEMEIER: Very good, thank you very much for your testimony. [LB885]

NEIL MOSEMAN: Thank you. [LB885]

SENATOR LANGEMEIER: We'll move on to other opposition to LB885. Welcome. [LB885]

BILL SYDOW: Thank you, Mr. Chairman and members of the committee for the opportunity to be here today on LB885 which is a bill that... [LB885]

SENATOR LANGEMEIER: Oh, I've got to stop you. Name please. [LB885]

BILL SYDOW: Okay. First name is Bill, my last name is Sydow spelled S as in Samuel, y-d as in David, o-w. [LB885]

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SENATOR LANGEMEIER: Thank you. [LB885]

BILL SYDOW: (Exhibit 11) So anyway, I am Bill Sydow. I'm the director of our Oil and Gas Conservation Commission which is a cash-funded, noncode, quasi-judicial agency that was established 50 years ago in September of 1959 and it's always been headquartered in Sidney. And Sidney is located in the, really, the heart of the oil fields of the Denver-Julesburg Basin. I have several handouts there. I have copies for each member of a letter from my three commissioners concerning LB885. We would request that that be made a part of the official record and I don't think I need to read it into record. [LB885]

SENATOR LANGEMEIER: No, we'll make it part of the record. If you'd like to read it that's up to you, but it will be part of the record. [LB885]

BILL SYDOW: Okay. Just suffice it to say, my commissioners are unanimously against passage of LB885. Its intention of course is to merge two existing agencies together. I have about five points, but I'll probably really only get to three, the way I timed it out. First, the energy forms that we're talking about here are not the same. While the operative word is energy and it may be applied to both of these affected agencies, the forms of energy are substantially different. Our mission at the Oil and Gas Conservation Commission encompasses the orderly development of our state's oil and gas resources. The Nebraska Energy Office currently has an interest, I know, toward the development of electricity from wind and solar technologies. The regulation of oil and gas exploration and production activities has no relationship with electricity production from either of those sources. Second, while our agencies have the word "conservation" in common, the definitions of conservation are substantially different for each of us. The Energy Office is concerned with conservation from a standpoint of consuming less electricity and heating fuels in homes and businesses. And so their type of conservation focuses on better insulation, thermal pane windows, storm windows, more efficient heating and cooling machines and air conditioning that help us use less BTUs in our homes and our offices. The Oil and Gas Conservation Commission's focus is on the wise and orderly development of our oil and gas endowment here in Nebraska and the prevention of waste. And that means that we want to encourage the production of as much oil and natural gas as is technically, feasibly and economically we can recover that and not leave one barrel in the ground or one Mcf of gas in a reservoir that could have been produced. So we're interested in conserving reservoir energy by the injection of water or natural gas and hopefully in the future carbon dioxide, a tertiary method. And so our definition, in fact, of conservation, as found in the Revised Statutes 57-901, would, in fact, be stricken by LB885. Something that I personally don't like. Third, we believe that the idea of consolidating and centralizing these two agencies in the hope of having more efficiency, synergy and reduced government is a wrong idea. Our agency is cash-funded by a very specific group of taxpayers. Our headquarters office is located in

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a town that is central to our state's oil and gas operations and I think it needs to remain there. We operate as frugally as possible out there with an excellent staff of eight people who are committed to their jobs and our agency and our mission. And just to tell you, we're all natives of western Nebraska that work at the commission. Eight employees, we have an average of 21 years of experience in the oil and gas industry. We're all shareholders in our little agency and our operation out there and our management style is flat. I have seen in my past experience, 34 years, that when you combine, you create hierarchies and you create command and control. We don't have that out there. We're flat, anybody can go to anybody else, they can ask them to do something and it will be done very quickly; that's internally, it happens the same externally. So I don't believe that the...that this is applicable at all. I just want to address real quickly the matter of staff. I'm concerned something like this, we're the little dog in the hunt and big dogs usually win in the world, most of the time, unless the lord intervenes. So I'm concerned about that. I have seen things like this happen before, but my concern is this. In this bill I don't think there's any consideration on anybody's move. What do you do with your home? What do you do with a number of financial situations? People have homes where they are homes. In the instance, and this is the way I wrote up my fiscal note, assuming that things came to Lincoln, I think we'd have six out of eight people would not be working for this new commission. And I really believe that. And Lincoln is not an oil field town. And I think it would be exceptionally difficult to replace staff that is left, certainly in this environment. It's a tough situation in oil and gas right now; it's actually a depression in the United States, but that would be my concern at an agency level, so. I'll let my written testimony stand. If you have anything to do to...time to look at that, I just tell you, I did put a card there. I'm probably the only director in Nebraska with my home phone number on my card because our business runs 24- hours a day, seven days a week. So if you want to call me on any questions about that, feel free. [LB885]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB885]

SENATOR CARLSON: Thank you, Senator Langemeier. Do you believe that...we have some pretty good untapped sources of oil and gas in Nebraska? [LB885]

BILL SYDOW: I believe that the potential is there. I personally think the largest potential is in the panhandle in the Permian and Pennsylvanian rocks. We only have on an average about one deeper well that has gone through those rocks for every township, every 36 square miles. And so our last big field that we really found in Nebraska was about 1984. When Exxon was here they found it. It's right outside of Kimball and it's going to recover about six million barrels of oil. That same field and all the penetrations in Kimball County, if we went north into Banner County, there are only four penetrations to those same rocks. We go into Scott Bluff County and there's two. And so I think the potential is certainly out there and I'm a wild optimist; people would tell me that. But I'm

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not so sure that we can't have oil and gas in what's called the Mid Continent Rift which actually is...underlies part of Lincoln, Omaha, goes all the way through Iowa up into Wisconsin and Minnesota. So I'm not...I think there's potential. You have to have ideas and this is an industry that's all about ideas and people selling their idea. [LB885]

SENATOR CARLSON: Thank you. [LB885]

SENATOR LANGEMEIER: Senator McCoy. [LB885]

SENATOR McCOY: Thank you, Chairman Langemeier and thank you, Director, for being here today. It's interesting to hear you describe just what you just said, because I think you may be very correct that while your commission is...does deal with energy, it is very different in many respects from the Nebraska Energy Office. Very important nonetheless, but very different. Would you maybe expound on, I know Director Moseman in earlier testimony talked about those differences of energy and I'll ask the same question, I guess. Senator Nordquist mentioned a kind of siloed mentality, so to speak, of a way to handle things. Would you mind addressing that. I'll direct the same question to you as I directed to Director Moseman, would you mind addressing that and how, and you have, to some degree already, but how would that work and how would you respond to that? [LB885]

BILL SYDOW: Okay. Neil talked about apples to oranges. I'd say it's fruit to rocks is about as much commonality as we have here. As far as being siloed, our commission was established in 1959 specifically to foster and encourage development of a resource of which the state does not own or we...we have state lands, but for the most part, minerals are owned privately in our state, thankfully to that. And so our commission is there to prevent waste. We don't want excess wells to be drilled. We want to see that what we find is recovered as best can be with the technology so our commission is quasi-judicial. We'll issue orders that are appealable to the district court. We can enjoin people together if there's a certain hurdle met that don't want to be there together. As far as being siloed, so I would just say well that's in a hole or in one column, I don't disagree with that, but I don't think that's a bad thing. I think that's a good thing and this is why: oil and gas is a very unique operation from an engineering standpoint, geologically and land and legal. There's a lot to know about that. So I think that's why this commission was designed to be separate, stand alone, the producers who are actually regulated and whether they like us or not, I think that we're fair and we do a good job for them. That's okay. I don't think that there's a lot...I don't think there's anything that's even remotely close with what the Energy Office does now and what we do. Neil talked about his Web site and I'll just...I want to address that real quickly. We have a great Web site. We host it out in Sidney and I'm going to tell you, it's a world...it's at least national-class, it's world-class. We're adding to it every day. You can go to our Web site; you can get well information free; you can get production information that somebody might charge you, literally, \$10 for that record on a commercial operation. So

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we have tried to get our data together in a form that can be used by exploration and production companies, because we're competing for risk dollars in the end. We want people to come to Nebraska and drill high-risk wells and the way we can do that is we have a fair regulatory environment; we enforce our rules. We don't try to kill them and I'll just say, here's our attitude on that. We're a big family, but we're the mom and dads in the oil field. And this company is our children; we want them to grow up to be successful, be good citizens. If they mess up, we're going to discipline them and we're going to instruct them on what not to do next time and we try to do that. And I think they really do appreciate it and everybody else does too. So we have put our data out there and I think...all I can say is a lot fewer people have come to Sidney a little bit, kind of a bad thing, but there...we're getting activity all the time, 24 hours a day. And I've even had calls from, believe it or not, somebody from New Zealand. So I think...you know, I'm biased, I think we're doing a good job with what we do and just ask you to leave us alone. [LB885]

SENATOR McCOY: Thank you, Director. [LB885]

SENATOR LANGEMEIER: Senator Schilz. [LB885]

SENATOR SCHILZ: Thank you. And I would concur. I think you guys are doing a great job. I think Sidney is exactly where that office needs to be and that's what...that's how I'm going forward with this. So thank you so much for coming down to Lincoln and testifying today. [LB885]

BILL SYDOW: Can I make one comment? Excuse me. [LB885]

SENATOR LANGEMEIER: Senator Carlson. [LB885]

SENATOR CARLSON: Thank you, Senator Langemeier. Your three commissions, how often do you meet? [LB885]

BILL SYDOW: We meet on a quarterly basis on a regular basis just to go over finances, where we're at on production. Otherwise, since we...we have public hearings, we conduct public hearings, we have those only as required, but that's on a regular monthly meeting. We try to meet on the fourth Tuesdays of the month at 10:00. And so that's...those are for applications, for water injection wells that might need a public hearing. We have a groundwater protection program; one of the first ones of the underground injection control program from U.S. EPA. So we've got a great group of people that work on that, our field inspectors. But unitizations, there's a lot of legal things that will go on that we will be required to meet upon. So we have the three commissioners and there's always going to be a 2-1 vote. [LB885]

SENATOR CARLSON: What's their length of service? [LB885]

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BILL SYDOW: Four years. [LB885]

SENATOR CARLSON: And they can be reappointed? [LB885]

BILL SYDOW: Yes, they can be reappointed. And there's a gentleman, Mr. Gilmore, here today, that could speak to that. [LB885]

SENATOR CARLSON: Okay. And I don't even know how much, but they are paid, aren't they? [LB885]

BILL SYDOW: Not very much. We pay them 50 bucks a day if they show up. And they always show up. I didn't mean it to be like that. When they come for a meeting, we pay them \$50, we pay their expenses, and so right now my chairman is Mr. Gohl. He lives in Culbertson and so we pay mileage for him to come. My chairman, the newest...or my newest commissioner that I'm working for is Mr. Perry Van Newkirk in Kimball; so that's about 40 miles. And then Mr. Sonntag in Sidney, he says the only thing I get out of it is wearing out my shoe leather because he walks over to work for us. [LB885]

SENATOR CARLSON: So for that rate, they're not there for the money. So they've got to have another reason and a real interest and just...what is their interest? [LB885]

BILL SYDOW: I think their interest is...well first, they have expertise in a number of a different areas and I won't go into that. But they're in the business in a legal sense. Mr. Sonntag is an attorney; he runs our hearings as the judge, so to speak. But they're there, I think, because they want to be good public servants to contribute and have the knowledge to do that. [LB885]

SENATOR CARLSON: Okay. Thank you. [LB885]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. [LB885]

BILL SYDOW: Thank you. [LB885]

SENATOR LANGEMEIER: Further testimony in opposition of LB885. Welcome. [LB885]

JEREMY ENSZ: (Exhibit 12) Thank you, Mr. Chairman. My name is Jeremy Ensz, J-e-r-e-m-y E as in Edward, n as in Nancy, s as in Sam, z as in zebra. I am the northern division manager for Berexco LLC. We're a private oil and gas producer and operator based out of Wichita, Kansas. For the record we are opposed LB885. As background, Berexco is currently the largest producer of oil in southwest Nebraska and the second largest producer statewide. We maintain a field office in the community of Trenton in

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Hitchcock County. We directly employ 21 Nebraskans with an annual payroll of approximately \$1.2 million. In 2009 we paid over \$600,000 in ad valorem taxes to the counties that we operate in. We're the single largest payer of taxes in Hitchcock County. In 2009 we paid over \$426,000 in severance taxes to the state of Nebraska and \$91,000 of conservation taxes to the state of Nebraska. We spend approximately \$7 million a year and as much of that in Nebraska that we can. We're opposed to the bill mainly because it seeks to dissolve the current oil and gas commission and we believe that the commission is, by necessity, a very specialized agency and neither the state nor us oil and gas operators would be benefitted by seeing it consolidated into a larger, less specialized and probably more bureaucratic organization. You know, both directors have talked about their mission. We agree; we feel that their missions are to...at either end of the energy cycle and too dissimilar to be beneficially integrated. There's no overlap of their workload. There's no stipulated reduction in duties, and so we don't feel that there would be enough synergistic opportunities to justify the creation of a new agency. We operate 364 oil, gas and water injection wells in the state of Nebraska and I interact with the NOGCC on an almost daily basis. They collect and maintain and make public the data about our wells and our leases. Their approval is required before we can drill a new well, re-complete a well, shutin well, plug a well, or inject into a well. They approve all unitization and disposal projects. Those can be very contentious issues involving multiple landowners and operators. The current staff and commissioners, they fully understand the complexities and the legal precedents around those issues. Failure to do so with a less experienced commission could really expose the state to a lot of significant liabilities. Of the eight states that we operate in, Nebraska is the only one where I can pick up the phone and speak directly with the commission and the director. In return, they know that they can call me day or night in the event of an emergency and get an immediate response. As it stands today, I think the NOGCC is a model regulatory agency. It should be the envy of other oil and gas producing states. All the staff and commissioners have significant oil and gas experience. They effectively promote and enforce the rules that strike the perfect balance between encouraging investment, protecting the interest of surface and mineral rights owners and protecting the environment. They manage to do so by working with us rather than to oppose us or delay us. Over the past several years, states like Nebraska and North Dakota have attracted millions of dollars in oil and gas investment and the jobs that go with them that have been driven out of Colorado, Wyoming and Montana for no other reason than the harsh regulatory environment. The proposed bill calls for a five member commission as opposed to the current three members. The bill stipulates that only one of the five commissioners is required to have oil and gas experience. As it stands now, all three of them have the experience and since it only deals with oil and gas, even though only one may be required, in effect they all have the experience and we feel that going to a five member commission over time would probably lose focus on oil and gas and we would not be in favor of that. The bill effectively strips the commission of the technical staff by not allocating funds to transfer from Sidney to Lincoln. It's difficult to foresee how the formation of a new agency that is less experienced and less focused on oil and gas

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could ever benefit the state's oil and gas resources. You know, we applaud the senator's efforts to reduce the number of state agencies, but we just don't see any synergistic opportunities here. I think it's wrong to pass a bill in the hope that it will have those without them being previously identified. I respectfully, but strongly encourage you guys not to let this bill pass and we thank you for your time and consideration. If there's any questions, I'd be glad to answer them. [LB885]

SENATOR LANGEMEIER: Thank you for your testimony. Are there any questions?
Senator Carlson. [LB885]

SENATOR CARLSON: Thank you, Senator Langemeier. Mr. Ensz, [LB885]

JEREMY ENSZ: Yes, sir. [LB885]

SENATOR CARLSON: I'm going to give a little check here on Director Sydow. Does he, in fact, act as your parent and discipline you when necessary? [LB885]

JEREMY ENSZ: Yeah, we have been disciplined before and we've been involved. I've personally been to Sidney a number of times for hearings and, you know, if we do something out of line, most of our oil fields are around the town of Trenton. They have a inspector that lives right there and if we get in trouble, I get a call. [LB885]

SENATOR CARLSON: Okay. Thank you. [LB885]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much for your testimony. [LB885]

JEREMY ENSZ: Thank you. [LB885]

SENATOR LANGEMEIER: Further testimony in opposition of LB885. Welcome. [LB885]

REED GILMORE: Thank you. My name is Reed Gilmore R-double-e-d G-i-l-m-o-r-e and I appreciate the opportunity to appear before you. I think everything, almost everything that I had on my list has already been said and ably so. I live in Omaha; been there two years, but the previous almost 50 years, I lived in western Nebraska, primarily in Kimball. And during that time, probably over 25 or 30 years, I've served on the Oil and Gas Conservation Commission, part of that time as chairman. I retired from the commission in September of last year. I was probably one of the commissioners at times that had the experience in oil and gas and I am opposed to this bill for the reasons that have already been stated. So I'm not going to take up a lot of your time. There is maybe one or two points that I would like to make. You heard from Mr. Sydow, our director, who I think has done an excellent job for us over a fairly long period of time, and his staff is outstanding. The thing that he didn't mention, and I'll embarrass him by

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this, but the...he is also very active on the Interstate Oil and Gas Compact Commission which is a compact that all of the oil producing states in the country belong to. It's chaired each year by a different governor, as I recall, and Bill has taken a very active part with the compact. In fact, he, I think, recently was a vice chairman; I think, maybe immediate past vice chairman and I know that he has chaired and I think still does chair certain committees with the impact. I think he's on the steering committee and possibly the budget committee, but he is an outstanding person and we're lucky to have him. And I'm very happy that he's willing and able to work for us. I think he was raised in Nebraska, as he said, and he's a real asset to us. I think almost everything else has been said here. I might mention one thing, I'm still active with investments in the oil and gas industry and there are two places that I look at for new opportunities. One of them is Nebraska and the reason for that is primarily because of our commission. And I think there is still potential there, as Bill addressed. Of course the other place is Texas, which is where I grew up and was originally from. And I think with that, I don't have anything else that hasn't been said here, but I'd be happy to answer any questions that anybody has. [LB885]

SENATOR LANGEMEIER: Very good. Is there any questions? Seeing none. Thank you very much for your testimony. [LB885]

REED GILMORE: You bet. [LB885]

SENATOR LANGEMEIER: Thanks for coming down. [LB885]

REED GILMORE: Thanks. [LB885]

SENATOR LANGEMEIER: Further testimony in opposition to LB885? Welcome. [LB885]

KEN CURRY: (Exhibit 13) Thank you. Good afternoon. My name is Ken Curry, K-e-n C-u-r-r-y and I appreciate the opportunity to be here. I am the energy efficiency manager for Nebraska Public Power District, but today I'm representing the Nebraska Power Association in opposition to this potential bill. As we know and as you have talked, energy policy is being discussed here, it's nationally, and internationally it's very important. And as you just discussed, the status of the Nebraska Energy Office was raised to a code level agency recently. So the importance exists. I personally have worked with the Energy Office in excess of 20 years; worked on programs with them. Some of them are highlighted there. We have worked on energy audits, we have worked on code training, training of the technical professionals in the state as partners. We view much of what we work towards as the same focus as our Energy Office. One of the programs I would like to highlight, just this last year, NPPD and the Nebraska Energy Office jointly announced a low-interest loan program for 2.5 percent loans for our customers. So in the city of Holdrege, Ogallala, Schuyler, customers throughout our

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service territories can get a 2.5 percent loan for high-efficiency heat pumps and that was through an investment through a partnership with the Energy Office, but an investment of NPPD of a million dollars. The partnership has worked very well and that program is very successful. Director Moseman mentioned Energy Efficiency Conservation Block Grants. Currently we are working very hard with our communities providing technical support in preparation for our communities and counties to apply for those grants. Again, a strong partnership, strong communication and working together, and there's other items listed there. We, as the industry, view the Nebraska Energy Office as a centralized partner that provides consistency and focus for the important topic of energy efficiency throughout the state. They've done a very good job of doing that. On the other hand, we do not work and have not worked with the Oil and Gas Conservation Commission. We view their focus as being, as you've discussed, production of oil and gas, western, southwestern Nebraska. Our concerns would be that the focus of the Energy Office and the mission of the Energy Office may get diluted or mired with a merger and we question the benefits in efficiency and the potential for loss of that focus. So in summary, the Nebraska Power Association does...believes that the Energy Office is meeting its mission and has done a very good job at doing that and we would not support this legislation. With that, are there any questions for me? [LB885]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Curry? Seeing none, thank you very much for your testimony. [LB885]

KEN CURRY: Very good. Thank you. [LB885]

SENATOR LANGEMEIER: Further testimony in opposition of LB885? Just out of curiosity, how many more testifiers do we have? Okay. Thank you. Welcome. [LB885]

DARWIN PIERSON: I'm Darwin Pierson with the Nebraska Independent Oil and Gas Association, spelled D-a-r-w-i-n P-i-e-r-s-o-n. I won't take very long to go into this as most of the points have already been made, but we represent all of the oil and gas operators in Nebraska, of which 99.9 percent are in western and southwestern Nebraska. And they are definitely opposed to moving the state office from Sidney to Lincoln. It's a long ways out there and they like to be able to come directly to the office and do their business there and the office has been very well managed. So that's about all I have to say; everything else has been said. [LB885]

SENATOR LANGEMEIER: Very good. Thank you. Are there any questions? Seeing none, thank you very much for your time and testimony. Welcome. [LB885]

MARVIN CARLSON: (Exhibit 14) Good afternoon. I'm Marvin P. Carlson M-a-r-v-i-n P C-a-r-l-s-o-n living here in Lincoln; a registered geologist and very recently became a Professor Emeritus of the Conservation and Survey Division at the University of Nebraska. When I became a full-time faculty member of the division in 1958, one item

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of discussion was the effective regulation of the petroleum industry in Nebraska. The then director and state geologist for the division was Gene Reed. Mr. Reed joined the division in the 1930s after a career in the petroleum industry. Career-wise, as many of you might know, he became widely acclaimed as having major expertise in the groundwater resources of Nebraska. However, his petroleum background, as part of his career, was also invaluable because oil was discovered in Nebraska near Falls City in Richardson County in 1939. And as the industry developed, Mr. Reed was both a geologic resource with the petroleum industry, as well as representing Nebraska for ensuring appropriate and responsible practices by the industry. By 1958 when I joined the division, activity had expanded across Nebraska and the regulation and management of the drilling and production activity had become a significant part of the division program. Mr. Reed was also uncomfortable with the high level of effort required in regulation, as well as the dual role of being both a resource for geologic knowledge for the industry as well as a regulator, or a sheriff as he often called it. The division took a lead role in creating the statute for the Nebraska Oil and Gas Conservation Commission that went into effect 50 years ago. However, a close relationship with the Oil and Gas Commission was maintained by the state geologist who is the director of our division being named as an ex-officio member of the commission. During my five decades with the division, much of my research and service activity has focused on both providing information for the petroleum industry and then utilizing the data provided by the drilling activity to better understand the older, subsurface geologic history of our state. I've also served as the Governor's appointee, one of the Governor's appointees to the Interstate Oil and Gas Compact Commission mentioned earlier. The economic and environmental record of the petroleum industry in Nebraska has demonstrated the effectiveness of separation, I feel, of the regulation, as well...as opposed to the data interpretation and management from the industry. The potential merging of the Oil and Gas Conservation Commission and the State Energy Office could have the effect of reversing, as you will, the effective roles of both agencies. The success of maintaining separate functions of the commission and our division has demonstrated the importance of maintaining appropriate expertise, separate responsibility and public image in the assigned roles of these state agencies. Because of this importance, I would not support the intent of LB885. It may be noticeable that much of what I said is almost an institutional memory, if you will, so I will leave with you a publication or a report that we put out from our division in 1989, sort of celebrating the 50th anniversary of discovering oil in Nebraska. It covers the process of the resource, discovering the resource, as well as the history of exploration and regulation of the oil and gas industry in Nebraska. And with that I'll respond to any questions you might have. [LB885]

SENATOR LANGEMEIER: (Exhibit 15) Very good. Are there any questions? Seeing none, thank you very much for your testimony. We appreciate it and if you'll just provide that to Barb, we'll distribute it. Are there any other testifiers that would like to testify in opposition of LB885? Seeing none. I have one letter from Michael Carr with MICA, M-I-C-A Energy Corporation in opposition of LB885. Is there any testimony in a neutral

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capacity on LB885? Seeing none. Senator Nordquist has waived his closing as he needed to return to Appropriations. So with that, that concludes the hearings on LB885 and the hearings for the day. We'd like to thank you all for participating. Thank you and have a safe trip back to Sidney. (See also Exhibit 16) [LB885]