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Natural Resources Committee  
November 15, 2011

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[LB4]

The Committee on Natural Resources met at 1:30 p.m. on Tuesday, November 15, 2011, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on AM37 to LB4. Senators present: Chris Langemeier, Chairperson; Ken Schilz, Vice Chairperson; Tom Carlson; Mark Christensen; Annette Dubas; Ken Haar; Beau McCoy; and Jim Smith. Senators absent: None.

SENATOR LANGEMEIER: Good afternoon and welcome to the Natural Resources Committee. My name is Senator Chris Langemeier. I'm the Chairman of the committee. I would like to welcome everyone that is here to participate within the audience and also those that are watching us on closed-caption as well as NETV and the Internet. We appreciate your participation in our process. I would like to start off by introducing our committee members. To my far left or your right we first have Senator Jim Smith from Papillion. We have Senator Ken Haar from Malcolm. We have Senator Mark Christensen from Imperial. We have the Vice Chairman of the committee, Senator Ken Schilz, from Ogallala. We have Laurie Lage is the legal counsel for the Natural Resources Committee. To my immediate right or your immediate left is Senator Annette Dubas from Fullerton. Then we have Senator Tom Carlson from Holdrege; and then we have Senator Beau McCoy from Elkhorn and Omaha. Today we have an assistant committee clerk helping us today, we have Becki Collins from the Education Committee filling in, and we appreciate that as our committee clerk for the day. We do have a page. We have Emily Gilmore from Lincoln will be helping us and so she will help you in passing things out. At this time if you plan to testify before the Natural Resources Committee, in the corner of the room you'll see there are green sheets. We ask that you fill that out in its entirety. And when you come up to testify, we ask that you give that to the committee clerk and so it helps us keep a better record of today's activities. There's also in the corner of the room you'll see kind of a spreadsheet looking form. If you don't care to testify but you want to be on the record as being here in support or opposition to the amendment we're going to hear, please sign in there. You don't have to do both. As you come up to testify, we ask that the first thing you do is tell us your name and spell it for the record. It helps us keep a more accurate record of today's activities for the committee's sake. If you have something you'd like to hand out to the committee, we ask that you have 12 copies. If you know you're short a couple of copies right now, raise your hand and Emily will come and help you get those copies made. If you have something you want us to see, something like a photo or something, if you give it to us we will keep it for the record. So if it's something you want us to see but you want it back, we ask that you show it to us from the table and allow yourself available after the hearing to allow a senator to look at it in more detail if they care to. At this time I would ask you all to look at your cell phone, including me, and make sure it's either vibrate or off so we don't disrupt the individual testifying before us today. With that, again we ask for no public display to any of the comments that are made, either pros or cons to the amendment today. We give the respect to those testifying before you. In the Natural

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Resources Committee, we do use the light system. We allow for three minutes of testimony. Your light will come green when you start, the yellow light will come on to give you a one-minute warning, and then when the red light comes on we ask that you conclude your testimony. And then if you did have something more, the senators are typically willing to ask a question to let you finish that so that has not been a problem to this point. So with that said, welcome, Senator Flood, and we'll start the hearing on AM37. Welcome.

SENATOR FLOOD: (Exhibit 1) Thank you, Chairman Langemeier, members. First of all, I want to say thank you for your committee's work and efforts and patience and all of the thoughtfulness that you've put into this process. My name is Mike Flood, F-l-o-o-d. I represent District 19. As we discussed yesterday, AM37 is an amendment to the standing committee amendment, AM13, and AM37 would strike and replace the committee amendment with some new sections. Section 1 of this amendment is basically some findings that: The state of Nebraska is responsible for protecting its natural resources, ag resources, aesthetics, economy, and communities through reasonable regulation for the common good and welfare. As such, the state is responsible for ensuring that an oil pipeline proposed to be located within, through, or across Nebraska is in compliance with all state laws, rules and regulations relating to water, air, and wildlife under the Nebraska Constitution. (2) the public policy should reflect this responsibility while simultaneously recognizing the necessity for energy use and the economic benefits to Nebraska of transporting oil within, through, or across the state. These findings are in Section 1. Section 2 has some definitions for department, oil pipeline, and pipeline carrier. Section 3 of this amendment is the operative portion of the amendment. Subsection (1) of Section 3 provides express authorization for our DEQ to collaborate with the federal agency or agencies in review under the National Environmental Policy Act or NEPA, involving the supplemental EIS for oil pipelines across Nebraska. It provides in these circumstances the department will enter into an MOU with a federal agency or agencies and sets forth how that process will go. This allows Nebraska to have a substantive say on the new proposed route following TransCanada's voluntary admission willing to move the pipeline out of the Nebraska Sandhills. Subsection (2) of Section 3 says it is the intent of the Legislature that the state fully fund the process of preparation of a supplemental EIS and that no fees be required of an applicant. And here it is my intent that the state fully fund the state process, just the state process, for preparing the SEIS. The state would pay for DEQ costs, including the cost of any vendors hired by the agency or their experts in this area. Also the subsection clarifies that the department shall make every reasonable effort to ensure that each vendor has no conflict of interest or relationship to any oil pipeline carrier that applies for an oil pipeline permit. I want to be very clear on this. When Senator Langemeier and I went up to Stuart and rode around in Cindy Myers' and Connie Weichman's truck and we went around ranch to ranch, they were very concerned about the fact that as part of the federal EIS that TransCanada was paying for the consultants and that TransCanada, as the applicant, was paying for the rental of

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the Atkinson gym. Now that happens to be commonplace in this industry where the costs to permit a project like this are assessed to the applicant. But it didn't sit well up in Holt County. And I think we're...you know, I'm from Norfolk and we enjoy seeing folks from Holt County in our community all the time when we go up their direction. And I picked up with Senator Langemeier, and I don't want to speak for you, Senator Langemeier, but if you pay for it, you know you're getting it done objectively. And what I put forward in this was we'll pay for it because it's our people, our water, our land, our drinking water. If the state taxpayers pay it, we know that we can (1) guard against conflict of interest and that the check is coming from the taxpayers and the taxpayers are the customer. Now TransCanada did not ask me to have the state pay for it. That was never part of any conversation I ever had. I clearly said I think we should pay for it because this is for our people. Yes, it allows you to build a pipeline if you find a route that's environmentally sound and the Governor signs off pursuant to this amendment. But Jerry Warner, and I did not ever have the pleasure of getting to know him, but I've heard from many in this building, especially the staff, that he often said, a former senator obviously, Jerry Warner, if it's important enough to the people, the people should pay for it because we're the customer. And so I know there are those out there right now that are saying the taxpayers shouldn't have to pay. And I bet you \$100 that if I'd have put in there that TransCanada would have to pay that, they would be screaming, TransCanada is buying off state officials. And I'm telling you straight up I think the taxpayers should pay for this because this report belongs to us and it will be objective and it will belong to the people that live along that new proposed route. Subsection (3) of Section 3 waives the competitive bidding requirements in the law. And this was done in order to give DEQ the ability to perform such extensive undertakings in an expedited manner. One of the benefits to the applicant in this case before us currently would be that we didn't have to go out and do the RFP process that could arguably easily add at a minimum 45 to 60 days. This allows us to get into the business of hiring a contractor, one that does not have a conflict of interest, one that works for the taxpayers of Nebraska that can get in and start getting soil samples before the ground freezes. And we all know what's going to happen to our weather in a few months. And finally, subsection (4) of Section 3 provides that after the SEIS is prepared the department submits it to the Governor who then within 30 days shall indicate in writing to the federal agency or agencies involved in the review as to whether he or she approves any of the routes reviewed in the SEIS. And I want to be very clear. If you're in the Sandhills right now and you watched NET2 today and you saw us debating LB1 from Senator Dubas, what we're talking about here is a two-step process. AM37 to LB4 is the specific process in this case that would apply to TransCanada's Keystone XL. They would make an application. They would essentially work with the DEQ, TransCanada would, and the DEQ would work with the Department of State and EPA and the NEPA process to complete a supplemental EIS. And then the Governor of this state has to authorize in writing that he believes this is a good route. So the State Department gets what they want. They get a letter from the Governor of this state if there's a route that is acceptable to him and it has been vetted through the

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supplemental EIS process so they know that the people of Nebraska have had a role. And the other thing I want to say is part of this supplemental EIS process there are public notices, there are public hearings, there are all those public comment opportunities in a transparent process. And I think that's a necessary step. And then if you're in the Sandhills today and you say, well, what about that other bill? The other bill is Senator Dubas' and the reason we need to pass that is it sets up a long-term plan on how we deal with the next oil pipeline so that we never have to live through this nightmare again. Sections 4 through 6 harmonize existing statute, and Section 7 adds the emergency clause so this becomes immediately effective. Mr. Chair, with your permission, it gives me great pleasure to announce if you would permit the next three people that testify, Bruce Boettcher from Bassett is here. I've been talking to him out in the hall, and he's got something good to say. He wants to share it with you. Mr. Robert Jones from TransCanada is here, wants to comment on this. And it gives me great pleasure to say that Ken Winston from the Nebraska Sierra Club is going to be a proponent of this amendment and will be testifying. If that would work for you, I believe it would allow the committee to kind of understand where I think we're going in this matter. [LB4]

SENATOR LANGEMEIER: Very good. Are there any questions for Speaker Flood?  
Senator Dubas. [LB4]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you so much, Senator Flood, for what you...the work you've done on this. And you and I had a conversation this morning and I know you've laid out how this amendment is going to work. But I think we really need to let our citizens know and understand the process. It's confusing for those of us sometimes on the inside, so I think we really...we can't state enough clearly, you know. There's still those concerns from the citizens. How do we assure that there's accountability and transparency and that TransCanada isn't just getting a free pass? And, yes, they've said they'll do these things, but how do we assure that that process is going to happen? [LB4]

SENATOR FLOOD: Well, the burden is really on TransCanada because at this point they have to identify a route or routes that they think are viable from their standpoint and would survive a supplemental EIS. And then at the same time DEQ has to reach out to the federal agencies and execute an MOU. When the MOU is done and when TransCanada, with the cooperation of DEQ, looks at some potential routes and puts that in place and talks to citizens, then there are public comment periods, public notices that put people on alert as to what's going on. And then ultimately the people in this state have to convince one person, that being Governor Dave Heineman at this current time, that this route is in the best interest of Nebraska or it's not and he has to certify in writing. So they're getting exactly what they had...what AM37 does, it takes the very concepts that Senator Langemeier put together. And I believe Senator Langemeier put that together because he recognized we had to have a process that would move

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quickly, you know, to avoid litigation in this matter. And I tried to take the very best of his bill and put the supplemental EIS in there so the process can move along. At the end of the day there will be a transparency, there will be accountability, and there will be an answer and an elected official will make it. And I think that's what they want. And if they turned the TV on today and they saw us talking about LB1 and not...and exempting this existing project, I just would remind them that's the long-term solution so that we know when we go to bed on December 25 if the new executive order is signed by President Obama that that pipeline will go through that formal process. But it will take a while to get the rules and regs put together. [LB4]

SENATOR DUBAS: So our citizens will again have the opportunity to weigh in on this project through this. [LB4]

SENATOR FLOOD: Absolutely. [LB4]

SENATOR DUBAS: Thank you very much. [LB4]

SENATOR LANGEMEIER: Senator Smith. [LB4]

SENATOR SMITH: Thank you, Chairman Langemeier. Speaker Flood, you made a point to underscore that the state will only fund the state process in this. And can you explain what that meant and have you any general sense as to what the magnitude of that is? [LB4]

SENATOR FLOOD: Well, I didn't want the state...you know, the state is not going to buy...I mean talking about the supplemental EIS, and I thought if there was remediation required, you know, at a site, you know, the burying beetle, I didn't want the state to be paying for that. I didn't want the state to be paying for, oh, a different route, easement, or something like that. I just want to make it clear that we're going to pay for the contractors and vendors to meet the obligation under the NEPA process, which means we'll probably have to hire...we will have to hire an environmental consultant to do the environmental work and the engineering and that kind of stuff. And you'll probably have to hire a vendor that accepts public comment, you know, because on the federal level they had 400,000 public comments made under the FEIS that was just authorized by the State Department. So, you know, we'd probably have to hire some vendors to do some of those things in this situation. When I was talking to TransCanada about this, I said, do you think this is going to cost the taxpayers \$5 million? They said if it costs \$5 million, something has gone really wrong. I mean I think Mr. Linder at DEQ is working on it. What I've said is it's above \$1 million, I guarantee you that. How much far...how far above I don't want to prejudge it until Mike Linder at the DEQ sends over to our Fiscal Office a prediction of that. [LB4]

SENATOR SMITH: Thank you. [LB4]

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SENATOR LANGEMEIER: Senator Christensen. [LB4]

SENATOR CHRISTENSEN: Thank you, Chairman Langemeier. Thank you, Speaker Flood. I got to ask a question of why don't we just leave this as our policy instead of adding LB1 with this? I don't know if I could answer that very well. Could you give me your answer to that again. [LB4]

SENATOR FLOOD: Well, this has been such a nightmare to go through for our entire state. I think the benefit of LB1 in addition to LB4 and LB1, again, is Major Oil Pipeline Siting Act from Senator Dubas, is that we get that in process and have the PSC, in my opinion, do the rules and regs so we have a very formalized seat at the table the next time a pipeline...I don't know. Somebody could ask for an executive order and get one for a new pipeline project February 1. And I wouldn't want to be scrambling around at the end of April putting together a bill so that we're continually getting chased by these projects. I'd like just to get it over with, get it in place, let the Public Service Commission prepare the rules and regs so that when the next pipeline project shows up our citizens have a clear outline of what their opportunities are to weigh in and that our agencies will have a formalized process to interact with the federal government. If I were an oil pipeline company after going through this in Nebraska, I'd want this on our books. Show me what the rules are, tell me what hoops I have to jump through, tell me, you know, where I have to go to these public hearings, and tell me what you want me to do and let's get through this. And as a citizen I think, you know, because we didn't have anything in place it made it...it took a lot more time from the citizens than it should have. I don't know if that answers your question, but that's my reason. [LB4]

SENATOR CHRISTENSEN: Thank you. [LB4]

SENATOR LANGEMEIER: Senator Carlson. [LB4]

SENATOR CARLSON: Thank you, Senator Langemeier. Speaker Flood, since 1:30 yesterday afternoon there's a lot of activity that's occurred around here. And after all that testimony last week, and we have people watching today so I'm going to ask you two questions. And for my benefit as well as those that are watching, what makes this not a piece of special legislation that pertains only to TransCanada? [LB4]

SENATOR FLOOD: You mean this AM37? [LB4]

SENATOR CARLSON: Yes. [LB4]

SENATOR FLOOD: Well, I wrote it very specifically. It gives...it's a "may," it gives the department the authority to, if they want, enter into a MOU with the federal government. So as long as this stays on our books, if we run into another situation where the state

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sees the value in conducting its own supplemental environmental impact statement on an oil pipeline, we have the same authority but they'd probably have to fund it again because...and I assume we're only going to fund it for one project. I don't think it's special legislation because it would be an open class to anybody that wants to do this. Obviously, there's only one right now. I get that. At the same time, I think the DEQ has the inherent power and they do all the time enter into MOUs with federal agencies to conduct environmental reviews. So I think that power exists inherently, but we're appropriating it and we're also laying some guidelines down about conflict of interest which I think are valuable. [LB4]

SENATOR CARLSON: Does the wording "may" then make the DEQ the department that triggers this activity, or...? [LB4]

SENATOR FLOOD: Yes. [LB4]

SENATOR CARLSON: And if somebody requests it, it's still up to DEQ whether or not... [LB4]

SENATOR FLOOD: To do it. [LB4]

SENATOR CARLSON: ...this study is conducted? [LB4]

SENATOR FLOOD: Right. [LB4]

SENATOR CARLSON: Okay. Thank you. [LB4]

SENATOR FLOOD: And I didn't want to do "shall" because I thought that would be constitutionally suspect. I mean I think DEQ has the ability to say yes they'll do this or no they won't. And that's why I got the letter from Mike Linder in your packet yesterday. [LB4]

SENATOR CARLSON: Okay. My second question had to do with what triggers it and you've answered that so thank you. [LB4]

SENATOR FLOOD: Thanks. [LB4]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much. [LB4]

SENATOR FLOOD: Thank you. [LB4]

SENATOR LANGEMEIER: Now we will move on to proponents of AM37. Welcome back. [LB4]

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BRUCE BOETTCHER: Bruce Boettcher, B-r-u-c-e B-o-e-t-t-c-h-e-r. Yes, I support Senator Flood's AM37 that the Nebraska pay for their part of this study so that we can say that this study is ours. And as the Department of Environmental Quality moves forward, I'm in hopes that Keystone XL not be placed in sand-type soils with high water concentration consistent with the Sandhills and the same characteristics as the Sandhills. They are the recharged part of this aquifer. This pipeline be placed in clay-based soils to help in keeping leaks and spills minimized. The best solution would be place it next to a Keystone I, and as many have testified over the last three months, that that's where their wish is in. If TransCanada is really concerned for the Nebraska citizens, I would think that they would honor this request. And I asked Robert Jones to have a tour with us whenever it works for him. [LB4]

SENATOR LANGEMEIER: Very good. Are there questions? Senator Dubas. [LB4]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Boettcher. Can I ask you a question? [LB4]

BRUCE BOETTCHER: Oh, excuse me. Sure. [LB4]

SENATOR DUBAS: I know you're ready to get out of here. You've been here a long time. (Laughter) [LB4]

BRUCE BOETTCHER: Yeah, I want to go home and do some work, let me tell you. [LB4]

SENATOR DUBAS: I know you're all ready to go back to your work and I certainly can appreciate that and I do appreciate all of the efforts that you have put into this. But I've been hearing from some of your friends and neighbors back home who are concerned the question that I asked Speaker Flood about is this giving TransCanada a free pass. You're here today in support of what this amendment is going to do to the bill. When you get home, what are you going to tell your friends and neighbors as far as your level of confidence that their particular issues are going to be addressed? [LB4]

BRUCE BOETTCHER: Well, I guess that to me that lays with TransCanada. And I hope they don't let these people down. I guess that's how I'm going to answer that. [LB4]

SENATOR DUBAS: Do you feel that, though, through the amendment that we're putting the appropriate mechanisms in place so again there will be public hearings, there's going to be an opportunity for you as citizens to weigh in and... [LB4]

BRUCE BOETTCHER: Yes, yes, yes, I do. [LB4]



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SENATOR DUBAS: And so there's going to be a certain degree of accountability through that. [LB4]

BRUCE BOETTCHER: Yeah, yeah. Yes. And, you know, I'm sure I'll probably weigh in myself even though it's out of my area because I still am concerned for this water no matter where it's at in this state. It's a natural resource that we cannot abuse. And so, yeah, I'll probably be here the next time too. [LB4]

SENATOR DUBAS: All right. Well, thank you again for coming. [LB4]

BRUCE BOETTCHER: You bet. [LB4]

SENATOR LANGEMEIER: Are there any...Senator Carlson. [LB4]

SENATOR CARLSON: Thank you, Senator Langemeier. Thank you, Bruce, for coming. You and I had a little conversation last night, and I appreciated what you said that you were told that you are the second house in the state of Nebraska. And you testified; your feelings have been evident, but you've done it in a good way. And do you believe that the people are the second house in Nebraska? [LB4]

BRUCE BOETTCHER: Yes, I do. [LB4]

SENATOR CARLSON: Okay. [LB4]

BRUCE BOETTCHER: I just...it's too bad we got to holler as loud as we do sometimes, you know. So, yeah, yeah, I do believe we are the second house. [LB4]

SENATOR CARLSON: Yeah, good, thank you. [LB4]

BRUCE BOETTCHER: You bet. [LB4]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much. Well done. [LB4]

BRUCE BOETTCHER: You bet. [LB4]

SENATOR LANGEMEIER: Further testimony as proponents. Ooh, that was risky. [LB4]

ROBERT JONES: (Exhibit 2) I've been here so often I'm pretty sure it's supposed to be on that angle. Good afternoon, Chairman Langemeier, members of the Natural Resources Committee. My name is Robert Jones, J-o-n-e-s, representing TransCanada Keystone Pipeline L.P., a U.S. company headquartered in Houston, Texas, with U.S. field operations headquartered here in Omaha, Nebraska. I am responsible for the

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implementation and development of the Keystone pipeline system, and I am testifying in support of AM37 to LB4. We appreciate the willingness of the Legislature to consider this legislation which would create a process for an additional review of the proposed Keystone pipeline route through Nebraska, and we encourage approval of the bill as amended. TransCanada has been working on developing the Keystone XL pipeline project for over four years. While we remain confident we would have built a safe pipeline along the original route approved by the U.S. Department of State in the FEIS, the State Department's decision last Thursday has provided us with an opportunity to revisit the route through the state of Nebraska. The Legislature is acting quickly to allow the state to play a key role in that reroute review process. We understand the position of the Nebraskans in the Legislature as reflected in AM37 that the revised route avoid the Sandhills, and we are working to do just that. AM37 will provide a process for the state of Nebraska to work with the U.S. Department of State and oversee the selection of a new route for the project and in Nebraska that will avoid the Sandhills. We look forward to working with the State Department, the Department of Environmental Quality, and Nebraskans on this effort. We are pleased that AM37 calls for the work to be done in an effective and timely manner. We are ready to provide the agency the information it is required to move this review process forward. TransCanada has been part of Nebraska for the past three decades. We will continue to be part of this great state for decades to come. We appreciate the support that many Nebraskans have given us over the past three years and we look forward to working with many others as a new route through Nebraska is finalized. You know, siting a pipeline requires proponents to balance competing interests and priorities, and collaborating with the state of Nebraska's DEQ will help ensure the success of this project. The safe and reliable operation of our pipelines and other energy infrastructure has been TransCanada's priority for over 60 years. We will continue with our mission to build, operate a safe and reliable interstate crude oil pipeline so we can strive to increase our energy's security and put thousands of construction workers back to work. With that, I want to thank specifically Chairman Langemeier and all the members of the Natural Resources Committee over the past few weeks. I also want to single out Speaker Flood for his leadership. Thank you. [LB4]

SENATOR LANGEMEIER: Are there any questions for Mr. Jones? Seeing none, thank you very much. I think that's a first. [LB4]

ROBERT JONES: Many firsts. [LB4]

SENATOR LANGEMEIER: Further testimony as proponents to AM37. Welcome. [LB4]

KEN WINSTON: (Exhibit 3) Another first. Ken Winston representing the Nebraska Sierra Club, last name spelled W-i-n-s-t-o-n. Today's hearing on AM37 to LB4 marks an historic occasion for Nebraska. The Nebraska Sierra Club has worked long and hard to achieve two goals: rerouting the proposed TransCanada pipeline out of the Sandhills and establishing a framework to determine routing of oil pipelines. The announcement

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last evening that TransCanada would seek a new route that avoids the Sandhills represents the first stage of that process. AM37 would provide the legislative framework for another part of that process. I'd like to recognize some of the people who have made this possible. In particular, I want to recognize Speaker Flood and Chairman Langemeier for their work. I also want to recognize Senator Haar for calling for a special session when most people thought it was like Don Quixote, jousting at windmills, but he kept at it. And I want to recognize Senator Dubas for introducing legislation and seeing that it was crafted and redrafted. I also want to thank our United States senators and our Governor for stating their concerns about...in this area and our Governor for calling this special session. But in particular I want to recognize the people who have spoken out over and over on this issue. Their messages have come from research and from their own experiences. They've been both honest and eloquent. I believe that the agreement announced by Speaker Flood represents the fact that their messages have been heard. However, I do have some concern because of that fact that everything is happening here so fast. And I hope that the committee and the Legislature does take into account if the people come forward and say we have concerns that still need to be addressed, we hope that those are heard. The Nebraska Sierra Club is particularly interested in the state environmental impact process. We support this concept because we believe the state and local officials have unique perspectives and knowledge about Nebraska resources, and it's beneficial for them to provide input into this process. We also support it with the understanding there will be full opportunities for public input, and we will encourage the public to participate to the fullest extent possible. We support a process that avoids any appearance of conflict of interest with our understanding that this will not diminish funding for any other natural resources or environmental program. We hope that passage of effective routing legislation for oil pipelines will enable all parties to change their focus regarding state policies, particularly, we'd like to focus more on energy efficiency programs. However, we also want to state that we have...that there are issues that we will continue to bring to the Legislature regarding oil pipelines. Specifically, we continue to stand with and support all landowners who may have been threatened by eminent domain or felt intimidated by this process and will continue to support them until these issues are resolved, either through legislation or the legal process. We continue to support public policies that protect the financial interests of Nebraska landowners and taxpayers, including both financial assurance provisions and clarification of liability issues. Mr. Chairman, could I finish? I have... [LB4]

SENATOR LANGEMEIER: Yeah, finish up. [LB4]

KEN WINSTON: We are committed to working with the committee and all interested parties to craft the best possible legislation in this area and continue to be engaged in that effort. Finally, seeing the participation of thousands of Nebraskans throughout this process has consistently made me proud to be a Nebraskan. Seeing our Legislature pass legislation that responds to their concerns and finds solutions to significant public policy issues would increase that pride. We ask the advancement of AM37 to LB4. [LB4]

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SENATOR LANGEMEIER: Very good. Are there any questions? Senator Christensen. [LB4]

SENATOR CHRISTENSEN: Thank you, Chairman. Thank you, Ken. You stated that your stance is to move the pipeline in Nebraska and that you support it from there. Correct? [LB4]

KEN WINSTON: We support moving the pipeline, correct. [LB4]

SENATOR CHRISTENSEN: Federally are you going to be working with to stop the pipeline? [LB4]

KEN WINSTON: Here is what we're going to be doing in the state of Nebraska. Just as I said, we're going to change our focus. I don't know what the state chapter is going to be focusing on. The national organization is going to continue to oppose the pipeline. I do not know what the focus of the chapter will be. As I told a reporter earlier today, it's kind of like asking Bo Pelini in the fourth quarter of the Penn State game what he thought about Michigan. We haven't determined where we're going from here. [LB4]

SENATOR CHRISTENSEN: So you can't stand up and say you're going to remove all of the signs that says stop TransCanada and encourage others to do so now that we're working on this agreement? [LB4]

KEN WINSTON: Well, here's where I'm coming from. I...there's some perception that Ken Winston or the Sierra Club have somehow fomented a bunch of concerns among people, and I don't think that's the truth. I think we've raised some concerns, but I think it's been more us responding to people who have come to us and said, we're concerned about this. Can we get information? Would you present information to us? So I can't...I don't even know...I mean, when I drive around town, I don't know who these people are. I'm not going to jump out of my car and run and knock on their door and say, hey, would you remove your sign. I don't know who these people are. I think it would be improper for me to do that. [LB4]

SENATOR CHRISTENSEN: Well, I understand that. But when the stance has been to stop the pipeline, I feel like you've evaded the question saying that you don't know what you're going to do nationally on this issue so it's like saying, well, we can...you can pass this but we may still fight you. And... [LB4]

KEN WINSTON: We...I'm sorry. [LB4]

SENATOR CHRISTENSEN: ...you know, that is difficult on my end to try to work with this and move it forward if everybody out here is saying, yes, we want it moved but then

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immediately going to turn around and fight it. [LB4]

KEN WINSTON: Here's what I can tell you. The national Sierra Club's policy is in opposition to the pipeline in any shape, manner, or form. [LB4]

SENATOR CHRISTENSEN: I know that. [LB4]

KEN WINSTON: I don't...I can't tell you what the chapter's activity will be in the future on this issue. And that's the honest truth because I don't know where we're going to go. My...if the routing legislation, we will not be back to ask for anything else because the main thing that I want to emphasize is that we're here asking about state policy. What happens on the federal level with the national organization is a different thing. I'm trying to be as straightforward with you as I can, Senator. [LB4]

SENATOR CHRISTENSEN: But my concern comes in what's the Nebraska chapter going to do, you know? Are we going to be in full support now or are we going to still be in reservation? [LB4]

KEN WINSTON: Oh, well, Senator, the Nebraska Chapter of the Sierra Club is not going to be cheerleading for oil pipelines under any circumstances. But we believe that passage of this legislation and the action to move the pipeline out of the Sandhills is a significant step and we are celebrating that. As someone said last night, we would be popping corks of champagne, we certainly will be because we've been working long and hard on this. [LB4]

SENATOR CHRISTENSEN: Thank you. [LB4]

SENATOR LANGEMEIER: Senator Carlson. [LB4]

SENATOR CARLSON: Thank you, Senator Langemeier, and thank you, Ken, for testifying. Certainly your group is in support of AM37 on LB4. Do you agree that LB1 the way it was debated this morning, and there may be some changes on LB1 by Select File, but do you agree that LB1 has no provision in there for future pipelines being prohibited from being put in any place in Nebraska? [LB4]

KEN WINSTON: It has...I'm trying to answer this as clearly as I can, it does have provisions about unusually sensitive areas. And so I'm...but it doesn't specifically exclude any specific area. That's correct. [LB4]

SENATOR CARLSON: Okay. Okay. And I think that's important to have that understanding before a decision is made on whether or not to support a bill. But as I read LB1, that is the way it reads and I wanted your opinion on that. Thank you. [LB4]

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KEN WINSTON: Thank you, Senator. [LB4]

SENATOR LANGEMEIER: Seeing no other questions, thank you very much. Well done. [LB4]

KEN WINSTON: Okay. Thank you. And I think that you and Speaker Flood should maybe volunteer to work for the NBA and get the season started so. [LB4]

SENATOR LANGEMEIER: Well, there you go. [LB4]

KEN WINSTON: Just a little moment of levity here so. [LB4]

SENATOR LANGEMEIER: That would be a duck out of water there for both of us I think. Further testimony as a proponent to AM37. Come on up. [LB4]

ROMA AMUNDSON: Okay. [LB4]

SENATOR LANGEMEIER: Welcome. [LB4]

ROMA AMUNDSON: Good afternoon, Chairman Langemeier, members of the Natural Resources Committee. My name is Roma Amundson. I'm a retired brigadier general for the Nebraska National Guard. My last assignment was as the Assistant Adjutant General. [LB4]

SENATOR LANGEMEIER: I need to stop you there. I need you to spell your name for me. [LB4]

ROMA AMUNDSON: That's exactly right. I'm sorry. A-m-u-n-d-s-o-n. And I'm speaking as a concerned citizen, having spent 33 years in the military. I'm very much concerned about the national security implications of the XL pipeline. I support the construction of the Keystone XL pipeline expansion in the United States on the basis of American national security. Our national security is threatened by our dependency on foreign oil. I believe Keystone XL is a step in the right direction to address this, and I am very happy to see that AM37 to LB4 is now being debated. Our dependence on foreign oil subjects the United States to foreign interests. We rely on ten foreign countries to import 75 percent of our oil supply: Saudi Arabia, Venezuela, Nigeria, Iraq, Angola, Canada, Mexico, Algeria, Brazil, and Kuwait. Venezuela, the fourth largest supplier of oil to the United States, is openly hostile to the United States. When Chavez engaged the United States in Iran policy, we were forced to consider his position. Saudi Arabia, on the other hand, also gives financial supports to groups with Islamic fundamentalist ties. Canada and the United States share cultural, political, and economic interests. It should go without saying that our national security is enhanced as we meet our energy needs by partnering with our allies rather than hostile nations. I recognize that this has been a

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very long and a difficult process, particularly for your citizen legislators who are called into a special session. I appreciate the challenge of balancing good stewardship of Nebraska's natural resources with the issues of economic, energy, and national security. I want to thank you all for your service and your dedication to a process which has produced a workable solution. This is a win for Nebraska and it is most definitely a win for America and for our national security. Thank you. [LB4]

SENATOR LANGEMEIER: Well done. Are there any questions? Seeing none, thank you. Well done. [LB4]

ROMA AMUNDSON: Okay. [LB4]

SENATOR LANGEMEIER: Further testimony as a proponent to AM37. Welcome back. [LB4]

RON KAMINSKI: Thank you, sir. Good afternoon, Chairman Langemeier and Senators in the Natural Resources Committee. My name is Ron Kaminski, last name spelled K-a-m-i-n-s-k-i, and I am here today representing Laborers Local 1140, Laborers International Union of North America, Omaha and southwest Iowa building and trades, and Lincoln building and trades in supporting AM37 to LB4. First of all, I can't really count how many times I've been in front of you guys testifying in support of this project, but I would like to thank you from the bottom of my heart for all the work you guys have done to come up with the common-sense solution to the problem that we faced. I would also like to thank TransCanada for their willingness to reroute this project. It is a lot of things that are playing into this process, and I'm glad that regardless, TransCanada has chosen to reroute this project. And I would like to thank everyone here for working to come up with a solution to get Nebraskans back to work. I hope that with TransCanada's willingness to reroute the Keystone XL in Nebraska that all senators, including yourselves, will lead on this issue so we can get Nebraskans back to work as soon as possible. I would like to thank you for your time and all your hard work and commitment to this issue. And that's all I have. [LB4]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much. Well done. [LB4]

RON KAMINSKI: Thank you. [LB4]

SENATOR LANGEMEIER: Further proponents. Mr. Whitehead, welcome back. [LB4]

MARK WHITEHEAD: It's good to be back, Senator Langemeier. My name is Mark Whitehead, that's W-h-i-t-e-h-e-a-d, and as you just alluded, this is several times I've been before you. I'm representing the Nebraska Petroleum Marketers and Convenience Store Association. We've been involved with this process principally because the

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pipeline represents safe, reliable, and economical fuel to each one of our members across the state. And pipelines such as this is critical to our efforts to deliver that to our end customer. As soon as we can get API off of this issue, maybe we can get them to get some diesel fuel to some of our customers across the state so that will be a good scenario. With that, I'd like to thank Senator Flood and TransCanada for what we consider to be a fair and a very reasonable compromise to a very difficult situation. Seeing the bill and the way it's kind of structured as well, I think you may recall from your notes from previous testimony wearing a different hat I've had the privilege of being a 20-year member of the Environmental Quality Council for the state of Nebraska and worked closely with the Department of Environmental Quality. I've got a tremendous amount of respect for Mike Linder and the department. I've dealt with them personally from both a regulated company as well as being on as their Environmental Quality Council. I spoke with them briefly this morning about this particular issue, and I think he's got a tremendous amount of confidence that they can do what is required on this. And based on my experience with the council and with the department, I've got a tremendous amount of respect for their work. Certainly my testimony here is not a reflection of anything coming from the department or from the Environmental Quality Council. I'm just stating that as comments from myself personally. I'd be glad to answer any kind of questions you might have. [LB4]

SENATOR LANGEMEIER: Are there any questions for Mr. Whitehead? Seeing none, thank you very much for your testimony. Welcome. [LB4]

BARRY KENNEDY: Senator Langemeier, members of the Natural Resources Committee, my name is Barry Kennedy, B-a-r-r-y K-e-n-n-e-d-y. I am a registered lobbyist and the president of the Nebraska Chamber of Commerce and Industry. Nebraska Chamber of Commerce and Industry has testified previously in support of the TransCanada XL pipeline, and we're here today in support of AM37 to LB4. I, too, want to add my thanks to Speaker Flood and also to you, Senator Langemeier, and the entire committee for your diligence and hard work on this issue. Also want to commend and thank TransCanada for staying the course with Nebraska. This has a unique opportunity of creating jobs and helping to grow our economy. Canada is without question one of the most dependable trading partners both for Nebraska and the United States in general, and there's a lot of implications here from an economic standpoint, a security standpoint, and a wide array of others. So with that, I would certainly entertain any questions you may have. [LB4]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Kennedy? Seeing none, thank you very much. Further testimony in proponent of AM37. Seeing none, is there anyone who would like to testify in opposition? Come on up. Do you have a green sheet, a testifier sheet? [LB4]

EMILY McKEONE: Oh, sorry. [LB4]



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SENATOR LANGEMEIER: No, go ahead. You can get it afterwards. [LB4]

EMILY McKEONE: Okay. [LB4]

SENATOR LANGEMEIER: Just state and spell your name really slow so we make sure we get it right. [LB4]

EMILY McKEONE: Okay. It's Emily McKeone, E-m-i-l-y M-c-K-e-o-n-e. First, I want to thank you all for your effort and your work to find a bill that's best for the citizens of Nebraska. I oppose the idea that Nebraskans should foot the bill for a supplemental environmental impact statement. The federal government has already issued an executive order to complete an environmental impact statement. It is concerning that now TransCanada is willing to work with Nebraska to reroute around the Sandhills although previously...they previously informed us that that was impossible. It is not in Nebraska's best interest to use our tax dollars to speed up the federal government's process when the decision for the Presidential Permit has already been delayed until 2013. There is little evidence that this pipeline will benefit Nebraska. No one has confirmed that this will not raise Nebraska's gas prices. This pipeline will certainly leak because we witnessed that from Keystone I, and TransCanada's job numbers are skewed. What has been evident to Nebraska's relationship to TransCanada is the bullying of landowners by threats of eminent domain and the years of worry and stress that eventually led Nebraskans to pay \$10,000 a day for a special session. As a citizen of Nebraska, I will demand to see the agreement between TransCanada and the state of Nebraska and to be sure it's legally binding, not just voluntary and that the language of the agreement is available to the public. Although TransCanada has volunteered to move the route out of the Sandhills, there's been little discussion about whether or not this will still be directly above or in some cases through the Ogallala aquifer. As stated in Dubas' bill, LB1, Section 3, the groundwater in Nebraska will become increasingly valuable, both economically and strategically, as the population of the world grows. I realize that this bill will not apply to Keystone XL, but if it is in our future legislation, I ask that we should strictly enforce this on the current Keystone XL route so...to demand that they also avoid the aquifer as well as the Sandhills. I find it difficult to judge the current situation without being able to review the language of the agreement between the state of Nebraska and TransCanada. You know, what I've seen with TransCanada's history is misleading information, manipulation, and harassment of Nebraska. And that's all. [LB4]

SENATOR LANGEMEIER: Very good. Are there any questions for Emily? Seeing none, thank you, but I do need you to grab one of the green sheets, if you'll fill that out and bring that forward. Is there anyone else that would like to testify in opposition? Seeing none, is there...oh, did you want to...okay. Is there anyone that wants to testify in a neutral capacity on AM37? Seeing none, Senator Flood is recognized and waives his closing. So with that, that concludes our hearing today for AM37. We'd like to thank

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everybody that came and participated. This is your part of the process. Thank you. (See also Exhibits 4 and 5) [LB4]