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Urban Affairs Committee
February 18, 2014

[LB823]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 18, 2014, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB823. Senators present: Amanda McGill, Chairperson; Sue Crawford, Vice Chairperson; Brad Ashford; Colby Coash; Russ Karpisek; Bob Krist; and Scott Lautenbaugh. Senators absent: None.

SENATOR MCGILL: Oh, just wanted to make sure, is there anyone in here thinking this is the Agriculture hearing, because that is downstairs. Yeah, I know we switched rooms. We didn't realize we were going to still have hearings on this date, and Ag thought they were going to have a big turnout, or bigger than this room would be adequate for. So we went ahead and switched with them. I'm state Senator Amanda McGill; I chair the Urban Affairs Committee. Welcome to our last official hearing of the committee. The senators that we have here with us are Senator Bob Krist to my right; Senator Sue Crawford; my research analyst, Laurie Holman; my committee clerk, Katie Chatters; Senator Colby Coash; and Senator Scott Lautenbaugh. The others may be coming and going, as myself; I will be coming and going; I have a bill up in Education soon. So if you see people coming and going, they're not being rude, they just have other bills and commitments throughout the afternoon. I would ask that you turn off your cell phones or put them on vibrate to make sure that those aren't going off during the hearing. They interfere with the audio recording of the hearing itself, and we need transcribers to be able to hear conversations. When you come up to testify, there are forms for you to fill out letting us know who you are, for the record. And when you come up, you also need to say and spell your name for us audibly into the microphone. And make sure you're talking into that as you're giving the testimony, again, for the benefit of the transcribers. Beyond that, we're going to use the light system today; you'll be given five minutes. We have made an arrangement with the representative from MUD to go a little beyond that with the information that he's presenting. And if you feel like you do have more than those five minutes' worth, the committee is here to also ask questions to give you a little more time if that is necessary. And, with that, I think we are good to go, and we can open with Senator Lautenbaugh. I mean, he is the bill of the day (laugh), LB823. Go ahead, sir.

SENATOR LAUTENBAUGH: Madam Chair and members of the committee, my name is Scott Lautenbaugh, L-a-u-t-e-n-b-a-u-g-h. I introduced this bill, and I think I was very clear at the time why I introduced it, and I've tried to be very clear in my comments publicly. I think I did a press release at the time laying out exactly why I did it. And, you know, one of the senators on the committee here said, well, gee, you brought a lot of supporters with you today. That is not the case. I don't know that there will be anyone other than me testifying in favor of this bill. And I am not, you know, delusional; I don't know that this bill...I don't expect this bill to actually advance in its present form or necessarily in any form this year or perhaps maybe even possibly as an interim study.

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This was not brought because I looked at MUD one day and thought, they're doing a terrible job, we should privatize MUD. That's not the issue. MUD has never been the issue with this bill. I suppose I should start over now. (Laughter) [LB823]

SENATOR MCGILL: The press just walked in the room, for the record. [LB823]

SENATOR LAUTENBAUGH: Yes. To be clear, MUD has never been the issue with this bill. But Omaha faces significant issues, significant financial issues. We have the ongoing sewer separation project that is federally mandated. That will cost us between \$1 billion and \$2 billion to complete. It is underway, ongoing, and I don't think we know what the final tab will be. That cost has started showing up in sewer bills, but it is not paid for yet, and, you know, the full cost of it is not showing up yet. We have a tremendous unfunded pension liability...underfunded pension liability in Omaha. Depending on what assumptions you use, estimates put it over \$1 billion. Some put it under \$1 billion, but that's just the underfunded portion of it. That has a real cost for the city's future. It affects our bond rating, credit rating, ability to borrow funds into the future. It affects our attractiveness for incoming businesses, which affects the future of the city. I mean, I can't put it any more plainly than that. And I'm not telling you anything that this committee isn't fully aware of. Looking beyond that--a topic that you're probably tired of hearing me talk about this session so far--the Omaha Public Schools has tremendous needs regarding technology investment, technological infrastructure needs, if you will. They've been doing a lot of studies, the new board has, regarding what it would take to bring them up to snuff compared to other schools. And I think they've found in recent years too much of their investment has been on an ad hoc basis, on a school-by-school basis, without much of a plan, to the point where they find themselves in a tremendous hole, with not a lot of capital improvements, technological and otherwise, in many, many, many of their buildings, to the point where they're looking at a hundreds-of-millions-of-dollars shortfall or need for investment in the future just to allow them...on the one hand, we expect them to perform and want them to perform well, and we compare them to other districts, and we compare the state to other states. They have to have the same tools. And it's one thing to talk about what's gone wrong in the past, but we have to acknowledge that we have to go forward somehow. And if you add all these numbers up, you come up with a staggering number around \$3 billion, give or take, depending on what assumptions you use and how these things all play out. So I looked around to see where we might find \$3 billion. And there are not a lot of encouraging answers for that. A \$3 billion tax increase has obvious downsides for the future of the city, future growth: again, discourage future investment, future businesses relocating in Omaha, future business growth in Omaha, etcetera, etcetera. And I looked at MUD. This is not a perfect solution. There is no good solution to this tremendous hole the city finds itself in. And again, many have argued or pointed out, well, it's so-and-so's fault, or it's, you know, you should have done this, you should have done that in the past. I think I put in the press release that if you're of a voting age and you have a mirror, you can identify someone who's at fault for this if you live in Omaha, because

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we've all probably taken our eyes off the ball and let things go to the point where we find ourselves with a lot of different issues. Now, the sewer separation, again, you can say it's federally mandated, but it probably should have started sooner than it has. But we find ourselves where we find ourselves. MUD is not exactly equal to the city of Omaha; it serves communities outside of Omaha. So this solution is not what you would call perfectly fair either, because it would affect Bellevue; it would affect Yutan, I believe; Bennington; and several outlying communities on up into Washington County and whatnot too; I think Fort Calhoun perhaps; other outlying communities as well, unincorporated areas outside of Omaha. And how would you account for the funds? Where would the funds go? Certainly the communities around Omaha would be entitled to some of that. What would you do in the unincorporated areas? I mean, there are so, so many questions, leaving aside the issue of the value of MUD. Would you sell all of MUD? Privatizing water is a very difficult thing. Privatizing the gas company, gas portion of MUD, might be another issue, might be a half-measure to look at. I brought this to raise these issues. And again, it is not meant to say there's something wrong with MUD and so we should go another way; I'm saying we've got a huge problem and this is one solution. And that is the spirit in which I offer it. So that is why we are here today on this bill. I'd be happy to try to answer any questions you might have; although I've spent a lot of this time laying out the questions that we don't know the answers to, so (laughter) I'm sure you have more that I don't have the answer to, but I'll take a stab at it. [LB823]

SENATOR MCGILL: Like, is he a proponent for this bill? All these questions. But I appreciate your creative thinking and bringing us this idea. Are there questions for Senator Lautenbaugh? Senator Krist. [LB823]

SENATOR KRIST: I'm hoping that somebody that follows, either proponent, opponent, or neutral, can give a little bit of history. So just in lieu of that, I'll be very brief. It's true that the...that the folks in Omaha have moved forward with sewer separation in different parts of the city. And it's true that we, going back to Al Veys as a mayor, executed responsibly portions of the sewer separation. It's also true that we stopped, in a certain administration, and subsequent administrations, from executing that responsibility. It's also true that on a national level, Tip O'Neill did the entire city of Boston out of their back pocket and Congress. So there's a number of ways to solve the sewer separation issue, not the least of which is for management leadership in the Omaha area to say, this is not in the best interest of our population of our citizenry; we will move forward at a speed. And I am aware that at least one or two folks have brought that issue forward. And then, of course, you were here with the rest of us, some of us, for Senator White's attempt to try to make it easier on the taxpayer by doing certain things, and we had a lot of pushback from inside the body and from outside the body. So I appreciate you bringing it forward as a discussion. I appreciate it because I know that there's people in my district that cannot afford to pay what they're projected to pay in terms of the bills that will come, that will be, I think, misusing the Metropolitan Utilities District as a bill collector for the CSO effort. So I'm sure someone will touch on those as we go on. And

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again, it's not incumbent upon us...or not in our best interest to talk about the past, but we have to understand where we came from so we don't make those same mistakes. And that was a long-winded non-question; and if you'd like to respond to any of that, feel free to. [LB823]

SENATOR LAUTENBAUGH: Well, let me answer your question by saying this. There was something there that I glossed over because it's something that we all assume people understand, but I know from discussing this bill that people don't. The sewer separation, particularly, has nothing to do with MUD. I mean, some people said to me, why would anyone buy MUD when they're facing this huge sewer separation project? Well, that's not MUD's responsibility, nor...and the pension problem is also not...we're not talking about MUD's pensions, by the way. But that's just...MUD I look at as an asset that could be disposed of, potentially, to address these issues. But it's not MUD that has caused these things or is necessarily responsible for fixing these things. It's really unrelated, except for the fact that it's a participant, in some ways, in the sewer separation. But it's not MUD that's doing that or responsible financially for doing that, so...or has been dragging its feet in not doing that, to be clear, so. [LB823]

SENATOR KRIST: Thank you, Senator. [LB823]

SENATOR MCGILL: All right, other questions? I don't see any, Senator Lautenbaugh. Thank you. [LB823]

SENATOR LAUTENBAUGH: And, to be clear, as...just as, Senator McGill, you have...Chairwoman McGill, you have a bill in Education, so do I; so I will be here for a while, but I may not actually be here to close, myself, so. [LB823]

SENATOR MCGILL: (Exhibits 1, 2, 3, 4, 5, 6 and 7) All right, fair enough. Thank you very much. Do we have any proponents here today on LB823? Anyone in favor of this bill? Okay, going once, going twice; I will take the first opposition testifier. And I'll read into the record a bunch of letters first, real quick, in opposition. It's from the Nebraska Power Association; from citizen Martha Ross; from the Nebraska Association of Commercial Property Owners, Incorporated; from former state Senator Gwen Howard; from the Douglas County Board of Commissioners; the city of La Vista; and the National Association of Social Workers. All right... [LB823]

RICK KUBAT: Good afternoon... [LB823]

SENATOR MCGILL: ...we can start the live opponent testimony, then. And we have made a deal in advance to allow you to go beyond the five minutes, so. [LB823]

RICK KUBAT: (Exhibit 8) I appreciate that. Chair McGill, members of the Urban Affairs Committee, my name is Rick Kubat, K-u-b-a-t. Here with me today I have our interim

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president of MUD, Mark Doyle; our CFO, in case you have any questions related to what we value ourself at, Debra Schneider; and a board member, Jim Begley. I am looking to really discuss five issues with you today. Number 1: Who is MUD? How do our rates compare? Why are the district's gas and water rates so low? Why we value our local...locally elected board. And why an asset sale would harm our ratepayers and the economic viability of the communities we serve. Who is MUD? We were a political subdivision founded by you guys, the state, in 1913, accountable to our ratepayers, who we consider to be our customer-owners. We're governed by a board of seven elected directors and originally set up to provide Omaha with its gas and water needs. Today we're much larger than that. We serve over 600,000 of our state's residents, or roughly one-third of the state's population, in Douglas, Sarpy, Saunders, and Washington counties. Point number 2: How do MUD's current rates compare? Memphis Gas and Light does an annual rate comparison of 50 utilities that are of similar size to the district. How did MUD do? MUD ranks in the top ten of 50 lowest gas and water rates in 15 of 16 categories. MUD ranked in the top five lowest gas and water rates in half the categories, or eight of 16. Interestingly enough...I'm going to provide you with a handout, and I gave you a graph of our worst category. The fact is, MUD has led--if I could just grab the top one--MUD has led the nation in their gas and water rates; this is not a recent trend, but a historical one. This very committee in 2001, through LB805, commissioned a study of natural gas rates throughout the state. That study found that natural gas rates varied significantly throughout the state of Nebraska, that MUD had the lowest commercial and residential gas rates. Today, the Greater Omaha Chamber of Commerce uses the district's rates to lure businesses to our community, ranking MUD number one of 20 in regional water costs and citing natural gas rates at roughly 20 percent below the national average. Those that tout privatization will almost always concede that a rate spike is going to occur to pay for the cost of acquisition and to provide a rate of return for investment. The fact is, an asset sale, as LB823 purports to do, is going to make the metropolitan area a less-attractive place to live, and it's going to hinder economic development. Why are the district's water and gas rates so low? And this is important. One of the main reasons is because any profits garnered by the district are reinvested back into infrastructure rather than paid out to shareholders. For-profits have a duty to pay for a return on investment and to compensate for risk. They also--and this is also very important--they need to pay significantly higher rates for investment capital. Borrowing capital is a fundamental issue for infrastructure-intensive utilities. MUD can access the municipal bond market and finance projects at 3 percent to 5 percent. Private companies are going to borrow or invest money at at least twice that rate and expect it to be returned plus profit, and in terms, you have rate hikes. A perfect example of the district's access to the municipal bond market is the Central Plains Energy Project, otherwise known as CPEP. We procure tax-exempt financing to procure gas in large quantities, saving the district over \$40 million the last six years. Hastings and Fremont have also benefited from CPEP's natural gas rates and would lose out if the district were to become sold. Moving on to point number 4: Why do we value our locally elected board? The MUD board is held accountable to the citizens it

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serves through elections; rates get set in an open and public forum, not behind closed doors to determine how best to make a profit for shareholders; and our community has always valued local control of essential gas and water services. Nationwide, overwhelmingly the public has voted not to divest ownership of essential gas and water services. My last point, point number 5: What would an asset sale do? It's going to harm our ratepayers, and it's going to hurt the economic viability of the communities we serve. I was hoping Senator Ashford...to have a dialogue with Senator Ashford because he may have recalled this, but in the early 1990s Ken Lay from Enron was in the Omaha area touting the privatization of our gas, water, and electric utilities. If Enron--and many members of our community were on board with this concept--if Enron were able to procure our community's gas and water assets, they would be under the control of a bankruptcy trustee in New York City. Now, please don't misunderstand me, we all know that Enron is the exception to the rule. And most, if not all, Nebraska companies are good stewards of the community. Enron is certainly an exception to the rule. But the point is, is once you turn over ownership to a for-profit company, you don't know what future ownership is going to bring. On the water side, it's more often than not an international company. When privatization is considered, they are rarely asset sales but rather operating and management contracts. When privatization is researched, we really need to look at gas and water separately, because the combination of a gas and water utility is somewhat rare. So let's look at the water side very briefly. Let's look at four of our country's biggest: Indianapolis; Atlanta; Stockton, California; and Detroit. It's been an absolute disaster in these places, leading to poor services, boil alerts, litigation. And often they'll go ahead and reverse course, or do what's known as re-municipalization. And these assets are now in a public trust. Atlanta's rates increased 37 percent in January of this year; in Stockton, they re-municipalized before filing for bankruptcy; and in Detroit, we had public officials indicted for bid rigging and extortion. One of many issues--and Senator Lautenbaugh touched upon this--that would need to be worked out is, how would you equitably distribute the district's access to different political subdivisions with varying degrees of ownership in the system? Roughly one-third of the constituents that the district serves do not live in the city of Omaha. In conclusion...and, again, appreciate the committee's additional time. In conclusion, do we have municipalities with fiscal problems in our area? Absolutely. But our local municipalities can access low-interest long-term financing. Do we really want to pay these debts off with high-interest credit cards, that is, the private equity market, and sell out future generations? Municipalities look to privatization primarily for one of three reasons: the entity itself is in a fiscal crisis, you have maintenance deferred to the point where you're disrupting services, or you're dealing with an environmental catastrophe. Do we have any of those three here? No. MUD is a well-managed public utility with reliable services and low rates. And we respectfully ask this committee to kill LB823. [LB823]

SENATOR MCGILL: Thank you, Mr. Kubat. And you held to the time that you said you'd stay to, so I appreciate that. Are there any questions from the committee? I don't see

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any. Thank you very much. I'll read some of these other letters into the record. [LB823]

RICK KUBAT: I appreciate that. Thank you. [LB823]

SENATOR MCGILL: (Exhibits 9, 10, 11, 12, 13 and 14) Letters of opposition from the city of Bellevue, city of Bennington, city of Fort Calhoun, city of Springfield, village of Waterloo, and city of Yutan. We will take the next opposition testifier. And, Senator Crawford, I'm going to hand... [LB823]

SENATOR CRAWFORD: All right. [LB823]

SENATOR MCGILL: ...things over to you. [LB823]

SENATOR CRAWFORD: All right, thank you. [LB823]

CHRIS DIBBERN: (Exhibit 15) Thank you. Thank you, Senator Crawford. My name is Chris Dibbern, C-h-r-i-s D-i-b-b-e-r-n. I'm the general counsel for the Nebraska Municipal Power Pool, and I'm also a registered lobbyist. We are staff for a small Nebraska interlocal agency called the National Public Gas Agency. It serves over 20 communities in Nebraska and Colorado, and, as public gas communities, they are in support of the Metropolitan Utilities District and opposed to LB823. LB823 is troubling because of Nebraska's strong support for public ownership of essential services such as power, water, and natural gas. The bill is not workable for several reasons and I'll just highlight a few of them. And I've turned in my presentation, so I won't read it to you. But we do believe it disenfranchises the rate makers who are the owners of MUD. This Legislature does have the power to regulate MUD, but you have already done that by creating a system that calls for the district to...for the people in their district to change the structure of MUD if that petition is signed by 15 percent and a vote...and a public vote could occur. And that's on page 2, line 23. The theme of the bill might be towards private ownership, but the public may still wish to retain public ownership in another way. And there are no provisions in the bill on how to dissolve or re-create another good public system. The communities or ratepayers of La Vista and Bellevue and Papillion may want to discuss their options with Omaha and their future and their dividends and their debt. Secondly, Nebraska law regulates small private water systems through the Nebraska Public Service Commission. And there would need to be a great deal of oversight for a large private water system or a private natural gas system, as the speaker in front of me talked about. I'm surprised there's not a fiscal note from the Nebraska Public Service Commission on regulation of natural gas or water. In the bill, it doesn't really spell out who and what, but the one thing it does spell out is when. And the "when" part of the bill is very unworkable. The timetable to privatize one of the lowest-cost natural gas providers in the nation is not January. January, if you remember last month, record-breaking cold weather, temperatures that are freezing; it's a really poor time to turn over a water system or a gas system. The few details in the bill is

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"when," and the "when" in the bill makes this a fire sale. So it's even a worse time to sell something, under a kind of constraint that's six months away. There are many flaws in the bill, but the NPGA's takeaway is that LB823 is not the solution for addressing serious Omaha problems. MUD is one of the best tools that Omaha has for economic development, and we want to be part of that solution by enhancing the metropolitan area. I'd be available for any questions. [LB823]

SENATOR CRAWFORD: Thank you. Thank you. Senator Krist. [LB823]

SENATOR KRIST: We...understand that my questions are neither pro or con or neutral; they are trying to highlight and set as part of a record for this hearing. We tried desperately a few years ago--you heard me talk about Senator White's bill--to make the sewer separation issue more palatable. At the time, as I recall, there was very little support for that kind of effort. And, in fact, I think the board was split in terms of what they actually thought they should or should not do. The state was definitely...inside and outside the legislative body there was a great deal of controversy over the issue. So when I see the utility coming to us today and saying, "Don't sell us, not for someone else's problems," and that they've already been defined as someone else's problems...I also don't see a district, or utilities in general, coming to us and saying, "This is how we can work this CSO project and alleviate at least part of this debt ratio." Has your group thought about anything that would alleviate any part of the burden on the taxpayer, the ratepayer, within the area defined as CSO? And again, I would relate to a point where many parts of Omaha and the metropolitan area have been separated, under past administrations, and then there's a gap in where we are, so... [LB823]

CHRIS DIBBERN: Um-hum. [LB823]

SENATOR KRIST: But it's a pretty broad question... [LB823]

CHRIS DIBBERN: Um-hum. [LB823]

SENATOR KRIST: ...and, you know, if you'd like to take some time and do it, that would be great. [LB823]

CHRIS DIBBERN: I'll take a stab at it, but I'm not an expert on sewer systems or the Omaha situation. You know, as we represent small towns, I do know that infrastructure is an expensive item for any town to have to address. And they have to plan for it; they often have to bond for it; you don't make one ratepayer group pay for it in one year. So it takes some time, it takes some structure to have to work with...and that's one of the problems, I think, with this bill, that you need to address, really address, what the problem is and what are the solutions for that problem. We think this carve-out of LB823 is just a wrong solution. So I'll leave it at that. I'm not...I'm not a sewer expert. [LB823]

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SENATOR KRIST: Okay, well...and I do... [LB823]

CHRIS DIBBERN: But infrastructure is very expensive. [LB823]

SENATOR KRIST: And I do appreciate your comments. And I would just add to that, the reason I asked you the question is, some of the strongest opposition to trying to alleviate the CSO problem in Omaha came from other parts of Nebraska who have weathered this storm by themselves, and it was argued that: Why should we give Omaha... [LB823]

CHRIS DIBBERN: Um-hum. [LB823]

SENATOR KRIST: ...the opportunity to do something? We had to do it ourselves. [LB823]

CHRIS DIBBERN: Um-hum. [LB823]

SENATOR KRIST: So, for the record, there was an awful lot of opposition on that floor trying to help the Omaha metropolitan area...that's not just Omaha--it's described here as Tekamah, etcetera, etcetera, right down the road. [LB823]

CHRIS DIBBERN: Um-hum. [LB823]

SENATOR KRIST: Yet, when it really came to trying to solve a problem...so sometimes it's worthwhile to look at history and say, you can't have it both ways... [LB823]

CHRIS DIBBERN: Um-hum. [LB823]

SENATOR KRIST: ...you know. So I appreciate your testimony. [LB823]

CHRIS DIBBERN: I see what you're saying. [LB823]

SENATOR KRIST: Thank you. [LB823]

SENATOR CRAWFORD: Um-hum. [LB823]

CHRIS DIBBERN: Thank you. Any other... [LB823]

SENATOR CRAWFORD: Any other questions from the committee? Thank you. [LB823]

CHRIS DIBBERN: Thank you. [LB823]

SENATOR CRAWFORD: Thank you for your testimony. Next opponent. [LB823]

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CYNTHIA TIEDEMAN: Hi. [LB823]

SENATOR CRAWFORD: Hello. [LB823]

CYNTHIA TIEDEMAN: (Exhibit 16) My name is Cynthia Tiedeman, T-i-e-d-e-m-a-n. I'm the natural resources director for the League of Women Voters of Nebraska. While fighting for a broad range of environmental legislation, the League of Women Voters has stressed citizen participation in decision making at all levels of government. Because LB823 would terminate MUD and would decrease citizen participation, the League opposes this bill. We believe that public understanding and cooperation are essential to the responsible and responsive management of our state's natural resources. Nebraska public utilities promote this education and accessibility. Utility companies should be managed on the basis of meeting the needs of society, not profit. Public utilities promote an environment beneficial to community through the protection and wise management of natural resources in the public interest. Thank you. [LB823]

SENATOR CRAWFORD: Thank you, Cynthia. Any questions for Cynthia? Thank you. Next opponent. [LB823]

LYNN REX: Senator Crawford, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And with respect to Senator Lautenbaugh's efforts, we do want to indicate that we are in strong opposition to this measure. The League board actually took a position and voted on this particular bill. And I think it's important to note that we do appreciate the fact that he has raised three very legitimate issues. But we believe that those are obviously the right issues to raise but this is the wrong solution: right problem, wrong solution. And we have been here, Senator Krist, in support of numerous efforts to try to resolve the CSO issue, as an example. And we can talk about those if you would like me to do that. But we are opposing this bill for several reasons. First and foremost, we oppose the bill because, number 1, public power in the state of Nebraska has been incredibly important for this state in terms of low rates, the best rates, really, in the country. And certainly MUD personifies the best management practices, and that's why we have some of the lowest rates in the Omaha area. And they have benefited from that, not just MUD but the surrounding area, the six hundred-some thousand being served. And that has a direct reflection on our ability as a state to attract great businesses, not just to the metro area but the surrounding area. And we're very pleased that we have other public utilities in the state as well that are also doing a great job. But MUD should be commended for the outstanding job that they are doing, because, clearly, being able to have these low rates is a very important incentive for businesses to stay and come into the state of Nebraska. And as all of you know, when...and I know, as a former mayor, Senator Karpisek, that when you're a mayor, one of the things that a company looks at is, what's the educational system like, what's the infrastructure like, what's the work force like, what

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are the rates? And those things all play into it. The bill in and of itself is unworkable, and I think Chris Dibbern has highlighted some of those efforts, so I won't bore you with that. But in closing, just indicate that we strongly oppose the measure but, again, appreciate the rationale, which is that there are three very legitimate problems that need to be addressed. Clearly, our board, representing 15 elected members from across the state of Nebraska, believe this is not the right solution. I'd be happy to respond to any questions that you might have. [LB823]

SENATOR CRAWFORD: Thank you. Questions? Senator Krist. [LB823]

SENATOR KRIST: I...I don't disagree that you've been here trying to solve some of the issues in the past, but...and I never ask a question I don't know the answer to, so I'm not going to ask you the question. But I would remind everyone that there was a real divisiveness in the body when it came to whether or not to support Omaha with Senator White's bill. It wasn't unanimous for the League of Municipalities. There were municipalities out there that opposed any concession that Omaha should have, or that the Metropolitan Utilities District should have, that kind of support or help in the diversion of the tax base. So that's the point I was trying to make before. I didn't mean to say that there weren't people coming to the table trying to solve the problem. But when we have that kind of divisiveness, and now we're coming back and saying there's a couple of issues out there, I just wanted to make that point. So thank you very much. [LB823]

LYNN REX: And I...the League was neutral on Senator White's bill because whenever we have cities that...significant cities...all cities are significant, but certainly a significant number that are opposing, a significant number of supporting, as municipalities, then the League historically has taken a neutral position. But, for example, when these federal mandates came down--and it's only come down on a handful of...less than a handful of cities in the state of Nebraska to do this type of sewer separation--when those federal mandates came down, bills were introduced to allow Omaha and those communities to have special assessments. Other states, and other state legislatures, did enable and empower their local governments to do so. Nebraska was not willing to do that; the Nebraska Legislature was not willing to do that. And, in fact, there were very...strong opposition at the hearing. And those opposing it said: Oh, no, this should not be borne by those causing the problem; this should be borne by those...as all of us as property taxpayers. And then efforts to deal with the property tax side of it in terms of any types of potential exemptions or considerations that could be given on the levy limit that's...which the Legislature put in place in 1996, effective 1998, or the lid on restricted funds put in effect in 1996 of 2.5 percent, plus 1 percent with a supermajority vote, both counts, individuals showed up and were opposed, the same group of suspects that said, no, don't do it on special assessments, do it on property taxes, they showed up and said: Don't do anything on property taxes; we've got to have low property taxes. So municipalities, and Omaha being one, Senator, the biggest one, is certainly caught in a

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quandary on this. And we certainly have done what we can do to try to be supportive in terms of their efforts. And I think that that effort needs to continue because I know Senator Mello and you and many others have dedicated a lot of time and effort to try to assist in this; it's a very, very significant issue. [LB823]

SENATOR KRIST: You have managed to answer the question I didn't ask. [LB823]

SENATOR CRAWFORD: There you go. [LB823]

SENATOR KRIST: Thank you very much. (Laughter) [LB823]

LYNN REX: You're welcome. [LB823]

SENATOR CRAWFORD: Thank you. Thank you. Next opponent? Are there any here who wish to testify in a neutral capacity? Hello. Welcome. [LB823]

JILL BECKER: Good afternoon. Good afternoon, members of the Urban Affairs Committee. My name is Jill Becker; last name is spelled B-e-c-k-e-r. And I'm the registered lobbyist for Black Hills Energy, here to testify today in a neutral capacity. And...and just wanted to provide some additional comments regarding some of the testimony that you have heard previously. Black Hills Energy has a very strong record of safe, reliable operations and service, with an emphasis on being a good partner with the 106 communities that we serve in Nebraska. In our view, privatization is working; we have served those communities for a very, very long time. Some of the benefits that we, as a private entity, provide to the communities we serve include property taxes, franchise fees as revenue streams; our involvement with that community; and the employees that live and work for us also being within those communities; and the safety that comes with us being the single natural gas provider for that area. There's been a lot of discussion about rates and how privatization automatically means that rates go up, and that is not true. In Nebraska, we are regulated by the Nebraska Public Service Commission. If, in fact, we would feel the need for a rate increase, those five elected officials would be the one determining whether a rate increase is justified. In order to receive a rate increase, there has to be some type of investment behind that, and typically that means an investment in our system. We are very proud to have a safe, reliable system that we think is exactly what our customers expect from their natural gas provider. Certainly we believe that a private natural gas provider can provide a benefit to the community. And, in fact, we have had the opportunity to become that provider for several communities in other states where we serve and have provided benefits to those communities that certainly are of value to them: things like comparable operating costs, risk mitigation, pipeline safety compliance issues being handled, and additional resources in the form of employees and the ability of us as their service provider to serve them and the needs of that community. So while we're here to testify in a neutral capacity, we certainly understand the position that MUD had to take on this bill, but we

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also encourage you to understand that certainly there are benefits to a private utility operator and that, really, the focus should be on safe, reliable service and what is in the best interest of those customers. With that, I'd be happy to take any questions. [LB823]

SENATOR CRAWFORD: Thank you. Thank you. Questions? Senator Krist. [LB823]

SENATOR KRIST: You're lucky Senator Coash isn't in here, but I'll carry on the banner. [LB823]

JILL BECKER: Okay. [LB823]

SENATOR KRIST: It sounded like the most positive neutral testimony I've heard in a long time. (Laughter) And that's putting it gently. So thank you. [LB823]

SENATOR CRAWFORD: Any other questions? Thank you so much. [LB823]

JILL BECKER: Thank you. [LB823]

SENATOR CRAWFORD: Anyone else wishing to testify in a neutral capacity? Oh...(laughter) [LB823]

SENATOR KRIST: I told you, you're lucky. [LB823]

SENATOR COASH: Was that a neutral? [LB823]

SENATOR CRAWFORD: Well...yes. [LB823]

SENATOR KARPISEK: Positive-neutral. (Laughter) [LB823]

SENATOR CRAWFORD: Would you like to make a comment about positive-neutral testimony before we move to the next...? [LB823]

SENATOR COASH: No, let's go to the next... [LB823]

SENATOR CRAWFORD: Okay. Would anyone else like to testify in a neutral capacity on this bill? All right. Thank you. Thank you all for coming and... [LB823]

SENATOR KARPISEK: Didn't he want to close? [LB823]

SENATOR CRAWFORD: Oh, excuse me. I'm sorry. Inexperienced Chair. Thank you. You're welcome to close. Thank you. [LB823]

SENATOR LAUTENBAUGH: Thank you. I see consent calendar. (Laughter) Well, it was

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exactly what I told you it would be. And, you know, the opponents were, you know, generally, you know, fair and measured in their opposition to this. But it is exactly what we need to do as far as looking for solutions to these issues. Senator Krist is correct in his history on that bill. I remember at one point Senator White and I were fighting bitterly on the floor, and we were both cosponsors of the bill. I mean, it was the first self-filibustering bill. I mean, we were both supporters of the bill, fighting with each other. So, yeah, there might have been a lot of things wrong with that idea. But, in any event, it's an option. I am a fan of privatization; that much is certain. I don't know if it's the right answer in this case, but this is certainly a proposal that would deal with the issue. The neutral testifier is correct: there's nothing per se wrong with privatization; privatization of gas utilities seems to work in places in this state. What the committee does with this or whether or not there's an interim study, I guess, is up to us. But I thank you, and I thank all the testifiers, even those in opposition, for the consideration given to this. I would still try to answer any questions you might have. [LB823]

SENATOR CRAWFORD: Great. Thank you. Senator Ashford. [LB823]

SENATOR ASHFORD: We sit here in a kind of antiseptic environment and...because, in some sense, most of the people...many of the people in this room aren't going to feel the impact of the CSO project like many senior citizens are, and others. It's a serious, serious, serious problem. [LB823]

SENATOR LAUTENBAUGH: Um-hum. [LB823]

SENATOR ASHFORD: And, you know, in our...my, you know, going around the city during the mayor's race, there was no, even close, to concern was...to this concern about the increasing costs for the CSO project, which is not the fault, so to say, of MUD. [LB823]

SENATOR LAUTENBAUGH: Huh-uh. [LB823]

SENATOR ASHFORD: I do remember back in the '80s and '90s when I was here, and the problem was coming then; we didn't do anything about it then. And now we have a significant problem. So I don't know the answer either, Scott. I do, as I said in the paper, I think Senator Lautenbaugh is right to suggest an option. It may not be the right option. And it is true that we have...that MUD has a great track record of keeping rates down; they have great response time; they have a dedicated work force. That's all true. And...but there, to me, there's got to be a solution somewhere; I'm just not smart enough to know what it is, particularly. And the idea of the sales tax we tried, and the city didn't like that. The city of Omaha didn't like that option. So, I mean, at some point the...it's just...it's an incredible...ten times, five times, ten times...monthly fees are going up on people. It's not a joke. I mean... [LB823]

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SENATOR LAUTENBAUGH: It's no fun to ring the alarm bell... [LB823]

SENATOR ASHFORD: Yeah. [LB823]

SENATOR LAUTENBAUGH: ...on this topic or others... [LB823]

SENATOR ASHFORD: Right. [LB823]

SENATOR LAUTENBAUGH: ...even, but at some point you have to kind of grab people and shake them and say: You have to be worried. [LB823]

SENATOR ASHFORD: Right. It is...it's worrisome. And I think the next Legislature...you and I won't be here, Scott, but, I mean, it is...this cannot just be the way it is. I mean, it is...whether we made mistakes 25 years ago or not, kicked the can down the road or not...we did. We did... [LB823]

SENATOR LAUTENBAUGH: Um-hum. [LB823]

SENATOR ASHFORD: ...not MUD necessarily, but... [LB823]

SENATOR LAUTENBAUGH: No. [LB823]

SENATOR ASHFORD: ...the entire community, by not addressing that problem. So, anyway, I applaud Senator Lautenbaugh for having the gumption to bring a solution which he knew was not going to be particularly popular out of the box. And we need to venture forth and find better ideas, because...than what we have...the one we have now, so. Anyway, thanks. [LB823]

SENATOR CRAWFORD: Thank you, Senator Ashford. Any other questions from the committee? No? Thank you, Senator Lautenbaugh. [LB823]

SENATOR LAUTENBAUGH: Thank you. [LB823]

SENATOR CRAWFORD: And that...this closes the hearing on LB823. We do have a briefing on energy. [LB823]

LAURIE HOLMAN: Yes. Nebraska Energy... [LB823]

SENATOR CRAWFORD: The Nebraska Energy Office has a briefing for us. [LB823]