

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 26, 2023

**BOSTELMAN:** Welcome. Welcome to the Natural Resource Committee. I am Senator Bruce Bostelman from Brainard and represent Legislative District 23, and I serve as Chairman of the committee. The committee will take up the bills in order, in the order posted. This public hearing today is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the back table, on the table at the back of the room and be sure to print clearly and fill out completely. When it's your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are, there are also white sign-in sheets back on the table. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name and spell your first and last name to ensure that we have an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We will be using a five-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining and the red light indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard. It's just part of the process as senators may have bills to introduce in other committees. A final few, a few, a few final items to facilitate today's hearing. If you have handouts or copies of your testimony, please bring at least ten copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts of applause are not, verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees states that written position letters to be included in the record must be submitted by 12 noon, the last business day before the scheduled hearing on that particular bill. The only acceptable method of submission is via the Legislature's website at [NebraskaLegislature.gov](http://NebraskaLegislature.gov). You may submit a written letter for the record or testify in person at the hearing, not both. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included in

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the committee statement. I will now have the committee members with us today introduce themselves starting on my left.

**BRANDT:** Good afternoon. I am Senator Tom Brandt, District 32, Fillmore, Thayer, Jefferson, Saline and southwestern Lancaster County.

**HUGHES:** I'm Jana, Senator Jana Hughes, District 24. Seward, York. Polk and a little bit of Butler County.

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

**J. CAVANAUGH:** John Cavanaugh, District 9, midtown Omaha.

**MOSER:** Mike Moser, District 22. It's Platte County and parts of Stanton County.

**BOSTELMAN:** Senator Moser also serves as Vice Chairman of this committee. Also assisting the committee today, to my left is our legal counsel, Cindi Lamm, and to my far right is our Committee Clerk, Lori Vollertsen. Our pages for the committee today are John Vones. Sorry, it's afternoon. Trent Kadavy and Landon Sunde. With that, we'll begin today's hearing with our first bill up which is LB217. Before you start, could I ask is anyone here to testify on, on the first bill, just so we know how to organize for our next bill. OK. Thank you. With that, welcome Senator Hughes.

**HUGHES:** It's my first one, very exciting. Mr. Chairman, member of the committee, members of the committee, I am Senator Jana Hughes, J-a-n-a H-u-g-h-e-s, representing Legislative District 24. Thank you for the opportunity to introduce LB217 which allows the continuation of grants for new scrap tire projects here in Nebraska. Each year, the state of Nebraska collects a dollar from every tire sold from which the proceeds annually fund a \$1.5 million in scrap tire projects through grants from the Scrap Tire Management program. Fees collected in excess of the \$1.5 million are used to fund grants from the Waste Reduction and Recycling Fund. LB217 extends the current availability for new scrap tire projects from their current statutory end of June 30, 2024 to June 30, 2029. Why does this matter? There are currently more than 2 million registered vehicles in Nebraska and most have four tires, some less and some more. The dollar per tire fee will continue to be collected past the date of expiration for these scrap tire project grants funded by this particular fee. LB217 allows these fees to continue to support the scrap tire projects. Types of scrap tire projects include, but are not limited to the partial payment for purchase of tire derived products and/or crumb rubber to use in

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playgrounds, mulch products, athletic track surfaces, artificial football or soccer fields. For the setup of collection site cleanups for local communities such as scrap tire amnesty days, for capital and startup costs for processing, manufacturing, collecting and transporting tires for the purposes of processing scrap tires into chrome rubber, producing rubber modified asphalt, or the collection and transportation of scrap tires to a recycling site or facility. Mr. Chairman and members of the committee, we live in Nebraska, and we only have so many trees to hang, or trees to hang tires from. So we need to continue this program that was first authorized two years ago. Thank you, guys. Thank you, members of the committee, I would like to answer any of your questions that you have. And if none, I will waive my closing statement as I have another hearing down the hall.

**BOSTELMAN:** Thank you, Senator Hughes. Are there questions from the committee? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you, Senator Hughes, for bringing that. I can tell you in my district, this is a very, very popular program. When you have an amnesty like this, we have farmers that fill up stock trucks and a lot of them had old silage pits they used the tires on. So this is very good for the environment, very good for the rural community, community. But the question I've got and you may not know this or maybe one of the other ones do, is there a size limit because we have some equipment that has very large tires on it and I know at times our extension has said there were, there were some limitations.

**HUGHES:** I do not have the answer to that, Senator Brandt, but I would be happy to research it and I can let you know.

**BRANDT:** Maybe somebody after you would have that answer. Thank you, Jana.

**BOSTELMAN:** Other comments or questions from committee members? Seeing none, will you stay to close?

**HUGHES:** I will waive to close, yes.

**BOSTELMAN:** OK.

**HUGHES:** I guess I could stay. Depends on my next bill, sorry.

**BOSTELMAN:** If you want to waive close now, you can. It's up to you.

**HUGHES:** I will waive close now.

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**BOSTELMAN:** OK. Thank you.

**HUGHES:** Just in case.

**BOSTELMAN:** Thank you. Anyone would like to testify as a proponent for LB217, please step forward. Good afternoon.

**BETH BAZYN FERRELL:** Good afternoon, Chairman Bostelman, members of the Committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and I'm appearing in support of this bill. Counties of all sizes and across the state apply for grants for the Scrap Tire Recycling program. As Senator Brandt said, it's a very popular program, very well-used in counties. In 2022, there were 11 counties that applied as lead agencies and they received over \$400,000 in grants for scrap tire recycling. We think this is a great program. It keeps scrap tires out of ditches and creek beds and other places where tires just really don't belong. So we would encourage you to extend this program for another five years. I'd be happy to take questions.

**BOSTELMAN:** Thank you for your testimony. Any questions from committee members? I'll ask Senator Brandt's question. Do you, is there a size limit to the tires? Do you know?

**BETH BAZYN FERRELL:** That's a good question. I don't know the answer to that.

**BETH BAZYN FERRELL:** All right. Thank you. Any other, Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you for being here for your testimony. What would happen to the money if we didn't extend the program?

**BETH BAZYN FERRELL:** That's a good question. I don't know what would happen with the money if it wasn't used for this. I don't know.

**J. CAVANAUGH:** Is there a reason for a five-year increase or is this just that-- just kind of the standard increase?

**BETH BAZYN FERRELL:** That's just what it's been for the last couple of times it's been extended.

**J. CAVANAUGH:** Thank you.

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**BOSTELMAN:** And I think, as we all know, I think Senator Cavanaugh too would be, this is a whole way to keep those tires from being in the ditches, being in the yards. We get them, we get them and we get them processed and keep them out of the landfills and other places they don't need to be, so. Any other comments or questions? Seeing none, thank you very much. Any other proponents for LB217, please step forward. Good afternoon.

**DEAN EDSON:** Good afternoon. Thank you, Senator Bostelman and members of the committee. My name's Dean Edson, D-e-a-n E-d-s-o-n. I'm the executive director for the Nebraska Association of Resource Districts, testifying in support of LB217. I don't have any written letter testimony, it's all oral. First of all, I want to thank Senator Hughes for introducing the bill to extend the deadline. I want to express that NRDs are very actively involved with this program with the various different communities. Where it's really important is in this sparsely populated areas. There isn't businesses or other things available to help coordinate this, so we've got some rural districts that take the lead. In particular, Upper Loup NRD up at Thedford, they're the main recycler for the, for the community up there. So this is a very important program for that district, but all districts too. Thank you very much and I'll take any questions.

**BOSTELMAN:** Thank you for your testimony. Are there any questions? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you, Executive Director Edson, for testifying. So does the NRD up there run this program?

**DEAN EDSON:** They coordinate it and they pull in some other businesses to help with it as well.

**BRANDT:** Sure.

**DEAN EDSON:** They, they do coordinate the entire recycling program for the district though.

**BRANDT:** OK.

**DEAN EDSON:** They have a recycling center at their office, but that's more for the paper, cardboard and aluminum.

**BRANDT:** And so for those that don't live in rural areas, without these programs, these tires end up in our ditches. Everything ends up in our ditches without programs. I mean, you can pick up some really nice

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furniture sometimes, but I mean, usually it's tires. And tires are a real problem when you hit them with the Batwing shredders--

**DEAN EDSON:** Yes.

**BRANDT:** --as you probably know. But in our area, this, the extension runs this. In the past, they have put size limitations on the big combine tires or the manure spreader tires. Do they do that in your area?

**DEAN EDSON:** I can't answer that question. I could try to get some research on it.

**BRANDT:** OK. All right.

**DEAN EDSON:** I don't know if they do or not.

**BRANDT:** Yeah, if you find out something please get back to me..

**DEAN EDSON:** But I agree with you 100 percent on that, if we don't have programs like this, they end up in road ditches. I used to farm. I still got my farm only about three miles out of town.

**BRANDT:** Yeah, that's about the right distance, right?

**DEAN EDSON:** It's about the right distance.

**BRANDT:** It's about the limit, yeah.

**BOSTELMAN:** They make it three miles out of town, then?

**DEAN EDSON:** Yeah, they make it three miles out of town, and we get to pick it up.

**BOSTELMAN:** Understand. Any other comments or questions from committee members? Seeing none, thank you for your testimony.

**DEAN EDSON:** Yep, thank you.

**BOSTELMAN:** Is there anyone else would like to testify as a proponent for LB217? Any other proponents? Anyone would like to testify in opposition to LB217? Anyone would like to testify in opposition? Seeing none, anyone would like to testify in the neutral capacity? Seeing none, and Senator Hughes waives closing. That will close our hearing, and our hearing on LB217. Thank you all for coming today. Before we get to the next bill, I would like to recognize a few students from Doane University who are here from the Environmental

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Studies Group sitting in the back room. I had the opportunity to meet them and talk to them when we first come in, so we appreciate them coming in, especially to listen to LB241. With that. Senator Briese, you're more than welcome to open on LB241.

**BRIESE:** Well, thank you, and good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Tom Briese, T-o-m B-r-i-e-s-e, and I'm here today to present LB241. LB241 is, I believe, a relatively simple bill which would prohibit the transportation of groundwater more than ten miles out of the state of Nebraska. This prohibition would exempt water transfers to necessary to comply with interstate compacts or decrees. So why is this bill needed? I see it as being very important for the long-term sustainability of our state. We currently have a megadrought hitting the American southwest and parts of the west, the worst in centuries. And it's also no secret that eastern Colorado is seeing unprecedented expansion of development along the front range. Currently, water transfers out of the state may be approved by the director of the Department of Natural Resources, and I don't believe that any egregious abuses are going to happen under this administration or indeed not for many years. But I believe there may someday come a day when other states beginning eyeing Nebraska's bountiful water resources, especially the Ogallala Aquifer, with ill intent. And I'd like to have this provision in statute so that 10 or 20 or 30, 40 years from now, it's going to take a majority of this legislative body to change it and allow an entity to start pumping our water to other states. I handed out an article there on a pipeline project that has been considered called the Missouri River Reuse Option. There, the Corps of Engineers contemplated a pipeline from wells near the Missouri River in northeastern Kansas, all the way across Kansas and into the Colorado River basin in Colorado. Hasn't come to fruition? But my fear is that projects like that will someday become feasible. As the value of water to western states increases, I have concerns that the prohibitive cost of building pipelines to other states will begin to be less prohibitive and more of a cost of doing business, and they will be contemplated. Now, admittedly, some will question the constitutionality of the bill as drafted. I would maintain that you can make the argument that it is constitutional as drafted, but perhaps some changes should be or could be considered to ensure it passes constitutional muster. Water really is our most precious natural resource. The foundation of the ag economy in our state truly is our abundant water resource. The health, safety and welfare of future Nebraskans truly hinges on the preservation of our water. We need to ensure this precious resource is protected for future

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generations of Nebraskans. So I'd ask the committee to consider this legislation and support this legislation. With that, I would take any questions.

**BOSTELMAN:** Thank you, Senator Briese. Are there questions from committee members? Senator Hughes.

**HUGHES:** Thanks for coming, Senator Briese. I also heard some, possibly that it was unconstitutional. What, what, what pieces would need to be changed or amended to make it, or do you know offhand?

**BRIESE:** Well, there are certainly court cases out there that indicate water is an article of commerce. A complete ban on the exportation of water could raise some eyebrows under, under constitutional scrutiny of it. But in this situation, you know, I would make the argument this isn't a total ban. They can take it ten miles across our border. And I would also argue that Nebraska is uniquely situated that water is absolutely critical to our state's future. It underlies, you know, it's one of the foundations of our ag economy. Without it, we would suffer drastically. And the courts really are clear that you can impede interstate commerce in some respects. And, you know, it's a balancing situation. But and currently we do have some restrictions on intrastate water transfer as well. So those are the arguments I would make if somebody directly challenged the constitutionality of it. But as far as any changes, I wouldn't have, I wouldn't suggest any changes right now. But I think there are changes that could be made. You know, we could, we could make the criteria currently in statute more restrictive. We could make a similar provision for intrastate transfer of water, and that might do it as well. But I'm not sure we want to go down that road necessarily. So I think there are some changes. But good question.

**HUGHES:** Thank you.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Senator Briese, for being here in Natural Resources. Well, first question I have is just why allow the ten miles? What's, is there a specific projects that were already allowed?

**BRIESE:** From my perspective, I think if you have a Nebraska landowner with a, with a farm across the border within a couple of miles of the border, I don't know that we want to impair his or her ability to, to farm a property owned across the border or to irrigate a property



owned across the border. So I thought we should try to accommodate those folks. There are, it's my understanding there are quite a few, I shouldn't say quite a few. I have the number somewhere, but there are some permits, so to speak, issued by the department for transfer currently now, and I'm assuming they're all within ten miles. I don't know that. But this would, this wouldn't apply to current permits. It would, we would want it, so it just apply to future permits. But that's the main thought there. If there's a landowner with property adjoining on both sides of the border, he or she could get water from our state to land he or she owns or operates across the border.

**J. CAVANAUGH:** I see. Can I as a follow up?

**BOSTELMAN:** Sure.

**J. CAVANAUGH:** Unrelated, but the other, my other question is, do you have any contemplation of how this would relate to like taking land out of production and capturing water before it enters Nebraska? And I'm just thinking of our situation with Colorado and deferring water coming in that we're actually entitled to. But, you get what I'm asking there?

**BRIESE:** Not, not exactly.

**J. CAVANAUGH:** So I guess my question would be, would this prevent somebody from buying land along the Platte River and getting that, that water rights and then saying, I'm not going to irrigate this land that used to be irrigated, but I'm going to capture that water before it enters Nebraska. Would it-- would this prevent somebody from doing that?

**BRIESE:** To capture this water before it enters Nebraska?

**J. CAVANAUGH:** Right.

**BRIESE:** No, I don't think it would apply in that situation, but it would prevent that individual from saying, I'm not going to farm my land or am going to irrigate my land either way. But by the way, I'm getting paid plenty of money to send it to three states away and I'm going to cash in on that. It would prevent that. That's what really it intended to do.

**J. CAVANAUGH:** OK. Thank you.

**BRIESE:** You bet.

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**BOSTELMAN:** Senator Moser.

**MOSER:** Well, Senator Briese, you sure come up with some interesting bills.

**BRIESE:** Oh. I don't know if I'll take that as a compliment or an insult. [LAUGHTER]

**MOSER:** Well, I'd say it's a compliment.

**BRIESE:** Oh, thank you.

**MOSER:** Appreciate.

**BRIESE:** Thank you.

**MOSER:** I always get my brain twisting in a different direction listening to your bills and I, I appreciate the things that you bring up. And I think we're going to miss you when you're gone.

**BRIESE:** Oh.

**MOSER:** Thank you.

**BRIESE:** Very kind of you.

**BOSTELMAN:** Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman, and thank you, Senator Briese. I'm not missing you yet, [LAUGHTER] but you're, you're an attorney. And so how do we police this? What's the remedy for a violation? So we have a municipality just on the other side of the border, they get a withdrawal permit. I would assume our NRD has to issue this, whatever the local NRD is. Typically, it's so many thousand or million gallons a day. What's to prevent that town across the border from backing a milk truck up, or a train car up and when they aren't using the water, start to sell the water?

**BRIESE:** Well, it would be up to the Attorney General in our state to police this, it would seem to me. And the Attorney General could file suit to enjoin any activities that fall outside of the scope of what's permitted here.

**BRANDT:** And then I guess the second question is, this pretty much applies to groundwater only.

**BRIESE:** Yes.

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**BRANDT:** I think what Senator Cavanaugh was talking about was the surface water situation and so--

**BRIESE:** Yes.

**BRANDT:** --what we're primarily concerned with here is, is the loss of groundwater.

**BRIESE:** Yes, that is what this targets.

**BRANDT:** All right. Thank you.

**BRIESE:** The two are interrelated, but for simplicity, we're not, we're just targeting groundwater at this point, sure.

**BRANDT:** All right.

**BRIESE:** Because I do have a fear that someday people will have their eye on what truly is our most precious natural resource, and anyway, this to prevent that from happening someday.

**BOSTELMAN:** Other questions or comments? Seeing none, will you stick around for closing?

**BRIESE:** Yes.

**BOSTELMAN:** Thank you, Senator Briese.

**BRIESE:** Thank you.

**BOSTELMAN:** I would ask anyone who would like to testify as a proponent on LB241 to please step forward.

**MERLYN BARTELS:** Good afternoon, Senators. My name is Merlyn Bartels, M-e-r-l-y-n B-a-r-t-e-l-s, and I'm here to-- a proponent for Senator Briese's bill. I completely agree with him, except for one point and that's the ten mile limit. I would just as soon see it would be the border, actually. But I'm in favor of this bill, as we should close the door to moving our underground water out of our state. And as he possibly said, someday, somebody wanting to buy it. As we all know, Colorado is short of water and Denver's looking for water, and they've already bought up water rights from people out in the country there. So we need to conserve our water and keep it here for our residents to use. I did talk to the Senator's Office and he said that about the ten mile limit because of the reason of someone owning land across the border. I guess that being a farmer, if I had a bought that land over

there and it was dryland, I would just expect to farm it as dryland, even if I had a well on the side of Nebraska. And I guess I'm asking what would it benefit Nebraska to let him water and irrigate a ground in another state? Do we get any revenue back from that because it's irrigated ground compared to a dry land field there? So, so that was a reason I would cut it down to less than ten miles. But that's my own personal opinion there. So and being a farmer in the Lower Republican NRD, I'm sure you guys are all familiar with that, that we've been under water allotments for several years already. We are set at nine years, nine inches a year or 45 inches for five years. So we are already in the conserving mode down there. And I just feel like if we're in the conserving mode, I would hate to look over west somewhere and see somebody pumping water across the border for sale or for any other reason there. So I still feel that we need to conserve our groundwater for the irrigation. So I really don't want to see that water going out. And our former Governor has started a project which you guys alluded to about getting the water coming out of Colorado. So when we're trying to get water from Colorado that they owe us and why would we turn around and pump water back to them, I guess is what I'm asking there. So I ask that you would advance this and make every effort to get this bill passed to protect our water in the future as the Senator referred to. Thank you.

**BOSTELMAN:** Thank you for your testimony. Are there any questions from committee members? Seeing none, thank you for coming in and testifying today.

**MERLYN BARTELS:** Thank you for your time.

**BOSTELMAN:** Next proponent to LB241, please step forward. Good afternoon.

**ERIC HANSEN:** Good afternoon. My name is Eric Hansen, E-r-i-c H-a-n-s-e-n. I'm a fifth generation cow-calf rancher from the Sandhills and I also serve as the Chair of the Nebraska Cattlemen's Natural Resource and Environment Committee. I'm here today to testify on behalf of Nebraska Cattlemen in support of LB241. Nebraska Cattlemen supports the overall maintenance of groundwater supply within the state of Nebraska. Access to groundwater is vitally important for the sustainability of agricultural operations across the state. Our producers rely on groundwater for their families, cattle and land irrigation. The proposed language would prohibit the transfer of groundwater outside the state more than ten miles. We agree with the importance of protecting Nebraska's water for generations to come. Thank you, Senator Briese, for helping us emphasize the importance of

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protecting the future of Nebraska groundwater. And we ask for the committee to advance LB241. I'll happily answer any questions if I need to.

**BOSTELMAN:** Thank you for your testimony. Are there any questions from committee? Seeing none, thank you for your testimony today. I want to welcome Senator Jacobson to the committee. Next proponent on LB241 please step forward. Good afternoon.

**BILL HAWKINS:** Senator Bostelman, members of the committee. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I'm a lifelong Nebraskan and I live here north of town and Nebraska's been in a serious drought for a long time. Whether we're in a mega drought yet, but I have planted trees my whole life north of town and our soil is powdery dry. So I really thank Senator Briese for bringing up LB241, and I'm here to speak in favor of that bill. The first two testifiers told you what it's like on the ground in Nebraska. They are already under water restrictions. And so to take water, and especially our precious Ogallala Aquifer, that isn't a big giant lake down there, it's water flowing through rock structure, is our only resource here in Nebraska because if we do not have water, we move out of here. We're done. Other, California, Texas, everybody, those millions and millions of people are running out of water. And so we really need to protect this, what we have here in Nebraska. And so with the first testifier, unless there's a real good reason where a farmer or rancher has cows on his pasture in Kansas and he needs to fill up water tanks there, if we're allowing them to irrigate crops and they aren't paying us per cubic foot of water that they're transferring, then that is a tragedy and we need to reexamine any permitting structure here because we can't be giving away our water. We are in a huge fight with Colorado and Kansas with our water. So I appreciate your time, Senators, on this important issue. I would say this is probably one of our most important here in Nebraska. So thank you, Senator Briese.

**BOSTELMAN:** Thank you.

**BILL HAWKINS:** I'd be happy to take any questions.

**BOSTELMAN:** Thank you for your testimony. Are there any questions from committee members? Seeing none.

**BILL HAWKINS:** Thank you. Have a good day.

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**BOSTELMAN:** Thanks very much for your testimony. We recognize that Senator Frederickson joined the committee. Any other proponents for LB241? Good afternoon.

**TYLER SONDAG:** Good afternoon. My name is Tyler Sondag, T-y-l-e-r S-o-n-d-a-g, and I'm here to support this bill. I think that it does a lot to conserve one of Nebraska's most precious resources, as has already kind of been going over. But I think the most important thing is groundwater from Nebraska is a great reserve of water when changing climates make surface water a little more unpredictable for our farmers out west. And so I think that just by preserving it and making sure that we can't sell it, as other states have in the past with different pieces of legislation supported that, that that ban would be a great piece of legislation. My only question that the bill, I don't know if it covers at all is if that groundwater is ever used for any kind of material purposes outside of just transporting water as water. And if that, so, for example, just say you have like a Coca-Cola manufacturer that were to open up close to any, or I guess anywhere in Nebraska that uses groundwater, is that soda now considered water or is it now considered something else entirely? And I think that that would be something that this bill should consider potentially in the future.

**BOSTELMAN:** OK. Thank you for your testimony. Any questions from committee members? Seeing none, thanks for your testimony.

**TYLER SONDAG:** Thank you so much.

**BOSTELMAN:** Anyone else like to testify as a proponent for LB241 please step forward. Any other proponents? Seeing none, would anyone like to testify as an opponent to LB241? Afternoon.

**BRUCE RIEKER:** Good afternoon. My name is Bruce Rieker, B-r-u-c-e R-i-e-k-e-r, and I'm senior director of state legislative affairs for Nebraska Farm Bureau. And somewhat ironically, I would say that we're here to oppose this bill, but for very similar reasons that everybody else said we want to protect our water. Our policy at Nebraska Farm Bureau is very clear that we oppose any such water transfer, whether it was ten feet or ten miles in order to protect our resources. So that is why we decided that consistent with our member developed policy that says, I mean, verbatim says we oppose groundwater being pumped to other states, that we oppose this if, so, if Senator Brieser were to amend it to take out that mileage, then Nebraska Farm Bureau would have a different position on it, but that's where we stand.

**BOSTELMAN:** OK. Thank you for your testimony.

**BRUCE RIEKER:** You're welcome.

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

**BRANDT:** Thank you, Chairman Bostelman. Thank you, Mr. Rieker, for testifying today. You heard about the constitutionality issue and possibly an interstate commerce clause, and you're an attorney, how do you square that with what you just said? Because there's a pretty good chance with the existing permits that go over the lines, both for farm ground and city water, that the courts would rule against such a clause that you're proposing?

**BRUCE RIEKER:** Well, in very succinct terms, I would say that our members would say, Bruce, you're the attorney, figure it out. So that, this is at, we understand that there are several rules and regulations that were developed about a decade ago. And I think Senator Briese alluded to those about the Department of Natural Resources control and coordination of these sorts of things. We don't get into legal debates with our House of Delegates. So there would be some things that if we found a reasonable solution to this that was constitutional, that would be something I would have to explain to them. But depending on how many variables we add to this equation, I don't have a clear answer for you other than we would have to work through it.

**BRANDT:** There is one thing I see that Senator Briese did not include in here, where we have a limit on how far the water can go outside the state line, it doesn't propose how far the water comes from inside the Nebraska state line. What I'm saying is, they could come from 50 miles away and get pumped across the border. If there was an amendment to the bill that said only groundwater within a half mile of the state line could be pumped over or something like that, would that make it more agreeable?

**BRUCE RIEKER:** I don't think so.

**BRANDT:** All right. Thank you.

**BRUCE RIEKER:** Because it's the groundwater. And so and I think Senator Briese recognizes this. I don't want to speak for him, but the constitutional application, whether it's over the state border or whether it's stopped at ten miles, the constitutional issue remains the same as whether or not you're limiting commerce. So those would be things that, and that's a U.S. Supreme Court decision, not a state Supreme Court decision.

**BRANDT:** All right.

**BOSTELMAN:** Senator Jacobson.

**JACOBSON:** Sorry for the delay in getting here, but I, and I, I apologize ahead of time if this is ground has already been plowed and I'm starting a new land here. But I think, obviously, Senator Briese, I think I understand the intent in which he brought it. And he's a bright guy, and I know that he's thought through all these pieces. I'm assuming that his concern was what do we do about those individuals who own land on both sides of the state lines, whether it be on the Iowa side or the Kansas side, and may be pumping water there today to run pivots and that kind of thing. And I'm assuming that's one of the things he was trying to protect, but I think we can all agree that we're not wanting to see water transported. And obviously, part of this is going to be a U.S. constitutional issue. Part of it is really a practical issue that if, I would have concern that if I were a producer out there today who owned land on both sides of the border, that I wouldn't want the Legislature telling me I can't. I got to get rid of my, my pivot on the, on the across of the river or drill a new well over there. I think I understand where your association is and your organization is, you're just fundamentally opposed to anything being pumped, I think, as we all are. And so that probably the big thing comes back is and I'm guessing you're not going to, I guess, make any hedges on what your membership might look at, but do you think they'd be open to some carve outs, assuming we can get past the constitutional issue for those people who have the existing uses that are, that are agricultural in purpose.

**BRUCE RIEKER:** I would say, yeah, I'll hinge my bets. But I would say that for those of our members who are very engaged in the water debate and things like that that have been involved with working with the Department of Natural Resources and, and policymakers for the last 15, 20, 30 years, but that they would be amenable to that because we were, it's before my time at Farm Bureau, but that doesn't excuse me from representing this particular organization. Farm Bureau was at the table when the current exemptions and allowances were put together through the Department of Natural Resources. I don't know the extent to all of those, but, you know, we had several people at the table that helped carve out some of those things.

**JACOBSON:** Thank you.

**BOSTELMAN:** Any other questions from committee members? Seeing none. Thank you for your testimony.



**BRUCE RIEKER:** You're welcome. Thank you.

**BOSTELMAN:** Anyone else like to testify in opposition to LB241? Any other opponents? Seeing none, anyone like to testify in the neutral capacity? Afternoon.

**CHRIS PETERSON:** Mr. Chairman, members of the committee, my name is Chris Peterson, C-h-r-i-s P-e-t-e-r-s-o-n, and I'm a registered lobbyist appearing on behalf of the Nebraska Petroleum Producers Association. On its surface, the bill may not impact oil production and associated activities in Nebraska, but we just want to make sure that it would not impact if the committee were to advance the bill to the full Legislature. In 46-601, I think, point one, there's a exclusion for Oil and Gas Commission activities from the definition of regulated activities for groundwater, and bringing some of that exclusion language forward into this section may make sense. Let me just briefly explain. When you produce oil, when it's pumped out of the ground, it's not just oil that you're bringing out of the ground from thousands of feet below ground, you're also bringing water. And, and then that water has to go, is then placed back into the ground through a wastewater disposal well, several of which are licensed in Nebraska. But it could be the case that an oil producer would have that oil or that water, rather, that produced water, trucked to a nearby well in Kansas or in Colorado, just as a matter of, of best business practices, perhaps, or the trucking company involved in serving those wells. And so we just want to raise this issue. Should, should the committee decide to advance the bill, we'd like to work with the committee just to make sure that there isn't any unintended consequences.

**BOSTELMAN:** Thank you for your testimony. Any questions from committee members? Senator Moser.

**MOSER:** So, are you talking about water that they used to circulate their chips and, and stuff it down into the well or water that's incidentally pumped with the oil?

**CHRIS PETERSON:** It could be, it could very well be both, Senator. As you know, there's, there's thousands of feet at below ground where you find oil you also find water. And, and so when you're, when you're pumping that to the surface, you're going to have both coming to the surface.

**MOSER:** Hmm. OK. Thank you.

**BOSTELMAN:** Senator Jacobson.

**JACOBSON:** Well, I think to clarify that I, I've got some familiarity with, with that oil production. And what they're, what they're pumping up is a large, large volumes of saltwater. Very hot saltwater. And the reason it has to be disposed of in the disposal well is you've got all this salt that would be contaminating the upper surface of the soil. So, so I think it would be probably something it seemed to me we'd have to consider in terms of, you know, the type of water that we're really dealing with, because this is coming from way down below the Aquifer. This is not water coming out of the Aquifer. This is water coming down where the oil is located and it's being pumped up and you've got more volume of water than you do of oil. And it's, it's very hot and it's very salty. So and that needs to go back down to the proper disposal well. So I, I guess I understand the concern there and probably something that would have to be considered as we move forward.

**BOSTELMAN:** Other questions? Seeing none, thanks for your testimony.

**CHRIS PETERSON:** Thank you.

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

**BRIESE:** Thank you, Senator Bostelman. I certainly appreciate the testifiers and the testimony we heard today. And I don't have a whole lot to add. Straightforward bill, but I agree, we want to be wary of unintended consequences. And I'm more, more than agreeable to try to sniff out some of those and probably also look at solutions to the potential constitutionality issues. Probably the way the Constitution, constitutionality issues in its present form and versus what we might want to change to help ensure we don't have those kinds of problems. But anyway, I'll be considering amendments, looking at amendments and otherwise appreciate testimony. Don't have much to add.

**BOSTELMAN:** Thanks, Senator Briese. Are there any other questions from committee members? Seeing none, that will close our hearing on LB241.

**BRIESE:** Thank you.

**BOSTELMAN:** There were three proponent letters that we did receive on LB241. Would also acknowledge that Senator Slama joined the committee.

**SLAMA:** Why, thank you.

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**MOSER:** OK, Now we're going to switch to LB289 by Senator Bostelman, and you're welcome to open on your bill, Senator.

**BOSTELMAN:** Thank you, Vice Chairman Moser. Good afternoon, committee members. My name is Bruce Bostelman, spelled B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. I'm here today to introduce LB289. I am bringing this bill on behalf of the Municipal Energy Agency of Nebraska or MEAN. MEAN is a political subdivision of the state, is under the jurisdiction of this committee, organized under a chapter from the Nebraska Power Review Board and operating as agency under the Nebraska law. They have asked us to, to change provisions relating to the powers of their agency and clean up the statute, statute regarding a few future needed utilities-related services. The MEAN staff asked me to carry the bill after a surprise Attorney General's opinion on advanced metering. The AG said that the area was unclear if MEAN had the power to provide advanced metering systems and that authorizing legislation would help to clear that matter up. MEAN would like to be able to provide standard utility services such as advanced metering, enhanced physical security, and helping small towns with their information technology. All three of these services are forward, forward-looking and are important pieces to modern utility practices. MEAN would limit these normal utility services to publicly-owned utility systems for its members. MEAN questioned the rest of the public power providers like power districts and municipalities, and found that many are providing these authorized services for their members today. After me is the Vice Chairman of MEAN, Tom Ourada from Crete, Nebraska to explain how MEAN operates and their general counsel to explain the bill and answer any questions that you may have. Thank you for this opportunity to bring this clean up legislation to for MEAN, and I urge the Committee to vote on this bill and move it to General File. Will try to answer any questions you have, but their counsel and follow me and they probably answer more directly.

**MOSER:** Any questions for Senator Bostelman? Seeing none. Thank you. Is there anybody here to speak in support of this bill? Please come up and hand in your paperwork and give us your testimony.

**TOM OURADA:** Thank you, Mr. Chairperson, and members of the Natural Resource Committee. My name is Tom Ourada, T-o-m O-u-r-a-d-a. I am the chairperson of the Municipal Energy Agency, MEAN, and I'm the city administrator of Crete, Nebraska. I'd like to thank Senator Bruce Bostelman for his sponsoring of LB289 on behalf of MEAN and our members. MEAN is a Nebraska political subdivision and has operated for 42 years as a wholesale power supplier to about 64 communities in the

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Midwest. Most are in Nebraska. Our niche is small communities that own and operate their own city electric utilities. I've been involved with MEAN for over 30 years, and during that time I've held various leadership positions throughout my career with the city of Crete. Like many of the MEAN members, the city of Crete electric systems serves retail electricity in or near our corporate limits. We own a generating plant capable of generating seven megawatts of energy, and our distribution system consists of three substations with a fourth in planning. Our source of electricity is the Western Area Power Association, WAPA, and MEAN. Noteworthy, Crete formed Nebraska's first Municipal electric system in 1887. MEAN allows each community to appoint a representative to the board of directors, and each community gets one vote or a say in establishing its rates, generation and services. Following me is Chris Dibbern, MEAN's general counsel, to explain why LB289 is needed this year. She will explain the bill and answer questions about the clean up matters and future looking important-related energy services. If you could direct those questions to her, I'd be happy to answer any questions about MEAN in general or Crete.

**MOSER:** Senator Brandt.

**BRANDT:** Thank you. Vice-Chair Moser. Thank you, Tom, for being here. It's always good to see somebody from the district show up. Senator Bostelman explained to me the reason for this bill is, MEAN has the purchasing power to buy remote electrical meters for all the towns at a more reasonable cost than what Crete could do on its own. What, is that the sole purpose of this bill or are there other things out there that MEAN could accomplish once this bill got passed? What else is there?

**TOM OURADA:** There are other things. They could provide security services and cybersecurity. I mean, other, other things that small towns smaller than Crete yet could not provide on their own. And these systems are at risk. We're all equally at risk. And why, while Crete can subsidize and afford some of these, MEAN has helped Crete and some towns absolutely, positively would need to depend on MEAN to do this.

**BRANDT:** All right. Thank you.

**TOM OURADA:** Thank you, Senator, for asking.

**MOSER:** OK. Other questions? OK. Thank you very much for your testimony.

**TOM OURADA:** Thank you.

**MOSER:** Any other supporters?

**CHRIS DIBBERN:** Good afternoon, Vice Chairman Moser and members of the committee. My name is Chris Dibbern, C-h-r-i-s D-i-b-b-e-r-n, and I'm the general counsel for the Municipal Energy Agency of Nebraska. And thanks to Senator Bostelman, who introduced LB289 on behalf of MEAN. We're an agency under the Municipal Cooperative Financing Act, and we do think this is clean up legislation. And great question, Senator Brandt, and I'll go into that more. The Nebraska Power Association also supports LB289, and it's a voluntary organization representing all the segments of public power in the state, municipalities, public power districts, public power and irrigation districts and cooperatives engaged in either generation, transmission or distribution systems in the state. You heard about MEAN from our Vice Chair, Tom Ourada of Crete, and I have a handout about NMPP Energy. That's a coalition, a name of four organizations that work together for small munis. LB289 addresses several clean up matters that several utilities in the state already do, and they're very important. Many of Nebraska's municipalities have the authority to provide these services, but MEAN is requesting your help to help small communities do it together. LB289 amends the act to allow this agency to own and operate, to contract to operate or lease advance metering infrastructure technology. It's called Advanced Metering Services, sometimes AMI. This bill is only regarding serving publicly-owned utilities. So MEAN doesn't plan to do this for other organizations or companies, it's for publicly-owned utilities. Municipalities have the power to own their meters, and MEAN can do metering and billing services. That's already under the statutes under Chapter 70-625[6]. However, think of advanced metering as smart meters. You've heard of the smart grid, and I always smile about smart grids. I don't think the grid is smart, it's the appliances you put on the grid are smart. So this is a map. It's an example of that. We help small communities on residential and industrial meters to be completely turnkey, that the data would be uploaded to MEAN and we use a third, we would use a third-party provider, a vendor that created this smart meter and creates the data management. But it helps eliminate like lengthy-- lengthy disconnects and reconnects. You can connect up quickly. There are less errors on the data when it is transferred this way instead of reading a meter by hand or having to put it on another system. It applies to water, sewer, electric meters. And if a municipality owned its natural gas system like Falls City, it would apply to the natural gas systems. That's what troubled me at the very beginning was that I thought, well, they're going to be on natural gas meters too. We don't

have authority to do natural gas. So we requested an Attorney General's opinion on whether or not MEAN could assist with advanced metering. The opinion surprised us that they said it was unclear and so they said seek legislative authorization, seek direction from this Legislature. So that's what we did. We would, we surveyed our communities and we had at least 13 of them that were interested in advanced metering. So this is forward looking. We have not done this service, but we think that it-- oh, I'm sorry.

**MOSER:** That's OK.

**CHRIS DIBBERN:** Can I continue?

**MOSER:** We'll give you a little latitude to continue.

**CHRIS DIBBERN:** Thank you. MEAN would eventually like to apply for state and local grants. AMI is in some of these federal grant centers coming. So we would also like to apply for our communities to work with them in the future. Secondly, Senator Brandt's question, does it only do AMI? It does something called what we call information technology. And I don't want to spook anybody that it's all cyber security, but it's in regards to knowing good cyber practices and training our towns about hackers and what they can do. So that is, that's one of the elements is, is information technology working together. Also physical security. And I want to jump to that right away. You've all heard stories about attacks on physical infrastructure and protecting the nation's grid and our substations and our distribution systems. We think our small towns are suspect. They're, they're, they're targets for physical security threats. And we'd like to work together, find out what all our peers are doing. You know, does the, does the county sheriff travel around substations? Do they see open hatches? Things like that, that we can teach towns together, learn from each other on physical security issues.

**MOSER:** OK. Let's conclude there and let the--

**CHRIS DIBBERN:** Thank you.

**MOSER:** --panel ask any questions that they might have. Senators, have questions? Yes, Senator Brandt.

**BRANDT:** I'll ask it. On hardening our electrical infrastructure in our smaller towns, and I consider Crete actually a pretty good-sized town. I see Shickley as a member out on, Shickley is probably more typical of a 300, 300-person community in the state of Nebraska. What would that look like?

**CHRIS DIBBERN:** Hardening? Well, we haven't developed the services yet, but it would be taking the best practices from all our communities. What do they do? Do they drive? Do they have the police? Do they have the county sheriff drive around their substations? Do they look at open hatches? Do they see any markings that are strange to the substation? Do they see any break-ins around water towers? That's the kind of thing that we would list, the kind of checklists that in the community might look for and, and practice those good practices. Do they have fences around secure areas? That's the kind of thing I think of.

**BRANDT:** So it's,

**CHRIS DIBBERN:** But I'm a lawyer, so not the engineer part.

**BRANDT:** So your agency would put out a preventative checklist for these small communities to give them some guidance, is that?

**CHRIS DIBBERN:** I think so. I think it would be, we actually think that they, they would like to develop these services, go out with training, do workshops, the way we do some of that with the-- on the electric generation is right now, but we don't do it on physical security.

**BRANDT:** All right. Thank you.

**CHRIS DIBBERN:** Thank you.

**MOSER:** Further questions?

**HUGHES:** I think I have a question. I mean, like in a big city, like in Omaha or Lincoln, they already do this kind of metering, and it's not, I just don't understand why this is a legislative issue, that if a place wants to do this, they can.

**MOSER:** Why is it necessary?

**HUGHES:** Why is it necessary?

**CHRIS DIBBERN:** That, that was the surprise. MEAN is a wholesaler. So our towns run their system and at retail they can do these services.

**HUGHES:** But if Crete did it--

**CHRIS DIBBERN:** Um-hum.

**HUGHES:** --this wouldn't, we wouldn't be talking about it.

**CHRIS DIBBERN:** Right, this,

**HUGHES:** But the fact that as a wholesaler you're going to do it for a variety of communities under that--

**CHRIS DIBBERN:** That's correct.

**HUGHES:** --that's the issue.

**CHRIS DIBBERN:** That's correct. And we're public power so this committee tells us what authority we have.

**HUGHES:** OK.

**CHRIS DIBBERN:** So we get to go to you. We're nonprofit public power. Our niche is 5,000 and under, so we serve small communities and pool, pool their resources together.

**HUGHES:** These are good by them.

**CHRIS DIBBERN:** I think so. I thank you.

**HUGHES:** OK.

**MOSER:** More questions? Inadvertently, we did limit you to three minutes and Chairman Bostelman said we were going to allow five. So if you have any other comments.

**CHRIS DIBBERN:** None at all. Thank you.

**MOSER:** Prefer two more minutes, we will.

**CHRIS DIBBERN:** I do think five went fast.

**MOSER:** I thought it went quickly too.

**CHRIS DIBBERN:** Thank you very much.

**MOSER:** Thank you. Other supporters? OK. Are there opponents to this bill? Any opponents want to come testify? OK. Anybody in the neutral capacity? OK. We did receive one letter in support from Lash Chaffin from the League of Nebraska Municipalities in support. Senator, you're welcome to close.

**BOSTELMAN:** Thank you, Senator Moser. Precipitous, maybe to Senator Hughes' question was really the AG opinion that come down that we weren't expecting to be answered the way it was. This just allows them



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the ability to do similar to what the other public powers municipalities already can do. This just clarifies language to make sure that that does take, they aren't able to do that. That's all I have for today.

**MOSER:** OK. Thank you. That will close our hearing on LB289 and I will yield the control of the meeting back to Chairman Bostelman.

**BOSTELMAN:** We'll be standing at ease for a few minutes until Senator Erdman or his staff comes in for LB395.

[EASE]

**BOSTELMAN:** Next bill here is LB395 by Senator Erdman. Welcome to the Natural Resource Committee.

**ERDMAN:** Well, thank you, Senator Bostelman. Sorry, I'm late. We just finished over in Government. Didn't think that bill was going to take that long but it was interesting. So my name is Steve Erdman. I represent District 47. That is now nine counties in the Panhandle and the name is spelled S-t-e-v-e E-r-d-m-a-n. I come to you today with a, an issue that we dealt with a couple of years ago on the compensation for the Oil and Gas Commission members. I'll give you a bit of history. It was probably maybe 2017 in the summer, I was in Sidney where the gas commission is headquartered and I stopped to see those gentlemen that were having a meeting. And at that time they shared with me that their compensation for serving on the board had been the same for 60 years, \$50. And I thought we were poorly paid. And so I shared that with them, that you may be the only people in the state that gets less than we do. And so I began to look at that and thought, wonder what \$50 would be today compared to 1954. And my conclusion was it should be \$500. So I introduced legislation to increase their compensation to \$500 per member. Little did I know that Senator Hughes had a similar idea.

**HUGHES:** Not, not.

**ERDMAN:** And he wanted to increase it.

**HUGHES:** Not this Senator Hughes.

**ERDMAN:** Let me restate that. Senator Dan Hughes had a similar opinion and he wanted to make the compensation \$300. And so he and I had gotten together and decided that we'll compromise, we'll make it \$400. And in the meantime, we also put in the statute that the lot, the maximum amount would be \$5,000 a year. So at that point in time, the,

the Oil and Gas Commission had several wells that were abandoned that needed to be taken care of and closed up but they didn't have the funds to do that. They have since received a significant grant to do those things, and so therefore, they're meeting more than quarterly. They generally meet monthly and this last year, in '22, they met 15 times. So what happened is the Oil and Gas Commission reached their maximum amount in September. And so for the last four meetings that they had, they received no compensation. And so what we're trying to do today is raise their compensation to \$500 and then attach that compensation to CPI and other adjustments that can be made on the year, odd number of years. Every other year on July 1st, they can make an adjustment so they don't fall so far behind. So that's the goal today is to bring them up to \$500. I asked a question to Chris Peterson, why do we even have any authority over setting their salary. Until we made that contribution a year ago from LB650 for sequestration of carbon, they had never received any money from the state. And so if we don't make a contribution to their cash fund that pays for their wages, why do we as Legislatures set their salary? And so that has always been peculiar to me, but we do. And so I think that if we can deal with this once and for all and kind of set this in motion so that they don't have to continue to come back and ask us what is their salary for the next year or years down the road. And so, you'll know it has a small fiscal note and those, those are all cash equivalencies so we don't have a General Fund contribution to the, to the fund. So I'm asking you to advance this, and perhaps we could either get this on your, your committee bill or maybe on consent calendar and we can move forward with giving them the compensation they deserve. And I believe there will be people here to testify on that.

**BOSTELMAN:** OK. Thanks, Senator Erdman. Are there questions from committee members? Senator Jana Hughes. [LAUGHTER]

**HUGHES:** I think we can do that. So is it, what is a typical when they meet for their meetings all day? Is it an eight hour day, a long day? I was just doing the math. \$400 a day is \$50 an hour if it was an eight hour meeting. Is that typically--

**ERDMAN:** You know, Senator Hughes, the chairman of that committee is here and he'll be able to answer those. I do know that several years ago when they had an issue with pumping saltwater into the, some of the old abandoned wells, that meeting lasted for a week. So they at times have significant amount of time spent. But one of the things we needed to keep in consideration it's, it's not just the time that they spend in meetings, it's the time that they spent reviewing what

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they're trying to do and doing the research. And so there's more involved than just, they put in more time than just having meetings.

**BOSTELMAN:** Senator Moser.

**MOSER:** So do they get a per diem also or is this?

**ERDMAN:** I don't believe so.

**MOSER:** This is their total pay.

**ERDMAN:** This is it.

**MOSER:** And where does the money come from that they are paid?

**ERDMAN:** On that first question you had Senator ask, ask the chairman when he comes about the per diem, they may get mileage. I can't answer that. But I'll tell you what, and your second part of your question was.

**MOSER:** Who pays their salary?

**ERDMAN:** It's similar. The easiest way for me to describe that I think is very similar to the corn checkoff or bean checkoff or any of those things. All of those people who.

**MOSER:** The industry supports it.

**ERDMAN:** They pay it. They pay a fee and that's where the money comes from is cash, cash from the members that use it.

**MOSER:** And there is no limit to the number of meetings they may require.

**ERDMAN:** No, there is not. And so that's why this year, like I said, they didn't ever before have the opportunity to close up some of these abandoned wells, but they got this \$25 million grant that allows them to do that. And so they're spending their time in those extra meetings, determine which wells to close and how to do that and so that's why it's taking more time.

**MOSER:** OK. Thank you, Senator.

**ERDMAN:** Yep.

**BOSTELMAN:** Other questions from committee members? Seeing none, thank you. Will you stay for closing?

**ERDMAN:** I will.

**BOSTELMAN:** Thank you. Anyone would like to testify as a proponent for LB395? Good afternoon.

**DAN BLANKENAU:** Good afternoon, Senator. Chairman Bostelman and the committee. My name is Dan Blankenau, D-a-n B-l-a-n-k-e-n-a-u. I'm a former president and a current board member of the Nebraska Petroleum Producers Association, and I'm the current president of Great Plains Energy here in Lincoln. I am here today in support, speaking in support of Senator Erdman's LB395. I would like to thank Senator Erdman for introducing this bill and recognizing the importance of the Nebraska Oil and Gas Conservation Commission. It is extremely important to the oil and gas industry that we have qualified commissioners serving on the NOGCC. The oil and gas industry will suffer in the state if we do not have knowledgeable and competent commissioners. I support commissioners receiving \$500 per day of business devoted to the Commission on two main principles. Number one, dedicating the time necessary to participate in and prepare for meetings is a sacrifice and a commitment that should be appropriately compensated. Number two, the compensation for serving as a commissioner should serve to attract and retain individuals with specialized knowledge and expertise necessary to effectively serve. This is a specialized industry, and finding qualified people to serve as commissioners can be a challenge. Adequate compensation can ensure we have the right people serving on the commission. Finally, I would like to say, to note and we discussed this briefly a moment ago, that the funding for the commissioner compensation comes from revenue collected by the Oil and Gas Commission, not from the state's General Fund. It's paid by the producers operating in Nebraska through taxes we pay to the commission. I'm more than willing to pay the increased taxes on oil production needed to pay for a well-run Oil and Gas Commission.

**BOSTELMAN:** Thank you for your testimony. Are there questions from committee members? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you for being here today. Being from eastern Nebraska, I know very little about what the state of Nebraska does for oil and gas. I assume this is predominantly a Panhandle industry. Can you give us a quick overview of how large this is?

**DAN BLANKENAU:** Well, it's quite large. The Panhandle is where significant activity had been for many, many years. But as of late,

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southwest Nebraska, McCook, Benkelman, Trenton is, been quite prolific. We've had a lot of success. We being the industry, working in that area and there is a little bit of oil production in southeast Nebraska.

**BRANDT:** So with the recent increase in oil, has that triggered more exploration, are more wells being put down in Nebraska?

**DAN BLANKENAU:** Yes.

**BRANDT:** 10 percent, 50 percent, you got any idea?

**DAN BLANKENAU:** I don't know. As far as the industry, I have enough trouble keeping track of myself to know what the rest of my peers are doing. But yeah, no, we've increased by 30 percent, our own company.

**BRANDT:** All right. Thank you.

**BOSTELMAN:** Senator Jacobsen.

**JACOBSON:** A couple of questions. I, first of all, I really like the spirit of the bill. I think that, you know, the points you made with regard to finding qualified people to serve on this commission is important and their time is valuable. And obviously, I'm sure they're not doing it like state senators for the money, because, you know, a few other things we could be doing. But I do like the spirit of what you're doing, and particularly this is dollars that are really coming from the industry itself. Could you maybe enlighten, enlighten us in terms of your peers elsewhere, how their commissions operate and what that compensation might be? If I had a concern, my concern would still be is that, is that dollar amount high enough? But maybe you can enlighten us of what the others are doing.

**DAN BLANKENAU:** Other, I'm sorry, other states you mean?

**JACOBSON:** Yeah.

**DAN BLANKENAU:** That, that I have no real understanding. I'm not involved. I'm strictly pretty much--

**JACOBSON:** Gotcha.

**DAN BLANKENAU:** --in Nebraska. But I do know that the level of expertise that's required to adequately assess some of the issues that come up, that's a very high-valued profession. You know, petroleum

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engineers and geologists and landmen and, and other knowledgeable people that get paid significantly more than that.

**JACOBSON:** And how many are on the commission?

**DAN BLANKENAU:** Three.

**JACOBSON:** And do you have, are you having difficulty, I mean, I know where they're at in their lifespan and so on. But are you, do you feel like you can keep attracting people at even at the \$500 to make that work?

**DAN BLANKENAU:** I think it certainly will help, yeah, because in the past it had been very difficult to get people to energize to, to serve.

**JACOBSON:** OK. Thank you.

**BOSTELMAN:** Senator Moser.

**MOSER:** I would assume that more than likely, these people aren't doing it for the pay. This is just more a way of covering their expenses and, and that sort of thing. Or do they get a per diem also, other than their \$500?

**DAN BLANKENAU:** I'm not sure exactly how that works. I think the next proponent will be able to answer that.

**MOSER:** OK. Thank you.

**BOSTELMAN:** Are there other questions from committee? Seeing none, thank you for your testimony.

**DAN BLANKENAU:** Thank you.

**BOSTELMAN:** Anyone else like to testify as a proponent for LB395, please step forward. Good afternoon.

**STAN BELIEU:** Good afternoon. For purposes of the record, my name is Stan Belieu, S-t-a-n B-e-l-i-e-u, and I'm the director of the Nebraska Oil and Gas Conservation Commission. And I'm here, obviously, to answer questions, provide some clarity on where we were. Senator Erdman talked about this, but up to three years ago we were 100 percent cash funded. And that amount comes on a, comes on a tax that's placed on the value of oil and gas that is sold in Nebraska. It can range between zero and 15 mills. Currently, we were at seven mills. So

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we're right in the middle. In addition to that, we do receive two federal grants. One is for the Underground Injection Control program, disposal wells that we've talked about earlier. And in 2021, this, this body passed the Nebraska Geological Storage of Carbon Dioxide Act. That money provided us with the first General Fund money that we'd ever had, and that was in the amount of about \$175,000. So I can tell you that on the fiscal note that we put together, we would inspect an increase in our agency's expenses by about \$6,000 per year. This would be paid by our cash fund. That's where the funding would come to pay for this increase. And I believe we do have sufficient appropriation and to be able to handle this cost increase. Our agency is called quasi judicial and that our commission has to conduct our public hearings like, like the same as a court. We would swear in witnesses, we would put people under oath. We would qualify people as experts. And then the, our chairman who, who will appear next and our three commissioners serve as the judges. So we usually have about ten hearings per year. Once a month is when we do it. The applications that we hear are varied, but they're usually fairly technical. We have the statutory authority to bring different interests in, even if they disagree with it. If two oil companies don't agree on who should take operations, then our commissioners need to decide that. If we want to do secondary recovery projects, we can join other landowners together and mineral owners together to do it. And because of LB650, we can also now join different pore space owners to be part of a unit that would allow for the sequestration of carbon dioxide. So our commissioners have to have an extremely good knowledge of Nebraska law. They have to know our rules and regulations. They must also have a technical knowledge of oil and gas, such as drilling, completions, operations, and with the rules covering geologic storage of carbon dioxide, it's very useful for them to understand rock properties and reservoirs and those technical issues that you would have. Generally, they, they would have a background in either petroleum engineering or geology. We talked about our agency budget and the receiving of a grant from interior for \$25 million, and that money will be used throughout the state to take wells that are abandoned and we'll plug in, abandon those, will clean up the, the surface locations and will store that agricultural use. So these commissioners have direct oversight over us. They're, they're my boss, they're our bosses. They provide our agency with direction and supervision. They're, we've been really fortunate over the years to have people that are dedicated to it. As we talked about, you know, you're almost a volunteer when you do this. It takes, in some cases, a whole day to travel to Sidney. One of our commissioners lived here in Lincoln, and so it's a two-day thing for the compensation that they're receiving. And to clarify a

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question, they really fall under the same rules as state personnel. So they receive the per diem, just like we would if we were, just like we are when we're traveling here so our hotels could be paid for. We receive them, they would receive a mill per diem. So that part of it is covered. So I've worked for Nebraska Oil and Gas Commission for over 30 years, and we've been very, very fortunate to have qualified people that do their job very well. But it is getting more and more difficult to find those people that are willing to dedicate it. And we do appreciate all those people that serve on all these boards and commissions. And you guys as semi volunteers. It's, we do appreciate that. That's what makes this such a good state. So with that, I'm done. Thank you.

**BOSTELMAN:** Thank you for your testimony, Mr. Belieu. Are there any questions from committee members? Seeing none, thank you for being here today. Next proponent on LB395, please step forward.

**CHRIS PETERSON:** Mr. Chairman, members of the committee, my name is Chris Peterson, C-h-r-i-s P-e-t-e-r-s-o-n. And I'm a registered lobbyist appearing on behalf of the Nebraska Petroleum Producers Association in support of LB395. I want to thank Senator Erdman for bringing the bill. I would share with the committee that I'm really pleased that Director Belieu could be here today. The committee doesn't get a lot of interaction with the commission, since it's based on the other side of the state. And so I'm glad to get a chance to spend a few minutes with him. I would also share with the committee, as you consider this bill, you should know that the State Racing and Gaming Commission members are paid \$1,000 a month and they have a CPI factor. And so that will, the commission will, that commission will be able to vote to move that, that compensation up with the CPI factor similar to what is included in, in this legislation. So, hopefully, no one will have to come back to the Legislature again for, for an adjustment unless there's a significant change in the, the workload or how the commission and the commissioners operate. And I also share, Senator Brandt, this year the Nebraska Petroleum Producers Association will host our eighth annual Legislative Day, and soon you'll be receiving an invitation for our annual breakfast event with producers who come from across the state to have a chance to visit with members of the Legislature.

**BOSTELMAN:** Thanks for your testimony. Any questions from committee members? Seeing none, thanks for your testimony.

**CHRIS PETERSON:** Thank you.



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**BOSTELMAN:** Any other proponents for LB395? Good afternoon.

**JOHN RUNDEL:** Good afternoon, Senator Bostelman, committee members. My name is John Rundel, J-o-h-n R-u-n-d-e-l. I am currently serving as the chairman in the Nebraska Oil and Gas Commission, and it's my pleasure, my honor, to be here in front of you guys today. It's been really an honor to serve on the commission. I believe I'm on my fourth term. Our first term was a partial term for a gentleman who resigned for health reasons. They are four-year terms and my appointment will expire later this year. And hopefully, Governor Pillen will see fit to put me back on because I really enjoy the industry. I've been in the oil and gas business about 46 years now. I started when I was very young, five or six years old, [LAUGHTER] but it's been very good. And the geology in Nebraska is very interesting. I've been fortunate in my career. I've been able to work over most of the western United States, and I've been mostly in Nebraska around the last 40 years and still learning every day. The Oil and Gas Commission, I think, is very important to be the regulator of the oil and gas industry in the state of Nebraska. We take a very interested approach to make sure that all the parties involved are protected by landowners, our natural resources, our water resources. Equitable distribution of oil production between operators. A lot of times when there is oil discovered, one operator doesn't have it all, it's on property lines. And so sometimes that can be pretty contentious. And as Director Belieu said, we are a quasi judicial body and so we are called to make sometimes pretty difficult decisions. And I think it's important that we continue to have qualified commissioners to serve. And one of the ways we can do that is lessening the financial burden. You know, it's been said before, I don't think you aspire to be a commissioner in hopes of making a big payday. It is not a moneymaking thing, but it will lessen the financial burden for maybe more people could see their way to serve as a commissioner because we really need qualified people. We are paid a per diem for our mileage and our meals. I live in Trenton, and so it's about three, three and a half hour trip. One way up to Sidney. Our hearings can be anywhere from an hour to eight or 9 hours and then travel back. And so it's pretty much a day for me. Some of our hearings in the past have went 12 hours and so it's a day and a half. But overall, usually I can figure on a 12- or 14-hour day for a regular hearing. And so I think the compensation is fair, and I think that will take some of the financial burden off. With that, I guess I would try and answer any questions Senators have.

**BOSTELMAN:** All right. Thank you very much for your testimony. Questions from committee members? Could you give us an idea of maybe some different subject matter that comes up in your hearings? What are

they, what are they involved? What is it that you, you hold hearings on?

**JOHN RUNDEL:** Well, this last year, Senator Bostelman, we spent quite a bit of time adopting our rules and regulations for LB650. Again, that's done much like the Legislature does here. We have a public working group brought together different factions of industry, regulatory, environmental people sat down and looked at some draft ideas. We held public hearings on those proposed rules and regulations, took testimony, evaluated it, had another public hearing on that, adopted those rules and regulations. Those were submitted to the Governor's Office and the Attorney General's Office. Secretary of State's Office for adoption. And so at the end of a year and a half, we have rules and regulations in place for LB650. The second part of that is why the state can offer our approval or permit for carbon sequestration. The way LB650 is written also required EPA approval of a Class VI injection well. I think you might have a handout in front of you of the Class VI. EPA has felt that throughout the United States they don't have the staff or the capabilities or the regional expertise to administer a Class VI program. So they've reached out to several states that have the abilities that run a successful UIC, Underground Injection Control program, to seek primacy for a Class VI well, meaning that we would take over the EPA's duties to approve a Class VI injection well. And we've, we've been working on that for a few months. They requested a letter from the Governor. We procured that. They decided they'd like another letter from the Governor and so we have letters from two Governors now in front of them. And so that will be probably a two-year process to get approval. So we have primacy to make the regulatory approval of a Class VI injection well. Director Belieu also informed, we recently received a \$25 million grant for remediation of Orford wells. And so that's been taking quite a bit of our time on that, prioritizing which wells we got to plug, how we're going to remediate the surface and getting contracts in place to expend those funds. It was a pretty short time fuse and so I'm very proud of our, our organization was able to do that. That's on top of our regular oil and gas business is still occurring. And so we've been busier than we have been for a long time. And so we've been meeting quite a bit more and our meetings are probably a little lengthier because we have quite a few different subjects we're dealing with at the same time.

**BOSTELMAN:** OK, thank you. That's helpful.

**BRANDT:** I do have one.

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**BOSTELMAN:** Senator Brandt.

**BRANDT:** Thank you. Chairman Bostelman. Thank you, Mr. Rundel--

**JOHN RUNDEL:** Yes.

**BRANDT:** --for your testimony today. You've been in this industry a long time. Does your commission also ask as, work as the economic development arm for oil and gas? If somebody from out of state were to, to come into the state of Nebraska, would they contact your commission on advice on how to get things done in Nebraska?

**JOHN RUNDEL:** We're probably a good stopping point for a, for a company coming into the state to understand the rules and regulations, the bonding requirements. We also have a huge database of every well that's been drilled in Nebraska. It's all digitized and available, free of charge for people to examine.

**BRANDT:** Is there a lot of potential for oil and gas in Nebraska yet?

**JOHN RUNDEL:** Yes, there is.

**BRANDT:** Where would that be?

**JOHN RUNDEL:** Throughout the state.

**BRANDT:** OK. Thank you.

**JOHN RUNDEL:** So we're seeing quite a bit of interest down the Falls City area lately. It's been really busy.

**BRANDT:** OK.

**SLAMA:** We'll take it.

**BOSTELMAN:** Senator Jacobson.

**JACOBSON:** Yes, Mr. Rundel, I guess kind of following up on an earlier bill, I'm curious. Disposal wells, are you doing, are they using dedicated disposal wells, are they going into old oil wells to dispose of water today? What's happening to water disposal?

**JOHN RUNDEL:** For, for a Class T well?

**JACOBSON:** Yes.

**JOHN RUNDEL:** Or a standard salt water well.

**JACOBSON:** Yeah.

**JOHN RUNDEL:** Those are, can be either. They can be a dedicated well drilled just for saltwater disposal. If the well was constructed properly, it could be a producing well turned into a disposal well.

**JACOBSON:** And it.

**JOHN RUNDEL:** But we have requirements on the casing and cement. Our biggest concern on that is make sure that we're protecting the groundwater.

**JACOBSON:** Exactly. Because this water's going well below the ground level.

**JOHN RUNDEL:** Yes, it is.

**JACOBSON:** Are you, are you disposing of all the water inside the state's boundaries now for wells that are drilled here or are some of them going over the state lines?

**JOHN RUNDEL:** There are few wells in extreme western Nebraska in Kimball County where the salinities of the water are low enough, those can be safely pitted. Same just down in the Falls City area. Those waters associated with oil production are basically fresh water.

**BOSTELMAN:** Other questions?

**JOHN RUNDEL:** I would make a comment there. I believe when the senators asked adjoining states. State of Colorado pays their Oil and Gas Commissioners \$180,000 a year. We haven't asked for that yet. And they have a requirement that they have absolutely no oil and gas experience. And so I don't think that's the way we want to go.

**JACOBSON:** I would make one request that you not make that request of this committee. [LAUGHTER]

**JOHN RUNDEL:** Well, as long as we're cash funded, I guess would be OK. Operators might squeal.

**BOSTELMAN:** You might want to ask your members first.

**JOHN RUNDEL:** Yes.

**BOSTELMAN:** All right.

**JOHN RUNDEL:** Again, thank you for letting us come today. I think the oil and gas industry is not statewide, but in areas where it exists, it's a huge economic driver.

**BOSTELMAN:** Thank you very much for your testimony today. Anyone else would like to testify in support of LB395? Any other proponents? Seeing none, anyone like to testify as an opponent of LB395? Any opponents? Anyone like to testify in the neutral capacity? Senator Erdman, you're welcome to close.

**ERDMAN:** I'll make it brief, Senator Bostelman. The last hearing I had was very interesting and informative, and I would say this one was very similar. I have known two of the past gas, Oil and Gas Commissioners very well. Those people take this very seriously as well as the board does now. It is a significant deal. It really is, a significant deal for us in western Nebraska, but I may want to leave you with this. He said that this Oil and Gas Commission is located in Sidney. That's not in Lincoln. So they have paved the way to show you how an agency of the state can be located outside of Lincoln in Sidney, Nebraska. So later on today, this year, when I come with the Game and Parks moving to Sidney, please keep this in your mind. Thank you.

**BOSTELMAN:** Any questions, further questions for Senator Erdman? Seeing none, that will close our hearing on LB395. I would like to thank those gentlemen and others who, who traveled some distance to get in here today. It was a trip across the state, so thank you very much. This will end our hearing today in the Natural Resource Commission Committee. Thank you very much.