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Natural Resources Committee  
January 27, 2010

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[LB747 LB836]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, January 27, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB747 and LB836. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; Tanya Cook; Deb Fischer; Ken Haar; Beau McCoy; and Ken Schilz. Senators absent: none. []

SENATOR LANGEMEIER: Good afternoon and welcome to the Natural Resources Committee. My name is Chris Langemeier, I'm the Chairman of the Natural Resources Committee. I'd like to welcome everybody here that's in the audience today and preparing to participate. I'd also like to thank...welcome all those that are watching on closed-captioned TV and also those that are watching on the Internet via our live Internet stream. I'd like to introduce the committee today. I'll start with my far right, or your left, with Barb Koehlmoos, who is the committee clerk for the committee. Senator Tanya Cook from Omaha, Nebraska. Then we have Senator Tom Carlson from Holdrege, and Senator Deb Fischer will be with us momentarily. To my left or to your right, we have Laurie Lage, the legal counsel for the committee. Senator Annette Dubas will be joining us shortly; she is the Vice Chairman of the committee. We have Senator Ken Schilz next from Ogallala, Nebraska. We have Senator Ken Haar from Malcolm, Nebraska. And we have Senator Beau McCoy from Omaha or Elkhorn area. We have today two pages that will be helping the committee; we have Tony Pastrana and he is out running an errand. He's from Colorado and he's a freshman from Union College. There he is. And then we have Kiana Mathew who is from Omaha, and she is a sophomore at UNL. At this time, if you care to testify when we get to that point, in the corners of the room you'll see these green sheets. If you're going to testify, I need you to fill one of these out in its entirety. And when you come up to testify, I need you to give it to the committee clerk. For those of you that are here and want to be on the record as either supporting or opposing one of the two bills we have today, there's a spreadsheet looking form back in the corners of the room as well. And we'd ask that you'd put your name on it and your information and whether you support or oppose. And we'll put you in the record as being here, but not having testified. At this time we'd ask you to turn your cell phones off so we don't interrupt the process of those, respectfully, testifying. When you come up to testify today, we ask that first thing you do is spell...say and spell your name. We need that to make sure we keep the transcription right and we get your name correctly in the record. You also see the red light at the table. If you can't, you'll see it when you come up. We allow five minutes for testimony in the Natural Resources Committee. You'll get a green light, will remain on for four minutes. You'll get a yellow light come on, meaning you have one minute left. And when you get the red light, we ask that you stop your testimony and then open yourself up and willing to take questions from the committee. At this time, if you have handouts to hand out to the committee, we ask that you have 12 copies. If you don't have 12 copies, our pages will help you with that. The other thing we ask is if you do hand something out, pictures or something, that

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you'd like the committee to look at, if you give it to us, we're going to keep it and it's going to become part of the official record. If it's something that you want to keep, it's a picture, we would ask that you just hold it up at the testifying table and we'll look at it at that point. But if you do hand it to us, we have to...we're going to keep it and keep it as part of the record of this hearing today. And with that, that concludes the start. And now I would open up the hearing with LB747. And Senator Louden, you are recognized to open on LB747. And welcome. []

SENATOR LOUDEN: (Exhibit 1) Yeah, good afternoon, Senator Langemeier and members of the Natural Resources Committee. My name is LeRoy Louden and I represent District 49. And the last name is spelled L-o-u-d-e-n. And I've introduced LB747 to improve the system that is now in place to protect livestock or poultry from predators that are owned by a farmer or rancher. LB747 addresses a mountain lion situation that is arising in Nebraska. In the December, 2009 issue of the NEBRASKAland magazine, if any of you have seen this and it usually comes to your office, there was a very good article on mountain lions and their return in numbers to Nebraska. The article points out the young kittens and larger cubs that have been photographed in the Pine Ridge area. And those pictures that were circulated around were taken by trail cameras and they mentioned that after these pictures were taken, why the camera got all banged to pieces and all they saw was dirt after that. So they thought maybe this lioness attacked those pictures. But what it shows is that there's a breeding population in Nebraska. A day after these photos were taken, and the Nebraska Game and Parks Commission officials recovered a carcass of a mountain lion kitten only a few miles away and is believed to be less than six months old. And the young female had been hit and killed as it and two other cubs followed an adult across U.S. Highway 20 near the Dawes-Sheridan county line. With this and other information, the conclusion is that a breeding population is established in Nebraska. Sightings have been statewide with lions having to be killed in Omaha and also in Scottsbluff. My own experience was on January 17 of this year, when my son and I encountered one lion in the village of Ellsworth. So they are becoming quite abundant and they can move about populated areas. My concern is that as the lions have become more plentiful, and in the area where I live there have been livestock killed. The Game and Parks Commission won't confirm that the kills they investigate are lion kills, but it is an employee from the Game and Parks that said they cannot deny that it wasn't a lion kill. LB747 allows the Game and Parks Commission to issue a permit for up to 30 days to allow the farmer or rancher to hunt the animal. If and when the depredating mountain lion is killed, the farmer or rancher must notify the Game and Parks Commission to arrange for transfer of the mountain lion carcass to the Game Commission. At the present time when they're killed, it is against the law to kill a game animal, so many of these lions are killed and buried and the Game and Parks has no way of having...of a checking up to see what the DNA is, see if the siblings, and to follow some scientific method of determining what we have out there. LB747 doesn't allow a hunting season on the animals. It is designed to allow livestock and poultry owners to remove a mountain lion that is preying on their

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livestock or poultry, and clarify that a person can defend himself if a mountain lion stalks, attacks or shows unprovoked aggression toward such person or another person. I'd urge you to advance this bill to General File as I believe this is an important issue for our local people, not only for their safety, but for the safety and economic value of their livestock. At the present time in the area of where I live, there's been three kills here this last fall that we all consider lion kills by the way they were killed. With that, I would also point out in that same area in the last two years, and I would have to say according to rumor, because nobody will claim anything, but there's been six of them shot within 15 miles of where I live. And this is out in prairie country. This isn't where there are any trees or rocks or anything like this. This is just plain old Sandhills. And so with that, I would be happy to answer any questions. [LB747]

SENATOR LANGEMEIER: Thank you, Senator Louden. Are there any questions for Senator Louden? Senator Haar. [LB747]

SENATOR HAAR: Thank you. Senator Louden, those kittens are pretty cute in this picture here. [LB747]

SENATOR LOUDEN: Well, all kittens usually are until they start eating you. (Laughter) [LB747]

SENATOR HAAR: My question has to do with...the summary we got, talking about in one section it sounds like people are permitted to kill a predator without a permit, but in another section there is a permit required. Is that the case, or would a permit always be required under here? [LB747]

SENATOR LOUDEN: I didn't realize that you could even get a permit to kill them. You could kill them if they're stalking you or you see them killing your animals or eating them at the time. But if you find a kill, and there...you wanted to track that animal and get rid of the one that is, perhaps, a depredating animal, there isn't any way, that I can see in statute to allow you to do that. And that's mostly what this does. It gives you 30 days to be able to see if you can rid that animal of the one that is causing the problem. I don't think there's probably, you know, 15 lions coming through eating up everything. There's probably one moves in, learns how to kill livestock or learns how to get in a chicken house, or something like that, and then it's just like any other animal. Once that one is removed, then you probably wouldn't have any trouble for a period of time, so. That's what the bill is designed for. As far as a season or permits and stuff, I'm leaving that up to the Game and Parks to do something about that. [LB747]

SENATOR HAAR: Okay. Appreciate it. Thanks. [LB747]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much for your testimony. Thank you, Senator Louden. You've heard the opening on

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LB747. We'll now proceed to those who'd like to testify in favor of LB747. Welcome to the committee. [LB747]

SAM WILSON: (Exhibit 2) Thanks. My name is Sam Wilson, that's spelled W-i-l-s-o-n. I'm the nongame mammal and furbearer program manager for the Nebraska Game and Parks Commission and I'm speaking on behalf of Nebraska Game and Parks. Chairman Langemeier and members of the committee, I want to thank you, first off, for the opportunity to address LB747. The Game and Parks Commission, obviously, I guess, is here in support of this bill. This bill will clarify actions that can be taken against mountain lions that are threatening people or depredating on livestock. As you may be aware, mountain lions are native to the state of Nebraska and they have returned to the state and in some parts, especially in the Panhandle of the state, from adjacent states that have larger growing mountain lion populations including Colorado, Wyoming and South Dakota. The laws proposed in LB747 are in line with similar laws that western states that have resident mountain lion populations have that protect people from physical attack by the mountain lion and also protect livestock owners from depredation problems. And it's also in line with the Commission's own Mountain Lion Response Plan that was approved in 2004 which outlines the policies that the Nebraska Game and Parks Commission follows in reacting to various situations that involve mountain lions. It's in the view of the Commission that these policies are in the best interest of not only the people of Nebraska, but also of the mountain lion population overall. As Senator Loudon mentioned, we've recently documented a mountain lion population present in the Pine Ridge of Sioux, Dawes, and Sheridan County. And we believe that the policies laid out in LB747 provide a level of protection for people and livestock. And they target individual mountain lions that have either threatened a person or are depredating on livestock and those animals may be killed and removed from the population, those animals, especially that have learned to depredate on livestock. So remove those problem animals from the population, while the greater mountain lion population that has never threatened a person and is not depredating on livestock is to be left alone. So, again the Game and Parks Commission sees it as good policy for the people of Nebraska, but also for the mountain lion population overall. And with that, I guess I'd like to thank the committee for your consideration and I'd be happy to take any questions. We do have a copy of our...basically, my testimony here. I think I have ten copies, so might need to make two. [LB747]

SENATOR LANGEMEIER: Questions? Senator Dubas. [LB747]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Wilson. Does Game and Parks have any idea about the exact number of mountain lions we may have in the state? [LB747]

SAM WILSON: No, we do not make an estimate for the population size for mountain lions in Nebraska. [LB747]

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SENATOR DUBAS: Is there any tracking going on of these animals? [LB747]

SAM WILSON: Yes, we gather information through observations from the public. And any time that a mountain lion is observed by the public and we believe that it's likely that we'll be able to find evidence of that lion, we try to confirm that a mountain lion was indeed present. And it typically involves an investigation by our biologist. We also place remote cameras, similar to those in the NEBRASKAland article. And I guess since mountain lions have returned to Nebraska, in 1991 we had our first confirmed mountain lion occurrence; we've confirmed a mountain lion presence 93 times. That number doesn't indicate that there were 93 mountain lions in Nebraska; the same mountain lion can be confirmed over and over, so. We don't make a estimate of the population though. [LB747]

SENATOR DUBAS: Okay. So there's no animals that have been implanted with a chip or there's no animals with any kind of a tracking device. [LB747]

SAM WILSON: No, not in Nebraska. There's a large study in the Black Hills of South Dakota where they collar, radio collar cats. And on a couple of occasions those cats have ended up in Nebraska. One was hit, if anyone here remembers, one was hit on Highway 20 by a semi and killed. But we don't have our own resident collared animals. [LB747]

SENATOR DUBAS: Is this three-county area the only place that we really think that there is a large population? Have they been sighted in other areas of the state? [LB747]

SAM WILSON: The Pine Ridge and Sioux, Dawes and Sheridan County is the only area that we documented a reproducing population. We've actually...we've documented a female, a female was killed in Scottsbluff in 2009; it's the only female that's been documented outside of the Pine Ridge. And of course, you have to have females to have a population. [LB747]

SENATOR DUBAS: So right now, if I understand it correctly, if a farmer or rancher, whoever, would actually see this animal doing damage, they do have the ability to shoot them. But if they don't actually catch them in the act, this bill would allow them to come forward, tell you they think they've got a problem and then give them, like a 30-day window of tracking the animal. [LB747]

SAM WILSON: That's correct. We could investigate the depredation occurrence, ensure it was killed by a mountain lion, and if it was, the mountain lions typically return to their kill sight and it would allow the depredating animal to be killed. [LB747]

SENATOR DUBAS: Thank you. [LB747]

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SAM WILSON: You're welcome. [LB747]

SENATOR LANGEMEIER: Are there...Senator Carlson. [LB747]

SENATOR CARLSON: Thank you, Senator Langemeier. When you talk about these population increases and reproduction here, but you mentioned the three states, why would they be coming from these three states? Is there a bigger problem there and what kind of a plan do they have? [LB747]

SAM WILSON: Mountain lions are game animals in those three states. They have hunting seasons on them. And they've had persistent and large populations, I guess, throughout history. They were never extirpated from those states. And so after the turn of the century in the late, I guess, late 1800s and early 1900s they became game animals and their prey items, mule, deer, and elk returned and mountain lion populations grew. And as their populations grew, they began to expand their range into previously occupied habitat like Nebraska where they're a native but were eliminated. [LB747]

SENATOR CARLSON: Which of the states, would you say, has the heaviest population? [LB747]

SAM WILSON: It would be between Colorado and Wyoming, but I'm not certain the numbers. [LB747]

SENATOR CARLSON: Thank you. [LB747]

SAM WILSON: You're welcome. [LB747]

SENATOR LANGEMEIER: Senator Dubas. [LB747]

SENATOR DUBAS: Thank you, Senator Langemeier. You said that they previously were native to Nebraska but were eliminated; were they eliminated through us... [LB747]

SAM WILSON: Yes. [LB747]

SENATOR DUBAS: ...getting rid of them or they... [LB747]

SAM WILSON: They were eliminated with settlement...I guess the last known mountain lions were in the late 1800s. [LB747]

SENATOR DUBAS: So we were allowed to shoot them, no matter what, at that time.

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[LB747]

SAM WILSON: Right. There were no regulations then. [LB747]

SENATOR DUBAS: Thank you. [LB747]

SAM WILSON: Yep. [LB747]

SENATOR LANGEMEIER: Mr. Wilson, I have a couple questions. [LB747]

SAM WILSON: Okay. [LB747]

SENATOR LANGEMEIER: Number one, my understanding is that you guys were, or Game and Parks, or some individual, was involved in drafting this, correct? [LB747]

SAM WILSON: Correct. [LB747]

SENATOR LANGEMEIER: This legislation. And I read it, we have two sections; one is the allowance of a landowner, or his or her agent, to kill mountain lions immediately upon seeing an act of stalking or actually killing an animal, correct? [LB747]

SAM WILSON: Right. If they observe an animal preying on their livestock or attacking a person, they can kill it. [LB747]

SENATOR LANGEMEIER: And then the second portion is if I have a dead animal, I can have you come out and confirm it was a mountain lion and then you'll give me a 30-day permit, then I can go on the hunt. Then I can go and try and find that animal and kill it. [LB747]

SAM WILSON: That's correct. [LB747]

SENATOR LANGEMEIER: That's the second component of this. [LB747]

SAM WILSON: Right. By allowing... [LB747]

SENATOR LANGEMEIER: So the first part is protection and the second is revenge. (Laughter) [LB747]

SAM WILSON: I guess the way the bill is drafted, I saw it as the...if you have a depredating mountain lion, they can learn a behavior of depredating, preying on livestock, and so you're trying to remove the specific animal that's preying on the livestock, so. It's unlikely, since mountain lions are nocturnal, that someone would observe them actually preying on their livestock. However, if they do, this bill would

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allow them to shoot if they're in the act. If they're not in the act, if they have a calf on the ground the next morning, and Game and Parks can confirm that it was killed by a lion, the lion is likely to return and it will present the opportunity for them to remove that depredating animal and get it out of their area. [LB747]

SENATOR LANGEMEIER: Okay. My second question is, is the word "stalking". [LB747]

SAM WILSON: Um-hum [LB747]

SENATOR LANGEMEIER: And Senator Louden has passed out these pictures of these cats that were walking through the Pine Ridge area. I would deem you're the expert in the mountain lions within the Game and Parks, or they wouldn't have you here today. How do we know? Are they stalking or are they walking or are they...how's the average citizen going to know they're stalking? I understand if they're on top of my calf. [LB747]

SAM WILSON: Right. [LB747]

SENATOR LANGEMEIER: There's probably a chance we're going to shoot the dumb thing anyway, but, how would I know whether that's stalking or... [LB747]

SAM WILSON: Right. Typically, mountain lions, when they stalk, they have to be very close to their prey. They're an ambush predator, so they get within, say, 50 yards. They crouch down and then attack. So if it's a situation, and it can be described by the person that they're crouched and very close to their livestock. I guess, I would...there would kind of be call. I would consider the animals in that photo with their kittens walking. But I understand your point. [LB747]

SENATOR LANGEMEIER: So, if it gets within 50 yards of my cow, I can shoot it and I can say it was stalking. You didn't see it. [LB747]

SAM WILSON: Right. It would probably be a case-by-case basis. [LB747]

SENATOR LANGEMEIER: Okay. Any other questions? Senator Fischer. [LB747]

SENATOR FISCHER: Thank you, Senator Langemeier. You said that mountain lions are nocturnal. [LB747]

SAM WILSON: Typically. [LB747]

SENATOR FISCHER: Typically. Do...I would assume then, most kills, though, take place at night. [LB747]

SAM WILSON: Right. Between dawn and dusk usually. [LB747]

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SENATOR FISCHER: Will the mountain lion return to the sight of the kill... [LB747]

SAM WILSON: Yes. [LB747]

SENATOR FISCHER: ...and feed then the next night? [LB747]

SAM WILSON: Yep. With deer, for instance, a mountain lion will typically feed on a deer carcass for between five and ten days. [LB747]

SENATOR FISCHER: Do they move the carcass? Do they leave it where it is? Or what? [LB747]

SAM WILSON: They can move the carcass typically to an area of heavy cover so if there's a brush pile nearby, or something, maybe pull in to that brush pile. But they don't typically move it excessive distances, so usually a few hundred yards. [LB747]

SENATOR FISCHER: Did I hear you correctly when you said there's only one confirmed female that has been sighted in the state? [LB747]

SAM WILSON: I'm sorry. I guess...I meant to say that there's one confirmed female outside of the Pine Ridge of Sioux, Dawes and Sheridan County. And that's a female that was killed in Scottsbluff in 2009. [LB747]

SENATOR FISCHER: Okay. So all the other confirmed sightings have been males? [LB747]

SAM WILSON: Outside of the Pine Ridge, yes. [LB747]

SENATOR FISCHER: Correct. And are those...my understanding is that younger males are shoed away... [LB747]

SAM WILSON: Yeah. [LB747]

SENATOR FISCHER: ...from a...is it a pride? [LB747]

SAM WILSON: It would be shoed away from a home territory of a dominant male. So a dominant male lion, if he finds a sub adult male lion, could kill...probably would kill that sub adult male. So the sub adult males disperse. And they're looking for a home range with females. And those males can cover incredible distances. [LB747]

SENATOR FISCHER: Right. And in most cases they're younger? [LB747]

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SAM WILSON: Right. They're usually between one and two and a half years old. [LB747]

SENATOR FISCHER: So it is most likely we have younger male mountain lions in the state that would be causing these problems for our livestock. [LB747]

SAM WILSON: I would say outside of the Pine Ridge, you're most likely to encounter younger, transient male mountain lions that are looking for a home range. Inside the Pine Ridge, you have animals of both sexes and all ages. [LB747]

SENATOR FISCHER: And if they kill at night and feed at night in order to protect livestock, would the landowner be able to use a spotlight? [LB747]

SAM WILSON: Um, at the end of LB747 it says the Games and Parks Commission can promulgate rules and regulations according...that are in line with this bill. So, we would work it out with the landowner in what kind of permit we created. But likely, it could include a lot of things. They're going to return probably to the animal that they killed. So sitting over that animal at night with a spotlight or night vision or using traps in that area would be, you know, could be appropriate in trying to get rid of the depredating animal. [LB747]

SENATOR FISCHER: Okay. Thank you. [LB747]

SAM WILSON: You're welcome. [LB747]

SENATOR LANGEMEIER: Are there any other...Senator Haar. [LB747]

SENATOR HAAR: Thank you. What are the laws right now? Is it you really can't shoot them at all or what? [LB747]

SAM WILSON: Mountain lions are listed as a game animal, so they're protected under game law, however, there is no hunting season. So there's not a specific season where you can hunt mountain lions. There is a state statute now that talks about defending your livestock from predators. However, predators were not defined. So right now, it is assumed that mountain lions would be considered predators and could be killed if they're depredating on livestock. LB747 clarifies the law so the people are more sure of how they can protect themselves or their livestock. [LB747]

SENATOR HAAR: Okay. So currently there is no definition of predator and this goes into the specific animals, right? [LB747]

SAM WILSON: Correct. [LB747]

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SENATOR HAAR: Thank you. [LB747]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, Mr. Wilson, did a great job. Thank you for your testimony. Further testimony in support of LB747. Seeing no...oh, don't hesitate, we roll right along here. We feel like predators. When you're ready. [LB747]

PETE McClymont: I'm not a young, transient male, Chairman. Chairman Langemeier, members of the committee, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president of legislative affairs for the Cattlemen and we are here in support of the bill. It would be difficult to add on to anything that Mr. Wilson said and the specifics. But the biggest concern our membership would have is what some of you asked in terms of questions. And that is, if you did have a mountain lion preying on your livestock and then went out to defend that herd that you have or maybe personally...some human, that we would want to have the ability so as not to have legal recourse taken against that individual. If they did do the proper thing in notifying Game and Parks of putting down that mountain lion. It's my understanding in talking to Senator Loudon that there has been a case out in the Panhandle that somebody did go out and there was a mountain lion on the premises of the farm or the ranch. The animal was put down. Game and Parks was notified and then a judge then had to proceed with this case because of the current law and the individual was given a high fine or the option of community service. So we recognize how do you know the specific animal that may be coming back and how do you address that, as you talked about, Senator Langemeier, with the stalking incident. So from that standpoint, if this bill can help define predator and the incident surrounding the need to put down a mountain lion, I think this is a wonderful bill. I think the one thing that we are trying to do here, a couple things is not to have the "three S theory", shoot, shovel, and shut-up. I mean, that does not serve the state and the actual wildlife. The Game and Parks needs to know if there's occurrences out there. And so if this bill helps promote people being honest and forthright and coming to the Game and Parks saying they've had an occurrence, they've put it down, they've notified them of that, and then that way Game and Parks can inspect and do their job to record these incidents so we know as a state what the risk is, not only for the individuals and their livestock, but also for Game and Parks to have a better understanding of what mountain lions...their range and how their numbers are possibly growing, so. And lastly, the thing that I would emphasize from our membership, we're not here promoting the ability for a bunch of people to get in the back of a pickup and go out and ride around and start killing mountain lions. That is not what we would be in favor of. We have rules. We have Game and Parks that is doing their job. We just want to make sure that people have the ability to not have legal recourse back on them if they're protecting their families, their livestock. And so from that standpoint, it would be our hope that LB747 is passed and moved out onto General File. With that, I would be happy to try to answer any questions. [LB747]

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SENATOR LANGEMEIER: Are there any questions for Mr. McClymont? Seeing...I have one. So troublesome. Have the Cattlemen taken a position on LB836, the next bill we have? [LB747]

PETE McCLYMONT: We are in support of that bill. Yes. [LB747]

SENATOR LANGEMEIER: So we have testimony that the Game and Parks is doing their job and they should be a part of this solution, but yet we have the next bill that might say Game and Parks isn't monitoring our deer population and inadequate and you're still in support of that? I'm not going to make you answer that. I'm going to let you think about it, because you're coming back to testify on the next bill. [LB747]

PETE McCLYMONT: No, I'm not. Our board voted to support without testimony on the next bill. [LB747]

SENATOR LANGEMEIER: Oh, then I'm glad I drew you into it. But that's my concern there, so. [LB747]

PETE McCLYMONT: I think the biggest thing on the next bill that I could add to your question is that we see a growing population in the deer. Just one of our board members who lives out north of Arthur, went home from a board meeting last week and hit a deer on the way home, so. The point is, is if we have a growing deer population, which can be...make the cause and effect, if we're seeing a growing deer population and a turkey population, that makes sense that you're seeing a growing mountain lion population because they're going where the food is. So the point is in the next bill, if there can be things to allow for Game and Parks to have control to increase the ability to lower the numbers on deer but still keep a healthy population with the deer, we would be all for that. So, it's obvious, you drive up and down the interstate and you can...out on our roads in the state and you can see the growing number of deer population at dusk; they're coming out to start feeding. So, that would be my response to the next bill. [LB747]

SENATOR LANGEMEIER: I too have hunted deer without a deer in that regard. Are there any other questions? Senator Fischer. [LB747]

SENATOR FISCHER: Thank you, Senator Langemeier. Mr. McClymont, since you aren't going to testify on the following bill, and you already have, I won't ask you a question about that. But back to the bill we're on now, with the mountain lions, do you get any information from your members on losses of livestock to, say, coyotes? Do you keep track of anything on that? [LB747]

PETE McCLYMONT: Oh, we obviously get comments from members on that of their concerns of, you know, growing wildlife losses on their cow/calf herds. So, I mean, it's a

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typical conversation between the cow/calf operator and others that they go out to check on their newborns at calving season and either the calf is partially, you know, been consumed by the wildlife or in the process, or whatever the case, so. That's a normal occurrence, especially the further you get in the Sandhills. But yes, it's always been there, and I don't think it's going away. [LB747]

SENATOR FISCHER: It's a normal occurrence, but it's not a pleasant occurrence, I can tell you. And as a rancher, I go out and see newborn calves that have been chewed on by wildlife like coyotes. So, although Senator Louden presented us with some pictures that Senator Haar thought these kittens looked awfully cute, I can tell you, newborn calves are awfully cute too until they're partially chewed on by wildlife. And we see that happen with coyotes and I would imagine in the future if the mountain lion population continues to grow in the state, this will become a normal occurrence with these predators as well. Would you agree? [LB747]

PETE McCLYMONT: Without a doubt. And I think the one thing about coyotes that is probably a bigger concern, if not greater, is that coyotes are prevalent in vast numbers across the state. So if we want to try to regionalize the mountain lion issue, and that's verified by previous testimony, it's also verified by all our members across the state, whether it's the southeast part of the state or the Panhandle, that coyotes is always a threat to a rancher's livelihood of getting those calves on the ground and getting them off the ranch so they can make money. [LB747]

SENATOR FISCHER: And caring for them when they're babies. [LB747]

PETE McCLYMONT: That's correct. [LB747]

SENATOR FISCHER: That's correct. [LB747]

PETE McCLYMONT: In any condition. [LB747]

SENATOR FISCHER: Thank you very much. [LB747]

PETE McCLYMONT: Thank you. [LB747]

SENATOR LANGEMEIER: Very good. Are there any other questions? Senator Haar. [LB747]

SENATOR HAAR: Just to let Senator Fischer know, that was my lame attempt at humor. (laughter) [LB747]

SENATOR FISCHER: Just to let Senator Haar know, I like to give him a little dig now and then too. [LB747]

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SENATOR LANGEMEIER: Seeing no other questions, thank you very much for your testimony. Further testimony in support of LB747. [LB747]

JOE HERROD: My name is Joe Herrod, H-e-r-r-o-d. I'm here today representing the Nebraska Council of Sportsmen's Clubs. We are proponents of this bill. Yeah, that's fine. And I'd also mention that normally Wes Sheets would be here with the Izaak Walton League and he sent in something. They're also proponents of the bill. I also attended the Cattlemen's legislative meeting last week and the subject...both of the bills were discussed. One was changed later that evening. I don't know what went on later that evening, but one of the positions was changed. And I do see one of the things that hasn't been brought up, but some of my conversation with other members of the Cattlemen's Association last week, there's a quality of life issue in here too on some people's part. Some people, I talked to one lady who was out taking care of her cattle and she was...some snow fell out of the trees and for some reason she just imagined that might be a mountain lion and she ran off, kind of all afraid, and then thought that was silly, but still it's in the back of these people's minds. And so I think this legislation does everything good that everybody said about it. Plus I think there's a feel good aspect on some people's part that somebody is doing something. Because there are some people out there that just have a real fear of an animal that size, so. [LB747]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Herrod? Seeing none, thank you, thank you very much. [LB747]

JOE HERROD: Thank you. [LB747]

SENATOR LANGEMEIER: (Exhibits 3, 4, 5, 6, 7, 8) Is there any other testimony in support of LB747? Is there any...seeing no others, we have a number of letters and we do have one from Wes Sheets with the Nebraska Division of the Izaak Walton League; Andreas Allen from the Nebraska Firearms Owners Association; Joe Loudon from Elsworth; Jason Schwaderer from Ellsworth; Ken Rose; and also Rob and Colleen Hood of Lakeside, have all submitted letters, for the record, in support of LB747. Now we turn over to those that would like to testify in opposition. Is there anyone wishing to testify in opposition to LB747? Come on up. And give Barb your green sheet. Welcome to the Natural Resources Committee. [LB747]

GREG LYONS: Hi. I'm Greg Lyons, L-y-o-n-s. I'm from Omaha. I also represent...I'm talking, speaking for myself, but I also represent the...a group called the Feline Conservation Federation. We are a 501(c)(3) nonprofit organization that's devoted to the welfare and conservation of all nondomesticated feline species, both in captivity and in the wild. We don't oppose the purpose of this bill, which is...which we're seeing is to codify the current Game and Parks Commission policy. Our...we're differing with mainly some wording in it. And I think, Senator Haar, you kind of alluded to it earlier. When we

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read through this, the part of the law that exists right now, if we look on page 2, lines 15-19, basically, once you define a cougar as a predator and then you have these lines 15-19 saying any farmer and rancher owning or operating a farm or ranch may destroy or have destroyed any predator preying on livestock or poultry or causing other agricultural depredation without a permit, we're concerned that that part of the existing law does, in fact, conflict with the sections of this bill where they require the, you know, the Game and Parks to confirm that it was in fact a lion kill and to issue a permit. And since the predators are...okay, currently the...currently the cougars are defined in, I think, let's see which bill, which section is...it's 37-228 as a game animal, it would appear that once we turn around here and define them as a predator, we've got them defined two ways. So we're going to have some ambiguity there as to how this animal is going to be looked at. And we'd like it to be more, you know, we'd like it to be more clear and fixed than that. Um...the...it bothers us that with this ambiguity from this...this part...these lines 15-19, once you define the mountain lion as a predator and you say they can kill any predator, this section does not say it has to be...does not specify it has to be...you have to catch the lion in the act of doing anything. And it doesn't say that...it says that you can arrange for somebody to it, which implies there's a length of time. Now we don't have a problem with people...I don't think anyone would have a problem with people protecting their livestock. You know, you see a cat with...attacking your cow or eating your cow, there is a sense of urgency on that and you should not have to go get a permit for that. But if you go out in the morning and find a body there, that's...we're afraid that these lines 15-19, people will construe that to allow them to go out. And if that does happen, this section does not require them to report anything to the Game and Parks. They don't even have...they don't have to give a body to them, nothing. If that were to, you know, if that scenario does happen, you've now got a situation where this part of the bill or this part of the law, actually, because it exists today, would conflict. It seems...looks to me like it would conflict with the sections where they say that Game and Parks needs to confirm that there was, in fact, a lion kill and so on. We also have a little bit of an issue...that's our primary issue. I guess I'm wondering...well, I'm thinking too, bobcats are included in the predator definition here. And what's going to happen to them with this section, because they're currently...there are currently regulations...there are currently regulations with Game and Parks concerning trapping and hunting of those guys. Are people going to be able to get around that with this section as well, now that bobcats are defined as predators? This...well there's probably not time enough, we also have a little bit issue with the stalking issue. Cats do hunt at night and when they're hunting, they're going to...it's possible for someone to construe the way they're walking through the brush as stalking. And...well anyway, okay, my time's up. [LB747]

SENATOR LANGEMEIER: We'll ask questions. Are there any questions for Mr. Lyons? I'll ask...go ahead and finish on your stalking idea. [LB747]

GREG LYONS: Um...okay, as you know, cats frequently walk as kind of a stalking, they walk quietly and...you...at night you could easily mistake, I think, a lion as stalking

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something when it's actually just walking through trying to be quiet, watching and listening for game, you know, for prey. So I think...I think to be able to kill a lion on sight if you think they're stalking seems a little bit extreme. We don't have a problem with the killing or consuming the livestock, maybe not even stalking a person, that's a little bit different thing too, you know, if you think they're stalking, that's a little different. But we have a little bit of a problem with that for on-sight killing. [LB747]

SENATOR LANGEMEIER: Okay. Are there any other...Senator Haar...questions? [LB747]

SENATOR HAAR: I actually cosigned this bill with Senator Louden, just to make it clear, lines 15-19 seems to be clarified in line 20 and so forth, where it says, "may kill a...if he or she encounters a mountain lion in the process of stalking, killing, or consuming." I would just make this suggestion, and I suspect that Senator Louden would be open to talking with you if there's some clarification here, because, I think, the intent here is that you need to have the mountain lion in the process of stalking, killing, or consuming livestock. So if there's some way that, maybe, to clarify that, I'd recommend that you talk with Senator Louden about that. [LB747]

GREG LYONS: Okay. Yeah, except...it's...with us, it's primarily a matter of clarification. You know, we don't want...we don't want the killing to get out of hand and end up having them extirpated again like they were 100 years ago. [LB747]

SENATOR HAAR: Thank you. [LB747]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much for your testimony. [LB747]

GREG LYONS: Thank you. [LB747]

SENATOR LANGEMEIER: You did a great job. Thank you, Mr. Lyons. Is there any other testimony in opposition of LB747? Seeing none, is there any testimony in a neutral capacity to LB747? Seeing none, Senator Louden, you're recognized to close on LB747. [LB747]

SENATOR LOUDEN: Well thank you, Senator Langemeier and members of the committee. I would just...wanted to point out, as I think Mr. Wilson testified, that I worked with the Game and Parks Commission this summer to have this crafted and their legal counsel is the one that crafted this bill. And we tried to work with them so that we could bring something forward to really...probably, protect the mountain lions as a whole. Because as, I think, the testifier from the Nebraska Cattlemen pointed out that at the present time they have the "three S's" that shoot, shovel and shut-up, and that's what's happened in the area where I live. Within the last two years, as I always say, by

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rumor, there's been six of them shot within 15 miles of where I live. So we know there's probably more than just young males ranging through the countryside there. There probably is some that are hanging around there quite regular. I think one of the people that wrote a letter, that Rob Hood, I think they were the ones that I have seen a picture where they shot one underneath the kid's trampoline out there, and that...lives out there north of Lakeside. So they do get in up close to people and I think they lost a dog to it that the mountain lion...my understanding is, they do like young dogs because they're easy to catch. And so there are problems out there. And this is what this was crafted was so that when we do have one that's causing problems, they can be removed and also that as, I think, Pete testified, that the person out by Hemingford that got a court sentence out of the deal and had to do some community service, so we get away from that so people will bring those animals in so that they can be checked out and DNA done on, there's all kinds of things. We had a kill here this last fall. The Game and Parks came out, set up trail cameras, tried to decide whether it was a lion kill. Took DNA samples of scat, I won't explain what scat is. But in different areas to see whether or not it was a lion or coyote or anything, and they went to a quite little expense and extensive work to look this over, because they had to send that DNA in someplace and it was a month before it came back. So I know somebody put up some bucks some place to get that work done. So they are trying to get a handle on what they have out there and this is just one more tool that we're trying to work with. With that, I thank you for your attention and I hope we can advance this bill. [LB747]

SENATOR LANGEMEIER: Very good. Thank you for your testimony today. You've heard the closing on LB747. That concludes the hearing. We'd like to thank everybody that testified. Now we will open the hearing on LB836. Senator Lautenbaugh, welcome to the Natural Resources Committee. [LB747]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman. Thank you, members of the committee. I have some prepared bullet points, but I don't really feel like I need them on this particular issue. I'll go through the history of this. I first appeared before this committee, I think my one and only other time, as a newly appointed senator in early 2008 and I brought three bills to address this problem. I utterly failed, I think, in addressing this problem with those three bills. But I'll tell you the reason I brought them at that point in my career down here, it's because I was, maybe, appointed for five or ten minutes and I heard from a group of gentlemen that live near the Missouri River who farm near the Missouri River, and educated me very quickly as to the amount of damage the deer are doing to them by eating their crops. I don't farm for a living. I understood deer to be a road hazard. And I think the last time I was before this committee, the vice chairman then asked me if I hunt deer. And I responded, everyone who drives a car in Nebraska hunts deer. But that was a way of covering for the fact that I'm not a hunter; I'm not helping this problem through my own efforts in that regard. But it's the truth. You're going to hear witnesses behind me tell personal stories of loss, not economic loss, but also economic loss, as well, as I think about it. And I'm not here to

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attach...I'm sorry, attack the efforts of Game and Parks; quite the contrary. We've been meeting, off and on, throughout my time here with my constituents and members of the Game and Parks. And I believe they are doing what they can do to address this problem. And it is not their fault, I don't believe, that we continue to have this problem and I don't think any of the witnesses behind me are going to throw any rocks at Game and Parks and fault their efforts. This bill was not conceived by me as something that Game and Parks necessarily wanted or that I was asking Game and Parks to do for the, I think, the most significant part of it. This is a way for our agricultural producers to make their own luck and limit the deer herd. How big is the deer herd currently? I think the most recent numbers I saw were from a couple years ago and they were around 380, if memory serves...380,000, excuse me. The hunt that year may have taken 80. But that does not even take them down to the level where they were 20 years ago. I believe with the hunting season being as poor as it was this year because of the weather being as poor as it was, my guess is we're over 400,000 now. They're everywhere. They aren't endangered; we're in danger. Our crops are endangered; our livelihoods are endangered; our family members are endangered. And I don't have anything that...I don't have a personal animosity towards the deer. I don't want to eliminate the deer. But I think we need to be realistic about this and clear. A reporter asked me yesterday, do you want to decimate the deer herd. And I pointed out, as I understand the meaning if decimate, that means kills one in ten; and, no, that's not what I want to do. I want to do better than that. And I don't think that puts them at risk; and I don't think that's extreme. We'll hear testimony on both sides of this and we hopefully will hear some sort of feedback as to what the ideal size of the deer herd would be for a state the size of Nebraska. But I think you can only conclude that we are so far beyond what would be ideal now and this is a problem that is difficult to overstate. If you're in ag, or if you have to drive these roads, it's particularly focused, I believe, in the eastern part of the state. I think the numbers will bear me out on that. And I'll warrant to you that it's, frankly, terrifying to drive Highway 133 at night, which needs to be widened by the way, but that's a different committee. Because it's a treacherous, winding, well-traveled road with deer everywhere. And they are everywhere. I can go in Omaha to 180th and Center and there will be fields right behind the supermarket developments where there will be 50 or 60 deer standing around looking at you grazing. I kid you not. My wife and I saw them one night as we were on our way out to dinner. I started to pretend like I was pulling up in the field, because I was driving her Expedition, and they just looked at me. They're perfectly content to be there. And we have traffic accidents within the city limits dealing with the deer. And this will start sounding more like a closing and I don't mean it to, but I'm happy to work with the committee on this bill. There are provisions that may cause some angst. But I think the basic point of the bill remains that if you're involved in agricultural production, you have a right to defend your property. You have a right to defend your livelihood. And eliminating the deer that come on your property is just defending the crops, in my mind, and defending your property. We limit the bill so that the people who can do this without a permit, without a season, are people who own the land and family members. They can take care of the problem for themselves. And I

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believe they're willing to do that if we give them the ability to do it. I've toyed with the idea of sunseting this so we have to revisit it. I hate to waste a word, we use the word "sunset" without Senator Pahls here to hear it. But I've toyed with that idea, because I think we should look at it in two years. I'm not out to eliminate the deer. That's not...I'm not crazy, you can debate that in Exec Committee, I guess. But I do want to limit the number of deer severely. And I think it's warranted and I think the witnesses will bear me out on that. And I would be happy to answer any questions that you have now to the best of my ability or afterwards, as I will stay. [LB836]

SENATOR LANGEMEIER: Very good. I will take questions in a second. But Senator Lautenbaugh, you talked about the number of deer that were taken with permits and you said "80". Did you mean 80,000? Just... [LB836]

SENATOR LAUTENBAUGH: Yes, I'm sorry. I cut off the thousand on both of those. [LB836]

SENATOR LANGEMEIER: Okay. Just...yeah, to clarify. [LB836]

SENATOR LAUTENBAUGH: Of the 380...400,000 that were available, I believe 80-some thousand were taken and probably replaced and then some over the last two years, so. [LB836]

SENATOR LANGEMEIER: Sure. Yeah, you corrected the thousand on the big one, I just wanted to make sure of record...it was corrected for the 80, because I think we hit more than that from Rogers to Schuyler on Highway 30. [LB836]

SENATOR LAUTENBAUGH: I'm sure you do. I'm sure you do. [LB836]

SENATOR LANGEMEIER: Are there any questions? Seeing no questions, I have to ask one question. You made a...and this is kind of off the topic, but Chairman, Transportation Chairman here, you said that Highway 38 needed to be widened? Is it... [LB836]

SENATOR FISCHER: 133. [LB836]

SENATOR LAUTENBAUGH: 133 [LB836]

SENATOR LANGEMEIER: ...133, excuse me. Is that due to the deer population? Could this help with...maybe we could use highway trust funds to help the deer population? [LB836]

SENATOR LAUTENBAUGH: On its own merits, it needs to be widened just because of the traffic counts. If we could enlist the deer in that effort in some way, I'd appreciate it.

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But I don't see how that would work. [LB836]

SENATOR LANGEMEIER: I just had to check. Seeing no questions, thank you very much for your introduction. [LB836]

SENATOR LAUTENBAUGH: Thank you. [LB836]

SENATOR LANGEMEIER: You've heard the introduction to LB836. The question for the...excuse me, (laughter) I've been presiding too long. We'll get to that point. Now we'll take testimony in support of LB836. Is there anyone that wishes to testify in support of LB836? I do have...oh, come on up. Yep, don't be shy, come on up. Nobody is armed here. Welcome to the Natural Resources Committee. [LB836]

ROBERT SCHOEN: Thank you for allowing me to make testimony. My name is Robert H. Schoen, S-c-h-o-e-n. I live in Beatrice and I farm up north of Filley. I'm in support of this bill. I think it is long overdue. I think it is a good bill. It will help the economy because of all the vehicle-deer collisions that we have and people have to pay the deductible. They say there were 12,000-plus deer-vehicle collisions in Nebraska in 2008. Game and Parks doesn't quite believe that because State Farm Insurance put this out. They said the motor vehicle division only reported 3,000-plus. But who reports a collision to the motor vehicle division? You go through your State Farm Insurance because they help you out to fix your vehicle. Another thing, I don't think that Game and Parks wants to reduce the deer population, because in June of 1996, I'll get over it, I lost my son to a collision with a motorcycle. At that time, I was talking to the Game and Parks, trying to get the reduction in the deer population. At that time they reported that there were 250,000 deer in the state of Nebraska. They reported that to the country on Channel 7 where we were on together. And now in, I think it was 2008, they report 375,000 to 380,000 deer. So I don't think that they are really trying to reduce the population. I've been to more of their meetings; I've told them how to reduce it. But they won't listen to it. They put out bonus tags. Yes, I said, that's what we need, bonus tags. I said you have to make the first one an antlerless deer, otherwise it will not reduce the population. Because among my friends out there, we have people that will only shoot a trophy buck. They will buy the permit and only shoot a trophy buck. That's all they shoot. So you have to make the first one antlerless. Then you can go for your trophy buck. There are other signs, you know They claim we had 80,000 deer that were shot in 2008. Out of 375,000, that doesn't reduce the population because there will be, probably, 200,000 doe raising 200,000. You only eliminated 80. So I think this bill needs to be passed. I think it's a good bill. It doesn't have to be forever. Until we get the population in its right amount. And what that is, I really don't know. But I remember when I was a kid, if you saw a deer, you'd call your neighbors together because that was something special. You don't have to do it now. You call your neighbors together when there's 50 of them eating on his hay piles. So, and the loss of farmers' crops, 375,000 deer eating the farmer's crops, I figure I lose 500 a year to deer. I got a permit last year, depredation

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permit, to shoot some. The fellow from Game and Parks that was out, he said, well, you don't have to combine the outside rows because they're all gone. In 1988 I bought a 40-acre farm. I've farmed it several years. The most I could raise was 70 bushels of milo on it. The outside rows, 12, 15 rows were all gone. I put it in CRP; now the taxpayers are paying me for not farming it. I don't really think that's right either. But I couldn't afford to farm it. So, I think that anybody that is against this bill, if he has a family member killed tomorrow, he'll change his mind. That's all I have. [LB836]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Schoen? Seeing none, thank you very much for your testimony. You did a great job. Further testimony in support of LB836. Welcome to the committee. [LB836]

CRAIG BOLZ: Thank you, sir. My name is Craig Bolz, my last name is spelled B-o-l-z. I guess I'll apologize for being dressed the way I am. I really didn't know nothing about this until I left this morning. It's no disrespect to you people. This bill, I'm in favor of it totally with some adjustments. Number one, we can't have any spotlight. You can't be out shooting deer at night. Number two, everybody that's going to be shooting deer, especially if you leave it at night, how are you going to patrol it? Everybody is going to be a farmer; everybody is going to be a landowner. I farm between Palmyra and Eagle, east of Lincoln here, down Highway 43. I farm all the way around Eagle Lake, all the way around Woodland Hills, very populated areas. I let anybody that wants to bow hunt; anybody. I let nobody rifle hunt because I think more of my neighbors than that. I've been...the rifle hunters...there's a saying, I talked to Russell Mort last fall. He said they go absolutely brain-dead over the antlers. So that's part of the problem is just what this other person said is they don't want to shoot does. I will guarantee you that if you leave this at night, you will have such a problem, you're not even going to believe it, because there's going to be people driving all over everybody's farms; everybody is going to be a farmer; everybody is going to be a landowner. I'm 55 years old, I hunted a lot of pheasant and quail when I was young. I don't hunt anymore because there is no pheasant and quail. I'm not a deer hunter. I've seen a game warden one time...one time in my life and I had to call him to come out, one time. That's how many game wardens are out, that I see, patrolling this. If we leave this where they can hunt at night with spotlights and at night, it will be impossible to patrol. I have a few things wrote down that were almost identical to what this person said. I'm not a very big farmer, I farm about 1,100 acres. I've farmed ever since I was 18 years old; I've farmed for 38 years. I got it wrote down that I lose approximately five acres a year to deer. That's probably extremely conservative. The last few years, we've had extremely good years. I put down a gross of \$500 an acre. But let's back that up to from when I was 18 in 1972 to now, and let's say \$200 an acre that I've lost five acres a year for 38 years, \$200 an acre, you guys do the math. What about the guy that farms 5,000 acres? He's donating even more. What about the guy that farms 8,000 acres? Now I've always said them guys must be really poor managers if they got to farm that much ground, but that's another point...that's another point. But they're donating even more, is what my point is there.

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My last thing, almost identical to what this person said, was I've said the way we solve the problem is I've been told that the game wardens go around to the taxidermists in the off season and these heads have to have the tag on the antler. And if they don't, the taxidermist gets in trouble also. Okay, what I say is we need to have the rifle hunters tag five does...tag five does before they can tag a buck. Not one, five. Then maybe we'll get somewhere. These guys come out, they put the bonus tag on, they will not shoot a doe. They won't shoot a doe. I do have one family down there that does shoot a lot of deer and they eat them. But the...everybody wants the trophy rack. So you're going to have to force these guys who want the trophy rack to shoot the does. I probably have a whole lot more to say. I didn't even know I was going to be here until an hour and a half ago. So I probably done. Thank you very much for your time. If you have any questions, I'd be glad to answer them. [LB836]

SENATOR LANGEMEIER: You're doing good. Are there any questions? Senator Carlson. [LB836]

SENATOR CARLSON: Senator Langemeier, thank you. You talked about the night hunting because, I'm taking it because it's the area in which you have land that's close to too many residences. Would you feel that way if it's land... [LB836]

CRAIG BOLZ: It's not...no, it's not the safety of it, it the you can't patrol it. [LB836]

SENATOR CARLSON: Okay. [LB836]

CRAIG BOLZ: Everybody is going to be a farmer or a landowner because they're...you're going to have pickup trucks driving all over your farms all the time because these guys are still going to be out there looking for that trophy buck. And if they would happen, you know, by the time the game warden ever got there, they'd be gone. But it would drive a farmer crazy with the amount of trespassing that would happen if you let them hunt at night. It would probably be bad enough during the day, but if you let them hunt at night, it would be unbelievable the amount of trespassing that would go on. [LB836]

SENATOR CARLSON: Thank you. [LB836]

CRAIG BOLZ: Anything else? [LB836]

SENATOR LANGEMEIER: Are there any other questions? Seeing none. [LB836]

CRAIG BOLZ: Thank you very, very much. Thank you. [LB836]

SENATOR LANGEMEIER: Thank you for coming in. We appreciate it. Further testimony in support of LB836. Welcome. [LB836]

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RICHARD KRUSE: Hello. My name is Richard W. Kruse K-r-u-s-e. And I'm here with a contingent of four from the DeSoto Bend area. We have a unique problem because of the vicinity of DeSoto Bend and Boyer Chute. I've got a 280 acres of the bluff, if you've been between Fort Calhoun and Blair and 58 acres is all that's really farmable. And my taxes, for instance, on that 280 acres are \$12,386. With the 58 acres, I need to come up with \$214 an acre on the average. So every acre is very important to me. I typically lose three to four acres a year that is visible. And as the gentleman before me said, you can't really assess the amount of damage the deer do going through your fields all the time. The biggest hazard we have, as I started, we have the vicinity of DeSoto Bend and Boyer Chute. I was born and raised in the DeSoto area and as my predecessor said, we thought a deer was really magic when we first saw them back in the 1950s. And this is, you know, be getting worse and worse and worse and now they can count 180, 200 deer. Right now, I can count 75 on my property. In 2000...well typically, in the last three years, the hunters have taken five to six deer off my property each year and the Game and Parks were nice enough to give me a depredation permit in 2008 and 2009, the spring. As you may or may not know, those depredation permits, we're allowed to shoot as many as we can and we have up to five shooters. And even though...and those shooters can actually be out-of-state shooters. There's no license required. In those two years, we got three deer each year. And actually I'm the one that ended up shooting them and I don't really like to shoot deer. But they are getting to be a financial burden for us, I mean, there's no getting around it. The best time to shoot these deer, the game wardens will agree, the Game and Parks, if we shoot the deer that are eating our crops in the spring, those are the deer that are doing the damage, obviously, and if we shoot these the depredation season in January, February, those are, typically, not the deer, they say, that are going to be eating our crops. So we need the right...the ability to shoot them in the spring of the year. So for that particular reason, I'm in favor of this bill. Any questions? [LB836]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Kruse? Seeing none, thank you very much for your testimony. Appreciate it. Further testimony in support of LB836. Welcome. [LB836]

JEFF SHANER: Hi. Thanks, Senator Langemeier. My name is Jeff Shaner, S-h-a-n-e-r. I'm a farmer from Fort Calhoun, Nebraska. And I am in favor of this bill simply because it gives us one more tool to manage the population that we've got to deal with. As we heard on the testimony in the previous...previous bill, any time you see a predator out attacking your livestock or produce, you would naturally want to protect your livelihood in doing so. And this bill gives us the ability to do so. I would agree with everybody that's testified ahead of me that I lose between 10 and 15 percent of my crop a year to deer and other wildlife. It's easy to look at barren spots in a field and see the tracks and the scat, as you say, and say, yes, this is deer damage. It's another thing to walk through an entire field and see the same tracks and here's one corn plant knocked over, here's one

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soybean plant that's been eaten down to the ground and try and quantify what that damage is. But it's prevalent. I strongly believe that spotlighting should be allowed, because deer are not stupid. When they realize that they're going to be preyed upon during daylight hours, they no longer make themselves apparent in daylight hours. As Mr. Kruse stated earlier, it is not uncommon to see over 100 deer...between 100 and 200 deer in an 80 acre field where I'm from. I would also like to add to that that I think I heard earlier that we're going to hear about the population of deer in the state and what the ideal population of deer in the state is. And I would strongly suggest that while you can say in the 45 million acres I think there are in the state of Nebraska, that probably over the 45 million acres, 300,000 might be an adequate population. But I would say that most likely that the population is going to be heavily concentrated in certain areas of the state. And those overpopulated areas are the places where we're having a problem. And you can't...simply cannot generalize and say, well, because over the entire state, this is a good population for the state that there's not a problem. As we've all noted that there's plenty of accidents between deer and automobiles and motorcycles and loss of property, loss of life, due to that...on top of the loss of economic activity from the deer damaging our crops. With that I'll entertain any questions. [LB836]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB836]

SENATOR CARLSON: Thank you, Senator Langemeier. Mr. Shaner, I wish I had your youth. (laughter) How long have you been farming? [LB836]

JEFF SHANER: I have been actively farming for seven years. [LB836]

SENATOR CARLSON: Okay. Do you think over that seven years that you've seen a significant increase in population? [LB836]

JEFF SHANER: Yes. [LB836]

SENATOR CARLSON: Hazard a percentage? [LB836]

JEFF SHANER: I couldn't say a percentage. I would say that to the...speak...to saying there were 380,000 deer in the state and we took 80,000 of those away that where I'm from, it's normal for a doe to produce two fawn and not abnormal to see three fawns with one deer. So it's not a simple...you take one away and that's...you're going to reduce the population. You take one away and there's two or three more to take its place. It's a... [LB836]

SENATOR CARLSON: Of that total population, the majority would be does, wouldn't they? [LB836]

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JEFF SHANER: I believe so, yeah. And I'll also speak to...and I don't mean to get off the subject, about hunters being antler crazy and there are, certainly, there are hunters that will only want to shoot antler deer. With some education and guidelines given to the people that are allowed to hunt on the property that I control, they shoot does. And every person that hunts on my property shoots doe...female deer and there's also been...those same people have taken some magnificent trophies as well. So the two things can coincide. [LB836]

SENATOR CARLSON: Thank you. [LB836]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none, thank you very much for your testimony. [LB836]

JEFF SHANER: Thank you. [LB836]

SENATOR LANGEMEIER: (Exhibits 9 and 10) Further testimony in support of LB836? I have a...seeing no other testifiers, I do have a letter from the Nebraska Farm Bureau, signed by Jessica Kolterman in support. I have a letter from the Nebraska Firearms Owners Association, Andreas Allen in support, signed by Allen. Now we move on to those that would like to testify in opposition to LB836. Don't hesitate. Come on up. Welcome back. [LB836]

JOE HERROD: Welcome. My name is Joe Herrod H-e-r-r-o-d. I'm here representing the Nebraska Council of Sportsmen Clubs and nobody wants to get up here and testify first, I could see when you have strong proponents. I will tell you that in my life I have hit and killed five deer, only damaged my vehicle once because I know where they are and I went very slow. I also have a daughter who was severely injured in a deer accident. She was in a Ford Expedition; she had my two grandchildren well buckled in. She was well buckled in. She knew the road; she knew there were deer there. It wasn't caused by 400,000 deer; it was caused by one deer; got under a wheel well, turned the tire which caused the Ford Expedition to go over the ditch and come down on its top. She broke her shoulder. She was out of work as a dental hygienist for, oh, maybe a year. She'll always be a tough deal. And so I've been there and done that and I know that and I know there's a lot of deer. I've personally counted 138 deer one time on my hay meadow in western Nebraska. We have a lot of problems with the deer population in areas specifically where some people want to feed them and have them as pets or there's game refuges such as DeSoto Bend and out by Fremont. It's such a complex issue that to turn people loose totally and just say have at them, is not the answer. And like the one gentleman said, if you allow night hunting, everybody's going to have an excuse to be out there prowling around at night. That's just not a good thing. The other thing is if you let people hunt with lights, it's one thing to go raccoon hunting at night and shoot vertically up at a raccoon in a tree, but to shoot a high-powered rifle somewhere out of the range of your headlights or your flashlight, that's just insane. Another bad

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thing about the bill is the fact that it...I could look at my notes and find, probably, five or six things that I don't like about the way this addresses the bill. The big thing we have to get to, we have to get to better hunter access; people that lease their ground out. I was telling some people earlier, I have a neighbor with over 40,000 acres. He leases his ground out to only six hunters; charges them \$5,000 a piece; 42,000 acres. How many deer? What's that going to take care of? We have a commissioner from Senator Schilz's area, who is a good friend of both of ours, he's my tenant on my ranch. I think he has over 40 pivots of corn. He's well aware of all of these problems; he's into it. I think the whole game commission is into it. You're going to hear from one of the commissioners here in a minute. But this is such a complex area, that just to turn people loose with guns and say have at them any time of the year, no season, no bag limit, no nothing, it's just really opening Pandora's box. The other thing that's bad about this bill is it throws in this \$25 tax credit. That's...\$25 when somebody's getting \$5,000 to lease their ground to a hunter isn't going to influence anybody to go out and shoot a deer for \$25. The other thing is, is that \$25 throws the whole recreational liability act into jeopardy because it's a payment. So that's a bad thing. And...so I really, there's so much about this bill that I don't like, that I'd really like to see the whole thing kept in a policy situation of the game commissioners. Every one of the eight game commissioners right now is a landowner. They're all one of the best group...probably the best group of commissioners I've ever seen. They're hard at work at this problem. They're trying to come up with solutions. They have looked at this shoot the doe first situation. They'll have opinions on that. You know, those things have already been tried a lot of places. It's not a new idea. And find out how it really works and whether or not it works. So, like I said, we're opposed to the bill, because it just got way, way too many things in it that we...we just can't go along with, so. [LB836]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing no questions, thank you very much for your testimony, Mr. Herrod. [LB836]

JOE HERROD: Thank you. [LB836]

SENATOR LANGEMEIER: Further testimony in opposition to LB836. Welcome. [LB836]

JEFF HOFFMAN: (Exhibit 11) Thank you. Chairman Langemeier and members of the committee, my name is Jeff Hoffman, H-o-f-f-m-a-n. I'm an assistant administrator with the Nebraska Game and Parks Commission in our wildlife division and I'm here on behalf of the Nebraska Game and Parks Commission and I'd like to thank you to allow us to testify in regard to this bill. The commission realizes that we do have an over-abundance of deer in certain portions of the state. We empathize with landowners; we know that there is damage occurring and we are trying to work with these landowners to do what we can to reduce and that...some of this damage and try to limit the damage that's taking place. At the same time, we're also managing the deer herd for hunting purposes and recreational purposes for all the people of Nebraska that are

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concerned here. We approach population control in a couple different ways. We do it on a regional basis and we do it on an individual landowner basis. On a regional basis, we develop deer units; we implement deer seasons; we try to kill and harvest deer over a large portion of the area to manage the herd. On an individual basis, if a landowner is suffering damage, we go to the landowner; we investigate the damage that's taking place and then we offer certain tools that we might provide to the landowner to, basically, to take care of that, to abate some of this damage. We could offer to cost-share on fences, to enclose stack yards or to put fences around crop fields to prevent damage. We provide hazing tools like propane cannons or shell crackers. We even hire airplanes to haze animals off certain crop fields. We give technical information on repellents, things that might work; and we also...we issue depredation permits which are free to the landowner. In 2009, we issued 92 depredation permits that authorized the take of about 1,300 deer and those landowners killed 850 deer on those permits. So, one of the concerns we have with this bill, I guess, is that...that the bill doesn't just target where damage is taking place. It allows deer kill on all land, you know, whether there's damage taking place or not. Wildlife is in Nebraska, is a shared resource. Hunters and landowners, obviously, have a stake in the deer populations and how they're doing. But citizens at large are all interested in deer and they believe that deer have a intrinsic value and in...they think that, you know, deer should be appreciated and they should be valued. Hunting is regulated and in doing so, we have to strike a balance between what the hunters want and what the normal citizen want and what landowners need to help prevent damage that is taking place. So our regulations, basically, try to target adequate harvest, you know, recognizing these certain wants and needs. And because in Nebraska, 97 percent of land is privately owned, landowners and hunters have formed a bit of a relationship to basically have a place to go hunt and so the hunters have a venue to go hunt and landowners have a tool to help them control their deer population. If this hunting were unregulated, we're worried it could lead to wanton waste of animals, animals just killed...deer that were killed and just left lay which would lower their intrinsic value. We're concerned that illegal hunting could take place; people would take advantage of the situation and they would hunt just using this bill as an excuse. That relationship between landowners and hunters could be...have a negative impact. There might be less land available to hunters to be able to hunt on private land. And deer populations could actually be harmed in certain areas, I mean, obviously, it would reduce it, you know. But in some areas it could really reduce it to substantial low numbers. And this could happen in places where damage is not occurring; where just the deer are killed because the law says that they can be. In Nebraska, we feel that hunters are probably the best tool that we have to control the deer population. There are no natural predators in Nebraska for deer, with the exception of coyotes to a limited point, and so we feel that if we employ the use of hunters that we can really reduce that deer population. So we feel that hunters need to be able to get to land to be able to hunt. And one of the real problems that we have is that they're just not able to because of...the refuges that are established either purposely or incidental because they lease their land up or they don't believe in hunting, or that type of thing. So this bill really

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doesn't address that problem. We really think that's one of the things that needs to happen. We're worried about commercialization of hunting. You know, people could take advantage of this to sell antlers, to sell parts, that type of thing as well. I've got a handout here that talks a little bit about what we're going to do in the coming year. We're...for this season, we have an October antlerless season that we established last year and we're going to increase it again this year. We're going to put it over a larger area of Nebraska. And we're going to reduce the permit price to \$10. That's are recommendation. And we feel that that's really going to have an impact on that. And there's a few other things that you'll see on the handout that we plan to do for this coming season that we're going to recommend. [LB836]

SENATOR LANGEMEIER: I think that's very important so I want you to finish on what your plan is. [LB836]

JEFF HOFFMAN: Okay. On...these...this October season, last year was three days, it's going to go to ten days next year. The permit price last year was \$30; we're going to want to reduce it to \$10 and it's for the harvest of antlerless deer only. In November during the firearm season, if you did not fill your permit, we're going to recommend that you are able to use that permit in January, during the January late season. And that's a antlerless only season again. We're going to allow archery equipment was not available during the firearm season as a legal weapon. We want to make that recommendation that it is a legal weapon during those firearm seasons. And in certain areas in the state, especially in eastern part of the state, we want to increase permits in certain areas and, basically, just put more antlerless permits out there that take...the take of an antlerless deer. So those are primarily what we're looking at for next year. [LB836]

SENATOR LANGEMEIER: Thank you very much. Questions? Senator Haar. [LB836]

SENATOR HAAR: Yes, could you tell me how many game wardens are there...out there right now? [LB836]

JEFF HOFFMAN: I don't know that for sure, Senator. [LB836]

SENATOR HAAR: Just a ball park number. [LB836]

JEFF HOFFMAN: Forty. [LB836]

SENATOR HAAR: Forty. Okay. Thank you. [LB836]

SENATOR LANGEMEIER: Senator Schilz. [LB836]

SENATOR SCHILZ: Thanks, Senator Langemeier. Thanks for coming in, Mr. Hoffman. I got a couple of questions for you. I just want to get some sort of an idea on a couple of

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things. First of all, you know back a few years ago, we had the big scare of CWD, Chronic Wasting Disease and all that. How did that affect numbers of hunters and numbers of deer that were taken. [LB836]

JEFF HOFFMAN: It did not seem to have an impact on the deer population or the number of hunter. We're selling more permits than we have. They continue to grow in the number permits that we issue and our harvest continues to increase each year so it hasn't had an impact. [LB836]

SENATOR SCHILZ: As that harvest is increasing, so far then, but we haven't seen a decrease in the number of deer that are out there, correct? [LB836]

JEFF HOFFMAN: No, as far as our population is... [LB836]

SENATOR SCHILZ: Right, yeah. And then my next question is, I appreciate that, thank you. My next question is, if...a professional opinion from Game and Parks, how many deer should there be? [LB836]

JEFF HOFFMAN: Well, that's hard for me to tell you. I really couldn't tell you what that is exactly. Certain research says that deer...an ideal population might be 15 to 30 deer per square mile. But it depends on the habitat; depends on if it's corn versus whether it's timber and whatever. So I'm not able to tell you just what that population should be. [LB836]

SENATOR SCHILZ: Right. Okay. Thank you. [LB836]

SENATOR LANGEMEIER: Senator Dubas. [LB836]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Mr. Hoffman, and I'm really looking forward to reading through this. [LB836]

JEFF HOFFMAN: Okay. [LB836]

SENATOR DUBAS: Because we need to do something. I've been scanning the audience looking for the guy who runs my body shop because I'm sure he would be in strong opposition to this bill. (Laughter) I have a vehicle in the shop right now with over \$6,000 worth of damage because of a deer. And over the course of my adult life, between my husband and my children and I, we have spent hundreds of thousands of dollars because of deer, not to mention even what we've lost in our crops. So, I get a little agitated when we talk about the deer population. So, I guess I have a few questions for you. How many buck versus doe permits are usually given in a season? [LB836]

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JEFF HOFFMAN: We issue, this past year we issued about 131,000 permits and on more than half of those, a bonus tag was attached to take an antlerless deer. And so in total we allow approximately 200,000 permits that allow the take of an antlerless deer. [LB836]

SENATOR DUBAS: Okay. Are the permits distributed, like, in the areas where there's a higher population of deer, do you allow more permits in that area, or is it just pretty much across the state? [LB836]

JEFF HOFFMAN: No. It's more...in the eastern part of the state, there are a lot more permits issued and more of those are antlerless permits because the higher deer population is in the eastern part of the state. [LB836]

SENATOR DUBAS: Okay. Refresh my memory on when the bow season is for deer. [LB836]

JEFF HOFFMAN: Bow season starts on September 15 and runs through the end of December, excluding the nine-day no firearm season. [LB836]

SENATOR DUBAS: How many permits are usually given for bow? [LB836]

JEFF HOFFMAN: Approximately 15,000. [LB836]

SENATOR DUBAS: And is that doe versus... [LB836]

JEFF HOFFMAN: Those are either sex permits; they can take an either sex permit on that permit, but every archery permit also has that bonus tag for an antlerless deer. [LB836]

SENATOR DUBAS: Okay. [LB836]

JEFF HOFFMAN: All of our statewide permits have a bonus tag attached to take an antlerless deer, like our muzzle loader permits, our youth, our landowner, and archery permits. [LB836]

SENATOR DUBAS: Would you have any idea the success rate of a bow hunting season versus a rifle season versus a muzzle loading, is it pretty equal? [LB836]

JEFF HOFFMAN: The success rate on archery and muzzle loader right now is 46 percent in those two seasons. And on the firearms season it is, I believe, approximately 62...63 percent. [LB836]

SENATOR DUBAS: Okay. Well, as I said, I am looking forward to reading through this

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and I would like to have an extended conversation. I would agree, we can't just, you know, open the doors and let this happen. Deer hunting, it's an economic tool for our state. But by the same token, I know the number of deer that are out there; I know the damage that they're causing. We have to address this in some fashion. [LB836]

JEFF HOFFMAN: Yep, agree. [LB836]

SENATOR DUBAS: Thank you. [LB836]

SENATOR LANGEMEIER: Senator Schilz. [LB836]

SENATOR SCHILZ: Thank you, Senator Langemeier. I guess, as you were talking about the bonus permits and the antlerless permits, how many of those, what's the percentage of those that are filled? Do you keep track of that? [LB836]

JEFF HOFFMAN: Percentage of antlerless versus... [LB836]

SENATOR SCHILZ: Right. Or...yeah, that would be all right, that's... [LB836]

JEFF HOFFMAN: I...again, I'm not sure of that information. We have that information, I can get that information for you, but I don't have that it right now. [LB836]

SENATOR SCHILZ: Right. Yeah. I think that's important, because...I mean we can go around and shoot all the bucks we want and it's still not going to affect the population that much. I mean, we've got to get to the doe population to do any good. Would you agree with that? [LB836]

JEFF HOFFMAN: Yes, I would. [LB836]

SENATOR SCHILZ: And I do think, you mean, we talk about, like the one gentleman that came up before who said that, you know, we should give out the five permits for does first. I'm sure you've thought about that in this, but do you believe that that would cut back on the number of permits purchased? [LB836]

JEFF HOFFMAN: Well they...that's what they call an "earn a buck" type of a system where you have to shoot a doe to earn your buck permit. And yeah, we've discussed it, and you know, as one of the options. We've...our biologists meet with other biologists from other states and they get together on a yearly basis and they compare notes about, you know, what works and what doesn't work. And other states have used the "earn a buck" system and in the message that we get is that they have used it and some states don't really like it and they've rescinded it and gone back to the regular system. Other states are keeping it. [LB836]

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SENATOR SCHILZ: Sure. [LB836]

JEFF HOFFMAN: So, you know, the jury is still out on whether it's a good system to use or not. [LB836]

SENATOR SCHILZ: Now tell me this, you know, as you say, it's hard to make a decision on how many deer should be in a particular area, or whatever, because every, you know, every place is different; every area is different. Are you guys working...do you do anything with landowners or anything like that that want to come up with that number? And then work to regulate those numbers and manage those numbers of deer down to what would be considered optimal carrying capacity? [LB836]

JEFF HOFFMAN: We do get calls from landowners that talk about that. Most of them are in connection with a depredation complaint. [LB836]

SENATOR SCHILZ: Sure. [LB836]

JEFF HOFFMAN: And so, you know, we deal with the deprecation complaint, and then they ask, you know, for how can we do this? And we do talk to them about, you know, the hunting that takes place. We encourage them to have their hunters take does before they kill a buck. [LB836]

SENATOR SCHILZ: Right. [LB836]

JEFF HOFFMAN: And so yeah, we do that. And not just with those with depredation, but anybody who wants that information. [LB836]

SENATOR SCHILZ: Sure. [LB836]

JEFF HOFFMAN: We're willing to sit down, we do talk with people about that, yes. [LB836]

SENATOR SCHILZ: Okay. [LB836]

JEFF HOFFMAN: Yes. [LB836]

SENATOR SCHILZ: All right, thank you. [LB836]

JEFF HOFFMAN: Uh-huh. [LB836]

SENATOR LANGEMEIER: What about Senator McCoy? [LB836]

SENATOR McCOY: Thank you, Chairman Langemeier. And thank you, Mr. Hoffman,

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for coming in this afternoon. I guess a question to go back and maybe drill down a little more to what Senator Schilz...the "earn a buck" system as you talked about, and the biologists, talking about some other states that have adopted that program; some that have gone away from it; some of them have kept it. It's difficult to find a state that has similar climatology and what not, as we do, from border to border, but do you know any of those states off hand that have kept that that you can recall, and I can always get that additional information later. I'm just curious what some of those states might be. [LB836]

JEFF HOFFMAN: I can provide that to you, but I'd be...I'm hard-pressed to come up with one that has it right now. [LB836]

SENATOR McCOY: Right. [LB836]

JEFF HOFFMAN: Missouri had it at one time; they did rescind it. I'm not sure if it's back again. Wisconsin was another state that did have it in place and they rescinded it, they took it off. But I don't...I can't tell you one that has it right now for sure. But, again, we can provide that information to you. [LB836]

SENATOR McCOY: Thank you. [LB836]

SENATOR LANGEMEIER: Senator Dubas. [LB836]

SENATOR DUBAS: Thank you, Senator Langemeier. Mr. Hoffman, deer tend to stay in their own particular territory, don't they, or are they pretty transient as far as moving around the state? [LB836]

JEFF HOFFMAN: Well, they...no, they do have a home range and it's pretty close, about one square mile, but we've done, in our CWD work, we have done research and putting collars on deer to study their movements and some deer, especially some of the bucks have traveled, you know, up to 15 to 30 miles and then back again. So, normally it's a fairly close range, but they can extend some ways. And in the wintertime, sometimes, you'll see more of that movement, when they winter-up into wintering herds. [LB836]

SENATOR DUBAS: Thank you. [LB836]

SENATOR LANGEMEIER: Senator Haar. [LB836]

SENATOR HAAR: Yes, what is your reaction to letting people hunt with lights? [LB836]

JEFF HOFFMAN: Well, we're concerned, I guess, that again, it would turn into a lot of activity where people would take advantage of shooting bucks at night and for monetary gain. There's quite a market on deer antlers right now. You know, whether they're on a

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mounted head or whether they're shed antlers that fall off the deer, there's quite a market and you can make a lot of money on antlers that way. And if a spotlight were to be used, I think people would take advantage and deer are pretty vulnerable at night with a spotlight and I think they would shoot a lot of bucks just to do that, just to harvest antlers, you know, to earn money off them. So, I think it's a tool that landowners would be very owly about. I mean, it's a...you see someone out, you know, with a spotlight, if they're on your property or on the other road outside your property you don't know if they're there legitimately or not and I think they'd be very concerned about that. I think that it would cause problems with landowner relations and that might extend into, you know, allowing hunting or other things like that. [LB836]

SENATOR HAAR: Thank you. [LB836]

SENATOR LANGEMEIER: Mr. Hoffman, I'll ask a question. Tell me again, what do you do for Game and Parks? [LB836]

JEFF HOFFMAN: I'm an assistant administrator in our wildlife division and my main responsibility is working on public lands and also in helping to set seasons, big game seasons. We run surveys for the different wildlife species and then we respond to depredation complaints, damage complaints. [LB836]

SENATOR LANGEMEIER: Okay. Thank you. The other question I have, and this is a concern to me as you talked about what is the right number of deer in Nebraska; and you said, kind of, the word of thumb out there is 10 - 15 deer per square mile. [LB836]

JEFF HOFFMAN: Fifteen to thirty. It depends on the research that you read. But in some research, those are the range that is offered. [LB836]

SENATOR LANGEMEIER: Don't go any higher, you're making me like this bill more. We have a third of the state of Nebraska that we don't graze at 10 to 15 cows per acre...or per mile, per square mile pasture and maybe more than a third. I would think that 10 to 15 would be a very...I don't know how to put it, irresponsible number to have. And I think this bill should have added to it, what is a projected population. I think that needs to be addressed. Second question I have for you is, what do you think deer consume a day? Do you have any idea of pounds or... [LB836]

JEFF HOFFMAN: No, I know those numbers are there. I couldn't tell you what they are. Again, I can provide that information to you later, but I couldn't say right now. [LB836]

SENATOR LANGEMEIER: I would appreciate it. And then the third, just to follow up on Senator Schilz, he kind of asked it in a number of different ways. I guess, the question I would have is what percent of our deer permits, in total, I don't really need to know whether they are firearm or bow or muzzleloader, just what percent gets filled a year,

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roughly? Do we fill 50 percent of them? [LB836]

JEFF HOFFMAN: Well, roughly, I'd say it's probably, it's better than 50 percent. The archery and muzzleloader are the...probably on the lower end at 46 percent and firearm are on the upper end, you know, closer to 65 percent. And so if you average them all out, we're probably looking somewhere in the neighborhood of 60 percent. [LB836]

SENATOR LANGEMEIER: Okay. Very good. Are there any other questions? Did a good job, thank you very much. [LB836]

JEFF HOFFMAN: Okay. Thank you. And again, one thing I'd like to say is that we're more than willing to work with Senator Lautenbaugh or any other group in the Legislature to try and solve this problem. [LB836]

SENATOR LANGEMEIER: Very good, thank you. [LB836]

JEFF HOFFMAN: Um-huh [LB836]

SENATOR LANGEMEIER: Further testimony in opposition to LB836. Welcome. [LB836]

MARK ROEMER: Welcome. My name is Mark Roemer, that's M-a-r-k R-o-e-m-e-r. I own and operate a farm and livestock operation in Lancaster County. I'm also an EMT with our volunteer service. Crop production requires good management using herbicides for weeds and guns for deer. I have documented losses in excess of \$100,000 over the last four years due to deer damage. Last year, one 72-acre field of soybeans appraised by an insurance adjuster as having a 30 bushel per acre loss on that field alone and that was \$24,000. This is a hot button issue for me. I've been the recipient over the last three years of three deer depredation permits with the assistance of the Game and Parks. These permits require that I be personally responsible for upholding the regulations issued by those permits. That simply means that my insurance company is on the hook for the way I handle those permits and how I handle the depredation of those deer. In 2009, over 80 deer were taken on less than one half square mile of property I operate. Fifty-seven of these deer were underneath a depredation permit. Of those 57, 51 were does, 6 were bucks. After that, at least 25 more deer were taken from the same area during the regular hunting seasons. That equates to 80-plus deer taken from one half mile square area. I found there to be plentiful numbers of willing doe only hunters knocking on my door wanting to shoot deer. My recent survey of January population, which I do the last two weeks of January every year and have for the last six years, has indicated that there's no significant reduction in the deer population on that same half mile square area. I do this from the tractor cab when I'm doing cattle chores. Every night you can see them eating on the soybean fields. Gets my blood rolling. I do not oppose the purpose of this bill. However, I feel I must oppose the way it's being handled and suggested to be done in this bill. I

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don't think I should need to reside on the farm in order to shoot a deer. I can't rely on my immediate family to help me shoot deer. It's hard enough for me to find the time to do that. And I certainly have some issues with the \$25 tax credit. Instead, I would support existing programs currently available through the Game and Parks. They are very easy to work with; they seem to be very, very attentive to the issues that I've raised. They certainly spend time with me to help me understand the situation; how we can deal with hunters and how we can best get rid of the surplus population. I would actually urge an expansion of the depredation program by allowing those of us who have a risk of loss to operate under a year-round landowner permit with no limit on the number of female deer we can take. It is, after all, our crop that's at stake. That's our profit; that's our livelihood. I believe that the 24-hour opportunity to hunt, that is light hunting at night or use of artificial light, will become necessary as the deer wise up. They're quick to adapt and as noted during rifle season, they become almost exclusively nocturnal. In order to properly utilize a depredation permit, my personal experience is that if you hit them over here in a week, you need to leave it alone for a week. Let them come back and then hit them again. They will quickly move away and if you let them relax, you surprise them all over again and you can get another 10 or 12 with the same shot. And I have been up at midnight, 2:00 in the morning, cleaning the 10 deer hanging from my loader bucket. It's a lot of work. It's not something that is any different than killing thistles in a pasture. It's something you need to do as good stewards of the land, good stewards of your bank account. It's something that I'd really rather not have to clean them, but it's in the regulations. It's something I agreed to do in order to be able to get the numbers down. Let's see, the existing programs...let's see...I'm going to go to the next page, tax credit issue is unnecessary for the same reasons that a tax credit is not issued for killing noxious weeds. If you have a crop production problem, it's my job to manage that. I don't need to have a tax incentive to get it done. On the other hand, if you want to give me out free rifles or free ammo, I'm all about that. (laughter) One of the issues I think that needs to be...needs to be dealt with is better access to public lands. These wouldn't be lands, typically, Game and Parks has access to right now. They would be the outlying public land, for example, airport authority lands, audubon society ground, university property, those are lands that are purchased and financed and funded through tax resources that have no option for hunters or to help scare the deer off of those properties. One of the things I've learned in the last five years of being actively involved in trying to reduce the numbers of populations of deer is that once they find a safe haven, that becomes an area where it becomes nearly impossible to chase them off of there during the daylight hours. You can entice them for a while, you can bait them, you can wait until they cross the road, but until you can go over there and actually disturb them, you won't have an opportunity to get rid of them. I'd like to give an at-a-boy to Game and Parks. They seem to be more than willing to help us out in our issue. It was interesting to hear Mr. Hoffman say that there were only 92 depredation tags issued last year. I would have expected that number to be in the neighborhood of 900. It was also quite a surprise to hear that there were only 1,300 deer taken on those 92 tags. A couple of reasons I think those numbers are so low is because, again, I

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would point to the amount of work involved at reducing and taking care of the deer underneath of the depredation tag. I would also draw attention to the fact that as producers and as farmers, we're very time limited in our ability to physically or manage or personally go out and take care of the deer problem. I do think, also, as farmers/landowners, that we have the management capability to handle people we would chose to do the deer killing for us; no different than hiring an employee. Somebody would like to kill some deer on your land, I think we should be given the opportunity to say, yes, please. But here's the way it's done. And you will answer to me, because I am personally responsible for that. And that's what the existing deer depredation program requires of us right now. [LB836]

SENATOR LANGEMEIER: Mr. Roemer, our time is up. [LB836]

MARK ROEMER: I'm sorry. I didn't even look at that. [LB836]

SENATOR LANGEMEIER: So we need to keep going. You did a good job. [LB836]

MARK ROEMER: I apologize. I was near... [LB836]

SENATOR LANGEMEIER: Are there any questions? I don't see any. I appreciate your testimony and you did a great job. [LB836]

MARK ROEMER: Thank you. [LB836]

SENATOR LANGEMEIER: Further testimony in opposition to LB836. Mr. Sheets, welcome. [LB836]

WES SHEETS: (Exhibit 12) Thank you, Senator Langemeier. Members of the Natural Resources Committee, my name is Wes Sheets spelled S-h-e-e-t-s. I live here in Lincoln, Nebraska. I'm appearing before you in behalf of the Nebraska Division of the Izaak Walton League. I did...had previously provided the clerk with a copy of my comments, so I presume you have that and I'll not reiterate everything on that paper. And in the interest of brevity, I'd point out that most of my comments are almost identical to the proponents and the opponents. I think it's obvious that there's a substantial deer herd in the state of Nebraska. In some person's mind, it may be a nuisance, it's a problem. In other people's mind we don't have enough. I would submit that it's a matter of individual opinion and thought, however. And depending on which side of the coin you are, I'm not sure there are any really good answers. I would propose that LB836 is not the best answer, and probably not a very good answer at all and therefore we would, as the Izaak Walton League would recommend that you indefinitely postpone this bill. I think it's pretty evident if you know anything about deer that they're very opportunistic. If there's a favorable habitat in one side of the room, or one side of the section, that's where those animals are going to go to. It's not an easy matter to go out

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and shoot them as a hunter. I think the biggest issue comes that we have a number of habitats that are controlled that are not available for hunting. The previous testifier alluded to the University of Nebraska land, State Board of Education Lands and Funds; a number of other public properties, but I would submit that there's a number of private ownerships as well that have no notion of allowing hunting or deer harvest on those properties. That creates a huge conflict, because as we've heard before, those animals are very adaptive. If they're under some sort of pressure, either lack of forage or somebody chasing them, whether it's a predator or a person with a gun, they're going to move to a place of refuge and better living. So my suggestion is that we continue to encourage the Game and Parks Commission to work on community based projects, projects that will serve to interact with persons that want to hunt for deer, with those that don't in some manner mix the two, that will reduce that population. They are very adaptive and they are very prolific. So we have to accelerate our activities at going to where the problem begins, not where it ends in people's cornfields. I appreciate the damage that they do to corn and other crops, and, you know, if we can...if we can strive to reduce the herd that's available to those crops, I'm all for that. We don't believe that LB836 is the right vehicle, however, and would suggest you indefinitely postpone this bill. I guess with that, I would close and answer any questions if you have any. [LB836]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Sheets. [LB836]

WES SHEETS: Thank you for the opportunity to be here today. [LB836]

SENATOR LANGEMEIER: You did good. Thank you very much. Further testimony in opposition to LB836? Welcome. [LB836]

JANICE SPICHA: Welcome. Thank you. Senator Langemeier and committee, my name is Janice Spicha, S-p-i-c-h-a. I have a home in Lincoln. My children say I can't say I reside here because I spend most of my time hunting and fishing throughout the state of Nebraska. I'm the current chairman of the Nebraska Bow Hunters Association. We're about 1,000 members strong. I'm here testifying on their behalf in opposition to this bill. We, as bow hunters, probably have a great stake in landowner relationships, as well as the deer population. We understand the deer population. We're very closely...I don't know what the term would be, we work closely with landowners and we've done a great deal to educate our membership and the bow hunters of this state of how important it is that we harvest more doe than we do bucks. Primarily, we're meat hunters, not trophy hunters. I won't say that taking a great big buck wouldn't thrill any of us, but we've encouraged the harvesting of doe, realizing and working with the Game Commission on this problem. The landowners that I've talked to here today, and other places, I totally sympathize with it. I just believe that the deer population belongs to all of the state of Nebraska, not to the individuals that own the land. Granted, they do seek to feed them. But with that in mind, I would like to say that we have hired people, biologists, our Game and Parks Commission, to scientifically help us control the deer population. And for you

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to pass a bill that would give the control to the general public to arbitrarily shoot deer in whatever manner they see fit, just doesn't make a whole lot of sense to me. But, with that said, everyone else's testimony kind of covered everything. I know in working with Game and Parks for the last 20-some years in the hunting and sportsman issues, I see that they have worked very hard. They're concentrating very hard on this problem and I think it should be left up to them, not to the general public, to arbitrarily kill deer in this state. If there are any questions, I'd would like...be happy to entertain them. [LB836]

SENATOR LANGEMEIER: Very good. Senator Carlson has a question. [LB836]

SENATOR CARLSON: Thank you, Senator Langemeier. This is a...this is kind of a hard question and I could have asked it of anybody, so if you're uncomfortable answering it, that's okay. We've had several references to destruction of property. And it happens year after year after year. How do you think we can make that stop? And is...can you think of any kind of a plan that would be compensation for property that's lost? I understand opposition, your opposition, but at the same time, the property owners are losing...they're losing dollars year after year after year. Is there any answer to that? [LB836]

JANICE SPICHA: Well, Senator Carlson, I just drove here from your area, talked to many of your constituents today and have had some fabulous goose and duck hunting out there so. In answer to your question, hunter access is very, very poor in my estimation in this state compared to other states. Educating of the landowners, I will divert to the antelope situation. Antelope are a valued commodity in Wyoming, Colorado, etcetera. The landowners in Nebraska seem to have them devaluated. We first need to educate the landowners in how they can work hand-in-hand with the hunters in getting rid of these deer. I think in terms of the crop damage done, I highly sympathize. I come from...I don't farm, but my ancestors did and I work closely with a lot of landowners. It's a tremendous problem, but first there should be hunter access to them and work hand-in-hand with the hunters. For a landowner to come to me and I've had them say, look at what the deer have done, leasing the land isn't a solution to me because you can lease that land to five hunters and those hunters are going to kill their trophy bucks. They're not out there for the doe. But many of the landowners I've talked to, you give...I know bow hunters I can speak for, give us access to kill doe and we're going to do it. And we have a mentor program; we say, you've got...in eastern Nebraska, you've got a terrific deer population problem. Okay, we've brought a mentor program and I don't know...we started with very few kids in the...early...1992, somewhere around there, Game and Parks can tell you, and worked with them since then on that. Those kids go out with a experienced hunter and learn ethics and learn how to hunt and those hunters take them out. Wes Sheets, who testified, I couldn't tell you, 75 days, 90 days out of the season he takes kids out. We are constantly searching and begging people to let us go on their land with ethical hunters, with kids that want to shoot a doe and we can't find it. So if these farmers and landowners throughout the

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state are having such a problem, why are they not giving hunters access to kill these does? That's my first, you know, solution. After that, I would say the Game and Parks is doing a tremendous job with the depredation permits that are already in place if the landowners would use those tools and use what the Game and Parks has in place. They're a scientific group, gentlemen and ladies, that's what they were educated in is to help with problems like that; let them do it. Don't throw out a bill that says, okay, any John Doe across the state can destroy our deer population that we've worked so hard to establish, and granted, it's gone overboard the other way, but this bill is not the solution to it. Working with educated biologists, working with depredation permits, working with the hunters in this state, those are solutions. But to throw it out and give our resource of our wildlife to whoever owns 40 acres or more to kill at will, is not a solution, in my estimation. I don't know if that's the answer you're looking for, but. [LB836]

SENATOR CARLSON: Well, I'm not sure, I don't think there is...there's not a good answer. [LB836]

JANICE SPICHA: There's not a clear-cut answer or we probably wouldn't be discussing it. [LB836]

SENATOR CARLSON: But there is a reason to...you sympathize with the property owner that's losing a portion of that crop every year, because unlike what a lot of people think, there's not that big margin for profit in farming. [LB836]

JANICE SPICHA: I realize that. [LB836]

SENATOR CARLSON: So they're losing that margin and there needs to be a remedy. I don't have the answer either, but that's what we're striving for. Thank you. [LB836]

JANICE SPICHA: And I guess, if I may, ask you a question, and you said... [LB836]

SENATOR CARLSON: No, you can't, we do the asking. (Laughter) [LB836]

JANICE SPICHA: Oh darn. I'll see you after the meeting then. And by the way, I would like to extend an invitation to the whole committee, we have two luncheons next week, next Monday and Tuesday, to discuss sportsmen issues and I hope you're all there. Thank you very much. [LB836]

SENATOR LANGEMEIER: That's one advantage to making the rules. [LB836]

JANICE SPICHA: Yes. [LB836]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much for your testimony. [LB836]

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JANICE SPICHA: Thank you very much. [LB836]

SENATOR LANGEMEIER: Further testimony in opposition to LB836. Welcome [LB836]

MARK PINKERTON: Chairman Langemeier, members of the Natural Resources Committee. My name is Mark Pinkerton, that's P-i-n-k-e-r-t-o-n. I am the District I commissioner for the Nebraska Game and Parks Commission. I serve the area in southeast Nebraska. There's been a lot of good testimony on both sides of this issue and so I just want to maybe clean up a few areas and answer any questions you have. But first of all, I'd like to thank Senator Lautenbaugh for bringing this matter to our attention, because as we can see in this discussion, this is obviously a big issue. And digressing a little bit, you know, you sometimes question whether wildlife management works or not, but sometimes it works too well. You see the deer herds here, you see snow geese populations that are destroying breeding grounds up north in the tundra and some of those species were almost nonexistent in our area or close to extinction at times. So, so it can work. Managing the deer herd for Game and Parks is a real juggling act because, as Mr. Hoffman pointed out, we have many interest groups that have a stake in this situation and problem. The landowners and their tolerance, the social tolerance, the people in the car accidents and the fatalities and none of those are good things, as well as our sportsmen and our wildlife lovers, we have to try and come up with a population that satisfies many groups. So that can become very difficult. I would appeal to you that I think our wildlife management team has to have a lead position in solving these problems, but I would extend an invitation to Senator Lauthenbaugh and to all of you to work together with us to either fine tune our management or to craft legislation that can be of sound and effective, that we all can have a comfort level with. Some of the questions that have been asked and there's been some answers touched on, but you asked about...some of you asked about what the ideal size of the population is and just for your interest and your information, if you look at some of the states around, I believe...and this isn't our immediate bordering states, but just for example, Wisconsin with 55 deer per square mile, Ohio with 85 deer per square mile, we don't even compare to those. I will say that I think, you know, we have an issue and we need to get it under control. I think we're still doing a better job than some states around us. If you look at the Kansas, the Nebraska...excuse me, the Kansas, the Iowa, the Missouri, they have much larger populations and even more problems and concerns and challenges than what we're dealing with. So I think at this point, we already keep our herd a lot smaller. If you look at the carrying capacity for our herd with all that wonderful corn that you grow at there, with the habitat, with the food, water and space available, we could keep a healthy deer herd probably two to three times the size of the population that we have right now and they would do just fine. But that...that, obviously, we're getting that message loud and clear, that obviously can't happen because that's not going to be tolerated. We've heard issues with spotlighting and with opening up killing of deer just to almost an at-will with certain portions of the public and they've asked about

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conservation officers. Well, we're in the low 40s with conservation officers. They keep getting expanded duties that they're responsible for. And I would tell you that I personally in the last three to four years have been in front of the Appropriations Committee every year asking for help to get more law enforcement, but the money is just not available. And to go along with that point, it costs us by the time we outfit a conservation officer with equipment, with truck, with salary, with everything, it costs us about \$100,000 a year to add a conservation officer. So it is not inexpensive. So law enforcement gets to be a real challenge cost-wise and with the large land mass we have in the state. I would like to also thank the Natural Resources Committee for our long standing relationship, because I think we've worked well together over the years and have achieved positive results. And I will wrap up my comments at that point and if any of you have any questions, I'd sure be glad to try and answer them for you. [LB836]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Carlson. [LB836]

SENATOR CARLSON: Thank you, Senator Langemeier. Mr. Pinkerton, I had to step out a few minutes and I was going to ask this, and I'll ask it of you. Depredation permits, how many were killed as a result of those last year? [LB836]

MARK PINKERTON: I think the number given was 1,300 deer on 92 permits. And 92 permits meaning not 92 individual deer, but 92...issued to 92 different landowners. [LB836]

SENATOR CARLSON: And that resulted in roughly 1,300. [LB836]

MARK PINKERTON: That's...that's... [LB836]

SENATOR CARLSON: Which really is a pretty small portion of what probably needs to be harvested. What's the key to...or do you have a limit on these permits? [LB836]

MARK PINKERTON: No. We just have to have the landowner that is interested in doing it and that's willing to work with us so that we can try and help. And I will tell you, since I've come on the board, I've been on since 2002, over that time period from then to now, that we have tried to make that process continually more user friendly and more available and do...make more tools available for landowners to have more success in doing this type of population control. [LB836]

SENATOR CARLSON: Okay, now the answer here is probably obvious; we really need more hunters. [LB836]

MARK PINKERTON: Yes, we do. [LB836]

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SENATOR CARLSON: And we'd have more hunters if we had more access. [LB836]

MARK PINKERTON: That's true. And I'll go on from there if you'll allow me, in short, concise answer. We have one of the cutting edge programs in the country that people will be using as an example over the next years and it is our 20-year recruitment, development, retention plan which is a master plan with 20 years worth of activities to try and reverse those trends to bring more young people into hunting, to bring more fallen away people into hunting and to just entice all kinds of people back into the hunting, fishing and outdoor sports. And I think we have great opportunities in the next few years to make great strides with that. Along with, we have a hunter safety...apprentice programs where we are kind of giving people a year on a trial basis to come in and hunt. And if they like it, then they can go on and get qualified for their hunter education requirements so that they can go on as a full fledge member of the outdoor hunting groups. But there's a lot of good things happening in that arena. [LB836]

SENATOR CARLSON: Thank you. [LB836]

SENATOR LANGEMEIER: Senator Schilz. [LB836]

SENATOR SCHILZ: Thank you, Senator Langemeier. Mr. Pinkerton, thanks for coming in today. [LB836]

MARK PINKERTON: You bet. [LB836]

SENATOR SCHILZ: I appreciate all your information. Um...obviously, you know, I think everybody here understands that the deer population that we have in the state is...it's an asset for the state of Nebraska. [LB836]

MARK PINKERTON: Yes it is. [LB836]

SENATOR SCHILZ: And we also understand that the Game and Parks controls a certain amount of public lands and things like that. Do you think it's Game and Parks' obligation or the state's obligation to control those numbers on public land to make sure that private property isn't being damaged from that? Is that anywhere in any of the goals of what you guys are looking at? [LB836]

MARK PINKERTON: Our mission, basically, is the stewardship of those resources and trying to keep them healthy and managed in a good fashion. [LB836]

SENATOR SCHILZ: Right. [LB836]

MARK PINKERTON: That...that's a real difficult area to get into, as far as, and I assume

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you're talking about damage to people's...you know, we get calls too, like somebody whose combine or tractor has run over an antler and they've damaged a tire and those are \$800-\$900 tires and I personally feel bad and empathize with them, but if we started down that road and did it for each one of those incidents, we wouldn't have any funds left to offer any opportunities for anybody in the state. But we're always open to looking for ways to be more of an answer or a part to a solution to challenges and problems than being an adversary. [LB836]

SENATOR SCHILZ: Right. And I understand that. I just...I just bring up this point because I think that's part of what we need to get in control here is how do we go forward and do this? [LB836]

MARK PINKERTON: I agree. [LB836]

SENATOR SCHILZ: Where should it start at? And I think too, is that your answer is rather telling, if you say that by paying for that private property damage, you've run yourselves out of money. Well, I think we have the same problem on the private side too. And I'm not...I'm not...I'm just bringing up questions that I see and say, hey, how do we do this and what should be. [LB836]

MARK PINKERTON: When I got appointed to this commission, my idea was I want to come on here, I want to leave it better than when...before I got here. I have a love and a passion for the outdoors and for the wonderful resources of this state. But the things we need to do is be accountable to our consumers. We need to allow as many opportunities as possible and we need to answer to all of our constituents so they feel like we are concerned with their problems and that we're working for solutions for them. And I'll guarantee you that I spend...and this isn't tooting my horn, this is just how I feel about...I spend a lot of my own personal time working on things like this, and if I get calls from people, I try and return every call and if there's an issue, I don't say call so-and-so, I say here's your issue, I will find somebody that can help deal with it and I will have them contact you. So, and I think that's...I'm very impressed with our 500 and some employees. They're consummate professionals and they don't do it because they're getting rich, they do it because they have a passion for it and they go way above and beyond and I would put them against any organization across the country and we're always looking to do just what you're talking about. [LB836]

SENATOR SCHILZ: Sure. Well and I... [LB836]

MARK PINKERTON: It's just a hard way to figure out how to go about it sometimes. [LB836]

SENATOR SCHILZ: Right. I think that...and I can't disagree with what you're saying. And I think that the Nebraska Game and Parks Commission has shown that they can

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manage populations and that...at least, as far as if you look at the turkey and the deer, we've brought those back by the thousands and maybe, as you said before, maybe we've done too good a job at that. [LB836]

MARK PINKERTON: Well we may be visiting about the turkeys a few years down the road too. And we do have depredation laws in effect for turkeys already. So we're being proactive there, so. [LB836]

SENATOR SCHILZ: Thank you very much. [LB836]

SENATOR LANGEMEIER: Any other questions? I might have to apply for a turkey deal. We have that problem at our place. I blame the...my question, I just have a comment and I blame a little on the fact that as chairman of this committee, maybe I get more focused on it than others, but, for an example, the other night I went to Walmart and two people in Walmart said, when are you going to do something about these deer? Everywhere I go we hear about deer. And so, we've got to do something. [LB836]

MARK PINKERTON: You bet. [LB836]

SENATOR LANGEMEIER: More than what we're doing, whether it's landowner access or it's just out there. Senator McCoy and I and we had Senator Carlson for a while, on our trip around the state this year, and as we drove back from our last hearing at Kearney, it's bumper to bumper deer on the south side of the interstate all the way back to Schuyler. And it's an issue that has to be addressed more than it is today. [LB836]

MARK PINKERTON: Certainly, you bet. [LB836]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much. [LB836]

MARK PINKERTON: Thank you very much, I enjoyed my time. [LB836]

SENATOR LANGEMEIER: You might be lucky as she just showed up, yeah. Are there any other testimony in opposition to LB836? Welcome. [LB836]

JOHNNY BARTA: Thank you, Mr. Chairman. My name is Johnny Barta; the spelling of my last name is B-a-r-t-a. I'm a lifelong resident of Nebraska. I've lived out in the country all my life. One farm we farm has been in the family for over 100 years and the second one my mom lives on right now currently be in the family for about 90 years. I'm an outdoorsman from the get-go. I hunt, fish, trap, I do everything. One thing I've heard today, we know we have a problem with the deer, there's no doubt about that. A lot of people would probably say that problem occurred, magnified greatly over the last ten years. And being an outdoorsman, I will tell you that people can control the population

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some, but more than anything, it's a natural control. And in my area in southeast Nebraska, we have had no coyotes, any numbers to speak of, the last ten years. I believe that the coyote number, when it's coming back, will help control the deer population some. And if the Game and Parks works with some programs they can bring the numbers down too. I don't like locking a law in like this, because you make a law this year it will get on the books until somebody brings it up down the road to change. If you give the Game and Parks Commission authority to work their programs, they can change it from year to year rather simply by their meetings and some regulations. Otherwise, you go through testimonies and it's hard to change a law sometime when it's on a book without two or three years of trying to get it going. One thing about this law I do not like, I live out in the country; I am outdoors all night a lot of times. I run a small outfitting business. I'm concerned about the safety and the spotlighting. People spotlight deer for the horns usually. They're not out there for the meat. But if you put it where they could get so many dollars a deer and you let them do it with a spotlight, I want to stress on this next comment that guns are not an issue here as far as being the safety, but the people using the guns are. And if they're out at night, they don't worry what's back 300, 400 yards or even one mile. And many of the high powered bullets have a capability of going over three miles. And so if they can't see their background back there a mile and a half or a mile, there could be a farmhouse, there could be a vehicle, and they get a little nervous, all shook up, start firepower, they'll start popping at deer. I just...if this bill does advance, I'd hate to see it at all with the spotlight, an issue at night; I think that's a super big issue. And getting back to the coyote numbers, if you take away the deer, and the coyote numbers are coming back now. I've coyote hunted all over the state, in the Panhandle and the Valentine area and up in the Sandhills and on the Valentine Wildlife Refuge. The mange had them way down. And so once you take away the deer and if the coyote numbers come back, they're going to be looking for some calves and some cattle and if they're smart enough they'll pack up and they'll even bring down some bigger calves. I do believe they take a lot of fawns out. And we just haven't had any coyote numbers the last ten years and I think that's when the deer have exploded. I'd like to see the Game and Parks work the way they have been, but also to bring in more community involvement. And they have started that from what I understand and I attended a meeting with Commissioner Pinkerton put on last year in Beatrice and asked for a lot of public input and I think this year they had one in my area up in Stromsburg or somewhere in that general vicinity. I did not make that one. But at...I just want to stress that I'm against this bill as it's written, for several reasons. And I think the Game and Parks should have the authority to do stuff. And it may take a year or two, but I think they can bring the numbers down. And with that, I thank you. [LB836]

SENATOR LANGEMEIER: Very good. Did a good job. Are there any questions? Seeing none, thank you very much. Further testimony in opposition of LB836. [LB836]

DICK TURPIN: Senator Langemeier and committee members, my name is Dick Turpin, T-u-r-p-i-n on the Turpin part. This bill bothers me a lot. And it's just that there are so

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many...it creates more questions than it does answers, I think, to the problem. I worry about the bounty, you know, we got the deer now right down to the coyote when they used to have the bounty on the coyotes, you know, you get \$5 or whatever. Now we're going to bounty deer. I first am concerned about where that money is going to come from. Well I'm not concerned, because I know where it's going to come from. It's going to come from the Game Cash Fund. And if I'm a deer hunter and I'm reasonable, then I know that my deer permit now is going to go from, whatever it is, \$25...\$30, it's going to be at least \$50, because I'm going to have to make up that difference. So it's causing a little bit of friction here. And I think between the two factions, it will. But I...can we ask anybody questions? Can I ask the senator a question? I can't do that. [LB836]

SENATOR LANGEMEIER: No. [LB836]

DICK TURPIN: Gol, I really wanted to. I had a good one. [LB836]

SENATOR LANGEMEIER: Back to, I get to make the rules. [LB836]

DICK TURPIN: Yeah, you do. All right. But I just think...I talked to some of the people at Game and Parks and I asked about, you know, what kind of a conversation that was had with the senator. Well, according to the people I talked with, there were none. It was like the bill was just boom; it didn't ask any advise of the people that are trained to do that or anything or try to get any opinions. Now one thing, and that bothers me. It's kind of like the health bill, to me. Just too much all of a sudden, boom. Now then, the people that are supposed to do that should be doing it. I shudder, I mean, as a hunter and a citizen of this state, I just shudder to think that this committee is going to set my deer season. I'm like the last testifier, you better let that up to the people that are professionals and you can get on them all you want to, and you can ask all the questions you want to and I think that's right. You ought to, because that's what your responsibility is. But for this body right here to say, no, here's the season we're going to have. Wrong, with a capital W. That is just wrong. Another thing that kind of bothers me about this bill, is the night hunting. I mean, it just opens up too much stuff. I'm not worried about the deer on the night hunting. It's a personal safety thing with me and just vandalism. And I can remember back in the years when you could have night hunting. Back when I was a conservation officer, it was mostly a landowner complaint. People running around all times of the night, shining lights in their bedroom windows at 3:00 in the morning. That wouldn't be for me, I don't like that. As far as the animals are concerned, I was a game warden up on the Indian reservation, on the Winnebago Indian Reservation, and I can tell you this, one of the testifiers here said that deer adapt pretty well. They get...you know, they go to being nocturnal and day time and all that, and if you hunt an area they move out. Well, I'm going to tell you something. If you want to start a young year-and-a-half, 3-point whitetail buck from standstill to 60 miles an hour, you hit him with a spotlight, because he'll take off. He'll get use to that. Those deer on that reservation, you shine a light on the field, and I mean, everybody went out of

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there just as hard they could go. So it's not going to be a management issue, because those deer will figure it out, hey, there's a spotlight, let's get out here. And they'll do that, and that's a fact. It's hard. If you hunt night after night, you hunt deer with a spotlight, you'll find that it gets harder and harder and harder because they get smarter and smarter and smarter. But really, and I'm going to get out of here, the real thing that bothers me about the whole thing is just not...it's the individual issues, I'll agree with that, but really what bothers me, and this is coming on way faster than I ever thought...ever in my lifetime could. Some may know of Bill Bailey, passed away here a couple years ago, and Bill was assistant director. And one of the things when we talked that he always brought up in his conversation, was he said, boy, just rue the day, you know, when you have the privatization of wildlife. And boy howdy, that's sneaking in on us just like I cannot believe, to privatize wildlife. With the commercial hunting, you know, the people that have the deer hunting areas, they're kind of a problem in a sense, because the only thing they want to kill is a buck deer, you know. So that leaves all those does. Now one thing that hasn't been brought up, in defense of Game and Parks Commission, is we do have seasons. You know, we let them hunt the park areas at certain times of the year. We have the DeSoto Bend seasons. I think they have two or three seasons there to try to control that deer population on the neighbors. And I don't know how successful that's been, but I've hunted that season, so it isn't like the Game Commission isn't trying. The one thing that I thought maybe if there had been some conversation prior to the introduction of this bill, is that I thought there was some pretty good suggestions in the pamphlet that Mr. Hoffman passed out to you folks. And that may help. The lowering the prices, you know, the liberalization of the seasons, the addition of the days of hunting. That certainly may help, but I haven't heard that talked about much here. But you folks have that information, so that's something you can read. But privatization of wildlife should never, ever, ever take place. And when we get to a point we're getting with this bill, it looks to me like that's just a one more little...one more little straw there and I don't like that. I'm totally against that. Any...I'm done, kid. The red light went on, I just shut it off. (Laughter) [LB836]

SENATOR LANGEMEIER: It worked. It worked. Okay. Thank you. [LB836]

DICK TURPIN: What...any questions, yeah, any questions? [LB836]

SENATOR LANGEMEIER: Are there any questions? [LB836]

DICK TURPIN: Nothing? Everybody wants to go to lunch is what they want to do. [LB836]

SENATOR LANGEMEIER: Senator Haar. We're past lunch. [LB836]

SENATOR HAAR: I've seen your...seen you on TV and like what you do. Thank you [LB836]

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DICK TURPIN: Good. Call the station and tell them. (Laughter) We need the fan base. Any other? [LB836]

SENATOR LANGEMEIER: Are there any other questions? I was going to add the same comment. But seeing no other questions, we appreciate your testimony. [LB836]

DICK TURPIN: Thank you very much. [LB836]

SENATOR LANGEMEIER: Thank you. Are there any other testifiers in opposition to LB836? Welcome. [LB836]

HENRY RICK BRANDT: Senator Langemeier, other senators, my name is Henry Rick Brandt B-r-a-n-d-t. I represent the Rocky Mountain Elk Foundation, 2,500 to 3,000 outdoorsmen in Nebraska. There's been so many things said that I really don't have that much to say, except that the RMEF has confidence in and supports the Nebraska Game and Parks in managing this resource. And they followed it; they know what to do and we would recommend that, for this time, that LB836 would be postponed. That's it. Thank you. [LB836]

SENATOR LANGEMEIER: Very good. Is there any questions? Seeing none, thank you very much for your testimony. [LB836]

HENRY RICK BRANDT: You bet. [LB836]

SENATOR LANGEMEIER: Further testimony in opposition to LB836? Duly noted. Welcome. [LB836]

BRUCE RIEDMAN: I'm Bruce Riedman, I'm just a hunter and a fisherman and outdoorsman. I just saw this in the paper this morning and boy it scared me. And I would just try to offer, I guess, more solutions than problems, but I am opposed to it. I feel there should be more study. I'd be the first to volunteer to be on a committee. I'm semi-retired; I just have one job. I sold my business. But I just have one job now, so I've got some time. [LB836]

SENATOR LANGEMEIER: I need to stop you. I need to have you state and spell your name first. [LB836]

BRUCE RIEDMAN: Oh, R-i-e-d-m-a-n. [LB836]

SENATOR LANGEMEIER: Thank you. [LB836]

BRUCE RIEDMAN: I have a background too, as far as with game management

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because my dad was the head of the game enforcement up in North Dakota for several years. A lot...I think we need to have the professional do their job. I think as far as, further study, we need to get everyone involved: landowners, hunters, other professionals, anyone that has an interest in this. And one thing I thought of was, maybe as far as for landowner, maybe we could give them a tax break if they're losing money on their crops. The farmers that I've talked to, I bow hunt, as well as, rifle hunt. Farmers that I've talked to, they're more than happy and I see what the deer have done on a lot of their fields. And when I go and say, you know, can I bow hunt on your land, they say, yeah, take two or three. So, I do my best. But I'd just like to close and we're all responsible to be good stewards of our land and its resources. Thank you. [LB836]

SENATOR LANGEMEIER: Did a great job; very good. Are there any questions?  
Senator Carlson. [LB836]

SENATOR CARLSON: Senator Langemeier, thank you. I'm just going to make a comment, isn't directed at you, but as I listen here, you still go back to...there's a hesitancy to put something into effect which harvest the deer and gets the population under control. But I'm sitting here and I've thought about it through several...you take a farmer that's got his crop should be 100,000 bushel of corn and he loses 10 percent to the deer, that's 10,000 bushels; that's \$30,000, that's a big part of that profit. And you can't get insurance on it because it's a sure loss every year. So there's no way to recoup that other than the control of the deer population. So that is the challenge that we need to try and meet. And so I sympathize with the landowner along the way, he's hoping for a...hoping for a solution. And one way that he can help is by giving access. You got any secrets to that? [LB836]

BRUCE RIEDMAN: Yeah, like I said, I'd be more than happy to contribute time for further study. [LB836]

SENATOR CARLSON: Okay. Thank you. [LB836]

BRUCE REIDMAN: Thank you. [LB836]

SENATOR LANGEMEIER: Other questions? Thank you very much for your testimony. Further testimony in opposition to LB836? Seeing none. Any testimony in a neutral capacity? [LB836]

LEE VIESELMAYER: (EXHIBIT 13) I do have some cards. Pass this out, if you want. [LB836]

SENATOR LANGEMEIER: Very good. Welcome. [LB836]

LEE VIESELMAYER: My name is Lee Vieselmeyer, V-i-e-s-e-l-m-e-y-e-r. I come a little

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bit different spin. I've been in the nursery business for over 30 years. We have two locations; I started...we started in Davenport, Nebraska, not Davenport, Iowa, still thought it best to keep that straight, and west of Lincoln where the Diamond Head Ranch used to be. Now we're about seven miles west of Lincoln. We have been battling the deer population. And I am neutral, because right now I didn't know about this whole situation until this morning, reading it in the paper. So I really don't know what the...I'm hearing a lot more about it. Basically, our biggest problem is our land west of Lincoln. We have a refuge de facto west of us; the farmers west of us do not allow hunting. And Prairie Peace Park is right next to us. The land east of us is Northwest 126th; people don't let people hunt. One of the reasons why, some of the young hunters that help me hunt said they tried to go hunt on the land and they said the older gentleman said, well, I let one guy on and he threatened to sue him because he fell out of his tree stand. So that might be something to address if you want to get availability, a good samaritan act to try and...get people to, you know...I don't know how you can do that. But basically, with the tree farm, we are a nursery and we grow thousands of trees. You might have been by our nursery on the interstate. We put out thousands of tree guards, thousands, probably about, I don't know exactly, but if my wife and I would tabulate it, it would be 15,000 to 20,000. We spend, you know, just in labor alone, \$10,000 to \$15,000. I don't know exactly, I should have a better count, but you know, I don't. But somewhere in that fact, about 50 cents a tree, that's just the labor. The tree guards cost between 50 cents to a dollar a tree. Now, you're saying, why are we using tree guards? Because it's our most effective means of deterring of the deer. And our problems though too, comes like, we get the multi-stem trees, we can't cover them. And so we have to take...put them on, we take them off. So lowering down the deer population, I'm definitely for. The problems I see here, and there's a lot of them, and we've had depredation permits and the game commission has worked with us pretty well. I am hearing though, that, you know, from...we have a couple USDA hunters that help us. In talking with the game commission, they're thinking about not doing as many depredation permits. I haven't heard this much about going on, but what I have heard, and they did, in August 4th through the 6th, DeSota National Park actually was a deer management workshop. And there's a lot of ways that they kind of came up with. I did not go to it, but Ricky Woods, one of the USDA hunters told me, he said, still the best way is herd elimination or herd depopulation. Now one of the presenters there, and I've heard this from several people in Michigan, in Pennsylvania, but they've done is using hunters that are actually people from the military or SWAT with stage 3 night scopes. Now all these gentlemen told you are very true. We had a depredation permit last year using lights and the deer will get banged. I mean, it doesn't take but one night and those babies are out of there. They're gone. And they won't come back. The problem is, they're nocturnal so they have this refuge de facto west of us and east of us and they come into our place at night and do their dirty work. So we have to, except during rut, and which is, basically, October through November. And everybody knows what rut is, right? Okay. And which they do their most damage for us with their antlers damaging our trees. So actually, bucks are kind of a big problem to us. And so that's why when Mr. Molini from the game

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commission, I said, Pat, you got to give me, you know, let us help shoot bucks too. But, you know, the biggest thing I can see for a depredation permit is that you have to have a really good organized group. I mean, they have to know what they're doing. I'm an idiot out there trying to hunt. I'm not that great a hunter, but you need somebody and I have some really good hunters, but the problem is, it's very time consuming and it takes a lot time and you have to have an extended season and you have to have, you know, a way of...for people so they can do it. And like last year they allowed us to use lights. This year the USDA, these guys work on the airport, they finally got a night scope, stage 3 night scope with a suppressor and now the game commission wouldn't let them use it. So that's been kind of some of our problems. So, you know, we've been immersed in this. They've...came back and said, well we need to use electric fence. Electric fence costs about \$4 to \$6 a running foot. We have a quarter of a...quarter of a section, with a lot of patches of trees in there. I estimated...had a guy come out, a professional come out and it was going to be over \$20,000 to put it in. That's just the installation, that's not the upkeep and everything else. In this economic times we live in, now maybe farmers are doing a lot better than the nursery business, but we're hurting. I mean, you know what's happened with the building industry. We are hurting. And so I don't have the money for it. I just don't. I don't think the \$25 is going to affect a lot of things; I really don't. I typically can probably find enough hunters, but again, you know, it takes a coordinated effort and I think that's maybe what, maybe the game commission, you know...actually had one young man that was working part-time for the game commission and was a bow hunter and we harvested more with bow hunting than we did with rifle season. I think he took six bucks out and a couple of does with bows and took three or four deer with rifle. So, it is a really tough task to do. But we've tried blood, you know, for predator response. That doesn't work. We, you know, there's a lot of things in here; they talk about...most of them don't really work. I mean it is a big problem. So trying to get deer reduction is the biggest key. So, I guess I'm done. I can try to answer some questions if you want. [LB836]

SENATOR LANGEMEIER: Very good, are there any questions? Seeing none, thank you very much for your testimony. [LB836]

LEE VIESELMAYER: All right, thank you. [LB836]

SENATOR LANGEMEIER: I appreciate it. The bow hunters might be talking to you, looking for a place... [LB836]

LEE VIESELMAYER: Absolutely. I talked already. (Laughter) [LB836]

SENATOR LANGEMEIER: Networking on the side, that's good. Further testimony in opposition, oh excuse me, in neutral position on LB836? Seeing none, Senator Lautenbaugh, you're recognized to close on your bill, LB836. [LB836]

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SENATOR LAUTENBAUGH: Thank you, Mr. Chairman, members of the committee. Thank you for staying with us throughout the length of the hearing. One of the bills I brought three years ago would have provided compensation for farmers for crop damage from the deer. I don't recall if we limited it to deer specifically, but I think so. And the fiscal note came back one million, two million, something like that and everyone said, oh my gosh, that's prohibitively expensive. Well of course it is. But what does it tell you. Now the farmers are paying it. And they continue to pay it. And we're here three years later talking about it again in a different way, but at least with a bill that has some teeth this time. And I do believe the numbers from State Farm, the 12,000 accidents that occur. This is not just an agricultural issue. The fiscal note on this bill comes from the tax credit. We all know that provision is going nowhere. We turned down a fiscal note of \$9,500 the first week of the session, we're not going to move this one along with a fiscal note either. I can live with that, that's fine. And so there's no mistake, I previously supported Senator Fischer's apprentice hunter bills. I've been a good friend to the hunters, that my record is perfectly clear on that. But frankly, this is not a bill for the hunters. The hunting population is limited and there aren't enough of them. I wish we had twice, three times as many hunters. If I could that, we wouldn't have the problem. I honestly believe we could give away the deer permits and we would not run out of permits. We don't have enough hunters to address this issue. And apparently we're never going to know when we're done. Because while I applaud Game and Parks trying to work with what they have, we heard that the population goes up every year, despite our efforts the last three. And we don't know and no one was able to tell us what the right number would be. So we don't have a destination. We have a problem that is increasing and we don't know where we want to go with it, is what we're hearing. I know where we want to go; that number has to start trending downward. And we've heard discussions of professionals, biologists, etcetera, this number is not knowable. The right size herd may be a matter of opinion, but it would be nice to at least have a range and someone tell us, this is what we should shoot for. And we aren't hearing that. And this isn't a bill that I brought to send a message so that we would all work a little harder and I'd gain people's attention. I meant what I said in this bill. And we talked...heard a lot about access. The problem is that too many of the farmers aren't allowing access. What do you say to the farmer who allows access to his land when the neighboring farmer does not? So the deer over here, he can allow hunters on his land if he wants, but that doesn't address the deer that will flee to the next adjoining lot. So, where does that leave us? I chose my words carefully in that last hypothetical. His or her land, we're talking about private property here, folks, and it is offensive to me to sit here and say, as a couple of my e-mails I received today have said, oh, we just need to require the farmers to let people on their land. It's their land. We don't require the farmers to do that. They can if they chose to; they can let strangers on the land or people they know with firearms, if they chose to, or they cannot. Because last I checked, it is their's. What we're telling them now is that they have to tolerate the deer as we incrementally try to do something that we admit is increasing, not decreasing the herd, but they can't just take them out on their own. And now the solution is, and they then have to open up their

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land to the other people to chase the deer. That's not how we should be operating. That's kind of through the looking glass. With all due respect to one of the testifiers, that sounds more like the healthcare plan that was defeated than this bill does. This is a private property bill. These people own this land and they are losing thousands, thousands and thousands of dollars year after year. We heard testimony that, oh, this is horrible just to turn everyone loose to kill the deer. That's not what this bill does. It frees the landowners and their family to take care of the problem on their land. And I'm sorry if that reduces...well I'm not sorry if that reduces the size of the deer population, that's the goal, obviously. That might make fewer available to hunt. I've offered to sunset this. One of the testifiers complained that, oh, it just goes on and on, we have to come back in and address it in a few years. Not if we sunset it. But I'm sorry. Something effective has to be done to actually decrease, not manage the increase, but decrease the size of the deer population in Nebraska. And I don't bring this lightly. I'm serious about it and I want to see it go. We've had discussions about the "earn a buck" program. Fine. If Game and Parks thinks that would work, please do it. If they have anything else in their quiver that they think will work, please, let fly. Do whatever you can. But the population continues to grow. I'm not willing to sit here and put it on the landowners to say, you must let other people hunt on your land and hope enough hunters show up because we all know the truth of it is there aren't enough hunters. And I'm sorry, these people own the land, they should be able to manage the problem and protect their livelihoods themselves. And that's why I brought this bill and that's why I'd like you to advance it. I'm willing to work on some of the concerns that are expressed, but at a very basic level, I think the concept of this bill, letting the farmers protect their land from the deer is what we need to do. Don't have to do it forever. Maybe someone will actually tell us what the size of the herd should be that we can get down to that will make it sustainable and biologically responsible and we can do that. But we're going in the wrong direction. And it's been three years. And Game and Parks, I don't believe, despite their best intentions, don't have the tools. Does not have the tools to do what it needs to do. I'd be happy to take any questions you might have. [LB836]

SENATOR LANGEMEIER: Very good. Are there any questions for Senator Lautenbaugh? Seeing none, thank you very much. [LB836]

SENATOR LAUTENBAUGH: Thank you all. [LB836]

SENATOR LANGEMEIER: And you've heard the closing on LB836 and that concludes our hearings for the day. We'd like to thank everybody that came and participated. We appreciate your comments. (See also Exhibit 14) [LB836]