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Appropriations Committee
March 12, 2015

[LB374 LB461 LB537]

The Committee on Appropriations met at 1:30 p.m. on Thursday, March 12, 2015, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB374, LB537, and LB461. Senators present: Heath Mello, Chairperson; Robert Hilkemann, Vice Chairperson; Kate Bolz; Ken Haar; Bill Kintner; John Kuehn; Jeremy Nordquist; John Stinner; and Dan Watermeier. Senators absent: None.

SENATOR MELLO: Good afternoon and welcome to the Appropriations Committee. My name is Heath Mello. I'm from south Omaha, representing the 5th Legislative District, and serve as Chair of the Appropriations Committee. I'd like to start off today by having members do self-introductions. Starting here on my far left, your right, Senator Bill Kintner will be joining us shortly. Senator Kintner represents the 2nd Legislative District in parts of Sarpy, Cass, and Otoe County.

SENATOR NORDQUIST: State Senator Jeremy Nordquist from District 7, downtown and south Omaha, home of the Creighton Bluejays.

SENATOR KUEHN: John Kuehn, District 38, seven counties in south-central Nebraska.

SENATOR HILKEMANN: Senator Robert Hilkemann, District 4, west Omaha.

SENATOR STINNER: Senator John Stinner, District 48, Scottsbluff, Nebraska.

SENATOR BOLZ: Senator Kate Bolz. I represent District 29, south-central Lincoln.

SENATOR HAAR: Senator Ken Haar, District 21, Lincoln.

SENATOR WATERMEIER: Dan Watermeier, District 1 in Syracuse.

SENATOR MELLO: Assisting the committee today is Rachel Meier, our committee clerk; and our page for the afternoon is Julia. Our first of many fiscal analysts for the day is Mike Lovelace. On the cabinet up here to your right you'll find some yellow or white testifier sheets. If you're planning on testifying today, please fill out one of the yellow sheets and hand it to Julia when you come up. It helps us keep an accurate record of today's public hearing. On the cabinet there are also white sheets that if you do not wish to testify but would like to record your position on a specific legislative bill or an agency's funding request. When we hear testimony regarding state

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agencies today we'll first hear from a representative on behalf of that state agency. We will then hear testimony from anyone who wishes to speak on that agency's budget request. When we hear testimony today on legislative bills, it will be in the following order. First we will hear testimony from the introducer of the bill. We'll then hear those in support, followed by those in opposition, followed by those testifying in the neutral capacity. And we will end with a closing statement by the bill introducer. If you have any handouts, please bring at least 11 copies and give them to Julia, our page. If you do not have enough copies, please let her know so she can make more for the committee. We ask that everyone today begin their testimony by giving us your first and last name and spelling it for the public record. We will be using a strict five-minute light system today, so when you begin your testimony the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on we ask that you wrap up with any final thoughts. At this time I'd ask all of us, including senators, to please look at our cell phones and make sure that they are on the silent or vibrate mode. And with that, at this time we will begin today's portions of our hearing with legislative bills, starting first with LB374 by Senator Haar. Welcome, Senator Haar.

SENATOR HAAR: (Exhibit 1) Thank you very much. My name is Ken Haar, K-e-n H-a-a-r, and I would like to suggest that you all tidy up your desks a little bit but...(laugh). The purpose of LB374 and AM589 is to create an automatic spillover from the State Recreation Road Fund, when the balance exceeds \$14 million, to the Game and Parks State Improvement and Maintenance Fund, and to allow for transfers from the State Recreation Road Fund to the State Parks Cash Fund in the new biennial budget. The Recreation Road Fund balance has continued to grow over the last several years, and dollars that are sitting in the fund would be of great assistance to the Game and Parks Commission and to the state of Nebraska of providing funds for deferred maintenance in the state park system. And here, just to get away from my text a little bit, during the off-season last year I visited Chadron State Park and Fort Robinson, and there's a lot of deferred maintenance to be done. In fact, last year Senator Avery had a bill for this very kind of use. And I brought him back a piece of sewer pipe being replaced at Fort Robinson that was original. You can imagine some of the infrastructure in the state parks. It's not only the things we see, like park benches and cabins, but it's all that infrastructure, some of that that's been there for way over 100 years. The ability to transfer funds during the upcoming biennium will allow the Legislature to transfer funds to the State Parks Cash Fund for additional deferred maintenance needs in the park system. The commission has deferred maintenance for things such as picnic tables and grills throughout the park system, including those that are ADA compatible, through the parks' cash funds in their operating budget. With thousands of picnic tables and grills across the state in camping areas, around cabins, and in day-use areas, the needs are significant. Similarly, outdated furniture and appliance in lodge rooms and cabins are also in need of replacement, as are mowers, tractors, and vehicles across the system. Replacement of these items was delayed by the commission when the commission was trying to address deferred maintenance with cost-reducing measures. Such transfers will assist the commission with the

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one-time bump to address these items and get back on a regular replacement schedule without increasing their baseline budget. The Game and Parks Commission will be working with the Department of Roads to streamline the program and improve implementation of projects in our state park system. As long as projects are getting planned and completed on schedule, the spillover will not come into play. But if the balance is over \$14 million, it seems reasonable that Recreation Road Funds be used to address much needed deferred maintenance needs in our state park system. And the whole point is you can't just take money and fix roads. It has to go through the Department of Roads and this is based on lists of roads that could be fixed by the counties. Then it goes to the state Department of Roads for planning. And finally there's a list from the Governor that tells which roads will be improved. So in the meantime, sometimes this fund has grown to the point where it could be used for some other purposes, and that's what this whole bill and the amendment is all about. So with that, be happy to answer any questions. [LB374]

SENATOR MELLO: Thank you, Senator Haar. Any questions from the committee? Senator Nordquist. [LB374]

SENATOR NORDQUIST: Thank you, Senator Haar. Can you kind of explain the thought of drawing the line at \$15 million? Why \$15 million? [LB374]

SENATOR HAAR: Actually, it's \$14 (million)... [LB374]

SENATOR NORDQUIST: Oh, it is. [LB374]

SENATOR HAAR: ...in the amendment, yeah. [LB374]

SENATOR NORDQUIST: Oh, in the amendment. Okay. [LB374]

SENATOR HAAR: You can probably ask the... [LB374]

SENATOR NORDQUIST: Okay. [LB374]

SENATOR HAAR: ...people from Parks and Rec where that number came from. [LB374]

SENATOR NORDQUIST: Okay. [LB374]

SENATOR HAAR: But that comes from the commissioners, who are more familiar with the details of the Parks and Rec, and it's their recommendation. [LB374]

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SENATOR NORDQUIST: Okay. [LB374]

SENATOR HAAR: So I would not want to second-guess the commissioners on that amount. [LB374]

SENATOR MELLO: Senator Stinner. [LB374]

SENATOR STINNER: Thank you. Thank you, Senator Mello. The \$14 million, and then we have this cash flow number of \$318,000 a month. You know, if you take that times 12, that spillover continues. For how long do you feel like we're going to be at \$14 million and that spillover fund is going in, and what will that precisely be spent for? [LB374]

SENATOR HAAR: Again, I would defer that, the first part of your question, to the next testifier from Parks and Rec. And the point is it will go into the State Parks Cash Fund for maintenance. Again, there are a lot of maintenance needs in the parks right now and it will go to upgrade our parks. And there was a wise Caesar who said the people want bread and circus, and Parks and Rec is just a great form of recreation for Nebraska residents. [LB374]

SENATOR STINNER: And we can get our hands on that list of maintenance that totals what number right now. [LB374]

SENATOR HAAR: You bet. We'll ask them when they come up. [LB374]

SENATOR STINNER: Okay. [LB374]

SENATOR HAAR: Thank you. [LB374]

SENATOR MELLO: Thank you, Senator Stinner. Any other questions from the committee? Seeing none, thank you, Senator Haar. [LB374]

SENATOR HAAR: I'm going to sit here and shut up. (Laughter) [LB374]

SENATOR MELLO: Okay, and partly because there's nowhere to sit out in the audience. So we'll first hear from... [LB374]

SENATOR WATERMEIER: Could be outside in the hall. [LB374]

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SENATOR MELLO: ...we'll first hear from proponents for LB374. [LB374]

ROGER KUHN: Chairman Mello, members of the committee, my name is Roger Kuhn. It's R-o-g-e-r K-u-h-n. I'm here representing the Nebraska Game and Parks Commission and I'm here in support of LB374. As Senator Haar stated, the rec road balance over the past several years has been growing and currently has a balance of approximately \$18 million. The additional dollars that this legislation would allow for deferred maintenance within our state park system would be very beneficial to attacking this issue. Senator Haar pointed out, you know, recently the need for deferred maintenance in our park system. And the actions that the Legislature took last session was very beneficial and helpful, but certainly there's more to be done. The rec road balance, I think you could understand, it generally, you know, more often than not would not exceed \$14 million but, as I stated, the last several years have grown to that amount. And there's a schedule of projects and a list of projects. If those projects are completed as scheduled, in a timely fashion, you know the fund balance would be lower than the \$14 million most years. Some of the reasons the fund balance has grown in recent years I think are due to a number of variables. I mean they're different depending on the year and depending on the project and depending on the partners. You know, I can just give examples. We work a lot with the counties on these needs. Department of Roads administers this program. We are heavily involved in the scheduling and prioritization of which projects get done. However, when these projects start down a path as scheduled, sometimes when you work with different counties there may be issues that come up that push that project back or not able to get done. The county may have trouble coming up with their cost share or their portion for a variety of reasons. So in recent years that balance has been turning upward due to that fact. And I want to go a little bit into a little bit of the background of the rec road program historically, just so you kind of understand it. This program was created about 1979 and it was a way to provide access, reasonable access to the state park system of Nebraska. Prior to that, the state park system really was mostly dirt roads or gravel roads. During certain weather conditions, we get rain in June or May, number one, access was pretty poor. Number two, it would cost a lot of money to maintain those roads: grade them, gravel them, rock them, etcetera. So this program was established. At that time, it was 50 cents on each vehicle registration funded the program. Probably approximately 15 years ago it was raised to \$1.50, so it's been that price ever since. So everybody that registered a vehicle in Nebraska, \$1.50 of your registration fee goes to the rec road program. And the intent of the program was to, as I said, get hard-surface roads within our parks around the state. And also the intent at the time was to provide at least one good access, paved access from the closest state highway or the road that would be traveled the most to come to that park, at least one access to the park. And that's where the counties come in. A lot of those roads are county roads. Now over time and over evolution, a lot of those roads, where they're located at real busy park areas--and Lancaster County is a great example where we have Branched Oak, Pawnee Lake, we have a number, Wagon Train, that are very busy areas, Lake McConaughy is another one--where oftentimes we've used rec road to provide more than one access to the park area due to the demand and traffic volume and so forth.

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But having said that, I just wanted you to understand. Now, you know, there was a question I think about, well, you know, why \$14 million. Senator Nordquist, by the way, I do like your tie. Why \$14 million? You know, looking historically at the different projects we've done and the amount of money spent on the various projects, there has never been a project in the history of the rec road that has exceeded that amount of money, any singular project. You know, I would say probably no project exceeded probably \$10 or \$11 million, the biggest project we've ever done. So it's a conservative number, it's a safe number as far as leaving enough money in the Rec Road Fund balance to handle upcoming needs or annual needs. Keep in mind the fund is replenished every month, Senator Stinner pointed that out, at \$318,000 a month. It generates about \$3.8 million in revenue a year that goes in the cash fund. So it's evolving. It's growing, you know. There's money coming in all the time. We currently have in obligations \$8.9 million, meaning under contract, for rec road projects right now. As those projects are done--they're under contract, they're going to happen, we're committed--as those projects are done, obviously that will spend down the Rec Road Fund balance. You know, you figure there's \$18 million now. There's going to be \$3.8 million come in over this year. That's \$21.8 million. We got a \$9 million, round number. That will bring it down to around \$12 million balance. So you know there's still significant money. That would drop it under the \$14 million. And as projects get done...it's hard to say, depending on the timeliness and the schedules, if they'll all get done. We do have a five-year plan. And, Senator Stinner, I think you asked...I'm probably answering questions ahead of my time. But, Senator Stinner, I think you asked what this would be spent for, the transfer of funds. There's two parts to this bill. The first part is if it's over \$14 million, anything over that will go to the Park Improvement and Maintenance Fund. That was a fund that was created last year during the legislative session to take care of primarily infrastructure deferred maintenance needs in our park system. You mentioned the sewer systems. The money last year, that is what it's being used for is major infrastructure. The ability for the Appropriations Committee or the Legislature to transfer funds out of the rec road through July 31 of '16, that's primarily geared to our operational expenses, operational deferred maintenance, meaning things like furniture, grills, picnic tables you mentioned in your testimony, equipment needs, not so much the major infrastructure things. So there's two parts to this bill as far as where the money would go from this program and how it would be spent. So I think that answers your question. So with that, you know, I would try to answer any other questions that you may have. But any money that, you know, we can get to help with our deferred maintenance I think is reasonable. And you know for Department of Roads in the program, and I've worked with the program a long time, the rec road program with Department of Roads, there's been quite a bit of turnover in the last three or four years for that program. So there's been some issues I think with continuity and getting these things done on schedule. Recently, in the last eight to ten months, it's much better. We're working with them closely and things are going much better. So I think we'll get back on track and getting these things done. [LB374]

SENATOR MELLO: Thank you for your testimony, Mr. Kuhn,... [LB374]

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ROGER KUHN: You bet. [LB374]

SENATOR MELLO: ...and for preemptively answering a couple questions that would have been asked again. Are there any other questions from the committee? Senator Stinner. [LB374]

SENATOR STINNER: I've got a couple questions. Your county cost share, tell me about that. What's that look like? Is it fifty-fifty or is it...? [LB374]

ROGER KUHN: It varies. In the early years of the program oftentimes, when the Rec Road Fund was new and we were really looking for one primary access, rec road would be used heavily to fund some of those because the county didn't have the money or didn't want to spend the money. It was important to us to get access, especially our major areas. We may have spent as much as 80 percent rec road on a project. And as far as the ongoing maintenance, oftentimes there are agreements worked out with the county on who's responsible for the ongoing maintenance. Generally, it is the county, Senator Haar pointed out. That's true. So that's one part of it. In recent times we've went and switched and we've been working recently with Lancaster County on this actually where we're putting vehicle counters, you know, where we have better technology and stuff, vehicle counters. We're putting vehicle counters and try to get a percentage or ratio of how much traffic on that county road is coming to a park versus local traffic. And based on that data, we can then establish a percentage of how much rec road should be used for that county road versus local funds. [LB374]

SENATOR STINNER: So like in Scotts Bluff County, they just don't have the money for roads. So if they would do that and you would consider it a priority for you, you would do 100 percent of the road or how...? [LB374]

ROGER KUHN: I'm not going to commit to we'd do 100 percent. [LB374]

SENATOR STINNER: Oh. Okay. [LB374]

ROGER KUHN: But we certainly look at each project based on demand and... [LB374]

SENATOR STINNER: It varies. That's what you're saying. [LB374]

ROGER KUHN: Yeah. Right. [LB374]

SENATOR STINNER: Okay. [LB374]

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ROGER KUHN: Right. But you know... [LB374]

SENATOR STINNER: I got you. Of the \$8.9 (million) that you talked about under contract, is there any cost share in that? [LB374]

ROGER KUHN: No, because \$8.7 million of that is one contract. Actually, it's a big contract in Indian Cave State Park. It's all interior roads. Two hundred thousand of that is contracts with a consultant designing the next projects for the next year, engineering. [LB374]

SENATOR STINNER: Okay. [LB374]

ROGER KUHN: And so those are Niobrara State Park and Calamus. [LB374]

SENATOR STINNER: A little bit of history on the \$318,000 cash flow, is that a pretty steady source of income? [LB374]

ROGER KUHN: Yeah. It's very consistent. [LB374]

SENATOR STINNER: Is it building at all or is it staying about the same? [LB374]

ROGER KUHN: No, it hasn't. I mean the number of vehicles registered in Nebraska has remained pretty stable and, you know, I mean that's an issue you deal with. I mean it's probably been 15 years since it's been \$1.50. There's not a big growth in vehicle registration. So roads, as you all know, are getting more expensive to do and maintain so, you know. That's what we use, though, and it's been pretty stable. [LB374]

SENATOR STINNER: Okay. And, normally, you'd be at a \$8 (million), \$9 million figure every year for road construction or maintenance projects or what...? [LB374]

ROGER KUHN: We have a plan, and actually I mean I can reference it real quick, that's been submitted. And this is in conjunction with Department of Roads and so forth, as an example. In calendar year '16, there's \$3.1 million of identified projects; in '17, \$2.9 million; '18, \$6.5 million. But you know you take those three years, the \$3.8 million that's coming in a year along with the current balance, you know, we'll be in good shape. It's going to be healthy. This year, there's identified projects of \$10.1 million. However, I know one of those projects isn't going to happen this year due to some negotiations with the local county. So that's one that's going to be bumped back. But you know in the last three years there's probably been an average, well, it's

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been just a little over \$1 million in the last three years total that's been spent out of the rec road. And that's something we're going to fix, as Senator Haar pointed out; work, you know, more closely and harder with Department of Roads to get those scheduled projects going. Some of the variables they don't control; we don't control. They happen, so. [LB374]

SENATOR STINNER: Thank you. [LB374]

ROGER KUHN: Yep. [LB374]

SENATOR MELLO: Thank you, Senator Stinner. Any other questions from the committee? Seeing none, thank you, Mr. Kuhn. [LB374]

ROGER KUHN: Thank you. [LB374]

SENATOR MELLO: Other proponents for LB374. [LB374]

PAM DINGMAN: (Exhibit 2) Pam Dingman, Lancaster County Engineer, P-a-m D-i-n-g-m-a-n. I am here to speak as a proponent for this bill. Being passed around is an exhibit showing the roads in Lancaster County that are rec roads. They do make up about 14 percent of all of our paved roads in Lancaster County or, as my staff so diligently showed to you, 40.36 miles. I probably would have rounded it to 40 for you. But that being said, when you ask an engineer exactly what is going on, they usually tell you. That being said, you know we are working with you in order to decipher what percentage exactly on our roads is attributed to traffic due to the state parks and we are looking forward to continuing this relationship. I just wanted to speak briefly on how important this funding is. A mile of road can cost as much as \$250,000 to overlay. Lancaster County currently overlays ten miles a year. So if we had to do a substantial overlay on one of these roads, it would deplete our entire budget for asphalt overlay. Are there any questions? [LB374]

SENATOR MELLO: Thank you for your testimony, Ms. Dingman. Are there any questions from the committee? Seeing none, thank you. Any other proponents for LB374? Seeing none, are there any opponents to LB374? Seeing none, is there anyone here in the neutral capacity on LB374? Seeing none, Senator Haar, would you like to close? [LB374]

SENATOR HAAR: Yes, thank you very much. And just to put that 40 miles of roads in perspective, Branched Oak Lake alone has about a million visitors a year that come to use camping and fishing and all the things that go along with that. And I live just a half-mile south of Branched Oak Lake, so I'm well familiar with that. And again, I think we're so fortunate to have

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the park system that we have in the state of Nebraska. A lot of people take advantage. So thank you very much. [LB374]

SENATOR MELLO: Thank you, Senator Haar. Any other questions from the committee? Seeing none, thank you, Senator Haar. [LB374]

SENATOR HAAR: Okay. [LB374]

SENATOR MELLO: That will close today's public hearing today on LB374 and take us to our next public hearing of the day on LB537 from Senator Watermeier. [LB374]

SENATOR WATERMEIER: (Exhibit 1) Chairman Mello and fellow members of the Appropriations Committee, I am Senator Dan Watermeier, spelled W-a-t-e-r-m-e-i-e-r, representing District 1 and here to introduce LB537. LB537, as introduced, seeks to appropriate \$15,054,000 from the General Fund to the Resources Development Fund for fiscal years '15 and '16. This is in addition to the appropriation made as part of the fiscal '15-17 biennium budget request from the Department of Natural Resources. This intent is to pay off the remaining projects that were approved prior to March 30 of 2014. For those of you who haven't been on the Appropriations Committee previously, I'd like to give you a little background on the Resources Development Fund. This might explain the situation we face with LB537. The Resources Development Fund, or RDF, was created in 1974. This fund can be used to provide grants or loans to political subdivisions of the state or an agency of the state, or it can be used by the Department of Natural Resources to acquire an interest in a project in the name of the state. As of August 2014, there were 65 projects that the Nebraska Resources Development Fund helped to build. These projects, located all across our state, continue to protect the state's natural resources while also producing noticeable recreation and economic benefits for our citizens. All these projects have leveraged significant federal and local funding to develop, preserve, and maintain the state's water and related fund resources, including flood control, recreation, enhancement of water supplies, and the protection of the health, safety, and general welfare of the state's citizens. The \$108 million of state funds invested since 1974 has leveraged \$152 million of federal and local funds to provide the citizens of Nebraska an estimated \$1.4 billion in benefits over the projected life span of the projects. There are six RDF fund projects that have been approved but are waiting for final funding from the state of Nebraska. This would bring the total number of projects funded under the RDF to 71. Of the six projects, several are completed, and the remaining are projected to be completed in the next five years. A total obligation of approximately \$18,780,415 remains after fiscal year '14-15. The Governor's proposed biennium budget, as well as the preliminary recommendations from the Appropriations Committee, provides \$3.14 million for the fiscal year 2015-16 and \$586,510 in fiscal year '16-17, totaling \$3.7 million over the next two-year period. The budget also calls for the program to end after

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fiscal '16-17. This leaves a shortage for existing RDF projects of approximately \$15.1 million, which is the dollar amount contained in LB537. Legislation passed in 2014, ending new applications for the RDF. LB1098 created the Water Sustainability Fund and expanded the membership of the Natural Resources Commission who oversee this new fund. An appropriations bill passed last year, LB906, prohibited applications being made to receive funds by grant or loan from the RDF fund after April 2014. Although the appropriations bill last year provided some additional funding to the RDF to help pay off these projects, most of the new funding went into the newly created Water Sustainability Fund. Currently, there are \$21 million in the Water Sustainability Fund. The Governor's proposed budget, as well as our preliminary recommendations, includes an additional \$11 million for each fiscal year of this biennium. Final rules are not yet complete for project applications from this new fund but should be by the end of the year. The NRC will then have to review and approve the applications, meaning that it might be towards the end of next fiscal year before an application could even be received. I feel strongly that we should follow through on these last remaining projects and fully fund the six projects that have been approved prior to March 30 of 2014. We must keep in mind that these six projects have already gone through an application review and approval process. I don't think that these applications should have to go through the application process again, this time facing different criteria and a different makeup of the commission. I am here today offering an amendment to LB537. AM820 states that it is the Legislature's intent to continue the \$11 million appropriation from the General Fund to the Water Sustainability Fund for a minimum of ten years. Projects generally take multiple years to complete and require local matching funds. Therefore, a stable source of funding is critical. Likewise, the amendment delays the analysis of the fiscal status of this Water Sustainability Fund for four years so it corresponds with the ten-year minimum time frame for funding. Language is also added to create a subaccount within the Water Sustainability Fund for each separate project to add greater stability to these funds. Instead of a one-time General Fund appropriation, as sought in LB537 as I introduced, AM528, excuse me, AM820 seeks to appropriate \$3.14 million in each of the next five years. It also seeks to transfer \$1 million from the Water Sustainability Fund to the Resources Development Fund for three years, beginning in fiscal '15-16. Total funding included in this amendment totals \$18,701,625, including the \$3.1 million already contained in the preliminary budget. Again, I firmly believe that we must follow through on our commitment to fund these last six projects. With AM820, it divides the funding source between General Funds and the Water Sustainability Fund. I know that's complicated. I'd try to answer any questions. There are some people behind me that are going to testify as well. I maybe didn't explain the NRC, which is the Natural Resources Commission which oversees about five or six different funding mechanisms for the state of Nebraska to different sponsors across the state. That has a long history as well. It was formed in 1974 along with the Resources Development Fund. Thank you, Mr. Chairman.
[LB537]

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SENATOR MELLO: Thank you, Senator Watermeier. Are there any questions from the committee? Senator Nordquist. [LB537]

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you, Senator Watermeier. So were these projects approved prior to our action last year in the Legislature, or where they approved after that? [LB537]

SENATOR WATERMEIER: They were approved, oh, six to eight years ago most of them were. They were approved when we still had actually an active Resources Development Fund. [LB537]

SENATOR NORDQUIST: Right. And as we discussed that last year, and I certainly wasn't as tuned in as a lot of people were, can you...why...did they just not come up? But it seems like we're coming back now after we appropriated X amount last year, coming back now for additional money for projects that were approved prior to our deliberations last year. And I'm kind of confused on the timing of that. [LB537]

SENATOR WATERMEIER: Well, it's amazing what happens behind the scenes when you're trying to combine two bills into one. You heard the term "sausage making"? [LB537]

SENATOR NORDQUIST: Right. Right. [LB537]

SENATOR WATERMEIER: I should have turned my recorder on when we were making that "sausage" so I could get this in writing. And Senator Mello is smiling too back there because he understands the dilemma. But let me explain a little bit what happened years and years ago. I was actually the chairman of that commission in those years in which we went and kept getting requests, more than what we had. There's an \$18 million cap that you've heard talked about before, but over the history of this fund we were only allocated and appropriated \$3.1 million a year. There was kind of a perfect storm that kind of brewed at that point in time and we were getting more applications all the time, and our cap was coming to the point where we were up against that cap. If we were getting \$3.1 (million) a year and our cap was \$18.5 (million), we knew it was going to take six years just to clean up what we had in the cap. Well, what happened in the late 2000s is all of a sudden project costs go up, land rights went up, and then there was a strange thing that happened in the Legislature that some of these funds were swept away. [LB537]

SENATOR NORDQUIST: Right. [LB537]

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SENATOR WATERMEIER: That put us behind another little bit. So at that point I was actually the chairman of the Resources Commission at that time and we could just see this was happening. And we were struggling with the applications. We were struggling with sponsors that would come in and want to fund this project. And they were good projects. We just couldn't do it. So we put a moratorium, back in the late 2000s, on any new applications that would come in to the Resources Development Fund. So at that point in time, we were forced with a question. We had applications that were already in place. And the way the statutes read you had to approve or deny an application in two years. So we had a backlog of some applications sitting on our plate and we just didn't have any choice but to other than to approve these with a zero allocated dollar. And last year I tried to explain this on the floor. I mean we knew we had \$27 (million) to \$28 million worth of projects out there, but we were so anxious to get the new funding for the Water Sustainability Fund. And it was the underlying intention, as you would hear from testifiers between the Water Sustainability Interim Task Force that we had, there was certainly the intention to clean up these old projects. So there really was the...I knew the number out there last year, but in the haste to get this bill through the system I agreed to something that I probably should never have done. So the blame probably falls squarely on me, starting back in the early 2000s when I came to the state of Nebraska asking for money every single year saying that \$3.1 million isn't going to cut it and we were getting further and further behind. [LB537]

SENATOR NORDQUIST: Right. And should this committee not take action, the cost share that we would pick up, I mean does that fall squarely on the NRDs then that are doing this (inaudible)? [LB537]

SENATOR WATERMEIER: Well, it's a liability that the state is actually engaged in. I mean... [LB537]

SENATOR NORDQUIST: Okay. [LB537]

SENATOR WATERMEIER: ...it's laying out there open-ended. [LB537]

SENATOR NORDQUIST: Okay. [LB537]

SENATOR WATERMEIER: It's just a matter of funding it. [LB537]

SENATOR NORDQUIST: All right. [LB537]

SENATOR WATERMEIER: The cost share on these projects range between 50 and 70 percent. At that time when we had the discretion in the commission, we would get an application of a

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project, go through and give the okay for this sponsor to go ahead with the application. If it passed the test then it would go to the director and the director would put a stamp on it and give us a recommendation of between 50 and 75 percent. Typically the projects were funded at 50 to 60 percent. [LB537]

SENATOR NORDQUIST: Okay. Thank you. [LB537]

SENATOR MELLO: Thank you, Senator Nordquist. Any other questions from the committee? Seeing none, thank you, Senator Watermeier. [LB537]

SENATOR WATERMEIER: You bet. [LB537]

SENATOR MELLO: We'll first take proponents for LB537 and amendment AM820. [LB537]

SENATOR HAAR: Familiar face. [LB537]

TOM CARLSON: Good afternoon, Senator Mello and members of the Appropriations Committee. I am Tom Carlson, T-o-m C-a-r-l-s-o-n, former state senator from District 38--now Senator Kuehn has taken my place, but I was state senator from 2007 to 2014--here to testify on LB537, Senator Watermeier's bill. In 2013, LB1017 provided for an organization of the Water Sustainability Task Force, which met for 20 full days between the first of August and the first part of December to discuss water sustainability, how important is it in the state of Nebraska, and how do we develop a plan to get there. There were 27 members on that task force and that was comprised of the original 16 members from the Natural Resources Commission, which Senator Watermeier was chair of and a member of and referred to, and then there were 11 additional members that were appointed by the Governor. So when you get 27 people together, there's a lot more varied opinions in that group than there probably was in the original Natural Resources Commission. I think that's a good thing. If you get around a table and you have 27 people and most of them have their own ideas about things and you try to lay down rules and regulations, it's going to take some time because there are differences of opinion. But I think when you get to an end result it's better than if all of us have the same ideas around that table. And that's what happened with the Water Sustainability Task Force which produced then LB1098 from last session. And you will recall, some of you will recall, and I appreciated your vote very much, that that passed 48-0 on Final Reading and became law. Part of that is a revamp of the original Natural Resources Commission, and that took a lot of discussion in the task force for the original members to come to a point where they would say we really need to make some changes, and they did. So now we have the 27-member Natural Resources Commission and I believe that there's representation on that commission from any group in Nebraska that has a real legitimate concern about water issues. There's good representation and their views will be heard. Last year,

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thanks to Appropriations, \$10 million was transferred from the Cash Reserve to the new Water Sustainability Fund and then a resolution for an ongoing \$11 million a year to go into that fund. So right now there's \$21 million. And thanks to Senator Mello and really his work on that, and I agreed to it, that a million of that would go toward Omaha area sewer separation projects, so worthwhile, worthwhile thought and a worthwhile goal. And so that's how that money is currently allocated. The first responsibility of the Natural Resources Commission, and I've been to most of the all-day meetings, the last two, and observed what they're doing, but when you have 27 people together with different ideas and they are to formulate rules and regulations for evaluating new projects that are going to contribute to water sustainability, it's not an easy task. And they've had difficult work but they're making progress. And I sit and watch and I see a change in attitude, a softening of attitudes that we've got to work together on this, just as what happened last year in our session. And I think that's really a good thing and it's going to benefit the entire state of Nebraska. So once these rules and regulations are formed, then they will use those to evaluate new projects that are proposed. And there will be a scoring system. And I really think the end result of that system will be that not only projects will be separated from others that are worthwhile projects, but those that are separated will be ranked and that will give a good idea as to what should be funded first. Now let me quickly cover one thing that I think is so important to understand about the concept of water sustainability. It's vital to our economy in Nebraska. Water is life. And we must get to a point in this state where, on average, we don't use any more water than what our supply gives us. And if we're using more than what our supply gives us, we got two choices. We can either reduce what we're using or we increase our supply. We increase our supply by stopping some of the water that flows through the state and on out, and a tremendous amount of water flows through Nebraska. So this means in the long-run we need to build some structures that in wet years we can hold water to use in dry years, and that increases the supply. We've got to do that. Agriculture is our number one industry, but everything else depends on water because it's life. I think this is vitally important. I think it's a fair decision. Those projects that were funded prior to this that had already gone through the process and then some of those groups actually finished it, spent money and finished it, and they're waiting for the appropriation. They're waiting for the money. They shouldn't have to go through it again. I think it's the right thing to do and I think, by and large, in the state of Nebraska we do the right thing and Appropriations is certainly the lead committee on this. I would rather see money appropriated that's separate from the Water Sustainability Fund because that's a new procedure to get money. Let's take care of the old, get it out of the way, and we'll move forward and we will reach water sustainability in the state of Nebraska. And when we do, there will be no other state that's better off financially than what we are. So thank you for listening and I'll be happy to try to answer any questions you may have. [LB537]

SENATOR MELLO: Thank you for your testimony, former Senator Carlson. Are there any questions from the committee? Senator Haar. [LB537]

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SENATOR HAAR: Mainly a statement: Your replacement is very capable and we miss you. [LB537]

TOM CARLSON: Well, that's a good thing for both of us, John. [LB537]

SENATOR HAAR: So thanks for coming today and I appreciate your opinion very highly. [LB537]

TOM CARLSON: Thank you. [LB537]

SENATOR MELLO: Any other questions of the committee? Senator Nordquist. [LB537]

SENATOR NORDQUIST: So just to be clear, you'd prefer we not take the action of the amendment, which it appears, it looks like, would be a million dollars from the Sustainability Cash Fund. You'd prefer that we do... [LB537]

TOM CARLSON: I think there's a principle. I think there's possibly a taint. If money is taken out of the Water Sustainability Fund, which you understand, and I hope most people do, that's to get us toward water sustainability, not that these old projects don't, but they didn't go through the evaluation process. But they need to be funded. And if we don't taint that by taking anything out, I don't think we leave ourselves open in the future for someone to come along and say, hey, you took money out of there before; let's do it again. [LB537]

SENATOR NORDQUIST: Right. [LB537]

TOM CARLSON: I think it should be separate. [LB537]

SENATOR NORDQUIST: What do you see as the...so they haven't even gotten to the point of regulations for approving or kind of laying out the framework for approving projects. Is that right, they're still working on that? [LB537]

TOM CARLSON: No, and thanks for asking that because I have told the commission, do it right. And so if it takes a little longer than you had hoped it would, do it right. And those first several projects that come out that are approved and done should be so evident to people who look at it, this is contributing to water sustainability. There's not any question. But the rules and regulations have to be clear so that they're put together properly so that that can happen as projects are evaluated. So it's going to take a little longer than usual, but in the last two meetings that I've

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been to and listened the entire time, they're headed in that direction. They're making good progress. [LB537]

SENATOR NORDQUIST: And this is probably a pretty big question on whatever time frame you want to use on. What do you project the need to be over 10 years, over 20 years for water sustainability projects? [LB537]

TOM CARLSON: I can't answer that. Long term, it's going to take a lot of money. Now if there's a project to build a new structure, a new dam, someday I'd like to see another McConaughy in Nebraska. Look what McConaughy has done for the state of Nebraska. It's incredible. But that's huge and it takes...it takes the permitting process. It takes a whale of a lot of money. But if there's...if we can do that and do some lesser projects that aren't that big, it's still going to take time for permitting. But if we can do that and we put some state dollars into that, there's going to be federal dollars, there's going to be other dollars that add to that. And the total amount that's going to be there to help move us forward I don't think we can even calculate. But if we don't do anything, we're going to head the wrong direction and we can't afford to do that. [LB537]

SENATOR NORDQUIST: Thank you. [LB537]

SENATOR MELLO: Any other questions from the committee? Senator Carlson, I've only got one question. I guess it was part of the amendment. I imagine you would be supportive of part of the amendment though that extends the Water Sustainability Funding for an additional five years before it starts to become a regular Appropriations Committee reviewed and, essentially, a regular appropriations request that gets reviewed and can get denied instead of being on a five-year kind of pilot project as it is right now. Would I be correct in that? [LB537]

TOM CARLSON: You'd be very correct. And if this committee decides to do that, I'll turn ten cartwheels or whatever it takes because, again, I think it is the right thing to do. We've got a lot of work to do and we got to make sure that we're in position to get it done. [LB537]

SENATOR MELLO: Okay. Thank you. Any other questions from the committee? Thank you. [LB537]

TOM CARLSON: Thank you. [LB537]

SENATOR MELLO: Next proponent for LB537. [LB537]

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JOHN WINKLER: (Exhibit 2) Good afternoon, Chairman Mello and the rest of the Appropriations Committee. My name is John Winkler, J-o-h-n W-i-n-k-l-e-r, and I am the general manager of the Papio-Missouri River Natural Resources District. I'm testifying today on behalf of the Nebraska Association of Resource Districts, as well as the Papio NRD, in support of LB537. First of all, I'd like to thank Senator Watermeier for introducing this bill. I believe it is an important transition from the old Resources Development Fund to the new Water Sustainability Fund. Last year, you've heard, the Legislature created the Water Sustainability Fund based upon recommendations of the Water Funding Task Force. The bill which created this fund also indicated that the Legislature's intent that the Water Sustainability Fund would assume the project assistance role previously performed by the Resources Development Fund and then the old fund cease to exist at that time. I also would like to point out that no new applications were taken or accepted by the Resources Development Fund since 2010, and that's primarily because of the funding that was discussed by Senator Watermeier. However, funding for six projects already approved through the Resources Development Fund remain to be completed. While the draft bill would appropriate just over \$15 million to complete the funding of the Resources Development Fund projects, we're obviously willing to work with the committee to spread that over time, three to four years. The six projects in question are in various stages of completion, and a packet containing a spreadsheet and summaries of the project are being passed around right now. One of these projects is Buck and Duck Creek watershed project west of Peru, Nebraska. This project addresses flooding in the watershed that had been common due to runoff exceeding the capacity of drainage channels. The Buck Creek dam was completed in 2012 and construction of the Duck Creek dam is underway and will be completed this December. Both dams are designed to control 100-year frequency runoff events, and protect roads, bridges, farmland, and residences west of Peru. Two of these projects are in our district, the Papio NRD. The first is the Pigeon/Jones Creek project. This is a multipurpose reservoir project near Hubbard, Nebraska. Recreational facilities are currently under construction and they'll be completed in July of this year. The 200-acre flood control reservoir is already completed. Flood control benefits from the structure are being realized and have been realized since the summer of 2014. During a rain event that occurred over a month period from May to June, the area experienced a one year's average of precipitation in a one-month period. It was over 30-some inches. This particular reservoir raised in elevation the pool level roughly 10 to 15 feet in that time frame. What this reservoir does is protect tens of thousands of acres of farmland, also bridges, roads, other infrastructure. So without that project we would have had some serious flooding and levee breaks and things like that to deal with. The final project is the Western Sarpy/Clear Creek project. This project was planned and designed by the Army Corps of Engineers, and involved the improvements of levees on both sides of the Platte River near Ashland. Construction on the Sarpy side is complete, and construction on the Saunders side is scheduled for completion in September. This flood control project protects farmland, residences, the Lincoln and Omaha well fields, I-80 bridge, Nebraska National Guard camp, and millions of dollars of public and private infrastructure. This project was also battle tested this January and

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February. If you kept track in the news and in the paper, we had a serious ice jam about a mile and a half long. Without this levee system in place, we would have experienced flooding similar to what occurred in '93 and that was...I-80 was closed for two days. The Lincoln well field lost one of its two mains. If it would have lost the other one then the city of Lincoln would have had no drinking water. It obviously protects the MUD well field. So as a result of this levee project, even though it isn't completed, it performed to standards and specification and we avoided some serious flooding. One critical point that I need to make, that several of these projects were financed with bonds, loans, lines of credit in anticipation of those Resources Development Funds being honored that were committed to these projects. LB537 would ensure that this promised funding for these six projects is completed in a timely manner. And on behalf of the Nebraska Association of Resources Districts and the Papio NRD, I urge you to advance this bill. And I'd be glad to take any questions. [LB537]

SENATOR MELLO: Thank you for your testimony, Mr. Winkler. Are there any questions from the committee? Senator Stinner. [LB537]

SENATOR STINNER: I'm trying to figure out what this schedule means. You've got \$14,191,000, plus \$2,493,000, plus \$2,095,000 to be spent, right, for a total of, what is that, \$18...almost \$19 million? [LB537]

JOHN WINKLER: Right. [LB537]

SENATOR STINNER: But in this we only have \$15 (million). Reconcile that for me. [LB537]

JOHN WINKLER: The...I believe in your budget that's current...what's it...I would say it's a... [LB537]

SENATOR WATERMEIER: (Inaudible). [LB537]

JOHN WINKLER: Okay. Okay. Senator Watermeier will address that in closing. [LB537]

SENATOR STINNER: Okay. Okay. [LB537]

SENATOR MELLO: Any other questions from the committee? Seeing none, thank you, Mr. Winkler. [LB537]

JOHN WINKLER: Thank you. [LB537]

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SENATOR MELLO: Other proponents for LB537. Good afternoon. [LB537]

DAVID CLABAUGH: (Exhibit 3) Thank you, Mr. Chairman. My name is Dave Clabaugh, Dave, D-a-v-e, Clabaugh, C-l-a-b-a-u-g-h, and I'm the manager of the Lower Big Blue NRD headquartered in Beatrice, Nebraska, and we are one of the six projects. I want to just give you a quick rundown of what our project is about. Ours is the Lower Big Blue, Lower Turkey Creek project. Our project was started in 2003 and was funded in 2005. This is a flood control project that consists of seven flood control structures located on tributaries of Turkey Creek in northern Saline County. The primary purpose, of course, is flood reduction and damages in the Lower Turkey Watershed and downstream along the Big Blue River. These dams are going to control over 33 percent of the drainage acres in our portion of the Lower Turkey Creek in Saline County. We also plan a public use area on one of the sites. In addition, this project has completed a drainage improvement project, was completed in and around the town of DeWitt. Estimated annual benefits for our project is \$400,000 per year. The Lower Turkey Creek is the last major tributary in my NRD that does not have major flood control in it, so it's important to my board to get this completed. We have six of the seven dams completed. The last, Dam Site 11, was started last fall. We hope to complete that this spring. Some of our local sponsors, besides the NRD and the Resources Development Fund, were Saline County with bridges and road work, and the village of DeWitt. I'd be glad to answer any questions you may have on the project. [LB537]

SENATOR MELLO: Thank you for your testimony, Mr. Clabaugh. Are there any questions from the committee? Seeing none, thank you. [LB537]

DAVID CLABAUGH: Very good. Thank you. [LB537]

SENATOR MELLO: Next proponent for LB537. [LB537]

JOHN MIYOSHI: (Exhibit 4) Senator Mello and members of the Appropriations Committee, my name is John Miyoshi, J-o-h-n M-i-y-o-s-h-i, general manager of the Lower Platte North NRD, located in Wahoo. And today I'm giving testimony on my behalf and of my NRD and in support of LB537. Senator Watermeier, as a former member of the Nebraska Natural Resources Commission, has a very unique insight into the workings and promises of the Natural Resources Development Fund. We all appreciate the migration from the old NRC to the new, and from the NRDF to the new Water Sustainability Fund. The devil is always in the details to make these transitions as smooth as possible. One very large and important detail is how to make the NRDF projects whole. I believe there is universal acceptance that the Legislature's intent has been to make the six remaining NRDF projects whole. The legislative bill that makes the most sense is LB537. In the case of our Sand Creek project, the project has been complete since 2012. We have borrowed funds with anticipation that our final \$1,395,010.51 will be received from the

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state as promised. Attached are the handouts on our Sand Creek environmental restoration project, with Lake Wanahoo being the largest component. While I will not go through the details of the project, I would like to leave some food for thought that over 350,000 visitors have visited Lake Wanahoo State Recreation Area in its first three years of operation. Our surveys show that 75 percent of the vehicles and campers that use the area have license plates originating from counties outside of our NRD. The state is receiving a huge boost to quality of life from this project and will hopefully honor its commitment. Two more things I would like to add: The total cost for the Sand Creek environmental restoration project is \$43 million; the NRDF supplied \$12.5 million. The benefits from the project: We receive on an annual basis about \$250,000 of flood damage reduction and \$250,000 of recreation benefits along with the transportation benefits. I ask that the Appropriations Committee support LB537 which will achieve the goals of Senator Watermeier in providing the remaining funding for the NRDF projects. Any questions? [LB537]

SENATOR MELLO: Thank you for your testimony, Mr. Miyoshi. Are there any questions from the committee? Seeing none, thank you. [LB537]

JOHN MIYOSHI: Good. [LB537]

PAT PTACEK: Good afternoon, Chairman Mello, members of the Appropriations Committee. My name for the record is Pat Ptacek, that's P-a-t P-t-a-c-e-k, associate lobbyist with the Nebraska Association of Ethanol Producers, supporting LB537. We have not taken a hard, long look at the amendment that was offered today. We were very active supporters of the Sustainability Fund, not only in the formation of that but also the task force that was basically made for/of the foundation for the bill last year that Senator Carlson spearheaded. We believe that it's important to get these projects cleared up. And we hope that we continue to dedicate General Funds to these projects as it is a win situation for all Nebraskans. So with that, I'll take any questions. Thank you. [LB537]

SENATOR MELLO: Thank you for your testimony, Mr. Ptacek. Are there any questions from the committee? Seeing none, thanks, Pat. [LB537]

PAT PTACEK: Thank you. [LB537]

LYNDON VOGT: Good afternoon. My name is Lyndon Vogt, L-y-n-d-o-n V-o-g-t. I'm the manager of the Central Platte Natural Resources District out at Grand Island, Nebraska. We are the sponsor of the Prairie/Silver/Moores Creek flood control project. Just a quick overview of the project: The Natural Resources Development Fund is paying 52.5 percent of that project. The remaining 47.5 percent is being split between city of Grand Island and Central Platte NRD; are

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each paying 46.25 percent of that. Hall County is paying 5 percent and Merrick County is paying 2.5 percent. It's a multifaceted project. Five dry dams, two miles of levee, 645 acres of detention cells on the old Cornhusker Army Ammunition Plant west of Grand Island. My project is the only one that's not going to be completed this year. I'm about...our plan completion is 2018. You've probably heard we were held up for a couple years because of some buried ammunitions on the plant that kept us from working out there. The estimated cost of our project is \$28 million. It will eliminate \$130 million in damages from a 100-year flood event. This project will protect over 1,500 homes and businesses in northwest Grand Island and over 10,000 acres of cropland from a 100-year flood. The rate of return on our project is 34.6 percent. I appreciate your time this afternoon. If there's any questions. [LB537]

SENATOR MELLO: Thank you for your testimony, Mr. Vogt. Are there any questions from the committee? [LB537]

LYNDON VOGT: Thank you. [LB537]

SENATOR MELLO: Seeing none, thank you. [LB537]

GLENN JOHNSON: (Exhibit 5) Senator Mello, members of the Appropriations Committee, my name is Glenn Johnson, G-l-e-n-n J-o-h-n-s-o-n. I'm the general manager of the Lower Platte South Natural Resources District here in Lincoln and I'm preparing testimony and submitting it on behalf of both the natural resources district and on the Nebraska Water Resources Association where I serve as a board member. Lower Platte South NRD has been a very beneficial party to the Resources Development Fund with a number of projects over the years. The most recent one completed was the Antelope Valley Project right through the heart of the city of Lincoln for a flood control project. We're very excited about the new Water Sustainability Fund and the broadening of that program. And, hopefully, we can find some ways to compete and be involved in that program, particularly as we implement our integrated management plan, which we see as a real key to sustainability in this area. We think, though, as that plan moves forward and gets ready to complete its groundwork so those projects can come in and apply, we think there's some unfinished business with the remaining projects that were approved for the Resources Development Fund. And we think LB537 is a good way to resolve those, clear up those, and be ready to move forward with the new program. So we would encourage the Appropriations Committee to support LB537. I'd answer any questions. [LB537]

SENATOR MELLO: Thank you for your testimony. Are there any questions? Senator Haar. [LB537]

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SENATOR HAAR: Yes. I've just been curious. It's always easy to kind of think about, you know, flood abatement and think, well, that's not going to happen while I'm around. But when Lincoln got 8 inches of water, without the Antelope Valley Project what would have happened do you think? [LB537]

GLENN JOHNSON: Without the Antelope Valley Project, there would have been water east of the university campus, around the Beadle Center, through that whole area, overtopping "O" Street, that whole area, for probably about four blocks wide and several feet deep with that type of an event. With the project in place, it performed just as it was designed. It all stayed within the new open waterway and those flows passed through the area without creating any damage. [LB537]

SENATOR HAAR: Amazing. Thank you. [LB537]

GLENN JOHNSON: Uh-huh. [LB537]

SENATOR MELLO: (Exhibits 6 and 7) Any other questions from the committee? Seeing none, thank you, Mr. Johnson. Are there any other testifiers here today on LB537? Seeing none, the committee should have received letters of support for LB537 from the Nebraska Sportsmen's Foundation and from the North Platte Natural Resources District. With that, is there anyone here in opposition to LB537? Seeing none, is there anyone here in the neutral capacity on LB537? Seeing none, Senator Watermeier, would you like to close? [LB537]

SENATOR WATERMEIER: Yeah, just real quickly here, answer a couple questions. Senator Stinner had a question about the math. There's \$18.7 million worth of funds...or projects that are left out that remain to be funded as of the end of June 30. In our next biennium, we have \$3.14 (million) in the first fiscal and \$560,000-some appropriated in the next fiscal. So what I'm extending to do is to keep that \$3.1 (million) going for five years. That gets us to the \$15.1 or \$15.2 (million). And then I require or I'd ask to take \$1 million a year for three years out of the Water Sustainability Fund and that would get us to the \$18.7 (million) and clean that up. Go ahead. [LB537]

SENATOR STINNER: I do... [LB537]

SENATOR MELLO: Thank you, Senator Watermeier. Any questions from the committee? Senator Stinner. [LB537]

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SENATOR STINNER: Sorry. Thank you, Senator Mello. Refresh my memory on the Water Sustainability Fund. How many dollars was allocated to that? [LB537]

SENATOR WATERMEIER: The first year, as Senator Carlson mentioned, there was \$10 million taken out of the Cash Reserve and then we then appropriate \$11 million per year after that. So as of right now, there's already \$21 million in that fund every...right now in that fund just laying in wait to be used. One million dollars per year is dedicated to the project in Omaha. That will be a transfer straight to that project. [LB537]

SENATOR STINNER: And how many years was that going to go? [LB537]

SENATOR WATERMEIER: Originally, as Senator Mello mentioned, it was originally intended with five years of the legislative intent. And the sponsors immediately started to become concerned about longevity of their funds if you have a long time as far as making the application, getting projects started, land rights. They wanted it to be continued or at least legislative intent for ten years. So we are extending that to ten years. [LB537]

SENATOR STINNER: Okay. Thank you. [LB537]

SENATOR WATERMEIER: Hang on. Can I ask...answer another question? Senator Nordquist had asked the question: How many dollars of projects are out there? Senator Langemeier had had an interim study done, probably while you were...might have memory of that. But they came up with a very extensive interim study that came up with I think it was \$980 million of potential water projects in the state of Nebraska. And I think that would be expanded even more today, because what is water sustainability? That's been a very difficult thing for this new group to define water quality, water quantity, and where it's at when it's retimed. You know, since all that's happened, we've had the flood that came out of Colorado. We could have easily used some of those CFI to kind of hold them. So at one point or almost a billion dollars worth of projects-- could easily be \$1.5 billion--but it's in excess of a billion dollars of projects that we're trying to fund with \$3 million worth a year. So just imagine the leverage that we've done with the federal funds. [LB537]

SENATOR NORDQUIST: In the grand scheme of things, you think Omaha just has a \$2 billion sewer project. (Laugh) [LB537]

SENATOR WATERMEIER: Well, and I wanted...I was going to mention that. [LB537]

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SENATOR NORDQUIST: So if \$1.5 billion for all...the whole state doesn't, you know, probably really... [LB537]

SENATOR WATERMEIER: That's right. [LB537]

SENATOR NORDQUIST: ...isn't that big. [LB537]

SENATOR MELLO: Senator Haar. [LB537]

SENATOR HAAR: So trying to picture your bill then, it's not like a bridge that hasn't even been started or isn't half done. It's pretty much a bridge that's built and hasn't been paid for. [LB537]

SENATOR WATERMEIER: Pretty much, that's correct. [LB537]

SENATOR HAAR: Okay. [LB537]

SENATOR WATERMEIER: The sponsors, as I tried to describe earlier, when I was chairman of the Resources Commission, we had a hard decision to make at that point in time. We were running into this cap issue and we also had...made obligations for sponsors to go ahead and make the application. Once we give them the green light to say it would be a good project, we don't guarantee anything but go ahead and make the application, that typically costs about \$50,000 to \$100,000 to make the application. So they start that work and generating that work. Then they come to us with the project. From the time we take that application we had to decide, yes or no, within 24 months. So we were up against that 24-month deadline. We were up against the cap. And there were just a whole flood of things that had happened. And then we got swept away with some funds out of the...I mean 2008 or '09 they got taken away out of the fund. That put us behind. So it's just kind of a perfect storm that had happened. I mean I take responsibility for it because it was a decision we made, but it was not an easy one at the time and I didn't take it lightly. And the reason I can say we did the very best we could is because, before we asked and before we approved those projects, we actually put a moratorium on any new projects so we knew we would not get worse behind the eightball. And I think we did the responsible thing at that time. Then six years later we had the interim task force, the Water Sustainability group. It was clearly talked about all summer long. It was clearly talked about in the fall...or in the springtime when we had the debate for the funding of this project. I will say one thing. Senator Carlson had made it sound so easy in the sausage-making process, but I will...I have different memories of that. And if you think about this, what we were trying to do at the time, we were trying to combine two bills at one time. And I have never...I never will forget going back and forth between Senator Lathrop, and he was being stubborn, and Senator Carlson was being

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stubborn, and we agreed on something in between. And I really feel proud of the fact we got to something, but there were some things in the detail that I had to swallow hard to take, and I didn't want to but I did, so. [LB537]

SENATOR MELLO: Senator Bolz. [LB537]

SENATOR BOLZ: Forgive me if I missed this, Senator Watermeier, but the reference to the million dollars in cash funds, what's the source of the cash funds? [LB537]

SENATOR WATERMEIER: The cash funds is actually the Water Sustainability Fund. I apologize if I said cash funds and if that's referenced in the amendment. It should be \$1 million out of the Water Sustainability Funds. They may say cash funds because they're a transfer out of the General Funds into the Water Sustainability Fund. [LB537]

SENATOR BOLZ: Okay. I may have to have you walk me through the amendment later. [LB537]

SENATOR WATERMEIER: Okay. I can do that. [LB537]

SENATOR BOLZ: I just...I'm not sure how that all comes together. My other sort of technical question is, you know, you're extending the long-term funding of the Water Sustainability Fund and then you have a reference about the budget review process and pushing that out to 2023. Can you just help me understand why? [LB537]

SENATOR WATERMEIER: Well, I think typically, and I don't really fully understand how new projects get started, and Senator Mello may be...explain it better than I, but I think the idea is whenever a new fund is created like that, it's expected that this committee will look at it in a period of time. And by extending it past the five years, it's going to get a couple of things. It's going to allow some transfers out of there for that \$3 million, if we decide to do that as a committee. But it also gives the sponsors behind me some reassurance that it's our intent. And obviously, we can't guarantee anything past the biennium that we work in, but it's certainly our intent that it will be continued for that many years. I think the big thing that that actually does behind the scenes is it puts it in the baseline budget. And Senator Mello is nodding. I think that's what it really does, it puts it in the baseline budget. So that's what will happen with the Water Sustainability Fund, is that there's \$11 million a year put into that fund with the idea that \$1 million will go to the Omaha project and \$10 million be available for everything else. [LB537]

SENATOR BOLZ: Okay. That's helpful. [LB537]

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SENATOR WATERMEIER: Okay. [LB537]

SENATOR BOLZ: Last question is can you just describe for me just a little--not my area of expertise--the Water Sustainability Fund. The criteria for that is different from the Resources Development Fund how? [LB537]

SENATOR WATERMEIER: I can tell you that, because if you heard about the projects behind me, a majority of those projects were flood control, recreation projects like Lake Wanahoo, the projects that are up in north Omaha, Pigeon/Jones, the one over here, Turkey Creek project through the Little Blue. Most of those are flood control projects. If you think back to 1974 when the state was looking at trying to fund these projects, they were thinking flood control, recreation. They had a list of criteria that they followed and they ranked projects looking at that. Now comes along 2013 and '14 and we're talking about Water Sustainability Fund. That whole water environment has completely changed. Now you've got research projects that look at water sustainability. You've got how you manage Interrelated Water Management Funds. You've got a whole list of things that are more important today, basically 35-40 years later, than they were in 1974. The environment has changed, not what we actually live in, the political environment has changed so that the ranking process in the Water Sustainability Fund is going to be quite different than what we ranked in criteria in Resources Development Fund. I'll just tell you, that's kind of it in a nutshell. It's going to be quite different. [LB537]

SENATOR BOLZ: Okay. [LB537]

SENATOR MELLO: Senator Haar. [LB537]

SENATOR HAAR: Does this include the dam that will flood Ashland or not? (Laughter)
[LB537]

SENATOR WATERMEIER: No, it does not. [LB537]

SENATOR HAAR: Okay. So...but my real question here, since the bridge has basically been built,... [LB537]

SENATOR WATERMEIER: Yes. [LB537]

SENATOR HAAR: ...and somebody has paid for that, who gets stuck if we don't come through with our obligation? [LB537]

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SENATOR WATERMEIER: Well, I could write the check out but it would come off a Disneyland account. You know, it's a tough thing to answer. I feel it's a state obligation. I really don't know how to answer that question. I think we'd be back every year talking about this fund. The state is not necessarily liable, on the hook, but we indirectly are because we've sponsored this. We've got cost share. We already have skin in the game. You know, we could be talking about \$30 million of requests if those sponsors wouldn't have gone out and borrowed the money ahead of time. I remember having a very distinct conversation with real estate agent Senator Langemeier, before he was even a legislator. He was worried about Lake Wanahoo. They had gone on the hook and went out and purchased the land right for that area, but thank goodness they did. They got ahead of the land rights and they got ahead of the curve on all those projects. They got the Corps of Engineers involved. They got the Department of Roads involved. I'm not sure that would happen today if they wouldn't have done that. So really, they took charge of those projects and decided to go out and borrow the money. I know Lake Wanahoo we spent about...I think the whole project, and Mr. Miyoshi could answer that, but I think it's almost \$30 million and we ended up investing \$8 (million) or \$9 million in that. So had they not done that, it could have even been higher yet. [LB537]

SENATOR HAAR: Thank you. [LB537]

SENATOR WATERMEIER: And then coming back to that point, you know, Lyndon, Mr. Vogt, had kind of skipped over it, I'm not sure how many of you caught it, but his project out at Grand Island has a 34 percent rate of return of investment. And what that means, for every dollar that the state of Nebraska invested in that, they're going to receive \$1.34 back. And I would challenge any of you to look at these funds that we fund. You just aren't going to fund...you aren't going to find another fund that has performed like this, a positive rate of return. And the number of homes, the number of...the area of Grand Island that's now protected is just incredible. I mean in all these projects we're required to have a 3 percent rate. Many of them were 10-20, and then that one was off the charts at 34 percent. But it's just an incredibly valuable project. I hope the new Water Sustainability Fund can come back 30 years later and defend that in the same regard. It's going to be a different environment. It's a different political environment. I don't expect them to look at things in the same way that we did in 1974, but the big difference also between those funds and what we bought in 1974 was those were a lot of federal funds that we matched with. I think it averaged 30-40 percent. We're not going to get those federal funds for these water sustainability projects. They're going to have to come from a lot different funding sources. [LB537]

SENATOR HAAR: It would be very interesting, after that 8-inch rain in Lincoln, at some point just to hear what the return on that. Because if we'd have had "O" Street flooded for four blocks in every direction all along Antelope Creek, that would have been tens of millions of dollars. [LB537]

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SENATOR WATERMEIER: Well, what is difficult for some people to understand, and you probably understand it better than most, Senator Haar, is what flood control really means. What does a flood plain mean? There weren't any businesses in there before Antelope Valley took that over. There were a few homes that were picked up and moved. Most of that wasn't there. It may have looked like it was. But you have the Beadle Center, the Assurity Building. All those buildings down there, they would be nonexistent because they stood in the flood plain. [LB537]

SENATOR HAAR: That's another point, yeah. [LB537]

SENATOR WATERMEIER: Yeah. [LB537]

SENATOR HAAR: (Inaudible). Thank you. [LB537]

SENATOR MELLO: Thank you, Senator Haar. Senator Nordquist. [LB537]

SENATOR NORDQUIST: With the amendment, we're going away from a one-time appropriation to a four-year, over four years. Is that right? [LB537]

SENATOR WATERMEIER: Five. [LB537]

SENATOR NORDQUIST: Five years. Can you just kind of address the change in that and when do we need to make these payments to NRDs? [LB537]

SENATOR WATERMEIER: Well, the NRDs will be ready to take the money. By the time we get them appropriated over a five-year period, they could do it. I think Mr. Vogt had mentioned his project will be done in four or five years. That was originally going to be seven or eight. But because they got the ammunitions green light from the Army Corps there, they're going to get done quicker. Part of the reason, I wrestled with this all summer long how I was going to do this and I really did not consult with any of the sponsors behind me. That's why I had two bills. I have a bill in Natural Resources that talks about strictly taking the money out of the Water Sustainability Fund, and I had this bill that talks about a one-time appropriation. And I mean obviously I did that for a reason. I wanted those people engaged to defend the money that we fought for and I knew they would show up here today. So in essence, I'm open for whatever suggestions we think we might have. I haven't suggested the Cash Reserve. That's another option. The reason I pared it down from a one-time \$15 million is they are realistically not going to get it done in at least three years. So I'm willing to spread it out in that regard too. Three point one four million makes sense because that's what we've had since 1974, so we're just extending that another five years to get it done. [LB537]

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SENATOR NORDQUIST: All right. Thank you. [LB537]

SENATOR MELLO: Any other questions from the committee? Seeing none, thank you, Senator Watermeier. [LB537]

SENATOR WATERMEIER: You bet. Thank you, committee. [LB537]

SENATOR MELLO: That will end today's public hearing on LB537 and take us to our last public hearing of the day on legislative bills, LB461 from Senator Pansing Brooks. [LB537]

SENATOR KINTNER: Welcome to our chamber of horrors.

SENATOR PANSING BROOKS: Yes, exactly. Are you ready?

SENATOR MELLO: Yes.

SENATOR HAAR: As long as it doesn't cost money. (Laughter)

SENATOR PANSING BROOKS: Don't...oh, we always come to Appropriations for free things.

SENATOR NORDQUIST: I'm sure this bill saves money. That's what they always say.

SENATOR PANSING BROOKS: Yeah, they're all free.

SENATOR HAAR: Famous last words, that's right.

SENATOR NORDQUIST: They all save money.

SENATOR PANSING BROOKS: (Exhibit 1) Senator Mello and members of the Appropriations Committee, for the record, my name is Patty Pansing Brooks, P-a-t-t-y P-a-n-s-i-n-g B-r-o-o-k-s, and I represent Legislative District 28 right here in the heart of Lincoln where we're sitting. I'm here to introduce to you my first bill in front of this committee, LB461. LB461 seeks to appropriate \$3 million annually to the Nebraska Forest Service for the Nebraska Tree Recovery Program. This is a grant program that has been in place since 1994 but has not been funded for over ten years. The program was put in place to provide a fifty-fifty match to communities for tree planting after an unusually harsh winter. Today communities are not asking for assistance

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due to harsh weather but, rather, due to a devastating insect. While the bill does not specifically mention the emerald ash borer, that is the problem I seek to address. The emerald ash borer is an exotic beetle that was discovered in southeastern Michigan near Detroit in the summer of 2002. It was likely brought to North America from Asia in packing materials in the mid-1990s. It is the deadly insect that is killing millions of ash trees across the Northeast. Right now I'm going to be passing around, Senator Kintner, a piece of bark, a piece of bark which shows the physical destruction of the emerald ash borer that it inflicts on ash trees. As you can see also by the map that I've provided to you, it is in our borders if not in the state already. It is only a matter of time before we discover it here. The mayor of Omaha spoke today and said that it has been found 30 miles across the river in Iowa. So it is on its way. This is a tremendous problem because of the destruction that it causes. Our Arbor Day Foundation statistics show that 66 percent of our state lives in a Tree City U.S.A. community. There are 103 Tree City U.S.A. communities that have been designated in Nebraska. Meanwhile, well over 50 percent of the ash trees will be lost in the first ten years of infestation and nearly 100 percent will be lost within the first 15 years of the first evidence of the bug. The Nebraska Forest Service estimates that the cost of removal and disposal of the tree will be around \$600 per tree, and further estimates that there are approximately a quarter of a million ash trees on public property in our communities statewide. This does not count any of the ash trees on private lands. The cost to removing the public trees and not replanting amounts to about 150 million statewide. This appropriation of \$3 million would allow communities to get ahead of this devastating problem and prevent a severe budget impact down the road. Property values and community values will be decimated over the next two decades. This legislation provides for a fifty-fifty cost-share grant program that would help municipalities spread the cost over several years and be able to gradually replace the trees. Trees are so important, both aesthetically and environmentally. They provide oxygen and clean air, and also every growing tree...every tree growing across our great state was hand planted or is the descendent of a tree that was hand planted by our predecessors. As we lose trees, property values will plummet, the health of our cities will decline, and our city coffers will be pillaged. You will see the numbers which affect your legislative district, in order to better understand the risks and costs to your communities. Let's plan for the future for our children and our grandchildren so they will love our state as we do. Investing in the battle against the emerald ash borer is sound and wise, and I urge you to pass LB461. Testifiers will follow me who are experts in this area and who can answer any of your technical questions, but I'm happy to attempt to answer any other thoughts that you may have and please hope that you have favorable consideration on this bill. Thank you. [LB461]

SENATOR MELLO: Thank you for your testimony, Senator Pansing Brooks. Are there any questions from the committee? See... [LB461]

SENATOR KINTNER: I got a little comment. [LB461]

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SENATOR MELLO: Senator Kintner. [LB461]

SENATOR KINTNER: See, I got to tell you, I was sitting there looking at it, talking to the city manager of the largest city in my district told me about this. Also, I fear, holy underwear, this is what they make baseball bats out of, so now we got problems. So I'm listening now. [LB461]

SENATOR PANSING BROOKS: Okay. [LB461]

SENATOR KINTNER: I figured out that ash trees are made of baseball bats (sic),... [LB461]

SENATOR PANSING BROOKS: Uh-oh. Yeah. [LB461]

SENATOR KINTNER: ...so my ears were opened. [LB461]

SENATOR PANSING BROOKS: Oh good. The Governor might be interested if baseball bats are the problem too. That's good. [LB461]

SENATOR KINTNER: There we go. So thanks for coming out. We appreciate it. [LB461]

SENATOR PANSING BROOKS: Thank you, Senator Kintner. [LB461]

SENATOR MELLO: Any other questions from the committee? Seeing none, thank you, Senator. [LB461]

SENATOR PANSING BROOKS: Thank you very much. [LB461]

SENATOR MELLO: Can I see a raise of hands real quick of how many people are planning on testifying on LB461? Okay. All right. [LB461]

SENATOR PANSING BROOKS: And also the mayor is also. He's testifying over in Revenue, so he will be here too, so. And we have cut down the number of testifiers because we know that everybody is ready to get out of here, so. [LB461]

DICK CAMPBELL: (Exhibit 2) Thank you. Chairman Mello and members of the committee, my name is Dick Campbell, D-i-c-k C-a-m-p-b-e-l-l, owner of Campbell's Nurseries and Garden Centers here in Lincoln. I'm here today on behalf of our company and the Nebraska Nursery and

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Landscape Association who you have a letter of support of this bill as part of the packet I am passing out. And we urge your strong support of LB461 that would increase the amount of money going to the Nebraska Tree Recovery Program. Historically, all across our state as well as the nation, as a population of one species becomes strong or dominate, as ash is in this state, there is a natural insect or disease that occurs that brings the species into balance. Oftentimes it is introduced by accident from international shipping to our country. And other times it develops in one state or area of the country and then moves by itself or through human and truck movement. We have many examples over the years with the decline of the American elm, the reduction of the chestnuts via chestnut blight in both native and community plantings, the fungus problems with many hawthorn species, as well as flowering crabapple trees, Scotch pine wilt, Austrian pine tip blight, and fire blight in many pear species as well as other flowering trees. We are approaching another crisis similar to the devastation that happened all across the United States with the introduction of Dutch elm disease and phloem necrosis. Entire communities had their tree canopy wiped out and it has taken over 70 years to reestablish that canopy most communities desire on the streets and parks, as well as in private residences. I'm referring to the emerald ash borer which was introduced in the United States, as Senator Pansing Brooks said, by an infected pallet coming into the Great Lakes port from China. The borer's natural desired food source is any species of ash, but it is now being found attacking other tree species also. Most of our natural woods throughout the eastern Midwest through to the mountain lowlands of Colorado, as well as the state of Nebraska, are covered with native and introduced ash species. This tree has been a mainstay for years to the community parks and streets, as well as dominant in the private landscapes. The insect has steadily moved from its Michigan introduction into Ohio, Illinois, and now east and west from there. It will soon be in Nebraska if not present already but unfound. This would provide a proactive plan to aid communities when faced with this problem. It will allow for dead tree removal and injections. Also, we could inject trees for a period of time to slow the costs of removal and replacement. The bill will restore over time the canopy all cities find important for the economics and aesthetics of their community. As you have to do...all you have to do is go to the top of this building and view in each of the four directions the present tree canopy of Lincoln, remembering that, other than along the waterways, all of the trees you see have been man planted. Then envision that canopy wiped out due to this insect as much as Lincoln is a heavy ash population. This fund would also help when communities are wiped out by a tornado or a bad snowstorm or windstorm and the damage that is created to the tree population. Just pull up a few pictures of Hallam or Pilger before and after the tornado to see the destruction and difference to the canopy of that community and the population that lives there. And this story could be repeated in almost every county in our state at one time or another. This is nothing more than building a reserve for the dark cloud that is approaching our state. It will be necessary not only soon but for a much extended future. As citizens of the state, we have always been fiscally conservative, saving and putting away money that we know will be needed in the future. When those times come, we then, as a state, are much more capable of taking care of the problems without raising taxes to solve the problem. This

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small amount of funding is our savings account and the costs if not done will be far more significant in the future and require major funding assistance and property tax increases for our citizens by both counties and cities. I urge your swift approval of this legislation. I thank you for your time. Are there any questions? [LB461]

SENATOR MELLO: Thank you for your testimony today, Mr. Campbell. Are there any questions from the committee? Senator Kintner. [LB461]

SENATOR KINTNER: Well, thanks for coming out. I'm going to assume you're kind of one of our experts here on this, so you know a little bit about trees. I didn't want to ask the senator this because you're probably... [LB461]

DICK CAMPBELL: I'd just say don't ask my wife. (Laugh) [LB461]

SENATOR KINTNER: Okay. There's no way to stop these things. [LB461]

DICK CAMPBELL: No. [LB461]

SENATOR KINTNER: You just try to clean up after they're gone. [LB461]

DICK CAMPBELL: There is an injection can be done. There's both a one-year and two-year injection that have been developed in Michigan and Ohio and have been tested. And the injection, for the most part, does a very effective job. It's a very high percentage that it will stop, but it must be done either every year or every two years. Our company's personal experience is that the two-year is not as good as the one-year treatment because there is greater cambium-- which is the life tissue of the tree underneath the bark--there's greater cambium damage from the two-year treatment. [LB461]

SENATOR KINTNER: Would cities apply to do the preventive measure or they just provide the cleanup of the mess and replant trees? [LB461]

DICK CAMPBELL: They would do both. [LB461]

SENATOR KINTNER: Okay. [LB461]

DICK CAMPBELL: And if there is an historically important ash, that one is probably going to be treated forever to try and save it until this goes away. If it's one that's protecting or is on the

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south or west side of a home, we will advise clients, when we start seeing it get here, to start injecting to save that tree because it removes heat during the summer and lowers air-conditioning bills and so on. [LB461]

SENATOR KINTNER: What's the cost per tree for the injection, preventive maintenance, whatever you call it? [LB461]

DICK CAMPBELL: A minimum of \$100 per year per tree. [LB461]

SENATOR KINTNER: All right. That's getting expensive. [LB461]

DICK CAMPBELL: Yeah. [LB461]

SENATOR KINTNER: Would...let's say we appropriate \$3 million right now, would there be cities, towns, counties, whoever, governmental units right now drawing the money immediately? [LB461]

DICK CAMPBELL: They could, if they decided that they wanted to become proactive and inject some of the trees. Our own company's personal advice to our clients is not to inject until we see an incident about 15-20 miles away from Lincoln. [LB461]

SENATOR KINTNER: Can you look at a tree and tell it's been infested? [LB461]

DICK CAMPBELL: Not at the very beginning. You can see there the hole that the borer, adult borer, makes to lay the eggs beneath is a little "D" shape. And if you went in and inspected the trees very closely, you might be able...I know you could find it. [LB461]

SENATOR KINTNER: You might be able to see it. A guy like me would never. [LB461]

DICK CAMPBELL: Yeah, because it's very small. But when you do notice it, the larva have been working for usually several years inside on the cambium layer of that tree. [LB461]

SENATOR KINTNER: Since we're trying to get ahead of the game, do you anticipate us not having the problems Ohio and Michigan and Illinois have had? [LB461]

DICK CAMPBELL: No. [LB461]

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SENATOR KINTNER: Do you think we can get ahead of the game and not... [LB461]

DICK CAMPBELL: We will still have the problems. [LB461]

SENATOR KINTNER: We will still have problems. [LB461]

DICK CAMPBELL: Yeah. It's impossible. Our daughter and son-in-law and grandson live in north Chicago in Libertyville, next to Lake Forest. And Chicago has been very good about setting aside wood preserves throughout the entire area of the larger community. And as we dealt with our daughter's GBS last year and back there 11 trips, I noticed that the woods, the native woods, are full of dead ash back there. And there's no way to be able to go into those woods preserves or, in our case, into along the Platte River. And ash is native and is one of the few trees that we can use pretty much statewide, and so that's why you see a predominant of ash. It's a native tree to Nebraska. Some of the newer species have been introduced, but all of them were affected. [LB461]

SENATOR KINTNER: You know, when you decide to run for the Legislature, you never think about ash borers or whatever. [LB461]

DICK CAMPBELL: Right. (Laugh) [LB461]

SENATOR KINTNER: And all of a sudden you find out, hey, you got to learn about this too. So I appreciate you taking some time to educate us today... [LB461]

DICK CAMPBELL: Thank you. [LB461]

SENATOR KINTNER: ...and for coming down here. [LB461]

DICK CAMPBELL: Thank you. [LB461]

SENATOR MELLO: Thank you, Senator Kintner. Any other questions from the committee? Senator Hilkemann. [LB461]

SENATOR HILKEMANN: Yeah. Now you said it's about \$100 a year for the injection of it. [LB461]

DICK CAMPBELL: Correct. [LB461]

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SENATOR HILKEMANN: And you can... [LB461]

DICK CAMPBELL: That's materials and labor. [LB461]

SENATOR HILKEMANN: Right. And...but that's an injection you're going to have to do ad infinitum. [LB461]

DICK CAMPBELL: That's correct. [LB461]

SENATOR HILKEMANN: Okay. [LB461]

DICK CAMPBELL: Yeah. And so the...at least the consensus right now in most of the communities and I believe with the Forest Service, who will testify in a minute, is that we need to inject some trees to slow it down so that all of a sudden we don't have in Lincoln 20,000 ash that are dead and we don't have the budget to take them all out at one time. So if we can take out, not inject some and when we lose them get them out of there right away, and then inject others to try and keep from...spread that loss out as much as we can and then replace as the trees are removed. But even if we do it immediately on the replacement with other species and we diversify our species, it's still going to take 20-30 years to regain that canopy. [LB461]

SENATOR HILKEMANN: The...now it came in on the...is it...now is it being dispersed by the birds? [LB461]

DICK CAMPBELL: No, it is mostly being dispersed by people hauling infected firewood. And some of the areas where it has popped up have been around rest stops, have been around campgrounds, that type of thing. But of its own movement, it can move half mile, a mile a year by itself. So the rapid spread that we've seen and I think you saw on the map that Senator Pansing Brooks passed out, the rapid spread across the country is due to movement of infected material. It used to be that there was some nursery stock that was infected that got moved, but that has clearly been shut off with state and federal inspections. [LB461]

SENATOR HILKEMANN: And are they trying to do anything about the movement of these? [LB461]

DICK CAMPBELL: Well, it's awful...you know, they're saying, yes, don't move firewood; only use firewood where you are; you know, buy it there. But that has not stopped people so far. [LB461]

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SENATOR HILKEMANN: Okay. Are they finding any...are they going to be utilizing the ash wood after it's been destroyed? [LB461]

DICK CAMPBELL: I don't know. I believe it has to be disposed of though to make sure that the larva are killed and don't mature. [LB461]

SENATOR HILKEMANN: Okay. [LB461]

DICK CAMPBELL: That's an area that I'm not as abreast in. [LB461]

SENATOR HILKEMANN: Okay. [LB461]

SENATOR MELLO: Thank you, Senator Hilkemann. Any other questions from the committee? Seeing none, thank you, Mr. Campbell. [LB461]

DICK CAMPBELL: Thank you. [LB461]

SENATOR MELLO: Next proponent for LB461. [LB461]

DIANA FAILLA: Hello, Senator Mello and Senators this afternoon. My name is Diana Failla, and I spell D-i-a-n-a, Failla, F-a-i-l-l-a. I am president of the Midtown Neighborhood Alliance in Omaha, Nebraska. The alliance consists of 16 midtown neighborhoods which are historic in district, pretty much the predominant density of the city. So...and I'm a former Landmark commissioner as well in the city. I'm a master gardener and an arborist, and I am founder of the Urban Bird and Nature Society which seeks to shape our urban landscape while also preserving natural habitat. As president of the Midtown Neighborhood Alliance, I also oversee the Midtown ReTree Program, which is the only retree program in the city of Omaha at the current time. Since 2009, the Midtown ReTree Program--and understand that this is fully by volunteers, so in kind is entirely community volunteers--has placed...has replaced and planted over 550 trees in our city parks, in our right of ways, and public properties and schools. So the retree program itself in Midtown has really committed people and dollars and we have spent \$149,000 for this program. Of course, this is through grants and aggressively really working with community organizations to replace our tree canopy and take sure that it remains healthy. Much of this was done due to diseased trees and also due to trees that go down in storms. Our old landmark district homes are in such areas that when we do have storms, our trees tend to go down in those areas. Even with all these strides, obviously \$149,000 is not a lot of money to replace trees. And with what is coming on now with the emerald ash borer, we definitely need far more funding. As you already know, that Nebraska is in the middle and we are surrounded by states that are already being

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quarantined, it is a federal quarantine to not take wood out of those states. And so we are surrounded by Kansas, Iowa, Missouri, Wisconsin, Colorado, and of course other states as Michigan, Indiana, Illinois, and federally quarantined and are also currently, of course, fighting the emerald ash borer. I know that there are those here that lived through and experienced the Dutch elm disease in Nebraska. Over 3 billion elm trees were lost to the Dutch elm in the United States. The emerald ash borer is predicted to wipe out 9 billion ash trees in a 15-year period. So over a 15-year period the tree is diagnosed. At one, two, three, it start...doesn't really show visible signs; three to five, starts showing what looks like maybe drought; and then at year seven is when it really plummets and you have at least a 70 percent death rate of the trees. I'd like to really just take...well, let me just say this. As president of the most densely populated historic district, 66,178 residents in my area fear that the character and the safety and economics of our vibrant midtown neighborhoods are going to change drastically and property values and safety and, of course, love of the place will plummet. Our older neighborhoods are known for their tree canopies. The trees are looked at as landmarks just like the homes are. Our boulevard systems, Elmwood Park, Turner Boulevard, I mean the community takes very much pride in the old boulevards and the old trees. And our newer...well, maybe not as new anymore but our newer neighborhoods, what used to be newer, such as Regency, I don't know if you're familiar with that area, in Regency Omaha, 970 and 946 ash trees are slated to be infected and will eventually die. So currently, parks, this is in Omaha and so I'm staying a little bit more focused for my testimony, but in Omaha, parks and the parks department is conducting an inventory. So they started on this early on to just be able to say how many trees are ash trees in these areas. Out of 505,000 trees in parks and right of ways, 6,500 of the trees in right of ways are ash trees, 4,340 are ash trees in parks, and 1,300 in libraries and fire stations and such. These do not include schools. And so overall, the estimate is 12,122 with a response of \$13 million, a cost response of \$13,019,028. This doesn't include 20...31,000 ash trees in public forested areas along the streams, and the inventory again does not include the school properties. But I really want to take just a quick minute to tell you to address the safety of lives and property because that, I think, is top and key for both private and public. While the ash is a beautiful tree and it's a hard wood tree, it's a very dangerous tree when it is dead. It's brittle. And so it's not like the elm trees that could stay up and be dead for a while and, you know, people noticed it and they're an eyesore when the tree is no longer alive. But at the same time, it's not quite as dangerous. The ash trees grow to about 120 feet and they stretch 70 feet wide. And so if they are dying or they are already dead, they break at the root line and the main crotches and they fall more easily than other trees at their branch areas. And so the trees we know don't know where they are and they don't know when to fall. And so the weakened trees I think pose as a possible imminent danger, or not possible. They are an imminent danger and we can't have those trees falling with students around and our children and our campuses as well. So older neighborhoods also have the overhead power lines, and when trees fall we have the added risk of hot wires as well. And so another safety issue is that ash trees sucker at the base and they cover stop signs and other important signs as well. And I see you're needing to cut me off, yes. (Laugh) [LB461]

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SENATOR MELLO: The red light is on, so. Thank you so much for your testimony, Ms. Failla. Are there any questions from the committee? Seeing none, thank you. [LB461]

DIANA FAILLA: Thank you. Thanks. [LB461]

SENATOR MELLO: Next proponent for LB461. [LB461]

CHRIS BEUTLER: (Exhibit 3) Mr. Chairman, members of the committee. My name is Chris Beutler. I'm mayor of the city of Lincoln, delighted to be here today and to thank Senator Pansing Brooks for bringing this before you and to thank you for listening here this morning. I rarely testify before the Legislature, but I had two bills at the same time. So I'm sorry I've missed the thread of the conversation to a certain extent, but I'm here today to put a bug in your hand and to put a bug in your ear--the emerald ash borer for you to pass around. And let me say quickly a few things and I hope I'm filling in quickly some gaps perhaps in your information. As Senator Pansing Brooks noted in her opening statement, the bill restores funding, this time to the level of \$3 million annually, obviously to the Nebraska Tree Recovery Program. This is an existing statewide grant program that helps fund the cost of removing, disposing of, and replacing public trees with a 50 percent cost share from the communities. Dr. Scott Josiah, our State Forester, will tell you a bit more about the history of the program, which has historically assisted communities by responding to natural disaster events. I want to focus my testimony, obviously, on the new threat to our urban forest--the emerald ash borer. Community forests across Nebraska are going to see damage from this bug. This bug is highly invasive, nonnative insect that attacks and kills all species of North American ash trees. It's decimated the ash tree population in 25 states now, and as of this moment in time it's been detected in Iowa and Kansas City and has skipped across to Colorado. While this bug has not been detected in Nebraska, experts advise us that it's likely already here. It is difficult to detect in early stages. Although we have not yet confirmed the presence, it's critical that communities plan and act now. We are told this by all of our foresters. We do not have the luxury of simply waiting around until it is detected because experts have advised us the detection methods are highly imperfect. By the time it's confirmed it will have typically been in a community for three to six years already. I've distributed to you a chart that indicates ash tree deaths increase exponentially and on a large scale beginning the sixth and seventh years after the initial introduction into the area. A tree typically dies within just a few years of infestation and they're killed by...those that are killed by the bug, as you just heard, are extremely brittle, much more so than other trees when they die. They literally fall apart, causing hazards to property and to public infrastructure and to people. In short, if communities wait until EAB is officially detected here in Nebraska to plan and to take action, it will be too late to properly manage the risk and spread it out over the years so that it can thoughtfully and methodically be dealt with over the time in which it is happening. The mortality rate of the trees if we don't take advanced action will simply overwhelm communities and exceed their ability to respond, creating public safety dangers. So what can we do? We can

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educate our communities about the impact, and we've been in the process in Lincoln of doing that for about a year and a half now. It's very hard to educate people to the fact that they may have to bring down healthy ash trees, a political problem for us, to say the least. But I want to thank our state resources and the League of Nebraska Municipalities for also leading the way on education efforts. And hopefully this bill introduction and what you do will also help in that regard. Secondly, we can take proactive steps in our community by removing the ash trees that are old and in bad condition early on so that we can get that part of the work out of the way. In Lincoln, we are starting to take down some and we're replanting with a diversity of well-adapted, long-lived trees of other species. Other than that, we can engage our communities in the conversation about the long-term funding strategies for responding to this particular natural disaster. Here in Lincoln, I would note that more than 10 percent of our public trees are ash. We have 12,000 ash trees along our streets, public ash trees, and 2,000 ash trees in our parks. As the handout indicates, the valuations that we have done project a \$23 million cost over 13 years. At this point, our projections include only street trees, not our park trees; nor did it include private trees, obviously. And these projections do not include the cost of disposing of wood waste, which we are still researching. So these are big numbers and these are just Lincoln's projections. So we are in the unusual mode perhaps of asking the Legislature to respond, help us respond early on to this threat, which we know to be real and which has proven to be totally destructive in a large number of states already. We want you to know that your communities do need your help. This bill will help us to get ahead of the curve and to avoid a number of risks associated with public safety. I did want to note that, turning to the chart again for a moment, that our current response plan also includes treatment of a certain number of the trees each year, which you'll see in the highlighted area of the chart in pink. Our experts advise us that current treatment options will not ultimately save the life of the tree, but treatment will expand that death curve out over a larger number of years, giving us more time and resources to apply to the removal of dead and dangerous trees. So although the current language of the Tree Recovery Program, as it's in our statutes now, would not allow state grant dollars to be used for treatment, we expect those costs might be part of the local matches that will be provided by the local communities. So I think I've probably gone on long enough. I hope that's some information that's been valuable to you. We certainly would be willing to work hard to provide you additional, you or your staff, additional information and additional help in defining the program. But we certainly could use your help on this one. [LB461]

SENATOR MELLO: Thank you for your testimony this afternoon, Mayor Beutler. Are there any questions from the committee? Senator Haar. [LB461]

SENATOR HAAR: I was for this until I...I think they're kind of pretty. [LB461]

CHRIS BEUTLER: Do you really? (Laugh) [LB461]

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SENATOR HAAR: Little green bugs. This is just a suggestion. To let us see the impact of this, I would suggest that one day when the Legislature is in session to, within a five- or six-blocks area, put a yellow ribbon around all the ash trees. [LB461]

CHRIS BEUTLER: Well, that's a good thought. [LB461]

SENATOR HAAR: We need some show and tell to see what effect this is going to have on Lincoln. [LB461]

CHRIS BEUTLER: We most certainly would do that if the committee were interested in that. [LB461]

SENATOR HAAR: I'd be interested. [LB461]

CHRIS BEUTLER: Okay. We'll do it for you. [LB461]

SENATOR HAAR: Thank you. [LB461]

SENATOR MELLO: Any other questions from the committee? Seeing none, thank you for being here today, Mayor. [LB461]

CHRIS BEUTLER: Thank you, Senator. [LB461]

SENATOR MELLO: Next proponent for LB461. [LB461]

LYLE MINSHULL: Good afternoon, Senators. I am Lyle Minshull, that's L-y-l-e M-i-n-s-h-u-l-l. I'm the park and cemetery supervisor for the city of North Platte. Therefore, I can accommodate you any part of your life, so. Anyhow, and I also now serve as the chairman for the Nebraska Community Forestry Council. Members are seated on the council, you know, represent many organizations, administrations of the green industry, such as the Arborists Association--and you heard from nurserymen, Landscape Association already--utilities, natural resources districts, municipal parks and public spaces, master gardeners, and local tree board members. We work hard alongside the Nebraska Forest Service in an advisory capacity for quite some time now, including the initial funding of the Nebraska Tree Recovery Act. It's the mission of the Community Forestry Council to promote sound stewardship of our community forest resource, and we have partnered with the university's Cooperative Extension, Nebraska Statewide Arboretum, Nebraska communities and its citizens to emphasize tree advocacy and educational

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programs. We have counseled on many green infrastructure grant programs with the Forest Service and it gives us benefit in serving as an advisory role, overseeing, supporting development of potential granting opportunities such as the Nebraska Tree Recovery Act and as it relates to the interest of the communities and the industry partners. I'd like to start out by sketching a picture of a time line and then go back and look at a little bit of a success story then. Two thousand eleven, you know we had a Missouri River flooding. We had more water than we could use, but it did kill 6,250 trees in Omaha, Bellevue, and South Sioux City, and that cost about \$5.1 million for removal, disposal, and replanting. Two thousand twelve, we had the opposite. We had the drought. We had no water and tens of thousands of community trees across the state have died, costing millions of dollars for removal, disposal, and replanting. Chadron in 2013, they weathered a severe snowstorm up there and it was early, and so they ended up spending \$170,000 to remove their woody debris up there. Two thousand fourteen, we experienced several tornadoes and high winds. The communities of Pilger, Beaver Crossing, Sutton, Wakefield, Burwell, and Stuart lost 5,650 trees, costing them a total of \$4.4 million for removal, disposal, and replanting. Now, you know, obviously you've heard about it, we have nearly 1 million ash trees that are in jeopardy. And that EAB, which is an acronym for emerald ash borer obviously, if you haven't heard that yet, has a potential to kill every ash tree in the Nebraska communities. And the estimates to, you know, for response to that is probably going to average about \$1,074 per tree. Now a success story: North Platte, we had the opportunity to use this Nebraska Tree Recovery Act money starting back in '96, and we removed several trees that were dead or dying due to a deep freeze that we experienced in the early '90s. And we continued to use that Recovery Act money through 2002. The first year we removed 335 trees with this money and the last year, 2002, was as low as 75 trees. We received the money as a grant sharing of 50 percent for removal, stump grinding, and replanting cost. North Platte carried 25 percent of that matching cost and encouraged North Platte residents, on a volunteer basis, to carry the other 25 percent of the cost. And so the contractor costs back then was \$100 and \$150 a tree. I wish we could go back to that but, obviously, that ain't going to work that way now. But therefore, it was only \$25 to \$38 to...cost to the Nebraska residents. One of the stipulations of the grant was to purchase two trees to plant for every tree removed. City of North Platte purchased these trees and added an educational component to the program by offering trees to be planted in the city nursery by 3rd graders on Arbor Day. We had a little bit of child labor there, so that's...we won't go any further with that one. But since, those trees have been replanted in all the parks and all the public grounds that we have in North Platte. Due to budget limitations, North Platte was never, you know, would have never been able to completely recover from that devastating freeze. Dead trees removed and liability was reduced. Many other communities never completely removed or replanted the public trees lost in storms. As a result of these limitations, we experienced a reduction in community vitality, attractiveness, and economic development opportunities. And now North Platte is beginning to see a need for a proactive response for this other calamity--the emerald ash borer. We know for certain that the emerald ash borer will have a huge effect on our community and we certainly don't want to see it, you know, want to burden our already weighed

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down budget. North Platte again would like to ask for assistance to help spread the cost over the next few years rather ignoring the foreseeable due to budget constraints. The emerald ash borer management cannot be avoided again. We're going to need to see a removal of 400 to 600 trees. That figures into \$47,000 to \$56,000 per year for the city of North Platte. Our current budget for removal for trees is only \$3,500 and that is if, you know, if we cut other tree-related funding out and join it in. And in doing that, you know, it will force us to skip at least, you know, a decade of active management of other canopy needs and goals. As you know, our trees are assets to North Platte and all the Nebraska communities. Retail businesses show an increase in sales when storefronts are framed by trees. Complete street tree infrastructure policy provides for walkability and safety as well as transportation. That includes trees. Utility manage power loads by looking for means of reducing cooling/heating cost, that which includes trees. Developers and homeowners look to increase their real estate value. One proven method--include trees. I strongly encourage you to fund again the Nebraska Tree Recovery Act through LB461. Any questions? [LB461]

SENATOR MELLO: Thank you for your testimony, Mr. Minshull. Are there any questions from the committee? [LB461]

LYLE MINSHULL: Thank you. [LB461]

SENATOR MELLO: I've got one question actually in regards... [LB461]

LYLE MINSHULL: Sure. [LB461]

SENATOR MELLO: ...you specifically mentioned your current budget is about \$3,500 a year. [LB461]

LYLE MINSHULL: Correct. [LB461]

SENATOR MELLO: Has that been pretty...I mean has that been a pretty stagnant appropriation in your city budget, or does that kind of ebb and flow depending upon city finances? [LB461]

LYLE MINSHULL: Well, we, you know, the last few years our focus was on removal of trees that we still experience for Dutch elm disease. [LB461]

SENATOR MELLO: Uh-huh. [LB461]

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LYLE MINSHULL: And we have been as high as \$10,000, \$5,000. And that cost has been reduced. And so... [LB461]

SENATOR MELLO: Okay. [LB461]

LYLE MINSHULL: ...and they come to us to reduce our cost and reduce our budget. And so this is one area that we have done to reduce that, so. [LB461]

SENATOR MELLO: Okay. All right. Thank you. Any other questions from the committee? Seeing none, thank you, Mr. Minshull. [LB461]

LYLE MINSHULL: Uh-huh. [LB461]

SENATOR MELLO: Any other testifiers here on LB461? [LB461]

SCOTT JOSIAH: (Exhibits 4 and 5) I have two handouts. Thank you. Good afternoon, Senator Mello and members of the Appropriations Committee. My name is Scott Josiah, S-c-o-t-t J-o-s-i-a-h, and I am the State Forester and director of the Nebraska Forest Service. Thank you for this opportunity to provide information to the committee on LB461, which would appropriate funds to the existing Tree Recovery Act. As I am testifying in a neutral capacity, my purpose today is to provide the committee with information regarding the Tree Recovery Act and of threats to community trees. [LB461]

SENATOR MELLO: Dr. Josiah, is it possible I could hold off if you're going to testify in the neutral capacity? Could I just wait and see if there's anyone here in opposition first? [LB461]

SCOTT JOSIAH: Okay. [LB461]

SENATOR MELLO: Is that all right? [LB461]

SCOTT JOSIAH: Yep. [LB461]

SENATOR MELLO: Is there anyone else here in support of LB461? Seeing none, is there anyone here in opposition to LB461? Seeing no one, Dr. Josiah, please continue in the neutral capacity for LB461. [LB461]

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SCOTT JOSIAH: Thank you very much. The Tree Recovery Act as passed by the Legislature in 1994 as a result of severe weather, a severe freeze that killed millions of trees statewide. Due to budget cuts, by the time the early 2000s rolled around, the act no longer received any funding though the statute still exists on the books. Others have testified about emerald ash borer, so I'm not going to go into a lot of specifics unless you, of course, have questions, but there are three key messages to remember about EAB. One is that EAB is going to cost Nebraska communities an enormous amount of money. Trees killed by...number two, trees killed by EAB quickly become a risk to life and property. And number three, not replacing nearly 1 million trees in our communities, ash trees lost to EAB, means an annual loss of nearly \$97 million in measurable environmental services. Property values will also decline, as will the tax base. It will cost municipalities \$275 million statewide to remove, dispose of, and replace 256,000 public ash trees in virtually every city and town across Nebraska. EAB will also kill 640,000 additional ash trees on residential properties, private land, and more than 43 million ash trees in our forests. LB461 only addresses the public tree needs in cities and towns. To visualize just where the ash is, I love the idea of tying a ribbon around some of the ash trees around the Capitol. But just look south on Goodhue road or avenue right there next to the Governor's Mansion and all of those threes, there's four rows, are solid ash trees. All the trees in the parking lot are ash trees. A number of large trees around the Capitol are ash trees. So right here is going to be a significant impact. Some facts about EAB that we have learned from the experiences of other states...now 25 states have emerald ash borer so we are in a good position to learn from them. Avoiding dealing with EAB only increases and concentrates the cost into a shorter time period. It is highly likely that EAB is already infesting trees in Nebraska. Most, 70-80 percent, of the ash mortality in a community occurs within five years after EAB is detected in that community, concentrating and dramatically increasing costs over a very short time period, and quickly overwhelming community budgets, personnel, and resources. Ash trees that are dead for more than two years are dangerously unstable and are a serious risk to life and property. I think all the testifiers have repeated all of these statements. Community tree budgets already cannot keep up with current mortality. We have statistics going back, inventory statistics going back to 1970s. And when we compare those same communities to today, we've lost 50 percent of the number of trees. In addition to assisting communities with EAB, the Tree Recovery Act would also help communities respond to severe weather events. Since 2011, Lyle mentioned, that severe weather events have killed tens of thousands of public trees in communities from Chadron to Omaha, costing well over \$10 million. Through a fifty-fifty competitive grants program, LB461 through the Tree Recovery Act would assist communities in dealing with these dual threats through cost-share assistance, and will provide a "slow the spread" strategy to reduce EAB population growth. Investing in this strategy would allow communities to use chemical treatments as part of the overall strategy. This is a temporary solution--chemical treatments are not a permanent solution--to help reduce mortality and spread it out over a longer period of time. It provides municipalities more time to spread out the inevitable cost and to budget this more appropriately into their ongoing budgets; permits preemptive removals of declining and hazardous ash trees; improves

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rapid detection, removal, and processing of infested trees; and allows for immediate replanting and restoration activities so that crown or that canopy cover can be restored quickly as possible. And it creates opportunities really for disposal and use of the massive quantities of wood in new ways, and we're investigating that through a separate program of the Nebraska Forest Service. According to the existing statute, the Nebraska Forest Service would administer and distribute Tree Recovery Act funds via a competitive grants program to communities statewide. The Nebraska Forest Service is administratively housed in the University of Nebraska. For this reason, these funds would be appropriated to Program 51, the University of Nebraska. None of this money would be used for ongoing university programs. The entirety would be allocated to the Forest Service, which would distribute the funds to communities according to the existing statute. Nebraska is in an unusual position in that we can learn from the experiences of other states on how to best deal with EAB. In fact, EAB is one of the few disasters that we can get ahead of. LB461 will help to slow the spread of this insect, reduce its costs to municipalities across the state, and reduce risks to life and property. I'd be happy to answer any questions you might have. [LB461]

SENATOR MELLO: Thank you for your testimony, Dr. Josiah. Are there any questions from the committee? Senator Haar. [LB461]

SENATOR HAAR: Yeah, and I ask this in all seriousness. Before people...before settlers came to Nebraska, trees were really uncommon in a way. And then we had Dutch elm disease that wiped out so many, red cedars that have come in are weeds, and now this. Do we need to look for some kind of tree that can really survive in Nebraska or, I mean, is this a waste of time and it's just going to happen again? [LB461]

SCOTT JOSIAH: Well, it could happen again. We could have another pest from China come in. But the recommendations of the Nebraska Forest Service is to never plant more than 2 or 3 percent of your total species mix being of one species, so that if another insect comes in, it would only remove 2 or 3 percent. It wouldn't be 10 or 15. Some of our communities are up to 35 percent ash. That was a reaction. I don't think we all learned our lessons. Our communities didn't learn their lessons after the Dutch elm disease, which was overplanted. American elm was way overplanted as a street tree. When all those came down, the next species of choice was ash. It did well in our challenging plains environment. We have other programs called ReTree Nebraska. We have a whole diversity of species now that we recommend. So I don't think that those problems would be repeated. I think diversity is the answer. [LB461]

SENATOR HAAR: So maybe we've learned that lesson. [LB461]

SCOTT JOSIAH: I hope so. We certainly have. [LB461]

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SENATOR HAAR: Okay. Thank you. [LB461]

SCOTT JOSIAH: Yeah. [LB461]

SENATOR MELLO: Senator Bolz. [LB461]

SENATOR BOLZ: Can you help me understand? You referenced the Tree Recovery Program is a competitive grant process. It sounds to me as though, in order to respond to emerald ash borer, you need kind of a strategic approach. Is the language in the bill sufficient such that you could have a strategic approach to addressing this threat, or do we need to change the underlying language? Can you just help me understand how we'll be able to use that tool to specifically address this problem? [LB461]

SCOTT JOSIAH: Yeah. The grants program is fairly well defined within the existing Tree Recovery Act, however, it leaves a lot of latitude up to the Nebraska Forest Service for designing an approach, a strategic approach if you will, to that, to the distribution of funds. I would imagine that the...and we haven't done this yet so I'm sort of speculating at this point, but we would probably establish priority areas within the state. We would establish grants. Grant proposals would come in and we would consider those grants based on the number of trees that were at risk, the proximity of emerald ash borer, the infestation rates of emerald ash borer, those kinds of factors to put a strategic focus on allocation of dollars. [LB461]

SENATOR BOLZ: And you have the latitude to do that now? [LB461]

SCOTT JOSIAH: Within the law, we currently do. [LB461]

SENATOR BOLZ: Okay. [LB461]

SENATOR MELLO: Thank you, Senator Bolz. Any other questions from the committee? Senator Hilkemann. [LB461]

SENATOR HILKEMANN: Not really a question, just a comment. I appreciated you...this handout that you gave. As one who loves going to Summit County, Colorado, and has seen the devastation of the pine beetle out there, when you were talking about...I was envisioning our Lincoln and Omaha looking like Breckenridge Road with the total destruction of the trees there. And so at least it's, while it's bad, it's 10 percent bad, not the whole forest. [LB461]

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SCOTT JOSIAH: That's correct. Ten percent is a big number in terms of community trees. [LB461]

SENATOR HILKEMANN: It's a big number. [LB461]

SCOTT JOSIAH: Unfortunately, it's about a third of our native forests, so we'll lose a lot of native trees in our riparian areas. Those are traditionally elm, ash, cottonwood forests, so it's one-third of the component of our forests. [LB461]

SENATOR HILKEMANN: Yeah. [LB461]

SENATOR MELLO: Thank you, Senator Hilkemann. Any other questions from the committee? Seeing none, thank you, Dr. Josiah. [LB461]

SCOTT JOSIAH: Thank you. [LB461]

SENATOR MELLO: Are there any other testifiers in the neutral capacity? Seeing none, Senator Pansing Brooks, would you like to close? [LB461]

SENATOR PANSING BROOKS: Yes, I would just briefly. Thank you. I'd like to thank all the testifiers today. I think that they all provided really good information. I would just like to add and suggest that this is not only a safety issue, as we've heard, because we heard that these trees are dangerous when they're dead. So that will affect, of course, communities and schools and all sorts of places. They become brittle. The trees are 120 feet high and about 70 feet wide. So those are real issues for our communities. But I would also suggest that it's an economic development issue for our state. As we're trying to bring in business and we're trying to do whatever we can to make this a desirable place to stay and to settle and to bring in businesses that will provide jobs for our future and for our children and families, we need to remember that the trees and the canopy are part of what attract people to Nebraska. And the beauty that we have here, not only our schools and some of the other wonderful things that we have, but I would suggest that we need to be foresightful and take care of some of the beautiful treasures that we have in this state. And I would argue that one of those things is our trees. Thank you so much for the time and have a great three-day break. [LB461]

SENATOR MELLO: Thank you, Senator Pansing Brooks. Are there any questions from the committee? Senator Haar. [LB461]

SENATOR HAAR: I've been looking at this. There's something moving in here. [LB461]

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SENATOR PANSING BROOKS: Uh-oh. You keep it. (Laughter) [LB461]

SENATOR HAAR: No. Thank you. Come talk to me about the ribbons. I think we need a show and tell. [LB461]

SENATOR PANSING BROOKS: I like the ribbons. That's a good idea. Okay. [LB461]

SENATOR MELLO: Seeing none, thank you. [LB461]

SENATOR PANSING BROOKS: Thank you very much for your time. [LB461]

SENATOR MELLO: (Exhibits 6, 7, 8, and 9) The committee should have received letters of support, the first letter from the city of Omaha, Mayor Jean Stothert, to Senator "Health" Mello and the Appropriations Committee (laughter); a letter of support from the Nebraska Chapter of the Sierra Club; the Omaha City Council; the Nebraska Nursery and Landscape Association. That will end today's public hearing on LB461 and take us to our first of four agency hearings for the day. [LB461]