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Natural Resources Committee
February 01, 2017

[LB390 LB536]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, February 1, 2017, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB390 and LB536. Senators present: Dan Hughes, Chairperson; Bruce Bostelman, Vice Chairperson; Joni Albrecht; Suzanne Geist; Rick Kolowski; John McCollister; Dan Quick; and Lynne Walz. Senators absent: None.

SENATOR HUGHES: I believe we will call the meeting to order here, the hearing to order. Welcome to the Natural Resources Committee. I am Senator Dan Hughes; I'm from Venango, Nebraska, and represent the 44th Legislative District. I serve as Chair of this committee. The committee will take up bills in order...in the order posted. Our hearing today will be your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing; this is just part of the process as we have bills to introduce in other committees. I would ask you to abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserved chairs in the front row when you are ready to testify, and these are the first two chairs on either side labeled "the queue." Introducers will make initial statements followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sheet that is on the table by the back of the room. Please fill out the green sheet before you testify. Please print as it is important to get a complete...to complete the form in its entirety. When it's your turn to testify, give the sign-in sheet to the committee clerk or to a page. This will help us have a more accurate public record. If you do not wish to testify, but would like your name entered into the official record as being present at the hearing, there's a separate white sheet on the tables that you can sign for that purpose. This will be part of the official record of the hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. If you have handouts, please make sure you have 12 copies and give them to the page to distribute to the committee. When you come up to testify, please speak clearly into the microphone; tell us your name and please spell your first and last name to ensure that we have an accurate record. We will be using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining and the red light indicates that your time has ended and you need to wrap up. Questions from the committee may follow. No displays of support or opposition to a bill, either vocal or otherwise, will be allowed at a public hearing. The committee members with us today will introduce themselves beginning to my far right...my far left, I'm sorry.

SENATOR KOLOWSKI: Senator Rick Kolowski, District 31 in southwest Omaha.

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SENATOR GEIST: Senator Suzanne Geist, District 25, east side of Lincoln and north to Waverly.

SENATOR QUICK: Senator Dan Quick, Grand Island, Nebraska; District 35.

SENATOR WALZ: Lynne Walz, District 15, which is all of Dodge County.

SENATOR HUGHES: And to my right.

SENATOR ALBRECHT: Senator Joni Albrecht, Legislative District 17; it includes Wayne, Thurston, and Dakota Counties.

SENATOR McCOLLISTER: John McCollister, District 20, central Omaha.

SENATOR BOSTELMAN: Bruce Bostelman, District 23, Saunders, Butler, and most of Colfax Counties.

SENATOR HUGHES: Okay. To my left is committee counsel, Laurie Lage. And to my far right is committee clerk, Mandy Mizerski. Our pages for today are Heather Bentley from Miller, Nebraska; she's a freshman at UNL studying agriculture and economics. And Lee-Ann Sims from Lincoln; she is a sophomore and is at UNL studying political science and global studies. So with that we will open our first hearing on LB390. Senator Albrecht.

SENATOR ALBRECHT: Good afternoon, Chairman Hughes, fellow colleagues. My name is Senator Joni Albrecht, it's J-o-n-i, Albrecht, A-l-b-r-e-c-h-t; and I proudly represent Legislative District 17. LB390 would amend current law governing storm water management bonds issued by the Papio-Missouri River Natural Resource District. In 2009, the Legislature adopted LB160, a bill that enabled the Papio-Missouri River Natural Resource District to issue flood protection and water quality enhancement bonds. It was the first time the Legislature allowed the natural resource district to have this special bonding authority. As a result, the counties and Papio-Missouri River NRD authority was Douglas, Sarpy, Burt, Thurston, Dakota, and Washington Counties. They were greatly disadvantaged because of a single word "exclusive." Before the Papio-Missouri River Natural Resource District can issue bonds or expend funds, current statutes says that a county board may pass a resolution if they oppose a reservoir or water quality basin that is greater than 20 acres. However, the reservoir or water quality basin must be within its exclusive zoning jurisdiction. The problem is, particularly in Douglas County, the city of Omaha has three...a three-mile zoning jurisdiction while the cities of Valley, Waterloo, Bennington, and Washington each have a one-mile zoning authority. There's almost no exclusive zoning

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jurisdiction in Douglas County, so there's virtually no authority to question the validity of a project in their zoning jurisdiction. This bill simply amends the statute to remove the word "exclusive." LB390 makes a reasonable correction to ensure fairness to all counties within the Papio-Missouri River Natural Resource District's authority. There are testifiers behind me that can answer specific questions, but I will be glad to try to answer any of the questions that you may have. [LB390]

SENATOR HUGHES: Okay. Thank you, Senator Albrecht. Are there questions for Senator Albrecht? Seeing none, will you stay for close? [LB390]

SENATOR ALBRECHT: Sure. [LB390]

SENATOR HUGHES: Okay. Next testifier? And you're a proponent correct? [LB390]

MICK MINES: Proponent. [LB390]

SENATOR HUGHES: Okay. [LB390]

MICK MINES: (Exhibits 1, 2, 3, 4) Yes, sir. Mr. Chairman, members of the committee, my name is Mick Mines, M-i-c-k M-i-n-e-s; I'm the registered lobbyist for the Papio Valley Preservation Association, or PVPA. My role today is to give the committee some background on what was LB160 in 2009. At that time, the Papio-Missouri NRD was seeking bonding authority and there was great discussion in the Legislature and great debate, as you will see by the handout, that there's one of them that has yellow highlighter and I'll touch on those. One of the other handouts is LB160 itself and it highlights the word "exclusive authority." And during that debate there were a number of people involved, former Senator Tim Gay introduced the legislation on behalf of the Papio Valley...Papio NRD. And there was a lot, there were amendments; there were, I think there were five amendments that were passed, a number that were not. And I'd like to go through again, as you're getting this handed out, I'd like to go through some of the debate that happened--floor debate, and why we believe that the word "exclusive" was inadvertently inserted. Let me just start with, again this is in 2009, and this Natural Resource Committee advanced it to General File. But Senator Langemeier, at the time, was the Chair of the committee. And this is direct testimony...or direct debate on the floor. And he said, and the last thing we need amended into this amendment, AM735 at the time, it would allow the county boards to block projects over 20 acres, or surface acres. For the board to do a bond on a project larger than 20 surface acres they would require the county board have the ability to pass a resolution saying they are in support. So they didn't get that support, they would not be able to bond any projects larger than 20 acres; essentially, giving the county veto power over any reservoirs over 20 acres. With the word "exclusive" in the language, it has been interpreted

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otherwise and projects have gone forward where the Douglas County Board doesn't have an option to vote. At that time, Senator Fischer, also a member of this committee, said it also allows a county board to block the use of bond proceeds for projects that are greater than 20 surface acres. The board, if they pass a resolution stating they do not approve, that ends the project. I think we all need to be aware this is a very big issue. Senator Gay on...this is during floor debate, floor debate I see...excuse me, Senator Price asked Senator Gay a question on the floor: "We're going to build a dam that's going to cost, I don't know, a project of \$15 million in Douglas County. Who's going to be...which county is going to have the authority to say yes or no?" "Douglas County," was the answer by Senator Gay. So all the counties pay for it. One county board could make the decision to allow it to go forward or not. They could opt out, yes. The county could opt out, that's right. And then Senator Gay and different testimony said--for regional flood prevention, yep, everyone is on the hook to pay. And one county to protect the minority could opt out. Douglas County could opt out if they wish...if they would wish to if a dam were in the county. If it's in the city, it's not necessary. So he's saying the city has zoning authority to opt out of any of these bonding authorities and dam projects, d-a-m projects. And there is much, much more I'll go into, but it's clear that the intent during debate, in fact, not the intent, the actual testimony of the senators involved, particularly Senator Gay who was the introducer, and if the final statement on the last page, again, by Senator Gay, that if you're going to have this, the county board would have a public hearing. And that was very important to the counties and that's what this new amendment puts into place; one word in there. So they inserted "exclusive" intending this to be exclusive for the county to opt out of allowing an NRD in the metropolitan...with a metropolitan city and the NRD to not only build a dam site, but fund it with the bonding authority that they've received. I've ended my time and I'd be glad to answer any questions. [LB390]

SENATOR HUGHES: Thank you, Mr. Mines. Are there any questions? John...excuse me, Senator McCollister. [LB390]

SENATOR MCCOLLISTER: Yeah, thank you, Mr. Mines. The map you gave us is of the Papio NRD, is that correct? [LB390]

MICK MINES: It's a map of Douglas County and Washington County, and there's Thurston, Burt, and Dakota Counties also in the NRD. But yes, Washington County and Douglas County are these two maps. [LB390]

SENATOR MCCOLLISTER: And so where that dam is located determines what county board has the authority to approve or disapprove the project? [LB390]

MICK MINES: Right. [LB390]

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SENATOR McCOLLISTER: So if there's a dam, let's say, in Washington County, even though Nebraska or Omaha would receive a flood benefit, those folks in Washington County can go up or down on the project? [LB390]

MICK MINES: The location of the dam site would be...you could have a dam site bordering both counties. In which case, that's not exclusive zoning jurisdiction. And if you look, only the pink areas are exclusive zoning jurisdiction in Douglas and Washington County. You might note, in Washington County, for instance, the Papio Creek runs through the middle and dam sites have been proposed, very large dam sites, that's why Papio Valley is involved, that would...well, they would take up all the village of Washington. But the village of Washington, village of Kennard, and the city of Blair have zoning authority, as does Washington County. But they don't...Washington County doesn't have exclusive zoning authority so they can't enter into a discussion; they can't have a hearing, and they can't say that they don't want it in their county. [LB390]

SENATOR McCOLLISTER: So with the proposed legislation, if a lake were in two counties, both counties could either opt in or opt out. [LB390]

MICK MINES: No, not with the current language; not with "exclusive" because neither one has exclusive authority. [LB390]

SENATOR McCOLLISTER: But the proposed legislation... [LB390]

MICK MINES: Yes, yes. [LB390]

SENATOR McCOLLISTER: Thank you, Mr. Mines. Thank you, Mr. Chairman. [LB390]

MICK MINES: Thank you. [LB390]

SENATOR HUGHES: Senator Kolowski. [LB390]

SENATOR KOLOWSKI: Thank you, sir. Mr. Mines, have you ever witnessed the rainfall and some of the impact on the creek at its maximum, when it's almost over its borders? [LB390]

MICK MINES: Well, yes, I have. [LB390]

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SENATOR KOLOWSKI: Okay. And that's not a concern from your perspective that upstream has great impact on the downstream, much like the compacts we have with rivers, with different states around us that we've been ruled a certain way? [LB390]

MICK MINES: The point of this legislation is authority of a county to judge what's best in their county, not...it has nothing to do with rainfall or those issues. Certainly, no one wants flooding. But this bill is about allowing a county to determine if a project of over 20 acres should be built in their county. [LB390]

SENATOR KOLOWSKI: I understand that. Were you in the Omaha area when the floods hit in the mid-'60s and about five or six people drowned in the Millard area? [LB390]

MICK MINES: I have been. I was also around before terracing was built in Washington, Burt, and Thurston Counties to alleviate some of that; and a lot of other flood protection. You know best of all, you were on the Papio board. But there have been a lot of flood protection initiatives put in. Our concern is that projects of over 20 acres should have county involvement, that county should be able to opt in or opt out if they so choose. [LB390]

SENATOR KOLOWSKI: No matter what happens downstream, it's not a concern. [LB390]

MICK MINES: That's not the point. Yeah, that's not the point of this bill. [LB390]

SENATOR KOLOWSKI: Well, it's a major concern when you have damage to life and property downstream. [LB390]

MICK MINES: And I couldn't agree more. But the point of this is that if a Papio-Missouri River NRD wants to use bonding authority and wants to create a dam site of over 20 acres, the county that's involved should have the authority to say we want it or we don't. That's what we're proposing. And that was the intent of LB160 in 2009. [LB390]

SENATOR KOLOWSKI: In the last few weeks there's been an article in the paper concerning the results of scientific investigation of the dam sites and what it's done as far as the Papio safety and security from flooding damage. [LB390]

MICK MINES: Okay. [LB390]

SENATOR KOLOWSKI: Did you read those? [LB390]

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MICK MINES: No, I haven't seen those. [LB390]

SENATOR KOLOWSKI: Okay. We'll make sure that...we'll get some. [LB390]

MICK MINES: Thank you. [LB390]

SENATOR HUGHES: Okay. Other questions? Senator McCollister. [LB390]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. One more question. The LB160 was heard in that earlier period, correct? [LB390]

MICK MINES: Um-hum. [LB390]

SENATOR McCOLLISTER: How did the word "exclusive" get in there then? [LB390]

MICK MINES: It was an amendment made between Select and Final Reading. And if one...and I have, and I want you to, if you read the floor debate, it was hastily put together. There were a number of amendments. We had engagement by a number of different folks, and there was discussion was extended on the floor, as you've seen, so that there was time to write an amendment so they could vote to advance the bill. And the opponents really didn't have time, it was a very big amendment, so it was a last-minute amendment and Senator Gay, for that amendment, said that the counties would have the authority to stop a dam from being built. So that it was a last minute between Select and Final. Same chaos, you've seen that happen before. [LB390]

SENATOR McCOLLISTER: Senator Gay sponsored the amendment? [LB390]

MICK MINES: He did. [LB390]

SENATOR McCOLLISTER: Thank you. [LB390]

MICK MINES: Well, I say that. He was involved in the amendment. I think he was the sponsor of the amendment as well. [LB390]

SENATOR McCOLLISTER: That inserted the word "exclusive?" [LB390]

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MICK MINES: Yes. [LB390]

SENATOR McCOLLISTER: Thank you, Mr. Mines. [LB390]

MICK MINES: Thank you. [LB390]

SENATOR HUGHES: Okay. Any other questions? I guess I have one. Just for clarification for my own personal information. The...when you...I understand the 20 acres or less, but that is where the lake is created, not necessarily where the dam is located? So if the lake...in one example here, the lake is, obviously, in two separate counties, it's not where the dam is located has jurisdiction but where the lake is located. Is that...am I understanding that correctly? [LB390]

MICK MINES: I think you're correct. [LB390]

SENATOR HUGHES: And that's what you're wanting to say that two counties would have the opportunity to yea or nay on the dam...on the project? [LB390]

MICK MINES: Or...yeah, and more likely what would happen, Senator, is...and has happened, there have been dam sites...I think it's dam site 15, I think, it's in northern Douglas County, it is in part of the pink, but it's also in the city limit as well. So you have two separate zoning authorities and so there's no exclusive authority. Just like if you have, today, if you had a dam site; and it's not the dam itself, it's the project, the dam site project, so if you have what...in both straddling two counties, there is no authority by a county to say...have a hearing and say--we oppose this for other reasons. [LB390]

SENATOR HUGHES: There would be no reason that a county would oppose...if flood control project, why...I mean, why would you...why would a county want to stop a flood control project? [LB390]

MICK MINES: Well, if for instance, this was Washington County's argument, and I think I'm right, maybe Senator Kolowski can help me, there was planned a...was it a 4,800-acre lake in Washington County that would take out part of this village of Kennard down in Washington. I think that's close. [LB390]

SENATOR KOLOWSKI: (Inaudible). [LB390]

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MICK MINES: I think so. So the reason a county would be concerned about it is the roads that access...I mean, it would cut through roads and require infrastructure be built, would require...again, law enforcement is a different thing, if you have a lake that historically has also provided recreation, you have obligations by the county. There are a number of different reasons that a county should get involved, particularly in a metropolitan area where you've got a lot of people that might be using it. [LB390]

SENATOR HUGHES: Okay, thank you. Other questions? Yes, Senator Kolowski. [LB390]

SENATOR KOLOWSKI: Thank you. Just a point of clarification, Mr. Mines, could...when you're talking about the 20 surface acres, you talking about the water or you're talking about the entire structure of the park land and all that together? [LB390]

MICK MINES: I interpret the language to be 20 surface acres of the project itself. I don't know if it's water or not. You've got...Koutak or...Husch Blackwell can testify to that; I'm not an attorney. [LB390]

SENATOR KOLOWSKI: Thank you. [LB390]

SENATOR HUGHES: Okay. Any other questions for Mr. Mines? Okay, thank you. [LB390]

MICK MINES: Thank you. [LB390]

SENATOR HUGHES: Are there other proponents? Welcome. [LB390]

SHAWN MELOTZ: (Exhibit 5) Thank you. Good afternoon, Chairman Hughes and members of the Natural Resources Committee. My name is Shawn Melotz, S-h-a-w-n M-e-l-o-t-z. I'm the current president of the Papio Valley Preservation Association, a grassroots organization with over 500 members whose primary purpose is protecting natural resources. I'm honored to come before you and testify in support of LB390, and a special thanks to Senator Albrecht for recognizing the need to introduce this bill. Since there are several new members to this committee, I would like to provide a brief history behind the statute that this bill improves. In September, 2004, Omaha World-Herald's front page story referenced the Papio NRD's intention to construct ten dams in Douglas, Sarpy, and Washington Counties. Since that time, the Papio NRD's plan has evolved from 10 structures to 29, costing taxpayers over \$980 million. With the high price tag, the Papio NRD needed money. In 2009, they were granted bonding authority through LB160 which is now state statute. The Papio NRD has the authority to issue general obligation bonds merely by the vote of their 11-member board. Currently, they are in bonding

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debt of over \$60 million. With the Papio NRD's power of condemnation and their ability to issue bonds, landowners felt helpless and defenseless. Thus the PVPA and others have worked diligently to protect property rights and oppose exclusive, excessive property tax spending. During the LB160 debate and compromise process, I had the privilege of representing PVPA here in Lincoln. We voiced our concern that the term "exclusive" would diminish the safeguards afforded to county boards. We were continuously assured that the inclusion would not hinder a board's ability to pass a resolution to veto such bonding for any reservoir within their county's boundaries. Ultimately, "exclusive" was included in the final draft and now it is statute. It was the summer of 2010 when we realized our concerns were valid. In August, the Douglas County Board of Commissioners considered a resolution to oppose the construction of Papio NRD Dam Site 15A. Ironically, only a portion of this dam was located within the city's zoning jurisdiction and therefore not within their exclusive zoning. As a result, the Douglas County Board was powerless to protect their constituents. I've attached copies of the correspondence between Douglas County commissioners and the Papio NRD regarding this interaction. The effect that a major NRD project has on a county was confirmed in a study prepared by HDR Engineering regarding the Papio NRD's dams in Washington County. According to the study, the construction of these dams will remove 4,800 acres from the property tax rolls, impact over 70 structures, cost taxpayers \$88 million, and will require 100 lane-miles of improvements, and the construction of eight bridges or...and/or culverts over the dams. Exclusive of law enforcement, fire protection, and other such costs, the property tax impact alone will be a huge burden to Washington County and its taxpayers. Thus, county boards must have a say when bonded NRD projects are proposed in their county. While the current statute applies only to the Papio NRD, in the future other NRDs may request the use of bonding authority, similar to last year's LB344. With this in mind, it's vital that all safeguards are incorporated into the statute now. It's never too late to do the right thing. Since LB390 restores the checks and balances senators intended when they approved the language of LB160, and on behalf of the PVPA, landowners, and taxpayers, I respectfully ask this committee to advance this bill to the floor. And I would like to note, a little bit in the discussions that you had with the previous presenter, the veto power is the use of the bonding, not whether the project goes through or not. It's merely a function of stopping the bonding, not the structure. So if the structure needs to be built and it is very necessary, I'm sure the funding can be arranged. Thank you. [LB390]

SENATOR HUGHES: Okay. Thank you, Ms. Melotz. Questions? Senator Kolowski. [LB390]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Ms. Melotz, good to see you again. [LB390]

SHAWN MELOTZ: Yeah. [LB390]

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SENATOR KOLOWSKI: What are the other benefits of the lake going in as proposed on this one map that is...the southern end is in Douglas County, most of the water in the northern end, and all the rest is in Washington County. Are there other benefits that would be incurred by the county and the neighboring towns by having a large recreation area such as this? [LB390]

SHAWN MELOTZ: There may be, but in our opinion the detriment outweighs the benefits. [LB390]

SENATOR KOLOWSKI: There may be? [LB390]

SHAWN MELOTZ: Well, there's going to be recreational benefits of course. [LB390]

SENATOR KOLOWSKI: Sure. [LB390]

SHAWN MELOTZ: If that's what you're alluding to. However, I don't believe that a condemnation of farmland and the use of taxpayer dollars should be forced towards recreation. [LB390]

SENATOR KOLOWSKI: Okay. And you feel no need to assist with the possible downstream dangers of massive flooding, four or five inch rains that we have had. And I've seen those. [LB390]

SHAWN MELOTZ: Oh, I have too. I've been involved in this discussion since the '70s, quite frankly, when the Corps of Engineers first released this plan. But what I have seen since my childhood is the use of massive terracing in Douglas and Washington County. Our family alone has constructed over 16 miles of terraces on our property. I've also seen the tremendous channelization of the Papio. If you drove and looked on interstate down the Papio Creek by Pacific Street, in the '60s it was trees and bushes and caved-in walls and now it's channelized. I think, thanks to the Papio NRD and the Corps of Engineers, I think there's been a tremendous amount of flood control that's been occurring. But in my opinion, the use of 5,000 farm acres for a recreational lake is egregious. [LB390]

SENATOR KOLOWSKI: And that's your opinion. And have you seen the study that was released just a short time ago in the newspaper displaying the results? [LB390]

SHAWN MELOTZ: No, I haven't, but what...excuse me. No, I haven't, but I did attend an NRD meeting where it was presented that something about the insurance...the FEMA insurance reductions...well, first, I think it takes quite some time to eliminate FEMA boundaries and the

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insurance cost of it. But I will also kind of, again, say in my opinion, I don't think my tax dollars should be spent for such things as flood insurance reductions. [LB390]

SENATOR KOLOWSKI: Would they be your tax dollars alone? Or the tax dollars within the entire NRD that are being utilized? [LB390]

SHAWN MELOTZ: Well, my tax dollars go to that NRD. So of course it's not alone (inaudible). [LB390]

SENATOR KOLOWSKI: Is it the entire NRD that's being taxed on it? [LB390]

SHAWN MELOTZ: Yes, it is. [LB390]

SENATOR KOLOWSKI: Thank you. [LB390]

SENATOR HUGHES: Other questions? Seeing none, thank you. Next proponent. [LB390]

JAY ANDERSON: Afternoon. Jay Anderson, 10919 County Road 25, Blair, Nebraska, Washington County Board of Supervisors, District 5. [LB390]

SENATOR HUGHES: Excuse me, would you spell your first and last name, please. [LB390]

JAY ANDERSON: J-a-y, Anderson with an o-n. [LB390]

SENATOR HUGHES: Thank you. [LB390]

JAY ANDERSON: I represent District 5 in Washington County Board of Supervisors. And I think the one reason I want to be here today was, as a board, we would like to have some type of representation or saying, especially in a project that could...my district encompasses pretty much the whole watershed of the Papio Creek and just to south of Kennard. And the idea that something could be built the county wouldn't even be...have a say or be able to even debate is scary. That's all I have to say. [LB390]

SENATOR HUGHES: Okay. Thank you, Mr. Anderson. Are there questions? Senator McCollister. [LB390]

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SENATOR McCOLLISTER: Thank you, Mr. Chairman. Thank you for your testimony today. [LB390]

JAY ANDERSON: Thank you. [LB390]

SENATOR McCOLLISTER: We've learned here this morning that anything within the confines of Douglas County or the city of Omaha they have the exclusive control over the approval of that project. Has there ever been a situation where a project was in Douglas County or Omaha that caused you to build infrastructure because of that change? [LB390]

JAY ANDERSON: Infrastructure meaning like roadways or... [LB390]

SENATOR McCOLLISTER: Roads, bridges... [LB390]

JAY ANDERSON: I know that there's probably been accommodations with OPPD that we probably might not necessarily had to have done that we've done infrastructure-wise. But other than that, I can't think of anything else. [LB390]

SENATOR McCOLLISTER: Okay, thank you for your testimony. Thank you, Mr. Chairman. [LB390]

SENATOR HUGHES: Okay. Other questions? Senator Kolowski. [LB390]

SENATOR KOLOWSKI: Thank you, Mr. Anderson, thanks for coming today. [LB390]

JAY ANDERSON: Thank you. [LB390]

SENATOR KOLOWSKI: Do you think you have a responsibility for what's downstream? [LB390]

JAY ANDERSON: I absolutely do, and I'm very proud...I was born and raised in the Papio Creek watershed and from when I was born in 1966 to all the improvements that I've seen working hand-in-hand a lot of times with the NRD, I don't think that the issues that were in front of us back when I was a young kid were as susceptible to them now because of the great work done between a lot of our farmers and the NRD. I really...I have...what was it 19...I think it was 10, 11 years ago, we had a major rain event--9 inches of rain. And the valley held it; there was some minor flooding down below in Douglas County, but nothing like it was in the '60s and early '70s

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like you had said earlier. And I think that's a testament to a lot of the projects, a lot of the small lakes and diversion areas that have been done. And I'm very proud to say that the NRD rep that works in our area is a friend of mine and I just think that working hand-in-hand if something has to be done and to protect downstream that I would feel comfortable that our county and the representatives on our board would do whatever we could to help. But the idea of destroying tens of thousands of acres of some of the best farm ground in eastern Nebraska for maybe a 100-year event or a 50-year event, I think that needs to be vigorously debated and I think everybody needs to be involved in it. It's a scary thought that a board where our county only really has one representative out of 11 that those decisions could be made like that and not have the input from the citizens or the representatives they elected in the county. There's a fine balance there. I would just like to be able to be involved in it is what I'm saying. [LB390]

SENATOR KOLOWSKI: Thank you. [LB390]

JAY ANDERSON: Thank you, sir. [LB390]

SENATOR HUGHES: Any other questions? Senator Bostelman. [LB390]

JAY ANDERSON: Yes. [LB390]

SENATOR BOSTELMAN: Thank you, Mr. Chairman. A couple of questions, mostly for my own clarification to make sure I understand. [LB390]

JAY ANDERSON: Yeah. [LB390]

SENATOR BOSTELMAN: NRD members are elected or appointed? [LB390]

JAY ANDERSON: Yeah, they're elected. [LB390]

SENATOR BOSTELMAN: And from your dealings with other counties, other county commissioners, supervisors, what's the relationship between the NRDs and the county supervisors, county commissioners in other areas; can you speak to that? [LB390]

JAY ANDERSON: I can...I travel the state for my job, I'm newly elected. I was school board for eight years; I'm newly elected to the county board. But I would say that the most contentious relationship that I've heard of when it comes to NRDs and local is in the Washington County. And it all has to do with the fear of the Papio Valley. [LB390]

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SENATOR BOSTELMAN: Let me rephrase my question. [LB390]

JAY ANDERSON: Yes. [LB390]

SENATOR BOSTELMAN: Maybe that will help a little bit more. Do you...and my understanding in looking at this, other NRDs in other areas don't have the same authority as what we're talking about right now. So when there's a dam project that goes in, do the, as far as you know, do the county supervisors, county commissioners have a relationship where they can either work with, deny, or have influence on a dam project that the NRD is proposing to build? [LB390]

JAY ANDERSON: In my short experience, I can't really answer that. I'm trying to think of something I could even relate, but I'd be... [LB390]

SENATOR BOSTELMAN: Okay. [LB390]

JAY ANDERSON: ...I would not be right in doing it. [LB390]

SENATOR BOSTELMAN: Thank you. [LB390]

JAY ANDERSON: Thank you. [LB390]

SENATOR HUGHES: Okay. Any other questions for Mr. Anderson? Okay, thank you for coming in today. [LB390]

JAY ANDERSON: Thank you for hearing me, I appreciate it. [LB390]

SENATOR HUGHES: (Exhibit 6) Okay, are there other proponents? Seeing none, we have one letter from Mary Ann Borgeson, Douglas County Board of Commissioners. And so how about opponents? [LB390]

SENATOR McCOLLISTER: I have a question, Mr. Chairman. [LB390]

SENATOR HUGHES: Yes. [LB390]

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SENATOR McCOLLISTER: Borgeson letter, is that from the county board or the chairman herself in a private citizen capacity? [LB390]

SENATOR HUGHES: It's in the book--on behalf of the board. Okay, opponents? Welcome. [LB390]

JOHN WINKLER: (Exhibits 7, 8, and 9) Thank you, Senator Hughes. Mr. Chairman, members of the committee, I appreciate the opportunity to speak to you today. 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 am testifying today on behalf of the Nebraska Association of Resource Districts in opposition to LB390. LB390 would impact one and only one natural resources district, the Papio NRD. It would do nothing to address any concerns that may exist in other districts. Furthermore, it would amend a statute that has worked very well to achieve its practical and legislative purposes and which sunsets by its own terms in just two years. For background, all of Nebraska natural resource districts currently have the authority to issue revenue bonds. These bonds must be retired using funds...producing facilities constructed with such aid of bonds; for example, rural water districts. In addition, in 2009 the Legislature passed LB160. LB160 authorized limited bonding authority for flood protection and water quality enhancement projects in the Papio-Missouri River Natural Resources District only. These flood control bonds must be funded within the district's existing mill levy limitation of four and half cents. The extremely limited bonding authority has been used responsibly and successfully to address serious public safety issues throughout the district's rapidly developing urban areas, as well as our rural agricultural areas and all without exceeding our property tax levy limit. The district has used this authority to protect hundreds of thousands of lives, billions of dollars of public and private infrastructure, and billions of dollars in public and private property. Also, the drinking water supply for the cities of Omaha and Lincoln have benefited from the protection using these bonding authority; and thousands of acres of agricultural land. In fact, the district has reduced or kept its mill levy the same for 11 out of the past 12 years. The 2009 bonding legislation allowed the Papio NRD to save a massive amount of time and large sums of money over what the same projects would have cost without the bonds. The bonding authority under LB160 expires in 2019. LB390 may be familiar to some. In fact, a similarly worded bill was introduced a few years ago and was rejected by the Natural Resources Committee. LB390 may also appear simple. However, LB390 would effectively grant veto authority over many NRD board-approved flood control bonded projects in the district. For example, a project supported by the city of Omaha could be vetoed by the Douglas County Board, even though the Douglas County Board has only zoning jurisdiction over 9 percent or less of the residents of Douglas County. In addition, any public safety projects in the cities of Papillion, Gretna, Bellevue, and La Vista, and approved by those political subdivisions, could be stopped by the Sarpy County Board. Under the current statute, such veto authority only applies where the proposed flood control project is located within the exclusive zoning authority of the respective county. A change in this process is

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not only completely uncalled for, but makes no sense. This change would be similar to granting NRD's authority to veto any project in its jurisdiction which uses too much water. The current statutory framework has worked as intended and was a product of compromise language, as you heard, agreed to by the committee and by the full Legislature when LB160 was adopted. There is no reason to upset the apple cart now as there is no flaw in the process. I'd be happy to address any questions from the committee and I thank you for the opportunity. And one quick note, I've passed out some opposition letters, as well as some information on the benefits and success of the current projects that have been built. [LB390]

SENATOR HUGHES: Okay, thank you, Mr. Winkler. Are there questions? Senator McCollister. [LB390]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. Thanks for appearing, Mr. Winkler. [LB390]

JOHN WINKLER: Thank you, Senator. [LB390]

SENATOR McCOLLISTER: You currently envision any additional projects in Washington or Burt Counties? [LB390]

JOHN WINKLER: There is no reservoir projects planned for Washington County. And the ones that were planned a number of years ago have been eliminated from any planning map or consideration. [LB390]

SENATOR McCOLLISTER: Thank you. [LB390]

JOHN WINKLER: Thank you. [LB390]

SENATOR HUGHES: Senator Kolowski. [LB390]

SENATOR KOLOWSKI: Thank you, sir. Mr. Winkler, thank you for being here... [LB390]

JOHN WINKLER: Thank you. [LB390]

SENATOR KOLOWSKI: ...and for your comments. Just to elaborate on what you just said, Dam Site 3C then is not being planned? [LB390]

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JOHN WINKLER: That is correct. [LB390]

SENATOR KOLOWSKI: And no desire to see that happen? [LB390]

JOHN WINKLER: No, sir. [LB390]

SENATOR KOLOWSKI: How much of an impact does that have on...is that the Middle Papio Creek that that floods in to? [LB390]

JOHN WINKLER: It would be the Big Papio. [LB390]

SENATOR KOLOWSKI: Big Papio. [LB390]

JOHN WINKLER: And with the current hydrology and the hydraulics that were done, 1 and 3C was...it was determined by our board to, for example, the feedback you've heard already from the folks from Washington County, is politically that project would be impossible to build. And actually, counties do have a little bit of a veto authority already because they have to approve closing of county roads. So if a project impedes or affects a county road, the county has to approve to close that. If they do not, then you can't build a project. So there's just one avenue that they can exercise to stop a project. But 1 and 3C was determined that those practically and politically can't be built and so they were passed on because we had other projects that needed to be completed; and high priority projects that needed to be completed. And so we've done those instead. [LB390]

SENATOR KOLOWSKI: You've done a lot of work on the levee at Offutt, is that correct, also? [LB390]

JOHN WINKLER: We are getting our permit and once that starts, construction will begin in the summer of, hopefully, this year. [LB390]

SENATOR KOLOWSKI: And that matches FEMA and what other standards? [LB390]

JOHN WINKLER: FEMA and the Corps of Engineers. [LB390]

SENATOR KOLOWSKI: And the Corps of Engineers. [LB390]

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JOHN WINKLER: The bonding...we did use bonding authority on the levy in the Platte...along the Platte River which protects the Omaha and Lincoln well fields from ice jam flooding. And so, if you remember back in the '90s, Lincoln was about one main away from not being able to put out a fire. And so we addressed that. We used bonding authority to finish that project to protect those two well fields and that water protection for those communities. [LB390]

SENATOR KOLOWSKI: And the Offutt impact is about \$1.3 billion I understand. [LB390]

JOHN WINKLER: A year, that's correct. [LB390]

SENATOR KOLOWSKI: On the Omaha region, as far as the whole area. [LB390]

JOHN WINKLER: Yes, through the state, yes. [LB390]

SENATOR McCOLLISTER: Thank you. [LB390]

SENATOR HUGHES: Okay. Senator Bostelman. [LB390]

SENATOR BOSTELMAN: I guess the first question I'll ask is the same question I asked before. [LB390]

JOHN WINKLER: Um-hum. [LB390]

SENATOR BOSTELMAN: Thanks for being here and your testimony. [LB390]

JOHN WINKLER: Thank you. [LB390]

SENATOR BOSTELMAN: How do NRDs interact with county supervisors, county commissioners, and other...and the rest of the state? [LB390]

JOHN WINKLER: Right. Well, I'll speak from the general manager position. Each commissioner and each board member is going to have different interactions. But we attempt to work with all the zoning authorities and all our partners that we work with--counties, cities, villages, you know. We try to keep very positive relationships. For example, our relationship with Sarpy County is probably unbelievable. In fact, you'll have some people that have sent letters from Sarpy County expressing that. So it just depends. But...I mean, we...I know our board, we would like to have those great relationships with every public body we work with, but, you

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know, there's various personalities and there's various opinions and positions, so we attempt to try to, obviously, what's best for the entire district. We cover a six-county area. And we've got...the Papio is a little different, we've got a very high urban concentration in Omaha and Sarpy. And so that, obviously, leads to some conflicts between the rural parts of our district and the urban areas. And we try to balance that. We also did a project up in Dakota County, it's called Kramper Lake, Danish Alps recreation area; it's a state recreation area now. But that area protects thousands of acres of ag land in the Missouri River bottoms. And we do watershed projects and we spend \$800,000 a year on terracing. In fact, I think Washington County only has about 30 percent of the county that's not terraced and the NRD, obviously, participates in that. We spend anywhere from three to five times revenue in those counties that we receive. So if we receive a million dollars from property taxes from those counties, we spend four or five million more. So...and I can get you all those numbers in historical if you'd like. [LB390]

SENATOR BOSTELMAN: (Inaudible). [LB390]

JOHN WINKLER: We try to keep a positive working relationship with everyone. [LB390]

SENATOR BOSTELMAN: So primarily, what we're talking about that happened before was new construction building out of Omaha, how...homes, businesses, that; so we're protecting those type...what I'm kind of understanding perhaps, we're protecting those properties that were being built. New developments were coming in, would that be accurate? [LB390]

JOHN WINKLER: No, accurate, I mean we do protect those, but the issue was the federal government used to encourage development of flood plains. And so we're kind of paying for the sins of our fathers from many years ago. These reservoirs not only protect homes and business, but not new ones, existing ones. And massive amounts of infrastructure of sewer lines, water distribution lines, fiber optics, public power stations, and so those things everybody pays for. So if those are damaged in a flood, obviously, you as a ratepayer or you as a taxpayer are going to pick up that tab. For example, there's 400 bridges in the Papillion Creek watershed. And it's expensive to replace a bridge. So if one of those bridges are damaged, or if several of those are damaged in a flood event, then the taxpayers are on the hook to fix those. And so that's...so we protect multiple things. [LB390]

SENATOR BOSTELMAN: Okay, thank you. I was just trying to get a better understanding of what took place up to this point. [LB390]

JOHN WINKLER: Right, right. [LB390]

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SENATOR BOSTELMAN: Why the legislation was brought, what the purpose was, and am I at the point where I'd say we have two years left before it sunsets, it seems, you know, if there's been...obviously there's relationships prior to this bill, why it came to fruition, why it was enacted, there was some disagreements between the counties where the different zoning authorities in the NRD and why this specific bill, which I think we can find out later, was enacted versus the rest of the state. The NRDs don't have that same authority, but yet they seem to be able to work with their counties. And that's why it's just kind of...trying to understand that a little bit better. [LB390]

JOHN WINKLER: And the word "exclusive" as far as the historical reason why that was inserted is because of feedback we received from the cities that we work with, and the villages, and they indicated...they didn't want a county board that had no zoning jurisdiction in their exclusive area to have a veto of that project knowing that they have to provide citizens protection and that they have the sole authority to zone and plan for that area. Because eventually those exclusive zoning jurisdictions will be in the city limits and it's difficult to put in a reservoir when there's going to be houses built in it. And these areas that we're talking about for reservoirs, they may be ag land now, but they'll be houses very quickly or businesses or concrete. And so a little bit...it's a little of a misnomer to say you're taking ag land out of production. They will be developed, the areas. And so that's what we're doing; we're trying to get ahead of that development. [LB390]

SENATOR BOSTELMAN: Thank you. [LB390]

SENATOR HUGHES: Senator Kolowski. [LB390]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Mr. Winkler, would you elaborate on the information on the insurance costs that have been...was published a short time ago... [LB390]

JOHN WINKLER: Right. [LB390]

SENATOR KOLOWSKI: ...with the Army Corps of Engineers' situation? [LB390]

JOHN WINKLER: Sure. We had a hydrology hydraulic study done of the entire watershed. And it used to be the goal of the NRD to make sure that floodplains did not grow, that we kept them static. Well, actually because of new data that's available and now that we're taking benefit of the reservoirs that we already built, we're able to shrink the floodplain by up to 30 percent. In some areas near the dams, it's 80 to 90 percent reduced. So what does that mean? We've provided the data to FEMA who draw the floodplain maps. And we've got positive feedback from them that

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they're going to accept our study. What that does is it takes thousands of citizens' homes and businesses out of the floodplain. And if you check flood insurance lately...rates...an average home could pay up to \$5,000 a year in flood insurance. So what does that mean to your average citizen, your average family? That's \$300 to \$400 a month savings to that family to spend on groceries, automobiles, housing, whatever they choose to do with it, that's not going to the federal government. So those reservoirs have had a huge impact. Now any time we build a reservoir into the future from today, those floodplains will only get better and shrink even more. But here's what people don't realize is once you shrink the floodplain and you go to replace a bridge and if that's Douglas County or city of Omaha or the state of Nebraska, if you've lowered that flood elevation, it saves tens of millions of dollars a year just in infrastructure improvements because they don't have to raise the bridge as high, or they don't have to make the expanse as long. And those will be ongoing savings from now, 50, 100 years from now. So those are the benefits we're seeing from these reservoirs getting constructed..and businesses that people are...they're going to be able to either hire more employees or they're going to be able to lower their product cost because they're not paying insurance which is tens of thousand a year for a business. So...and those maps will be done in 2019. So we're not waiting an extended amount of time. And so that's a huge benefit, and I think you'll hear from Papillion behind me who...this is...this is game changing to their community. [LB390]

SENATOR KOLOWSKI: Second question, if I may. On the overall costs for the insurance, I mean I understand that and where that's coming from, but the additional draw and the relationship you had with Papillion has been outstanding, I understand, over time and that's been a very positive situation. What about your indebtedness in total? Could you tell us like what your projections are for the next five years and where that's going as far as up, down, sideways? [LB390]

JOHN WINKLER: Right. The debt is going down because we have not bonded since, I think, 2013. That's about \$60-some million now. We use about an eighth of a cent of our .038 to utilize for debt payment. So we've got a AA+ bond rating. The reason it's not AAA is because we've never had a lot of experience with debt. So they say, obviously, the more debt you have the higher your credit rating. I don't know how that works, but...(laughter). So Standard&Poor's, that's their philosophy, but...yeah, we got a...and we continue to pay that down every year. And like I said, 11 out of 12 years, we've either lowered our mill levy or kept our mill levy the same. So we...so...when bonding authority was issued, the sky didn't fall and the budget didn't...property tax levy didn't go out of whack. We kept it responsible. [LB390]

SENATOR KOLOWSKI: Your total budget this year is what figure? [LB390]

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JOHN WINKLER: It's about \$70 million. It was near \$83 million. Now remember, only \$22 million of that comes from property taxes. So we do an extremely good job of leveraging other resources to do projects. And it is projected that our total spending will drop to what it was pre-bonding; because we had some big projects that needed to get done. We borrowed the money. We did the projects; we're paying it down. And now our overall budget will shrink back to what it was pre-bonding. It's exactly what we told this committee and exactly what we told the Legislature we would do and I've included a couple of articles in there and that's what we're doing. [LB390]

SENATOR KOLOWSKI: Thank you. [LB390]

SENATOR HUGHES: Okay. Other questions? I've got just a couple. Since we're talking about the bonding, how long do you normally finance the bond for? [LB390]

JOHN WINKLER: Twenty years. [LB390]

SENATOR HUGHES: Twenty years. [LB390]

JOHN WINKLER: Our board won't go any longer. [LB390]

SENATOR HUGHES: Okay. So once the bonding authority goes away, sunsets in two years, does that continue on to pay the bonds or do those bonds have to come out of general funds at that point? [LB390]

JOHN WINKLER: No, you continue to pay them, you just can't issue new ones after it sunsets. [LB390]

SENATOR HUGHES: Okay, so the additional bonding authority is there to service the bonds. [LB390]

JOHN WINKLER: Correct. [LB390]

SENATOR HUGHES: Okay. Do you have any plans to bond anything between now and the sunset date? Any projects? [LB390]

JOHN WINKLER: No. Actually, we've calculated...the remaining reservoirs we have, and there's about six priority ones that are in areas where...it used to be we would go to a landowner to buy

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the land. Now we have a line at the door with landowners saying--you need to buy this because we want to turn it into houses or strip malls, or whatever they're going to do with the property. And so they flipped the tables on us a little bit. And so now we're trying to come up with the money to purchase the property before...you know, again, they develop it. We've already lost one site to development. There was a number of houses in the flood pool and we had to just scratch it off the list because we couldn't move those people. But we've factored in and we've planned to try to do these projects with kind of the pay-as-you-go system. And we think we can get them done with the current resources we have in about a ten-year period. [LB390]

SENATOR HUGHES: Okay. [LB390]

JOHN WINKLER: And that seems to be okay. [LB390]

SENATOR HUGHES: Yeah, you kind of led me into the next question, because you said...you know, these sites are going to...are going to spring up to homes, businesses, and concrete. So, previously you would buy the property and build the dam and create the lake and then sell the property for subdivisions or...? [LB390]

JOHN WINKLER: No, we would...the only property that the district takes is what we need for the project. We try to leave as much land around the project in private hands because we think the landowner is the best to do what they want with the property. We don't have anything to do with the development of the homes around it. We simply buy the area for the project. We construct the project; and if they decide to farm it for the rest of their time or they sell it to a developer, that's up to them...to the private property owner. [LB390]

SENATOR HUGHES: So you make an estimation of what the surface water...or the surface area plus the flood pool? [LB390]

JOHN WINKLER: Flood pool. Correct. [LB390]

SENATOR HUGHES: And that's the only area you buy? [LB390]

JOHN WINKLER: That is correct. [LB390]

SENATOR HUGHES: And then the...but the original landowner still has possession of the outside of that area. [LB390]

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JOHN WINKLER: Right. And sometimes the landowner will say, you know, you're only leaving me with 20 acres, can you just buy the rest because I want to cash out; I just don't want to deal with 20 acres. And then we will make arrangements to try to accommodate them, if that works. [LB390]

SENATOR HUGHES: Yeah, and how do you determine the value of those? [LB390]

JOHN WINKLER: All of our projects have...all of our...any time we acquire property, it has to have an appraisal and then we negotiate with the landowner to come up with a suitable number. [LB390]

SENATOR HUGHES: Okay. Has your board had any discussion about, maybe, extending that sunset date yet? [LB390]

JOHN WINKLER: They have, but I don't think they're looking at, maybe, until we get closer to '19, but... [LB390]

SENATOR HUGHES: So they've not taking a position on that yet. [LB390]

JOHN WINKLER: They haven't directed me to do anything. [LB390]

SENATOR HUGHES: Okay. Any other questions? [LB390]

SENATOR WALZ: I have...just a quick question, please. [LB390]

SENATOR HUGHES: Senator Walz. [LB390]

SENATOR WALZ: Thank you. A simple question: does the landowner have an option to sell or do they have to sell? [LB390]

JOHN WINKLER: No, they have an option. [LB390]

SENATOR WALZ: They have an option, okay. [LB390]

JOHN WINKLER: Now, of course, the district has a power of eminent domain. So, I mean, we have that authority. Now, the board bends over backwards not to utilize it; and we haven't had to

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utilize it in the last few years. But they do have that power available to them if, in fact, that becomes necessary. With what I'm saying with these next six projects that are on the list, we'll be lucky that homes don't get built in where we need and get those taken off because it's...the way the economy is right now, it's building, it's just unbelievable. [LB390]

SENATOR HUGHES: Okay. Senator Kolowski. [LB390]

SENATOR KOLOWSKI: Thank you, sir. Is it a true statement then that there's nothing good that happened in 2009 as far as the economy was concerned, but the one good thing for the Papios was that it slowed down expansion? [LB390]

JOHN WINKLER: Yes. [LB390]

SENATOR KOLOWSKI: And you could get ahead of the game on where your reservoirs are going and that's about the only thing I can think was positive when you look back in that time and you've been able to make that up and get ahead of your game. [LB390]

JOHN WINKLER: Right. Now we could say that we had the great crystal ball and we knew that the economy would slow and interest rates would tank and so we took advantage of that. (Laughter) But it just happened, it just worked that way. I mean, we've got bonds for 3 percent or less. And then they had Build America Bonds of which...with the stimulus. And so we took advantage of those. And so we've...we've got a lot of high value, high dollar projects completed for far below what it cost for not only interest but also for just construction and increase and just your normal expenses that we see on a year-to-year basis. I mean, we were chasing 10, 12 percent increases in cost, but we were getting 3 percent money. [LB390]

SENATOR KOLOWSKI: And the other question would simply be, you're the largest NRD as far as number of personnel and budget of the 23 in the state. And it's...what's the next largest as far as budget? [LB390]

JOHN WINKLER: Probably Lincoln. [LB390]

SENATOR KOLOWSKI: Lincoln area? What was theirs approximately? [LB390]

JOHN WINKLER: Budget? [LB390]

SENATOR KOLOWSKI: Yes, please. [LB390]

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JOHN WINKLER: Probably \$30 million, \$40 million. [LB390]

SENATOR HUGHES: Okay. [LB390]

JOHN WINKLER: I mean, we've got...in our district, we've got over 700,000 residents. So we've got a...not a large geography, we've got a high concentration of urban area. We've got over 51 percent of the state's population. [LB390]

SENATOR HUGHES: Okay. Any other questions? Seeing none, thank you, Mr. Winkler. [LB390]

JOHN WINKLER: Thank you, Senator. [LB390]

SENATOR HUGHES: Are there other opponents? Welcome. [LB390]

MARK STURMSMA: (Exhibit 10) Chairperson Hughes, members of the Natural Resources Committee, thank you for allowing me to testify. My name is Mark Stursma, that's Mark with a k, and Stursma is spelled S-t-u-r-s-m-a. I'm the planning director for the city of Papillion and I'm here representing the city of Papillion. Mr. Winkler handed out a letter from Mayor Black, who is the mayor of the city of Papillion, indicating opposition to LB390. A lot of the things that I was going to speak about were already covered by Mr. Winkler so I won't do that again, but I wanted to touch on a couple of things. There was a comment made on infrastructure and the protection of infrastructure and how these reservoirs have positively affected properties downstream. We have a bridge in downtown Papillion. It's an aging structure. It is in need of being replaced, but if we were to build it...or to rebuild it under the current floodplain regulations, we'd have to elevate that bridge seven feet. We would have to wipe out half of downtown on either side of that bridge in order to rebuild that structure. With the improvements in the floodplain that we expect over the next several years, we're confident that we can then rebuild that bridge at a much lower level and protect those existing buildings on either side of it. So that's just one example of the benefits of these projects. Another comment that I'd like to make is on the partnership. I've been working with the city of Papillion since 2004 and the partnership was working to deal with the threat of flooding and meet storm water quality mandates. We were working with Douglas County; they were a very important member of the partnership. At some point in time we had a difference in philosophy on how to manage storm water. And Washington County and Douglas County had a different approach than the remainder of the members of the partnership and so they went their own way and they're managing it on their terms and we're managing it on our terms. As a downstream community, the value of the reservoirs is immense because we're dealing with well over a hundred years of development where storm water was not managed. And so there was no way, in our opinion, that we could

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manage that water that was already occurring through methods other than detention. And so by using publicly funded large structures, we could capture that water and do it in real time versus putting that burden on individual property owners where it becomes almost impossible to manage and we would have to wait decades and decades for the results that we were seeing day one with the reservoirs. So, again, I'm not going to go into all the things that were already discussed. I'd be happy to take any questions, but I'd just like to reiterate we are opposed to this LB390. [LB390]

SENATOR HUGHES: Okay. Thank you, Mr. Stursma, is that correct? [LB390]

MARK STURSMA: Yes. [LB390]

SENATOR HUGHES: Any questions? Senator Kolowski. [LB390]

SENATOR KOLOWSKI: Not much of a question compared to just a statement--thank you for your comments on the capture and containment and release of the water over time. I live right next to Zorinsky Lake and I've see that when we've had four- or five-inch rains and it's taken a whole week to drain down to a normal facility. But that is such a difference compared to how much water was put into the creek bed at the original flooding times. It was a tremendously important for our entire area in that area so thank you. [LB390]

MARK STURSMA: And I'd just add to that, you mentioned earlier the nine-inch rain that we received a couple of years ago, and we were on high alert in Papillion, and if you looked at the water flowing down the west Papiio channel, it was almost to the bottom of the bridge in downtown that I mentioned. And I don't have any data to support it, but we feel very fortunate that the Prairie Queen Reservoir had been constructed and was in place and it filled very quickly during that event and we feel very strongly that it protected our community and prevented flooding in downtown Papillion and in other areas of Papillion. [LB390]

SENATOR KOLOWSKI: Water has been over that bridge at times, has it not, in the last couple of years? [LB390]

MARK STURSMA: Yes, many years ago. [LB390]

SENATOR KOLOWSKI: Okay. Thank you. [LB390]

SENATOR HUGHES: (Exhibits 11 and 12) Okay. Any other questions? Seeing none, thank you, Mr. Stursma. Any other opponents? Seeing none, anybody wishing...we have two letters

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submitted, in addition to the ones that were handed out, from James Thele, City of Omaha Planning Department; Mark Wayne, Sarpy County Administrator. Any neutral testimony? Seeing none, Senator Albrecht, would you like to close? [LB390]

SENATOR ALBRECHT: Yes. Well, I happen to be in one of those progressive cities of Papillion at the time that the NRDs were working with them. And I also served on the Sarpy County Board of Commissioners when that same...those same events were happening. I have even been back this past summer where a lot of the rains that we got, we were happy to get them up north, and obviously, they came down to the Papillion area. And while visiting I could see that the banks were filling up. I don't believe it ever really went over. But what I'm saying here with this "exclusive" today, if you're a progressive district, as Papillion and Sarpy County are and will continue to be, some of those that aren't so progressive really need some protection. And in doing so, when you take the word "exclusive" out, it allows them to have that great working relationship that I was offered at the city of Papillion when I served on their city council for eight years and on their Sarpy County Board for four years. So it shouldn't be something that we're doing the checks and balances and the safety issues, it's more about being able to be a county that can talk to the NRDs and work with them. Because, truly, I live in a rural area right now and if we do have road closings, we're lucky to get rock on the road, let alone if somebody came in and tried to close our roads down, or we have bridges out all over the place whether it's water or just because of them breaking down. But I think with anything, you need a good working relationship with anybody that you do business with. So again, if I can get the support of taking the word "exclusive" out, it allows the NRDs, not just the Papio, and we might have bills in the future with the others because I serve in two different NRD areas in District 17 and I happen to have an issue when I was out knocking on doors. They wanted me to go up in Wayne County to a different NRD that probably would be in Senator Walz area as well, and it's so important to have somebody, whether it's your county board or whoever to be able to defend the honor of the public and to be able to know what's happening in their area. So taking that word "exclusive" out just with the Papio-Missouri River NRD, hopefully, will also give the other NRDs throughout our state an understanding that the people do have a voice and they need to be protected by their counties or whoever else as a vocal point to be able to talk about different things. Again, if you're progressive, like Papillion and Sarpy, that's great, but if you're in need of someone to defend you, that word "exclusive" would be a good thing to take out. So I'd appreciate your support on LB390. [LB390]

SENATOR HUGHES: Questions? Senator McCollister. [LB390]

SENATOR MCCOLLISTER: Thank you, Mr. Chairman. And thank you for your bill, Senator Albrecht. Would the fact that Papio NRD does not plan to build any more dams or reservoirs in Burt and Washington County take away some of the motivation for this bill? [LB390]

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SENATOR ALBRECHT: Well, they said they have six other projects. And I don't know what those projects are specifically. And if there are six other projects and they really don't have a problem working with the counties, it shouldn't be an issue. [LB390]

SENATOR McCOLLISTER: But if those dams are to be constructed, or those projects be constructed outside of those two counties I'm talking about, you wouldn't have any control over that anyway, would you? [LB390]

SENATOR ALBRECHT: Well, this, obviously, in my estimation, it talks about all the counties in the Papio. Obviously, the Douglas County is the one that is probably asking for this because they butt up to certain areas. But I believe it should be all the counties within the Papio-Missouri district. [LB390]

SENATOR McCOLLISTER: So it needs to be unanimous among the counties before a project should proceed? [LB390]

SENATOR ALBRECHT: Well, because we all donate to that NRD, we all pay for it. [LB390]

SENATOR McCOLLISTER: Thank you, Senator. [LB390]

SENATOR HUGHES: Okay. Any other questions? Senator Kolowski. [LB390]

SENATOR KOLOWSKI: Thank you. Thank you, Senator Albrecht. Senator McCollister's comment, I think, is on target as far as a supermajority of the board versus a vote of the people in the entire six-county NRD, is that what you're talking about? [LB390]

SENATOR ALBRECHT: Well, you know, my philosophy has always been anything over a million dollars should always go to the vote of the people just because...I don't care if you're a board of 5, 8, 12, 11, whatever, it's the people's money. And I don't believe anybody should have that kind of power to be able to do something like what we're doing. I mean, it's one thing if it's for safety and those type of things, but those dollars end up coming out of all of our pockets anyway...out of the taxpayers' dollar. So yes, I believe it should be more than just a board. [LB390]

SENATOR KOLOWSKI: Okay. [LB390]

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SENATOR HUGHES: Okay. Any other questions? Seeing none, that will conclude our hearing. Thank you, Senator Albrecht. [LB390]

SENATOR ALBRECHT: Thank you. [LB390]

SENATOR HUGHES: We will move to the next bill, LB536, and I have asked legal counsel, Laurie Lage, to introduce that for me. And since it's my bill, I will turn it over to the Vice Chair. [LB390]

SENATOR BOSTELMAN: Okay, we will open the hearing on LB536, is that correct? [LB536]

LAURIE LAGE: Yep. [LB536]

SENATOR BOSTELMAN: Mrs. Lage...yes. [LB536]

LAURIE LAGE: Thank you, Senator Bostelman, members of the committee. My name is Laurie Lage, L-a-u-r-i-e L-a-g-e; I'm committee counsel here to introduce LB536. This bill clarifies language in the natural resources district statute that it provides a process districts are to follow to expend funds. The changes are not substantive and serve only to put this bill in front of the committee as a placeholder should the need arise later in the session to address statutes affecting natural resources. This bill could be used as a vehicle for the committee to amend in language as necessary to propose a statutory change to the body. If there is no need to address any language or changes down the line, the intention is to hold the bill in committee. And with that...just ask if there are any questions. [LB536]

SENATOR BOSTELMAN: Thank you. Are there any questions from the committee members? Thank you. Are there any opponents...proponents, sorry...proponents for this bill? Seeing none, are there any opponents to the bill? Seeing none, anyone wish to testify in the neutral? Seeing none, do you wish to close? Waives closing. And that will conclude the hearing. Thank you very much. [LB536]

SENATOR HUGHES: Okay. [LB536]