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Transcriber's Office

Natural Resources Committee
February 14, 2018

[LB1008 LR266 CONFIRMATION]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, February 14, 2018, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on the gubernatorial appointment of Michelle Bucklin to the Environmental Quality Council, LB1008 and LR266. Senators present: Dan Hughes, Chairperson; Bruce Bostelman, Vice Chairperson; Joni Albrecht; Suzanne Geist; Rick Kolowski; John McCollister; and Lynne Walz. Senators absent: Dan Quick.

SENATOR HUGHES: Welcome to the Natural Resources Committee. I am Senator Dan Hughes; I am from Venango, Nebraska; I represent the 44th Legislative District. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on 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 ask that 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...nah, nevermind. This is not our normal hearing room. 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 sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print, and it is important that you complete the form in its entirety. When it is your turn to testify, give the green sign-in sheet to the committee clerk or to the page. This will help us make a more accurate public record. If you do not wish to testify today, but would like to record your name as being present at the hearing, there's a separate white sheet on the table and you can sign in for that purpose. This will become part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify; they will be distributed 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 get an accurate record. We will be using the light system today 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 will have one minute remaining, and the red light indicates your time has ended and we would like you to wrap up. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, are allowed at a public hearing. The committee members with us today will introduce themselves starting on my left.

SENATOR GEIST: Good afternoon, my name is Suzanne Geist. I represent District 25 which is the east side of Lincoln and includes the towns of Walton and Waverly.

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SENATOR WALZ: I'm Lynne Walz; representing District 15, Dodge County.

SENATOR HUGHES: And on my right.

SENATOR ALBRECHT: Hi, Joni Albrecht; District 17--Wayne, Thurston, and Dakota Counties in northeast Nebraska.

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

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

SENATOR HUGHES: To my right is committee legal counsel, Laurie Lage; and to my left is committee clerk, Mandy Mizerski. Our page for the committee today is Lee-Ann Sims from Lincoln; she is a junior at University of Nebraska-Lincoln, studying political science and global studies. So with that, we will open our first item which is the appointment of Michelle Bucklin, the Environmental Quality Council. If you'd like to come up, Ms. Bucklin, and give us a little background on yourself and what you hope to accomplish on the Environmental Quality Council. Welcome.

MICHELLE BUCKLIN: (Exhibit 1) Thank you. Good afternoon, senators and staff. My name is Michelle Bucklin. I currently live in Omaha. I am looking to represent the food manufacturing industry on the Environmental Quality Council. Currently, I've been working for Cargill corn milling in Blair, Nebraska, for 20-plus years. And I think this is my third full-term appointment on the EQC. I originally had filled in for somebody who vacated the position and I think that maybe lasted a year or two for that first half term. So as far as answering the question was it what I would like to accomplish, was that...if I could have you repeat it. [CONFIRMATION]

SENATOR HUGHES: Yes. [CONFIRMATION]

MICHELLE BUCKLIN: Okay. So at the end of the day, I mean, my participation on the council...what I hope to contribute would be really lending some of my expertise, I've been doing environmental work in food manufacturing and prior to that in the chemical industry for a lot of years. So I feel like I have a really good strong expertise on environmental regulations, their impacts as far as just the day to day, how to comply with them. So part of the Environmental Quality Council's job is to review...in some cases it could be reviewing new regulations that are being brought forth by the DEQ for final promulgation for the state of Nebraska. And so part of what we do is, obviously, to review those, make an assessment and an evaluation on those rules

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and at the end of the day decide if they make sense to pass or not pass. So my background helps me assess in a lot of ways what some of the impacts of those rules are. As far as how they're written, how they could be or would be interpreted, how me being representative of my particular industry, how we would be able to comply with them. And also, I guess, to some degree, looking at the balance of does the rule and what it's saying...does it make sense as far as how does it protect our environment, the media of air, water, soil, and certainly public health, and is it a rule that is written in a way that also balances to the side of industry being able to comply with it and to meet what its intent is. And sometimes a rule's intent and how it's written can be very different. And so, you know, there could be times where you have to go back to the drawing board, reword some things to make sure that everybody is interpreting it the same way and it's interpreting it in the way that it was intended. Sometimes, you know, there's impacts that maybe the entities that have written the rule didn't think of, and so I think part of my job is to point those types of things out. And so that, again, at the end of the day you have a rule that has good intent, is well written, everybody understands it, you know, that kind of thing. Then there's other things that the Environmental Quality Council does as well, other than just reviewing rules and, you know, there's things with grants and so I feel like we have a really good group right now. We have had a group...we've always had a good group. I've always enjoyed everybody that I've worked with on the council. But we have a good group who...I think everybody brings a little bit to the table on how we...different points of view on how we look at what's brought before us and assessing it in different ways and pointing out different things and asking really good questions. And so there's that aspect of it as well. [CONFIRMATION]

SENATOR HUGHES: Okay, thank you. [CONFIRMATION]

MICHELLE BUCKLIN: And I do talk fast. [CONFIRMATION]

SENATOR HUGHES: That's okay. Other questions? [CONFIRMATION]

MICHELLE BUCKLIN: I always have. [CONFIRMATION]

SENATOR HUGHES: Senator McCollister. [CONFIRMATION]

SENATOR MCCOLLISTER: Yeah, thank you, Chairman Hughes. And thank you, Ms. Bucklin, for your willingness to serve. What do you do at Cargill? What's your... [CONFIRMATION]

MICHELLE BUCKLIN: So, I do work environmental...the environmental team at Cargill. My past jobs with Cargill I've...previously I've worked in management and I managed our wastewater plant and then also managed our environmental regulatory group. Currently, I'm

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actually part time. So I still work on the environmental team, just mostly special projects, that kind of thing. [CONFIRMATION]

SENATOR McCOLLISTER: Thank you. [CONFIRMATION]

SENATOR HUGHES: Are there additional questions? So I see you made the adjustment from Florida to Nebraska. [CONFIRMATION]

MICHELLE BUCKLIN: Yes. [CONFIRMATION]

SENATOR HUGHES: Was your time all right? [CONFIRMATION]

MICHELLE BUCKLIN: Yes. [CONFIRMATION]

SENATOR HUGHES: We are very glad to have you. Thank you for your service to the state. [CONFIRMATION]

MICHELLE BUCKLIN: You're very welcome, my pleasure. [CONFIRMATION]

SENATOR HUGHES: So unless you have anything else to add, I think we're done with you. [CONFIRMATION]

MICHELLE BUCKLIN: Okay. [CONFIRMATION]

SENATOR HUGHES: I would ask if there's anyone who would like to come up and offer testimony in support of the reappointment, is that correct? [CONFIRMATION]

MICHELLE BUCKLIN: It is. [CONFIRMATION]

SENATOR HUGHES: Reappointment of Ms. Bucklin. Seeing none, is there anyone who wishes to offer testimony in opposition to the reappointment of Ms. Bucklin? Is there anyone who would like to offer testimony in the neutral position of the reappointment of Ms. Bucklin? Seeing none, we will close that portion of our hearing and we will move to our first bill, LB1008. Senator Bostelman, welcome to the Natural Resources Committee. [CONFIRMATION]

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SENATOR BOSTELMAN: (Exhibit 1) Thank you, Chairman Hughes and the Natural Resources Committee members. My name is Bruce Bostelman, that's B-r-u-c-e B-o-s-t-e-l-m-a-n, and I proudly serve...represent District 23 and I'm here today to introduce LB1008. LB1008 would amend Section 37-613 to increase amounts of liquidated damages for certain violations of Game Law. This bill is a continuation of legislation strengthening the penalties for violations of Game Law. Last year, we passed LB566 which included my bill, LB635, that increased the fines for violations of Game Law. And this bill is simply doing the same for liquidated damages of wildlife violations. There is one small amendment that I have handed out to the committee. This is amendment, AM1912. The amendment simply increases the liquidated damages amount for mule deer from \$5,000 to \$10,000 to match it to the amount for whitetail deer and increase each category by a generally consistent amount. Currently, Nebraska law allows for liquidated damages for violations of Game Law in Nebraska Statute 37-613 which states that, and I quote, Any person who sells, purchases, takes, or possesses contrary to the Game Law any wildlife shall be liable to the State of Nebraska for the damages caused thereby. Such damages shall be, end quote. And the statute goes on to list those categories and amounts. LB1008 would simply increase the monetary amount for such liquidated damages, provisions in an effort to further strengthen our Game Law and protect our state's natural resource. LB1008 would increase the amount for liquidated damages provisions for violations of Game Law in the following ways: (a) damages for mountain sheep would change from \$15,000 to \$25,000; (b) damages for elk, with a minimum of 12 total points increases from \$5,000 to \$10,000. Damages for any other elk increases from \$1,500 to \$3,000; (c) damages for each whitetail deer with a minimum of eight total points and an inside spread between beams of at least 18 inches will change from \$5,000 to \$10,000; and the inside spread will go from 18 inches to 16 inches; (d) with the adoption of the amendment, the changes for mule deer with a minimum of eight total points and an inside spread between beams of at least 24 inches will go to \$5,000 to \$10,000; and the spread will go from 24 inches to 22 inches. Damages for any other mule deer will go from \$1,000 to \$2,000. The damages for mountain lion, lynx, bobcat, river otter, or raw pelt thereof will go from \$500 to \$5,000. The damages for each wild turkey will go from \$100 to \$500. As stated in (Section) 37-613, such damages may be collected by the commission by civil action in each case of any such offenses the court or magistrate before whom such conviction is obtained shall further enter judgment in favor of the State of Nebraska and against the defendant for liquidated damages in the amount set forth in this section and collect such damages by execution or otherwise. Failure to obtain conviction on a criminal charge shall not bar a separate civil action for such liquidated damages. Damages collected pursuant to this section shall be remitted to the secretary of the commission who shall remit them to the State Treasurer for credit to the State Game Fund. End quote. The intent behind LB1008 is to work along with LB566 from last year to further strengthen our game laws and discourage unlawful and wasteful and wanton killing of these wildlife, our state's natural resource, through increased liquidated damages. LB1008 puts Nebraska's liquidated damages provision for wildlife violations within the range of those set by surrounding states while sending a strong message that such wildlife violations will not be

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tolerated in this state. Game and Parks does have discretion within any given case of wildlife violation to determine the appropriate course of action, however this bill gives them a tool to use to combat the egregious nature of certain wildlife violations and better protect our natural resources. Therefore, I ask for your support of LB1008 and its advancement to General File. I would be willing to take any questions that you may have at this time. [LB1008]

SENATOR HUGHES: Thank you, Senator Bostelman. Senator Kolowski. [LB1008]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Senator Bostelman, thank you for bringing this forward. I think it's an excellent piece of legislation. And the question I have is from 2009 was the last time this section was looked at, you have listed here, were all the various animals addressed at that time in 2009 or were some left off or ignored? Is everything being done, sort of, this time almost ten years later? [LB1008]

SENATOR BOSTELMAN: I can't answer that question for you. But there will be an individual behind me though that will answer that question. [LB1008]

SENATOR KOLOWSKI: Okay. Sure. I really like what you're doing here. Does anything happen to the person's hunting license, if they had one, that they were hunting out of season or anything like that? [LB1008]

SENATOR BOSTELMAN: Again, I think those behind me can answer it in more detail, but I do believe it depends upon a court action what that might have if that's part of that judgment of penalties to remove the license from them for a certain amount of time, that's part of...last year we did with the compacts if you lose your license in one state you lose it in another state for a set amount of time. And I think that goes probably by each charge, game violation there is and how that is judged by the courts. [LB1008]

SENATOR KOLOWSKI: Does that same thing with the weapon the person is using--bow, an arrow, crossbow, shot gun, rifle, anything at all? [LB1008]

SENATOR BOSTELMAN: Good question--my understanding with that, that is, again, up to the court's discretion. But again, those behind me can answer those for you better. [LB1008]

SENATOR KOLOWSKI: Thank you, appreciate it very much, thank you. [LB1008]

SENATOR BOSTELMAN: Sure. [LB1008]

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SENATOR HUGHES: Additional questions? Senator Albrecht. [LB1008]

SENATOR ALBRECHT: Thank you, Chairman Hughes. Senator Bostelman, what was the number of last year's bill that we were adding those to? [LB1008]

SENATOR BOSTELMAN: Sure. Let me look back here. LB566 was a committee bill. LB635 was my bill. [LB1008]

SENATOR ALBRECHT: Okay. [LB1008]

SENATOR BOSTELMAN: And we put that into a committee bill. The committee bill was LB566. [LB1008]

SENATOR ALBRECHT: Okay. And so we were looking at raising fees last year. Are these new? [LB1008]

SENATOR BOSTELMAN: No, this is liquidated damages. [LB1008]

SENATOR ALBRECHT: Oh, liquidated damages. [LB1008]

SENATOR BOSTELMAN: Yes. Last year was penalties. This is liquidated damages. [LB1008]

SENATOR ALBRECHT: Penalties...and this year...okay. [LB1008]

SENATOR BOSTELMAN: So they're two separate actions. [LB1008]

SENATOR ALBRECHT: And would the people behind you be able to tell us how much activity there's been in a year's time since we talked last about your bill before? [LB1008]

SENATOR BOSTELMAN: They would. I would ask the ones coming in behind me, yes. [LB1008]

SENATOR HUGHES: Additional questions? I just have one. You mentioned that if we pass this law, the penalties that are...would be in the range of other states, is that what kind of put us in the middle or the top end of what other states are charging, or (inaudible)? [LB1008]

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SENATOR BOSTELMAN: I think that's going to put us pretty much on par with everybody else. There may be some who will be at the same or a little bit higher, but I believe...I have the information, I can pass that out to the committee. And I believe there will be a testifier coming behind me that might be able to speak to that as well. [LB1008]

SENATOR HUGHES: Okay. Okay, that would be good. Any additional questions? Seeing none, thank you, Senator. I'll ask for the first proponent to LB1008. Welcome. [LB1008]

SCOTT SMATHERS: Good afternoon, Chairman Hughes, members of the committee. I am Scott Smathers, S-c-o-t-t S-m-a-t-h-e-r-s. I am executive director of the Nebraska Sportsmen Foundation; in addition, I have several partners that have asked me to testify on their behalf since they could not be here. That's Nebraska Wildlife Federation, the Big Game Conservation Association of Nebraska, and the Nebraska Council of Sportsmen's Clubs. I want to thank Senator Bostelman for his continued commitment to sportsmen and outdoorsmen and conservationists in the state. As you heard last year, he was the driving force when we asked him to work with us in the Game and Parks and bringing what eventually ended up being LB566 and passing that at that time. The groups that we represent in our focus for the sportsmen that we lead, we looked at doing a complete package last year including liquid damages. But to answer your question, Senator Albrecht, is that we thought it would be too confusing when we're talking about fines versus liquid damages at the same time. Plus, we had to work with several of our partners to get them comfortable with some of the language that we were looking for for liquid damages. Senator Bostelman has agreed to carry the bill again this session. And I'm not going to go into long, belabored detail, but we have been working for this for four or five years within our state. I think it's no surprise that we've seen some wanton killing destroys; we've seen some blatant displays of poachers, simply killing for deer racks, leaving full carcasses on the side of the road, same way with elk. You remember last year we had a large case of antelope in western Nebraska. And, quite frankly, I'd like to say that we don't have to bring this type of legislation, but there are members that are not hunters, they are not sportsmen; they are simply poachers or thrill seekers, and it's on the increase. And it ranges in a wide range of species, not only in game war...normal traditional pheasant, quail, those types of things, but also in fishing, angling. And so we want to send a message and we want to send a message that when you break the law in Nebraska in wild game and you ruin and you take from a natural resource that we all work on...I'm a lifelong conservationist and outdoorsman. I spent my entire life working in the Leopold mindset of conservation. And when that is taken from us, there is a value to it and we want that value to be stiff. I want to make it clear on record, I've had a lot of questions from some of our members, some of our partners, this is not directed at sportsmen. This is not directed at hunters. I made one simple statement--if you're not violating law, you have zero to worry. So it is irrelevant whether it's \$10,000; \$25,000; or \$100,000. What we want those poachers and those folks that do not value the resources that we do to feel the sting in their pocketbook in long term. And that's what we're after. And we appreciate that. We took a big step last year with the

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Violators Compact. And thanks to this committee and this body, we're moving in that right direction, we sending that message. So I would urge you to continue to push forward with that; make the second part of our bill. Again, I want to thank the Game and Parks, our partners, and Senator Bostelman for their willingness to work on our behalf to strengthen the game laws for those who do not see the same nature that we do. With that I'll close and answer any questions. [LB1008]

SENATOR HUGHES: Thank you, Mr. Smathers. Are there questions? Senator Geist. [LB1008]

SENATOR GEIST: Yes, thank you; and thank you for your testimony. I'm curious, do you have good success finding the people that do this? [LB1008]

SCOTT SMATHERS: How do I put this politically correct? Those who commit this crime are not exactly the sharpest tools in the shed usually and they usually leave a trail. And thanks to local enforcement and our wildlife game division...or enforcement division of Game and Parks...some of these do take a while to figure out, but eventually somebody talks, somebody brags, and some people like the advent of social media to brag about their conquest and it makes a trail. So the problem we had in the past was that there were sometimes liens being granted because of a small town or their family or friendships within that individual creating that mistake. And again, the question came up earlier, is that it's at the discretion of the law enforcement officer is whether this is an egregious act or a mistake and they're very skilled at doing so. They can small rotten tomatoes if they need to, that's the bottom line. And I'll tell you, sportsmen are keen to self reporting also. [LB1008]

SENATOR GEIST: Thank you. [LB1008]

SCOTT SMATHERS: You're welcome. [LB1008]

SENATOR HUGHES: Okay. Additional questions? Seeing none...oh, Senator Kolowski. [LB1008]

SENATOR KOLOWSKI: Can you help me with any of the questions I asked earlier? [LB1008]

SCOTT SMATHERS: You need to remind me, I'm getting... [LB1008]

SENATOR KOLOWSKI: What happened from ten years ago, as far as...were all the game prices...did they all accelerate to this time, or was it just picking and choosing some (inaudible)? [LB1008]

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SCOTT SMATHERS: With this bill, we did not go across the board. [LB1008]

SENATOR KOLOWSKI: Okay. [LB1008]

SCOTT SMATHERS: We looked at, as described by Senator Bostelman, we looked at our neighboring states and we picked out the most significant categories that had matching and we wanted to be up to par with them. I will be honest with you, we proposed in this bill to raise turkeys from \$100 to \$500. Now I drew some grief from some of my fellow sportsmen that turkeys everywhere...and that's exactly my point. They become an easy target, as some of these people don't pay attention, there's a lot of them, so I want to make it hurt. So no, we did not do across the board. [LB1008]

SENATOR KOLOWSKI: Okay. [LB1008]

SCOTT SMATHERS: But that doesn't say we won't be back. (Laughter) [LB1008]

SENATOR KOLOWSKI: And weapons, people's choice (inaudible). [LB1008]

SCOTT SMATHERS: That's a question for law enforcement. I think that's a case by case...or again, by the courts and law enforcement that are involved in the case and I'll let them speak on that; they're behind me. [LB1008]

SENATOR KOLOWSKI: Thanks, Scott. [LB1008]

SENATOR HUGHES: Any further questions? Thank you for your testimony. [LB1008]

SCOTT SMATHERS: Thank you very much. [LB1008]

SENATOR HUGHES: Next proponent. Welcome. [LB1008]

TIMOTHY McCOY: Good afternoon, Chairman Hughes, members of the committee. My name is Timothy McCoy, T-i-m-o-t-h-y M-c-C-o-y; and I'm the deputy director of the Nebraska Game and Parks Commission at 2200 North 33rd Street in Lincoln. The commission supports LB1008 and appreciates Senator Bostelman bringing this forward. I'm not going to go through what this does, and I think Scott did a good job of clarifying that the differences between sort of the punitive fines for illegal activities that come through the courts versus these liquidated damages that are essentially are trying to make reparations for wildlife legally taken from all Nebraskans.

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Those funds that come from liquidated damages, one of the questions I expect you might have, is well what happens to them. Those come back to the commission through the Game Fund. They're utilized by us in our research and management and activities for wildlife species in trying to help work with wildlife populations, because it's not like you can really go out and purchase a wild animal somewhere. We have some process to do that. We also use those funds to help with some of our investigator training and equipment for our conservation officers to help us catch people that are doing these bad things. We also use funds out of the Game Funds to help landowners with depredation issues which can help with fencing haystacks and hay yards or providing zon guns which are essentially an automated natural gas powered gun that sets off booms to try and haze wildlife away if they're having depredation issues. So one of the things that we've saw over the last several years, and Scott talked about this a little bit, we continue to...we appear to be on an increasing instance of some certain types of illegal take of wildlife. Especially one of them is relative to trophy wildlife, because these trophy animals can be illegally taken and sold and there is potential large sums of money and there's dollars, potentially, involved in that, especially if it's organized by people that are bringing other folks in to poach animals. So we do continue to see some increase in that, and it's more of an organized activity, especially around the legal take of deer and turkeys. We also continue to see an increase in illegal activity from individuals that, as Scott said, they decide to go shoot wildlife for a thrill frequently often at night with spotlights, with really no interest in what happens to the animal other than just illegally shooting animals and letting them lay. Our concern and that we hear from our sportsmen and our sportswomen and landowners that take interest in managing wildlife on their property, they continue to be concerned about this bad behavior. From the standpoint of landowners, in some cases, we have landowners that are working hard to manage wildlife on their property and there may be some value to them from somebody who is willing to pay an access fee to come hunt that big deer. When that's illegally taken, that's taking something away from them. So we think that...we hope and we think that increasing liquidated damages can help serve as a deterrent. In terms of the changes on the inside spread of the trophy status for white tailed and mule deer, I'll give you sort of a short rundown of our thoughts on that. We think that's a tool we can use to try and make sure that we're getting more of the folks that are killing what people would consider a trophy-class animal. And this is based on...we went back through our records that we have in our state trophy database of looking at a white-tailed deer and mule deer that are in our trophy records, and the percentages of those that are captured with the current 18 and 22 inch, and there's, in many cases, there's a pretty good portion that wouldn't be. This change does not solve all those issues, but it would help us get more of those into that right category and be a definite step in the right direction. So in closing, I just want to let you know we support this. We're glad to work with the committee and the senator on it; and appreciate your time. [LB1008]

SENATOR HUGHES: Thank you, Mr. McCoy. Senator McCollister. [LB1008]

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SENATOR McCOLLISTER: Yeah, thank you, Mr. Chairman. Yeah, and welcome back, Mr. McCoy. [LB1008]

TIMOTHY McCOY: Thank you. [LB1008]

SENATOR McCOLLISTER: Yeah. Would somebody expound to the...when you penalize a person breaking our laws, is there a range of penalties or is it a set penalty that you apply in all cases? [LB1008]

TIMOTHY McCOY: Well, the penalty will depend on the type of wildlife infraction and what level of misdemeanor it is. So that's sort of tied in through our laws, actually, on what levels of misdemeanor these are. I believe in the case...and I'll probably have Craig Stover come up following me to provide some more on these technical questions and make sure if I get it wrong we get it right. I believe in most cases where it involves illegal take of wildlife, especially for big game animals, it's very high level...pretty high misdemeanor. In that case, they get a fine for that illegal take, which is some of what was raised last year, and you have the court costs that go to the courts and the judges. And then liquidated damages that come to the agency. And the liquidated damages are, essentially, those amounts are set in law of what those amendments are. [LB1008]

SENATOR McCOLLISTER: And they are always applied when you have a violation. [LB1008]

TIMOTHY McCOY: They're normally always applied when we...well, we write the ticket, which in most cases if they're doing that will include those liquidated damages; then that ticket with the infraction and the violation and the liquidated damages goes to the court system. So if they waive and they pay, that in many cases they just take care of it. In other cases where it's either a court trial or bench trial, there can be some decisions there. And prosecutors also may look at this strength or weaknesses of the evidence and some cases may not move that ticket forward. [LB1008]

SENATOR McCOLLISTER: Can you define liquidated damages? [LB1008]

TIMOTHY McCOY: Well, the...I mean, the liquidated damages, I think, as they're defined in this section really are tied to the illegal...it's really for the illegal take possession; I think selling of wildlife, but the liquidated damages provision is simply a set in law is that those dollars that per these statutes come back to the Game and Parks Commission to help the state try to recover the value of those lost animals. [LB1008]

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SENATOR McCOLLISTER: Thank you. [LB1008]

SENATOR HUGHES: Are there additional questions? Senator Albrecht. [LB1008]

SENATOR ALBRECHT: Thank you, Chairman Hughes. Okay, so if somebody trespasses on our ground and tears fences down and is shooting our turkeys and you'll get some damages, but what happens to that person who is on private property that didn't ask permission, do they...I mean, they were to go to court. Does the court do anything to those folks who violate the trespassing laws, and at the same time shoot something out of season or ran our cattle and one decided to die (inaudible) because (inaudible). What would happen in a case like that? [LB1008]

TIMOTHY McCOY: I don't know on that private landowner side. The court could, I believe in some cases, probably try to get damages from that trespassing event. But I am not a legal expert. [LB1008]

SENATOR ALBRECHT: So when you're talking Game and Parks, are you just talking on state land or are you talking throughout the whole state of Nebraska no matter... [LB1008]

TIMOTHY McCOY: Yeah, this applies to illegally killing wildlife anywhere in the state,... [LB1008]

SENATOR ALBRECHT: Anywhere. [LB1008]

TIMOTHY McCOY: ...including on private land. And in some cases where you have trespassers that come in and are caught shooting animals, it will be they are trespassing; it will be an illegal take of wildlife, and then there will be liquidated damages. So the fines from those, you know, those efforts that happen that the court does...that aren't liquidated damages then it will go to the local school systems through the county and then the dollars go through...obviously, the court costs go to the court and the judges retirement. [LB1008]

SENATOR ALBRECHT: And one more question, do you have any advise if this should come out of Exec and go to the floor, how we could avoid a six-hour debate about Game and Parks. Just kidding, you don't have to answer. [LB1008]

TIMOTHY McCOY: I wish I knew that answer. I do want to address Senator Kolowski, you've asked about some of the previous history, which I actually do have... [LB1008]

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SENATOR KOLOWSKI: Sure. [LB1008]

TIMOTHY McCOY: ...some of that history. In 2001, most of...we did not have, sort of, these...what I call the trophy categories for large bucks, for other things that were added, most of those were added in 2009 with some higher fines. And this sort of builds on those changes that were made in 2009 because we were seeing more of this issue of illegal harvest, you know, people coming from other states and illegally harvesting wildlife in Nebraska and taking them back across the border. [LB1008]

SENATOR HUGHES: Okay, any other questions? I just have one. Was there any truth to the rumor that Game and Parks is going to put bounty on prairie dogs? (Laughter) You don't have to answer that. [LB1008]

TIMOTHY McCOY: Nope. I think the Department of Agriculture would do that. [LB1008]

SENATOR HUGHES: Thank you, Mr. McCoy. Always a pleasure to see you. Next proponent. Welcome. [LB1008]

CRAIG STOVER: Thank you. Chairman Hughes, Senators, I appreciate the opportunity to be here. My name is Craig Stover, C-r-a-i-g S-t-o-v-e-r, and I'm the administrator of law enforcement for the Nebraska Game and Parks Commission. We appreciate the Sportsmen's Council bringing this forward and Senator Bostelman's support on all this. I really don't have anything prepared for you other than I'm the sacrificial lamb to answer any questions that you might possibly have related to this particular issue. I know Senator Kolowski you had mentioned what happened in 2009 and Deputy Director McCoy in his brilliant testimony, since he's my boss, stated that they added the trophy penalties at that time. And when those penalties got added, since it was a first go at that, it was pretty conservative in terms of trying to identify what a trophy was. Well, over the course of time we found that the previous measurements that we had just weren't up to snuff and there were an awful lot of very large once-in-a-lifetime trophy deer that were falling through the cracks on all of that that wouldn't qualify for those trophy penalties. So I hope that helps you a little bit in that particular vein. [LB1008]

SENATOR KOLOWSKI: Sir, Mr. Chairman, if I may. [LB1008]

SENATOR HUGHES: Yes, Senator Kolowski. [LB1008]

SENATOR KOLOWSKI: Are weapons ever taken away from the people that are involved in some of these things? Because it's just a perpetuation, you know. If they're law breakers, they're

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probably going to do it somewhere else using whatever they have. And have you seen judges rule in that particular way? [LB1008]

CRAIG STOVER: Very seldom. There are times when we do seize weapons as evidence, solely as evidence. And then it's up to the courts in terms of the disposition on those things. I kind of like how you...the way you think though, because one of the larger deterrents that we would have out there is forfeiture of equipment that people have. And there are several states out there that have that. [LB1008]

SENATOR KOLOWSKI: Oh, there are? [LB1008]

CRAIG STOVER: But we don't have that specific provision. [LB1008]

SENATOR KOLOWSKI: Thank you. [LB1008]

CRAIG STOVER: You bet. [LB1008]

SENATOR HUGHES: Senator Albrecht. [LB1008]

SENATOR ALBRECHT: Thank you, Chairman Hughes. Question--how many officers do you have across the state that we can call on? [LB1008]

CRAIG STOVER: We have 52 field officers, and that's pretty much the boots-on-the-ground out there. Now of those 52, 4 of them are primarily focused on boating and spend a majority of their time either in the boating education or the boating enforcement law arena. So we've got 48 out there. [LB1008]

SENATOR ALBRECHT: Okay. And is native ground different...can you go on native ground with your...law enforcement...on tribal property? [LB1008]

CRAIG STOVER: On tribal property? There's reservation land and then there's tribal land. Things inside the reservation, all of Nebraska laws apply to, with the exception of that tribal land. [LB1008]

SENATOR ALBRECHT: Okay. [LB1008]

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CRAIG STOVER: Now we do work with...and we meet with annually with several of the tribes. We collaborate back and forth on a number of things because a lot of the violations, you know, are people from off the tribal property and... [LB1008]

SENATOR ALBRECHT: Okay, I'd like to speak to you about that sometime. [LB1008]

CRAIG STOVER: But in terms of official support, we work with the Fish and Wildlife Service because the federal entity has the potential for addressing those issues. [LB1008]

SENATOR ALBRECHT: Okay. Because I had heard that if you are on the native ground and you do not have permission or have shot something you shouldn't have, that they do take your guns. [LB1008]

CRAIG STOVER: Well, I'm sure that that's possible. [LB1008]

SENATOR ALBRECHT: Would they have...would the BIA come in...or who would...if it wasn't you, who would it be that would go about that? [LB1008]

CRAIG STOVER: For the tribes that we work with, they actually have their own law enforcement personnel to deal with those particular issues. And that tribal property, as far as we're concerned, is a separate country. It might as well be the state of Maine, because we don't have jurisdiction over that specific tribal property. [LB1008]

SENATOR ALBRECHT: Um-hum. Thank you. [LB1008]

SENATOR HUGHES: Any additional questions? Seeing none, thank you, Mr. Stover. [LB1008]

CRAIG STOVER: You bet. [LB1008]

SENATOR HUGHES: (Exhibits, 2, 3, 4, and 5.) Next proponent to LB1008? Seeing none, we have letters in support from the Izaak Walton League of America, Nebraska Chapter; Stephanie Scheffler; Jon Slaga; Dottie Davis. Is there anyone wishing to speak in opposition to LB1008? Anyone wishing to speak in the neutral position on LB1008? There's one, yeah. Welcome. [LB1008]

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ROGER ROBERTS: Thank you very much. My name is Roger Roberts; I live over near Weeping Water, Nebraska. And I am the president of Nebraska Wildlife Protectors Association and we do business as wildlife crimestoppers. [LB1008]

SENATOR HUGHES: Mr. Roberts, could I get you to spell your name, please? [LB1008]

ROGER ROBERTS: R-o-g-e-r R-o-b-e-r-t-s. [LB1008]

SENATOR HUGHES: Thank you. [LB1008]

ROGER ROBERTS: And what we do is we pay fines for information leading to arrest and conviction of poachers, criminals, law breakers. For example, liquidated damages have always been a problem, and it's kind of stuck in our craw, not because they're too low, but because they are not assessed by the courts. For example, the 25 prong horns that were killed and left to lay in Morrill County was adjudicated in 2016. There was no information. We put up \$2,000. In two days we had the names and their arrests were made. That's what we do and that's how it happens. Unfortunately, that was a plea-bargain circumstance. There was, in round numbers, \$20,000 worth of liquidated damages that were left on the table that were not assessed by the court and they were plea-bargained away by the county attorney before it ever went to the court. Now, I don't know whether this bill is any different in the third section in the existing bill, but that is our big problem with liquidated damages. The other thing that I'm only concerned about, and I'm not against this bill, I just want to know if we have looked at any unintended consequences that could be generated by the size of some of these liquidated damage awards. The most important asset we have is on our law enforcement officers. And if it becomes so expensive that these guys who are already bad guys because they're breaking laws, will they resist arrest, will our officers get hurt because the penalty could be too great? We would like to see all of those guys left penniless and whatever. But we want to be sure that these guys are as protected as they can be along with this. I don't know that this bill will be able to force a court or anything else in Nebraska counties to assess liquidated damages. And if something like that could become part...it says they shall do that. But oftentimes it does not happen. So it's not much of a deterrent unless these guys know that they're going to get their hands slapped in a big way. So, that's where Wildlife Crimestoppers starts and stops. We know that the people that we work with and under their auspices, which is the game commission and law enforcement end of it, if they are for this thing, we will certainly not oppose that. We'll be neutral and whatever, but I would like to see that bill contain some teeth that would force the judicial system to assess these damages. Now it says we can sue for those damages, even if they're not convicted, yet they're in possession and whatever in the bill. Now I'm not aware and I'm not a statistician, I'm not aware of any time that anybody has been sued to collect those damages. So I would like to see...regardless of where those numbers land, I would like to see those things collected, returned to the state as reparation

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and come back to the game commission to help fortify the populations that we do have in wildlife, fish, and all those kinds of things. We are consumers; we are people that appreciate the wildlife, and Nebraska has a wonderful wildlife population and you can see them, you can take picture of them, you can put a bullet hole in them, you can do all kinds of things, and it's a wonderful place to raise kids and to spend time. So I guess that brings this to a close as far as I'm concerned. [LB1008]

SENATOR HUGHES: Thank you, Mr. Roberts. Are there any questions? Seeing none, thank you for your testimony. [LB1008]

ROGER ROBERTS: Thank you. [LB1008]

SENATOR HUGHES: Is there anyone else who wishes to speak in the neutral position? Welcome. [LB1008]

JOE HERROD: Welcome...or thank you. My name is Joe Herrod, J-o-e H-e-r-r-o-d. I'm a resident south of Lincoln and also reside about half time in western Nebraska and I had some problems with this bill. I'm a member of the Wildlife Crimestoppers. I joined that organization when I was 36 years old and I'm now 75, so I guess I've been around for awhile. I heard the Nebraska Council of Sportsmen's Clubs mentioned. That organization is defunct. I was president of it for many years and I was one of the founders of the Nebraska Sportsmen's Foundation. And they are aware of, I think, my concerns with this bill is that it is very hard to get prosecutors and judges to do anything with these fines and these liquidated damages in certain locales; and that is especially western Nebraska. I see in here the otter and the bobcat and the mountain lion mentioned as \$5,000 animals. Well, when all of this was originally put together, there were very few otters, there now are, there's consideration of a trapping season on them; there was very few bobcats, there are many bobcats now, trapping shows it. And we're getting an increasing number of mountain lions. And I will tell you, if you put \$5,000 on a bobcat and the mountain lion, I don't think prosecutors and judges are going to touch it in a large area of this state. The pressure that went on this judge with this antelope case is amazing because they let those guys off, so to speak, scot-free. The next case that came to that judge, he sent the two offenders to jail. He got the pressure from some of the locale. So community pressure can go different ways. On an antelope it can be one way, on a mountain lion or a bobcat it can be another. One of the things on bobcats right now that we're looking at, and everybody that has turkeys on their place knows that our turkey population is going one direction and our bobcat population is going the other. Bobcats can go in trees and get turkeys and I just don't see that this as having \$5,000 hanging over a court case and this, it's just going to cause...we've already seen these problems with judges and prosecutors and we really have to be careful. And I'll conclude with something that was said to me, and I got to tell you, I am absolutely not a fan of capital punishment. I don't know how

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any of you people feel one way or the other, I don't care, but I got it drilled into me when I was a little kid that capital punishment didn't work and I still believe...you know, I still believe that way. But you know one thing about capital punishment is it can't work unless we eventually kill somebody. And this bill can't work unless we prosecute somebody. And are we going to prosecute people at the \$5,000 level or are we better off leaving this at \$500 or \$1,000 level and getting some prosecutions? That's my testimony. Do you have any questions? [LB1008]

SENATOR HUGHES: Thank you, Mr. Herrod. Are there questions? Seeing none, thank you for your testimony. [LB1008]

JOE HERROD: Thank you. It's a pleasure. I haven't been down here for many years testifying. [LB1008]

SENATOR HUGHES: Glad you came. [LB1008]

JOE HERROD: Well, I've met you before. We have some mutual friends. We'll talk about it some day. (Laughter) And I don't have a whole lot of friends anymore. [LB1008]

SENATOR HUGHES: Some days I don't either. (Laughter) Is there anybody else wishing to offer neutral testimony? Seeing none, Senator Bostelman, you're welcome to close. [LB1008]

SENATOR BOSTELMAN: Briefly I'll try to explain liquidated damages. We could speak off the mike too, but basically it exists between...when you have a contract between two individuals or two entities, this being the state of Nebraska and the population, the public in the state of Nebraska. If you breach that contract, you will then liquidate...liquidated damages apply to the value of that breach. So that's what we're talking about. So as we're talking before, it's that resource, it's that animal that's now been...it's replacing...it's having a fee set to that...for that animal, if you will, and that breach of that contract of Nebraska state law. [LB1008]

SENATOR McCOLLISTER: Thank you, that makes sense. [LB1008]

SENATOR BOSTELMAN: So if that helps. And I would agree totally with the last two gentlemen that testified. Unfortunately, within our judicial system I do believe we have our judges and our prosecutors have the opportunity to plea bargain and do other things with their cases. But if we don't put the tools in their hands, if we don't give them the opportunity by having these types of fines for these liquidated damages, they'll never get there. And I agree with them that we need the prosecutions, we need to enforce the laws, we need to levy the fines, we need to levy the liquidated damages. But I don't see that we're the ones right now to do that, but

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we can put the tool in place. And that's what this bill does, is puts that tool in place, gives them that opportunity to do that if they so choose to prosecute the case in that manner. So with that I'll take any questions you may have. [LB1008]

SENATOR HUGHES: Thank you, Senator Bostelman. Are there any questions? Seeing none, that will close our hearing on LB1008. And I'll turn the committee over the Vice Chairman. [LB1008]

SENATOR BOSTELMAN: Good afternoon, Senator Hughes, and welcome to your Natural Resources Committee. (Laughter) [LR266]

SENATOR HUGHES: (Exhibits 1 and 2) Thank you, Vice Chairman Bostelman and members of the Natural Resources Committee. For the record, my name is Dan Hughes, D-a-n H-u-g-h-e-s, I represent the 44th Legislative District. LR266 is a resolution urging the United States Department of the Interior, Bureau of Reclamation, and the Nebraska Congressional delegation to work together to find a solution that allows people occupying lots around Hugh Butler Lake, Harry Strunk Lake, and Swanson Reservoir to freely transfer their permits and leave non-permanent structures on the lots. It also urges the Nebraska Game and Parks Commission to consider taking such action to bring about a solution that allows for the transfer permits and for non-permanent structures to remain on the lots surrounding these lakes. I was asked by my constituents to try and assist them in resolving an issue concerning the Bureau of Reclamation. The bureau is mandating that their trailer homes at these lakes be removed by April 30, 2020. The economic impact of the Bureau of Reclamation removing the exclusive use rights will be immense. The concessionaires have invested a lot of money and so have the mobile home owners. If you remove all the mobile homes, it may force the concessionaires to close. The counties will lose property tax dollars as well, and the state will be losing sales tax dollars. We always talk about grow Nebraska, but this does the opposite; it takes away from our tax base. I handed out two maps: one is the map of the state of Nebraska, and the other is the south...the 44th Legislative District and the three lakes that I'm talking about--Harry Strunk, Huge Butler, and Swanson Reservoir are in that area. I'd be happy to answer any questions. There will be gentlemen coming behind me that have properties at these lakes and will be able to give you a little more history and background on this issue. Thank you. [LR266]

SENATOR BOSTELMAN: Thank you, Senator Hughes. Are there any questions from the committee? Seeing...oh, Senator Walz. [LR266]

SENATOR WALZ: Yeah, I have a question. I guess I just don't understand. Can you just kind of explain, is there somebody telling them that they have to...who is telling them that they have to remove these? [LR266]

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SENATOR HUGHES: Well, the Bureau of Reclamation owns the lakes and a certain amount of property around there, and I may be speaking out of turn, but one of the gentlemen coming behind me, so they do own a portion of the land. So they have opened that up for residential lots, so people that go to the lake and want to have a weekend cabin or pull in a mobile home and put a porch on it, you know, be able to spend time at the lakes. Well, the Bureau of Reclamation somewhere along the line has said that that's exclusive use that if you have a lease on that lot, that's exclusive use, it's public property, so you need to get your lot off of that...or move your structure so it is open to the public and remove your cabin or your mobile home. So they have changed the law in North Dakota that has allowed those mobile homes to stay in place. And these are, basically, summer communities around these lakes where people, families grow up and they spend the weekend at the lake or holidays. And there are concessionaires that have, you know, came in, put in a bait shop, a convenience store to supply whoever comes to the lake, but it is for that little community as well of, you know, pop and beer and chips and those types of things. So this is the federal government coming in and saying after you've been at this location for 20, 30, 40 years, you've made an investment in it, now get off, it's our property. Which it is the federal government's property, but there is also considerations be given for the individuals who have invested time and money to improve those sites, you know, create business, create property tax revenue, those type of things. So this is just a way by passing this resolution gives Senator Fischer and Congressman Smith a little more leverage when they go to argue in the federal Congress, a leverage with Bureau of Reclamation to get them to see it our way. [LR266]

SENATOR WALZ: Okay. And what's their reason for even wanting to come in and... [LR266]

SENATOR HUGHES: They have...and one of the gentlemen behind me may be able to explain that better, but there's a certain lease time frame and when that lease is up then you have to renew it or move. But I had better quit because I'm probably...they're probably really cringing behind me. [LR266]

SENATOR BOSTELMAN: Senator McCollister. [LR266]

SENATOR MCCOLLISTER: Yeah, thank you, Senator. I can understand the loss of sales tax. Who are the leases paid to? Is that to the Bureau or is that to the county? [LR266]

SENATOR HUGHES: I'm going to leave that up to one of the gentlemen behind me that may be better able to answer that. I don't have a weekend cabin at the lake. [LR266]

SENATOR MCCOLLISTER: Yeah, in your testimony you said the counties lose money on sales tax and is there a property tax payment that those residents pay as well? [LR266]

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SENATOR HUGHES: There is property tax on the home...the cabin or the trailer itself. They are assessed a property tax. [LR266]

SENATOR McCOLLISTER: I see. [LR266]

SENATOR HUGHES: The sales tax lost is to the state. The sales tax from the concessionaire of the sale of pop and beer and chips and bait and those types of things. So it is the state losing the sales tax, the county will be losing the property tax value of the structures that are constructed. [LR266]

SENATOR McCOLLISTER: So the state has a concessionaire? A person pays to be the concessionaire that...at that lake? [LR266]

SENATOR HUGHES: There's an arrangement with the Game and Parks, I believe, that they are the managers of that. And we're getting way too far into the weeds for me to... [LR266]

SENATOR McCOLLISTER: Okay. [LR266]

SENATOR HUGHES: There's experts coming behind me. [LR266]

SENATOR McCOLLISTER: Fair enough. [LR266]

SENATOR BOSTELMAN: Senator Albrecht. [LR266]

SENATOR ALBRECHT: I have just one question. And if it's for somebody else, that's fine, but are all four of these...like are they man-made by the NRDs these lakes? Are these lakes that been here for years and years, and are they only managed by the Game and Parks? [LR266]

SENATOR HUGHES: They're lakes that were built by the federal government, the Bureau of Reclamation, for flood control, irrigation, and recreation. And they're just three of the lakes that we're concerned about at this time. The far west one, Enders Lake, I don't know that there's any issue there. [LR266]

SENATOR ALBRECHT: Thank you. [LR266]

SENATOR BOSTELMAN: Sorry, Senator McCollister, did you have another question?
[LR266]

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SENATOR McCOLLISTER: No, thank you. I'm good. [LR266]

SENATOR BOSTELMAN: Any other questions from committee members? Thank you, Senator Hughes. [LR266]

SENATOR HUGHES: Thank you. [LR266]

SENATOR BOSTELMAN: Now we would ask for any proponents for LR266 to please step forward. Welcome. [LR266]

KENT CONFER: Good afternoon, Mr. Chairman and board members. My name is Kent Confer, K-e-n-t C-o-n-f-e-r, and I'm a board member of the Hugh Butler Lake Trailer Court Association, and I have to preface it, I did come up with that name. But that's what I am. And I'm also here on behalf of the trailer association at Harry Strunk Lake and Swanson Reservoir. All told, there's around 230 trailer homes in southwest Nebraska on those three area lakes. And those trailer parks were created about the same time as the lakes, not to correct you, about 50 years ago. So we basically...ever since I was a kid, I'm a lifelong resident, we've had these lakes and the trailer homes have been there. Actually, they were built a lot by volunteers; the roads, a lot of the grading was done by the folks out there. Trailers are still being bought and sold on a regular basis and they're also being remodeled and updated. All this work is approved by the Nebraska Game and Parks Commission and the Bureau of Reclamation. So this work continues around there. The reason that we're really here is the Bureau of Reclamation is mandating that all trailer homeowners remove trailer homes, decks, and connecting structures no later than April 30, 2020; which is when the master lease between the Bureau of Reclamation, it's a 50-year lease, expires on that date. It was signed in '95, I believe...or 25 year, I'm sorry. So, basically, everyone that I've talked to, and I'm sorry I snickered when the question was asked, but they...why? When we bring this up to people and the common sense is why is this happening? I don't have any real reason for that other than a federal mandate that the bureau came up with years ago and it's been spreading across the country since with different results in different areas. The Bureau of Reclamation wants to eliminate exclusive private use of public property. In other words, they feel as no one should have this little plot of land that our trailer homes are on. The problem is is more RV space is not necessary. The RV space we have at our lake is not being totally utilized. It may be on some of the other area lakes, but if they are, there's plenty of room to expand. They're big lakes with very little structure around them. Removing the trailers...and our feeling is it will actually decrease the use of public property. And some of the other gentlemen behind me will talk about that for a bit. It will definitely shut down the thriving marina businesses we have out there now as they cannot survive without lot rent on their trailers. Those marinas provide public restaurants, weekly free entertainment, public volleyball tournaments, and other recreation, church services, supplies for sportsmen and campers, and basically it's utilized every weekend by

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a lot of people in southwest Nebraska. Our trailer park, and as the other ones do, has playground that the public uses, access to the lake. It does have RV spaces. And all of this is maintained by the concessionaires and the trailer home owners. We do our own tree trimming, we clean up the place, keep the roads good and all that so that everyone can use it. Removing the trailers would have a hard economic impact on the area. As I said, the marinas would close. Trailer home owners would suffer, of course, financially. They're going to have to pay for removing the trailer decks and improvements themselves. Frontier County would lose tax revenue from Hugh Butler and Harry Strunk Lake and Hitchcock County would lose tax revenue from Swanson Lake. I bought my trailer in 2001, and since then, of course, I've built a deck and a screen porch. And if I would have known that this could have happened, I probably wouldn't have done that, but, basically, no one knew that this was going to happen in 2020 until recently. North Dakota Senator Hoeven passed legislation to save the trailers on three lakes and it held lot rent costs down. Senator Fischer's staff in Washington, D.C., is currently working on legislation which possibly might be an amendment to the Water Resources Development Act of 2018. It's supported by Senator Sasse and Congressman Smith. The lake associations in southwest Nebraska are asking for your support to pass this resolution to, basically, help us achieve our goal of keeping our trailers and our lakes and our public areas open. I'm done. [LR266]

SENATOR BOSTELMAN: Good timing there. Are there any questions from committee members? Senator Geist. [LR266]

SENATOR GEIST: Yes, thank you for your testimony... [LR266]

KENT CONFER: Thank you. [LR266]

SENATOR GEIST: ...thank you for coming today. Can you give me an idea how many people we're talking about, for instance, in your neighborhood or others, do you know? [LR266]

KENT CONFER: Yeah, actually Hugh Butler Lake has 69 trailers. Harry Strunk...although I believe they've had some trouble and some trailers have been pulled, they did have 53 earlier, although I think that number might be less now. And Swanson Reservoir has 110 trailers. And, of course, this encompasses a lot of families, so there's actually a lot of people involved, including the people that come from...in to use the lakes from other areas. [LR266]

SENATOR BOSTELMAN: Senator Walz. [LR266]

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SENATOR WALZ: Thank you. Thanks for being here. So in the beginning when they built these lakes for flood control, recreation, and...how...how were people made aware that they could go and put trailers on the property, like how did that all happen? [LR266]

KENT CONFER: Well, I would have been 15 years old. I'm not exactly sure of how that all happened. I know it has happened and people have moved in and out, removed trailers. There's...like I said, there's trailers for sale there right now, so people can move in and out as...but how that happened 50 years ago, I'm sorry, I really can't completely answer that question. [LR266]

SENATOR WALZ: So does each person who owns a trailer have a lease with this Bureau of Reclamation? [LR266]

KENT CONFER: Okay. Yeah, I need to explain that. The Bureau of Reclamation has the master lease with the state of Nebraska. The state of Nebraska has a concessionaire agreement with the concessionaires at the three lakes. And they in turn charge a lot rent to the trailer owners. So it's kind of a process like that. [LR266]

SENATOR WALZ: So it goes through Nebraska...the leases kind of go through Nebraska. [LR266]

KENT CONFER: Yeah. So it basically works up from the trailer owner through the concessionaire to the state of Nebraska to the Bureau of Reclamation. [LR266]

SENATOR WALZ: Okay. And then I have just one more question. This bureau is really making me angry, first of all, but they...do they do any of the maintenance on this property at all--the lake, anything? They built it and then they left it. [LR266]

KENT CONFER: Yes. Yes. Outside of our trailer...yes...the Nebraska Game and Parks do a lot of the maintenance around the lake and they have a superintendent right there. And the Bureau of Reclamation...oh, within the last ten years, had to rebuild the dam. The dam was compromised to a certain extent and the Bureau of Reclamation did all of that work. [LR266]

SENATOR WALZ: Okay, all right. Thank you so much. [LR266]

SENATOR BOSTELMAN: Senator McCollister. [LR266]

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SENATOR McCOLLISTER: Yeah, thank you, Senator. What's the term of a land lease? How long do those properties are they leased? You don't see people coming in from out of state with their mobile homes and going to those locations short term, do you? [LR266]

KENT CONFER: Yes, but not short term. There are people from out of state, definitely, that utilize all three trailer parks. Short term, it would be more of the RV-type situations. So they come in with their RVs, and, yes, we have those individuals too. And as I said, there's plenty of room for everybody. So I guess you'd call them more of a transient-type of individuals; they come in and do that sort of thing. [LR266]

SENATOR McCOLLISTER: And it's a source of income, obviously. [LR266]

KENT CONFER: I think a lot of people from out of state spend money in southwest Nebraska because of this. [LR266]

SENATOR McCOLLISTER: Thank you. [LR266]

SENATOR BOSTELMAN: My questions will be on utilities. Could you explain how the utilities are out there? How long they've been out there? Who put those in? In other words, do you have...does each trailer have it's own well? Does it have a central well? Do you have a septic system? Do you have propane? How's the services out there provided? [LR266]

KENT CONFER: The water is provided through a well system that the concessionaires have developed. At my specific trailer park at Hugh Butler, all the electrical has been replaced within the last, probably, ten years; it's all new electricity provided by the concessionaires. We are billed individually for our electric bill. And our water is part of our lot rent at the lakes. The septic systems are separate. Some of them are joint septic systems; some of them are individual septic systems that we're responsible for. [LR266]

SENATOR BOSTELMAN: Okay. And have those, probably, been historically have always been there since the beginning whenever...or shortly after maybe when those trailer parks were established. [LR266]

KENT CONFER: Some of them were, Senator. I would say that...I can't imagine that any of those 55-gallon barrels still remain because they just don't last that long. So I would say that most of them have probably been replaced. Although I can't really qualify that. [LR266]

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SENATOR BOSTELMAN: Okay. Thank you. Any other questions? Senator McCollister. [LR266]

SENATOR McCOLLISTER: Just one...so this concessionaire stands to lose a lot of money if this were to occur. [LR266]

KENT CONFER: Yes, yes, indeed. We haven't found anybody that's really going to win in this if these trailers are pulled; everybody is going to lose. [LR266]

SENATOR McCOLLISTER: They've made a significant investment in water systems, septic systems, electric systems... [LR266]

KENT CONFER: Hundreds of thousands of dollars. [LR266]

SENATOR McCOLLISTER: So if this were to occur in 2020, they would lose their investment? [LR266]

KENT CONFER: Yes. [LR266]

SENATOR BOSTELMAN: Senator Albrecht. [LR266]

SENATOR ALBRECHT: Thank you, Senator Hughes. So what would you think would happen if they did clear everybody out? What would you...would you think they're going to sell the lots, maybe lots for people to build homes on? What would be their purpose for (inaudible)? [LR266]

KENT CONFER: No. The only answer we can come up with is they clear all that out and put in more RV sites, that's the only answer we can come up with. But the RV sites that are currently there are not fully utilized, so again, it's... [LR266]

SENATOR ALBRECHT: And this has never really happened to this magnitude before that they wanted you off the property? [LR266]

KENT CONFER: No. [LR266]

SENATOR ALBRECHT: Has it ever happened in the last 20 years? [LR266]

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KENT CONFER: No. No, no, this was from the last master lease in 1995; although, it wasn't in the master lease, basically, I guess it's been a doctrine of the Bureau of Reclamation to eliminate exclusive use of... [LR266]

SENATOR ALBRECHT: And do you really believe that Washington can get to the bottom of this quicker than we could or do you believe that whatever we do could hopefully keep you on your ground? [LR266]

KENT CONFER: What we're hoping from this committee and the State Legislature is to show your support and, you know, obviously the congressional leaders have done this. We're trying to build up alliances and since it really doesn't make any sense to us, we want other people aware of what's going on in southwest Nebraska in this state. [LR266]

SENATOR ALBRECHT: Very good. Well, you have the right chairman in your corner, so you ought to get it done. Thank you. [LR266]

KENT CONFER: We appreciate that. [LR266]

SENATOR BOSTELMAN: Seeing no more questions, thank you, Mr. Confer. [LR266]

KENT CONFER: Thank you. [LR266]

SENATOR BOSTELMAN: Next proponent. Welcome. [LR266]

SAM O'TOOLE: Thank you, Mr. Chairman and committee members. My name is Sam O'Toole, S-a-m O-'-T-o-o-l-e. I'm a board member of the Hugh Butler Lake Trailer Court Association. And I guess I want to explain a little bit of the Bureau of Reclamation's exclusive use, because I think there's some misunderstandings because I don't think the bureau understands their use of private exclusive use. In 2010, Bureau of Reclamation removed 1,300 mobile homes from Lake Berryessa in California. When they did that, they also removed seven marinas and resorts at that time. And reclamation when they did that, they used \$4.4 million in American Recovery and Reinvestment Act stimulus money. And that number actually went up to about \$7 million now here recently. Today, there's only two of the original sites running in the marinas out of the seven that they destroyed. And annual visitation of Lake Berryessa dropped from 1.5 million visitors in 2009 down to 408,000 visitors in 2014. And those are Bureau of Reclamation's own numbers. And the locals say those numbers are very high. So their idea of eliminating private exclusive use eliminated 1 million people using that lake during those times each year. Congress has legislation in place to transfer management of that recreation at Lake Berryessa from the Bureau

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of Reclamation to the Bureau of Land Management because they have such poor management of this project. It is an absolute disaster. When they started this project, the bureau followed their own guidelines, which they have in place, it's called the directive and standards for the elimination of private exclusive use, and started impact studies seeking public opinion and creative renovation plans. And that started 15 years before they moved any trailers or destroyed any marinas. As of today, and they want our trailers removed in 2020, as of today, the bureau has done none of this. There has been...according to their directives and standard manual that the bureau requires themselves to do to eliminate public exclusive use, none of this has been completed, no studies have been implemented, no public opinion has been asked concerning Hugh Butler Lake or Swanson Lake, the public use areas of our trailer parks. And these things have to be published in the Federal Register as well, and that has not been done either. In their own manual, it states that reclamation will only make final determination regarding the compatibility of existing private exclusive recreation and residential use with public meetings or project purposes through a public process involving one or more public meetings. Examples of such public process, including resource management, planned development, recreation, demand analysis studies, and project feasibility studies, determination that existing private exclusive recreation or residential use are not compatible with public needs will be published in the Federal Register. Reclamation will conduct a compliance review of all existing, private exclusive recreation or residential use at least once every five years to determine if the following criteria are being met. The criteria of this private, exclusive recreation residential use has been met at Swanson and Hugh Butler every five years. We are in complete compliance of all safety, plumbing, sewer, water issues; the concessionaires have done a wonderful job at those two lakes keeping those in compliance. And the bureau has no plans in place at all to replace this part with anything else, they just want to eliminate it. But they have no plans to replace it with another park; there's been no public meetings, no plans shown to us that says we're going to put a hotel here, nothing. They just want to eliminate it. And we're asking for your help to endorse this resolution to help our congressional representatives to pass legislation to support this. [LR266]

SENATOR BOSTELMAN: Thank you, Mr. O'Toole. Are there any questions from committee members? Senator Geist. [LR266]

SENATOR GEIST: Thank you. And thank you for your testimony as well. Do you have any idea, looking back and what happened at Lake Berryessa, how long it would take the federal government to complete those things? [LR266]

SAM O'TOOLE: To complete those studies, it actually...they started in...15 years...in 2006 they actually had went through quite a few different processes and it took them about five years from the time that they actually came up with the original plan...or the final plan, it was a five-year process. [LR266]

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SENATOR GEIST: Okay, thank you. [LR266]

SENATOR BOSTELMAN: Senator Albrecht. [LR266]

SENATOR ALBRECHT: Okay, so stimulus money comes for a reason. Do you have any idea who or why they would want to drive a million people off of a piece of property that is generating the funding? I mean, has anybody gone back to look to see who was...there's usually somebody asks for the stimulus money. I mean, we'd rather have it on the roads and bridges than on projects like this. But it would make me want to pause and find out why would they want to do this. I mean, what's their purpose? I mean, with your areas, and, you know, in Nebraska you would think that they would either want to be selling the ground so that they could put houses around it or put a developer out there or...I mean, that's all I could think of. I can't imagine what more... [LR266]

SAM O'TOOLE: Berryessa was in that Napa County, so it's a very wealthy county. And they brought in a large developer from Arizona and they were putting up...their plan was to put up big resorts. And they fired that developer after two years because things just weren't happening, getting done. And the local businesses were failing terrible; they had lost so much income from all those...I mean, a community of 1,300 houses were gone. And so the local community and the businesses were suffering terrible from this. [LR266]

SENATOR ALBRECHT: So are these stimulus dollars being directed all over the country and they just happened to pick three little areas of Nebraska? Do you have any idea? [LR266]

SAM O'TOOLE: I honestly...the bureau is so secretive on what they do, nothing is public...I could not answer that at all for you. [LR266]

SENATOR ALBRECHT: Thank you for being here. [LR266]

SENATOR BOSTELMAN: Thank you, Senator Albrecht. Any other questions? Thank you, Mr. O'Toole, for your testimony. [LR266]

SAM O'TOOLE: Thank you. [LR266]

SENATOR BOSTELMAN: Would ask any other proponents for LR266 please step forward. [LR266]

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ALLEN DUNWORTH: My name is Allen Dunworth, A-l-l-e-n D-u-n-w-o-r-t-h. I also represent the Hugh Butler Lake Trailer Court Association. I view my job as to come in here and clear everybody's minds, everybody's got a confused look on their face. So I want you to picture this, I'm sitting in my boat on Red Willow Lake, there's nobody there, just me; my trailer and pickup sitting in the parking lot, it's the only one there. One hundred campsites--empty; trailer park--nothing stirring; nobody at the marina. Game and Parks--one guy riding a lawn mower trimming it up. The lake looks beautiful. We do not have the population to do what the BOR is asking. We do have a sustainable situation now, but we have spent 50 years creating it. They do not understand how we do things in Nebraska. Our REAs, our schools, our volunteer firemen, our EMTs, this is how we do it--citizens combining with the state, make things work. They do not understand this. If you try to make sense of this, it will not make sense. But it will go away if we don't do something. That's all I have to say. [LR266]

SENATOR BOSTELMAN: Any questions from committee members? Senator Walz. [LR266]

SENATOR WALZ: Yes, so...okay, so the state parks and recreation come and they take care of the grounds, trimming and keeping it up. [LR266]

ALLEN DUNWORTH: To clarify this, the bureau, who are great water managers, built the lake, built the dam, they are charged with making sure that dam doesn't break and flood McCook and the communities down river. They in turn leased the land around it, once they had the lake built, to the Nebraska Game and Parks and the state of Nebraska. The Nebraska Game and Parks, with this contract, in turn hired a concessionaire who their primary source of income, right now, is the rent they gather from these trailer owners. That allows them to keep the marina open. The Game and Parks can conduct their...they're stocking the lakes, they do a wonderful job, they really do. And we have a marina out there that's usable. That marina is funded, 80 percent, by the trailers and the rent they get from that. I think the Game and Parks gets a cut out of that. The BOR just, I'm sure the contract with the state is probably a dollar contract or something. I'm sure they don't make anything off of it. They wash their hands of it...up until this point. Does that clarify that? [LR266]

SENATOR WALZ: Yeah, thank you. [LR266]

ALLEN DUNWORTH: It is a little confusing. There's a lot of people involved. All of them meaning well, I'm sure the BOR means well. They have proven time and again they are terrible land managers. The disaster they created in Berryessa is almost unfathomable. I encourage anybody to Google it. The communities of Berryessa are threatening to file a lawsuit. They've just been wiped out. Are the problems in California different than ours? Probably. I would guess they would be. Our trailer courts out there are just indicative of exactly how Nebraska operates.

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There wouldn't be a marina there if we hadn't of done what we did 50 years ago and it's working beautifully. To worry about exclusive use when you're sitting in my boat on a Wednesday afternoon looking at this gorgeous lake and nobody there is absurd. It makes no sense. If it makes sense to you, there's something wrong, I promise you. (Laughter) [LR266]

SENATOR WALZ: That's right. [LR266]

SENATOR BOSTELMAN: Any other questions from committee members? Thank you, Mr. Dunworth. [LR266]

ALLEN DUNWORTH: Thank you. [LR266]

SENATOR BOSTELMAN: (Exhibit 3) Other proponents for LR266? Seeing none, we have one letter, proponent, from Earl McNutt from McCook, Nebraska. Now we'll move on to opponents. Are there any opponents to LR266? Seeing none, is there anyone who would like to testify in the neutral capacity? Please step forward. Director McCoy, good afternoon. [LR266]

TIMOTHY McCOY: Good afternoon. Senator Bostelman, members of the committee, again for the record my name is Timothy McCoy and I'm deputy director of the Game and Parks Commission at 2200 North 33rd Street, Lincoln, Nebraska. T-i-m-o-t-h-y M-c-C-o-y. I'm here in a neutral capacity and I think you've caught pieces of how this relationship works. I sort of, and it's sort of funny, but as I was working on this this morning, I sort of felt like I was in a Talking Heads song asking myself how did we get here? And so I thought I'd share some of that, because we've had a longstanding relationship with the bureau. Actually on...we have on many reservoirs and these four in the southwest that we're talking about are really the...three of those are the ones that have trailers on them. We also have agreements for Enders, Box Butte, Calamus, Davis Creek, and Merritt. On those reservoirs, just like these, we have areas that are part of our state park system. We have parts of them that are wildlife areas. We have the same situation here, but we have concessionaires. And long ago and way before I was involved with this, the concessionaire plan was developed that allowed concessionaires to come in. They have an agreement with us. We can sublease to those concessionaires under our lease with the bureau. And those concessionaires, you know, they developed facilities, they've developed these lots that people can put summer trailers on or have an RV there all season long, which is something we can't...we don't allow in our park system. And as part of that, we do get some...we get a small percentage of what they make, but they've made the investment. So it's been a great opportunity. Our current lease was signed...somebody mentioned, it's up in 2020. It was signed in 1995 for a 25-year term. There are conditions to that lease when you lease from the federal government that we are subject to the orders, rules, and regulations of the Bureau of Reclamation because they are the underlying owners of land, the federal government is. Now in 2009, the thing that

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happened that we've tracked back that really triggers this is the bureau created and implemented regulations. Those were actually adopted in 2008 in the federal record. So they went through a federal record process that created these exclusive use provisions that are causing a lot of the challenges that we are all facing out there. And they go through...and one of the gentlemen did a great job of identifying all of the balls on the Christmas tree they hung with that when they created exclusive use. The other issue is, for our concession leases...our concession leases under our master lease with the bureau can't be any longer than five years. So our master lease comes up in 2020. In 2020, the concessionaire leases comes up. And so following the enactment, the bureau started through telling us and through our concessionaire leases, when they came up, because when we have a new lease come up or if it...it has to be approved by the bureau, they started saying we have to identify this language about eliminating exclusive use, trying to put provisions in place that would...trying to mandate no new exclusive use on the sites, and again, stating that these trailers were going to be eliminated when the master lease expires. We are well aware of the challenges this creates. It creates challenges for our concessionaires; it creates challenges for local people who have a long history, in many cases I would say a long and passionate history with families that have been on these lakes for this amount of time. And these concession areas, I will say, are pretty well defined. They are not by any means a large portion of the areas that are in the leases. They are fairly confined areas. We would just want to offer that information and we stand ready to work with the Legislature and any parties in this, because it's complicated and it's challenging. So we appreciate Senator Hughes bringing this resolution forward. [LR266]

SENATOR BOSTELMAN: Thank you, Director McCoy. Is there any questions from the committee members? Senator Albrecht. [LR266]

SENATOR ALBRECHT: Thank you, Senator Hughes. So this request to remove the trailers or whatever from the properties coming from the federal government not you...not the state? [LR266]

TIMOTHY McCOY: It's coming from the...it's being brought to us as a requirement as the...under our lease that we...that any subleases we have would come into compliance with their master policy. [LR266]

SENATOR ALBRECHT: Did you ask them why and what (inaudible) they're in? [LR266]

TIMOTHY McCOY: Their answer...the only answer that I've ever got is pretty generic and just states that they don't, you know, their national policy is that there shouldn't be exclusive private use of any part of federal property. That's about as far as I've gotten. No real reason... [LR266]

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SENATOR ALBRECHT: Would you ever have an opportunity to visit with them on a state level to let them know how it is working on these lakes and it seems to be...work well for what has been happening in the last 50 years? And have you ever brought the California catastrophe to their attention and is it worth losing...I mean, do you ever find yourself...or do you need this resolution to say to them we would like you to...? [LR266]

TIMOTHY McCOY: Well, we're in a unique situation because we hold a lease with them for all the developments that we've made, same boat that these folks are in. [LR266]

SENATOR ALBRECHT: What do you think their...what do you think...is it just a principle that they shouldn't be able to do that? But if they're getting paid, somebody is getting paid something, do they need to be paid something to allow this to happen? [LR266]

TIMOTHY McCOY: You lost me at the end. We do not pay the bureau for our lease. [LR266]

SENATOR ALBRECHT: Correct. [LR266]

TIMOTHY McCOY: We have a master lease with them that we, basically, we provide the recreation management at these reservoirs. [LR266]

SENATOR ALBRECHT: But they said you got a little bit from these concessions... [LR266]

TIMOTHY McCOY: Yeah, the concession leases, we get a percent of their proceeds. That's sort of what...and that's been that way for all of our concession leases across the state. And we have different types of concession leases in different locations. [LR266]

SENATOR ALBRECHT: So if they felt at the federal government level they should maybe get some of those? Would that be a reason or are they willing to just ask the people to leave and not see them come back there? [LR266]

TIMOTHY McCOY: The places...their approach appears to be they want to remove the private exclusive use. That's what I saw in the other states where they went forward. Not a lot of discussion of why; it's just we're going to do it and make... [LR266]

SENATOR ALBRECHT: It would be interesting to me just to go back in history and find out what would lead them to this conclusion of taking people off the ground and not allowing them to enjoy the recreation and the... [LR266]

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TIMOTHY McCOY: It's been a difficult issue to understand the why. I agree. [LR266]

SENATOR ALBRECHT: Thank you. [LR266]

SENATOR BOSTELMAN: Other questions? Thank you, Director McCoy. Anyone else wish to testify in the neutral capacity? Seeing none, Senator Hughes, you are welcome to close. [LR266]

SENATOR HUGHES: Thank you, Vice Chairman Bostelman and members of the committee. This is a very complicated, simple issue. I think what is...to boil it down as best we can is there was a bureaucrat or a committee that was at the federal level decided that this was federal land and belonged to the federal government and we should not allow private people to enjoy it...or private individuals to have enjoyment from it. As Director McCoy stated, sometime in the 2008 or 2009, there was a change in perspective or use came down in the federal government, somebody changed an office somewhere and they decided that this needs to be changed, these are federal lands. There are individuals who have more access to it than the general population, so we need to rectify that situation. I do want to thank the three gentlemen that drove in from southwest Nebraska and tried to give us their perspective on this. It is a very complicated issue, and Mr. McCoy as well from the Game and Parks Commission. All this LR does would give Senator Fischer, Senator Sasse, and Congressman Smith a little more leverage in working with the Bureau of Reclamation in order to help them see the economic benefit that this does provide southwest Nebraska. So with that I'll close and take any questions. [LR266]

SENATOR BOSTELMAN: Questions from the committee? Yes, Senator Geist. [LR266]

SENATOR GEIST: I just wanted to...you did say, I believe, that some action was taken in light of something similar to this in South Dakota, is that correct? [LR266]

SENATOR HUGHES: In my understanding in North Dakota... [LR266]

SENATOR GEIST: North Dakota. [LR266]

SENATOR HUGHES: ...the North Dakota delegation was able to get an exclusion, maybe, or an extension, I'm not real clear on what has happened. [LR266]

SENATOR GEIST: Okay. [LR266]

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SENATOR HUGHES: But there is precedent that has happened that allowed some lakes in North Dakota to not have to be...the exclusive private use issue went away and the people were able to stay. [LR266]

SENATOR GEIST: Okay. Good. Thank you. [LR266]

SENATOR BOSTELMAN: Senator Walz. [LR266]

SENATOR WALZ: I think that we should maybe make Washington, D.C., part of our tour next summer. (Laughter) [LR266]

SENATOR HUGHES: You know, we could put these gentlemen on the spot. I'm sure they would love to have us come to one of their lakes, maybe. [LR266]

_____: Everyone is invited. [LR266]

SENATOR HUGHES: Good one, Senator Walz, good one. [LR266]

SENATOR BOSTELMAN: Does the boat tour get included then? [LR266]

SENATOR HUGHES: I bet they have boats and fishing poles, coolers, life jackets. [LR266]

_____: Ten people fit on mine. (Laughter) [LR266]

SENATOR BOSTELMAN: Any other questions from the committee? This then will close the hearing on LR266. A heartfelt thank you to all of you who came and Happy Valentine's Day. [LR266]