

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**HUGHES:** It's 1:30, so welcome, everyone, to the Natural Resources Committee. I'm Senator Dan Hughes. I am from Venango, Nebraska and 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 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 ask you to abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Introducers will make initial statements followed by proponents, opponents and then 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 in the back of the room. Please fill out the green sign-in sheet before you testify. Please print and it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to the page or the committee clerk. This will help us make a more accurate public record. If you do not wish to testify, but would like to have your name recorded as being present at the hearing, there is a separate white sheet at the tables that you can sign in for that purpose. This will be 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 and they will be distributed to the committee. When it is time to testify, please speak clearly into the microphone, tell us your name, please spell your first and last name to ensure that we get an accurate record. How many people are wishing to testify today? Can I see a show of hands? Come on get them up. Stick them up. OK. I think we'll-- we'll be five minutes. 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 your time has ended and we would like you to wrap up as quickly as possible. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, is allowed at a public meeting. The committee members with us today will introduce themselves starting on my left.

**MOSER:** Mike Moser, District 22, Platte County, Stanton County and a little bit of Colfax County.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**HALLORAN:** Steve Halloran, District 33, Adams County and part of Hall County.

**QUICK:** Dan Quick, District 35, Grand Island.

**GEIST:** Suzanne Geist, District 25, which is the east side of Lincoln and Lancaster County.

**HUGHES:** And on my right.

**GRAGERT:** Tim Gragert, District 40, northeast Nebraska.

**ALBRECHT:** Joni Albrecht, District 17, northeast Nebraska, Wayne, Thurston and Dakota Counties.

**BOSTELMAN:** Bruce Bostelman, District 23, Saunders, Butler, majority of Colfax Counties.

**HUGHES:** Senator Bostelman does serve as Vice Chairman of the committee. To my left is our committee legal counsel, Andrew Vinton. And to my far right is our committee clerk, Mandy Mizerski. I would ask you that when you want to testify on the bill, if you would please come up and populate the front seats so we can keep things moving along because there are a lot of people here today so you can get up and get in very quickly, I would appreciate that. Our pages for today are Kaitlin McKenna. She is a senior at UNL majoring in political science and history. With that, we will turn to our agenda. And we have Sherry Vinton from an appointment for the Nebraska Environmental Trust Board. If you'd like to come up Ms. Vinton. I would note that my committee counsel, Andrew Vinton, are related so he will not be allowed to vote. [LAUGHTER]

**SHERRY VINTON:** Only by marriage and distantly.

**HUGHES:** He's never allowed to vote, by the way, so we're clear. Welcome, Ms. Vinton.

**SHERRY VINTON:** Thank you. Good afternoon. My name is Sherry Vinton, S-h-e-r-r-y V-i-n-t-o-n. I live at 80687 Haney Lane. In case you haven't had a chance to look at this month's Nebraska Life Magazine, Paul Johnsgard ranks the Sandhills as number four of Nebraska's eight great natural wonders. He also lists south Whitman Road in Grant and Arthur Counties as one of his favorite drives, and that's my home. In the table of contents it shows a picture of our hill and pastures. But

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

if you turn off of that one lane blacktop road on to Haney Lane, it's actually a dirt trail road that we maintain ourselves. So honestly, it is the part of Nebraska that's not for everyone. We have white-tailed and mule deer and pronghorn antelope. Trumpeter swans fly over the meadow that serves as my backyard to nest in Sandhills Lakes at the headwaters of the dismal river. We have badgers, porcupines, coyotes, snakes, lizards and all sorts of bugs, but my favorites are the long bill curlew, but they're actually fair- weathered friends. They only stay in the hills for the summer and then they fly south. Soon, this spring, prairie chickens will be booming outside my kitchen window. And we have these giant prehistoric-looking snapping turtles that crawl out of the meadows in the lakes to lay their eggs. So for 37 years I've made my living on the land. My husband and I ranch. The benefits of well-managed agricultural land include flourishing wildlife and abundant grandchildren. I have seven of them on the ranch with me and two of them live on a farm near Wisner. The Sandhills are one of the rangeland areas in the world that are actually in better shape now than they were when they were discovered. They have improved. They were originally called the Great American Desert and now they're known as a sea of grass or a vision of paradise. This is due in part to the stewardship and generations of families and the management to the-- management decisions produced by private lands ownership and grazing. I grew up in North Platte, where my father was an implement dealer. He had some customers and they invented one of the first guidance control systems. And so they built a manufacturing, distribution and marketing company that was headquartered out of Madrid in North Platte. I attended school here at the University of Nebraska in Lincoln. I studied accounting and that's actually where I met a truly endangered species, my husband, a Sandhills' cowboy. So because of my love of nature, business and natural resources, it's-- it's that interface and that interplay between modern production, agriculture and the good use of public or private funds that intrigues me. Twelve years ago, when I first served on this board, we received lottery transfers of about \$10 million. Today, we're currently in the \$20 million range. So with that, I thank you for your time and your consideration. If you have any questions, I will do my best to answer them or find an answer for you.

**HUGHES:** Thank you, Ms. Vinton. Are there any questions from the committee? Senator Geist.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**GEIST:** Yes, thank you, Ms. Vinton, for your testimony and for your-- this is a reappointment, is that correct?

**SHERRY VINTON:** Correct.

**GEIST:** OK. Currently, can you tell me a little bit about what you actually do on the-- on the commission?

**SHERRY VINTON:** On the Environmental Trust Board?

**GEIST:** Yes, board, thank you.

**SHERRY VINTON:** Yes. There are three citizen representatives from each Congressional District, so I would represent the Third.

**GEIST:** OK.

**SHERRY VINTON:** I am the only person that lives west of Columbus. So what we do is we oversee the grants process is our primary role, administering that \$20 million and allocating it in our categories each year.

**GEIST:** OK.

**SHERRY VINTON:** So.

**GEIST:** Good. Thank you.

**SHERRY VINTON:** Um-hum.

**HUGHES:** Any additional questions? You said you'd been on the board for the commission for 12 years.

**SHERRY VINTON:** Yes, I have.

**HUGHES:** And they are-- how many, four years?

**SHERRY VINTON:** Six-year terms.

**HUGHES:** Six-year terms Are there any term limits? I mean, can you be on there--

**SHERRY VINTON:** No.

**HUGHES:** --as long as you can put up with Mark?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**SHERRY VINTON:** Yes.

**HUGHES:** OK. Any other questions from the committee? Seeing none, thank you, Ms. Vinton. We appreciate your service to our state.

**SHERRY VINTON:** Thank you.

**HUGHES:** Is there anyone wishing to testify as a proponent to the reappointment of Sherry Vinton to the Nebraska Environmental Trust Board? Anyone wishing to testify in opposition? Anyone wishing to testify in the neutral position? Seeing none, that will close our hearing of the confirmation for the reappointment of Sherry Vinton to the Nebraska Environmental Trust Board. Next on the agenda is LB1201, Senator Bostelman. Welcome to your Natural Resource Committee.

**BOSTELMAN:** Thank you, Chairman Hughes. Good afternoon, Chairman Hughes, and the Natural Resource Committee. My name is Bruce Bostelman. I spell that B-r-u-c-e B-o-s-t-e-l-m-a-n, and I represent Legislative District 23. Today-- today I'm here to introduce LB1201 which will create a flood task force to review current flood mitigation and planning efforts and make recommendations on future flood and mitigation planning. The state currently does not have a coordinated strategy to reduce future flood risk. In 2019, Nebraska experienced over 300 consecutive days of flooding. It is estimated that Nebraska has sustained over \$2 billion in damages throughout the state. Nebraska has emergency declarations in 104 cities, 84 counties, five tribal areas, containing 98 percent of the state's residents with an additional 13 other government declarations. It's time for us to take a broader look at how we plan for future flooding across the entire state. I co-chaired LR241, interim study with Senator Pansing Brooks, which created a select committee to study the Development of Environmental Action Plan for the state, including assessments of vulnerabilities, risks, economic impacts and mitigation studies-- strategies, excuse me. I would like to thank Senator-- Senators Brandt, Brewer, Kolterman, Lowe, and McCollister, who, along with several staff, focused on the state's response during the flooding at all levels of government, and how the state is moving forward with recovery efforts. Senators and staff spent countless hours touring and held meetings in the affected areas and spent time speaking with individuals, emergency managers, first responders, county supervisors, county highway superintendent-- superintendents, engineers, the Corps of Engineers, the University of Nebraska, Public Power, FEMA and NEMA representatives to name just a few. The LB241 committee believes the

biggest takeaway from the study is that Nebraska does not at this time have a coordinated strategy for reducing flood risk. I introduced this bill on behalf of the committee for this very reason. This bill is a first step in identifying the needs and addressing how to move forward. While the Governor has put together a task force with agencies and has met with surrounding states to-- to agree to work together on flood control, there are some realities that we have to acknowledge and address as legislators. The LR241 study recommended that the state develop a coordinated strategy starting with an updated state flood mitigation plan. Such a plan must include a flood risk, adaptive measure and nonstructural solutions that must include planning because counties, especially the smaller ones, can't afford to do this on their own. The state must help counties make use of all available funding. NEMA's focus is on emergency response, which means risk is not proactively addressed. NEMA wants to increase funding for mitigation, but it needs experts to ensure the best outcomes to mitigation activities. The ability to score and prioritize projects is vital. The depth of that analysis has to go much deeper than what FEMA requires. Resources must be maximized and the process inclusive to ensure everyone is on the same page and the efforts are not being duplicated. The state does have a flood mitigation plan that was updated four or five years ago. What we need to do is take it to the next level. We understand that before a statewide coordinated flood mitigation plan can be created, flood mitigation plans at the local level must be updated in partnership with the state. The more detailed the plans are, the more likely the state will be able to secure federal funding. Other states have been successful with this model. Nebraska falls behind other states in their capacity to leverage state funds with FEMA funds for mitigation. The local and state created-- the local and state created coordinated flood mitigation plan must prioritize projects that result in the greatest cost benefit to the state. Such prioritization must be a part of the greater planning, that process for the state as a whole to manage the risk. The administration, the relevant agencies, the let-- the Legislatures, counties, NRDs, municipalities, nonprofit organizations and federal entities collaboratively work on these recommendations and on the creation of a statewide flood mitigation risk management plan. With all resources on the table, the chances of finding federal or private funding to create a plan are greater, meaning less cost to the state and a stronger plan to mitigate flood risk. Let me repeat that. With all resources on the table, the chances of finding federal or private funding to create a plan are greater, meaning less cost to the state

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

and a stronger plan to mitigate flood risk. Let me be clear. We are not stating that the NRDs, cities, county or state agencies-- agencies do not have active flood mitigation and planning in place. What we are saying is that we do not have a statewide integrated flood plan and we need one. I have met with NEMA, DNR, NRDs and other stakeholders and we agree that this bill is beneficial moving forward to ensuring we are working together on flood mitigation plans statewide. This past year highlighted the need for Nebraska to meet-- to make sure that we are planning to protect critical assets, communities, homes and livelihoods. I've handed-- given you a handout of the top five floods in the state of Nebraska. Nebraska has seen major flooding and will most likely see flooding again in the future. The Missouri River flood of 1881 claimed three lives in Nebraska and the response to the flooding was six Missouri River dams being built. Southern Missouri River Basin flooded in 1933, resulted in two-- resulting in two deaths. Public infrastructure damage of \$71 million in 2013 dollars, 5.8 million acres of crop land flooded, resulting in \$512 million of damages in 2013 dollars. The Republican River flooded in 1935. It claimed 91 lives, damaged 340 miles-- 341 miles of highway, 307 bridges, damages totaling \$440 million, again in 2013 dollars. And the Medicine Creek flood of 1947 killed 13. The dam was constructed as a result. 1950, four major floods claimed 25 lives and damage in excess of \$1 billion in 2013 monies. Although it may not seem like it today, we're benefiting from the mitigation and planning efforts from those floods. That is why this bill is so important. LB1201 is simply an overview of what we are doing and provide for direction on how to develop a comprehensive flood plan. We currently plan for drought and groundwater. Why not flooding? If we fail to recognize the need to work together statewide on flooding issues, we may not-- we may not only fail to plan, but also fail to be prepared with planning when federal-- when federal dollars become available. The work the flood task force is to accomplish should be internal in nature with subcommittees providing a more comprehensive review where needed. I have been in contact with a number of individuals and engineers that are eager to assist in this matter. NebraskaStrong means that we come together cooperatively without a high cost to the taxpayer. I am open to working with an administration, NEMA and DNR and the NRDs to ensure efforts are coordinated and resources are used efficiently. I believe it is very important that an integrated statewide plan be considered and that legislative participation is important. This plan is for all Nebraska and it is separate from the multi-state planning being completed. The Platte River is already out of its banks in my

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

district. Nebraska has spent millions of dollars repairing and replacing infrastructure. Our communities, homes, bridges and roadways at risk. This bill aims to answer that question and then provide guidance on how to move forward. Ask yourself this, can we afford not to? I ask for your support out of committee and to move the bill on to General File, and I will be happy to answer any questions you may have. And I will say there will be technical experts that will follow me that may be able to answer them a little bit more. Thank you.

**HUGHES:** Thank you, Senator Bostelman. Are there questions? Senator Geist.

**GEIST:** Yes, thank you, Chairman. And thank you for your testimony. I happened to be having a conversation about this this morning with some ladies from the Extension Service that are here in Nebraska, and I'm curious if-- I'll ask you the question that I asked them, and that is, are we prepared for this spring?

**BOSTELMAN:** I guess you have to define what that means.

**GEIST:** OK. I just heard rumor. I don't know if it's true and I can't quantify-- qualify where it's come from. I don't know where I collect bits of information, but are we prepared for-- if we should have a similar-- probably not a similar weather event that we had that precipitated some of our flooding this spring, but with the ground being saturated, water coming into the state, you said the river is already out of its banks in your district, are we prepared for flooding this spring, if we have something similar, maybe not as catastrophic, but similar to last year?

**BOSTELMAN:** Well, let me answer it this way. I think there's vulnerabilities right now. We have risk right now. They're there now because of the flooding we just experienced, because we cannot repair, rebuild or add new structures, flood levees or those type of things. We can't put those in place in time before the spring, so, yes, I think we are at risk in areas. I also-- I did see, I think, the National Weather Service is coming around and specifically in communities now, speaking of the spring and flood risk, what that might look like. My understanding is what they're-- what they're seeing and what they're saying right now is flood risk is potential. Yes. Is it going to be as severe? They don't believe so.

**GEIST:** OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**BOSTELMAN:** And so do-- will we see flooding this spring? Very possible. Are we going to have some areas that are at risk that are vulnerable? I believe so. That's the importance of this bill, is that we take a look at those areas, we need to identify them. We do not even know how many levees and where those levees are in the state right now, and we're trying to catalog those. So we have some areas that this will only help us be better prepared for the future. And it's just to take a look at those areas to make sure if we need to put a plan together, gives us the framework to put that plan together so we can move forward.

**GEIST:** OK. Thank you.

**BOSTELMAN:** Um-hum.

**HUGHES:** Senator Gragert.

**GRAGERT:** Thank you, Chairman Hughes. Thank you, Senator Bostelman. Your-- your bill is all about mitigation and what we can do to for future flooding and I understand that. I was just, be curious as how broad your plan, this plan would be with our 23 NRD districts that will have specific problems within their issues, within their NRD and probably talking more about structures like you mentioned, levees and dams up in the tributaries. But I was just told, you know, as far as structures, that's one thing but then we have the conservation practices of getting that vegetation on the land, slow that-- slow that water up, you know. So I can envision or I ask you, do you envision this type of plan for what you're talking, you know, flood?

**BOSTELMAN:** So it's, I think, and there will be an individual behind me that can probably speak to this a little bit more, but it's a mitigation for-- and then flood planning. So the planning has to be part of it. We have to identify from this. We need to identify what those risks are, some plan on how to address those risks. So that when federal funds come available, we're ready with a plan to take action and do whatever is needed. This isn't to overhaul anything that NRDs are doing currently. What it is, is to look at our NRDs. Some NRDs may-- their mitigation, flood planning may be-- one may be more advanced than another and it's just to look at those to make sure we're all doing the right thing and then to talk together cross drainages with the communities across the state. It's-- I- the-- the need is, is that the state has an overall view of flooding and our drainages in the state. So it's not, again, where we're ahead of other

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

states, we do have our NRDs and they have done a lot of this already. So, again, the cost should not be that great because we have a lot of this in place. It's to go back, take a look at those things and see if we have gaps, see if there's areas there that we need to look at, then put a plan together how to address that.

**GRAGERT:** So one more follow-up question then would be to Senator Geist's question. You know, this last flood we went through pretty active up in our-- in my district, our District 40, but, you know, did you as you went through the state, did you-- did you see problems or you feel you have issues with the EMs, the emergency managers, through NEMA, through FEMA? Is-- are their intentions for, you know, these-- these entities being in this state plan.

**BOSTELMAN:** You know, that's a great question. And we saw good and bad things. We saw some emergency managers that well-trained, very involved and had good support, and-- and within the communities some work. We had other emergency managers that had multiple-- multiple counties and were stretched to the limit and really felt they needed more help. They needed more training. They needed those type of things. Talking about FEMA, the challenge we have with FEMA, be direct. As FEMA comes in for 30 days with an individual and then they leave, then a new person comes in for 30 days, then they leave. If they happen to be from the state of Nebraska, they're there for 45. We have huge problems across the state, I would say with that, because how FEMA functions and operates is very hard for consistency between each of those individuals coming through. That's something they've looked at, something that they're doing. Not so sure this would specifically look at that specific portion of it, but that was something identified that they are working on to try to overcome some of those challenges they had, because one person would see that you need to address it-- situation this way and the next person a different, so you start all over. So there is-- there is-- there are several areas, but really it's to look at what we're doing now and how we need to work together and plan better and then fill in those gaps.

**GRAGERT:** Thank you.

**BOSTELMAN:** You're welcome.

**HUGHES:** Senator Albrecht.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**ALBRECHT:** Thank you, Chairman Hughes, and thank you, Senator Bostelman, for bringing this. I think it's a great idea. Do you have an emergency clause? I see that there's a termination date of December 31, 2021 but is there an emergency clause?

**BOSTELMAN:** I think it'll be something we'll need to-- to obviously need to have-- to add to it, yes.

**ALBRECHT:** OK. And when you were studying this over the interim, do you know that-- do many cities already have a plan? Like, obviously, they sat down with their NRDs and looked things over but--

**BOSTELMAN:** No, not all.

**ALBRECHT:** --do cities and counties and to my-- to, my question is we had Senator Bolz asking about roads and bridges. You know, nobody can ever be prepared for that 500 year, without a doubt. And then Senator Lindstrom today wanting the water and the infrastructure the-- taking care of for the cities and money given back to them. I think something like what you're talking about here will help people with their resources just where-- so they know where to go to and who to call on and where do you start. If they don't have enough money in the beginning, because the Governor had to give so many different-- not so many different but several counties money just for their twelve and a half percent so they could start to get something taken care of. All of those things, I think we just were all like scattering like, you know, cats trying to figure out what to do and-- and where to go. And I feel very strongly in my district that they're-- the emergency managers have a handle on it, but we didn't have to have a handle on it very much. This gentleman here in Senator Slama's area were just really tough, but then Senator Erdman had the problem with the Wyoming-Nebraska situation as well. So I think something like this has a lot of merit. I'm anxious to hear who you have behind you, but so-- so how did you end up talking to these cities and counties? Did you just go based on the districts of the people that served on the committee to find out?

**BOSTELMAN:** No. So we went to the Niobrara all the way down to Peru area. I mean, we went to Kearney all the way across the state. Winslow was a-- is a town. Their mitigation plan wasn't in place. And so now that's something they're struggling with getting put in place. So there were cities-- there are towns or cities out there that didn't have that in place that now-- those are the gaps that we need to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

identify. Maybe there's a levee system around a certain town that didn't fit within the Corps criteria. And we can identify that and find out what the upgrade, you know, how to upgrade that so that it does fit into it. There was just a lot of challenges. I mean, from Spencer Dam or at Spencer Dam, then we talked to the officials, the emergency managers, the county highway superintendents. Senator Gragert arranged that meeting up there. We were at the Lincoln wellfield. We were at Ashland Guard Camp. We were at-- we were at-- we're across, you know, a lot of areas. Nothing specific to the senator, but really tried to go to those areas that we saw that were heavily affected.

**ALBRECHT:** Um-hum. And I do appreciate your work, because while all this was going on, it's a little tougher for those who have it impacting their areas to really be able to jump in and try to figure out how to help. But I don't-- I just hope that the state of Nebraska realizes that it's not over yet and there's more to come, and we just need to be able to educate somebody. And I would hope that if we can get through something like this and we can get it enacted quickly, you would all know what to prepare for and to be better prepared, if you will. So thank you.

**BOSTELMAN:** Thank you.

**HUGHES:** Thank you, Senator Albrecht. Any additional questions? Seeing none, I'm assuming you will stay to close.

**BOSTELMAN:** Yes.

**HUGHES:** OK. Next proponent. Good afternoon and welcome.

**JEFF HENSON:** Good afternoon. Thank you for allowing me to be here. My name is Jeff Henson. It's J-e-f-f H-e-n-s-o-n. I am here in support of LB1201 and prepared a statement that's being distributed to you. I am the business development director and a senior mitigation planner for JEO Consulting Group. I am here today not only representing JEO, but also representing the American Council of Engineering Companies of Nebraska. ACEC Nebraska represents 47 engineering firms doing business across the state as the only organization representing the business interests of the engineering industry. ACEC promotes initiatives that create an enhanced business climate for our members. Our members are engaged in engineering and construction projects that propel the Nebraska and national economies and enhance and safeguard America's

quality of life. My testimony reinforces the needs identified in LB1201. State and local agencies have worked hard for several years to develop and maintain local hazard mitigation plans, but following the unprecedented flooding events of 2019, we have a keen understanding that what has worked in the past may not be sufficient for the future. Nebraska's first Presidential disaster declaration occurred in 1960. Since that time, the state has had 66 declared disasters. Forty-five of these events included flooding as a component of the disaster. Trends suggest these events are-- are occurring more frequently. From 1960 to 1999, Nebraska experienced 26 Presidential disaster declarations. Since 2000, Nebraska has experienced 40. The bottom line is that what we are experiencing-- the bottom line is that we are experiencing significant losses and it's occurring with increased frequency. The proposed flood mitigation and planning task force is a positive step towards Nebraskans finding solutions that will proactively reduce the risks we face from natural hazards, specifically flooding. As a senior mitigation planner at JEO Consulting Group, I've had the opportunity to travel the state, working in 87 of the 93 Nebraska counties, supporting the development and maintenance of many of the local and regional multi-hazard mitigation plans that are currently in place. Having worked on these plans, I can tell you from my firsthand experience that there is more that we can do on this topic. There are jurisdictions already working hard to reduce flood-related risks and increase local resilience. Examples include the city of Beatrice, where over multiple decades they've partnered with property owners to remove residential and commercial properties from the flood plains. Another great example is the Upper Prairie/Silver/Moores Project, recently completed in Grand Island. The Central Platte NRD, the city of Grand Island, Hall County, collaborated for more than a decade to design and construct the project. The result was avoidance of major flooding for Grand Island in March 2019 and prevention of an estimated \$50 million or more. Both examples include federal and state funding assistance, without which they would not have happened. In 2018, the National Institute of Building Sciences published a study which reports that mitigation projects like these projects result in an average savings of \$6 for every \$1 spent on construction. Mitigation works, but stand-alone efforts are not sufficient. We need stronger planning at the state level to set a course for what actions will be needed and identify resources available to get the job done. We can unite the loose network of plans that have been established in a statewide mitigation or resiliency framework. This will require coordination and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

collaboration among all levels of government as well as with the private sector. Establishing the flood mitigation and planning task force will be a step in that direction. Bringing together the groups identified in LB1201 offers the opportunity to better understand how the actions of one have a downstream impact on another. We also need to coordinate resources devoted to reducing flood risks. Right now, we see multiple federal agencies making funds available to support flood recovery efforts. With guidance and collaborations, these funding opportunities can more effectively reduce risk and protect economic investments, including neighborhoods, businesses and critical infrastructure. Building on the current investment-- or building on the-- the current funding opportunities developing a vision for what mitigation should look like across the state would increase our opportunities to compete for and utilize federal funding programs to build local proxy--pot--projects. The historic trend across the U.S. is to wait for the next event and respond to that, but this is not enough. We must take a mitigation-based approach to addressing the issues of flood vulnerability. We know there are great examples of programs in neighboring states that could provide part of the solution. At ACEC our members reflect all disciplines in engineering and our member of-- member firms employ thousands of professionals and we stand ready to work with the task force, state agencies, local governments and other stakeholders to address the issue of flooding and to build a more resilient Nebraska. We cannot simply continue the trend of rushing into recovery without integrating a mitigate-- mitigation-based mindset into the process. Recovery is not enough. We need to have a deliberative approach that incorporates an understanding of risk and asks, what can we do today to reduce our losses tomorrow? So we urge your support for LB1201 and look forward to a working collaborative-- collaboration to make a more resilient Nebraska. So with that, I appreciate your time and I'm happy to respond to any questions you may offer.

**HUGHES:** Thank you, Mr. Henson. Are there any questions? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Hughes. Thank you for being here, Mr. Henson. And are there specific federal grants that are out there that Nebraska misses out on due to a lack of planning and--

**JEFF HENSON:** A very good question, Senator. So-- so are there funding opportunities that are available to us that maybe we haven't taken full advantage of. I thought that maybe a question that came up, so I

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

spent some time looking back at some of the different mitigate-- mitigation-based funding grant programs. So FEMA has three grant programs directed specifically at mitigation. So-- so let me talk just a little bit about them. The first one I will highlight is the Flood Mitigation Assistance Program. That's exactly what it sounds like. It's a national program directed, you know, specifically at reducing flood-related vulnerabilities. Between the years of 2010-- FEMA makes available a database of funded projects, what the funding levels were, and the federal cost share that came out of that. So I looked back. The most recent update was from 2017, October of 2017. Looking at the years 2010 to 2017, Nebraska was awarded approximately \$265,000 through the Flood Mitigation Assistance Program. So I looked specifically at 2017 and what were our funding opportunities for that individual year. So in 2017-- 2017 alone, we could have requested up to \$100,000. That's the federal cost share so that would result in \$125,000 for flood mitigation planning. We could have requested an additional minimum of \$100,000 for flood mitigation projects and another hundred thousand for advanced assistance. This advanced assistance component is looking at projects, determining viability and setting a path forward for them to maybe receive funding the following year. So in 2017 alone, just taking advantage of money that we could have just asked for and mostly been awarded, we had an opportunity to get \$300,000 in the single year exceeding what we've done over a 7-year period.

**ALBRECHT:** So let me stop you there.

**JEFF HENSON:** Yes, ma'am.

**ALBRECHT:** You-- you understand that that money is out there, but who in the state agency or an NRD or a city or county, how come they don't know that this is available? And how do you know that it's there and we don't?

**JEFF HENSON:** So-- so awareness of the program. So right now, both NEMA and DNR are aware of the Flood Mitigation Assistance Program. There is an annual release of notice of funding opportunity that is issued from FEMA and then redistributed from the state agencies to the local agencies. So that would go to NRDs, counties, and other folks eligible to apply for these dollars.

**ALBRECHT:** OK.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**JEFF HENSON:** Any jurisdiction that has participated in and adopted their local hazard mitigation plan would be eligible to request these dollars.

**ALBRECHT:** So you had to have a plan to be able to get those advanced dollars.

**JEFF HENSON:** Yes, ma'am. Part of the contingency with FEMA is you have that local hazard mitigation plan.

**ALBRECHT:** And how many cities or counties throughout our state actually have those, that you know of?

**JEFF HENSON:** That is a very difficult question to answer. So what I can say is we have 24 regional has-- local and regional hazard mitigation plans in place across the state of Nebraska.

**ALBRECHT:** How many?

**JEFF HENSON:** Twenty-four.

**ALBRECHT:** Twenty-four.

**JEFF HENSON:** That covers 92 of our 93 counties. One county has opted not to participate. The number of jurisdictions, I would have to go back and look at the plans. It's expansive. Hundreds of communities participate.

**ALBRECHT:** So-- so if the money is left on the table, it's just left on the table, or it goes to other states obviously.

**JEFF HENSON:** Right. So the Flood Mitigation Assistance Program is a nationally competitive program. So if we're not accessing what our share would be, it's going to to Louisiana, North Carolina, California, wherever the needs are.

**ALBRECHT:** So-- so I interrupted you at the point of \$200,000, so what were you saying after that?

**JEFF HENSON:** Right. So in 2017 alone, we could have pretty easily accessed the minimum of \$300,000 to the Flood Mitigation Assistance Program. Over a 7-year period, we've accessed \$265,000. So are we accessing a portion of it? We are. Is there more that we can do as a state? There is. We could also look at the Pre-Disaster Mitigation Program. That is an example where we've become more aggressive in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

pursuing those grant dollars. But really what we've seen in the Pre-Disaster Mitigation is funding of the local hazard mitigation plans. So that's been the lion's share of the request made of those funding opportunities. In 2020, the Pre-Disaster Mitigation Program will morph into what is being called the Building Resilient Infrastructures and Community Program, or BRIC, B-R-I-C. One of FEMA's-- I believe they refer to it as their moonshot is to quadruple mitigation spending over the next several years. So-- so we start seeing real dollars available through the BRIC Program. It's fine if we access them for plans. Having the plans, as I've outlined, is a necessary component towards being eligible for these projects, but I believe where we have a real opportunity to improve our pursuit of these federal dollars is by submitting projects to be funded rather than just plans. What can we build on the ground? How can we make a meaningful impact in the vulnerabilities that we face?

**ALBRECHT:** I like what you're saying there, because that's everything that we're talking about in the last two days on the floor is that people have to have a plan. We have to-- if people can't have drinking water, to me that would be number one. We've got to take care of that, whether it's-- be animals and the people or both. But I like what you're saying, so thank you.

**HUGHES:** Senator Gragert.

**GRAGERT:** Thank you, Chairman Hughes. Thank you for your testimony. I would just like to ask you and you did many mitigation plans in your statement, you've dealt with?

**JEFF HENSON:** I was the project manager on approximately 21 of the 24 mitigation plans in Nebraska. I've also worked in Colorado, South Dakota, Iowa and New Jersey.

**GRAGERT:** OK.

**JEFF HENSON:** So a couple at least.

**GRAGERT:** I'd like to-- I'd be interested in knowing the sedimentation part of it. Do you-- do you-- do you get into sedimentation at all in these-- in these ponds, in these lakes, in the-- and do you pull in the Corps of Engineers on-- on some of the dams, especially on the Missouri River where I'm-- my neighbor, is the sedimentation that has already occurred in these-- in these lakes and the actual capability of these lakes holding back water. Where does-- where does this

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

sedimentation, which I feel personally is the biggest problem that we have on the less and less of an event is going to cause more devastation, where does sedimentation play into a mitigation plan?

**JEFF HENSON:** Right. So what planning mechanisms are looking at sedimentation and the capacity that it's removing from our flood risk reduction already. The local hazard mitigation plans really do not delve into that. When we're looking at these plans-- I did some math yesterday. I looked at 12 of the plans across the state of Nebraska. We are spending approximately \$3,000 per participating jurisdiction to assess risk and identify mitigation alternatives, plus the engagement process. So when you start looking at levels of funding like that to actually conduct a risk assessment, it's just not feasible to dig into an in-depth analysis like that which you're describing. So, so the answer to your question, sir, is no, there is a gap still that remains, from my perspective, as it relates to that type of risk assessment and that in-depth examination.

**GRAGERT:** Thank you.

**HUGHES:** Additional questions? I guess I've got a couple. So, kind of walk me through the steps of how you would go about developing a mitigation plan for the state of Nebraska. Do you go through these 24 plans that are in existence, or do you start from scratch? And, you know, start at 30,000 feet and work your way down. How how do you go about that?

**JEFF HENSON:** Yes, Chairman. I believe it requires work on both ends of that spectrum. So having that-- that broad state level purview of what-- of how we set objectives and how we define the direction that we want to go, but the local plans, they need to be more in-depth. We need more-- more information there. But they do need to feed into that larger state strategy to-- to ensure that there is consistency between what is-- what is supported and embraced at that local level. And then it translates from that state level so-- so that there is consistency from the beginning of this is how we're going to obligate our dollars, these are the type of projects we are going to prioritize. These are the greatest needs that we have at a state level and then feed up into that from those local hazard mitigation plans. So I believe it needs to happen at both ends, sir.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**HUGHES:** OK. So the-- have-- have some of these 24 plans been significantly updated since last spring? Are they-- they've been in place and just got dusted off and read to see what-- what went wrong?

**JEFF HENSON:** So the FEMA requirements, as it relates to the local hazard mitigation plans, require that they be updated on a 5-year cycle. So across the state of Nebraska, in a given year, we have a number of plans that are a number of those local hazard mitigation plans that are being updated. Now, one thing I'd like to point out-- point out about the local hazard mitigation plans. I think currently they're addressing 16 to 18 hazards, natural and man-made. So even when we have finite resources, we've got to distribute them over analysis of things like terrorism, civil disorder, tornadoes, strong winds, winter storm, flooding. So-- so there is a broad perspective taking and taken in these, which is good because it creates some level of awareness of what could happen at a jurisdictional level, but the takeaway or the negative would be just the cursory level of analysis that is included in that. So-- so they do address flooding. They are updated. I think that the answer would be I think three were recently approved by FEMA through that review process over the course of the last year. There is about six or eight that will be kicking off in 2020 and updating at this point in time.

**HUGHES:** So all of these plans have to be reviewed by FEMA, the federal?

**JEFF HENSON:** Right. So you go through the planning process, you engage local officials, you go-- you conduct or update the risk assessment, you update and verify mitigation alternatives that have been identified. When the plan is believed to-- to meet the FEMA planning requirements, it is submitted to NEMA and the state hazard mitigation officer. The state has a period of time to review the plan before either returning it with comments or submitting it to FEMA for final review. All of the local hazard mitigation plans, there's very specific planning criteria that must be achieved and then they are adopted after FEMA has said, yes, it's our stamp of approval. They meet our planning requirements.

**HUGHES:** So are there-- there are dollars to help a local entity and NEMA from the feds to bring-- keep these plans in place and updated.

**JEFF HENSON:** To my knowledge, all of the local plans-- all of the plans that are in place, the local and regional hazard mitigation

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

plans have been supported by a 75 percent federal cost share with the remaining 25 percent local cost share frequently shouldered by a regional entity. NRDs are leading. I think 14 of our 24 plans are sponsored and led by natural resource districts. And then we have a handful that are led by regional emergency management entities and then the remainder would be banding together counties to-- to have that regional approach.

**HUGHES:** OK. Are there any additional questions? Seeing none, thank you, Mr. Henson. Very informative.

**JEFF HENSON:** Thank you.

**HUGHES:** Next proponent. Good afternoon. Welcome.

**JOHN WINKLER:** Thank you. Good afternoon, Chairman Hughes, and members of the Natural Resources Committee. My name is John Winkler. J-o-h-n W-i-n-k-l-e-r. I'm the general manager of the Papio-Missouri River Natural Resources District. Today, I'm representing the Nebraska Association of Resource Districts in support of LB1201. First of all, I'd like to thank the committee for giving me the opportunity to testify this afternoon on LB1201, which creates the Flood Mitigation Planning Task Force. In addition, I'd like to commend Senator Bostelman for introducing the bill. We know the historic flood of 2019 provided a stark reminder of the devastating power in the human and economic cost of flooding. Statewide damages from the one-year's flood events are approaching \$3 billion, with widespread damage to public infrastructure such as highways, bridges, water wastewater treatment plants, private property, rail lines, agricultural land, homes, businesses, lost income, entire communities destroyed, and the future productivity of thousands of acres of farm ground compromised. While we have made great progress, we are still putting the pieces of shattered infrastructure, lives and livelihoods back together again. Flood preparedness is one of the most important aspects of not only Nebraska risk management, but global risk management. And I've included some statistics globally of the devastation of flooding and I won't read those to you, you can read those. Nebraska is part of the third largest watershed in the entire world. Therefore, unless we properly plan to take decisive action to mitigate flooding, we will be doomed to repeat this scenario over and over again into the foreseeable future. Although there is no conceivable way to 100 percent mitigate all natural disasters like flood events, we-- we can do a great deal more to greatly limit their devastation. For every one

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

dollar spent on flood mitigation, you heard there is a corresponding six dollars in return on that investment. It can go from six to 40 dollars return on that investment. For example, in the 2011 flood on the Missouri-Mississippi Rivers, over \$234 billion of damages were prevented and four million people were protected by dams and levees. This equaled a 44 to 1 benefit to cost return on the flood control infrastructure investment along those waterways. I believe we can do better to not only prepare and plan for the next disaster, but to also expedite our mitigation efforts to actually prevent the vast majority of these damages from occurring in the first place. Consequently, we support this effort as a vehicle to improve our statewide planning and response of flooding and flood events. I was fortunate enough last night to attend the public meeting in Fremont with the National Weather Service, which I was invited by Mr. David Pearson to attend that one and the one in Bellevue. I believe there was close to a thousand people there last night and there's still a lot of shattered lives in that community and in that area. And there's still a lot of very nervous and very scared people. Obviously, the big question was, what does the spring of 2020-- in store? Will we flood? Will we not flood? And so it was-- it was very sobering to answer questions at that meeting and to talk to some folks. I stayed there, in fact, to the last chair was put away talking from some families from Waterloo, Fremont, King Lake, all those areas that were hit by the flood. I'd like to take this opportunity to answer any questions that you may have. And thank you once again for the opportunity to speak before the committee today.

**HUGHES:** Thank you, Mr. Winkler. Are there questions? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Hughes, and thank you for being here today, Mr. Winkler.

**JOHN WINKLER:** Thank you, Senator.

**ALBRECHT:** OK. So when I-- when I listened to the gentleman before you, JEO Consulting Group, you all work with them, don't you?

**JOHN WINKLER:** We work with them on our mitigation planning, correct.

**ALBRECHT:** So would you say in this last flood that we had last year that we left money on the table because we didn't have this plan in place?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**JOHN WINKLER:** There's-- there's a little bit of difference between being eligible and then actually receiving the money. So you can be eligible for funding, but then on these national type of-- any time you go to FEMA or the Corps or any of those type of federal agencies, obviously, it's a very competitive process. But yes, we can do better to access money. I know our district flips over every couch cushion we can possibly find to find the resources to do our projects. But yeah, we could do better.

**ALBRECHT:** And not necessarily just the NRDs, but working with communities, if they do not have a flood mitigation plan, they might not qualify for some of these funds, correct?

**JOHN WINKLER:** That's correct. And so in our district, we spearhead that flood mitigation plan for all the communities and entities in our district. And so ours is updated every five years. In fact, we're one of the ones that are going through the update in 2020.

**ALBRECHT:** OK.

**JOHN WINKLER:** So, yes, you have to have that flood mitigation plan to get any FEMA assistance even after a disaster.

**ALBRECHT:** OK. And so with NEMA, when-- when they don't-- I mean, do they have like a course that their people go through to encourage their counties to make sure that they hit on all cylinders to make sure that they can collect if money is available and that they have?

**JOHN WINKLER:** I can't speak for NEMA's internal processes. I know that we work very closely with all of our communities to encourage them or to give them information on what might be available. I know there's been maybe some-- some leadership in staff changes at NEMA that some people have left with some knowledge of that.

**ALBRECHT:** So-- so do you work with NEMA at--

**JOHN WINKLER:** Sure.

**ALBRECHT:** --the county level with some of their--

**JOHN WINKLER:** Yes, we work with NEMA and all the counties in our district.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**ALBRECHT:** OK. So if everybody was at the table, you'd all be talking about this now to know that if we shouldn't do something like this--

**JOHN WINKLER:** Right.

**ALBRECHT:** --and it is something that would be enacted.

**JOHN WINKLER:** Yes. If anything, this flood taught us is that we can do much better at all different levels, planning, emergency response and also mitigation.

**ALBRECHT:** Because I think what I find is a lot of times people don't know what resources they have that they can access. And as long as you're going and you're jumping through hoops and answering all the questions and having everything ready, then you're going to be able to capitalize on the funding, but we have to be there for the people and it's evident that we probably need something like this, so.

**JOHN WINKLER:** That's correct. We do need it, yep.

**ALBRECHT:** Thanks for being here.

**JOHN WINKLER:** This would be great effort.

**HUGHES:** OK. Any additional questions? Just a couple. So in the Papio, you have done a pretty extensive flood mitigation. Did you have any flooding this last spring?

**JOHN WINKLER:** Well, obviously, along the Missouri, along the Platte and Elkhorn, we did in our district. The greater Omaha metro area experienced none.

**HUGHES:** So was there the same amount of ice and water and snow in the upper reaches of the Papio Creek?

**JOHN WINKLER:** They're a little different because they're not major. The Papio Creek isn't a major type of river like the Elkhorn or the Platte or the Missouri. Although we did have kind of the same weather, we had significant snowpack, rain and those types of things. But obviously we've done over since the 1960s when the NRDs were developed in the '70s, we have a very robust flood control system with levees, reservoirs, and it's a holistic approach. It's not just the structural, it's nonstructural. So our communities have adopted floodplain management rules and regulations that are more stringent

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

than the federal governments. And so there's conservation measures. Obviously, our producers have done a great job of terracing and conservation, all those things. So you have to do all those things. It's not just a matter of doing one and not the other. So I would say in in the greater Omaha metro, in the Papillion Creek Watershed, the system performed impeccably. It's just when we got outside of that into the Elkhorn, the Platte and the Missouri basins, it didn't do so well. And that was just because of the volume of water.

**HUGHES:** So are there structures that NRD is working on? I mean, were there some levees washed out and those type of things? How are you coming in that repair?

**JOHN WINKLER:** Right. So I would say the repair of all the-- the publicly owned and operated levees, which means the NRD or fe-- or the Corps or another-- another entity are all repaired. And so our Missouri River levees are repaired. The-- the western Sarpy Clear Creek is repaired. We do have a repair in Union Dike that isn't completed yet. It's just the temporary repair. And so that's kind of our next focus. But it's the private infrastructure, and that was mentioned by Senator Bostelman, that is in disarray and that was mentioned quite extensively at the Fremont meeting. Those aren't fixed. There will be flooding and there's flooding right now because of the limit-- the limited ability to fix that private infrastructure. So when Senator Geist said, are we ready for a flood? I hate to say yes and no. The public infrastructure is ready. The private is not. And so if there is any flooding that would be even close to last years, all bets are off because I think even some of the public infrastructure is damaged and weakened and it's not fully repaired. Now, if we have significantly less than last year, I think-- well, for the most part, we will be OK, but there-- there will be flooding. And so it's just a matter of to the extent.

**HUGHES:** OK. Thank you. Any additional questions? Seeing none, thank you, Mr. Winkler.

**JOHN WINKLER:** Thank you.

**HUGHES:** Next proponent to LB1201. Good afternoon and welcome.

**MICHAEL O'HARA:** Chairman Hughes, members of the Natural Resources Committee, I'm Michael J. O'Hara representing Sierra Club. Michael, M-i-c-h-a-e-l, middle initial J, last name O'Hara, O-'-H-a-r-a ,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

appearing in support of LB1201 introduced by Senator Bostelman. The Sierra Club is pleased to see a proactive approach to the prospect of future extreme weather impacts. And we are pleased to believe that Nebraska is going to adopt a comprehensive plan for mitigating such impacts. We would like to stress that on page 4, line 9, where you have infrastructure systems, and we hope the word, include picks up natural infrastructure systems. As you just heard, there are things other than structures humans build, such as flood-- floodplain management. And otherwise, we think it's an excellent bill and we would urge you to adopt it.

**HUGHES:** Thank you, Mr. O'Hara. Are there any questions? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Hughes. Explain again, the natural that you want an on-- on line 9.

**MICHAEL O'HARA:** You have riverbanks and the riverbank can be natural--

**ALBRECHT:** --washes away?

**MICHAEL O'HARA:** --or can be Corps of Engineer. And if it's natural and it can become heavily eroded, now you're gonna get more flooding from that floodplain management or, you know the flood is gonna go this wide given what levees you do and don't have, and part of mitigation would be choosing not to rebuild in an area where you are-- have lost some of the levees.

**ALBRECHT:** OK, very good. Thank you.

**HUGHES:** Any additional questions? Seeing none, thank you, Mr. O'Hara.

**MICHAEL O'HARA:** Thank you.

**HUGHES:** Good afternoon and welcome.

**KATIE TORPY:** Good afternoon. Thank you. My name is Katie Torpy, K-a-t-i-e T-o-r-p-y, here to-- here today representing the 4,900 member households of the Nature Conservancy. And we do convey our support for LB1201. As has been discussed, Nebraska is vul-- vulnerable to these raising and damaging increases of flooding on the-- that are under-- on the rise. And to protect our natural and agricultural lands, our homes and businesses, we find that Nebraska must be prepared to predict and mitigate the risks of funding. As

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

climate change multiplies, the hazards of all natural disasters securing our preparedness is increasingly urgent. In the last 10 years, as has been shared by earlier testifiers, there have been 14 Presidentially declared flood-related disasters in the state. Climate models prepared by UNL experts predict a future in which such events would be ever more frequent, costing taxpayers and stressing our economy. By 2050, we can expect summers that are 5 to 15 percent drier, 15 to 20 percent more winter and spring precipitation and an increase in extreme multi-day rain events by up to 25 percent. Investing in preparedness reduces the financial and social costs of flooding timber-- to Nebraskans, and by ensuring that critical infrastructure, homes, farms and ranches are less vulnerable to extreme floods that are increasingly common. Recent polling indicates that Nebraskans see this threat and want end-- see this threat and want action. Ninety-three percent of respondents to a recent polling view extreme weather as a threat to farmers and communities, and 68 percent support science-based solutions to build farmers resilience while also reducing flooding risk and water pollution. Finally, seven-- 70 percent of those polled support offering tax credits to landowners to cover the costs of practices that reduce vulnerability to flood-- floods and droughts. This polling speaks to the desire for a solution set that confers code benefits for nature and for people so-called natural-- nature-based solutions or that natural infrastructure terminology just shared by the Sierra Club, leverage the natural features of our landscape to absorb the waters and power of extreme flooding events. The examples include protecting riparian wetlands and woodlands, setting back levees, creating flood-- flood-friendly culverts and bridges, open flood plains and oxbow restorations. Nature-based solutions provide a plethora of co-- co-benefits, also including erosion retention, habitat for game species and water purification. Significantly, these strategies can also buy time for removing vulnerable populations out of high risk areas. And as was stated previously, every dollar spent on risk reduction measures saves an average of six dollars in disasters costs. This is a return on investment Nebraskans can't refuse. Further to Senator Albrecht's-- Albrecht's earlier question about money on the table. Recently, the Nature Conservancy has launched a disaster relief academy for all 50 states that are a part of the organization, recognizing that with each passing decade, the-- these events are rising at a rate of 14 percent. And so it's-- it's an issue that all of our state chapters are grappling with and trying to support our-- our public partners. And one item that came to my attention on a call

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

actually in the way in today, was that there's enhanced federal management plans that are more stringent to get that approval and the process, but that they increase the amount of funding that the federal government would provide by 5 percent. So 15 percent per capita to 20 percent per capita. Thank you.

**HUGHES:** OK. I'm sorry, I missed your last name.

**KATIE TORPY:** Torpy, T-o-r-p-y.

**HUGHES:** OK. I was close. Thank you, Ms. Torpy. Are there any questions? Very good. Thank you for your testimony.

**KATIE TORPY:** Thank you.

**HUGHES:** Are there additional proponents? Again, I remind you, if you wish to testify, please come populate the front seats. Good afternoon.

**JOHN HANSEN:** Mr. Chairman, members of the committee, for the record, my name is John Hansen, Jo-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. We thank Senator Bostelman for bringing this bill forward. As we have seen this last year, we have some very significant impacts. We're looking at about a billion dollars worth of damage to ag from what has happened this last year, and so that tells us that we have a much more clearer idea of what is possible. So then how do we go about the business of trying to prepare for the next go-around? And so this is an area where an ounce of prevention is worth many pounds of cure and that the more you think about it, the more you prepare for it. The-- the-- the money that is-- the question has been asked about money left on the table. The failure to plan leaves money on the table. And so based on my background in natural resources and NRDs, so then you think about open space planning, you think about putting stuff in the flood plain and putting it in harms way or not. So the decision to do planning and to not put stuff in harms way is-- is money well-spent. That's damage that can't occur. And so the more that we do good planning, the more that we look at watersheds as a whole, I'm a longtime believer in some of the-- just nuts and bolts things that you can do when you look at a watershed, it is the downstream discharge that peaks that really is not able to stay within the banks that does a lot of the damage. So if you can go upstream and you can put in more road structures that are also called dry dams that help take the head off of downstream discharge, and you can reduce the total amount of downstream head and damage, those--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

those are extremely cost-effective structures that counties can look at, that NRDs can help assist and-- and help counties be aware that they're available. But if you can put in two or three of those and a lot of watersheds, you can protect an awful lot of bridges, an awful lot of downstream, well, all kinds of both development and also public investment. So we-- we think this goes the right way and we think that this is a step in the right direction. And the more that we are able to learn from what we just-- what we just faced, we-- we now have an awful lot of folks in Nebraska have learned the hard way that they actually live in the 500-year flood pool who have never in their lifetime ever seen that kind of water at their-- at their place before, at their ranch before, their farm before, because, well, it's a 500-year flood. And so we have a lot of folks that-- that have understood what a 100-year flood looks like. But, you know, the size and the scope of what we just went through is just beyond anything that we've ever seen in our lifetimes. And so it is a learning opportunity. And so we would thank the Senator again for bringing the bill and be glad to answer any questions if we could.

**HUGHES:** Are there any questions? Seeing none.

**JOHN HANSEN:** Thank you.

**HUGHES:** Next proponent. Any additional proponents? Any-- any of those wishing to testify in opposition to LB1201? Seeing none, anyone wishing to testify in the neutral position? Good afternoon. Welcome.

**BETH BAZYN FERRELL:** Thank you. Good afternoon, Chairman Hughes, and members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing here neutral in this bill-- on this bill, LB1201. While we do think that planning-- future planning is a great idea and counties have been involved in the planning process at the local level, as you've heard, we would respectfully request that if the committee moves forward with the bill, that you would consider putting a county representative on the actual task force. Right now, counties are specifically listed as being part of the advisory group of stakeholders that would make recommendations to the task force, but we think that county boards, highway superintendents, emergency managers, those folks that really boots on the ground might have some additional input in the task force itself. So I would be happy to answer questions.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**HUGHES:** Very good. Thank you. Ms. Bazyn Ferrell. Very good. Any questions from the committee? Seeing none, thank you for your testimony. Additional neutral testimony. Good afternoon and welcome.

**LARRY MACH:** Good afternoon, Chairman, Senator Bostelman, and members of the committee. I'm representing myself and also I am a county supervisor in Saunders County in the northwest part of the county. And we have a small--

**HUGHES:** Sir, could you give us your name and spell it, please?

**LARRY MACH:** Sorry. Larry Mach, spelled L-a-r-r-y M-a-c-h.

**HUGHES:** Thank you.

**LARRY MACH:** I'm representing myself, and also here on behalf of Saunders County. We have a creek called Skull Creek, which comes out of Butler County and borders the Platte River-- excuse me, in northwest Saunders County. And I've been a supervisor now for starting my sixth year, not term, sixth year. But anyway, we have Skull Creek. In the 1930s, they came and the Army Corps came and built a dike on either side of the creek to keep the water inside. And in the last four and a half years due to the flooding and abundance of rainfall, we have two important things that I feel very adamant about. We have two blowouts starting one right next to a bridge that cost a million two, three years ago to put in, paid for by both Butler and Saunders County. We have the creek that makes a absolute 90-degree turn. And today that creek is from where I sit to Senator Hughes from taking that road out. The Army Corps came in in 1992 and suggested on taking some of the dirt out of the creek to make the water run back to where it's supposed to and put in steel pilings with concrete ruff raff behind to keep the water where it's supposed to be running. That was 1992, today is 2020. There's been nothing done. For four years I've been fighting as a county supervisor with the county, the townships, the NRD and the Army Corps, and each one is passing the dollar sign to the other one that it's private property, we have nothing to do with it. My question to the committee, and Senator Bostelman has come out and looked at this, is it cheaper to be liable for 10,000 acres of farm ground to be flooded if these two blowouts go out and have to put in two \$2 million bridges? Or is it cheaper to put in about \$60,000 worth of the ruff raff to get this accomplished and get it back where it needs to be? This morning, I had five phone calls from five constituents. Now is the time to get this fixed before field work

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

starts the middle of April. Once field work starts, the farmers in that area are not going to want to have construction equipment coming in for a day, two days, or a week. So that's where I'm at on that deal. Now with the flooding on the Platte River, west of North Bend, a dike had been breached and the water did go into North Bend. They're fixing that dike. If we have another half the water we had, in 2020 in the spring, that dike is going to push the water south into the Platte, into Saunders County, where there is no dike. There is a private dike that used to be part of the water district that they disbanded in 1988. It's sustained substantial damage, but it's on private land that there's no funding for that as of right now other than private funding. But my main concern here today is that instead of passing the-- from me to you to you to you and everybody else, why can't we get something fixed when the time is allotted instead of waiting and waiting and doing studies and waiting? We've put a bridge in in the Saunders County, it took 10 years of studies before we got the bridge put in. You talk about wasted money. I understand we need studies and different things, I understand that totally. But to put it in a bridge, to take 10 years to put it in, think of the damage and the loss of income those people suffered because of studies. That's all I have. Thank you for your time.

**HUGHES:** Thank you, Mr. Mach. Are there any questions from the committee? Seeing none, thank you for coming in today.

**LARRY MACH:** Thank you.

**HUGHES:** Any additional neutral testimony? We do have two letters of support for LB1201, Butler Public Power District and the Nebraska Wildlife Federation. Senator Bostelman, you're welcome to close.

**BOSTELMAN:** Thank you, Chairman Hughes. I would like to add on to what Mr. Mach said, that the levee now-- he's talking on the south side of the Platte River right now protects Highway 79 and the only bridge, the only bridge between Omaha and Grand Island that was open during the flooding. That bridge and that highway, right now, we have another major flood, it's highly at risk. The water goes across and closes-- the water did go across that road. You close that bridge, Omaha to Grand Island, if we had another flood like we just had, there's no place to cross. That's the only place we had to cross. Well, I'd like to thank everyone who testified today. LB1201 is very important to the citizens of Nebraska, 84 counties, 98 percent of the residents of the state and over \$2 billion in damages. If you have not done so before,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

I would encourage you to go to the Department of Natural Resources website and in that-- and in the data section, click on the 2019 flood, which will bring you to the flood dashboard, a very informative and interactive map covering the March 2019 blizzard and flooding. Why is LB120-- LB1201 and the flood task force so important? Flooding has occurred and will occur again in the future. As testified here today, we need to maximize the use of all possible funding to mitigate harm from future flooding. The best way to ensure we are doing that is to have a detailed, updated, integrated and collaborative statewide mitigation planning. This has to be done jointly by the two entities that regulate all water in the state and that is the DNR and NRDS. The Midwest Governors have hired consultants to look at the response and planning as a result of this year's flooding. There has been a lot said about the Missouri River and the Corps of Engineers. These efforts are important and should be continued. LB1201 is for the entire state. Those communities not on the eastern border that were destroyed and whose homes and businesses remain vulnerable, for the counties trying to address breached levees and dams that no one knows who owns them, we need meaningful mitigation planning on the local level and the need for everyone to work together for the good of the state. The fiscal note suggests that what I am proposing in the bill is to be completely separate from the efforts currently going on with NEMA, the administration and what individual counties may be doing to plan to future flooding. This should not be a separate exercise. The planning efforts should be integrated. Whatever that needs to look like, I am willing to do and work with. Consulting firms have indicated they will be-- they will volunteer time to work with the task force. The committee and the Legislature as a whole should be at the table for that planning to ensure that state dollars going forward towards consultants and cost shares for projects is being utilized as sufficiently as possible. We are all on the same page here. As legislators, it is our responsibility to our districts and to our constituents. When there is severe flooding again, you do not want to say, we should have done something to mitigate the harm. We know what we need to do. We need to encourage administration, including administration, including FEMA, DNR, NRDS and the counties to recognize this. We need to do-- we need all to be on the same page and give the Legislature a seat at the table to ensure the state is being looked at as a whole. As you heard from Mr. Henson, the need to review, identify and determine how to move forward in flooding mitigation and planning is needed. If we do not take proactive work in this area, we will be leaving money on the table. We may not be as

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

prepared as we should be for the next flood event. I ask for your support to move the bill out of committee and on to the floor for debate. I will answer any questions at this time. Thank you.

**HUGHES:** Thank you, Senator Bostelman. Are there questions? Senator Halloran.

**HALLORAN:** Thank you, Mr. Chair. Thank you, Senator Bostelman. Will this study and task force address Mr. Mach's concern where I think functionally he was talking about passing the buck, right, where it would delineate whose responsibility this is and that is?

**BOSTELMAN:** I think what it would do is to look at that-- those type of incidents and-- and put that into whichever responsibility into it is and to their planning for mitigation.

**HALLORAN:** Would that-- to use an overused word sometimes, would that mitigate the buck passing?

**BOSTELMAN:** Let's hope.

**HALLORAN:** In your opinion.

**BOSTELMAN:** Let's hope.

**HALLORAN:** Pardon me.

**BOSTELMAN:** I said let's hope.

**HALLORAN:** OK, thank you.

**HUGHES:** Additional questions. Seeing none, thank you, Senator Bostelman, and that will close our hearing today on LB1201 and we will move on to LR288, Senator Slama. Welcome to the Natural Resources Committee.

**SLAMA:** Thank you. Good afternoon, Chairman Hughes, and members of the Natural Resources Committee. My name is Julie Slama, J-u-l-i-e S-l-a-m-a, and I represent District 1 in southeast Nebraska. I'm here today to introduce LR288, a resolution to Congress and the U.S. Army Corps of Engineers regarding flood control along the Missouri River. 2019 was a record year for Nebraska in the worst way possible from blizzards, ice jams and rains came flooding on a level we have never seen before. Levees along the Missouri River and its tributaries were decimated. 420,000 acres of farmland were left unplanted this year.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

Losses from this event are measured in the billions of dollars. For many, the flood came and went in March, offering some time for recovery. Other areas of our region, specifically southwest Iowa and northwest Missouri and southeast Nebraska, have not been so lucky. Our floods stretched well into December and beyond. Thousands of acres remain under water in that region. In southeast Nebraska, there are still some standing water that will not be gone before we experience another heightened risk of flooding in 2020. And the Corps recently put out a public service announcement warning of an increased risk of flooding in the spring, especially south of Plattsmouth. Their message, be prepared. Unfortunately, that same message of be prepared hasn't extended to the Corps making necessary repairs in our area. A helpful case study to illustrate this is Peru, Nebraska, population 865 and home to Peru State College. The most heavily impacted community in District 1, Peru, had a levee protecting the town which had not failed since it was installed in 1952. That levee, like almost every Corps levee south of Omaha, failed as the Missouri River demolished previous crest records. The Missouri River also blew out its bank near that levee breach. Maintaining the channel both for flood control and barge traffic is a task that the Corps of Engineers is legally obligated to do. However, the bank is not scheduled for repair until at least the end of 2020. That means at least another year of the Missouri River trying to channel itself through 8,000 acres of the Peru bottoms and to hold on any potential levee repairs until after that bank gets repaired. Moreover, the levee which protected Peru's water treatment facility, sewage lagoons, several homes and thousands of acres of land has been destroyed. The Corps has refused to repair this levee, which is a Corps levee, on the basis that the local levee board failed to complete a set of paperwork that would have cost thousands of dollars to complete. Instead, the Corps-- I mean, the board used its \$25,000 annual budget to make fixes to the levee and brief-- be proactive. Other Corps levees, which were themselves listed as inactive but due to major structural deficiencies rather than a lack of paperwork, were at least partially repaired in spite of their inactive status. That's because these levees were lucky enough to be along Interstate 29. An initial cost estimate from the Corps to repair the six mile levee protecting Peru was initially \$60 million, but somehow ballooned to \$325 million when a revised estimate was requested. To put this figure into perspective, Congress appropriated one billion dollars to the Corps for levee and infrastructure repair in eight states. So after nine months of flooding, Peru and a lot of southeast Nebraska, southwest Iowa and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

northwest Missouri remain in limbo, still flooded, still at risk of further flooding, waiting for answers. Peru is just a microcosm of larger issues surrounding the Corps of Engineers management of the Missouri River. Levee standards have not been updated in decades to reflect modern runoff trends. In the Upper Missouri River basin, development has gone up in terms of farms now extending all the way to the edge of the Missouri River, whereas previously there would have been trees and other things to absorb potential runoff. This leads to increased runoff and larger down river flows. Governors of Nebraska, Missouri, Iowa and Kansas recently joined together to split costs with the Corps on a flood mitigation study. Let me be frank. This partnership should not be necessary. The study will take three years to collect data that should have already been collected. It will take three years to finish this study and likely end with recommendations for changes that the Corps has been lobbying for unsuccessfully since the 1993 floods. At the root of this inaction is the tension between the Corps and Congress with each blaming each other for their failures to act. It's easy to point fingers and shift blame, but failure to successfully advocate for change is seen as necessary is failure, nonetheless. Riverfront communities do not need another study that will take years to recommend changes that could take decades to implement, if at all. The time for action was in 2011. We all saw firsthand the shortcomings of our current river management system then. We thought 2011, well, we hoped 2011 was a one off disaster that we would hopefully never see again in our lifetimes. But it turns out that 2011 was just a preview of the long-term disaster we would see in 2019. There stands an elephant in the room right now and it's a question that has been raised to me several times over the last 11 months. Why build in the floodplain of the Missouri River in the first place? It's a fair question, if you're not involved with this issue on a daily basis. However, there is a reason that so much of our infrastructure, including all bridges between Omaha and St. Joseph, Missouri, that cross the Missouri River, two-- formerly three power plants that account for a large percentage of our state's baseload generation and Interstate 29 are built in the floodplain. That's because up until the 2011 floods, there had only been one major flooding event since the new system was introduced in the 1950s, in 1993. In short, the Corps has failed to successfully combat modern runoff trends and is haphazardly mitigated flooding in other areas. That is my reasoning between-- behind LR288. It is a very restrained effort to ask that the Corps make flood control its top priority in its Master Manual as it was before the 2004 rewrite placed it on the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

same level as seven other priorities, including recreation. And just to give you a little bit more detail there, the Master Water Control Manual for the Missouri River Basin is the Corps guidelines for how they need to control the Missouri River. Section 701 of the System Water Control Plan is the section that I'm referencing. According to the System Water Control Plan, in enacting the 1944 Flood Control Act, Congress adopted the recommendations contained in the PIKs loan documents. The PIKs loan documents identified flood control, navigation, irrigation, hydropower, water supply, water quality, recreation and fish and wildlife as project purposes in the river basin. Congress, however, did not assign a priority-- priority to these purposes. Instead, the Corps, in discussions with other agencies and affected interests, considered these functions in aggregate in order to obtain the ideal development and utilization of the water resources of the river basin to best serve the needs of the people. In 2004 and 2006, reviews of the Master Manual were completed and Congress again did not give any priority to the PIKs on project purposes. Because of this, flood control continues to be the same priority to the Corps as irrigation or conservation efforts for endangered species found in the Missouri River Basin and recreation. So during the 2004 and 2006 reviews and rewrites of the Master Manual, the Missouri River basin was in the midst of a multi-year dry spell. It wasn't until precipitation picked up in 2011 that we realized how dire the consequences of the reprioritization of flood control along with those seven other priorities would be. So Chairman Hughes, members of the Natural Resources Committee, I'm asking that this bill, which has bipartisan-- a bipartisan group of co-signers, be advanced from committee to the floor for debate. Its passage would be a signal to both the Corps of Engineers and Congress that the lives and livelihoods of those who live along the river deserve priority in the Missouri River's management, both in the Corps Master Manual and in their day-to-day efforts to improve down river management. We've seen the crippling impact that inaction has had on our communities, and I testify before you to say, enough is enough. Thank you. And I'd be more than happy to answer any questions that you may have.

**HUGHES:** Thank you, Senator Slama. Senator Moser.

**MOSER:** Have you talked to our Congressmen and Senators about your concerns?

**SLAMA:** Yes, extensively.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**MOSER:** Are they sympathetic?

**SLAMA:** Absolutely. So in terms-- most of my contact has revolved around Peru's concerns with levee repair and bank repair. We see in that situation that \$325 million estimated repair price tag really being a drag on any outside federal funding we may receive to repair that levee.

**MOSER:** How many miles long is this levee?

**SLAMA:** Six miles.

**MOSER:** Six miles is 300 million?

**SLAMA:** Crazy, right?

**MOSER:** It sounds like a lot of money. Sounds like I might want that contract.

**SLAMA:** We've had private contractors tell us the same thing.

**MOSER:** Thank you.

**SLAMA:** Thank you.

**HUGHES:** Yeah, Senator Gragert.

**GRAGERT:** Thank you, Chairman Hughes. I'm interested in the Master Manual that you spoke of was last updated in 2008?

**SLAMA:** The last major rewrite it had was in 2004. It was further reviewed in 2006.

**GRAGERT:** OK, so you-- and all your contacts with the Corps, are they looking at another rewrite of the Master Manual then or?

**SLAMA:** So, they're currently looking at a potential update to levee standards. As of right now, unless Congress acts to demand otherwise, there are three groups that can trigger a rewrite of the Master Manual, the head of the U.S. Army Corps of Engineers, the President of the United States and Congress. As of right now, none of those three entities have shown too much interest in rewriting the manual.

**GRAGERT:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**SLAMA:** Thank you.

**HUGHES:** Any additional questions? Seeing none, you'll stay around to close?

**SLAMA:** Absolutely. Thank you.

**HUGHES:** OK. Very good. So our first proponent to LR288. Good afternoon and welcome.

**DAN HANSON:** Thank you, Chairman Hughes, members of the committee, I'm Dan Hanson, D-a-n H-a-n-s-o-n. I'm president of Peru State College. I'm also chairperson of the Northeast Nebraska County long-- or Northeast Nemaha County Long Term Recovery Group that's been meeting and I'm here to support this resolution. Flooding on the Missouri River has caused significant cost to individuals, the city, the county and the state. I'll just recap a little bit from a little different perspective than Senator Slama. On March 16, 2019, floodwaters breached the levees north of the city of Peru causing significant impact on our hometown, on individuals in our town, the surrounding area and on the college. Of immediate concern was the city and colleges' water supply. Our water treatment plant, which is almost two miles from the river, just to give you some some context, was completely under water as well as our wastewater treatment plant. And this water processing plant has been-- remain flooded until just the last month or so. Because there was no water available in the city, we had to close the college for three days until a solution was found. The solution involved trucking water from the neighboring town of Auburn because water as trucked cannot meet the testing requirements of potable water. Our students, our faculty, our staff and our guests to the college, including our food service, had to use bottled water up until July 25. So, and another part of this was students who commuted from nearby towns just across the river had their education severely disrupted because the bridges were closed both in Nebraska City and-- and Brownville, and so they had long, long commutes or had to quit and drop out of school. I want to note, as Senator Slama did, that there are six miles of levees that were severely damaged are not yet slated for repair. And so as flood waters come back, as predicted this spring, water will be right up to the north end of town again. And I don't know if you've ever been in Peru, but when you came over the hill this summer, it looked like one of the Great Lakes to the north. The immediate impact on the city of Peru and the surrounding area that then impact state and federal financing. For the city of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

Peru, they trucked water for those months I mentioned. The cost at about \$300,000 to make that happen. We're working, and it's a lot of work to get FEMA reef-- refund for that and NEMA support, but the city will be responsible for a portion of that. The temporary water plant has had to be put in place because our current water plant doesn't work. It can barely meet the needs of the city and the college. It can if we don't have any leaks and our students are careful in their water use. It's gonna-- it's gonna to cost about 750,000 over the next three years to keep that portable water plant in place. There are eight homes on the north side of town that were completely under water, two out on the Peru bottoms that will-- and none of those 10 homes will ever be inhabited again. Almost 8,000 acres of farmland are under water all year and water has just come off. That seems like a major impact to those farmers and, of course, it is, and some of them are here in this room. That impacts their livelihood, but our local school district counts on those taxes that come off of those 8,000 acres, and so we're gonna see a ripple impact into our ability to provide a good education to our students. The NRD had a wonderful steamboat trace that ran from Nebraska City to Brownville, a bike trail that's been underwater all year and will not be usable again until the levees are repaired and they can repair that steamboat trace. Peru's bottom wildlife management area was just simply a lake this summer. The Peru boat ramp is closed and our county is also impacted. There are county roads that go north of town along the bluffs that were under water and provided little access to town and actually impacted some of our ability on emergent-- emergency response. So those are some of the immediate things. Our Long Term Recovery Group, though, is working very specifically on funds to-- to put this-- this town, this part of the state back in place. Of course, the reeve-- levee repair and you've heard costs of 60 to 360 million or 300 million, I don't know if I got that number right. A new water plant and water solution out of the flood. Now, flood plain that didn't seem to be flooded in the past is gonna be over \$6 million or around the \$6 million cost for the city of Peru. New wastewater treatment plant will be anywhere between two to 10 million depending on the levee solution and the level of flood protection required by the state. We're working to get funds for removal of damaged homes and to repurpose the area. We need funds for county roads that will either need to be raised if the levees aren't repaired or-- and/or repaired. The steamboat trace and other recreational opportunities and think of all of this happening in a small town with a part-time-- with part-time clerks and a volunteer mayor and council. And so we have a human resource demand that we're

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

also trying to support. So as we look to the future and as we consider all these things, I'm in full support of LR288 prioritizing flood control on the Missouri River system. The residents of the state of Nebraska cannot continue to bear the costs of this type of flooding. Thank you and I'll take any questions.

**HUGHES:** Thank you, Mr. Hanson. Are there any questions? Senator Geist.

**GEIST:** Thank you for coming in and thank you for your-- I'm guessing volunteering with this.

**DAN HANSON:** We have a volunteer organization. We have-- its representative. Senator Slama serves with us. We have representatives of the NRD, City Council, College Foundation. Let's see, we've got county commissioners, but it's a-- we formed that about two months ago as we realized how important it was going to be for us to even serve as a connection point for key funding opportunities. And I didn't even mention the city's coffers are bare. The roads that need to be repaired we're going after funding also for some basic city infrastructure.

**GEIST:** Well, that's a big job and I thank you for that. And-- and maybe I missed it, but did you indicate any damage to the school, to the Uni-- to Peru State College?

**DAN HANSON:** Well, I'd like to invite you to campus some time. We're on a beautiful hill and--

**GEIST:** Uh-huh, I've been there.

**DAN HANSON:** --we're able to look out over the valley, but we were not impacted other than our good friends in the town and our infrastructure.

**GEIST:** Sure. OK. Thank you.

**HUGHES:** Any additional questions? Senator Albrecht.

**ALBRECHT:** Thank you, Chairman Hughes, and thank you for being here today to explain the devastation to us all. Did the city have along with-- do they have emergency managers? Did they have any-- any mitigation like Senator Bostelman was talking about. Had they had--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

did the NRDs try to foresee what was coming and-- and prepare or-- and who is the NRD that's in Peru?

**DAN HANSON:** Well, Bob Hilske is here with us, and I think he's going to say a few things.

**ALBRECHT:** Okay.

**DAN HANSON:** We do have a Nemaha County emergency management director was a great assistance. There was no expectation that the levees would be breached because it had never happened. And on March 16, our mayor was out and we could hear the water was coming, a helicopter flew over and dropped a bottle and said, you better leave.

**ALBRECHT:** OK. So when this was all happening and you formed this group, have you found any extra money out there to help you?

**DAN HANSON:** We were in contact with-- this morning's meeting we had a Nebraska economic development individual, Susan Nickerson, who was there. We're also in contact with some private foundations that were working hard to see if we can find gap money or this match money.

**ALBRECHT:** Um-hum.

**DAN HANSON:** And we've also worked with the national-- or Federal Economic Development Administration. They're the ones who might help us with some funding for roads.

**ALBRECHT:** That's where I really believe that there are pockets of money out there for people. Our Water Sustainability Fund, I know that there's others that with the Environmental Protection Agency, I would just like to know what happens in our state when something like this takes place. You would certainly think that the priorities would go to the top, even though you were on a one in six year road plan or a list of people that needed sewer and water and infrastructure, if you already have it and it's working, but you don't have the ability, you-- I would think you would go to the top of the list. So I think with Senator Bostelman's program, when we sit down and analyze this, hopefully we can be of more help to all of our state. And thank you for serving on your board to do what you're doing.

**DAN HANSON:** And I think one of the reasons I'm here is I hope to go to the top of the list. We've got some major, major needs.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**ALBRECHT:** Thank you.

**HUGHES:** Thank you, Senator Albrecht. Are-- any additional questions? Seeing none, thank you, Mr. Hanson, for coming to the committee today. Next proponent. Good afternoon and welcome.

**BOB HILSKE:** Thank you. I'm Bob Hilske, B-o-b H-i-l-s-k-e, and I'm here today testifying on behalf of the Nebraska Association of Resources Districts, which represents all 23 NRDs in the state of Nebraska and the Nemaha Natural Resources District, which is in Tecumseh, Nebraska. And we're in support of a resolution, LR288, which requests that the Corps of Engineers prior-- prioritize flood control on the Missouri River. And I would like to thank Senator Slama for her leadership on addressing this concern. Obviously, she lives in Peru and she's been very active in working with the Corps in trying to get the Corps to do something out there, so that's been very, very important to the area. But the Missouri River represents the Nemaha NRDs eastern boundary all the way from Nebraska City to the Kansas border. The historic flood plain is on a stretch of the river that includes four communities, obviously, one of which is Peru, three public water supply systems, the OPPD coal fired power plant, the NPPD Cooper-- Cooper Nuclear Station, a state park, numerous county roads and farmland. Historically, they've all been protected by the mainstem dams on the Missouri River and the extensive levee system that it was constructed over the past 100 years throughout the Missouri River basin. There are also three major highway crossings which connect Nebraska to Missouri and Iowa, which were all closed in both 2011 and 2019 for extensive periods of time. And obviously, that's a big economic detriment to the area because we have people that travel those roads every day to get to work on both sides of the river, and it does-- and that was a great impact both of those years. USGS has been collecting Missouri River crest data for more than 70 years. When looking at the data, it's obvious that over the past two decades, there has been an increase in the number of high crest on the river in southeast Nebraska. Ten of the 15 highest river crest ever recorded at Nebraska City have occurred in the past 25 years. In addition to 2011 and 2019, we had major crest in 2007, 2008, 2010 and 2014. Those crests were-- were not heard about simply because the levee protected the area from those river crests, so there only minor damage ever occurred. But this trend appears to-- will appear to continue into the future. When the Missouri River Main Stream Reservoir Operation Master Manual was revised in 2014, [SIC] the biggest issues on the table seem to be protecting endangered species, supporting recreation in the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

mainstream-- mainstream-- mainstem reservoirs and maintaining flows for river navigation. I would add this. A lot has changed since 1990. 1990, we-- the opposite was occurring on the Missouri River. The lakes in South Dakota and North Dakota were all below. They were all dry. And the people that were in the reservoir-- or a recreation activity up there were hooting and hollering because they were losing a lot. They had a lot of economic impact. And then, of course, endangered species was kind of surfacing the top, so it was kind of the opposite of what we had today. So that might help drive what was going on in 2004. Anyway, flood control, it was sort of assumed, I think, that flood control would be there no matter what they were going to do with the Master Manual, so it really wasn't talked about too much. Extreme-- let's see. Extreme precipitation events like we've seen the past 15 years, we're likely never factored in to the river operation manual and flood control scenario. With experts predicting higher temperatures and more extreme weather events in the future, it's critical that the flood control be considered the highest priority when operating the river. Failure to do so will have a devastating impact on the economic future of southeast Nebraska. We urge the Legislature and the committee to forward this resolution and send a message to the federal government and Corps of Engineers that Nebraska considers flood control the most important benefit provided by the Mainstream Master Manual Plan and look at every option to reduce impacts to land infrastructure and the people living and working along the river. Again, on behalf of the Nebraska Association of Resources Districts and the Nemaha NRD, I thank you for your time and consideration of this matter. I will take any questions.

**HUGHES:** Thank you, Mr. Hilske. Are there any questions? Senator Bostelman.

**BOSTELMAN:** Thank you, Chairman Hughes. Thanks for being here, Mr. Hilske. My understanding there's about three or four barges a year go up and down the river is that-- do you know? Does that sound about right?

**BOB HILSKE:** That's about right. It's kind of a historic event anymore when you see those. And I think 1973 was the peak time of barge traffic on the river. I grew up in the Omaha area and it was always common to see barge traffic up and down the river, and that's greatly declined since the 1980s, and my understanding is, is that it's largely because of the unpredictable flows on the river that they were either going to be-- if you look at the Master Manual, they were going

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

to run flush flows down the river in the spring and decline reservoir-- levels in the summer. and I think there was concern there. And obviously if we have a flood like we had the past year, there's no way they can run barge traffic up and down the river. You contrast that to the Mississippi River, if you ever go across the Mississippi, you always see barge traffic and river traffic up and down the Mississippi.

**BOSTELMAN:** My understanding is part of the water flows they have there and they're leveeing fuel along there was really directed more towards keeping the levels or whatever for barge traffic potentially in the future or as a downstream for down at-- down in the Kansas City, St. Joe areas, is that--

**BOB HILSKE:** No, the-- one of the major purposes of the operating the river by the Corps was the intent was to have navigation from Sioux City all the way to St. Louis, Missouri. So they were-- the intent is to keep flows to the level needed to do that. But those flows can be consistent throughout the summer. They don't have to run those up and down. They have to have a channel of 9 to 12 feet in the river to-- to maintain barge traffic on the river.

**BOSTELMAN:** Right. And that was part of the channel and when they, you know, they're moving it in with the levees, and I understand that. I guess my question-- next question is, as they're looking at Peru and the facilities they have water treatment facilities and those things and they say now, of course, say now it's not important to protect those anymore by putting in-- is it a cost benefit analysis they're looking at. Is that what it is? I mean, what are they going to do and/or, you know, the NRDs can't come in and-- and do anything there because it's too massive a project, I would guess.

**BOB HILSKE:** Right. What the-- what the community of Peru is doing, they're looking at several options. Obviously, one option that they have to look at is, is to repair the system the way it is, because FEMA requires them to do that so they can figure out how much that would have cost. They're looking at moving the system and upgrading it and getting it out of the floodplain so it wouldn't flood anymore. And the-- the third alternative, I think that they're looking at is running a pipeline, which is about 10 miles to Auburn and basically running off of the Auburn water system. And I think they're working with JEO Consulting on that. And so they're trying to decide what's the best alternative to go with. My assumption is that they're going

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

to want to get it out of the floodplain, but they also have to work to figure out where they're going to get the funds to do that. FEMA will give them enough money to repair it and they can use that for a new system, but that's not going to pay for the new system or running a pipeline to Auburn.

**BOSTELMAN:** Thank you

**HUGHES:** OK. Senator Halloran.

**HALLORAN:** Thank you, Mr. Chairman. So I think I know, but I'm not sure. What's the main stem reservoir?

**BOB HILSKE:** The main stem reservoir is a series of reservoirs that were built-- and you're going to make-- I'm not sure I remember all the names of the lakes, but it's like Lewis and Clark Lake, which is Gavins Point Dam which is on Nebraska. That's the lowest one. And then Wahoo is up north of Pierre and then you get in-- and there's a lake in North Dakota, in Fort Peck, which is actually the one in Montana is actually was the earliest structure ever built. But the series of five dams, I think, and reservoirs up there that they use for flood control and regulating water on the river.

**HALLORAN:** So regulating water upstream.

**BOB HILSKE:** Right.

**HALLORAN:** And the purpose is regulating water--

**BOB HILSKE:** Releasing water from Gavins Point to maintain the flow in the river.

**HALLORAN:** Another question I have, because again, I don't know, but your comments here, the Missouri River Main Stem Reservoirs Operation Man-- Master Manual revised in 2004 was-- the biggest issues on the table seemed to be protecting endangered species, supporting recreation, main stem-- in the main stem reservoirs and maintaining flows of river navigation. I guess what I have heard from a few individuals is that it's-- it's a little bit exacerbated by the developments, sometimes recreational development and otherwise around some these main stem reservoirs that kind of impedes the water level that they maintain, which would if to capacity would hold back some of that water. Does that make sense to you? Is that--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**BOB HILSKE:** Well, what-- I guess what they were suggesting would be that they've built-- they've built structures and facilities so low that they can only raise the water to a certain level. And so the Corps is trying to keep water out of those structures and if that was done, the Corps should have regulated that. I mean, they should never have allowed that to happen because we operate small flood control dams and, you know, we have a certain level and we say you can't build anything below this. And so if that actually happened, that was something that the Corps should have been regulating. But I'm not sure, I've not heard that.

**HALLORAN:** OK. Thank you.

**HUGHES:** Thank you, Senator Halloran. Are there any other questions? Senator Albrecht.

**ALBRECHT:** Thank you, Senator Hughes, Speaker, Chairman. Sorry, it's getting late. OK. So you're representing all the NRDs, is that right?

**BOB HILSKE:** State association, yes.

**ALBRECHT:** State association. So with this situation in Peru and there's nothing you can do, your hands are tied because there's not enough funding or just-- I mean, are you-- are you actively working with them to help try to mitigate some of this--

**BOB HILSKE:** Right. Basically, where they're-- where they're at now, as I understand it, you know, the levee district operated the levee and effectively they've got to work through the federal channels to find out if there's any opportunities for funding. Well, obviously, the first step you go do is, you go to the Corps and say, are you going to rebuild the-- rebuild the dam? It was a Corps dam, excuse me, levee. It was a Corps levee. You know, we'd like to have you rebuild that. And the other option might be to go to FEMA and see if FEMA will provide funds, so--

**ALBRECHT:** So you said the levee is the Corps, not the NRD or the--

**BOB HILSKE:** Right. It's a federal levee that it was operated by a local levee district and-- but it was inspected in over-- overseen by the Corps of Engineers.

**ALBRECHT:** OK. So, I guess that's my big question is who-- who is the-- is it the NRD or is it the city or is it all parties concerned that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

will help move this forward? I know that with this LR, we're going to request that the Corps do something quickly, but it's probably not going to happen that quick, but what-- what or who--

**BOB HILSKE:** Well, I think that's gonna be a combination. Like I say, working with Senator Slama, working with the levee district, the NRD, all the parties involved. You know, once we get a clear picture of what the route should be, that we-- we all get together, move forward and figure out a way to-- to get the problem solved down the road as soon as we can. And so it's gonna have to be-- it's going to have to be a multi-jurisdictional effort. It can't just be, you know, one entity, the NRD or--

**ALBRECHT:** I know you have several that are in-- have problems up the river as well, so would this become a priority because of their situation, move to the top of the list.

**BOB HILSKE:** Well, I'm assuming that most NRDs, if they have issues with flooding they're-- they're-- they're gonna give high priority to those issues or assist where they can to entities that are responsible for infrastructure that got damaged. I can't speak specifically of every individual project that might be out there, but I'm assuming NRDs would typically take a high profile role in that.

**ALBRECHT:** Just one more question. Would flood damage and flood control take precedence over economic development?

**BOB HILSKE:** On the--

**ALBRECHT:** The NRDs.

**BOB HILSKE:** NRDs. Typically, flood control is going to be the-- be the driver of what we would do.

**ALBRECHT:** Thank you.

**HUGHES:** Thank you, Senator Albrecht. Senator Gragert.

**GRAGERT:** Thank you, Chairman Hughes. Just a quick-- couple of quick questions. Are you familiar with the channelization and navigation from Sioux City all the way to St. Louis and the Corps building that as a single purpose?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**BOB HILSKE:** I don't have a lot of information on the history of that. I know that they were-- that based that process basically started in about 1910 when they decided that they needed to create a navigational channel up to Sioux City. But what they do, how they did it, I'm not real familiar with that.

**GRAGERT:** OK. OK. Well, you may want to look into that or your committee may want to look into that because flood control is not one of even-- of-- of eight. It's-- the navigation part from there down is a single purpose. So flood control won't even come into play with your levees and stuff for their channelization. The next thing, you know I'm all about and I don't know, I think a signed them, but a flood control on the Missouri River is definitely affects up where I'm from, you know, District 40. What-- and I would love to see it as the number one priority. I think it needs to go as the number one priority. But there, you know, down below the Gavins Point, you know, you've got the Red River, other river systems coming in and adding to your-- to your problem or issue down at Peru, correct?

**BOB HILSKE:** We do. In fact, in southeast Nebraska, we get flooding. But it-- it-- you know, if they release too much water from Gavins Point, we get flooding, if we get a lot of-- you know, if there's a lot of runoff in southwest Minnesota or western Iowa, we can get flooding. If there's a lot of water coming out of the Platte River system, we get flooding. So we can get it from every different direction. And we got it from all directions from this flood and that's why it was the highest crest record on-- of all time. One thing about it is there's a lot of those river systems that run in Iowa and southwest Minnesota. They have very little flood control on those. And that's something that the Corps or the states might want to take a look at, because that would definitely help the situation that we have in southeast Nebraska.

**GRAGERT:** There would be a mitigation plan up the higher level of things.

**BOB HILSKE:** Correct.

**GRAGERT:** Thank you.

**HUGHES:** Any additional questions? Seeing none, thank you for your testimony, Mr. Hilske. Additional proponents. Good afternoon and welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**JESSE BRADLEY:** Good afternoon, Chairman Hughes, and committee members. My name is Jesse Bradley, J-e-s-s-e B-r-a-d-l-e-y. I am one of the assistant directors of the Department of Natural Resources with jurisdiction and responsibilities over the beneficial use and management of the surface waters of the state. I'm here today to testify in support of Senator Slama's resolution, LR288. The resolution reinforces the message that protecting people and communities through flood management is the single most important priority to the U.S. Army Corps of Engineers through the source of its authorizing funding, the U.S. Congress. This resolution is consistent with the concerns voiced by the Governor-- by Governor Ricketts and Governors of Iowa, Missouri and Kansas, and is the purpose of the four Governors memorandum of understanding. Asking Congress to proactively assist state efforts to reassert management of the U.S. Army Corps of Engineers, would ensure Nebraska and the other Lower River Basin states are protected from widespread damage and destruction, which results from flooding. The increasing frequency and amount of damage in the lower Missouri River Basin over the last 10 to 15 years has devastated states, communities and individuals, and it is time a clear priority is established for river management policy. I want to point out that the resolution citation of the preliminary estimates for public assistance in Nebraska at \$450 million for 2019 flooding should be revised. Recent revised totals show Nebraska is estimated to receive 410 million in public assistance projects, 27.2 million from Individual Assistance Program, 24.3 million from the Housing Assistance Program, 49.1 million from the flood-related Small Business Administration Loans Program and 39.6 million from claims filed and paid out from the National Flood Insurance Program. It would be more accurate to reference \$550 million in paragraph three of the resolution. The resolution's message to Congress on managing the Missouri River is straightforward and supports that flood control must be the Corps highest priority because the protection of people in our communities is essential. Thank you for your attention to the issues. I'll be happy to answer any questions you may have.

**HUGHES:** Thank you, Mr. Bradley. Are there any questions? Seeing none, thank you for your testimony. Next proponent. Welcome back, Mr. Winkler.

**JOHN WINKLER:** Thank you, Mr. Chairman. I'll darken your door for just a little while longer. Again, my name is John Winkler, J-o-h-n W-i-n-k-l-e-r, the general manager of the Papio-Missouri River Natural Resources District. All the testifiers before me did a great job

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

talking about the congressionally authorized purposes of the reservoir system along the Missouri River. We're just simply here to state that we support LR288 to reinforce to the U.S. Army Corps of Engineers, and probably more importantly to Congress, that flood control should be the number one priority of the dam and reservoir system and that protecting life and property should be paramount for the future management of not only the Missouri River, but the Missouri River Basin. And I'd be happy to answer any questions you may have. Thank you.

**HUGHES:** Thank you, Mr. Winkler. Any questions? Seeing none.

**JOHN WINKLER:** Thank you.

**HUGHES:** Next proponent. Good afternoon and welcome.

**AMBER HOLLE:** Good afternoon. My name is Amber Holle, A-m-b-e-r H-o-l-l-e. I'm with the Falls City area Chamber of Commerce, kind of representing a lot of Richardson County, which is southern then down from Peru. I'm here to kind of talk about the economic impact that this flood has had. So for pretty much half the year we were cut off with our access to Missouri and Iowa. You could only, like they said, access from Omaha or St. Joe, even sometimes St. Joe was a problem. It affected our businesses in many ways. All of the businesses, industries on their way-- their ease to transport materials. I spoke with a local car salesman this week. He was down 20 percent last year because so much of his customer base comes from Missouri. Retail have expressed as well from Ace Hardware to the greenhouse to just little shops downtown. There's a restaurant called Wild Bill's that sits in Rulo, Missouri, where there is a bridge. They were down 70 percent this year. They're not gonna be able to survive making 70 percent. Like, you know, a lot of our other bigger employers in the region Peru State College, Cooper Nuclear, a lot of their commutes, a lot of them live on the other side of the river. One of them included is our mayor in Falls City, so she was actually-- she drove all the way around. It would be six hours round trip so she was staying in her RV most of the time. There's, you know, people that split families that, you know, their kids go to school on one side, but mom lives on the other, just things like that. And it wasn't just for a week or a month. This was half the year that these people were facing these issues. Tourism was down, of course, just the ease for people to get to our town. We get a lot of tourism from Big Lake, which sits right near on the Missouri side, near the Missouri River. And Brownville, they have a riverboat.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

They can't do any of their things. So it's very scary to think what this next year holds and our businesses are thinking of that. They're already making budget cuts and some of them cut back employees. If we have to go through this many more times, there's a lot of them that won't make it. So I'm just trying to express their concerns and hopefully we can get the Corps to-- like Slama says, enough is enough. So thank you.

**HUGHES:** Thank you, Ms. Holle. Are there any questions? Seeing none, thank you for your testimony. Next proponent.

**JOHN HANSEN:** Mr. Chairman, members of the committee, for the record, my name is John Hansen. I am the president of Nebraska Farmers Union. John, J-o-h-n, Hansen, H-a-n-s-e-n. This last year has been a year where we've dedicated a tremendous amount of our time and resources to helping people that have been impacted by floods. And those floods have been certainly across the state. And a particular subset of that group are the folks that are members of our organization that live along the Missouri River corridor and so that runs all the way up on the east side, on the north side and coming all the way down, and so thanks to technology, I've been able to get shots of their-- aerial shots from-- of their-- of their farms, of their-- of their operations. And we-- we have members and I have been working with folks who are farming in that corridor who did not see bare ground until late this fall. And so the-- the main stem system is a system. And so the total amount of water that comes into the system has to go through the system. You can't jeopardize the physical integrity of any one of the dams, and they all only hold so much. And so it's a huge guessing game over how much of what water you leave in the reservoirs at a particular point of time as you try to guess how much you have headed your way. And-- and so any one of the structures can-- you can absorb more or less, but they can't put themselves in a position where they're not discharging enough water to make sure that they're protecting themselves against the downstream flow that could well jeopardize the physical structure itself. So it's a-- it's a very complicated set of management just as a system. And so what we have done is we have historic-- from what we've done historically is we've complicated that task by saying that we want you to-- based on the negotiations that went on, which we were involved in, in the Master Manual set of priorities, is-- is to, in our view, serve too many masters at one time. And so there's times where you have countervailing interests. And so, are we going to protect nesting on the islands? Are we going to protect navigation? Are we going to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

protect recreation so that we have, you know, keeping the reservoirs full? So we have so many different competing interests. And so we've-- we've finally, in our view, complicated it to the point where we have proven one more time that there really is a limit to how many masters you can serve effectively at one time. So then what should the priorities be? And so if you think about the Missouri River corridor and the levee system that's around it, it's like a lot of elongated, very large bathtubs that are along the corridor. And those-- all of those physical structures and levees, which are a combination of private and public and a mix of different kinds of structures, are there to protect that. And so when you-- when the levee fails at the top end of the downstream flow, you-- now, you're no longer protecting all of that valuable farmland that's in there, you're filling up the bathtub. And so the Corps has also been unwilling to allow folks to put breaks in the bottom side of the levee to drain the bathtub when it's full of water so it can only get out so fast based on the on the natural system. So in order to be able to try to regain control of their own ground, they haven't been able to do that. So we are very much in support of this legislative resolution. We think at a certain point it really behooves our state as well as all of the impacted downstream states to say that we really need to simplify the management system, make it more reasonable, and to say that, yes, in fact, flood control is at the end of the day of all of the important uses for the river, the most important one. And so with that, I'd be glad to end my testimony and answer any questions if I could.

**HUGHES:** Are there any questions for Mr. Hansen? Seeing none.

**JOHN HANSEN:** Thank you very much.

**HUGHES:** Any additional proponents? Good afternoon and welcome.

**BRETT ADAMS:** Good afternoon. Thank you. My name is Brett Adams, B-r-e-t-t A-d-a-m-s. I'm here representing myself as a local farmer and also the Peru Levee District R562. I don't have anything official but I wanted after hearing Dr. Hanson and Mr. Hilske, I'll give you a little background of my situation in the Peru area and I thought it might behove me to come up here if you have any questions, especially pertaining to the Peru levee area that were asked previously, I might have the answers. I'm in support of this resolution. I'm one of the most-- probably the one of the most impacted people out in the Peru area. This Peru bottom area that Senator Slama talked about was roughly 8,000 acre-- acres, probably several thousands of those are

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

mine, lost that, my parents house. Several grain bins. You know, we've had water on that property since March 16 and it went off about November 15. Our levee has not been fixed. It's-- some struggles with the Corps, with our levee system, we're a very small district with limited funds, self-taxed. Our annual budget is about \$30,000 a year. As was previously spoken about, we used our money to fix our repairs rather than some paperwork to get us back in compliance first to protect ourselves and not-- I don't really believe a piece of paper is going to protect you very well. So that was our-- our issue to move forward with that and we got caught in the midst of it with this flood. But as I will say, anything about the flooding and no matter anything that happened, the Missouri River flooding was not caused by any inconsistencies of any levee district up and down the Missouri River, it was caused by excessive flows and excessive overtopping of the main stem-- stem of the Missouri River. It just couldn't handle it. Didn't matter what you had, it was gonna happen. With our situation down in southeast Nebraska being a very small area, and me personally farming, the tax dollars that are potentially in jeopardy to support these school systems, I'm in contact with the local school board president calls me and wants to know what's going on. It's a-- it's a dramatic effect for the state. I sit in very-- a lot of meetings. I joke, I used to be a farmer, now I'm a meeting goer because that's about all I do is go to meetings and do that stuff. I sit in several meetings with the Corps, obviously with my levee board position. I sit in meetings in Missouri and Iowa with, you know, I've set in several meetings with their Congressmen, even the Governor in Iowa, Kim Reynolds, and I talked about this and one of the reasons I decided to come up here today was to have-- in my opinion, I sometimes feel Nebraska is a little lagging behind the Missouri and Iowa side because we're lacking the Missouri River, you know, surface area. There's a lot more surface area on the Iowa and the Missouri side and I think this resolution's like this put us in the forefront to join forces with them to move forward and make a stand to progress this moving forward. And that's-- that's the issue I think that really states a fact for Nebraska on this has started the state level and, you know, believe me, I've gone on and on with our Congressman and Governor and everybody and talked with them so extensively. I do almost weekly with some of them. So I think this is a good bill and I'm in support of it, and I'm free to answer any questions you may have on my situation, or the levee situation.

**HUGHES:** Thank you, Mr. Adams. Are there any questions? Senator Moser.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**MOSER:** Did you have water that was sitting on your land that couldn't run back to the Missouri?

**BRETT ADAMS:** Like trapped water?

**MOSER:** Yeah.

**BRETT ADAMS:** Yeah. Once the levees overtopped, we have large breach in our levee. Missouri River Bank has compromised, like it's been talked about before. It's not fixed, so the water will just keep coming in. You know, normally at these deals, we wouldn't get the water to come in at, say, a Missouri River flood stage at Nebraska City's river gauge. With flood stages 18, the water wouldn't even come in there at a 19-20-foot river, now it comes in at a 15-foot river. So that tells you how it's cut the bank down and come in, and then once the water comes in, it has to fill up, just like your bathtub so high before it runs back over what little bit of a roaded levee is left. So we get--

**MOSER:** So the river itself was low enough at some point, but you still had water trapped on the other side of the levee.

**BRETT ADAMS:** On the protected side, correct.

**MOSER:** And you can't pump that out or do anything.

**BRETT ADAMS:** What our-- well, we have a drainage system that goes through all the farm ground that drains out and we do have a flood structure, a series of flood gates that go through the levee that block it off. And, of course, we pump the water over like several drainage districts do, but our flood pump was compromised in the flood. The water was up over the top of the engine and the turbine pump and we have yet to get access to that. We still cannot get access to repair that, to flood-- to pump the water out.

**MOSER:** OK. Thank you.

**HUGHES:** Any additional questions? Seeing none, thank you, Mr. Adams. Any additional proponents? We need-- we need paperwork first. There's another gentleman coming. If you'd like to testify, please come to the front row. Good afternoon and welcome.

**PAUL TURMAN:** Good afternoon, members of the committee. My name is Paul Turman. I'm the Chancellor of the Nebraska State College System. That's spelled P-a-u-l T-u-r-m-a-n. I've come to give testimony I

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

think just to emphasize a particular element of the resolution itself. One of the things that I think benefits from a resolution from this body, from essentially the citizens of the state, is it reinforces a collective kind of voice to our congressional delegation. It also establishes a very important opportunity to merge and work collaboratively with other states as well. South Dakota, Iowa, Missouri are all states that are impacted in very much the same way. Prior to coming to this position just a year ago, I originally came from Pierre, South Dakota, where I grew up. I grew up just roughly about three miles away from the Oahe Dam, thinking all through my childhood that this would be, unless the dam is exploded, there is no opportunity for flooding. Until 2011, the Corps came in and said within five days we are gonna do what we refer to as controlled flooding. And within that time period, the banks of the river basin are going to be 11 feet where they are right now. And that was going to be for a four-month to five-month period simply because they had chosen not to release the water for a variety of other things that are their priority. I come fast forward to this position. President Hanson calls me from the campus in March, tells me that the flood, the levees had been breached. I had to actually get on a Google map to figure out how far away two miles and what the impact that that starts to have. Whether or not flood control is, is and should be the priority, I certainly think we have started to see the types of weather anomalies within our country, around the world, that suggests that future studies certainly do need to happen. 2004 certainly saw that the lowering of the reservoirs and so that at the time impacted how they-- they decided they were going approach that. Whether or not we have significant rainfall, additional snowfall this year that will result in the same types of events we had last year, all of the reservoirs in South Dakota are at peak levels. They are doing moderate releases waiting for the Montana snowmelt to eventually happen again this summer. So it will continue to happen and I think this serves as a real testament that the state of Nebraska wants to work with its delegation and the other states that surround us. The only thing I would maybe add to the bottom of the resolution is not just the Nebraska delegation, but any of the delegates in states that are connected to the Missouri River and impacted in some way. But I'd be happy to answer any questions that the committee might have.

**HUGHES:** Thank you, Mr. Turman. Are there any questions? Seeing none, thank you for your testimony. Next proponent. Good afternoon. Welcome.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**SCOTT OLSON:** Thank you, sir. My name is Scott Olson, S-c-o-t-t O-l-s-o-n. I'm out of Tekamah, Nebraska. We've been working on this-- the flood issues since 2011 when it first started. We had a group-- we-- a group called the Responsible River Management. We spent some time in Johanns' Office back in 2011. We laid out the pictures, the paperwork, and we showed them what was coming and what was going to happen, and it's-- and they said, yep, you've got it right. They never ever did-- never ever did anything with it. I worked with Joni a little bit. I've worked with Lydia Brasch quite a bit. I worked with a lot of different people on this stuff. One thing about the Missouri River and what the Corps is doing with it right now, the Corps, because of a-- the lawsuit back in 2004, the Corps of Engineers are mandated to do the stuff for fish and wildlife according for-- I'm shooting from the hip-- from the hip-- shooting from the hip hurts-- sorry about that, according to the Endangered Species Act. They're in the process of dechannelizing the Missouri River. They are notching the wind dikes that control the speed, the direction of the river and the flows of the river. It makes a difference. It slowed it down. It has added sediments to it. It has changed the-- well, made it shallower and slower so it has to flood laterally. The previous people that were in here talking about the flooding across the state of Nebraska, they've got some great ideas, but we're still at the headwaters on the Missouri River. Until the Missouri River waters can be put back where they belong or dropped back, we're still going to have higher, or slower flows coming from the west. With slower flows, we've got higher water table. We get our spring rains, the water can't go in because the water-- your water tables are already much, so much higher. I'm not part of Julie's deal. I just sit here and listen long enough, I've been at this long enough, I just had to speak. Let's see which-- which direction can I go next here? Anyway, as far as the deejay-- the dechannelization of the Missouri River from Gavins Point Dam all the way to the Mississippi, you know, it goes Nebraska, Iowa, Kansas, Missouri and a long way down around through Missouri, so it goes a long, long way. This last year there was over 2.2 million acres in the four-state area that did not get planted, mainly because of the high waters in the river. Even where-- or where I live, I'm about 45 miles north of Omaha, we have the same problem up there. We got ground under water, but we also have so much more higher water table. We have-- we got a bunch planted and we got it out, but it was quite a fight getting it done. But everybody keeps talking about what we need to do up river or do this or do that, whatever, but the Corps is mandated to do this. And if we asked the Corps to make flood control,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

number one, they're not going to do it. It has to be through Congress. Congress is going to have to push it to make it work. Julie's done a great job on this and she's getting a lot of good support and she's gets a start, so it's another step that we need to take. But it just, it's all a big deal and I'm down to a minute so I'm going to shut up. So, I thank you very kindly.

**HUGHES:** Thank you, Mr. Olson. Are there any questions from the committee? Seeing none, thank you for your testimony. Any additional proponents? Anyone wishing to speak in opposition to LR288? Anyone wishing to speak in the neutral position? We do have three letters of support from-- four letters, Nebraska Corn Growers Association, Nebraska Soybean Association, Nebraska Cattlemen, and the Nebraska Farm Bureau. Senator Slama, you're welcome to close.

**SLAMA:** Thank you. And I'll be very brief. I've realized in today's testimony we focused a lot on the impact of life in Peru and in areas immediately along the Missouri River with the most recent flooding, but there really wasn't much attention, in my mind, given to the impacts that this flood has had in the long-term flooding in southeast Nebraska had on the quality of life for those-- or further away from the river. As Amber mentioned previously, we saw five-minute commutes across the river to work or home turn into at least four hours one way. The only points at which you could cross the Missouri River for several hundred miles were at Omaha and St. Joe. And unfortunately for southeast Nebraska, we live right in the middle of those two communities. The Interstate was also shut down for several months this year, meaning that a lot of that traffic was rerouted to Highway 75, which runs through the heart of southeast Nebraska. So we actually had that roadway operating at about four times capacity, and to put it mildly, it's not built for that. There was a large jump in fatalities along that road and there's a lot of damage done to both Highway 75 and other main thoroughfares in the district just because there is no other reasonable place to put that traffic. And this is something that lasted through the summer. We had traffic lined up for miles out sod-- outside of towns like Auburn that had stoplights with Highway 75, and it's a massive economic impact to not just the towns that are placed next to a Missouri River bridge, but it spreads out across the state. And in introducing this resolution, it's worth noting that I've been in contact with all levels of the U.S. Army Corps of Engineers, the federal delegation and other state officials and agencies. This seemed like the best move to have real change happen with the U.S. Army Corps of Engineers. We've seen in 2011 and 2019 a real hesitation to make

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

real change to make flood control be the top priority in the Corps management of the Missouri River. So I do not take bringing this resolution lightly, and I humbly ask that the Natural Resources Committee advance this to the floor for debate and hopefully passage, because I truly think this will make a difference, or at least bring attention to the shortcomings in the Missouri River management as it stands today. Thank you.

**HUGHES:** Thank you, Senator Slama. Are there any questions? Seeing none, that will close our hearing on LR288, and I will turn it over to Vice Chairman, Bostelman.

**BOSTELMAN:** So for a point of explanation for the committee and for others that are here, so we'll have two hearings. Senator Hughes will open up LB1072. We'll have a hearing on LB1072. After that hearing, we'll have a hearing on AM2171. So just to be clear, so you understand, those two will be coming up. With that, I would ask Senator Hughes, welcome, and introduce LB1072.

**HUGHES:** Good afternoon, 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'm here to introduce LB1072. LB1072 gives natural resources districts a much needed financial tool to help plan and play-- and pay for flood prevention and control activities. Nebraska Statute 2-3229 directs NRDs to develop and execute plans, facilities, works and programs relating to 12 priorities, including flood prevention and control. LB1072 will assist NRDs in complying with the legislative responsibility by allowing districts to issue flood protection bonds in order to finance flood prevention and control projects, allowing NRDs to access favorable interest rates and terms relative to those available to NRDs in the commercial market. Importantly, this bill does not increase any tax levy authority. As such, bond levee must-- must be in the computation of other limitations upon the tax-- the district's tax levy. Last year, our committee considered and advanced LB177, the bill to extend bonding authority given to the Papio-Missouri NRD. I want to be sure we are all understanding that this bill does not change or extend any of the positions included in last year's bill. The language of this bill specifics-- specifically excludes NRD-- any NRD that encompasses a city of the metropolitan class. But as we looked last year at the importance of allowing that one NRD a tool to finance projects to protect life and property, we are seeing that the need to ex-- that we are seeing that need to expand across the state. Areas have been

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

affected by floods across our state, more last year than ever before, and our state's water managers needs tools to respond. I'd be happy to try and answer any questions about the bill. And yes, I will stay to close.

**BOSTELMAN:** Thank you, Senator Hughes. Are there any questions from the committee members? Seeing none, Senator Hughes. Anyone would like to testify in proponent of LB1072, please step forward. Good afternoon.

**MIKE SOUSEK:** Good afternoon, Vice Chairman Bostelman and members of the Natural Resources Committee. My name is Mike Sousek, M-i-k-e S-o-u-s-e-k, and I am the general manager of the Lower Elkhorn Natural Resource District. Our district is located in Norfolk, Nebraska, and encompasses all or parts of 15 counties in northeast Nebraska. First, I'd like to thank the Natural Resources Committee for allowing me to testify this afternoon on LB1072. I'd also like to thank Senator Hughes for introducing LB1072 to the Legislature. This legislation is not a new tax. What the NRDs are asking for is as simple as a financial tool we can use to save taxpayers money. This bill was drafted to operate under the current tax levy cap that the NRDs are operating with-- with-- which is four and a half cents. The property tax relief comes into play when a district must borrow money to complete a project. With bonding authority districts could save at a minimum 1 percent on interest payments. We currently have the authority to borrow money from commercial banks, but the terms from bonding brokers are much more favorable in both financial terms, the interest rates, and the length of time to pay the bonds back. For the large projects in our districts--in our district, NRDs have been operating under a model of pay as you go, and this model has proven to hamper progress with flood control projects. We are not talking about tens of thousands of dollar projects. Rather, most of flood control projects that the Lower Elkhorn NRD is currently involved with are millions of dollars. From a recent request to provide 50 percent of the local financial share, \$500,000 on a levee repair project to estimates of \$40 million for a flood control reservoir. With the pay as you go model, we are not keeping up with inflation on both land acquisition and inflation on construction costs. By the time the money is saved, the project cost has dramatically increased due to the land and construction costs. In addition to not keeping up with inflation, Nebraska residents are also losing out on the benefits these projects will provide during times of flood. The benefit savings is rarely figured into the calculation of a project using the pay as you go model. How many times does a community need a flood or continue to pay

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

flood insurance before getting the project completed in the timely manner which would save all those costs. In a flood control project for Battle Creek, Nebraska, the potential flood risk reduction would provide \$500,000 in annual flood damage avoidance in the project area, in addition to a savings of approximately \$450,000 annually in required flood insurance payments for-- for a total of approximately \$1 million. Bonding is needed to expedite more flood control projects. With favorable interest rates and being able to extend the timeframe when bonds are paid back, districts can build more projects at the same time rather than complete one project before we start saving for the next one. Here's the current lineup for projects that the Lower Elkhorn NRD is currently working on. We're currently working with the city of Randolph, a \$13.2 million project to widen the creek through town and remove the whole town out of the floodplain. Currently working with the city of West Point, redoing their levee on the west side of town along the Elkhorn River. That project is \$4 million. The city of Battle Creek, we're currently looking at that project. We recently received federal dollars to study it further. Estimates on that project are \$40 million. The city of Wakefield just recently asked us to help with their repair, their levee, 3. million-- \$3.2 million on that project. We have a project on the Elkhorn River protecting the city of Scribner and Dodge County-- Dodge County Bridge. That project is getting close to a million dollars. Village of Pender, I got a report on Monday. There is multiple projects identified, but it could be anywhere from a million dollars to \$3.1 million. We currently have studies, drainage studies for the city of Norfolk, the city of Pierce and city of Osmond. Those will be coming to our board here in the next few months. All of those will have a price tag on them to complete a project probably in the million dollar range. And we're currently working with the village of Winslow. As you know, they're trying to relocate that town. There-- there will be a part the district plays in helping with that effort. Senators, bonding as it is presented in LB1072 is not a new tax, nor is it a plan to increase taxes. This is a financial tool that will help us do our jobs while providing property tax relief to our constituents. There is no question that the state needs more flood control projects. This bill will allow us to responsibly finance multiple projects simultaneously. The bill is drafted to limit the NRDs to stay within our current tax levy cap and must be used for flood-- flood protection projects. I would be happy to answer any questions the committee may have. Thank you once again for this opportunity.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**BOSTELMAN:** Thank you, Mr. Sousek. Are there any questions? Senator Moser.

**MOSER:** Could the cities or counties along the way fund the bonds and then you just contribute towards them?

**MIKE SOUSEK:** Well, the most-- most of these flood control projects, we do partner with the city or county. In the case of Battle Creek, for example, the project itself is happening outside the city jurisdiction, so we are going to partner with them. They are going to provide three million, 3.1 million to the project. They're using bonding to provide that money towards the project. The district, we're, of course, looking for grant funds, but any gap that we need to fill will be borrowed from a bank.

**MOSER:** But the-- can the county issue bonds?

**MIKE SOUSEK:** I'm assuming they-- I-- I don't know. Most of the flood control projects the counties are not-- they're not the responsible party to get them built in and do them. The counties are coming to the NRDs asking for our help.

**MOSER:** I was just thinking, if they had the authority to bond, you know, why not use their bonding authority? They might have better-- a better financial position than you do too, they might be able to get better rates because they would have more-- probably better credit rating than an NRD possibly.

**MIKE SOUSEK:** Well, we have pretty good credit rating. The interest rates we're currently looking at through bonding are somewhere into the 2 percent range. Commercial banks, the banks I called locally banks in-- in Norfolk were about three and a half percent, 4 percent. So I don't know how much more county can get less than 2 percent, but if the counties want to pay for flood control projects, I'm-- I'm okay with that.

**MOSER:** Okay. Thank you.

**BOSTELMAN:** Other questions? Senator Quick.

**QUICK:** Yeah, thank you, Chairman Bostelman. Thank you for being here. Now, we give it like a list of current projects that qualify under-- that would qualify under this currently and then missed it.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**MIKE SOUSEK:** To just clarify the question. To qualify under LB1072?

**QUICK:** Yeah.

**MIKE SOUSEK:** It would be any project that we would need to borrow money-- borrow money for. When we get into the million dollar projects, we don't have huge taxing authority. Our tax levy cap keeps-- keeps that in check. So we have to borrow money, say, for five years, 10 years on this \$40 million project, depending on what we can secure from either the federal government, the Water Sustainability Fund, other aver-- other avenues of income, we're going to have to fill that gap and we're going to only be able to raise our tax levy so far. So we're gonna have to borrow the money, spread it out over time. Bonding would give us a lower interest rate and allow us to borrow money for a longer period of time.

**QUICK:** Thank you.

**BOSTELMAN:** Other questions? Senator Albrecht.

**ALBRECHT:** OK. So the list that you read off are all of these to do with flood control?

**MIKE SOUSEK:** Yes.

**ALBRECHT:** Every one of them?

**MIKE SOUSEK:** Yes.

**ALBRECHT:** And you obviously can't take on all the projects at one time.

**MIKE SOUSEK:** Well, currently we have-- we call them sinking funds. We save money. We know a project is coming up so we start budgeting for it. Example, the city of Randolph project. We've been saving for that project for four years now. We're working with the Corps. We're supposed to let it out for bid. It's already a year past of when they were supposed to do it. I'm assuming when the bids come in, it's gonna be at a higher cost. We're gonna have to sit down and figure out, OK, we have \$2 million saved, how are we going to fill this gap when-- when the estimates or when the bids come in higher? We just can't keep up. We can't do them all at the same time.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**ALBRECHT:** So I know we're just talking about bonding authority here, but do you take any of this to the vote of the people or just two-thirds vote of your--

**MIKE SOUSEK:** The way the bonding bills is proposed, it's two-thirds vote of the board. Every project we do does-- does go through extensive process of public hearings. We have an elected board there. They're-- they're there every meeting. For example, the Battle Creek project. The district has been working on this for probably at least 20 years. About five-years ago, it gained a little more mentum and then it just kind of quit, but I believe there's going to be a speaker here from Battle Creek. They keep getting flooded every year. So this project has advanced in importance of needing to get it done. If I have to start saving to make up the \$40 million, we're going to be saving forever.

**ALBRECHT:** OK.

**MIKE SOUSEK:** Did I answer your question, Senator?

**ALBRECHT:** Close.

**BOSTELMAN:** Senator Halloran.

**HALLORAN:** Thank you, Senator Bostelman. I'm a little confused. I got-- we have a letter in our book from Gordon Fassett, director of Department of Natural Resources. You stated that this is not going to increase property taxes.

**MIKE SOUSEK:** Correct.

**HALLORAN:** He states with the bonding authority for newly created flood protection bonds under a newly created flood protection bond levee authority with only a two-thirds vote of the board and no vote of the people. While the new levee is included in the computation of other limitations upon the district's tax levies, it is a new property tax. This is a tax increase for that of both people. Now, is he wrong?

**MIKE SOUSEK:** Senator, I'm going to respectfully disagree with Mr. Fassett. I'm confused about that statement myself. So currently, we, the board goes through a process on any project and we-- we take testimony and we have public hearings. We have open houses. We-- we-- it's a-- if not months long, it's years long on getting these things developed. If the board made the decision to build any of these

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

projects, they make the decision. I then go to banks, commercial banks and say, I'm going to need-- I'm going to need this much for construction, I'm going to need this much to spread this out over time and I can go do that. We can-- we have the authority to go borrow money. All I'm asking for is that we are allowed to go to a bonding broker and borrow money from them rather than a commercial bank to save on interest payments. If I can save 1, 1 and 1/2 percent on interest, I'm-- I'm saving the taxpayers a lot of money. So the decision to do a project or not comes from the board, this is the financial tool that's going to help us get it done.

**HALLORAN:** Another question. Why shouldn't it come from the people? He makes another point here, I think is a well, well-- very important point. He says projects such as dams and reservoir basins can be very controversial.

**MIKE SOUSEK:** They are.

**HALLORAN:** We all know that. And ensuring that any project is locally supported is important. Thus, the question is people are-- the comment is, people are entitled for a vote.

**MIKE SOUSEK:** Yes. I-- the boards that I work for, they're elected officials. The people, they elect those board members to represent them. I believe it would be easier for me to-- especially on reservoirs, per say, to put that up for a vote of the people. I have 100,000 people living in my district. Just about, the majority of them I talked to want something. They need something, but everybody doesn't want it in their backyard. So that's the-- that's the battle that my board is constantly dealing with is, we all know we need flood protection, we all know we need projects, but where are we going to put them. And no matter what site we pick, you have to put things on a scale and is this what's best for the whole or is this-- do we not do this because we're going to affect one person? And that's-- that's what that board has to deal with. I'm glad I'm not in that position, but I'll work with anybody to get something done so we can have flood control projects built.

**HALLORAN:** OK. Thank you.

**BOSTELMAN:** Senator Albrecht.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**ALBRECHT:** Thank you, Vice Chair. OK, so if you were to build the Battle Creek flood program for \$40 million, how much would that impact those hundred thousand of people in the village?

**MIKE SOUSEK:** Well, if you live in Battle Creek, it would impact you a lot. It would save the town from a 100-year flood, which is happening just about every other year, every four years for sure. It would also relieve the town from paying flood insurance at a tune of \$500,000 a year.

**ALBRECHT:** But I have people in the Lower Elkhorn. How much would it cost a taxpayer when you take out that bond, 40 million?

**MIKE SOUSEK:** Well, it would bought-- would--

**ALBRECHT:** --if they get to vote for it, how much would it cost on a \$100,000 home or \$200,000 home?

**MIKE SOUSEK:** Well, if we're at 2 percent interest, that's what-- that's what it would cost. Which is better than the 4 percent interest that the commercial banks will give me or three and a half. That's-- that's where the money savings is.

**ALBRECHT:** And I-- and I guess, you know, thinking about these counties, if they're going to end up taking over that-- that debt or that service at some time--

**MIKE SOUSEK:** What-- the county is not going to take that over.

**ALBRECHT:** I'm just saying that if you engaged with a county instead of taking out your own bonds and doing interlocal agreement and cities or counties and they're taking it over anyway, you know, maybe, maybe that would be a better avenue than allowing you to do this. And would you consider any sunset on something like this?

**MIKE SOUSEK:** Well, I would consider-- consider anything to save the property taxpayers money. As far as the communities we work with, some of them don't have the capacity to-- to-- to do these types of projects. They just don't have the capacity. Others don't have the tax base to-- to bond out or-- or borrow money to the capacity that we need to do it. As a natural resources district, we're not looking so much as each individual property, we're looking at the whole picture of not only our whole district, but the districts downstream and the districts upstream. So Omaha is-- Lincoln, their wellfields, that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

whole urban center, all the water that's coming is coming from my district or it's coming from the Loup River.

**ALBRECHT:** Um-hum.

**MIKE SOUSEK:** And they-- there's nothing they can do to stop that. Until we stop the water where it's coming, the problems are gonna keep cause-- a domino effect down to-- to the Missouri River.

**ALBRECHT:** Do you think, Senator Bostelman's bill that he introduced today would help the NRDs to try to mitigate the flood issues and take the most important ones to the top of the class before other projects maybe would be looked at throughout the state?

**MIKE SOUSEK:** Well, I think Senator Bostelman's bill would be helpful in bringing all the players to the-- to the table. But as far as more planning, we have plans. We've been planning for floods and droughts for 40, 45 years now. The Corps-- prior to the NRDs, of course, came in and studied. I got a plan on Maple Creek. There's-- there's 15, 16 sites. This is where the dams need to go. We got one built in the last, well, 2012, I think is when that--

**ALBRECHT:** So like I understand that in Wakefield that \$3.2 million for their levee.

**MIKE SOUSEK:** Yes.

**ALBRECHT:** I mean, that obviously was a flood issue that--

**MIKE SOUSEK:** That's a repair, yes.

**ALBRECHT:** --would be a repair that needs to be done. So do those situations go to the top of the class or do you just take on the bigger one first and--

**MIKE SOUSEK:** They called me-- they called me last week on Wednesday or Tuesday. They talked to one of my staff members a week prior, but then they called-- senior administrator called me. I have it on my agenda for next week's committee meeting, and I hope to have a motion made by the-- in two weeks following on February 27, 26--

**ALBRECHT:** Now--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**MIKE SOUSEK:** --to fund that project so they can get that repair done before the spring.

**ALBRECHT:** OK. I still have another question, because if-- if you're going to be doing this just with your board members making these decisions, do you take public comment at all your meetings?

**MIKE SOUSEK:** Yes, especially--

**ALBRECHT:** On your agenda?

**MIKE SOUSEK:** For any of these projects?

**ALBRECHT:** Yeah.

**MIKE SOUSEK:** Yes.

**ALBRECHT:** For any-- at any of your meetings, do you take public comment?

**MIKE SOUSEK:** We have a sign-in sheet and there's a-- there's a spot, what do you want to address? And if they sign in and it's on the agenda, yes, they have an opportunity to talk. Some of our meetings go-- I mean, when we start talking about dams, they go four or five hours. They start at 7:00. I've been there till 12:30, and it's because we listen to everybody. They-- everybody has an opportunity to talk.

**ALBRECHT:** OK. Thank you.

**BOSTELMAN:** Other questions? I have a couple questions. You're levee-- you're leveeing at, what? You said it before, I think. You're where at under levee now?

**MIKE SOUSEK:** We have a tax levy cap of four and a half cents. Our current levy is at 2.3. It goes about five decimal places, but.

**BOSTELMAN:** So there's about 64 million on projects-plus on here.

**MIKE SOUSEK:** Yes.

**BOSTELMAN:** So if you were able to bond, would that then allow you to do more of these projects?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**MIKE SOUSEK:** Yes, it would.

**BOSTELMAN:** And then would that not raise to that with-- from that two and a-- wherever you're at now within that four.

**MIKE SOUSEK:** So--

**BOSTELMAN:** So would raise that right?

**MIKE SOUSEK:** Yes. But if we pick any one of these projects right now, we're going to have to raise our levee to get it done. That's-- we can-- we can raise it up to four and a half cents. But instead of losing money to a commercial bank on interest rates, I'm trying to lessen the blow from that. Our levy is going to have to go up. If we're going to-- if we're going to participate in any of these projects, our levee is going to go up to do it. But we're still going to live within that four and a half cents. I'm saying I want to borrow money from a bonding broker rather than commercial bank, because it saves-- it saves money towards the project.

**BOSTELMAN:** OK. Thank you. Any other questions? Seeing none, thank you, Mr. Sousek. Next proponent, please. Good afternoon.

**BOB HILSKE:** Good afternoon. I'm Bob Hilske, B-o-b H-i-l-s-k-e, and I feel like Bill Murray in the Groundhog Day commercial on the Super Bowl, I'm back again. So I promised Dean Edson I would watch the Super Bowl commercials and maybe incorporate them into my testimony, so there I did it. But I'm the general manager of the Nemaha Natural Resources District, and I'm testifying in support of LB1072, which would allow natural resources districts not encompassing a major metropolitan class city to issue general obligation bonds to fund the construction of flood control projects, cost to design, permit and construct projects to continue to escalate in the variety of funding options or in a variety of funding options are needed to better assure that vital infrastructure is in place to protect Nebraskans from catastrophic flood funding. General obligation bonds are a funding tool that would allow large projects to be funded to construct it faster so benefits could be provided immediately. Historically, many NRDs, including the Nemaha, have constructed large projects by establishing sinking funds where we set money aside for a period of time. Usually that money comes from property taxes, so we have to increase property taxes to do that and set it aside until we have enough money that we can construct the project. Since costs go up

during that period of time, the sinking funds scenario must account for inflation that occurs and of course the public benefits are delayed until the project can be constructed. I would also add the other option is you-- if you have enough room in your-- in your levee is you could jack your levee up to the maximum and obviously that would increase-- dramatically increase property taxes and perhaps get enough funds to build a project would be another option that you might want to consider. Bonding allows immediate construction of a project without the inflation factor and the bonds are then repaid plus interest over time. Usually that's going to be 20 to 30 years. And effectively what you're doing is bonding is going to trade the inflationary cost for the interest cost. However, most importantly, the benefits are realized immediately. Many projects that are constructed by NRDs have grant components. Grant funding varies over time and bonding better allows a district to take advantage of those funds when they are available versus hope the grant will still be there when enough money is saved to construct the project. The past year, as we've discussed earlier, we've learned that the importance of flood control in Nebraska, our NRDs saw major damage to the levee on the Missouri River, which we talked about near Peru. The estimated cost to repair the levee is varied between 30 to 60 million and, of course, the 300 million or whatever that the Corps thinks it might cost. You know, if the river crest continue, we can expect three to five major flood events in this area over the next decade. So it's critical that that levee be repaired soon. And that's an example of a project that if local funding was needed, obligation funds would be a viable tool to have available. So on behalf of the Nemaha NRD, I would encourage the committee to advance LB1072. I would take any questions at this point.

**BOSTELMAN:** Thank you, Mr. Hilske. Are there questions from the committee? I have one for you.

**BOB HILSKA:** Oh.

**BOSTELMAN:** So are you prohibited from using FEMA money now for repairs on the levee systems as a result of the flood?

**BOB HILSKA:** That's going to depend-- the levee that we discussed in Peru. the FEMA will not provide the funds because it was a Corps-funded federal levee.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**BOSTELMAN:** Right.

**BOB HILSKE:** So they will not provide funds on federal. If it was a-- if it was a levee that was operated by an NRD or the state where there was not federal, then you could get FEMA funds to potentially repair the levee.

**BOSTELMAN:** For emergencies, because I thought there was something that prohibited NRDs from getting access to FEMA funds in order to do levee repair.

**BOB HILSKE:** We don't own any levees, so I've never dealt with FEMA on that, so I'm not going to tell you yes or no on that. Maybe that's something that I'm not aware of.

**BOSTELMAN:** OK. Thank you. Senator Gragert.

**GRAGERT:** Thank you, Vice Chairman Bostelman. Real quickly then, quick question then. Instead of FEMA, let's take Corps of Engineers, which they're usually in charge of levees or they own the levees in some cases, but if the Corps of Engineers was in the league, are you able to cost share or put cost share towards a city or county?

**BOB HILSKE:** If there was a-- if there was a local component on a levee that the Corps was going to construct, we could certainly work with the city or town and help fund that if there's a local component involved with it, yes.

**GRAGERT:** OK. Thank you. Other questions from committee members? Seeing none, thank you, Mr. Hilske.

**BOB HILSKE:** Thanks.

**BOSTELMAN:** Next proponent, please.

**MICHAEL FLEER:** Thank you, Vice Chairman Bostelman, and distinguished Senators. Thank you for allowing me to testify. My name is Michael Fleer, M-i-c-h-a-e-l F-l-e-e-r. I am the city administrator, clerk, treasurer, and rescue captain, dog catcher, garbage man, all that for the city Battle Creek. In the community of Battle Creek, we have experienced flooding more than just this last March. We had flood damages in the 1940's, the 1960's, 2007, and most recently in March of 2019. With the assistance of the Lower Elkhorn Natural Resources District, we've been looking for options that would hopefully control

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

and/or eliminate future flooding. All of these options would have an adverse affect on someone, whether it be the up-- the residents upstream on the Battle Creek, downstream on the Battle Creek, the Elkhorn River, and possibly even the Missouri River. While this would, in fact, take care of the needs of the community of Battle Creek, regardless, all options would come with a hefty price tag. The city of Battle Creek has the option of placing a question before the voters, which would allow the constituents to approve funding for flood mitigation efforts by means of bond issuance. If approved, additional taxes would be levied and the city's lid-- lid limit would be increased. The maximum funds that could be approved for bonding is an amount not to exceed 5 percent of the total certified valuation of the city as determined by the county assessor. In our case, right now it's about 3.3 million. It is my understanding that if approved, LB1072 would allow the board of directors of natural resource districts the authority to-- to approve issuance of bonds for flood protection issues, and that any tax as necessary for the repayment of the flood protection bonds would be includable in the computation of the limitations upon the district's tax levy, meaning that additional taxes for the repayment of specific bonds is not allowable above and beyond what their current levy is. Having this information before me, I wish to convey my support for LB1072. Thank you again for your opportunity to testify this afternoon. At this time, I will answer any questions you may have.

**BOSTELMAN:** Thank you, Mr. Fleer. Are there any questions from the committee? A question would be, I guess there's a site already been identified. What-- what challenges are with that site as far as property owners?

**MICHAEL FLEER:** Actually, we have identified possibility of three separate options. One would be a reservoir, a dam with a reservoir which would, of course, affect property owners in that some of their homesteads and farm ground would be lost. Other options are widening of the current creek channel, which would require the taking, shall we say, of property that is used for farm ground, or the building a diversion channel, which again would take some farm ground away. The reason that I personally don't like those last two options is all we are doing is we are pushing our problems downstream. That's why earlier I stated, you know, we're going to affect somebody, whether it be somebody upstream with the loss of their property or somebody

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

downstream, and I don't want to be the one that says push it on to somebody else.

**BOSTELMAN:** So the question I would have-- the same question we were in last year with it was people came in that the people voted opposed to the bonding that was given. But then the board came to this body to overrule for-- to get permission for that one cent for the board to do, which the people had said no to. So is this, I guess my question is, is why is it not-- why should we not go to the people for a vote on the bond to give them the opportunity to do the same thing that the people in the Papio did?

**MICHAEL FLEER:** I cannot answer that. Whether it be my opinion, whether it be by vote of the district or the vote of the board alone, I cannot answer to that other than the fact that it might be the Papio is a smaller body of voting districts as opposed to-- my example would be the Lower Elkhorn, which is 15 counties.

**BOSTELMAN:** OK, thank you.

**MICHAEL FLEER:** Thank you.

**BOSTELMAN:** Any other questions? Senator Albrecht.

**ALBRECHT:** Thank you, Vice Chair Bostelman. Now, can you tell me how many acres are in the first option, the dam and reservoir?

**MICHAEL FLEER:** The dam and reservoirs, to my-- my opinion, I have always said, I don't care how large of a reservoir, all I would like would be a dam. The options that I have heard thrown out are possibilities. These are a 160-acre reservoir or up to a 1,200-acre reservoir. The reservoir doesn't mean anything to me. I'm looking for the protection of the people that I serve, and both should have that op-- that capability.

**ALBRECHT:** Thank you.

**BOSTELMAN:** Seeing no other questions, thank you, Mr. Fleer, for being here.

**MICHAEL FLEER:** Thank you.

**BOSTELMAN:** Next proponent, please.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**JOHN HANSEN:** Members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the President of Nebraska Farmers Union. I appear today before you in that capacity. My family's farm is at the top of the hydrologic divide between the Shell Creek and the Battle Creek drainage. So I'm at the upper end of the Battle Creek drainage. So I'm very familiar with the flooding issues of the Battle Creek drainage. I'm more so familiar with them having spent 1974 to 1990 on the Board of Directors of the Lower Elkhorn NRD representing that area. When I knocked on the doors of the city fathers of Battle Creek as we looked at the Corps of Engineer studies of the watershed saying where-- excuse me, where are the hot spots? Where are the areas where we could get the most bang for our buck? The Battle Creek has always been a hot drainage and it drains a big area. There's a lot of hills, a lot of water moves. And so it was on that list of hot spots that we should look at. And when I knocked on the doors of the city fathers, they said, well, we'll take our chances, and we said, are you, you know, are you sure? You know, you've got this problem. You've had this problem. They said, well, it's not that bad. If it gets worse, you know we'll think about it on down the road. So I'm pleased that-- that we're-- we're now at the point where we're thinking about doing something. There is a need in that drainage as you look at where the water comes in the Elkhorn. Bearing in mind that the Elkhorn continues to be the highest average annual flood damage of any river basin in the state, that there is a real need to take the head off of as much of the downstream discharge as we can upstream, because we just ran out of capacity in the Elkhorn. And so, you know, this last year, we had places where the Elkhorn River that was maybe 80 yards wide, was three miles wide. And so that gives you an idea of what happens when too much downstream-- downstream head comes. So this is, I think, a tool that Elkhorn should have and other NRDs across the state. If it's a tool that works and can be used in the Papio, I think it's just from a fairness standpoint, we ought to be allowing it to be used in the rest of the-- of the state. And I would also say that I was the Chair of the Budget Committee, the Lower Elkhorn NRD when we built the Willow Creek project, which is still one of the two largest multipurpose structures in the state. Gee, this would have sure been a handy tool because I wasn't made the Chair of the Budget Committee because I was a big spender, I was Chair of the Budget Committee because I was pretty tight with a penny. We could have used this tool to reduce the total amount of dollars that we spent on the project by virtue of the fact that we could have utilized money at a lower rate. And so also from a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

budgeting standpoint, where you look at the NRD, you look at its statutory responsibility for flood control and which is, you know, toward the top end of all of its management responsibilities. You're trying to tap into state and federal monies and pools of money that come and go and they get funded at more or less high levels. And every time there's a crisis, there's more money that goes into it until the need kind of goes away and then it kind of drops down. So if you're doing a real slow ask all the time in order to build, you may or may not hit the stream and you may or may not make the cut for the funding by the time you-- you've saved up your money. So, will this bonding tool will be useful? You bet it would be. And would it save taxpayers' money? Yes, I think it would. And would it help the NRD, more to the point, do its job to protect and provide flood control damage for the basin? Yes, I think it would, and I think that's a worthwhile thing to do. And I thank, Senator Hughes, for bringing the bill and be glad to answer any questions if I could.

**BOSTELMAN:** Thank you, Mr. Hansen. Are there any questions? Seeing none, thank you, Mr. Hansen.

**JOHN HANSEN:** You bet. Thank you.

**BOSTELMAN:** Anyone else would like to testify as a proponent for LB1072? One more time, any proponents? Anyone would like to testify in opposition as opponent? Please step forward. Before you start, let me read a couple of things into the record. On LB1072 there are several letters for support. The first is from North Platte Valley Irrigators Association, the Gering-Fort Laramie Irrigation District, the Norfolk Area Chamber of Commerce, the City of Osmond, Village of Pender, City of Randolph, City of Scribner, City of West Point, City of Wakefield. City of Clarkson, Lower Platte South NRD, Lewis and Clark NRD, Lower Big Blue NRD, Josh Moenning, Mayor of Norfolk, and Middle Niobrara NRD. With that, welcome.

**DOUG KAGAN:** Good afternoon. Doug Kagan, D-o-u-g K-a-g-a-n, representing Nebraska Taxpayers for Freedom. Our taxpayer organization opposes this bill because we believe that Nebraska NRDs will follow the example of the Papio NRD and use this bonding authority to build unneeded dams for mud bottom lakes that mostly develop-- mostly benefit private developers instead of area residents not utilizing less costly alternative low-impact development called LIDs measures like dry dams, channel modifications, terracing, retention ponds, wetlands and buffer strips. LIDs improve storm water quality and

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

quantity and water flows. Conservation techniques abound. Small impoundments can curtail erosion and control sediment movement. LIDs can trap harmful bacteria, nitrogen, phosphorus and heavy metals. Their existence helps decrease runoff and pollution. Dry dams can provide the same amount of flood control as large dams. Local governments can mandate LIDs in all new developments if they wish. Instead of offering benefits to private developers and lakeside residential and commercial property, we suggest offering alternative lower cost protection from flooding and serious erosion. Federal EPA mandates require that local governments improve the quality and reduce the future quantity of water flowing through a watershed, but they do not mandate specific measures. In my area, existing Papio NRD dammed lakes are on the EPA impaired list, polluted and/or silted. This bill would offer NRDs a blank check to issue millions in bonds without a specific concrete plan of action along the entire floodplain, without individual costs for each project or definitive timeline. LB1072 forces taxpayers to write a check that permits an NRD to use mon--bond issue money without justifying to taxpayers its precise use of a rationale. I never write a check that leaves the purpose space blank. Dam promoting NRDs needlessly frighten citizens by frequently referring to a possible 500-year or even 100-year flood that would inundate an entire watershed. Actually, there exists only a 1 percent chance of a flood of such magnitude each year and if occurring, probably would not pass over an entire watershed, thus placing only some properties at risk. Legislation permitting unrestricted bonding authority would allow NRDs to gorge on property tax revenue with no sunset provision. Instead, as an alternative, we suggest allowing each NRD to ask local voters at the ballot box to approve bonding for specifically stated reasons and projects. And I just want to add a footnote. We have a Facebook page and we usually get on our items, we add on our Facebook page every day maybe 35 to 40 likes. A couple days ago we added a Facebook item opposing LB1072. The last time I looked this morning, it was over 700 likes. So apparently there's some opposition out there to LB1072, even though it's not a scientific poll.

**BOSTELMAN:** OK. Thank you.

**DOUG KAGAN:** Thank you.

**BOSTELMAN:** All right, thank you, Mr. Kagan. Are there any questions? Seeing none, thank you for your testimony.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**DOUG KAGAN:** OK.

**BOSTELMAN:** Next opponent, please. Good afternoon.

**GRANT MELOTZ:** Good afternoon, Senators. My name is Grant Melotz, G-r-a-n-t M-e-l-o-t-z. I want to thank you all for allowing me to speak about LB1072. When I first heard about the bill, I debated to myself, do I testify in a neutral position as the bill in its current form would not affect me in the Papio NRD, or do I testify against the bill? After reading the bill, and particularly and I know this is not part of it, the amendment that is coming at AM1271, I cannot sit by as a concerned taxpayer and not testify against it. To start us off, we all know the biggest priority of the Legislature is property tax relief for the landowners. So how can you come here and say you're for property tax relief and then give the NRDs bonding authority, in particular a blank check? And when I say blank check, it's because of the AM1271, strikes out the spending limit on the bonding. This is how we got to this point as a state by not having spending limits on governmental entities. I believe this is the biggest reason. Just ask any resident in the Bennington School District that is-- excuse me, that is in Washington County about how much more they're paying in taxes to local governmental entities through bonding. They're currently paying for at least five new schools for the bank in the school district and the jail. Washington County, according to the Nebraska Department of Revenue has had an increase in taxation of 3.63 percent per year, with the NRD having an increase of 5.39 percent during the last 10-year period per year. So again, you cannot sit here and believe that allowing government entities bonding authority does not raise taxes. My next major concern is that these NRD bonds are issued by the vote of the board. This is-- that is an absurd to allow a vote be by the board, again, giving them a blank check to do whatever they want without any oversight. Any bonding should be by a vote of the people to make sure that they are not just bonding to create work for themselves. I personally voted against the last bond request by the Bennington School District because it was for a wants list, not a needs list. By that they included a million dollar astro turf football field in their wants list. I agree that we need new buildings to house students, but we don't need these Taj Mahal buildings. I attended fifth and sixth grade in a portable next to the building without any problems, and once built, Bennington built the high school. They eliminated the portables immediately. If they still had them, they would have an additional six classrooms and not need to build another school. The people may vote on the board members-- or

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

the-- on the board members as part of the board, but the people may not be in support of all the projects approved by that board, which is exactly what happened the last time the Papio NRD attempted to issue bonds by the vote of the people in 2016. Also with my-- with AM1271 is my concern, how it affects the current Papio NRD bonding. Reading this amendment would give the Papio NRD the ability to bond to the sky. According to their June 2019 budget, the Papio NRD has \$26.5 million in their bank account. The Papio NRD came before this Legislature last year saying that they didn't have \$30 million in their reserves. But towards the end of the debate on LB177, they admitted they did have these in their reserves. And just to leave you with one tidbit of information you should know before making any decisions on this bill, the Papio NRD has not issued one bond in the last year. Interesting how they exaggerated the need for bonding last year.

**BOSTELMAN:** Thank you, Mr. Melotz. Is there any questions for committee members? Senator Moser.

**MOSER:** Are you a farmer in the district or just a citizen or--

**GRANT MELOTZ:** A farmer. My family has a dairy farm just inside the Papio district and then I'm an accountant on the side.

**MOSER:** And your farm is in the Bennington School District?

**GRANT MELOTZ:** Yes.

**MOSER:** OK. Thank you. I just wanted to get some--

**GRANT MELOTZ:** Oh, yeah, no, and I understand that. I kind of went a little tangent on that, but that was kind of to explain bonding.

**MOSER:** We appreciate brevity and goodwill.

**GRANT MELOTZ:** Thank you.

**BOSTELMAN:** Other questions from committee? Seeing none, thank you for your testimony. Next opponent, please. Good afternoon.

**MICK MINES:** Good afternoon, Mr. Chairman, members of the committee, my name is Mick, M-i-c-k, Mines, M-i-n-e-s. I'm a registered lobbyist for the Papio-- Papio Valley Preservation Association. I'd like to preface my comments that I truly am sorry for those that have experienced flooding over-- in the last two great events. And if some of my

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

comments sound flippant, they-- they are intended to make a point, not to disparage any of the victims. I'll start with Italian Renaissance writer, Niccolo Machiavelli. He said, never waste the opportunity-- opportunity offered by a good crisis. Following World War II when prompted-- when promoting an unpopular idea in the United Nations, Winston Churchill popular-- popularized that saying by saying, never let a good crisis go to waste. And then finally, in 2012, Chicago Mayor Rahm Emanuel clarified that, you never let a serious crisis go to waste, and what I mean by that is an opportunity to do things you think you could not do before. And that is our view as-- as an association that there are so many projects and-- and so little time that the NRDs now-- now all need bonding authority. I mean, you know the drill, you all know the drill as the property tax valuations increase, entities hold their tax levies the same rate and the new revenues are used for projects. And we've heard all about the projects from all of the-- the pro-- proponents of this bill. So, but somehow when they bond for 20 years or 30 years, the bonds never seem to get paid off. I've been in local and state government for 25 years. I've not seen a bond not be either refinanced, reorganized, or the bond ends and then a new bond initiative comes up for the same amount of money, so property taxes don't stay-- property valuations don't stay the same. Property-- we are increasing taxes when we allow bonding to any authority and over time, the bonds just seem to never go away. And pointedly with LB172-- LB1072, it's loosely defined on what they can do. It does identify design costs are included in bonding, rights of way acquisition, building, flood project. There's projects again and practices that include but are not limited to-- no, are not limited to. So these building flood protection projects and practices that include but are not include-- but are not limited to low-impact development, best management measures, conveyance channels, dam reservoirs, etcetera, etcetera. What we see as an association is a very bright line between this bonding authority and the bonding authority that the Papio NRD has. Papio has to come before this body every five years to be renewed. We've fought that every year and we see a bright line and a history of that NRD changing statute to-- to apply to their latest idea for bonding. And we see that they will be in-- in a matter of years and ask you for forgiveness, that they just don't want to have to come back again. So we all support a vote of the people. And I think Ms. Melotz, who's behind me, can talk about a bond initiative that was defeated by a vote of the people, but it had to be specifically asked by Ms. Melotz and their group. So I appreciate the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

time and I appreciate the questions that you've had of other testifiers and would enter-- entertain any questions. Thank you.

**BOSTELMAN:** Thank you. Mr. Mines. Are there any questions from the committee? Seeing none, thank you for your testimony.

**MICK MINES:** Thank you.

**BOSTELMAN:** Next opponent, please.

**SHAWN MELOTZ:** Good afternoon, Vice Chairman Bostelman, and the members of the Natural Resources Committee. My name is Shawn Melotz, S-h-a-w-n M-e-l-o-t-z. Our family actively operates a registered Holstein dairy in northern Douglas County. We're a little bit becoming instinct, but we sure enjoy what our passion. I'm also a certified public accountant and I'm the current president of the Papio Valley Preservation Association. We, the members of the PVPVA and I oppose the bill because we believe it will enhance property taxes. Landowners have been pleading senators to lower property taxes across the state. Striking down LB1072 in this committee will be a great start. Through the years, our family has been a strong supporter of the NRDs and have partnered with our NRD on numerous runoff projects. We have over 16 miles of terraces on our farm land and enjoy the NRD partnering with us with these, but unfortunately our NRD, the Papio NRD, we believe no longer focuses on serving the ag community, especially since obtaining bonding authority in 2009. Not only does our NRD cater to urban developer demands, it exponentially increased our property tax assessments through bonding. The Papio NRD's use of bonding is a prime example of how allowing all NRDs that they will increase property tax burden on land owners across the state. The Papio NRD has become the envy of all NRDs because of their ability to pass bonds. This is what the-- excuse me. The Papio NRD with their ability to print money without the vote of the people through the use of bond, then they hide behind their levy as if no property tax increase stands. This is where taxpayers call foul. The Papio NRDs large increases in property valuations naturally convert to property tax increases. Over 10 percent increase this fat-- this fiscal year alone. At the end of the day, it's the property taxes we pay, not the levy they assess. As a CPA, I have years of experience auditing governmental entities. In fact, I worked for the firm that used to audit the Papio NRD, so I closely follow the financial facts and out of control spending by the Papio. As such, I'd like to share with this committee these facts. Please refer to the exhibits attached to my testimony. These are some

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

of the facts that have happened since this NRD has been granted bonding authority in 2009. They have increased their property tax collections by 58 percent from 16 million to 26 million. Increased their cash reserves by a 118 percent from 12 million to 26 million. Increased their budget 79 percent. Their fiscal year 2020 budget is \$119 million. And it required-- it will require taxes of over \$109 million to pay off the \$71 million that they have issued. If NRDs are granted bonding authority state wide, taxpayers outside the Papio NRD will experience the same exploitation and over taxation that we experience in our district. NRD boards will no longer set reasonable budgets as they will be allowed to finance spending over multiple years once rather than needs will inch their way into budgets. I testified before this committee last year in opposition to LB177, the Papio's NRDs bonding extension. I listened as the body debated the bill, watched the bill being passed under the guise that the bonding was needed to repair damages caused by the March 2019 flooding. To date, the Papio NRD has not issued any bonds for this purpose. Interesting, especially since considering the dire need for immediate bonding authority discussed at last year's floor debate. Please do not be persuaded to believe that with bonding authority, the NRDs will be able to lower property tax. It's not another tool in the toolbox, a phrase we have heard way too often with this issue. Unless the only tool in the tool box they're referring to is a hatchet being placed in the back of landowners using taxation to do that. On behalf of the landowners and taxpayers throughout Nebraska, I respectfully request this committee to not allow LB1072 to advance. I also would like to make a general comment that-- or it's not in my written testimony. We listened to several general managers testify in support of LB1072. I would be interested in learning whether or not LB1072 was discussed in open meetings at their board meetings with public input. And if so, what was the general sentiment of the citizens of their districts and possibly of other board members? I thank you and I am open for any questions that the senators would have.

**BOSTELMAN:** Thank you, Mrs. Melotz. Are there are any questions from the committee members? Seeing none, thank you for your testimony. Are there any other oppo-- opponents to LB1072? Seeing none, anyone would like to testify in the neutral capacity? Seeing none, Senator Hughes, you're welcome to close, oh, you're welcome to close, I'll read two letters in opposition. One is from the Nebraska Wildlife Federation and one is from the Nebraska Department of Natural Resources. With that Senator Hughes, you're welcome to close.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**HUGHES:** Thank you, Vice Chairman Bostelman. It's been a good discussion. There's a lot of passion, a lot of facts, but there are a couple of things that have been said that I do need to clarify for the committee. Counties are not responsible for flooding. The state Legislature has given that to the NRDs. That is their responsibility. Whether or not counties can participate, I don't know. But the challenge we have is the NRDs were set up in river basins and those boundaries were by design. County boundaries are not set up on river basins, so you run into lots of problems when you hit those counties. If you have two counties that one county wants to do something and the other one doesn't, that's why the Legislature, I believe, gave the authority for flooding control to the NRDs. Back to the 1 cent that this bill, LB1072 will give NRDs for flood control. That one cent has to be inside their levee limit. If and what happened in the Papio is they wanted to go an additional cent inside their levee limit, if you want to go that additional cent within the levee limit so you can have two cents to bond, then that has to go to a vote of the people. That's in the legislation and that's what got stopped. But that initial cent for bonding, the board can go-- can do that as long as it's under their levee. If they want an additional cent within their levee, that-- that's the cent that has to go to the bonding-- or to the vote of the people. The NRD officials members are elected just like us. You know, thank God our founding fathers went with a representative republic and not a democracy, because if you want every single thing to go to a vote of the people, that's unworkable. So a representative republic, you know, we are representatives, we make decisions. We have previous to us, this Legislature made the decision to give the NRDs, the school boards, the city councils, jurisdiction because we can't make all of those decisions. We shouldn't make all of those decisions. We'd like local control. You know, democracy is a great thing, but ultimately democracy is two lions and a lamb voting on what's for dinner. So that's the beauty of a representative republic. And there are some people who have ran for office and didn't make it, and, you know, there's some angst in that area, and I understand that. I ran for offices and wasn't elected. But you keep going and you work within the system. You know, it's not a perfect system, but that's the system we have. We like local control. We all want lower property taxes, but there are some things that need to be done, and the flooding we had last spring provided some very glaring errors in our flood protection. So with that, I'd be happy to answer any questions, and I certainly hope the committee will advance this bill forward. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**BOSTELMAN:** Thank you, Senator Hughes. Are there any questions from the committee? Seeing none, that will close the hearing on LB1072, and with that, Senator Hughes, you may open on AM2171 at your convenience.

**HUGHES:** Thank you, Vice Chairman Bostelman. I apologize to the members of the committee, this is going a little longer than I anticipated. For the record, my name is Dan Hughes, D-a-n H-u-g-h-e-s. I represent Legislative District 44. I would like to introduce AM2171. The language for this bill came after the final days to introduce bills, so I'm introducing this as an amendment to LB1072 and have a hearing on that. I have visited with the Speaker and the Clerk of the Legislature and they have indicated this is the path that I need to follow. This amendment addresses last year's Gering-Fort Laramie Irrigation tunnel collapse in eastern Wyoming. In all, three canals, tunnels partially collapsed. This interrupted the flow of the Goshen/Gering Fort Laramie Irrigation Canal, which impacted about 107,000 acres of surface water irrigated crop land, much of it in Scotts Bluff County. The temporary cost of repairing tunnels, number one and number two is being shared between the Gering-Fort Laramie Irrigation District in Nebraska and the Goshen Irrigation District in Wyoming. Gering-Fort Laramie has been able to secure funding for a majority of its share of the 7.5 million needed to repair tunnels, number one and number two. However, Gering-Fort Laramie Irrigation District is 100 we spent-- 100 percent responsible for temporary repairs to tunnel number three, which is estimated at 4.5 million. The irrigation district is only authorized to borrow up to two-thirds of the amount of the district's general fund levy for the preceding year. This amount would be insufficient to pay for the repairs needed to bring irrigation back long-- online for the 2020 season. This amendment addresses the problem by striking this borrowing limit from 46-1153. You should have received a letter from the Gering-Fort Laramie Irrigation District detailing the need for this legislation and the issues surrounding the tunnel collapse last year. Thank you. I'd be happy to try and answer any questions.

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

**ALBRECHT:** Thank you, Vice Chair Bostelman. So, Senator Hughes, where-- what would-- what would happen if this didn't go through, how would they fund this?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**HUGHES:** I don't know that they can. I-- there-- I think there's someone coming behind me that can answer that. I hope there is.

**ALBRECHT:** So-- so you're saying that this had to be bonded? There's no way they could-- they borrowed the money from the bank.

**HUGHES:** I'm not saying this is bonding. If you'd look at the language that we strike, it's their ability to borrow money. My understanding that, and I could be wrong, that these surface water irrigation districts, the way they were set up, they cannot borrow more than what their last years or two-thirds of last year's amount. I thought I had that in here somewhere. It's a borrowing limit, not a bonding limit.

**ALBRECHT:** So, so the bill itself is about bonding, not what they're doing here.

**HUGHES:** LB1072 is about giving authority for bonding to Nebraska NRDs. This amendment that I'm bringing came to me from Senator Stinner because he didn't get it in time to get a bill introduced and wanted to know if I had a vehicle that it could be added to. And I said, yes, we did have a water funding bill in the hopper that had not been heard yet. And I visited with the Speaker and Patrick, and said, yes, it could be introduced as an amendment to this bill.

**ALBRECHT:** Thanks.

**BOSTELMAN:** OK. Senator Gragert.

**GRAGERT:** Thank you, Vice Chair Bostelman. Just real quick, clarify on this. OK, thank you, this is a borrowing issue, not a bonding issue.

**HUGHES:** Yes.

**GRAGERT:** And is this a one time--

**HUGHES:** Yes. Well, yes. The way it was explained to me when we-- I don't remember, you went to Scottsbluff--

**GRAGERT:** Yes, right.

**HUGHES:** --and we went out and looked at the tunnel, one of the tunnels. The way I remember it being explained, and you can help me, I guess, was that the way the surface water irrigation districts were set up out there, they cannot-- they cannot borrow money. They can only assess their landowners. So if-- if they were to assess their

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

landowners enough to fix the tunnels so they could have water, they would have to double or triple what they charged them in one year. And if they couldn't-- I mean, the-- the farmers, the-- the people who have water rights for that tunnel were-- are stuck in a very bad position because you're tripling the amount of money I have to pay for water, but yet it's either that or I can't have water. You know, that's-- that's the challenge that-- that they're facing. They're in a bad spot and they need a fix.

**GRAGERT:** Correct. And I agree with that. And, you know, the amount of water coming through and the irrigation, the crops that were, you know, couldn't there be like, OK, making this-- this is a one time thing. And in an emergency situation like this is, you know, be, you know, to get that irrigation water into-- into Nebraska, that's pretty much an emergency right now in what has happened.

**HUGHES:** Yes, it is.

**GRAGERT:** You know, that-- that, so I guess that's what I would, you know, if we can or can't. But I'd like to see, you know, emergency and this being a one-time, one-time operation. You know what I mean.

**HUGHES:** I have no problem with that. I-- I-- hopefully, this is a once in a lifetime.

**GRAGERT:** Yeah.

**HUGHES:** I'm sure those people-- those tunnels were 100 years old. I mean, we saw the plaque outside. They were built in 1919. And, you know, there was an extremely wet year and there was a collapse. And it cost that region dearly in lost crop production because of that.

**GRAGERT:** Thank you.

**BOSTELMAN:** Other questions? Senator Halloran.

**HALLORAN:** Thank you, Vice Chair Bostelman. Senator Hughes, what was the figure again? I think you gave it and I missed it. How much do they need, this irrigation district to cover rebuilding that tunnel?

**HUGHES:** 4.5 million.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

**HALLORAN:** OK. I think that may be wrong, but I think the Governor implemented or made grant-- grants available for about \$3.8 million to the irrigation district. So wouldn't--

**HUGHES:** That may be-- this may be in addition to that, I'm not-- I'm not sure.

**HALLORAN:** OK. Thank you.

**HUGHES:** The first two were 7.5 and they had secured funding for that, but the first two were not-- were not the collapse that tunnel number three was. That's the one that we looked at where the big hole was that actually stopped the water. I think they-- tunnel 1 and 2, I think they're just going in and trying to move in what happened to number three.

**HALLORAN:** You know, 7.5 for for the two of them to do that.

**HUGHES:** That's-- that's the figures I have, yes.

**HALLORAN:** OK. Thank you.

**BOSTELMAN:** Senator Gragert.

**GRAGERT:** I just-- can I just clarify and possibly my question to you, actually, Nebraska has to come up with one-third of that system and Wyoming comes up with the other two-thirds or how'd that go?

**HUGHES:** You know, I don't-- I don't--

**GRAGERT:** OK. Thank you.

**HUGHES:** I don't know. I can find that answer for you.

**BOSTELMAN:** Other questions from committee? Seeing none, thank you, Senator Hughes. I'm sure, you'll stay to close. Anyone wishes to testify as a proponent for AM2171? Any proponents? Anyone elected to testify in the in-- as opposition to AM2171, please step forward. Seeing none, anyone would like-- I'm sorry. There are two letters of-- as proponents on the AM. One is from North Platte Valley Irrigators Association and one is from the Gering-Fort Laramie Irrigation District. With that, again I ask if anyone would like to testify in opposition? Seeing none, we do have one letter opposition from the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 5, 2020

Nebraska Department of Natural Resources. Anyone like to testify in a neutral capacity?

**GRANT MELOTZ:** Hello again, Senators. Just real quick. My name is Grant Melotz, G-r-a-n-t M-e-l-o-t-z. I just want to correct my statement from my testimony on LB1070. When I first read the amend-- this amendment, I read it as an actual amendment to LB1070 and not as a way to get specific funding for that project. And it only affects that district, and I just want to change my testimony on that portion of it.

**BOSTELMAN:** OK. Thank you, Mr. Melotz. Are there any questions? Seeing none, thank you very much. Anyone else would like to testify in the neutral capacity? Seeing none, Senator Hughes, would you like to close? Senator Hughes waives closing. That will end our hearing on AM2171. Thank you all for coming today at--