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BOSTELMAN: May I have your attention? We'll get started here this morning on our first bill, LB406. I have a few things I need to read in for your information. I'll start off with the COVID-19 hearing procedures. For the safety of our committee members, staff, pages, and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to, to attend the bill hearing in progress. The bills will be taken up in the order posted outside of the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and identified exit for the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during the testimony to assist committee members and transcribers in clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between each testifier. Public hearings for which attendance reach a seating capacity or near capacity, the entrance door will be monitored by a Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the availability of an overflow hearing room for hearings which attract several testifiers and observers. For hearings with a large attendance, we request only testifiers enter the hearing room and we ask that you please limit or eliminate handouts. Welcome to the Natural Resources Committee. I am Senator Bruce Bostelman from Brainard and I represent Legislative District 23. I serve as the Chair of the 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 that you 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

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Natural Resources Committee January 28, 2021

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only. If you are planning to testify, please pick up a green sheet--
sign-in sheet that is on the table at the back of the room. Please
fill out the, the sheet before you testify. Please print and, and it's
important-- 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-- to a
page or to the committee clerk. This will help us make a more accurate
public record. If you do not wish to testify today, but would like to
record your name as being present at the hearing, there is a separate
white sheet on the tables that you can sign in for that purpose. This
will be a part of the official record of the hearing. When you come up
to testify, please speak clearly into the microphone. You may remove
your mask, tell us your name and please spell your first and last name
to ensure we get an accurate record. We will be using the light system
for all testifiers. You will have five minutes to make your initial
remarks to the committee. When you see the yellow light come on, that
means that you have one minute remaining, and that the red light
indicates your time has ended. Questions from the committee may
follow. No displays of support or opposition to a bill, vocal or
otherwise, is allowed at a public hearing. The committee members with
us today will introduce themselves starting on my left.

GRAGERT: Good morning, Senator Tim Gragert, District 40, northeast
Nebraska.

HUGHES: Senator Dan Hughes, District 44, ten counties in southwest
Nebraska.

WAYNE: Justin Wayne, District 13, north Omaha and northeast Douglas
County.

AGUILAR: Ray Aguilar, District 35, Grand Island and Hall County.

BOSTELMAN: And to my right.

J. CAVANAUGH: John Cavanaugh, District 9, midtown Omaha.

MOSER: Mike Moser, District 22, Platte County, parts of Colfax and
Stanton Counties.

BOSTELMAN: Senator Moser also serves as Vice Chair of the Committee.
To my left is the committee legal counsel, Cyndi Lamm; and to my far
right is the committee clerk, Katie Bohlmeier. I would like to thank--
recognize Lorenzo Catalano and Brytany Gama for their assistance as

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pages today during the hearing. With that, I would invite Senator
McDonnell's staff member to come up to open on LB406. Good morning.

TIM PENDRELL: Morning. Thank you, Chairman Bostelman and members of
the Natural Resources Committee for hearing from us today. My name is
Tim Pendrell, T-i-m P-e-n-d-r-e-l-l, and I'm filling in for Senator
McDonnell from Legislative District 5 who could not be here today. I'm
reading his opening testimony into the record and providing an
amendment to add two additional members to the task force. Senator
McDonnell should be back on Wednesday to answer any of your questions.
This bill is a follow-up to LR138 from last year and creates the Lower
Platte River Infrastructure Task Force. The task force shall study
three to five potential flood control infrastructure projects along
the River Basin of the Lower Platte River and gather data and
information to compile an analysis. The task force may hire a
consultant provided a minimum one-to-one private sector match. Dating
back to at least 1895, Nebraska has talked about potential
infrastructure projects along the Lower Platte River and tributaries
to provide flood control, a reliable source of drinking water, power
generation, and economic development. In 1948, public hearings
throughout the state identified the desire for projects to control
flooding, control bank erosion, and residents from communities along
the Platte and Elkhorn Rivers specifically asked for relief from
flooding caused by water flowing into the Platte River. Studies
resulting from those public hearings looked at a number of projects
along the Platte River, including a series of reservoirs or one large
reservoir along the Platte River as, as potential projects for flood
relief. In 1963, business leaders in eastern Nebraska asked for an
updated study on a series of reservoirs or one large reservoir along
the Platte River. Operational studies at this time show that the
proposed flood storage would have reduced flood damage along the
Missouri River in 1960, 1962 and 1967 floods by one-half mile. During
hearings last year, we heard testimony that about 50 percent of the
water that flooded southeast Nebraska, Iowa, Kansas, and Missouri in
2019 came from our lack of flood control along the Platte River. Flood
storage capacity of 250,000 to 300,000 acre feet would have reduced
peak flows by 10 to 25 percent in the Lower Platte River. And that
would have been enough to keep the levee system around Offutt Air
Force Base and all of the levee systems south of the mouth of the
Platte and Missouri Rivers in Iowa, Nebraska, Kansas, and Missouri
within their design capacities and potentially would have prevented an

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estimated \$3 billion in damage. We spent much of the last year meeting with key stakeholders along the Platte River, including critical infrastructure along the Platte River like Metropolitan Utilities District and the city of Lincoln's water supply, water supply, NRDs, communities along the Lower Platte, community members in Ashland, and we got to view some of the infrastructure up close by airboat. It is because of these meetings that we wanted to create this task force to get the voices and involvement of as many stakeholders as possible to guide this study of the Platte River to protect the lives, communities, and properties along the river basin. Governor Ricketts has joined a coalition of governors, along with Iowa, Missouri, and Kansas to advocate ways to change the way the U.S. Army Corps of Engineers manages the Missouri River. But we, as Nebraskans need to understand the flooding in 2019 was not caused because of the Missouri River. It was caused because of tributaries like the Platte, Elkhorn, and Loup rivers. We are fortunate to live in a state with a constant supply of water. Greater control over this resource will give us a competitive advantage, and it will help us protect communities, lives, and property from catastrophic flooding. I thank you for your time and I encourage you to look at opportunities for our state to wield greater control over our natural resources. John Winkler, general manager of the Papio Missouri River Natural Resources District, is here to testify and will provide more information about flood control, water quality, and water needs to the committee. Thank you, Senator Mike McDonnell.

BOSTELMAN: OK, thank you for introducing the bill. As reminder to committee members, if a staff member introduces a bill for senator, we do not ask them questions. I would invite anyone who would wish to speak as a proponent on this bill to please come forward.

JOHN WINKLER: Good morning, Chairman Bostelman 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, and I am testifying today on behalf of the National-- or Nebraska Association of Resources Districts. First, I'd like to thank you for the opportunity to testify this after-- or this morning on LB406. In the state of Nebraska, we are all too familiar of the extremes when it comes to our weather from stifling heat and drought to artic cold and historic flooding which occurred in March of 2019. These extremes are not unusual in the history of our state. And as we speak, 100 percent of the state of Nebraska is in some form of

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drought. We as a society in general are constantly in a reactive mode of recovery, especially when it comes to natural events or disasters like floods and drought. How do we as a state proactively mitigate these extremes and their devastating impacts on our citizens, on our economy, and on our quality of life? Next step further is how do we mitigate these extremes and create resilience and sustainability in a way that improves our citizens safety, strengthens our economy, and makes our quality of life better? I will discuss three major benefits of potential infrastructure projects on the Lower Platte Basin. Flood control. The historic flood of 2019 was all about the uncontrolled tributaries like the Platte, Elkhorn, and Loup Rivers. Tim did a great job of explaining if there was some significant flood control on the Platte River, what that would have reduced during the 2019 flood event. Again, Offutt Air Force Base would have been protected, and all of the certified levee south of the, the Platte River, mouth of the Platte River would have been within the design capacities. That would have been at least \$1.5 to \$3 billion in reduced damages if those would have occurred. This-- obviously, this figure does not include damages to critical public infrastructure such as highways, bridges, water and wastewater treatment plants or private property such as rail lines, agricultural land, homes, businesses, lost income, entire communities destroyed, and the future productivity of thousands of acres of farm ground compromised, all from one single event. In addition, the city of Omaha would potentially not have had to divert 60 to 65 million gallons of untreated sewage per day into the area's waterways for several months, which had a negative impact on water quality and human safety. Drought. It is predicted that the duration intensity of droughts will increase. Flash droughts like from May through September of 2012 will become more frequent. All signs point to additional stress on our drinkable and irrigated water supplies that will test their resiliency. A large reservoir or several reservoirs can provide enough surface water augmentation on demand and enhance aqua recharge all year round would be a tremendous boost to the resiliency of the Lower Platte Corridor, where nearly 70 percent of the state's population resides. This would be especially beneficial to the city of Lincoln, who rely solely on the Platte River Basin for its water supply. Furthermore, the benefits could extend far beyond the Lower Platte, especially when you look at 1,000-- or 100,000 acres of cropland upstream in the Loup and Elkhorn River Basins. With surface water rights junior to the city of Lincoln, the effect of the city of Lincoln placing an administrative call on the Platte River at

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precisely the time when crops need irrigation the most would be economically devastating to these areas. Furthermore, urban and rural areas that suffer drought could have lingering consequences of its reputation, attractiveness to industry. Vulnerability to drought, and iffy water supply can hamstring economic development opportunities immensely. And finally, recreation. A large reservoir or several reservoirs would add a tremendous amount of recreational benefits, both land and water based to the Omaha Lincoln metro area. It is consistently reported that the urban areas of our state and country lack sufficient outdoor recreation opportunities. With 4 to 8,000 acres of flat-water recreation, it is reasonable to conservatively expect 500,000 to 1,000,000 visitors per year. For example, Mahoney State Park generates 580,000, Lake McConaughy 1.3 million, and Lake Okoboji over 1,000,000 annual visitors a year. The potential annual economic impact from these water-based infrastructure projects of that magnitude would be an average of \$200 to \$300 million annually to the state's economy. This does not include the benefits of a low erosion control, conservation, and other wildlife habitat. I would be happy to answer questions that the committee may have, and thank you once again for the opportunity to testify.

BOSTELMAN: Thank you. Are there any questions from committee members?
Senator Gragert.

GRAGERT: Thank you, Chairman Bostelman. Good morning.

JOHN WINKLER: Good morning.

GRAGERT: Thank you. It's a lot you put out there.

JOHN WINKLER: And try to do it in five minutes.

GRAGERT: Say, I just have a couple of questions. Basically what I hear is that this, this is about a large lake at Ashland. Has there been any preliminary-- or could you first of all, give just a short-- what exact infrastructures are you talking about in this, in this bill?

JOHN WINKLER: So when this originally was discussed back in 1895 and all the way until the 1970s and even as, as, as recent as Pam Brown's bill and, and Scott Lautenbaugh's bill, it was, it was about one reservoir near Ashland. This is, this is much different. This is, this is a look at are there multiple locations along the Lower Platte Basin

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and tributaries of the Platte where infrastructure could be built like a reservoir to provide the same type of protection and benefits as the, the large reservoir that was discussed in past, in past efforts. So I would say this is much different. This is not just a big reservoir like Ashland, although that may be looked at, but this would look at the entire Lower Platte Basin. And maybe it's not just one large reservoir, maybe it's three, maybe it's five, maybe it's two. But until you really dig down into the, the details of the study and know the benefits and know-- obviously, know the impacts, I couldn't answer that for you. But I think Senator McDonnell has done a good job of expanding the on the "Lake Ashland" idea and say how do we get these benefits with the lowest amount of impacts. And it was amazing going through the old studies of the Corps from the early 1900s to late 1800s, the, the concept of a big lake at, at Ashland actually could have been constructed with no impacts on the community. And I think that's what Senator McDonnell has always discussed with, with me and anybody else he's talked to. We don't, we don't-- we want to limit the impacts as much as possible. And obviously, working with the city of Lincoln, they don't want their well fields flooded, but they do want a consistent supply of water. And if you had several projects or one project to recharge that aquifer where the city of Lincoln gets their, their water, as well as the city of Omaha, you would have an endless supply of water. And so those are all huge issues that we've been dealing with in this state forever. And so this is more than just one big reservoir. This is actually-- I would say the Platte River is the wild west of flood control right now. There's, there's little levees, there's certified levees. There's, there's really no control on it. And I, and I think the, the flood of 2019 clearly demonstrated that that can be devastating, not only to Nebraska, but also to the states downstream. So this isn't just about one big lake.

GRAGERT: I understand and I'm familiar with the area to where the Elkhorn and the Platte come together right there. So you are looking at possible structures on the Elkhorn as well as the Platte throughout, throughout the entire area. And if you are-- I'm trying to create all this into one question, but if you are this \$900,000 is matching funds that-- is that potential \$1.8 million for a study of what could be done and the different alternatives? And if that is the case, then has there been any preliminary work done as far as if we place, if we place a structure here and how many, how many acres would be under water and if we-- versus we place three structures? Because I

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know the capability can be done on a computer, you can move a, you can move a dam around or a structure around and, and really know. And is, is that been done and, and acres affected with a survey going out saying how much, how much interest is, is this other than the city of Lincoln and city of Omaha, you know, protection of the drinking water? I guess is where I'm coming from.

JOHN WINKLER: So the first question, I think the, the intent of the, the allocation and then the po-- or the private match would be \$1.8 million. So I think the intent is a dollar for dollar so it's 50/50--

GRAGERT: Sure.

JOHN WINKLER: --to answer that question. The other question on the location of reservoirs. So you're right, you can move them with-- on your models. But one thing about geography and geology, it hasn't changed much. And so a reservoir site that was potential in 1895 is a reservoir site that's a potential today just because of the geography. And so you kind of know good locations. I think the study will narrow those down, though, and focus on maybe surface size and how you can get-- obviously, technology has increased tremendously since the early 1900s. So and there's other design criteria capability that we're way more advanced than we were ten years ago. So I think that this study will help refine those locations. Senator McDonnell kind of said this and it stuck with me. This is a first step in a thousand steps, right? So this, this is something that will-- it gives you the overall conceptual idea. Where could we place them? How many? What are the benefits? What are the, the, the costs or the, the, the negatives? And then I think you would go out and say, OK, this is, this is the location-- locations, these are the impacts. Who's interested, who's not? You know, or ultimately at the end of the day is there are too many impacts and, you know, then you go from there. But I, I think this will give us a good conceptual idea of what the possibilities are. And then again, you have to start with getting down to the local entities or, or citizens and say, hey, this is a potential site, what's, what's the, what's the interest? I, I hope that answered your question.

GRAGERT: Yeah, it sure does. And, you know, I-- it's just that, you know, since 1985 or [INAUDIBLE] all the development that may have went on--

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JOHN WINKLER: Yeah.

GRAGERT: --and, and how much, how much more of the land is worth than it was back in 1985. It might have been a wasteland at that time, which is now recreation and/or, you know,--

JOHN WINKLER: Right.

GRAGERT: --you know, so. Hey, I appreciate it.

JOHN WINKLER: Right. And no one indicated it'd be easy. But, but again, I think you should always consistently be, be exploring opportunities and looking. At the end of day, you know, we may say, you know, it's just too developed or there's just too much in the way. But maybe there's a couple of locations that we didn't think of or that maybe have been explored in the past but were forgotten and say, yeah, these would be good sites and they could provide quite a bit of, of flood protection, recreation, all those things, so.

GRAGERT: Thanks a lot.

JOHN WINKLER: Yep.

BOSTELMAN: Other questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thank you, Mr. Winkler. In terms of-- actually, I have a lot of questions, but I guess I'll start with this one. I understand the, the flooding mitigation, but other than the flood level, 2019, where are we taking the water from to fill the reservoir? Meaning, obviously somebody downstream often relies upon the water that's going to be flowing through the Platte River. If we build a dam and keep that water in there, who is that going to upset?

JOHN WINKLER: Well, so, so that, so that would be all part of the-- OK, so what are the impacts of the, of-- is it one reservoir or is it several? What are the impacts? So you have to honor streamflows, you have to honor water rights and those things. So obviously the intent of if you, if you build a structure would be to capture, you know, we have large rain, rain events, snowmelt, things like that, and then you would save that for a later use. You couldn't create something where you're basically drying up the river and you're not providing what normally or average flow is allowed downstream. So that would all have to be calculated into the study of how do you create those projects

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without damaging those downstream. So you just can't do that legally. And so those would all be things that would be worked out in the, the engineering design, location, all of those types of things. So, so that would all have to be taken into account.

J. CAVANAUGH: I can keep going but I think somebody else had a question.

BOSTELMAN: OK. Go ahead [INAUDIBLE].

J. CAVANAUGH: Thank you. Well, OK, so obviously the-- my understanding is the last major dam project in Nebraska was Lake McConaughy. Does that sound right?

JOHN WINKLER: For that size and structure.

J. CAVANAUGH: So I'm from Omaha and we built a number of smaller--

JOHN WINKLER: Right.

J. CAVANAUGH: --dams on the, the--

JOHN WINKLER: The Papillion creeks. Yeah.

J. CAVANAUGH: So why did we go so drastically shift away from these major dam projects? And I guess the secondary question, is this a major dam project of that capacity or is it more around Standing Bear Lake type capacity are we are talking?

JOHN WINKLER: Right. The, the ones we build the metro area are pretty-- it's small compared to Lake McConaughy. They're, they're very, they're, they're very small. Maybe the biggest is 200 acres. And so there's, there's always been-- I think it's a philosophical-- you know, there was kind of a big dam building effort by the United States, you know, many years ago. And then if it's cost, if it's environmental concerns, if it's, you know, just the, the, the ability to, to build such a project, it doesn't seem like we-- in, in my opinion, it doesn't seem like we build very many grand or large projects in the United States anymore. Most of it is, you know, we're maintaining something or we're building smaller things. And so I think as a-- maybe as a country and maybe as a society, we've gotten away from, from large projects. Again, this was something that was looked at way back in the early-- you know, late 1800s. And so it probably--

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if, if we were going to build it, that would have been an opportune time to do it. But one thing about it, you know, because people say, hey, this comes up every 10 years, every 15 years, and, and it does because the prob-- the issues that it's trying to address are not going away and will never go away. When I'm gone and we're no longer here, flooding and drought will continue to be an issue in the Lower Platte Basin throughout-- and throughout the state. And so we spend, like I said in my testimony, we spend so much time recovering and responding to natural disasters. And one thing about a flood, when it floods, we know where it's going to flood. We know before the event what areas will be impacted. There's no other natural disaster that you could possibly say that all but maybe an earthquake. But so it's like-- so we're spending so much time and so much money recovering and responding when maybe we should be looking at ways to mitigate these things to begin with and preventing them from occurring to start. And so that's why I think this is direction is we're going. The whole thing of why we don't build large projects anymore is beyond-- I can give you my opinion. But again, I think it's just been a societal type of shift.

J. CAVANAUGH: OK, ask one more. So obviously, I mean, I, I agree with you about that and I'm cognizant of the environmental impacts that are associated with large dam projects. And I'm not going to ask you about those because obviously I think that's part of the reason for the study. I-- but I didn't hear you mention and maybe I just missed it, hydroelectric generation. Is that potentially part of this project?

JOHN WINKLER: Yeah, yeah, that would also be studied, hydroelectric, you know, hydroelectric generation. One thing I will say about the environmental aspects, and for example, endangered species, it seems like every time we talk about a project, we're split into the environmental aspect versus the development aspect. And, and I don't know how we got to that black and white type of discussion. You can actually create projects like reservoir projects, levee projects that enhance the environment, that enhance endangered species habitat. And so why not take a project or projects of this magnitude and enhance endangered species if it's least tern, piping plover, if it's the, the sturgeon, why not? I mean, you, you can-- you've got the ability, a clean slate to not only create all of these amenities and these flood control and these erosion control, but also that you can enhance the natural environment. And, and so it shouldn't be an either/or. It can be both. It could be win-win for, for everyone.

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J. CAVANAUGH: I can keep going, but I'm--

BOSTELMAN: Other questions? Senator Wayne.

WAYNE: Thank you. And thank you for coming today. And we've talked at length about these kind of projects. Does this study include other areas north of Standing Bear or north of Lake Cunningham, I should say?

JOHN WINKLER: So this--

WAYNE: Like in the Kennard area.

JOHN WINKLER: Right. So this would be just the Lower Platte Basin, including its tributaries, like the Elkhorn, the Loups, those types of-- Salt Creek, those types of basins.

WAYNE: I know, I'm trying to, I'm trying to get Papio to be looped in there.

JOHN WINKLER: Well, I mean, so part of the bill, we're-- we'll be part of the task force. Now, how that morphs into other things I, I don't know, Justin, but this is specifically for that reach. And so it would not cover that.

WAYNE: Sounds like an amendment. I appreciate it, thank you.

BOSTELMAN: Other questions? A couple questions for you. One question is LB1201 was signed by the Governor last year and that starts in July. And it does exactly what we're talking about. So why do we need this bill?

JOHN WINKLER: And again, we appreciate LB1201. I think this really focuses-- that's, I think you have a statewide type of effort if, if that's-- if I was correct. This really digs down, digs down a little bit deeper into this specific reach and region. And, you know, there, there is a-- it won't be starting from scratch. There is a, a ton of data, hydrology, hydraulics, all of those things that have been done over the years, locations by Senator Gragert. And so, so this really, this really digs down into this particular area and, and what's possible. I think it goes beyond because you're looking at hydrology, hydraulic economics. I mean, those are things that are, are expensive to do, very, very detailed oriented to do. And so I-- to do that in

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LB1201 would be astronomical because of just the covering of the entire state. Here, I think we're digging down more into-- in, like I said, into that particular area.

BOSTELMAN: So I see this as putting the cart before the horse, because the LB1201 needs-- is there to identify critical infrastructure, areas that we need to protect and those things. So my question is, is why are we going to-- once again, the problem we've had with flooding to me is that we've had our NRDs look at just their areas and not go statewide if we need to look across the state at all the tributaries that come together, including Lincoln, that, that provides during large rain events, the significant amount of water comes from Lincoln very quickly into Ashland and into the Platte. And that continues to be moved faster and faster, I guess you would say, into the area. To me, this seems like an idea that, that maybe just before if it's prime, ready to go. To me, it seems like we need to have an over-- you know, an overall state look of what the effects are from the flood and where our challenges are. And then we begin to look at specifics because in the, the integrated flood management plan, we'll take a look at areas and identify areas where we do need to have to slow down water to do if it's dams, whatever it might be, at that point once we identify those and I think then it's up to the NRDs then to work on the plans, like what you're talking about something similar now to address those issues that are found on the statewide [INAUDIBLE].

JOHN WINKLER: Right. I would, I would, I would offer that this would be a great complement to LB1201, because this would, this would give you probably unprecedented information on exactly the things that LB1201 will look at. And so you will have in this particular area, you will have a great understanding to incorporate into the state study exactly what needs to be done in this particular area. So I would think they would complement each other very, very well. At least that's my opinion, sir.

BOSTELMAN: Sure. Sure. Yeah, I think one of the challenges-- I know two challenges I see for Lost Creek in Ashland, is, is we move a lot of water out of Lincoln very quickly and there's a very small area at Ashland where all that water has to go, which backs up and floods all into Saunders County, which is an issue. The other thing as we look along the Platte River, there have been studies over the years done and there's only been an increase in sandpits, homes being built, those type of things. I think it's a challenge to once again really

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take in consideration what's there and how this, this would, would affect those areas and, and the cropland. I mean, we lost a lot of cropland after '19, but we also have a lot of areas with that we need to have levees put back in and some other things that need to be done perhaps before a long study or, or this type of study is done so your comments to that.

JOHN WINKLER: Well, one thing about this study, and I like, you talk about the impacts, this would give a very detailed look of what are the impacts. So how many of those communities have been developed over the years? What would a reservoir-- you know, how many rail lines, how many residential areas, ag land? It would look at all of those things in, in detail. And it would give us not only here are the benefits, but also here are the challenges and the impacts. So I think, again, that would fit very well with what we're trying to do as far as with data collection and knowing exactly how we're going to impact folks. You're right on the levees on the Platte. In fact, we will be introducing a, a, a policy to our, our board to the Papio to be able to cost share with landowners to repair some of the levees that were damaged in '19 that are, are still damaged. And we've you know, we've worked with you, Senator Bostelman. You've been very helpful trying to how do, how do we address this statewide? I think we, we know a couple of areas that we can address probably pretty quickly, but it does need to be a statewide effort. So, so I'm hoping our board adopts that policy and we can get a couple of those holes that affect roads and bridges and all those things that we can get those repaired at least to pre-flood level. But again, this study would look at that, too, is, is so what are, what are the levee-- what are, what are the levee assets out there? And again, we don't know exactly, but how, how would a reservoir or several, how would that impact the levees that are, are currently there and what would we need to do? Perhaps you have reservoirs that would be placed that, you know, downstream of them, you wouldn't need very many levees. You, you would-- maybe you wouldn't need to improve them to a higher level than they currently are. And so those are all things that you have to, to be part of the study. So this may ultimately, at the end of the day, solve the levee issue we're having in the Lower Platte Basin. At least it would reduce the cost to fully address it if nothing is done. And so those are all things that can be all part of this open-- you know, this 10,000 foot study. I think it will fit right-- and again, I think the more we talk, I think it fits perfectly into what, what you're attempting to

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do with LB1201. I mean, it just, it just-- it's all coming, you know, it just comes together. It's a piece of the puzzle. And there's a lot of pieces in the state and, and it's-- we're all different. You know, all 23 NRDs are different. Some have way more drought. We have too much water sometimes to deal with. So it's trying to piece all those together and find out what the best plan is. So I really think it would work perfectly together.

BOSTELMAN: Sure. Yeah, I think I misspoke, I think it's Salt Creek not Lost Creek that I think it goes faster.

JOHN WINKLER: It's-- yeah, right, yep, yep, Salt.

BOSTELMAN: Are there other questions from committee members? Senator Gragert.

GRAGERT: Thank you, Chairman Bostelman. I like the-- you know, what Chairman Bostelman brought out is and I'm not going to tell you anything, but getting to the very top of the watershed and working down, you, unfortunately, I believe are on the bottom of the watershed where at Ashland basically dumps into the Missouri River. You're Platte and, and the Elkhorn and all the other, Salt Creek. I spent some time at Ashland, so I know the flooding that goes on at the, the camp there.

JOHN WINKLER: Right.

GRAGERT: Camp Ashland.

JOHN WINKLER: Right.

GRAGERT: That's what I like, is, is that and, and I hope that you're working with even NRDs up above you, that structures that may even go into that area that we look at, at maybe in LB1201 there that getting to the top of the watershed and then coming down.

JOHN WINKLER: Well, and to-- and, and I'm glad you brought that up because so Lower Elkhorn would be one of those NRDs that could serve on the task force. And they've been working on a reservoir north of Battle Creek on the Elkhorn. And so it's a significant reservoir. And, and during the flood of '19, I got a lot of calls from Mike Sousek, who's the manager there, and he goes, there's a whole lot of water

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coming your way, John. And, and so there was a-- you know, the Elkhorn
contributed immensely to the Platte River.

GRAGERT: Correct.

JOHN WINKLER: And so, yes, those would be looked at. And that's one of
them that's looked at. Skull Creek, there's one on there that would be
looked at. So, yes, we would go to the-- it would be from the top to
the bottom, so. But you're, you're correct.

GRAGERT: Thank you.

BOSTELMAN: Other questions from committee members? I guess a couple
other comments. The-- one was with what we're talking about now is
Saunders, I know Lower Platte North right now is in the process of
putting six dam structures and smaller dams structures to slow, to
slow down water. And I guess that's coming back, again, to kind of
what I said before is there's already some NRDs doing some things
upstream, but for-- again, the question is, are we doing something now
before we really understand what everybody else is doing? I think
that's a challenge. But the one question I do have for you and you may
comment on it or not, it depends on what you want to do is I believe
that the Corps of Engineers was the ones who really failed us on the
Offutt flooding, that that levee system should have been built before.
It was designed properly. It was not built. If that levee would have
been in, I don't think we would have had the issues on Offutt in that
lower area in that case. If you want to comment on that or not, that's
up to you.

JOHN WINKLER: Yeah, so it, it-- I, I can tell you that it, it was an
eight-year process to get a permit before we could start that, that
project. And unfortunately, in that eight years, nothing obviously got
done until the permit was issued. So once you start a project and then
the flood of that magnitude hits you, you, you know, you're, you're
kind of behind the, the eight ball. So, yeah, I, I-- let's just say I
agree with your wisdom. The-- but as far as, too, when you mentioned
that the other-- like, so the Lower Platte North, Lower Platte South,
the Papio, Lower Elkhorn would be part of this task force. We would
have to take into account any other of the reservoirs that are, are
being proposed or planned as part of, as part of the analysis. So we,
we wouldn't want to-- we wouldn't short-circuit anyone's current plans
or, or, or-- because those will all contribute to some type of

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reduction. Right. And so that would have to be calculated into
location, size, and all those types of things. So that, that will be
included.

BOSTELMAN: Good. Thank you. Final-- any other questions? Senator
Wayne.

WAYNE: So yesterday I was reading a bill. I think it was Senator
Hughes's about this-- a fund and there's an application process. Why
not just apply for an application?

JOHN WINKLER: So talking to Senator McDonnell, I, I-- and that's him--
that's his. I'm not going to, he's going to [INAUDIBLE].

WAYNE: Senator McDonnell, OK, that's fair.

JOHN WINKLER: But, but I don't think he's opposed to, to applying or
another funding mechanism. So I, I think that's being discussed. And I
think Tim can maybe answer that question better than I can.

WAYNE: I was just wondering.

JOHN WINKLER: So I, I think-- we want to work with, obviously, Senator
Hughes, and, and the commission to make sure that we're doing it
correctly.

BOSTELMAN: OK. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. A lot of points being brought up by
the other committee members made me think of things. So obviously, you
know, we were talking about the scope and the size, and we haven't
done something this ambitious in a long time. And there are a number
of reasons for that, and one of which is the environmental impact.
These smaller dams that we're talking about, smaller reservoirs have a
lesser environmental impact, could the objective of this three to five
reservoirs be serviced in a-- by smaller distributed reservoirs to the
ones that we're talking about up-- further upstream?

JOHN WINKLER: It's possible? But, but again, until you really-- until
you do the, I guess, the, the full scope of this, you, you don't have
that answer. But this will give us an idea and maybe it's ten smaller.
That could be, that could be the, the answer.

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J. CAVANAUGH: To say allow to study for three to five.

JOHN WINKLER: Yep. Yep.

J. CAVANAUGH: And the follow-up question to that is this project, if we were to go forward with the three to five, who pays for that?

JOHN WINKLER: So it would be taken-- I think there's, there's \$900,000 from a public source. Right now, it's the--

J. CAVANAUGH: If we were to build the dam, the reservoir.

JOHN WINKLER: Oh, build the dam. So multiple sources. If you're, if you're building structures of any significance, there's, there would have to be, there'd be state funds. There'd be federal funds. There would be local, for example, possibly NRDs, cities, counties, Lincoln Water Supply, and maybe MUD. I mean, depending on the benefits and, and what those-- so it would be a multiple source type of funding. No one entity would step up and fund the entire thing. We-- so when we worked with the Corps, if, if the federal-- so if, if you get a federal interest in a project like a reservoir project, their, their current formula is 65 percent federal and then the rest is local.

J. CAVANAUGH: That the feds would kick in?

JOHN WINKLER: So that would be something that once you say we found a couple or however many that is, then you go to the, the Corps and, and say, hey, is there a federal interest in constructing this? They do their analysis. And if there is, then there's federal money involved. If there's not, then, then you have a bigger part of the pie to figure out. So it would be a multiple ef-- multiple funding effort, it would be a multiple agency, multiple entity effort through the whole process, planning, funding, permitting, all of that, so.

J. CAVANAUGH: And when it comes to these smaller type of reservoirs and obviously, like you said from Omaha, we're familiar with those funds, the funding entity is generally just the NRD.

JOHN WINKLER: It's the NRD, we've received water sustainability funds, we've received federal funding. We've received USDA, NRCS funding because we're controlling watersheds. So we, we do-- we turn over every couch cushion we can to find funds to build those. But we've been very successful in a multiple, for example, Nebraska Game and

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Parks assists with the fisheries. And so we do a, a job and then we also are-- we collect impact fees on development. And so as every lot is developed, they pay a, a fee to the NR-- or to the, to the city or county. And then that's forwarded to the NRD to help construct those. So it's, it's a-- it's private, it's public, multiple agency. We would use the same formula on any type of even larger project. It would just be a magnitude of scale, so.

J. CAVANAUGH: Thank you.

JOHN WINKLER: Um-hum.

GRAGERT: I got one last question.

BOSTELMAN: Senator Gragert.

GRAGERT: Thank you, Chairman. John, I got one last question and just brought up a good point. Could, could you incorporate the Corps into this study right from initially? So when you get done with your study, they don't have to come and do their study with the federal government?

JOHN WINKLER: Yeah, so that would be the plan. In fact, we've had conversations with the Corps because the Corps going to have a lot of data that whoever does a study will need. And the idea is now that we have the four-state general investigation study between Nebraska, and it was alluded to by, Tim, Nebraska, Iowa, Kansas, and Missouri, we would work with them from the outset and say, you know, hey-- and that, that study would be shared with them to incorporate into the four-state study because the Corps is in a difficult position in trying to manage the Missouri because they, they have no really choices. They can either make the levees, they could build more levees. They can kind of reduce choke points where bridges and things like that are obstructing flow. They could channelize the, the river more. There's really no place on the Missouri to build any significant structure to control flows. And so-- and as this flood showed it wasn't the Missouri, it was the tributaries, the uncontrolled tributaries that caused the majority the flooding. So the Corps would be very, extremely interested in how do we, how do we work within the state to, to help control that? So they've been contacted. And like I said, they've got decades and decades of data. They've looked at this since 1890s. So they're, they're very familiar with the, the

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watershed, the challenges. And we would rely on them for a lot of the
information so they would be incorporated.

GRAGERT: Thank you.

JOHN WINKLER: Yep.

BOSTELMAN: Last questions? Seeing none, thank you, Mr. Winkler, for
your testimony.

JOHN WINKLER: Thank you. And, and I will-- I'll email everyone the,
the testimony. I didn't bring copies for everybody per, per
instruction. Thank you.

BOSTELMAN: I'd invite the next proponent. If we have another
proponent, please step forward. Any other proponents for LB406? Seeing
none, then I'd ask for anyone who would wish to speak as an opponent
to LB406 to step forward. Good morning.

RICHARD GRAUERHOLZ: Good morning. I'm Richard Grauerholz,
R-i-c-h-a-r-d, last name, G-r-a-u-e-r-h-o-l-z, and thank you very much
for listening to me this morning. I've had some discussion with a lot
of the people in our community and everybody in the Ashland area is
very much aware that we do need better flood control on the Platte
River, Salt Creek, those other streams that are in and close to, to
Ashland. All the tributaries that feed water to that Lower Platte area
that we're discussing, different problems they call them, as we all
know, flooding as a natural disaster. And it's not only financial
problems, also disruption of, of lives, endangerment of lives. So we
do need some control of that. But the other thing that we're looking
at in Ashland area is along with the need for protection from the
natural disaster is protection of our community. This surfaces every
few years. And the discussion of a large scale dam and water endowment
in the past from other studies have been done. Other discussions that
have had maps and things have been prepared for flood control and a
dam in the area of Ashland would cause significant problems for the
people in Ashland. And part of going back to the some of the dam maps
that we looked at in the past would actually inundate parts of our
community. This is why we're very concerned over some of the, the
language that is in the, in the bill. The water situation in 2019 was
an extreme and I, I feel that's not a real good judgment of what the
norm is on flooding situation. There was water that year where I've

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never seen it before and I've lived in Ashland a significant number of years. Flood control, like you said, it is needed, but construction of a large dam and water endowment could cause more harm to the town of Ashland than would actually benefit Ashland. It was mentioned water supplies. Water supply at Ashland is one of the other things that we would have to be concerned about because we do get our water from a little different source than Lincoln does, as was mentioned. And right now we are investing lots of money in that. It's just Ashland is sitting, along with this Lower Platte area, in one of the fastest growing areas in the state and will always be in that fastest growing area. We feel that language should be added to this bill that would help protect Ashland, the people of Ashland where Ashland would not be flooded by some large dam and water endowment. Thank you for your time this morning. If you have any questions, I'd--

BOSTELMAN: OK, thank you. Thank you for your testimony. Are there any questions from committee members? Seeing none, thank you, Mr. Grauerholz, for your testimony. Invite the next opponent. Good morning.

SHIRLEY NIEMEYER: Good morning, Chairman Bostelman and members of the committee. For the record, my name is Shirley Niemeyer, S-h-i-r-l-e-y N-i-e-m-e-y-e-r. I appear today as an individual in opposition to LB406 and ask that my testimony be entered into the records. Thank you for your service to the people of Nebraska and your work to protect the natural resources. Respectfully, I oppose LB406 as it's now written. I do not object to the portion of the dollars mentioned for repairing the flood damage and examining smaller scale projects on smaller tributaries that may address flood control. Although LB406 includes proposed multiple dams, it also indicates examining amenities, economic development near urban areas, relocations, hydropower, enhanced tourism, increased recreation, increased flat-water recreational opportunities near major population centers, and developing major recreation opportunities in eastern Nebraska. LB406 appears to focus more attention on large dams for recreational purposes and less for alternative flood mitigation. I'm confused by the extent of and focus on additional amenities other than flood mitigation. Major dams are not normally being built and approved at the federal level. About 900 U.S. dams were removed between 1990 and 2015, with another 50 or 60 more every year being taken out. Note that no major U.S. dams have been constructed, major ones, since about 1970. A 2017 study by the MIT indicated: Dams and reservoirs, though

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effective sources of water and electricity, are immensely detrimental to the environment. To allay concerns over the environment, Mission 2017 proposed by MIT was to reduce the numbers of dams in rivers and allow flows naturally to preserve the environment and biodiversity. Another excellent study, a major one called by the EPA and the U.S. Corps of Engineers, was published by the National Academy of Sciences. This study focused on the recovery of the Missouri River. This study indicates providing more land available for the river to flow in widening the Missouri River at key locations and flood bypass for peak shaving as some of the solutions for flood mitigation. The study indicated the Missouri has been narrowed too much, causing much of the severe flooding. The study mentioned enhancement of flow through side channels and development of backwater areas, among other alternatives, which may be less expensive. LB406 appears to address flood issues pertaining to one area of the Platte and not the total flood damage that occurs across all of Nebraska. It seems unlikely to be supported by the people in other areas when only a smaller portion of the problem is addressed. If micro studies are needed, a broader approach to include all NRDs and more dollars are needed for research. The Platte River is not an island unto itself. Larger dams on the Platte may not address the heavy flooding that occurs when the Missouri and Platte merge at Plattsmouth. Larger dams do not address the flooding that occurs along the Elkhorn, Loup, and Niobrara and their tributaries and large quantity of water from the Loup and Elkhorn that empties into the Platte River. I quote Mike Sousek, presented at the LR138 hearing in 2020: The Elkhorn River provides 32 percent of all the water reaching the Missouri River, 22 percent from the Lower Platte Basin, and 46 percent from the Loup Basin. The focus on economic development, recreation, and tourism of LB406 draws attention away from the urgent needs to examine alternatives and less costly ways to mitigate flood. Please carefully examine the bill and the potential impact it could have on all the extensive development that's already in the area: bridges, railroads, people, wildlife, soil, habitats of all living things that are already there. The natural scenic Platte River already provides recreation and tourism, such as canoeing, fishing, some boating, bird, bird watching, tubing, and more. I ask you to review the bill and to ask the sponsor to pull the bill until LB632 evaluation and compilation plan to implement flood strategies has been conducted. We need to spend more time focusing on critical issues such as flooding across all Nebraska, climate change,

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and reducing the cause of severe weather occurrences in the future.
Thank you very much for your time. Appreciate it.

BOSTELMAN: Thank you. Are there any questions from the committee
members? Seeing none, thank you, Mrs. Niemeyer, for your testimony.

SHIRLEY NIEMEYER: Thank you.

***SCOTT SMATHERS:** Dear Senator Bostelman: I am writing on behalf of the
Natural Resources Commission for the hearing before the Natural
Resources Committee on LB406 in opposition to the proposed
legislation. The purpose of the legislation is to study a potential
flood control project along the river basin of the lower Platte River
with benefits for flood-risk reduction, water supply, hydropower and
recreation. Studies of water management projects that may provide
multiple benefits are needed to assist Nebraska to provide water
sustainability, water supply for agriculture, municipal and industrial
uses, flood control to protect infrastructure and recreational
benefits. However, LB406 also proposes to transfer funds from the
Water Sustainability Fund (WSF) to support the studies that are
envisioned in LB406. The (WSF) was created in 2014 with the adoption
of LB1098 by the Nebraska legislature. The WSF is administered by the
Nebraska Department of Natural Resources with allocations approved by
the Natural Resources Commission (Commission). The Commission is
comprised of 27 individuals representing the state's river basins and
diverse water interests. The LB406 legislation funding request would
circumvent the project scoring process established by LB1098. That
process has provided funding of over \$70 million for 69 water resource
projects over the past six years. The project discussed in LB406
includes water management benefits that are included in the scoring of
WSF projects. I would encourage potential project sponsors to consider
an application to the Commission for funding assistance on a study of
the proposed project. The Natural Resources Commission looks forward
to working with all water entities within Nebraska to support funding
for sustainable water management projects using the scoring process
established by LB1098.

***LEE ORTON:** Dear Senator Bostelman: The Nebraska State Irrigation
Association (NSIA) is providing this letter for inclusion in the
record for the hearing before the Natural Resources Committee on
LB406, in opposition to LB406 as currently proposed. We commend
Senator McDonnell in bringing this bill before the legislature. The

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creation of the Lower Platte River Infrastructure Task Force will bring together experts from the region, the University of Nebraska and the Department of Natural Resources to look at the water related needs of the Lower Platte area, and how best to meet those needs. As we all know, a significant volume of water leaves the state of Nebraska through the Platte River. The future water needs of Eastern Nebraska, will need to be met by a variety of water projects, including supplies from the Platte River. What concerns NSIA is the transfer of funds from the Water Sustainability Fund (WSF) to the Critical Infrastructure Facilities Cash Fund to support the work envisioned by Senator McDonnell and the Task Force. LB406 fund request circumvents the sound process guiding the Water Sustainability Fund. This carefully derived process was created through a significant investment of time and oversight by the Nebraska Legislature. Circumvention of this time-tested and fair process will lead to more attempts to side-step the process and take money from the Water Sustainability Fund. The intent and goals envisioned in LB406 fit well with the goals of the Water Sustainability Fund, as stated within Nebraska's Statute 2-1506. We believe an application to the Water Sustainability Fund by the natural resources districts that would be members of the envisioned Task Force, would be welcomed by the Natural Resources Commission for consideration in the next WSF funding cycle. Nebraska is blessed with outstanding water resources to support our communities and economy. The careful consideration of WSF funding for all applicants is vital to the sustained health of our water resources, statewide. The Nebraska State Irrigation Association appreciates this opportunity to provide comments on LB406, for consideration by the Natural Resources Committee.

***HELEN RAIKES:** Chairman Bostelman and Members of the Natural Resources Committee, I am Helen Raikes, a resident of rural Ashland, and I represent myself in this testimony. I am a concerned citizen. I oppose LB406. I have several reasons for this. Who cannot remember the devastating floods of 2019 and not support all efforts to prevent something similar in the future? The reasons for these floods were multiple and debated. Like many others, I support the use of micro projects along the lower Platte River. However, there are three emphases in the current proposal that lead me to oppose LB406. First, the intended scope implies large structures. Directors and managers of the Lower Platte Natural Resources Districts quote an understanding that the proposed current Task Force is designed to explore the

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potential of dozens of micro projects along the Lower Platte Corridor. However, the bill's language refers to only five projects and in some places the bill seems to imply that the nearly \$1,000,000 in planning funds be directed to a single project. Should that be the case, there are many arguments against big dams and lakes in this modern era as an approach to flood mitigation and many additional issues will be raised by such a proposal. The language needs to be revised to direct the Task Force to utilize the funds to identify micro projects and such that are collectively likely to be effective in preventing floods in the future. Such an approach should be designed to become compatible with and potentially follow Nebraska LB632 that is guiding flood mitigation study and planning throughout the state. Second, many are of the understanding that the focus of the Task Force would be the entire Lower Platte Corridor from Columbus to the Missouri River and, of course, that focus would entail input from multiple communities within this Corridor. Upon inquiry, I learned that the entire Lower Platte Corridor is not the intended focus but rather the focus is only the eastern portion of the Lower Platte and that, so far, the only community of interest identified is Ashland. Third, the current proposal evokes the specter of previous Lake Ashland proposals that have appeared and been defeated repetitively over the past 100 years, most recently 2006 and 2013. It is natural for residents of Ashland and surrounding areas to be concerned about proposals to resurrect the idea of flooding our locality/surrounds for a recreation and commercial venture to benefit surrounding communities and as LB406 requests the Task Force to detail. Such a proposal if realized could obliterate local businesses, water use, and farming interests. I request that the proposal be withdrawn until language can be modified to precisely charge the Task Force with explicit flood mitigation plans more likely to be successful and more compatible with and timed to follow other Nebraska flood mitigation studies as mandated by LB632. Thank you.

***CHARLES NIEMEYER:** Chairman Bostelman, members of the committee, for the record, my name is Chuck Niemeyer (spelled). I appear today as an individual in opposition to LB406. Please enter this letter into the hearing testimony records. Thank you for your Service on the Natural Resources Committee. Regarding LB406, I am opposed to the bill due to some of the specifics included in the bill. There has long been a misconception we could have stopped the flood of March 2019 with a large dam on the Platte at or near Ashland and that this would

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mitigate any damage to downstream flood plain areas. In the last flood, it is again a misconception you could have controlled all of the Platte River Basin water and thus again alleviated pressure at the lower Platte River and the Missouri. Similar, in the last several years, as the Missouri River flooded much of its downstream area, and the massive upstream dams could not contain the excess amount of water, they had to release water from dams resulting in flooding large downstream areas. In order to maintain the structure of a large dam in our area, the release of flood water needed would still have exacerbated the problem around Offutt and other areas and massive damage from the Missouri. Part of the answer is do not build in the flood plain or flood way in the future. It is easier to look at an area that alone is a small footprint, such as the Papio basin, compared to the volume of the drainage system starting in Colorado and Wyoming. Putting a cork in the bottle does not solve the problem when it is at the end of the problem and not at the beginning. My concern is always driving by the desire to overplay the recreation, economic, and tourism value of a larger reservoir and not focus the multitude of mitigation options on a much smaller scale and on the drainage feeding into larger rivers. When we dam rivers, we often sacrifice natural resources, quality land, water quality, nature, people's homes and businesses, existing infrastructure, and more. The lower Platte River has been extensively developed with massive infrastructure, major transportation routes, technology, structures, homes, businesses, people, as to be nearly impossible to remove in this area. Likely, it would cost billions and billions of dollars to move, buy, and rebuild these resources. In addition, the loss of prime farmland and truck farming reduces economic gains. A more systematic approach for the whole Platte, Elkhorn, Loup and other rivers and streams is needed. LB406 should not be pursued as is currently written. Waiting to examine the outcomes of the LB632 before proceeding is recommended.

***AL DAVIS:** Dear Senator Bostelman and members of the Natural Resources Committee: I am writing today on behalf of the Nebraska Chapter of the Sierra Club as their registered lobbyist and in opposition to LB 406. The Nebraska Chapter of the Sierra Club is made up of over three thousand members all Nebraska who are focused on issues affecting the earth, on the plant and animal life living on this planet with us, and on issues of environmental justice. The Nebraska Chapter of the Sierra Club stands in opposition to LB 406 for a number of reasons. The projects envisioned in the bill have been discussed for many years and

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often under the guise of flood control or water sustainability. But much of the bill as written is focused on economic opportunities which could develop rather than on the proposed objective of flood control. If flood control is needed, a system of dry dams would provide such control without damaging the Platte ecosystem. The environmental damage caused by the construction of several dams on the Platte or its tributaries is incalculable and would require a lengthy costly environmental study to assess the impacts these structures might have on fish and wildlife which depend on a free-flowing river for habitat and reproductive purposes. The Pallid Sturgeon, as one example, has seen much of its habitat destroyed by upstream dams on the Missouri River and the fish has been on the endangered species list for thirty years. The Pallid Sturgeon is a long-lived species which reaches sexual maturity late in life and is not a prolific spawner, so anything affecting its habitat will require extensive study. Other species affected by changes to the Platte River are numerous. Issues associated with water sustainability for the city of Lincoln can also be much more easily resolved than by constructing a network of dams, simply by developing more extensive pipelines and permitting the city of Lincoln to work with the Metropolitan Utilities District which has adequate resources available for both communities. But most discussion around this bill seems to center on projects already discussed and abandoned several years ago, largely due to opposition from communities and landowners in the affected area. Finally, the bill seeks to extract \$900,000 from the Water Sustainability Fund for purposes of funding this study. The WSF was not designed to be an economic development funding source for high-dollar lakefront homes, although that seems to be the primary driving force behind the hill. Please do not advance this bill to General File.

BOSTELMAN: I'd invite the next opponent. Anyone else wish to testify in opposition to LB406?

BRADLEY PFEIFFER: Quick question. Is there a neutral? OK, thank you. I haven't been here before.

BOSTELMAN: There will be. Is there anyone wish to testify in opposition? OK, I will read-- we do have some written testimony that you have committee members: one is from Scott Smathers from Natural-- Nebraska Natural Resources Commission; there's one from Lee Orton, the Nebraska State Irrigation Association; one from Helen Raikes; there is one from Al Davis of the Sierra Club Nebraska Chapter; and there is

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one from Charles Niemeyer. With that, I would invite anyone who would wish to testify in the neutral capacity on LB406. Morning.

BRADLEY PFEIFFER: Good morning. My name is Brad Pfeiffer, Bradley Pfeiffer, B-r-a-d-l-e-y P-f-e-i-f-f-e-r. I am the president of the Ashland Chamber of Commerce. I kind of want to echo some of the stuff that Mayor Richard Grauerholz had passed on to you folks. One of the things that when something like this comes up, the Ashland community has kind of a stigmatism that, you know, that you don't know what's going to happen to Ashland. We just opened up lots for over 300 homes to be built. So when something like this comes out, it kind of throws a little bit of a stigmatism to the growth of Ashland, the community itself, the businesses, and how they grow. We fight that every ten years. I consider myself to be a friend of Mike McDonnell, Tim. I took them out on the airboat and showed them the, the area of the Platte and what it has to offer at this time. I actually live, maybe 30 feet from the Platte River. I was there during the flood before and after. I've been there since 1982. I did not receive any damage. My daughter's home did. We repaired it. We're back to normal again. You know, I can invite anybody that wants to come out, a little bit better weather, you know, and take an airboat ride and see what the, what the Platte River is really like. I know Senator Gragert mentioned that he had been to Ashland. You know, the community is up growing. I think you may have seen that. Maybe not. Senator Wayne, you know, you live in Omaha. You're not that far away. I'll invite any one of you folks to come out and, and see Ashland. I'll give you a tour of Ashland. I'll give you a tour, you know, of the Platte. I can arrange several airboats. Senator Cavanaugh, if you would like to come out. Moser, I would love to have-- entertain any one of you folks. Senator Bostelman, you know, we've had-- he has helped us with Senator McDonnell when this first came-- appeared. We had a meeting at Glacial Till with some of the city councilmen and several of the chamber board members. And Senator McDonnell came out and said that there was, you know, he doesn't want any detriment to the Ashland area or the communities around it with all the lake areas that are involved. But as you, Senator Gragert-- am I saying that right? Sorry.

GRAGERT: That's correct.

BRADLEY PFEIFFER: OK, your first analogy was a lake at Ashland, and that's what everybody's going to hear when they, when they start this study. And I guess as a-- and my final note, as a taxpayer, if, if

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your LB1201 does the same thing, why is it-- why, why are we spending more money to do the same thing? I don't understand, I guess. I do understand it because that's government. When they when they, you know, everybody wants their, their piece, their part, whatever that might be. But I think, in my opinion, as a-- just a taxpayer only to double up on something doesn't make sense. That's it.

BOSTELMAN: OK. Thank you for your testimony. Any questions from the committee members? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thank you, Mr. Pfeiffer?

BRADLEY PFEIFFER: Yes.

J. CAVANAUGH: Thanks for the offer. I'd love to come out, by the way. Just so I'm clear about your neutral testimony. Basically, the harm to Ashland is the uncertainty, continued uncertainty. That's--

BRADLEY PFEIFFER: Right.

J. CAVANAUGH: --your concern?

BRADLEY PFEIFFER: Right. So I'm, I'm neutral for the bill, but I guess I was kind of conflicted as to what I was trying to do when I came here. I've never done this before, Senator Cavanaugh. So maybe I'm a little against or for whatever it is. I think there's still that, that need for the floods, you know, study to figure out what we need to do in certain areas, you know, including the Loup, the Elkhorn, whatever that may, may be. I apologize if I've kind of gone the other way.

J. CAVANAUGH: I'm, I'm new here, too, so don't worry about it. But it seems to me like you, you are neutral. You, you don't have a specific position. I'm just trying to make sure I--

BRADLEY PFEIFFER: Right.

J. CAVANAUGH: --understand what it is.

BRADLEY PFEIFFER: OK.

J. CAVANAUGH: And so your concern is the uncertainty is here.

BRADLEY PFEIFFER: Right.

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J. CAVANAUGH: OK, thank you.

BOSTELMAN: Other questions? I guess one question I would have on growth of Ashland itself.

BRADLEY PFEIFFER: Yes.

BOSTELMAN: The community. Are you-- you're kind of-- are you-- how would you describe your ability to grow as, as far as housing goes? What directions, what limitations might you have? I mean, can you grow north? Can you-- you only go so far closer to the river. You live on the river, so you get--

BRADLEY PFEIFFER: Yes, we can go-- well, the lake communities are part of that growth. The newest one is Sandy Pointe. And I can't actually speak to how many kids are in there. But I know we just started a bus route this year into that lake addition. We have kids coming in, in all six of the-- I think there's six major lakes in there: Thomas, Allure, Big Sandy, Sandy Pointe, Horseshoe. They're all growing. The, the school itself just spent-- or not spent, will spend \$59 million on two new buildings. They just passed the bond in that in November. So with that said, you know, it's, it's-- we're counting on that growth. We don't want to get caught kind of like Gretna did. I have businesses in Gretna and in Ashland. So, you know, Gretna just kind of got over-- overrun with the population. And that's, that's where we're at that the houses-- the first 50 of those 300 have already been sold. They're already done. They're into the, I believe, in the next 50 already. So, yes, we have room to grow either along the lake or along the Platte with the lake areas and around Ashland.

BOSTELMAN: OK, thank you. Other questions? Seeing none, thank you, Mr. Pfeiffer, for your testimony.

BRADLEY PFEIFFER: Again, if somebody wants to come out, I'll be more than happy to give you a tour of Ashland or a tour of the Platte this summer. Thank you.

BOSTELMAN: OK, thank you. Thank you.

BRADLEY PFEIFFER: Um-hum.

***TIM KEIGHER:** Chairman Bostelman and members of the Natural Resources Committee, my name is Tim Keigher. My last name is spelled

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K-E-I-G-H-E-R. I appear before you today as the registered lobbyist for the Nebraska Airboat Association (NAA) in neutral capacity on LB406. David Mitchell, the attorney for the association could not be here today, but if he were here, he would have said: "Chairman Bostelman and members of the Natural Resources Committee, my name is David Mitchell. My last name is spelled M-I-T-C-H-E-L-L. I appear before you today as the attorney for the Nebraska Airboaters Association to express a neutral position on LB406 but to oppose any outcome that would significantly alter the Platte, Elkhorn or Loup river landscape and habitat as the same is currently enjoyed by airboaters and numerous other recreational interests. The NAA is a Nebraska non-profit corporation consisting of approximately 450 members who are located throughout the entire state with a common interest in airboating, particularly on the Platte and Elkhorn Rivers. NAA members are always first responders in water rescue, water search and flood assistance efforts - the latter of which is usually under horrifically dangerous weather and maneuvering conditions. NAA is about much more than airboating. It is composed of members from all walks of life who recognize that the God-made Platte River is a source of nature, history, beauty, recreation, hunting, fishing, bird enthusiasts, exercise, natural habitat and an overall river culture consisting of individuals and families who enjoy the natural state of the river and the opportunity to view and take in its pleasures through airboating, canoeing, kayaking, camping, tubing, ATV/UTV, air, hiking, and many other forms. It is a source of education for our children. The NAA recognizes that any dam, reservoir or other human-made flood control device would forever change the landscape and character of the river that flows into the reservoir. In the process, property owners will be divested of property, habitat will be displaced and many important cultures who use and enjoy the river for various reasons will have their way of life changed through governmental action. To be clear, the NAA is not necessarily opposed to the study, but will be strongly opposed to any study that does not take the foregoing interests into account as a significant factor in any decision-making process as well as any decision that significantly alters the landscape, flow, depth, and/or the navigable and recreational nature of the Platte and Elkhorn Rivers as we know them today. In addition to these points, we would point out that there are a massive number of levees located in particular along the Platte River that have not been rebuilt since the 2019 flood. Under the current regulatory environment, it is economically and pragmatically

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impossible to rebuild such levees and reinforce neglected levees without some relaxation or safe harbor provisions in place to allow adjacent landowners and diking districts to reconstruct the levees. We believe there is too much red tape involved in bank preservation, restoration and subsequent flood control with the result that preservation has not been maintained uniformly along the river. Your committee should pursue a federal safe harbor for property owners to be allowed to stabilize their existing banks through an expedited informal process with material, slope and other pertinent guidelines without the necessity and cost of engineers, lawyers, consultants and multiple agency reviews so that something could actually be done without perhaps spending a fortune on reservoirs and the corresponding impact and loss of land and habitat that would follow. Thank you for your consideration and we look forward to continued participation in this process. Respectfully submitted, David C. Mitchell on behalf of the Nebraska Airboaters Association"Should you have any further questions please feel free to reach out to myself or David.

BOSTELMAN: Anyone else would like to testify in the neutral capacity on LB406? Seeing none, we do have one written testimony in the neutral capacity from Tim Keigher from Nebraska Airboat Association. With that, this will end the hearing on LB406. We thank you for your time. Those who were here for LB406 may vacate the area in the hearing room and we'll get set up for the next bill. Thank you. OK, we would like to clear the room so we can get on to the next hearing, please. We do need to move on to our next hearing. All right. OK, Senator Hughes, you're welcome to open on your bill, LB336.

HUGHES: Thank you, Chairman Bostelman, members of the Natural Resources Committee. I'm Senator Dan Hughes, D-a-n H-u-g-h-e-s. I represent the 44th Legislative District. I am here today to introduce LB336. LB336 creates the opportunity for two different park permit fees for nonresidents. One of the permits would allow access to all state recreation areas except for Lake McConaughy and Lake Ogallala in Keith County. The other one, at a higher fee, would allow access to all areas in the state, including Lake McConaughy and Lake Ogallala. The additional fee would-- the additional fee for access to those two lakes would be used almost exclusively for operational, maintenance, and improvement costs at Lake McConaughy and Lake Ogallala. The purpose of this bill is to take advantage of the huge number of out-of-state residents who enjoy Lake Mac and Lake Ogallala every year. What this bill does is to create an additional fee that would

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only be charged to nonresidents who utilize those two lakes. It would help pay for upkeep, construction of additional facilities, and for personnel to handle the huge influx of non-Nebraska residents at those two lakes. On the big three weekends of Memorial Day, Fourth of July, and Labor Day, Lake McConaughy and Lake Ogallala have well over 100,000 visitors each day of those holidays. It is estimated that 1.5 million visited Lake McConaughy last year. In the past, these two lakes have caused significant problems not only for Game and Parks personnel to manage, but also local, first responders, and law enforcement. By increasing these fees, Game and Parks will have the opportunity to hire additional personnel to alleviate some of the stress on the local personnel, especially our volunteer, and I stress volunteer EMTs and fire, fire departments, and also provide additional funding for improved facilities that will help alleviate some of the crowding of the public access areas. Lake McConaughy and Lake Ogallala year in and year out are either number one or number two for tourist attractions in our state. In Nebraska, on the big three weekends, upwards of 90 percent of the individuals utilizing those facilities are from out of state. So it only makes sense to allow the people utilizing that space to pay for the improvements. The fees we chose in the green copy could have some impacts on Game and Parks' funding. I'm committed to getting those numbers in line so it does not cause the loss of any federal matching funds or if there is a different way to accomplish this tax-- task, such as an entry stamp or something along those lines, I'd be open to looking at those opportunities as well. I thank you for your time and would be happy to answer any questions.

BOSTELMAN: Thank you, Senator Hughes. Are there any questions from committee members? Senator Cavanaugh.

J. CAVANAUGH: Thank you. I guess I didn't think about this before. What-- why would this cost us federal funds?

HUGHES: I believe Assistant Director McCoy will probably be able to answer that better than I will. But in my conversations with him, it can have an impact on some federal dollars that Game and Parks has taken advantage of in the past. So I'm certainly committed to working around that obstacle to make this happen. But I-- he, he can explain that much better than I can.

J. CAVANAUGH: Thank you.

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BOSTELMAN: Other questions from committee members? Seeing none, sure you'll stay to close.

HUGHES: My intent is. When I woke up this morning, I had a leak in my apartment. So if the maintenance people call, I'm out of here.

BOSTELMAN: Understand.

HUGHES: Thank you.

BOSTELMAN: Yes. Would invite anyone, proponents for LB336 to please step forward.

DEB SCHILZ: Good morning.

BOSTELMAN: Good morning.

DEB SCHILZ: My name is Deb Schilz, D-e-b S-c-h-i-l-z. I am from Ogallala, Nebraska. I currently serve as the chair of Keith County Visitors Committee, as well as I'm on the Ogallala City Council and currently serve as term and president. These are two of the entities that are partners in the Lake Mac Advisory Committee. And I appreciate Senator Hughes today for the introduction of LB336 and to the Natural Resources Committee for the opportunity to speak about this bill today. A year ago, the Lake Mac Advisory Committee was resurrected with business and community leaders of Keith County, including Lake McConaughy business owners, Nebraska Game and Parks, and Central Nebraska Public Power and Irrigation District officials to have an open conversation of how the needs of Lake McConaughy should be addressed and how our community and county can assist to have these needs met and be beneficial for both sides. The Advisory Committee was first formed in 2016 to create a, a plan going forward for Lake McConaughy's infrastructure needs and ways to accommodate the one million-plus visitors that have come to Lake Mac every summer since 2012. The Advisory Committee at that time partnered with Game and Parks to develop a 20-year plan, and pieces of that plan have been implemented over the past several years. Within this last year, the Advisory Committee has taken discussion items from the meetings held with Game of Park directors and staff and have created local subcommittees to work on the different needs of Lake McConaughy. These include legislative, fundraising, workforce development, law enforcement, building-- business and park development, as well as

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tourism. Each of these areas involve local input to assist the needs that Nebraska Game and Parks have identified as challenges that they're having and enhancing our visitor experience. During these conversations, a special park permit for Lake McConaughy has been discussed a number of times. As Senator Hughes alluded to, there's a large percentage of visitors to Lake McConaughy who come to camp, fish, enjoy water sports, and outdoor activities that are from outside Nebraska. With the COVID-19 pandemic this past year, the number of visitors have been well over a million. And not only that, they're staying longer than they normally would. We appreciate Senator Hughes, Senator Wayne, Senator La Grone, and others that I may have missed, for coming to Lake McConaughy this last summer and touring the area and seeing the changes Game and Parks have implemented and also discussing with local leaders of how to help solve some of these issues. The infrastructure of Lake McConaughy has been stressed for several years with the increase of visitor attendance. During the summer weekend, visitations can range from a few thousand people to tens of thousands of people, depending on timing and events. Road improvements, beach access, signage, day use only areas, shower, bathroom facilities, and, and the need for additional campgrounds are just a few of the items that have been identified from Game and Parks as areas of improvement so that the park can function in the number-- with the number of visitors. Game and Parks has also identified the need for additional staffing and law enforcement presence on many busy weekends, which happens more often than just summer holidays and is necessary for our visitors to have a great experience. The lake is approximately 26 miles long on one side, so you double that for both sides of our lake. And depending on water levels, beach camping can number in the thousands during the summer months. Assistance from the Keith County Sheriff's Department, Nebraska State Patrol, and the city of Ogallala Police Department help Nebraska Game and Parks officers during the summer months to make sure our visitors are having a safe experience. With this additional personnel monitoring our beach and campground areas, those resources are very thin at times due to personnel changes within each entity. Communication can be somewhat subject, they all do not communicate with the same radio system. So there is potential for high-stress situations and we appreciate all that all of our entities do, public safety entities and our volunteer emergency medical service teams. Potential monies from the sale of a special permit for Lake McConaughy could help fund some of these needs identified and that are some of the issues that we have continually

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been addressing. Lake McConaughy is a very large economic driver for Keith County and the surrounding area. The future of Keith County is very dependent upon the visitations of Lake McConaughy that they are being provided-- that are being provided. And we are working with Nebraska Game and Parks, as well as Central Nebraska Public Power and Irrigation District to continue making Lake McConaughy the largest destination spot for outdoor, outdoor recreation in Nebraska. I'm very supportive of the efforts that are being made, and I do ask, I ask that all the interested parties, we work together to find funding, workforce, and business development solutions for the state parks of Nebraska which include Lake McConaughy and I should have eluded to Lake Ogallala going forward. I appreciate your time today and would entertain any questions.

BOSTELMAN: Thank you. Any questions from committee members? Question, I have a question, just not being out around the Lake McConaughy, is that-- is the land that surrounds the lake, is that all state owned? Is it private owned? Is it a mix?

DEB SCHILZ: Central Nebraska Public Power Irrigation District owns the ground. There is management agreement with the Nebraska Game and Parks. North side of Lake McConaughy, most of that ground that is by the beach area is leased ground from Central. The south side of Lake McConaughy, there's some of the leased ground, but there is also private ground. There's a-- Central owns to a point and then there's private ground behind that.

BOSTELMAN: So the leased ground is leased by Game and Parks?

DEB SCHILZ: It is management and Assistant Director McCoy can clarify that for you. But I believe it's a management agreement between Central and Game and Parks.

BOSTELMAN: Is there any private leased ground-- I'll call it contractor type, you know, ground out there that someone has developed on their own lease or is that available for them to lease to create a campground controlled area?

DEB SCHILZ: Depending on the side of the lake, there is opportunity for that. Yes.

BOSTELMAN: OK, thank you.

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DEB SCHILZ: Um-hum.

BOSTELMAN: Seeing no other questions, thank you, Mrs. Schilz, for your
testimony.

DEB SCHILZ: Thank you.

BOSTELMAN: Next proponent, please. Good morning.

KEN SCHILZ: Love the mask, yeah. Good morning, Mr. Chairman and
members of the Natural Resources Committee. For the record, my name is
Ken Schilz, and I'm a registered lobbyist for Keith County Area
Development. And I'm here today to discuss with you part of the
things-- give you an update on what's been going on in Keith County.
But first, I need to say that you've already seen the much better side
of me. And she just came up here. So you get, you get the seconds
right here, so. But just so you guys know, after last year and
everything that happened, Game and Parks, Keith County Area
Development, Ogallala/Keith County Chamber, and many other
stakeholders got together to discuss the points that we're talking
about here today and how to get extra funding and how to get a little
different management scenario going at Lake McConaughy to improve the
situation out there for both the visitors and the folks that are
having to take care of things. Spell my name. My name is Ken Schilz,
K-e-n S-c-h-i-l-z, and it says it right here, too. I should know this
by now, right? Yeah. So but anyway, we-- so we've been working with,
with Game and Parks and those guys for a year and we're developing a
partnership that is starting to, starting to bring to fruition some of
these things that we've been talking about. One of the things that
we're working on is some work-- is some workforce housing that we need
out there. Lake McConaughy has all sorts of area, but there's not very
many places where, where you can actually develop like you were asking
before, just because of how the land is owned. And so we have Central
that owns it, Game and Parks that manage it, and then it sits in Keith
County. So it makes for an interesting dynamic when you have to get
everybody together to, to talk about things. But we have the Advisory
Committee like, like Deb Schilz said, and that is working right now.
And the relationship that we're building with Game and Parks and
Central and everyone else is starting to pay dividends. So I just
wanted to come up and, and let you guys know that, you know, not only
is the, the issues just with the lake itself, but like others have
said, the county has issues as well. The communication system, if

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you're on the beach, you can't speak to all of the law enforcement agencies that are out there. They're having to put people on hills to listen to one radio, then get on the other radio to tell people what to do. When you have hundreds of thousands of people that visit that lake, that's not a very safe situation and we would like to alleviate that. Unfortunately, it looks like the cost to, to bring that communication, to bring it up to the digital side that they need could be well over a million dollars to put that in place. And so as we look at it, you know, we are-- we're a county of 8,500 people and we are trying to manage a lake that sometimes turns into the size of a 50,000- person community throughout the summer. So half the year we have the people there, half the year we need all the resources to get this done, and then half the year we don't. So it makes it really hard to figure out how to pay for all that, have it in place when you need it, and then not have to worry about it when you're don't. So these are all things that we are trying to sift through and, and, and figure out. The one thing that we do want to make sure that, that everybody knows is that obviously we're very, very supportive of Senator Hughes and his, and his work on this bill. Like he said, there's some things that need to be fixed in it. We are more than happy to sit down with Game and Parks and Senator Hughes and whoever else is interested to, to find additional funding for Lake McConaughy in whatever manner that might be. And we know, we know that sometimes trial and error is the best way to, to find that. So with that, I would be happy to take any questions.

BOSTELMAN: Thank you. Are there questions from the committee members?
Senator Gragert.

GRAGERT: Thank you, Chairman Bostelman. You know, after spending 30 years on the volunteer fire department in Creighton, the communications, and in the military, communications is always your number one issue. And aren't there federal monies? Have you explored federal monies for that communication part of this? I just don't--

KEN SCHILZ: You know, there, there, there should could be and, and we'll-- I'm sure that the, the county and stuff will be looking into that. But we, we understand that that has to be, that that has to be fixed. And so we're, we're-- if, if you've got any line on any of that, I'll get that with you and see, because I, I-- I'm sure there probably is somewhere. I'm not very aware of it myself. So we'll look for that information. Thank you.

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GRAGERT: Thank you.

BOSTELMAN: Senator Moser.

MOSER: What's the cell service like around the lake?

KEN SCHILZ: You know, the cell service isn't too bad most places. So there is, there is decent cell service.

MOSER: So if they dial 911, somebody's going to pick up?

KEN SCHILZ: Yes. One of the problem-- yes, they do pick up. One of the problems that they have is there's so many places that you can pull in to Lake McConaughy. So you pull in to one entrance, right, and you may drive three or four miles to find your camping spot. Well, there's no real indication of where you're at. And so they say, oh, we entered here. And so everybody's trying to find the way. It's, it's an interesting, it's an interesting dilemma that we have there, so.

MOSER: Maybe you need some signage.

KEN SCHILZ: Yeah, they just changed all the signage so everybody's confused because they used to know what it was before and now it's a different name.

MOSER: Make a grid work.

KEN SCHILZ: Right, yeah. And, and I-- and, and I know that law enforcement and, and Game and Parks is working on that. And I'm sure Assistant Director McCoy could update you on how that all works.

MOSER: Thank you.

BOSTELMAN: Other questions? Seeing none, thank you, Senator Schilz, for being here today.

KEN SCHILZ: Thank you, Mr. Chairman, and committee.

BOSTELMAN: Next proponent is welcome to come up. Is there anyone else who would like to testify as a proponent for LB336? Seeing none, is there anyone that would like to testify in opposition to LB336? Morning, Director McCoy.

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TIMOTHY McCOY: Good morning, Chairman Bostelman, members of the committee. For the record, my name is Timothy McCoy, T-i-m-o-t-h-y M-c-C-o-y. I'm the deputy director of the Game and Parks Commission, and I'm here representing the Commission, our office is at 2200 North 33rd Street, Lincoln, Nebraska, 68503. I'm going to avoid reiterating much of what was discussed. As Senator Hughes mentioned, Lake, Lake McConaughy and Lake Ogallala is a huge tourism draw. And it's-- and I would say it's unique. It's unique for us in terms of the percentage in the amount of the visitors we have that are nonresidents. And that is, you know, we, we look at it throughout, you know, on an, on an annual basis, about 80 percent of our visitors are nonresidents and most of them are from neighboring states and from Colorado. And we, we recognize that. And, and when we look at our big weekends, it's upwards over 90 percent will be from nonresidents that come in when we look at holiday weekends. That brings some challenges. And many times we in, you know, in the past, I'd say ten years, we, we ran into issues with large crowds that exceed capabilities at the park and they stress our law enforcement resources and the resource, other local resources, and the State Patrol assist us primarily with, with issues that occur with, with traffic and highways. So the work with the, the Lake McConaughy Advisory Committee that's been going on is truly important to us. It's important to that area. And it's how, it's how we're going to move a path forward together. I appreciate Senator Hughes bringing this bill. I really do. And as we looked further into this, we, we, we did, we did run into an, an issue. And, and that is because federal funding from the Land and Water Conservation Fund, federal funds that come to the state of Nebraska through the Park Service, were used to develop several, several parts, pieces, and areas of the recreation area, both on Lake McConaughy and Lake Ogallala. That, that, that funding actually has a very strict limitation in the Park Service rules that if you use those funds, you cannot have a nonresident entry fee that is more than two times the resident entry fee. And as you-- I presume you have the fiscal note, I will reference some numbers in there. We put that information as soon as we found out. We also let-- we made sure the Senator knew. So in terms of what the caps could be, obviously they would be lower. If we are in noncompliance with those fee, fee requirements, there's no solution with Land and Water to just pay the money back. Land and Water has some pretty strong strings attached in that lands that are developed with an area are required to be perpetually obligated to be maintained for outdoor recreation. The type of recreation may change,

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but-- and, and so the only way to remove that obligation is actually to purchase recreational lands of a similar value based on an appraisal method and to convert or essentially move that obligation to another area. So it's, it's probably not very feasible, especially for Lake McConaughy. So we, so we have, you know, we, we have discussed, you know, that, that you could, you could make the fee \$60 for the nonresidents and \$12 for a daily. We have some other concerns that have come up in terms of one of the focuses we try to have is to streamline park entry, especially on busy weekends. There's a tendency at parts of the lake that at times we have a lot of especially nonresidents coming in on, on evenings or the day before, and we will have traffic lines that back up onto the, the highways. That's a huge issue from a law enforcement safety standpoint, for us, and for the State Patrol. So we are, you know, the other, the other concern we have is potential confusion with two different types of nonresident permits for visitors that don't understand it and also for our vendors. We have a lot of vendors around Lake McConaughy and throughout the state, the gas stations, sporting goods stores, other suppliers that, that sell park permits. And so we are concerned about that. And but what we want to do is sit down with the advisory group, Senator Hughes, see what we can figure out to, to move the path forward. Because here's what we know, we're going to continue to need more resources to meet the goals that are laid out for us in our, in our management plan, the long-term management plan for Lake McConaughy and Lake Ogallala. I will, I will stop there because I'm about--

BOSTELMAN: The light went out. Are there any questions from committee members? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Mr. Chairman. And thank you, Director McCoy. So obviously, you're, you are opposed for the clear reason here today but you're willing to work on it. Is there other potentials-- I mean, is it possible to do in compliance with federal statute or federal regulation a specific pass for those weekends? Could we do a, a peak weekend pass that would just cover everyone?

TIMOTHY McCOY: It's possible, but in doing so, we would have to raise the same fee on the residents.

J. CAVANAUGH: Right.

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TIMOTHY McCOY: And, and, and that, you know, we, we have, we, we have considered and continue to look at potentially doing that with things like camping fees. For a, for a park entry fee, that's really challenging when in many cases they're buying an annual permit. So, so it does really create some challenges there.

J. CAVANAUGH: They buy the annual permit that gets you in every park in the state. Correct?

TIMOTHY McCOY: Correct.

J. CAVANAUGH: Or is there a specific annual permit just for McConaughy and Ogallala?

TIMOTHY McCOY: The way that-- without looking at the bill and, and, and the hazard of getting it wrong, the way I read the bill was that the permit that includes Lake Mac would, would, would be available for all parks. It would allow them to also go to all parks. So it would be hard to, to do that as an annual permit. And it's an annual vehicle permit just so that everybody knows park permits are for vehicle entry, not by individual people.

J. CAVANAUGH: Well, my-- I guess my question is, what's the current state of affairs?

TIMOTHY McCOY: Our current, current fee right now for residents is at \$30 for an-- or non-- for residents it's \$30 for an annual. Nonresidents, the fee is \$45 for an annual. The, the fee for a resident for a daily permit is \$6. The fee for a nonresident, I believe, is, is \$8 right now.

J. CAVANAUGH: And so my question is, on top of that annual fee, could we create allowance for Lake McConaughy or Lake Ogallala to charge an additional fee to everyone who comes those three big weekends?

TIMOTHY McCOY: I, I think doing so would be, would be a challenge with those annual permits. If you're doing it on top of, the Park Service would look at it. They look at it from the standpoint of the total cost of entry if you were trying to just do it to the non-- to the nonresidents.

J. CAVANAUGH: I'm not, I'm not talking about doing-- I'm trying to be in compliance with the federal regulation here.

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TIMOTHY McCOY: Yes.

J. CAVANAUGH: So I'm saying you can't charge it to just the
nonresidents. Correct?

TIMOTHY McCOY: Can't charge more than two times the nonresident fee.

J. CAVANAUGH: And so would--

TIMOTHY McCOY: Or the resident fee to the nonresident.

J. CAVANAUGH: I guess, I don't know, maybe I'm just spitballing a
solution that's too complicated then.

TIMOTHY McCOY: Well, you know, we've, we've struggled with this
internally trying to come up with alternatives. You know, probably
the, the simplest alternative, whether this is acceptable, I don't
know, would be to, you know, do we consider making a across, across
the, across the board increase to the, to the nonresident daily and
the nonresident annual fee that would be two times the-- we-- you
could actually do that in statute. So it's automatically two times
what a resident fee is so that if resident fees were ever increased,
we would move that up. That, that would, you know, that would probably
bring for Lake McConaughy the way that we-- our budget folks estimated
a little over \$300,000 of additional dollars coming in. But that would
allow us to, to also, you know, lift, lift that boat in the larger
park system. When we budget and maintain our park system, income is
spread across the whole entire system. We have, we have a lot of
smaller park areas that, that, that maybe really serve local entities
or a local area. But, but we try-- we, we don't try to isolate in
typically the income funds. We use those to, to operate, manage, and
maintain the entire park system.

J. CAVANAUGH: Thank you.

BOSTELMAN: OK. Senator Moser.

MOSER: So you looked at the fiscal note, I assume?

TIMOTHY McCOY: Yes.

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MOSER: OK, and the \$12 million-- or the \$1.2 million, I'm sorry,
federal fund loss is because this was more than twice the resident
fee. And so if you fix that, that goes away?

TIMOTHY McCOY: Yes.

MOSER: OK.

TIMOTHY McCOY: And, and I will mention the Land and Water Conservation
Fund, the other issue that we, we really don't want to be in
noncompliance with that fund. We are responsible for actually for the
state of Nebraska for managing the, the state side grant funds for
that for the entire state, which also includes a significant portion
of what Nebraska's obligation gets, goes into grants to local
communities.

MOSER: OK, thank you.

BOSTELMAN: Other questions? Senator Wayne.

WAYNE: What do you guys spend on Lake McConaughy? What's your budget?

TIMOTHY McCOY: I actually-- our parks staff would know that. I don't
have it off the top of my head. I will get it back to you. I, I can
tell you from a capital standpoint of the improvements we've made in
the last six years, we have, I believe, we've, we've spent over \$6
million there invested on that-- on the, on the long-term management
plan. That includes, you know, everything from working with the
Department of Transportation, recreational roads program, utilizing
our, our capital maintenance funds, our cash-- and parks cash funds. I
will tell you in the current, you know, the, the upcoming biennium and
I believe in this biennium, we have \$500,000 a year specifically
identified for the Lake McConaughy, Lake Ogallala area as part of our
capital budget.

WAYNE: So then compare that to Lake McConaughy-- I mean, Mahoney State
Park. How, how, how do you compare the spending and the per, per
capita to Mahoney?

TIMOTHY McCOY: I'd have to pull those numbers for you. You know, if
you're looking at the capital improvements at, at Mahoney State Park,
significant amount, nearly all of that has been currently paid for by
donations that came in for additional development that have been in

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the venture parks. But I would have to pull those, those budgets. I can tell you historically, Mahoney State Park has, has brought income to the agency that we utilize to help operate and manage parks throughout the system.

WAYNE: But how is it that they bring in more money than from what I'm hearing 50-- 50,000 to 100,000 people going to the park? What's, what's the difference in setup or structure that allows Mahoney to make money?

TIMOTHY McCOY: Well, part, part of, part of the, part of the structure is, is Mahoney given the location has, has been developed and is a year-round park and there are a lot of cabins and cabins and lodging that are year-round lodging at, at, at that area. That brings in a significant amount of, of income that continues throughout the year. In seasonal parks, what we see is primarily our income stream is camping and park entry permits.

WAYNE: So what hinders the ability to do cabins out there?

TIMOTHY McCOY: What's that?

WAYNE: What's hindering the ability to do cabins out there at Lake, Lake McConaughy?

TIMOTHY McCOY: We have, we-- well, there's a couple of reasons. One is the challenge of building, of building cabins in an area that's, that's largely seasonally visited with a shorter-term, shorter-term window when you look at returns. Camping, camping pads bring a, a much better return for that, that time. There are also cabin areas around McConaughy, but I believe those are privately owned cabins that, that they have, they have cabin areas of privately-owned cabins on-- Central has agreements with them on parts of the area. I know we do have a couple-- there are a couple of concessions out there that, that do have small-- that have cabins that they, they lease through the summer. And I, and, you know, that came up a little bit. I would, I would say at Lake McConaughy, I think some of our biggest opportunities, and we've been talking to the Advisory Committee about this, is creating some more opportunity zones in there. Obviously, we have to work with Central as the landowner for, for more concession areas to be able to, to develop things that will, that will bring

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income to that area, that they can manage in a way, whether they want
them to be seasonal or year-round.

WAYNE: Thank you.

BOSTELMAN: Other questions? Kind of follow up on question I asked
earlier is how the land is owned around and then access, who, who has,
like you said, there may be some private cabins or that along those
areas, are there are opportunities there for other type of, I'd say,
similar type of arrangement contracts, leases, or whatever with places
that's out-- that could come in there that could potentially, you
know, help growth in the-- in that area and help, help manage some of
the, some of the issues I think I'm hearing is that you can, you can
pull in and then we really don't control entry the way it sounds, but
once you get on the-- into the park, you can go three or four miles
one way. Is there some things that could be put in or should be put in
by private companies whoever it might be to come in to help develop
those areas that would drive potentially more, you know, take some of
that pressure off of, of entry that we have and, you know, provide
other opportunities, I guess, in the area that we don't have now?

TIMOTHY McCOY: I, I believe there are other opportunities. We've been
taking actions, there's 17 entries into Lake McConaughy. We've been
trying to consolidate as much as we can where, where people enter or
get more-- get actual physical gate houses at more of those locations.
Obviously, that requires more staffing and seasonal, seasonal
staffing, which is a, is a big part of how we staff Lake McConaughy,
because it's, it's really a highly seasonal, highly seasonal location.
We do think there are more opportunities for either, either some sort
of lease-- if it's going to be a lease agreement, that would have to--
we would have-- that would have to go through Central to have a
long-term lease for those properties. We do concession agreements with
a lot of folks to be able to provide various types of, of services or
activities in the parks where, you know, they make the investment,
they operate it, they manage it, they, they identify what they're
going to charge. And, and we get a small percentage of what their, of,
of what their profit is.

BOSTELMAN: Seems-- it seems to me part of the issue is, is volume of,
of people coming to the park, coming to the lake and reducing that
number and raising a fee for special times of the year because there
seems to be four times a year, potentially, you have a large influx.

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Is there an opportunity to reduce, restrict entry and then raise, have an additional fee for those special times because of special events or what it might be, say, Fourth of July, Memorial Day, Labor Day, those type of?

TIMOTHY McCOY: Potentially. There are, there are, there are some big operational challenges for that, because people don't just buy their entry permits at the lake. Many of them are buying the park entry permit somewhere else. That's why we have-- we are looking at figuring out ways to potentially do that with things like the camping fees. Which camping is the biggest draw at Lake McConaughy.

BOSTELMAN: OK. Are there any other questions from committee? Seeing none, thank you, Deputy Director McCoy, for your testimony. Invite anyone else who would like to testify in opposition to LB336 to step forward. Seeing none, would anyone like to testify in the neutral capacity on LB336? Seeing none, Senator Hughes, you're welcome to close.

HUGHES: Thank you, Mr. Chairman, members of the committee. I want to thank Director McCoy for coming. Even though he was opposing this bill, I'm sure that we will be able to have some meetings to bring him and his commissioners around to looking at the true benefits of this for the state of Nebraska. But more specifically for Lake McConaughy. We've, we've had a challenge over the last 30 years. There has been significant money spent at Lake-- or at the Mahoney State Park, you know, so it is, it is built up, you know, but just within the last six years, there has been decent amount of money spent at Lake McConaughy, but it is still 30 years behind the curve of being developed for a recreation area that is quite number one or number two attraction in the state of Nebraska. You know, we need to focus or understand the challenge that that makes for the local community. But I, I, I guess I specifically don't want to see the nonresident fee doubled for everybody. And then those funds don't go to Lake McConaughy because we have critical infrastructure issues that need to be developed there. You know, not only for economic development in that area, but for the safety of our visitors. You know, there, there have been some real challenges in the past on the big three weekends, and it really stretches the local infrastructure. You know, I think there's 8,500 people in Keith County and, and there's no question they benefit greatly from Lake McConaughy. But the cost to the community, especially in fire, rescue, law enforcement, needs to be supplemented

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because on those big three weekends, when you're talking 10 to 15 times the county population in that area and you get that many people packed in that close, there are problems at times. So that's, that's why I brought this bill. You know, I, I-- there's a desperate need to improve a incredible natural resource that we have to alleviate some of the burden on the local community to have someone else pay for it, not Nebraska residents. So I, I appreciate the community's time-- or the committee's time. I appreciate the, the Schilz's coming in and testifying today. But it is, it is an opportunity, I think, that does not cost us state dollars to truly improve a tourist attraction and also to help drive economic development, you know, in, in western Nebraska. So thank you for your time.

BOSTELMAN: Thank you, Senator Hughes. Are there any questions from committee? Seeing none, that will close the hearing on LB336. And we will stand aside until 1:30 this afternoon. Thank you.

BOSTELMAN: We'll do a little bit of COVID information for us all--

GRAGERT: Here we go.

BOSTELMAN: --and then we'll get started on our hearing on our bill this afternoon. So I do need to read COVID-19 hearing procedures.

GRAGERT: Bring it on.

BOSTELMAN: For the safety of our committee members, staff, pages and the public, we ask those attending our hearings to abide by the following procedures. Due to social distancing requirements, seating in the hearing room is limited. We ask that you only enter the hearing room when it is necessary for you to attend the bill hearing in progress. The bills will be taken up in the order posted outside of the hearing room. The list will be updated after each hearing to identify which bill is currently being heard. The committee will pause between each bill to allow time for the public to move in and out of the hearing room. We request that everyone utilize the identified entrance and exit doors to the hearing room. We request that you wear a face covering while in the hearing room. Testifiers may remove their face covering during testimony to assist committee members and transcribers in clear-- clearly hearing and understanding the testimony. Pages will sanitize the front table and chair between testifiers. Public hearings for which attendance reach a seating

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capacity or near capacity, the entrance door will be monitored by a Sergeant at Arms who will allow people to enter the hearing room based upon seating availability. Persons waiting to enter a hearing room are asked to observe social distancing and wear a face covering while waiting in the hallway or outside the building. The Legislature does not have the availability of an overflow hearing room for hearings, which attract several testifiers and observers. For hearings with a large attendance, we request only testifiers enter the hearing room and we ask that you please limit or eliminate your handouts. So, good afternoon. I am Senator Bostelman from Legislative District 23, and welcome to the Natural Resources Committee for afternoon hearings. The bill will-- the committee will take up bills in order, as we said, they're posted outside of the hearing room. Please silence or turn off your cell phones. Introducers will make an initial statements followed by proponents, opponents, and then neutral testimony. Closing remarks are reserved for the introducer-- introducing senator only. We do ask when you come up to testify to please speak clearly into the microphone. Remember to state and spell your full name. You may remove your mask. We'll have five minutes for each testifier this afternoon. And there's no displays of support or opposition to a bill, vocal or otherwise, is allowed during the public hearing. And those committee members that are here, we will have them announce themselves for the record, starting with Senator Gragert.

GRAGERT: Oh, I'm Senator Tim Gragert, northeast Nebraska, District 40.

HUGHES: Dan Hughes, District 44, ten counties in southwest Nebraska.

BOSTELMAN: Senator Groene.

GROENE: Mike Groene, Lincoln County.

J. CAVANAUGH: John Cavanaugh, District 9, midtown Omaha.

MOSER: Mike Moser, District 22, Platte County and parts of Colfax and Stanton County.

BOSTELMAN: And Senator Moser serves as Vice Chair for the committee. To my left is committee legal counsel, Cyndi Lamm, and to my far right is the committee clerk, Katie Bohlmeier. We'd like to thank both Noah and Savana, our pages for this afternoon for being here and helping us

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with this hearing process. With that, we will open-- for our first
bill this afternoon, LB395, Senator Gragert.

GRAGERT: Good afternoon, Chairman Bostelman, and members of the
Natural Resources Committee. My name is Senator Tim Gragert, T-i-m
G-r-a-g-e-r-t, representing District 40 in northeast Nebraska, and
here today to introduce LB395. LB395 expand the authority to designate
a special deer depredation season or extend an existing deer hunting
season to also include antelope and elk. Such seasons are designated
when there is excessive property damage. The director of the Game and
Parks Commission is authorized to specify the sex and number or quota
of animals allowed to be taken in addition to other criteria already
allowed in statute. For example, if there is an area where they need
to kill 150 deer or elk, once the quota is reached, the season would
be closed. The depredation permit would state that the season may be
over at any time and would list a number and/or on site-- online site
for hunters to check before going out for the day. Under LB395 the
depredations season is open to nonresidents as well as residents. The
fee for the nonresident special depredation season permit shall not
exceed more than \$75. A fee for a resident permit remains at not more
than \$25 currently. Landowners special depredation season permits are
free. Under LB395 landowners and\or lessees will be charged no more
than \$10 for such permits. By charging a minimal amount, it allows the
commission to maximize the federal funding available per permit. The
permit holder must own or operate 20 acres for deer and antelope
permits and any-- and 80 acres for elk permits. The antlerless
requirement for landowner permits is stricken. Participating
landowners or leaseholders in the geographic area would have to agree
to provide reasonable hunting access during the special season. LB395
increases the number of landowner antelope and elk permits in each
management unit from 50 percent to 75 percent of the regular permits
authorized. Under this proposal, the landowner would now get 43
percent of the total permits in the management unit, where they
currently get 33 percent. Finally, LB395 establishes an Earn a Bull
program for the private landowner to increase antlerless elk harvest.
Landowners and lessees will report annually the number of antlerless
elk harvested on their property in order to qualify for a free
landowner elk permit. The intent of this program is to provide an
incentive for landowners to give access to antlerless elk hunting on
their property. The number of elk harvested to qualify for a free
permit would be established through regulations. The commission will

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remind hunters that they need permission to hunt. I want to point out that the provisions in LB395 do not affect a hunter's eligibility for regular permits. The Game and Parks Commission is the expert on hunting issues. LB395 gives them the flexibility to do their job, allowing them to work more quickly with the landowner and the hunters to control crop damage. It reiterates one of the commission's guiding principles that public hunting and harvesting of wildlife is the preferred method of managing and controlling wildlife. I have always been opposed to compensating landowners for crop damage if they-- if they won't open up their land to hunters. LB395 encourages but does not mandate landowners to allow hunting on their property. I think this is the right approach to take. I ask your favorable vote on the advancement of 395-- LB395. If you have any questions, I can try to answer them. However, Tim McCoy from the Nebraska Game and Parks is here today and he will be a better source for answering questions. Thank you.

BOSTELMAN: Thank you, Senator Gragert. Are there any questions from committee members? Senator Hughes.

HUGHES: Yes, thank you, Chairman Bostelman. Thank you, Senator Gragert for bringing this bill. So when you say that the landowner has to grant reasonable access to their property-- access to their property if they choose to partake of these special depredation permits, what-- what does that mean to you?

GRAGERT: Well, reasonable would be they have the say who gets to hunt, you know, and when they hunt, you know, of course, during the season. But reasonable would be, you know, depending on the amount of acres you have, reasonable, safe. You don't want-- you don't want 20 guys out there on 20 acres, you know what I mean, so. Reasonable would be one or two on the 40 acres, or if you got 20,000 acres, it may be 80 guys. You know, something reasonable.

HUGHES: OK, so--

GRAGERT: Safety in mind.

BOSTELMAN: Reasonable access doesn't mean you have to grant them access.

GRAGERT: No, not at all. This is--

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HUGHES: If you grant them access.

GRAGERT: Right. That's exactly right. This, like I said, this-- this is not going-- it's going to be on a volunteer basis. It's not going to be mandated. But to be el-- to be eligible for any kind of compensation, you know, you've got to-- you got to let people on the land. It-- as-- as far as to give that tool a chance to-- you know, hunting is a tool to-- to manage the herd.

HUGHES: I agree. So if-- if the landowner-- if there's some funds available to mitigate damage, then who determines whether the landowner gave reasonable access to his property to qualify for reimbursement for the damage?

GRAGERT: Oh, well, in my mind, I-- I'd have an opinion on that. But it's not going to be law, you know, that are reasonable. And they're-- they're also, if you got extensive damage, I mean, I guess you'd throw in a little bit of common sense. If you got excessive damage, you only let one people and you own 10,000 acres, you're probably not going to control-- even have a chance at controlling the herd, you know. So, I mean, I don't even know if you would-- if you put 80 people out there, this-- this is not a silver bullet. There's not one silver bullet, it's just a step in the direction of many other things that might have to happen you know that control that-- that herd.

HUGHES: Very good. Thank you.

BOSTELMAN: Other questions from committee members? Senator Groene.

GROENE: Thank you, Chair. Hearsay, I mean what I've heard from Senator Erdman and others when they-- Senator Hughes, when they presented the bill that passed. Presently depredation like we had an elk situation and they say you can go out there and kill-- they tell the farmer go out and kill 50 of them. Would that stop that, that this will be the new method of-- so that that hunters are involved and also that it will be used for food or not just shot and pushed into a hole.

GRAGERT: That's exactly right, Senator Groene. I see this as a better way of completing that what you just-- depredation is. You know prior you could go out there and shoot 50. Now, I got-- I got to say that they tried to, you know, match hunters with-- with how many they're going to take, but actually the way it stands now and maybe Mr. McCoy

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can correct me if I'm wrong, but with depredation the way it is now,
yeah, you could go out there, shoot 50 and dig a hole and bury them.
But they try not to do that, of course, but this would alleviate that
exactly.

GROENE: One more question. The geographic area, I heard-- hearsay
again, through-- which I believe everything Senator Erdman tells me--

GRAGERT: Who doesn't?

GROENE: --you shoot one, they've wiped out 80 acres and-- they shoot
one and they move over to the neighbor so that the geographic area
would-- I guess Mr. McCoy can answer this, how big an area is that
because if those animals aren't down, you shoot a couple, then move
over.

GRAGERT: Right.

GROENE: And if that farm is not involved in the damage, would this
follow it?

GRAGERT: Well, hopefully, you know, the geographical area, of course,
will be left up to the subject matter experts out of the Game and
Parks, you know, Commission. But, yeah, I don't think you can have
just one guy that has crop damage that we're only going to get, you
know, they're only going to go out because you're exactly right. You
shoot a couple and they're off to the other place, so.

GROENE: Thank you for being ploy because I wanted him to be thinking
about that. Thank you.

BOSTELMAN: Other questions? Seeing none, Senator Gragert, will you
remain for the-- stay for closing?

GRAGERT: Yes.

BOSTELMAN: Thank you.

GRAGERT: Thank you.

BOSTELMAN: I will ask-- invite anyone as a proponent for LB395, please
step forward. Afternoon, Mr. McCoy.

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TIMOTHY McCOY: Good afternoon, members of the Natural Resources Committee, Chairman Bostelman. My name is Timothy McCoy, T-i-m-o-t-h-y M-c-C-o-y. I'm the Game and Parks Commission Deputy Director here representing the agency. My office is at 2200 North 33rd Street, Lincoln, Nebraska. We fully support this bill as it's going to provide some additional tools that we need to-- to continue to be more effective in management of big game populations. Our approach to big game management includes the following guiding principles. The first is included in the constitutional amendment for the right to hunt, fish and harvest wildlife. That public hunting, fishing and harvesting wildlife shall be a preferred means of managing and controlling wildlife. The second is our actions should provide a balanced approach that engages landowners and hunters in the solutions. And the last is that Nebraska's wildlife belongs to the people of the state. We manage it in trust for those-- those people as stewards of those resources in the best long interest of the people and the resource. Following those principles, we've continued to increase the number of permits for deer, antelope and elk in response to increasing populations over the last five years. Specific to elk, which has been where we've had, I would say, more issues brought up than anywhere else, but also with antelope and deer, we-- you know, we've increased our antlerless tag 79 percent. We increased them 40 percent last year and we-- we expect to increase our antlerless permits again this year. Our goal is to-- the other thing we did this last year was extended the antlerless elk season from August 1 to January 31 of this year in order to provide a longer season and try to get higher success on the antlerless permits that we offer. And to also try to provide those opportunities for land-- hunters to be part of the solution if landowners want antlerless elk harvested. The game animals are not uniformly distributed across the landscape. They move around and at times of year they gather in herds. We can't control those facts of nature. And when they gather in herds and they're-- they're in areas where there are crops, especially growing and unharvested crops, which we've saw crops continue to increase across the landscape in corn-- corn and soybeans continue to increase in Nebraska. And I'm not saying that's a bad thing, but it creates these challenges, especially where elk are moving into cornfields is particularly problematic when they move in late summer and-- and they want to stay in those fields. The increases in permits that we do are one part of-- are one part of working at that on a larger unit level. We continue to have these-- these areas in locations where we're having these elk come and spend time and we

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need a better tool to be able to address where that-- where those issues are happening at the time they're happening. And-- and this is designed to try and do that in a targeted quick response fashion that-- that doesn't create special drawings, a lot of time delay of trying to have people apply, but to have unlimited permits, establish a quota for the number of animals to be killed in the area. The geographic area, we would-- we would work with the landowners in that area to try and identify everyone who wants to participate regarding reasonable hunting. We'd be reasonable hunting primarily as they allow some hunting on their property. We run into issues with landowners that love having big game animals and-- and don't really want to-- to hunt them. And so we probably would not-- it would be a challenge to include them in a program like this. So the goal is to get plenty of permits available, the landowners would still control access. They will always control access, but having those permits readily available and essentially not limited allows it so that the landowners can identify the people that can get-- they will get access so they can have permits. The other changes that I believe Senator Gragert mentioned are increasing the percentage of the general permits go to the public that go to-- go to landowners. What we've been seeing for elk and antelope, elk especially, is the draw, the draw. It takes longer for a landowner to get to get an elk permit now than it did before, especially for bull elk. And they've-- they've requested, they-- they're a little frustrated. They'd like to be able to get permits more frequently. We want to increase that percentage, give them that opportunity, which applies to not only bull elk, but cattle. They have more opportunities on their land, also with antelope. And the last is the free landowner earned-- landowner permit that's really targeted to-- to find a way to provide an incentive to landowners to provide access for antlerless elk harvest. We-- we think that's got some-- some capabilities. Kentucky has had a similar program that appears to have worked fairly well and provide some-- something-- some other incentive for those landowners to provide access. With that, I will close because my light is on.

BOSTELMAN: Thank you, Director McCoy. Are there any questions from committee members? Senator Hughes.

HUGHES: Thank you, Director McCoy, for coming again today. I guess that, you know, you make it sound really good. We're going to increase these permits. And I think because we've had the explosion in the elk and antelope populations of late, now we're going to take care of it.

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I'm in my seventh year. I met with you guys year one about deer and nothing ever happened. Yeah, we're going to take care of it. We're going to do this, we're going to do that. So I guess it rings a little hollow to me, and don't-- you know, don't take it personally, but Game and Parks say, yeah, we're going to do this, we're going to do that, we're going to fix the problem, but nothing ever changes. You're always so far behind the curve that you're always trying to play catch up. And I guess, it-- it brings it into focus, the elk problem. And until you have a good grasp of what your numbers are, I don't think you can have-- you can increase permits because you don't know what the target is. You're just-- you're using a shotgun approach rather than a targeted approach. So I guess my question is, how do you determine numbers? And I know we've had this conversation before and is there a better way so you have a better handle on how many elk and antelope, especially, you know, deer, we know is completely out of control.

TIMOTHY McCOY: We-- we've add-- we've been working on that for the last year in terms of-- of doing ground counts, working with landowners that have elk. And we-- we have refined our estimate-- our-- our estimates of what we think the population is. As you know, the antlerless season is still ongoing until the end of the month. I know we've had some increases in harvest. Our current estimate is between 2,200 and 2,850 elk in the state. We've got breakdowns by unit. We're also flying more-- we're trying to you use some aerial flights right now because we have snow cover, as we get snow cover to get better counts and to get better counts on those areas. That's something we're-- we're continuing to work on. We're also-- we're also have tasked our-- our wildlife division to look at a population model of the number of elk we have, which has to also include the cow-calf ratio because elk typically do not start breeding until they reach a weight threshold. Normally that's at about two and a half years. So, you know, there-- but we do know that that there-- that some yearlings, you know, estimates of up to half of them may breed, you know, in that second fall. And so it creates some-- they're working on those population models where we're going to be increased. We're going to continue to be increasing elk permits. We're continuing to increase antelope permits, especially doe, fawn, antelope permits, which we've increased over 300 percent in the last probably seven years. We're-- we're serious about this. Please know that.

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HUGHES: So have you ever considered maybe establishing a hotline that individuals can call in and say, yeah, I saw-- I saw five elk here yesterday? Or do you just rely on the aerial mapping and your personnel that's driving around the country that would happen to see?

TIMOTHY McCOY: We-- we-- we-- we rely on-- on a variety of tasks. Typically when-- when people see at-- see elk in a-- in a-- in a new area, we get a lot of calls and we're quickly aware of those and the numbers. In our established areas, we do have, you know, we try to make sure that we stay in contact with the landowners on what they're seeing. So, yeah, but we've not considered a hotline, but we do request people to-- to contact our-- our district wildlife staff so that they know. And that-- that sort of ties in with the actions we do with-- with trying to do preventative actions with wildlife damage that we want to know when somebody is having issues. We want to figure out are there ways we can help them. I will-- I would like to-- there was a question regarding the-- the damage control permits that we offer. Those aren't-- those aren't in statute. This would not replace those. Those-- those can still be offered and authorized any time deer, antelope or elk are causing damage to real property. We're not-- we're not going to-- that's not going to go away. That-- that will continue to be in statute and be one of our tools. This will be another tool that we can use in that larger area that can really, really be targeted at getting both landowners and hunters to address those issues and reduce the populations in those areas. The other thing that allows us that I see these as valuable for, is we have variance where we have landowners go we, you know, we have this problem, but now we're not having damage. This would allow us to look at that geographic area where those elk are and-- and hold special depredation seasons that would-- that would really be intended to assist with that population control.

HUGHES: If I may continue. So have you thought about part of this bill was the extra income generated from these additional permits can be used to offset damages to the landowner? Did I-- I've heard, Senator Gragert--

TIMOTHY McCOY: That--

HUGHES: --is that correct?

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TIMOTHY McCOY: It can be used for our actions to try and manage and prevent depredation. We still do not have-- there's still no statutory. We do not have a way to do that.

HUGHES: OK, I misunderstood.

TIMOTHY McCOY: Yeah, I

HUGHES: [INAUDIBLE]

TIMOTHY McCOY: Well, yeah. You have any questions? Any-- yeah.

HUGHES: When are you going to get the populations under control? That's my question. And--

TIMOTHY McCOY: I'd like-- I'd like to have them under control in a year. I really would.

HUGHES: We've been having this conversation for seven years.

TIMOTHY McCOY: It's-- it's-- it's spent a lot of our attention and a lot of our resources.

HUGHES: OK.

TIMOTHY McCOY: We've continued to focus them--

HUGHES: Thank you.

TIMOTHY McCOY: --and in a year, we will.

HUGHES: Thank you for continuing to come back.

BOSTELMAN: Senator Groene.

GROENE: Thank you, Mr. Chairman. I see it where I live in the west with deer. In springtime, summer, you-- you're lucky to see a deer because they spread out all over. In the wintertime there's a 150 in a herd on an alfalfa field. How can you ever get this under control? They-- they are always going to do damage. They always-- turkey, deer, antelope, elk, always herd up in the wintertime. So they're always going to continue to do that. It's either make them extinct or put them in zoos, because if you got 10, they're going to herd up. If you got a 100, they're going to herd up. At what point-- what do you

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consider-- in the spring of the year, they're spread out. We don't have too many elk. A month or so in the winter, we do. So how do you manage that?

TIMOTHY McCOY: Well, a big part of-- the big part of how we manage that as we look at what's going on is, is-- is the-- the-- the-- the complaints we get from landowners about damage. The key factor in many of the parts of the state is landowner tolerant. It's not, you know, we're not-- we're not managing elk or deer or antelope or turkeys for, you know, a maximum amount we can hold on the landscape. We can't do that. It-- we'll-- we'll get shot.

GROENE: So what's the biggest herd you have had your game wardens report? Again, I refer to my friend, Senator Erdman, he had a video of a rancher and it looked like there was 500 of them in a herd. They were going across the grassland.

TIMOTHY McCOY: I know. I know, I've saw-- I've saw-- I've-- I've-- I've heard a number of a rancher up north of Hayes Center that-- that has had a herd that at times is 350 elk.

GROENE: So 10 percent of your population and 15 percent of your population total elk in the state have congregated into one herd.

TIMOTHY McCOY: That particular landowner wants to protect the elk. He likes having them around. His neighbors may not agree with that.

BOSTELMAN: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman, and thank you, Director. I guess I'm coming from a different angle in the sense that I don't know enough about this. But what-- I guess kind of piggybacking on Senator Groene's question, is there a point at which it could be over-- we get over 100 of these and we'd get a population crash. And is that an objective we want to-- do we have an objective of maintaining the herds going forward or a population going forward.

TIMOTHY McCOY: Part of our long-term management is-- is targeted to-- to not create a population crash, typically when population crashes happen with wildlife. It's disease or weather related. But, you know, the other thing is-- is-- is deer, elk and antelope populations. You know, antelope especially have fluctuated greatly in the state, just depending how they're doing with reproduction, hard winters, they--

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their reproductive success can really drop. So it's a-- it's a
constantly-- it's-- it's a constantly moving challenge.

J. CAVANAUGH: Is there a ballpark of what that number would be?

TIMOTHY McCOY: I don't have-- I do not have a number. I know our
wildlife staff are working on identifying some of those, but I do not
have a number for you.

J. CAVANAUGH: To say currently we're not at risk of running out of
future--

TIMOTHY McCOY: No, we're-- no, no. They're-- in recent years, they've
done very well. They've been-- they've had good reproductive success
and-- and that's-- that's leading to some of the challenges we're
facing.

J. CAVANAUGH: I have an unrelated question now, sorry. In terms of--
Senator Gragert said about there's-- these special permits, you'd set
a number, and then you'd basically once you reach that number, then
the season would be over. Is there a mechanism to ensure that some
individuals might buy this permit close to the end of the season,
would they be eligible to get their money back or are they just out
their money if the season ends abruptly after that?

TIMOTHY McCOY: We would-- there's probably not a good way to do that
because it's a lower price permit, because there's-- there's not the--
we wouldn't think from one hundred standpoint, there's an expectation
they should guarantee success. That's why they're priced a lot lower
than the-- the regular permits are.

J. CAVANAUGH: Well, I am not saying guaranteeing success, but at a
point you could buy a permit on a Tuesday and the season could end on
Thursday and you wouldn't ever really get a chance--

TIMOTHY McCOY: Correct

J. CAVANAUGH: --to even attempt, I guess.

TIMOTHY McCOY: Yeah, we-- we could-- we could-- we could consider a
way to deal with that, I believe. But the challenge is once somebody
buys a permit and there's a season ongoing, it's hard to-- to prove

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they-- they did or didn't hunt. And that's-- that's-- that's always a
challenging issue for us.

J. CAVANAUGH: Thank you.

BOSTELMAN: Other questions from committee members? Seeing none, thank
you, Deputy Director, for being here today.

TIMOTHY McCOY: Thank you.

BOSTELMAN: Next proponent, please.

SCOTT SMATHERS: Good afternoon, Chairman Bostelman, and members of the
committee. My name is Scott Smathers, S-c-o-t-t S-m-a-t-h-e-r-s. I'm
executive director of the Nebraska Sportsmen's Foundation, or a 501(c)
(3) nonprofit organization founded in 2002, is a statewide educational
delivery system. And currently-- we currently have close to 13,000
members throughout the state. Excuse me. I want to thank Senator
Gragert and the Game and Parks for taking an effort and an honest
opportunity to put together a response to an issue that has become to
the forefront the last 15 to 18 months. And we're grateful for that. I
am a hunter and a landowner and most of our members, 62 percent of our
membership base are ag producers and landowners also an active
sportsmen. So this issue has been discussed greatly. I had a prepared
testimony like I always do but in response to Senator Hughes's
question and some others, I want to address a couple of things quickly
is that the intersection of wildlife and ag producers is nothing new
and never will stop. There's always going to be issues. As Senator
Groene stated, there are certain times of the year that the herds grow
in size due to nature and weather and protective nature. There's also
a new issue in the state Nebraska to continue to, I think, show
animals moving from the-- from the hills and the canyons into the flat
production lands and that's the apex predator growth of the mountain
lion in our state in other areas. With that said, the other thing I
want to point out is that these hunts, you go through this bill, these
are not canned hunts, there's no guaranteed harvest. You could tend--
tend 10 guys on 10,000 acres over a week and 10 guys can come home
with zero tags filled. It occurs. It's wildlife. I've been doing this
for 40 years and there's plenty of times I've gone home with what we
call tag soup where I've spent my money and I have a tag and that's
all I have. So one of the issues that we want to approach from the
Sportsmen's Foundation is that this bill provides an opportunity for

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access. And when we talk about access, what we want to talk about is working with those landowners that not traditionally have offered that access to individuals. One of the things that's a benefit for my position is that I work with a large number of nonprofit organizations in the conservation community and sportsmen's clubs throughout the state from five members to 5,000. And we have plenty of youth, young hunters ages 24 to 35 that maybe are venturing into the world of hunting, which this last year, thanks to COVID, our numbers have skyrocketed of participation of typical nonusers. We have an opportunity here to beginning. Is it perfect? No, it's never going to be perfect because we're never going to find that perfect pill. Ag production is up. Numbers are up. But the same token, we could lose wildlife as quickly as we did seven and a half years ago with EHD in this side of the state-- eastern side of the state, where on my personal ground I lost better than 80 percent of my-- my deer. In a matter of three months they were dead. Now, they have a wonderful attribute of being able to come back and they have come back because we manage them. I'm that landowner that doesn't grow crops. I am that landowner that manages for wildlife. But I'm also conscious of the fact that I visit with every single one of my neighbors to find out what's going on. I know the one problem around me is raccoons, not deer, and we don't have elk on my side of the state. No pat-- no magic pill is going to be exist in this building or at the Game and Parks or from sportsmen to solve the issue 100 percent because each region is different. Each geographical footprint holds a different pattern in a different growth area. But this is a start to allow us to have those conversations with landowners that maybe we can put one or two or four or five kids with supervision on a landowner that's reluctant to allow hunters on the ground so they see that there is respect and gained mutual understanding of what it takes to run an ag production and to control wildlife. The one argument that I have a problem with that I've heard for the last five years is from my own community, quite frankly. Landowners have turned to a new resource of cash when crops have failed, or prices have dropped in the bushes. Hunting is it, folks. And elk is a growing number of that for a good number of landowners in our state. We're becoming a top ten, I'd say, in elk in the country for harvest with sheer numbers. There are certain landowners who have abandoned certain areas of their production because they can get \$5,000 for seven days from somebody from the coast to come out and hunt elk. So with that said, we have to be conscientious of both avenues, production, wildlife coexisting, which

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is a difficult balance. I don't envy Mr. McCoy and the Game and Parks staff have their challenge, but I do envy the-- the sportsmen have an opportunity to do a better job. I'm going to bend the rest of my testimony. I know, I see Senator Hughes, I feel like that elk standing in the middle of the cornfield right now has a bull's-eye on his back, so I know there's a question coming. So with that, I'll answer any questions, and thank you again, Senator Gragert, for bringing the bill.

BOSTELMAN: Thank you, Mr. Smathers. Are there questions from the committee? Senator Hughes.

HUGHES: Thank you, Mr. Smathers, for being here.

SCOTT SMATHERS: Yes, sir.

HUGHES: You know, the challenges between the landowner and the sportsmen are huge--

SCOTT SMATHERS: Agreed.

HUGHES: --and I'll just relay an experience. This last year, I invited deer hunters on to my property, they could put their tent up. There was, I think, eight of them. And I told them-- gave them a map of all of my properties. Says you can go hunt anywhere you want. If you find something, call me. I'll call who owns it, you can hunt. And good guys, but when they left, they burnt their trash in the middle of my field and left a pile of cans. I'm not-- it's not the issue, but I just want to reiterate the challenge--

SCOTT SMATHERS: Yes.

HUGHES: --of a landowner who invited people on to his property, and I hope you in your next blog, you tell your 13,000 members that if they want to hunt, they've got to police and 99 percent of them do. But I'm not letting anybody-- no more deer hunters on my land.

SCOTT SMATHERS: You know, I'm sorry to hear that.

HUGHES: That's a bunch of--

SCOTT SMATHERS: Yeah, I agree.

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HUGHES: That's where I'm coming.

SCOTT SMATHERS: Senator, this conversation is repeated a thousand times a year with me in every small town, in every major town in the state, and out of the state when I travel. Unfortunately, it is like always, it's that 1 to 4 percent that ruin it for the mass numbers of folks. We've started years ago with-- in the Conservation Committee of being as simple as teaching kids how to knock on the door, ask for permission. And that's the easy part asking for that permission. I'm a country kid. I grew up in the country, moved to Lincoln, but just the fact afterwards how you maintain. You don't leave gates open, you don't cross fences, you don't burn trash, you don't cut down trees, you don't do this, you don't drive your ATV across their wheat field. Those are the education levels. It works to a degree, but it's just like anything. If you teach physics in school, what percentage are going to get it? What percentage are going to try to get it and what percentage is just going to say, eh. We have that number and unfortunately, we've tried. That conversation makes me angrier than being told no by a landowner just for the simple fact of no. Because that landowner has a right to say no, because he hasn't been treated well by the-- by the sportsmen. It drives me absolutely up a wall. I own land. I've tried to let friends on my ground in the past and the same things occurred to me. I had nine head of cattle get out because a friend left the gate open and said, well, I thought it closed on its own. So I understand and I don't discount it. It makes me angry that now a landowner gave an opportunity, hopefully from all the conversations for the last two years, he said, OK, and then you got burnt. And I don't mean that facetiously from the burning trash, but it's sad-- it's a sad state of affairs. It really is. And it drives me nuts and it drives sportsmen nut, but again, you can't-- you can't legis-- can't legislate morality in right and wrong, unfortunately.

HUGHES: Well, but I, in all of my conversations with Game and Parks personnel, Game and Parks commissioners, sportsmen's, you know, the landowner is the bad guy. The landowner is not the bad guy. There's plenty of blame to go around.

SCOTT SMATHERS: Yeah.

HUGHES: Thank you for allowing me to vent.

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SCOTT SMATHERS: Yeah. No, I-- and I agree. I don't-- I don't-- I've never blamed the landowner, so, and that's not the issue. The issues are a complex issue among many, many parties, and one of them is one that we really have zero control over and that's called wildlife. I know we can't control the numbers. And I've heard all the issues of contraceptives and [INAUDIBLE] force of deer, who his going to put contraceptives in him. OK, good luck. So it's an issue that's going to continue to happen, but we have to find tools and maybe it's a small tool, maybe it's a tool that doesn't fit every single thing we do, but maybe it's a tool that we can utilize in certain key areas. I don't have the same problems you have and you don't have the same problems that I have. I have more problem with two-legged predators and issues than I do with four-legged predators and issues, so.

BOSTELMAN: Any other questions from committee members? Seeing none, thank you, Mr. Smathers.

SCOTT SMATHERS: Thank you. Thank you, Senator Hughes.

BOSTELMAN: Anyone else like to testify in-- as a proponent on LB395? Seeing none, is there someone like to testify in opposition to LB395? Seeing none, anyone like to testify in the neutral capacity on LB395? Seeing none, we do have one-- oh, we do not have a position on this. With that, Senator Gragert, you're welcome to close.

GRAGERT: Thank you, Chairman Bostelman. I'm not going to say anything new that hasn't already been said, but just kind of reiterate, I guess, where I see this is that wildlife and wildlife damage is a very-- can be a very complex issue. It is a very complex issue. I see this LB395 is just once again an additional tool. I was corrected. It's-- it's not going to replace anything, it's going to add to the issue of wildlife damage-- so, that possible wildlife damage. So I think it's a Game and Parks way of trying to bring landowners, hunters and the Game and Parks together to address an issue, a big issue, and especially out west with the elk and antelope and even deer in eastern Nebraska here and throughout the state. So I look at it as a-- as a good bill moving forward. And hopefully, yeah, this is not the silver bullet, but it's just another tool that work needs to continue on this issue. Thank you.

BOSTELMAN: Thank you, Senator Gragert. Any final questions from committee members? Seeing none, that will close our hearing, end our

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hearing on LB395. OK, with that, Senator Erdman, I believe you're up next. We'll open the hearing on LB223. Senator Erdman, you're welcome to open.

ERDMAN: Thank you, Chairman Bostelman. My name is Steve Erdman, S-t-e-v-e E-r-d-m-a-n. I represent 10 counties in the Panhandle of Nebraska. Today, I bring to you the bill by number 223, and how fitting is that for a bill that deals with firearms? [LAUGHTER] When I seen that, I thought, hey, it's pretty good. I think it's karma is what it is. I think this bill is probably destined for the consent calendar because of that. But anyway, let me turn to the bill, if you would, and let me just briefly state what it says there. It's a very brief bill, very much to the point. And I think it accomplishes something that makes a common sense application to our current hunting laws. If you have a green copy on page 2, Section 2 says a person hunting with a valid Nebraska arch or hunting permit and stamp may carry a firearm for protection so long as that person is in compliance with all state and federal law-- firearm laws. So this bill came to my attention by a constituent of Senator Stinner. The gentleman had contacted Senator Stinner and his office said Erdman may be more of a person to carry this than myself. And so I'm handing out a letter that was sent to Senator Stinner for your review. And then there was a letter that I received in support from another gentleman who was an archery hunter. So LB223 allows archery people to carry a firearm while they're hunting with a bow, and as long as they're in compliance with the federal laws. Currently, there is a regulation in Game and Parks that prohibits one from having a firearm when hunting with archery, with a bow and arrow. So this permit-- this bill would allow them to carry a-- a firearm for protection against whatever may be encountered in the wild, badgers or coyotes, mountain lions, snake, rattlesnakes, or-- or wolves or those kind of things. If you shoot a deer with a bow and arrow several times, it will take that deer a while to die. And the archery people don't necessarily chase after it right away. They wait for that deer to lay down and and perhaps die before they get there. So if you do that about dusk, by the time you find the deer, it's dark. And so now you're cleaning or dressing this deer in the dark and there are other animals in that area who would like to have what you have. And so the only provision they have at that point is a bow and arrow and maybe a skinning knife. And so this is an opportunity for those hunters to protect themselves when they're out there hunting, especially after dark. And I've had some people

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ask, well, so what happens? Does a person go out there to hunt deer with a firearm and shoot the deer and then stick him with the arrow and say, I shot it with the bow and arrow? And I'll tell you, bow hunting and all hunting now is an honor system. Game and Parks does not check animals in. They do it online. And if you process your own deer, no one would ever know you shot a bow-- with a bow permit, you shot a deer with a rifle or a handgun. And so this whole thing is an honor system because that-- that animal is never inspected at an inspection site-- site like it used to be. And so that argument about someone may shoot a deer with a firearm and stick an arrow into it has no validity because nothing stops from doing it now. And so, like my dad told me, he said, locks are to keep honest people honest. And so the provision that they have in place now that says you can't carry a firearm is something that needs to be changed. And so with the way they check in animals today, I don't see this as a-- as a difficult situation. Game and Parks had commented that they were considering doing this by changing their own regulations, but I think Senator Hughes alluded to the fact that he'd been here seven years and not much has happened. And so I am one that don't have to put a lot of stock in Game and Parks tells me they're going to change the regulation. I would have to see that happen before I believe it. And so consequently, they will probably come and tell you that, yeah, we're going to do this on our own. We've been told for years they're going to control the population on their own and they haven't done that either. And so I think this is a common sense bill, and as I alluded to in my opening comments, to be kind of humorous about it, I think this is a consent calendar bill. So with that, I will stop there and ask if you had any questions.

BOSTELMAN: Thanks, Senator Erdman. Any questions from committee members? Senator Cavanaugh.

J. CAVANAUGH: So currently what would happen if you had a gun on you when you-- what would have happened to this guy, Mr. Armstrong?

ERDMAN: Senator Cavanaugh, can I ask you take your mask off?

J. CAVANAUGH: Sorry, and thank you for being here, Senator Erdman. Thank you, Chairman. I guess I should have said that first. What would happen to Mr. Armstrong and if he had had a firearm on him at that point in time?

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ERDMAN: It's a violation of their-- of their regulations. He may be prohibited from hunting again.

J. CAVANAUGH: OK.

ERDMAN: You'll have to ask that question to Mr. McCoy

J. CAVANAUGH: But it wouldn't have been a criminal violation, would you think?

ERDMAN: I don't know whether it's a misdemeanor or not.

J. CAVANAUGH: OK, can I ask another question. I read the material ahead of time and I may-- I might have misunderstood. The Bowhunters Association letter was opposed to the bill?

ERDMAN: The Bowhunter? I didn't see that if they did.

J. CAVANAUGH: OK, well, their opposition as my reading of it is and I see Mr.-- I'm sorry, Schaf-- I can't remember-- sorry, but your name. But the language of any firearm, would you be amenable to changing. It sounds like maybe in other states it's more specific to just handguns, is that?

ERDMAN: Right. I understand that part and I am open to that.

J. CAVANAUGH: OK, and forgive my ignorance. Is that an appropriate change? Would it be-- is it-- would it undermine the intent of the bill to eliminate only handguns?

ERDMAN: I don't-- I don't believe it would. I did not see that information from the archery people. They didn't send that to me.

J. CAVANAUGH: We can show it to you.

ERDMAN: That's OK.

J. CAVANAUGH: I think-- that's my question. Thank you.

ERDMAN: Yeah, thank you.

BOSTELMAN: Other questions from committee members? Seeing none.

AGUILAR: Senator Bostelman.

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BOSTELMAN: Senator Aguilar, sorry.

AGUILAR: I guess I probably don't know enough about the law, but if
there's open carry in Nebraska, what actually prevents that person
from carrying a handgun?

ERDMAN: The Game and Parks regulation says--

AGUILAR: Because you're deer hunting.

ERDMAN: --you can't carry a handgun while you're archery hunting.

AGUILAR: OK. Thank you.

BOSTELMAN: Any other questions? Going to stay around for closing?

ERDMAN: Yes.

BOSTELMAN: Thank you. Anyone like to speak in-- as a proponent for
LB223? Seeing none, would anyone like to speak as an opponent on
LB223? Good afternoon.

CRAIG STOVER: Good afternoon, Chairman Bostelman, and members of
Natural Resources Committee. You have the majority of the skunk
already skinned, I think, but I did type something up here, so I'm
going to go through it. My name is Craig Stover, C-r-a-i-g
S-t-o-v-e-r, and I am the administrator of law enforcement for the
Nebraska Game and Parks Commission. I'm here today on behalf of the
commission to testify in opposition to LB223. My testimony today in
opposition to this bill will focus on three things. One is, is why I
believe this bill is going forward, details as to why we oppose this
bill, and a possible solution. On the surface, this bill seems to be
pretty much-- pretty straightforward and pretty much a no-brainer.
This isn't necessarily a new issue for myself. It's just one where the
right person got ahold of the right person's pant leg. I appreciate
Senator Hughes's conversation that I had with him last year on this
exact same issue. I believe this bill has been proposed in response,
of course, to the current commission regulation, which you've already
heard. The regulation, I believe, that prompted this bill prohibits
the person from possessing a firearm while archery hunting. Each year
we've heard from a few of our constituency out there that they would
like to carry a handgun while archery hunting. The primary motivation
for their question usually revolves around the Second Amendment and

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the possibility of self-protection and mountain lions or a combination of those two items. I can assure you that this is not a Second Amendment issue. This is a hunting issue. Need to know that there are several reasons why the commission has been opposed to this in the past. Due to the enhanced difficulty of taking an animal with a bow, archery hunters generally enjoy a very long season that begins in September and doesn't end until the end of the year. Currently, the only time archers are required to wear hunter orange is during the 9-day rifle season when there's a lot of other firearms out there in the field. Since archery hunting requires the animal to be considerably closer to the hunter, archers prefer to be as stealthy as possible and normally wear full camouflage and in some cases even ghillie suits out there in order to not be detected. As a general principle, rifles in the field, camouflage hunters in a long season, is a lousy recipe for safety out there. The commission's current regulation also helps keep honest people honest, which has already been mentioned, makes my job a little bit easier, and helps to preserve the integrity of the sport by minimizing temptation. We have very limited-- a very limited number of staff out there attempting to police this activity and I can tell you the extent people will go to to kill a big deer is pretty much indescribable. Lastly, our current restriction on firearm carry while archery hunting, it has allowed access to some properties where gun hunting isn't allowed. Landowners who are not opposed to hunting out there are more apt to allow an archery hunter to come onto their property to hunt simply because there are no firearms involved and they're not concerned about somebody shooting off a rifle out there. I have some concerns that if this bill does go forward, that some additional restrictions may have to be implemented. As mentioned, the safety of landowners or property, our constituents and our officers could be impacted by having such a long season with rifles in the field and the potential access to properties out there could be-- could be further restricted to hunters. If this bill were to pass, I personally would support the commission enacting a regulation that would prohibit the use of the firearm to take any wildlife while archery hunting with the exception of personal protection. Enacting this new restriction may help deter some people from indiscriminately firing off a round at something off in the distance and might help negate some of the safety concerns for everyone else involved. In addition, adding this restriction could help protect hunter access by easing some of the concerns of landowners who now allow archers because of the firearm restriction.

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It would make it a tougher sell, though. Lastly, if this additional regulatory restriction were not adopted and this bill were to pass, I could see a possible push to require all archers to wear hunter orange throughout the entire season, which is something that would be adamantly opposed by the archers. But in the ess-- in the essence of safety, that's what they'd like to do. I see my light is on. We're prepared. The commission is prepared. Here's how-- here's a solution. The commission is prepared to put forward a change in our regulations and in full disclosure, this change would eliminate our current restriction of any firearm and allow the possession of a handgun with some barrel restrictions while archery hunting, but it would limit its use to personal protection and restricted from taking any wild. While I can't guarantee passage of this bill by the commission, I can promise you that our law enforcement division would fully support adopting this modification in lieu of passing this bill. If you allow the commission the opportunity to solve this issue, it would save your valuable time, it would prevent a possible inflamed debate for most people who think that this might be a Second Amendment issue. It would minimize the impact on safety for everyone involved and it would be-- have less of an impact on hunter access. I believe the senator could still call this a win for his constituents. And you could always hold this bill over and if the commission fails to act on it, you could move forward with it in the future. I appreciate your time. I'll serve myself up for any questions that you might have.

BOSTELMAN: Thank you, Mr. Stover. Are there any questions from the committee members? Senator Hughes.

HUGHES: Yes, thank you for being here.

CRAIG STOVER: You bet.

HUGHES: I recall our conversation--

CRAIG STOVER: Yep.

HUGHES: --about this issue and I am conflicted, but as I told you then I will come down on the side of the officers--

CRAIG STOVER: I appreciate it.

HUGHES: --because you are-- I've had enough interaction with bowhunters that-- I shouldn't say it, but I question whether some of

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them should even have bows and arrows, quite frankly. There you go, Mr. Smathers, but I'd like the fact that you are willing to look at a-- to bring a compromise to your bosses, the commissioners themselves. So what kind of a time frame do you think this could come to pass?

CRAIG STOVER: I'll leave that up to Deputy Director McCoy. I believe that that could potentially get done by this fall.

HUGHES: OK, very good. Thank you for coming. Good to see you, again.

CRAIG STOVER: He didn't nod his head one way or another, so we'll make him come up here too.

HUGHES: Thank you.

BOSTELMAN: Other question from committee members? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman, and thank you-- is it officer Stover?

CRAIG STOVER: Yes.

J. CAVANAUGH: Thanks for being here.

CRAIG STOVER: I'll respond to most anything.

J. CAVANAUGH: Under-- if this were enacted would-- would landowners be able to just deny people access if they had a gun and still allow them to bow hunt if they didn't bring a gun?

CRAIG STOVER: Well, a landowner, in my opinion, can always deny access regardless of all of this. I would not expect a landowner to police the site. A landowner also could say even if this bill were to pass as it stands, the landowner could also say, I don't want you to have any guns on my property and so you can't bring any guns with you.

J. CAVANAUGH: Right.

CRAIG STOVER: Most of the landowners I've dealt with on this particular issue, they're asking preemptive questions, if you know what I mean, before they're actually dealing with the hunter out

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there. They're asking, you know, should I let this person on here? And we lay out, well, here's the parameters on it, you know.

J. CAVANAUGH: OK.

CRAIG STOVER: So most of the time the questions are up front, not on the back end.

J. CAVANAUGH: OK. And is there a reason that Game and Parks doesn't police the kills currently to determine whether they've been-- that firearm was used in bow hunting?

CRAIG STOVER: Well, we do police those things in the best way possible. I believe what Senator Erdman was driving at is factual, there's no doubt, and that is when they check those animals in, they-- they TeleCheck them, they check them in via phone or they check them in via the Internet out there. So there's no actual physical inspection that goes on during the check-in process. Now, if our officers happen to run into someone out there, you know, and inspect the critter at that-- at that point in time, yes, they would indeed enforce that. Does that answer your question?

J. CAVANAUGH: It does. And what would happen if they discovered that there was a bullet wound in a bow-hunted deer?

CRAIG STOVER: Well, they would have taken a deer unlawfully with an unlawful weapon, they could be cited at that point in time and it would be a misdemeanor. And to answer your question from earlier, yes, it would be a misdemeanor offense, Class III misdemeanor offense.

J. CAVANAUGH: And would the offense be violating their hunting permit, is that--

CRAIG STOVER: That's possible. If this is a single violation on all of this, generally speaking, that does not happen across the board. Normally, it takes multiple violations. Actually in the law, it states-- there's a number of violations that you have to have during a certain time period. There's also one, for example, if-- if you shoot a farmer's cow, you're immediately eligible for permanent revocation for however long that the court deems. So it's kind of a sliding scale on all of that. If this was a single offense, no, they're not going to lose their hunting privileges on it.

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J. CAVANAUGH: OK, thank you.

BOSTELMAN: Other questions from committee members? My question, I guess my question is, I think-- I've been in other states, hunted in other states, I do believe other states do allow a person to carry a handgun during an archery season or other seasons that--

CRAIG STOVER: You know, it's a little bit all over the board. And when it comes to talking to other states, it's always a good idea to do that because sometimes people have a good--better idea on things. I like to try to weigh these things out, the input that I get from other states to determine if it fits Nebraska the best. The easiest and probably the quickest example I could give to you is if we listen to other states this Unicameral wouldn't exist out there. So there are-- there are-- I think it's over half of the states out there that rely that-- that allow some handgun carry. There are a few states out there that do allow you to carry rifles as well.

BOSTELMAN: And I think-- this is just a-- not really-- it's a question on clarification maybe for subcommittee members. Nebraska is a no trespass state, so you cannot go on to someone's property without asking for permission.

CRAIG STOVER: That's correct.

BOSTELMAN: So whether you're fenced or not, you do not have the opportunity to trespass on to someone's land without their permission.

CRAIG STOVER: That's correct. And there is a lower threshold to prove a hunting without permission case than there is a trespassing case out there.

BOSTELMAN: OK. Thank you.

CRAIG STOVER: We often get questions about the right to retrieve because there are-- here's an example. A lot of other states have laws that have a right to retrieve for it. If you shoot an animal here and it goes on to their property, you can go get it. Well, that's not the case here in Nebraska. You have to have permission from that person as well.

BOSTELMAN: Thank you. Any other questions? Senator Gragert.

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GRAGERT: Thank you, Chairman Bostelman. Maybe you don't want to answer this question, you don't have to, but it's more of your opinion. The-- the need for carrying than possibly just a handgun with a population of mountain lions in Nebraska, maybe in your opinion, is it time to maybe provide that little extra?

CRAIG STOVER: Well, there's going to be a whole lot of people to take me off of their Christmas card list on this one, but [LAUGHTER]

GRAGERT: Like I say, if you don't want to answer.

CRAIG STOVER: You know-- no, I don't think so. I really don't think so. You know, I carry one of these all the time, and this is what I primarily tell everybody else to carry out there, and it's an air horn. And I guarantee you, if I touch that thing off, your fanny would clear the seat by at least that far here. Now, I don't have to buy ammunition for it. It costs me 6 to 10 bucks for those and I buy them by the case because I give them to my kids. I don't have to aim it. I don't have to worry about wounding a critter and then walking out of the woods in the dark dragging a deer with me. And if you touch that thing off, there's probably not going to be a critter very close to you at all. I personally, and this is strictly my personal opinion which always gets me in trouble, I personally don't think it's necessary.

GRAGERT: Thank you.

CRAIG STOVER: Yep.

BOSTELMAN: Thank you, Mr. Stover, for your testimony.

CRAIG STOVER: All right.

BOSTELMAN: Next opponent, if anyone would like testify in opposition to LB223. Seeing none-- gave too much time. Need to let you clean your ears out there?

SCOTT SMATHERS: No, Mr. McCoy was deciding whether he was coming up or not.

BOSTELMAN: Welcome.

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SCOTT SMATHERS: Chairman Bostelman, and members of the committee. Again, my name is Scott Smathers, S-c-o-t-t S-m-a-t-h-e-r-s, and again, I'm executive director of Nebraska Sportsmen's Foundation. As part of our organization, the Nebraska Bowhunters Association, which was named earlier, holds a board seat on our committee-- on our-- on our board. And we visit regularly with all of our conservation partners, our members, through a variety of sources throughout the course of the year. Each year for the last three years, this has been a conversation that has kept rising in volume and desire as to-- and different reasons for the different parts of the state. Again, as I mentioned earlier, this side of the state it's more of a two-legged issue versus the western part of the state, it's more of a four-legged issue. But we stand today opposed to this bill for several reasons. One is the language, as you stated prior, that it includes any firearm during the bow season which we not appreciate. Second is that the Game and Parks already provide a statute by this body that they will decide what firearm for what seasons. If this passes, then we open the door to-- in two years, do we have another senator that says you can only use an air gun or a BB gun to change regulations. Now, it sounds like-- none of that sounds possible. It's crazy, but I've seen crazy in 12 years come through this building many, many times. So with that said, one of the things we talked about, Senator-- or Senator Erdman talked about Bruce Armstrong. I was contacted by Senator Stinner's office, also by Mitch Clark. I mentioned I know-- we've known each other 15, 18 years. If you will, he used to work for my wife and so he reached out to me with Bruce Armstrong's questions and concerns. I've had four or five conversations with Mr. Armstrong. Explained to him that we will oppose this bill in its current format. With that said, just last summer, I've had conversations with Tim McCoy, several of the commissioners from the Game and Parks, and as always, happy because I guess maybe it's the manner I ask that they're very responsive to questions and we've been working on it since then to do this in rules and regs as opposed to a statute change here. Senator Hughes and Senator Bostelman and several other senators also talked to me-- contacted me about constituents, that it raises a particular question. I informed them that we're working with our groups, with the Game and Parks, to provide rules and regs. We'd rather see it in rules and regs because we can add additional issues to the safety issues that officer-- Mr. Stover spoke of with hunter orange. And I guarantee you, if you require hunter orange for a bowhunter, myself included, other than the week that's provided now, you think 130 responses to

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Senator Hughes's bills last year was a lot, you wait till this room is full. It will be full. With that said, we have the opportunity to put in barrel restrictions, caliber restrictions for handgun and handgun only. There are as class of pistols that are for big game hunting. I would like, and I personally have told Senator McCoy-- Senator-- [LAUGH] Tim McCoy that I'd like to see a caliber restriction and a barrel restriction for this opportunity to carry a handgun. If you allow and full grade any other rifle during archery season, you might as well just do away with archery season. It no longer exists. The morality factor is the morality factor. We've talked about this earlier. Those who are going to do it right are going to do it right no matter what you pass here. Those who are going to do it wrong are going to do it wrong no matter what you pass here. It's a fact. It's the reality of what the world is. I hunt private land 99 percent of the time. So the safety concerns are not for me necessarily on my ground, but public access. We have a larger number of folks going out there. So if you put a- a .308 or 7 Magnum pri-- public property during archery season with guys in full camo sitting 10 feet in the air or 20 feet in the air, problems will occur. We'd rather solve this with rules and regs, working with the commissioners, working with the Game and Parks management leadership which have been responsive. If it takes a year, it takes a year, but that allows us to get the right program in place through their system and allows us to be fluid that if there is a problem, they can eliminate that rule and reg within the next three or four meetings, as opposed for a statutory that we'd have to come back and spend a great deal of time having conversation again. So with that said, I'll close. We oppose the bill in a format-- quite frankly, I wouldn't think our sportsmen would support this bill in any manner. With that said, I'll take any questions.

BOSTELMAN: Thank you, Mr. Smathers. Are there any questions from committee members? Barrel restriction lengths.

SCOTT SMATHERS: We-- we're in favor.

BOSTELMAN: What are you suggesting?

SCOTT SMATHERS: Well, quite frankly, I'm always amazed everybody that has to have a Dirty Harry gun if they're-- for their cause or their ego. But, you know, I think, quite frankly, any-- any weapon is a dangerous weapon that could kill at the right range. I make the argument and I've made the argument with Tim McCoy that I'm more

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effective with my bow from 60 yards than I am a pistol. And I shoot all the time. I shoot weekly my pistol. My son and I do in competitively. And I shoot a .22 Mag with a 30-round clip. And I guarantee you, I'm not hitting a deer with that thing or it having it effect it, but I may hit it, all is I'm going to do is wound it. And as far as caliber size, I don't think you need to get anything bigger than a .22, my personal opinion. Again, this horn will do a lot of damage. So will that Mag going off without ever hitting anything. It will send a lot of critters running the other direction, two-legged also.

BOSTELMAN: OK, thank you. Seeing no other questions, thank you, Mr. Smathers.

SCOTT SMATHERS: Thank you.

BOSTELMAN: Any other opponents wish to testify in opposition to LB223? Any other opponents? Seeing none, anyone wish to testify in the neutral capacity? Seeing none, Senator Erdman, you're welcome to close. As he comes up, we do have one position letter in opposition from the Nebraska Bowhunters Association, Matt Burtch. Senator Erdman.

ERDMAN: Thank you, Senator Bostelman. I did see it. They gave me a letter that-- from the Bowhunters Association. So you've now heard that bow hunters are going to poach every animal they possibly can. And you have heard that those people can't be trusted with a firearm because there won't be a deer shot with a bow and arrow once you do have a handgun. You also heard that it's going to increase poaching. And you also heard that they're going to have to wear hunter orange, and all these stipulations they're going to put in place because someone has a handgun. And then you heard that the best place to have that regulation handled was in Game and Parks. If you've had the experience I have had with Game and Parks, you can't trust those people. And so for them to sit here and tell you that all these things are going to happen if we carry a handgun, or whatever weapon we carry, is disingenuous to those bow hunters. Those people are not going to run out there and poach animals because they have a weapon. There's nothing stopping people from breaking the law now. If they have a regulation in place that says you can't carry a handgun or a firearm while you're bow hunting, doesn't mean they're not going to. This won't change that at all. Honest people are going to be honest, and illegal people that break the law will still break the law no

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matter what it says. And so it's disingenuous for them to come and tell you that. The other issue is, I believe we have a provision in the Legislature that says you can't use props when you're testifying. And we seen that today. And so when I'm hunting or when I'm fishing, seldom-- seldom, if ever, do I run across a game warden. And so they're concerned about running into these hunters while they're out there hunting? They got to go out there and see them first. These people aren't all over the place, these game wardens. And if someone is going to shoot a deer with a handgun and put an arrow there, or shoot a deer in archery season with a rifle, chances are really good no one will ever know about it. Honest people are going to be honest and criminals are going to be criminals. But those people who won't carry a handgun are those people who abide by the law, and those people who don't care about the law will carry a handgun, whether there's a regulation against it or not. So the point is, it's freedom of choice. It is a Second Amendment right. And when they tell you it's not, they're not telling you the truth. I didn't expect Game and Parks to support this, and I do not expect Game and Parks to change their regulation, but we should kick it down the road another year. We've heard that before on depredation and controlling the wildlife. Kick it down the road. If it doesn't pass, if we don't do that, you can do it then. How often have you heard that? We've been hearing that for over 20, 25, 30 years with Game and Parks. At some point in time, we, the Legislature have got to step up and show that an agent-- that agency that we're watching them, and they got to start making decisions that make sense for those people that elected us, for our constituents. And I get pushed back all the time that I'm against the hunters. That's phony-baloney, because if I was against the hunters, I wouldn't be bringing a bill for them to carry a handgun. And the solution for the depredation and all those-- all the animals that we have getting in the right population is the hunters. And so for once, I'm trying to help the hunters and what do I get? I get opposition from the hunters. Doesn't make sense. This bill needs to pass. It needs to put some teeth into the regulation so that we can actually do what other states do. If it's such a bad deal, other states wouldn't do it. Thank you.

BOSTELMAN: Thank you, Senator Erdman. Any other questions from committee members? Seeing none, that will close our hearing on LB223.

ERDMAN: Thank you.

BOSTELMAN: Thank you. OK, go ahead.

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MOSEK: OK, we'll open the hearing for LB399.

CYNDI LAMM: Thank you, Mr. Vice Chair. Members of the Natural Resources Committee, my name is Cyndi Lamm, C-y-n-d-i L-a-m-m, and I'm legal counsel for the committee. I'm here to introduce LB399. This bill is a shell bill. It does nothing substantive and it's meant basically to be a vehicle should something under-- be needed under the jurisdiction of Natural Resources later in the session, so.

MOSEK: Thank you very much.

CYNDI LAMM: You're welcome.

MOSEK: Anybody here to speak in opposition to this bill? We'll start with supporters, but since the room's empty. OK, that'll close our hearing on LB399 and we're done for the day.