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Natural Resources Committee
October 29, 2010

[LR481 LR491 LR508]

The Committee on Natural Resources met at 10:00 a.m. and 1:00 p.m. on Friday, October 29, 2010, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR508, LR481, and LR491. Senators present: Chris Langemeier, Chairperson; Annette Dubas, Vice Chairperson; Tom Carlson; and Ken Schilz. Senators absent: Tanya Cook; Deb Fischer; Ken Haar; Beau McCoy. []

SENATOR LANGEMEIER: Welcome to the Natural Resources Committee. I'd like to introduce my colleagues that we'll have with us today. It's going to be kind of a slim group this morning. We have myself, Senator Chris Langemeier, Chairman of the committee. Starting to my left, Senator Schilz came the farthest distance and made it. Senator Carlson is in another meeting but will be joining us shortly, sits to my right. To my far right is Barb Koehlmoos, the committee clerk for the Natural Resources Committee. And to my left is Laurie Lage, the legal counsel for the committee. We will have Ayisha Sydnor will be with us--she is a senior at UNL--as a page and is from Bellevue, Nebraska. And she's out running a couple of errands; she will be back. At this time we are going to have an interim study hearing on LR508. And if you come up to testify, there are these green sheets located on the tables of the corners of the room. We ask that you fill them out in their entirety. And when you come up to testify, if you'd give that to Barb, the committee clerk, it helps us keep track of the record. If you're here today and you're just here to watch and you're not going to testify but yet you'd like to be on the record in support or opposition, there's also this sheet in the corner that's kind of a sign-in sheet that you can sign in and tell us whether you're in support or you're in opposition if you don't care to testify. At this time we'd ask that you turn off your cell phones so we can respect those that are going to testify ahead of you. We do have, with an interim study, we don't take testimony in a support or opponent or neutral capacity. We just take it as it comes up. And so we ask that you be willing to come up and do that. When you start, we ask that you say and spell your names to make sure

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we can have an accurate record of this event here today. And so with that, we will open the legislative hearing on LR508. Senator Lautenbaugh, welcome. And you're recognized to open on your LR. []

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman and member of the committee. This is kind of an unusual topic, I guess, for me to be so deeply immersed in, considering my background. I'm not what you would call an avid hunter, but very briefly after I was originally sworn in, I was contacted by a gentleman from my district who were struggling with the deer population in the area around Fort Calhoun and outlying areas. And it's been something that has stayed with me pretty much my entire tenure in the Legislature. It's interesting, and I think this is the way it is with most issues in the Legislature, once you look at one facet of the problem, other aspects come to light. My initial thought about the deer was that they were a road hazard. And then I learned they were a crop hazard. And then in attempting to deal with that, I learned that there is a substantial group of sportsmen in Nebraska who think of them, properly so, I've learned, as a natural resource and something to be conserved, if you will, but also be used for sport as well--for hunting. And I've heard a lot this year. I introduced a bill earlier this year that dealt with the deer population, or overpopulation some would say, in a rather extreme way, and we winnowed that down with the help of this committee and gave them parks to make it something workable and give them tools they needed to help manage the population better. But in that process, I heard from a lot of hunters who had a lot of ideas as to how they could more successfully participate in managing the herd. But the issue that kept coming up was access, access, and access. And that was the reason for this interim study, this resolution, to be introduced. And I have been a member of a couple of online forums since the controversy over my prior bill, as a listener, because I didn't have a lot of input, really; I just wanted to know what was going on and what was being said. And I think Game and Parks has been paying attention to that as well. They certainly were before, and they certainly are now too. But there is a problem with hunters who want to hunt and want us to help manage it, the deer population, getting access to land. And so the point of this study was to, hopefully, find

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ways where we can help in times of lean budgets, as we all know, help in some way to encourage people to open their lands to hunters. As is, hopefully, always the case, private individuals may be outpacing us in some ways. There's a group out there that has been working to pair up what they have called qualified or certified hunters with willing landowners to work to manage this problem on their own. And that is something that, hopefully, we can and will promote, but we've, so far, stayed out of the way of. And I think it's a good effort, and it's always good to see people taking problems and working on them without our input and without state money, because we don't have any money, as we all know, currently. But it's something that I hope you'll hear more about today. And on these forums and in other discussions and in e-mails and whatnot, there have been several people suggesting things that we can do with school lands and other ways to promote hunting and access. And so, hopefully, this is the start of a conversation that will lead to additional efforts in the coming session to, in some way, promote access as best we can while being respectful of private property rights, which I think we have to do, and I hope all acknowledge that. So, hopefully, you'll hear a lot of helpful testimony today. And once again, hopefully, this is the beginning of a process that will lead to something good in promoting hunting in Nebraska and promoting access. I'd be happy to take any questions that either of you have. [LR508]

SENATOR LANGEMEIER: Very good. Senator Schilz? Senator Lautenbaugh, I'll ask you a question then. As you've taken this opportunity to be a part of these forums--and being in the farm management business, I don't have a lot of ground that we could hunt deer on, because we just don't have that treed-type of ground--have you heard some suggestions other than a mentor program? I hear a lot about deer hunters wanting to do mentor programs for the youth, but I don't hear much about the 25-to-50 range; that seems like a...just a lost group of potential hunters in Nebraska. [LR508]

SENATOR LAUTENBAUGH: Well, I would say that Game and Parks has some efforts under way that you'll probably hear about today as well. And it's almost like this is a conversation that is not taking place. You've got people over here who want to do this;

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you've got things over here that are already in place and maybe can be tweaked and improved upon. But it seems like a lot of times the right hand doesn't know what the left hand is doing. And, hopefully, with hearings like this--and if we have to take some legislative solution next year, that will also serve the same purpose. We can at least get people aware of what is out there and provide more information to Game and Parks about how we can improve it. And, as you know, a lot of times Game and Parks can't do something unless we give them the authority to do it. So if there's something more we have to do, we should do it. But I think there are things that are out there already that may just be suffering for a lack of knowledge or a lack of participation. [LR508]

SENATOR LANGEMEIER: Okay. Very good. Seeing no other questions. Thank you very much. [LR508]

SENATOR LAUTENBAUGH: Thank you. And, unfortunately, I have a hearing going on in Omaha right now as well, so I have to waive closing and head back. But I thank you for your time and your willingness to listen. [LR508]

SENATOR LANGEMEIER: Okay. Have a safe travel and don't hit any deer. [LR508]

SENATOR LAUTENBAUGH: That's a struggle, but I'll try to avoid it. Thank you. [LR508]

SENATOR LANGEMEIER: I saw one on my way down, so they're out there. You've heard the opening on LR508. And now we'll open the floor to anybody that would like to testify. We normally, in the Natural Resources Committee, use the lights and give everybody five minutes to testify, but it's--looking at the crowd, I don't think that will be a big issue. So please come forward and share with us your thoughts. So we'll probably run the lights just because we're used to it. But if we need to deviate a little, we can. Welcome. [LR508]

TIM McCOY: Thank you, Senator Langemeier. My name is Tim McCoy, T-i-m

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M-c-C-o-y. I'm here to testify for the Game and Parks Commission on the issue of access programs. We have several access programs that our agency has put into place to help provide access to private lands. And this has been...you know, it's a huge issue for us in this state, because 97 percent of the land is in private ownership. So everything we do in terms of providing that additional access has to be with willing landowners. And they make those ultimate decisions on what access is provided or is not provided on their lands. I'm going to briefly go through a summary. We also provide, clearly, public access on our lands that we manage as an agency. Currently, I was looking at our numbers. It looks like we provide public access for hunting right now this season on about 1,300 different sites across the state. That encompasses over 450,000 acres of private and public land. I'm going to start with the focus on our public...or private access programs that we've developed. Since 1997 we've had a program called CRP-MAP that was focused on conservation and reserve program lands. That program allows walk-in public access, provides access for hunting and trapping through all seasons. We currently have about 700 separate sites across the state enrolled in that program on about 150,000 acres. So it has been very successful with landowners. We are working on updating that program, actually. We have not updated the rates in that program since it was started in 1997. And one of the recent actions our commission took was to update those rates. So, we're hoping that will increase participation. We also have an Open Fields and Waters Program that was developed about two years ago. That program is in its second season of providing public access. That program was, really, developed to focus on providing access to other types of habitat. We were really focused on providing access to woodland habitat for deer and turkey, because of the great opportunities and also some of the management challenges we face. That program has started to grow. Right now we have about 48,000 acres enrolled in that program across the state on about 190 sites. So a fairly good distribution. But again, we still have to work with those landowners that are willing or interested in that program. We've made some modifications recently to update that program, where we're looking at modifying our rate structure a little bit, really providing more of an emphasis on getting those right prairie and woodland areas, to see if we can get some more landowners interested in it and

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also a little more flexibility in seasons that they will allow--that they can offer it for hunting. I heard it mentioned earlier of youth mentoring. We do have a program we call "Passing Along the Heritage" that's been in place since 2006. That program is specifically to provide areas for mentors to take youth hunting. Those are typically private lands. We have some of those that come from some of the nongovernment organizations that own land. And it's focused on providing that quality hunting experience, where the mentor does not even hunt--they are there to focus on having that youth out there to be safe and to have a really good outdoor experience. We're going through some actual improvements to PATH right now to improve the interface to the public. It's an online registration system, and we're in the process of working and updating the Web site and the Web interface for that and improving it. We're also looking at adding a fishing version of that, because there's also some interest on our fishing side, providing access to those types of areas. We've recently been awarded something that's pretty exciting to us. The 2008 Farm Bill had the Voluntary Public Access and Habitat Improvement Program included. That's a national program. We received a competitive grant recently for about a million dollars from USDA that specifically...to be used to help us increase public access for hunting and fishing. So we're going to work with that program. We're not going to create a redundant access program. Those funds are going to go into our existing access programs. And we're hoping to use that to...it will allow us to make more payments to landowners. Hopefully, we can get more lands enrolled. We're going to really...we're trying to focus on managing, growing, and evaluating those private lands programs. The other thing we've done this year that is new is an antlerless deer hunter program. We've developed a way for hunters to register with our...provide information in an online manner. The focus there is hunters that are willing to go hunt antlerless deer. This gets directly at one of the problems that created a lot of the interest here. Right now we have over a thousand hunters signed up for this program. We're hoping that landowners will use that as a way to go--if they're looking for hunters to hunt antlerless deer--as a way to do that. The challenge with that program, and actually the challenge with many of our access programs, is getting the information out there and frequently enough to landowners, that

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they know these tools are available. And as part of that Voluntary Public Access grant that we got, we are undertaking some pretty considerable efforts to try and really directly market our programs to landowners, because one of the challenges we have is we really need landowners...if they're interested in our program, we sort of need them to self-identify. It's pretty hard for us to go knock on the door of every landowner in the state and say, hey, by the way, do you want to provide public access? I think, for many of them, they would see that as fairly intrusive. I can think of relatives including my father that would definitely feel that way...that they've always provided some willing access. And we have to understand that. The other areas that we have, obviously, are state wildlife management areas that we manage, about 300 areas across the state, over 250,000 acres that are managed for wildlife and open to public hunting. And then we've made...we have state recreational areas that are open to hunting after the first Tuesday, I believe, after Labor Day until the end of the spring turkey season. We have 43 of our state recreational areas that provide hunting access. And we've also got some special hunts on several of our state parks, including some special deer antlerless-only hunts in eastern Nebraska on Mahoney State Park, Platte River State Park, and Schramm Park SRA that are going on. The other thing that we recently came through is an extended October antlerless season--that we killed, I think, about 3,000 deer. It was fairly successful as an early October season that we'd never offered before, and I think that was some of the flexibility that you really allowed us to try and deal with that. We really thank you guys for the opportunity to work with the Legislature on this. It's been...this is one of the biggest challenges we have, is trying to find ways to provide more access. We have hunters that want it. And we appreciate any opportunity to provide additional input or provide you additional information on this. [LR508]

SENATOR LANGEMEIER: Okay. Are there any questions? Senator Schilz. [LR508]

SENATOR SCHILZ: Thank you, Senator Langemeier. Thanks for coming in today. I think that...as you talk about the application--you said you had a thousand folks that were interested in just shooting antlerless deer. How are you going to market that to

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land...have you thought about that? [LR508]

TIM McCOY: We've been doing news releases. We're including it in all of our...trying to include it in all the information that we have go out. We've been trying to get information in Nebraska Farmer, into the different agricultural groups that many of these are members of. [LR508]

SENATOR SCHILZ: Um-hum. Right. [LR508]

TIM McCOY: So we're trying to take a fairly broad approach. [LR508]

SENATOR SCHILZ: Are you seeing results from that? [LR508]

TIM McCOY: Well, that's the challenge. The way we've set this up, we aren't requiring landowners to register. We're letting landowners decide who they want to allow to hunt and how they want to develop that. So we have not went down that road, at least right now. We will go back and hope to survey the hunters that sign up for this and get an idea of how much... [LR508]

SENATOR SCHILZ: Of how successful that was. [LR508]

TIM McCOY: Yeah. There are other states that have programs like this, and it appears the ones that have been successful is where they've really been successful in getting that information into the landowners' hands. Our staff are really...our management staff and our private-land staff that work with landowners and our law enforcement officers are really trying to promote this, especially when they get contacted by landowners that are having issues with deer populations. [LR508]

SENATOR SCHILZ: Right. [LR508]

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TIM McCOY: We're trying to emphasize not only the access programs we have where we can provide some annual payment but also these other options, because we know that there's no one single tool that's going to fit every landowner's need. [LR508]

SENATOR SCHILZ: Well, I think being a landowner myself and understanding when you start talking about access, that's a whole different connotation when you start talking about helping manage what is going on. And I know in our area, there's a lot of folks that aren't necessarily land...well, they're landowners; they're not farmers, though. [LR508]

TIM McCOY: Right. [LR508]

SENATOR SCHILZ: But they've got management issues where they'd like to thin out those antlerless deer, and there might be some utility in finding ways to get to them too. But I think as long as you use it...as long as you market it as management and not creating more access--I think that the semantics of that makes a huge difference to landowners. [LR508]

TIM McCOY: Thank you. [LR508]

SENATOR SCHILZ: Because I know people--if you give people a tool, that's one thing. If it looks like you're trying to force them to do something, it's a totally separate kind of situation you get into. So I commend...I think that's...I think you're on the right track--about as good as you can do anyway. [LR508]

SENATOR LANGEMEIER: Thank you. I do have a question for you. I want to walk through a scenario--and I may be taking us away from LR508 here, I understand that. Game and Parks made a decision yesterday to allow crossbows, which I'm not opposed to, but in...like I say, we're coming up with a scenario here. I can go out and get a crossbow. I've had hunter safety. I've pheasant hunted; I've quail hunted; I've done a lot

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of hunting. I've never deer hunted. And I understand if I want to be a hunter there's some education I need to go out and get and figure out how to do this. Is there something within Game and Parks, or is there a group out there? Where do you start? I can go ask a farmer if I can hunt a deer on his property, but I don't know whether I'm going to sit at a tree--crawl up in a tree--or go at noon or go at 5:00 in the morning. Is there some educational spot out there that you can go gain that information? I know I have a channel on my TV, but they sure make it look easy; you know, in 20 minutes you're out there, you shoot the big game, and you haul it home, which is far from realistic. (Laughter) [LR508]

TIM McCOY: Yeah. We try and provide a variety of those. Probably the main one in terms of...specifically to crossbows, we have a bow hunter education program that's really designed to not only focus on the safety aspects but also to talk about effective hunting and those things. We've also developed...we've developed some, I guess you'd call them...they're sort of like a camp or short course that we do, typically with youth, but we have a variety of things that we will do to try and help people if they're interested in getting involved in hunting. [LR508]

SENATOR LANGEMEIER: And then from a...in my real life as a farm manager, as I talk to farmers--and I talk to a lot of landowners every day--the biggest concern I hear out there is, you know, the last hunter we let on was irresponsible and did XY&Z that we didn't like, or he cut my wires, or...I've heard it all. I guess, is there some way we can assure landowners that these people have some education? And you can't monitor everybody's behavior, but you could give them some reassurance out there that, oh, they took this class or they took this, so they should be safe ones out there and not going to shoot my horse or shoot my cow accidentally. [LR508]

TIM McCOY: That's a big challenge that I think we face in this. And as a hunter, I think I'd probably address it more that way. The challenge is, we really need our recreational users to police themselves and have...and there are some codes of ethics that are out

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there that most hunters apply to. And the challenge is that we...sometimes you have people that don't follow those codes of ethics or do things illegally, and they are...those are the ones that really...where you get that bad taste in your mouth with a landowner, that they had something bad happen. And we can police that to the extent that we catch violators or landowners catch violators, but it's really--the hunting community, I think, has to really be the ones in front of that. [LR508]

SENATOR LANGEMEIER: Is that maybe something we need to add to our hunting guides? And I admit I haven't read a hunting guide, other than the seasons--I haven't read the whole guide myself. Do we need a, you know, "courteous landowners" section that says make sure you do these things? I mean, let me give you an example: My father-in-law has a ranch in western Nebraska and he has some gentlemen from Omaha come out, and then at Christmas he always gets a box of candy from them. I can tell you, they call, they can come out any time they want, because they get a box of candy from him. And they shut the gates. [LR508]

TIM McCOY: Yep. [LR508]

SENATOR LANGEMEIER: We'll have others stop in that won't shut the gates, or you never hear a...they came in and asked, and you never hear from them when they've left. You don't know if they're still on the ranch; you don't know where they're at. They're hurting the next guy that pulls in the lane that says: I'd like to hunt. [LR508]

TIM McCOY: We do always have that, and especially our public lands guide that we put together...our access guide for all the lands that are enrolled in our private access programs--they also show our public lands. We actually have a section in there on respecting the landowner and the land, because that is a huge issue for us. It's a huge issue for everybody. When you're out on private land, there has to be some respect there. And again, that's probably not something as an agency we--you know, we can't tell...we can't force hunters to say, well, if you hunt... [LR508]

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SENATOR LANGEMEIER: Right. Sure. [LR508]

TIM McCOY: ...you go buy this guy a box of candy or drop off some steaks; there's a lot of different things that people do, and we really encourage that, but we can't really mandate it. And I think it really does come back to the hunting community is probably the one that really has to help get that message out there. We try to, but we always try to emphasize they need to respect the landowner and the land regardless if it's in our public access program or if they've got permission. That's a pretty precious right they're given when they get that opportunity. [LR508]

SENATOR LANGEMEIER: Sure. Thank you. Any other questions? Thank you very much for your testimony. We appreciate it. Further testimony on LR508? Good morning. [LR508]

DUANE HOVORKA: Good morning. Hi, Senators. I'm Duane Hovorka, executive director of the Nebraska Wildlife Federation. That's--Duane is D-u-a-n-e, and Hovorka is H-o-v-o-r-k-a. I'm glad to be here today, and thanks for paying attention to a really important issue. I know we've heard a lot about deer management in the state. And I think if you look at the population numbers, and admittedly we don't...the Census Bureau doesn't census deer, so it's kind of fuzzy. But you're looking at, at least by my...not my numbers, roughly one deer per 200 acres in Nebraska. And if you think about that, that's statewide--that's not a huge problem if all those deer were spread out evenly. But clearly that's not the case. We've got some pretty heavy populations in the eastern part of the state along the Platte Valley, the Missouri River Valley. So one of my messages to you is there's not a statewide solution that's going to address what is, essentially, a local and a regional situation. So trying to impose a statewide solution probably isn't going to make sense. Wildlife is a public trust. It's managed for the benefit of the public. And the Legislature, clearly, has those responsibilities. The Game and Parks Commission has been handed many of those wildlife management and public

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trust responsibilities, and they have a lot of expertise. They have professional wildlife biologists; they have professional wildlife managers; they've been doing this for decades. And so I would encourage you to not try to micromanage the deer herd from the Legislature. So I think if you give that agency the tools that they need and give the hunters and landowners the tools that they need in order to address the situation where we need to address it, I think that's the smart thing to do. I don't think you want to be in the Legislature every year tweaking the hunting seasons and the hunting districts and everything else. So again, I'd give the agency the tools that they need. And I think you're doing that. I think you're doing a pretty good job of doing that. And I think the commission is doing a good job of responding. They've got the message. We've got problem areas where we need to reduce the deer herd. They're taking some action, and I think it's making a difference. When we have done, in the past, surveys of our members...and I'd emphasize that some of our members hunt; some of them don't. So we're not sort of a typical hunting organization where everybody hunts. We have some bird and bunny people and then some hook and bullet people, both, in our organization. But when we ask the folks who hunt what's their biggest issue, their biggest issue is finding a place to hunt. And as you can imagine, in a state where we've got so much private land, we've got so little public land, that's a real challenge. And even the private land, roughly half of the land--of farm and ranch land in the state--is owned by somebody who doesn't manage it. I mean, you've got an absentee landowner. Sometimes they're just in the next town, but you don't have people living on the farm that own that farm. So sometimes even it's hard to figure out who owns a particular piece you might want to hunt on. So we do have some solutions. There are certainly things that the Legislature can do. When we counted it up, we came up with something over 800,000 acres of public land in the state that's open to hunting. So a little over 1.5 percent of the state. That's in those wildlife management areas that Tim talked about; that's in the national grasslands, the national forests. So it's a small piece of the state, but it's really a critical piece of the state. But there's other public land out there. Our state school lands that's managed by the Board of Educational Lands and Funds--those are not generally open for public access. In South Dakota they are. In South Dakota

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those lands are a really critical part of--the reason they get so many hunters come in to hunt pheasant in South Dakota is because their school lands are all open to public access. They're treated as public lands; they're treated...and the public has a right to be on them. So that's one possible solution, or one part of the solution in Nebraska would be to open those school lands to public access hunting. If you're not willing to go that far, then I'd strongly consider we look at states like Colorado. And I understand Colorado has created a walk-in tag for their state school lands. And so by purchasing a tag, you can then, basically, get a tag that lets you get on those state school lands. Part of the money goes to administer the tag program, and part of the money goes to the Board of Educational Lands and Funds equivalent in Colorado. So you're...you're providing access for hunters; you're also providing more money for those schools, because that's where that money ends up. So that's another solution to think about if you're not willing just to provide a straight access to those school lands. There's even other public lands in the state: the U.S. Department of Agriculture has a large research facility down--I think it's Clay County, and you got thousands and thousands of acres that's managed as farm and ranch land, owned by the federal government, but it's not publicly accessible. And so that is one place where we might be able to find some land, down there, working with the Department of Agriculture to open those lands to public hunting. But ultimately if you look at where our public land is, it's mostly in the western part of the state. It's mostly out in the Oglala Grassland, in the national forest up in north-central Nebraska. And so if you look at where the deer are in the eastern part of the state and where the hunters are in the eastern part of the state, that's where we have the least percentage of public land. So it's great to have that land out west, and hunters all across the state can go enjoy it, and other people can go enjoy that land; but it doesn't do anything about the deer herd in Cass County and Douglas County and the counties in the eastern part of the state to be shooting deer out in Custer County. And so a focused effort of public land acquisition in those areas in eastern Nebraska where we've got the hunters, where we've got the deer, and where we really need some more access, that would be one potential solution. And I would include, in addition to the east, the Missouri Valley--the Platte Valley, where again we've got high deer population

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numbers; we've got very little public land through the Platte Valley. And so that would be another solution that we would suggest. And then finally, Tim talked about those state programs--the Open Fields and Waters, the Conservation Reserve Program, Management Access Program--and those are...I think it's important to note that those are not state tax dollars going into those programs, that, my understanding is, for the most part those are dollars that are coming from hunting and fishing licenses, from federal license money, and state license money. Correct me if I'm wrong, but I think those are basically all hunting and fishing dollars from those fees and tags and also from some conservation partners and, in some cases, from the Environmental Trust that are going into programs like that. So that would be an opportunity there, if we would say we want to increase access, that--leveraging some state tax dollars to say let's send some General Fund money into those programs. And you could even target it and say let's use that General Fund money especially in those areas where we really are getting the most complaints about deer. And so let's funnel some additional money for public access on private lands into those areas where we think we have the biggest problem. And so those are all...some solutions. Some of them cost money; some of them don't. But those are the kinds of things that--we'd love to see more access more broadly throughout the state of Nebraska but also to address those specific deer herd populations in some of those parts in the eastern part and along the Platte Valley. So thanks. [LR508]

SENATOR LANGEMEIER: Very good. Are there any questions? I liked your comments about birds and bunnies and hooks and bullets; that might be my quote of the day. When you talk about the 100,000 acres, do you include all the state parks in that? [LR508]

DUANE HOVORKA: Well, we had 800,000 acres. [LR508]

SENATOR LANGEMEIER: Excuse me, 800,000, that's what I wrote down. [LR508]

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DUANE HOVORKA: Yeah. And what that is, I don't think it includes the state parks. It includes...basically, we went through the hunting guide that Game and Parks puts out, with all the public lands in it, and just started adding up acres. [LR508]

SENATOR LANGEMEIER: Okay. [LR508]

DUANE HOVORKA: And so that's the national grasslands, national forest, wildlife management areas, the other areas that are listed as being publicly open to hunting. So there's some that, especially the last few years, more and more land where there's specific hunts or there's mentored hunts or it's open part of the year. And I think some of that is included in there, but I don't think all of it is. [LR508]

SENATOR LANGEMEIER: Unfortunately, it's not all in Douglas and Washington County. [LR508]

DUANE HOVORKA: Right. [LR508]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you very much, appreciate your testimony. [LR508]

DUANE HOVORKA: Thanks. [LR508]

SENATOR LANGEMEIER: Further testimony on LR508? Is there anyone else? Come on up. [LR508]

SAMUEL TRUAX: My name is Samuel Truax. [LR508]

SENATOR LANGEMEIER: Oops, I got to have you sit down so we can get it on the tape. [LR508]

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SAMUEL TRUAX: Okay. There you go. I usually speak loud enough that I don't...
[LR508]

SENATOR LANGEMEIER: So we can make a record. Welcome. [LR508]

SAMUEL TRUAX: I'm Samuel Truax, S-a-m-u-e-l T-r-u-a-x. And I'm an active member of Wachishka Audubon Society, where the primary interest is in...that organization hasn't taken an official position on your considerations, so to the most part I'm testifying on my own behalf here. But Wachishka is, of course, interested in birds and environmental issues. So I want to relate to the committee the relationship between our bird interest...and that is, as the hunter population declines, which it has been doing for many, many years, particularly due to access availability, that affects the other environmental issues that organizations like Audubon are interested in--such as the excise tax and the license fees to support wildlife management areas and things like that are more and more difficult to come by. And as the hunter population declines--and, again, that's due to some degree to access. And the other relationship is, for example, the Game and Parks got a federal grant in 2004, I believe it was, where they were...it was endangered species protection for the burying beetle. So they got 1,200 acres of land out there. However, in studying that land, and, of course, other organizations had to contribute to it, Game and Parks for one, but in seeing the results of that acquisition--Wapiti Wildlife Management Area, I think it is now. But the deer population there, elk population there, bird population there, and many other species that really were much better off because of that acquisition, which was primarily directed to that one beetle. Same thing happens with all of the wildlife management areas that Game and Parks was able to acquire and manage. And the support is from hunters and fishing and excise taxes. So I just want to point out that there is other things related to access and...than just killing off the deer population. Secondarily, I do some hunting and fishing in other states, and they have different access rules than Nebraska does. For example, in Montana everything below the high-water mark on the rivers is public land, including the land underneath the stream. In Nebraska, only the water is public. The land under

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the water and to the sides of the water are all private land, so--and that leads to some conflicts. For example, at Long Pine Creek the tubers were shot at by one of the landowners and...or probably just to scare them, and it causes other conflicts between the landowner and the users of the recreational resources. So there are things like saying, "The property below the high-water mark of the streams is public land," is another way to actually expand the thinking of how recreational lands can be used. So those are just two ideas I want to bring before the committee. [LR508]

SENATOR LANGEMEIER: Very good ones. Senator Schilz, do you have a question? [LR508]

SENATOR SCHILZ: No, thanks. [LR508]

SENATOR LANGEMEIER: I don't either. Thank you very much. I appreciate the thoughts behind that. [LR508]

SAMUEL TRUAX: You're welcome. [LR508]

SENATOR LANGEMEIER: (Exhibit 1) Very good. Further testimony on LR508? I do have a letter of testimony from Jim Dubas from Kearney, Nebraska, that we'll enter into the record. And we'll enter anything else that has come in the e-mail while we've been in the hearing, as well. But are there any other testifiers? Seeing none. Did you want to testify? Okay. Seeing no other testifiers--I'm looking for testifiers. Seeing no other individuals wishing to testify--and Senator Lautenbaugh has had to depart--that will close the hearing on LR508. And we appreciate everybody's participation and thoughts. Thank you. [LR508]

BREAK []

SENATOR LANGEMEIER: Good afternoon and welcome to the Natural Resources

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Committee. I'm Senator Chris Langemeier; I'm the Chairman of the committee. I'd like to introduce my committee members. And we seem to have a lot of stuff going on in the Capitol, a lot of different hearings. We had Ag Committee, we've had Health Committee, we have a lot of things going on, so you'll see the senators come and go as we proceed through this. I'll start with...to my right is Senator Carlson from Holdrege, Nebraska. And then Senator Schilz from Ogallala, Nebraska, the 47th District, will be joining us shortly. Senator Dubas is out getting a few more details ready for hers, and she'll be here just momentarily. She is the Vice Chairman of the committee. To my immediate left is Laurie Lage; she is the legal counsel for the Natural Resources Committee. And at the end of the table is Barb Koehlmoos, and she is the committee clerk for the Natural Resources Committee. As we start into the hearing process today, we ask that you turn your cell phones off as not to disrupt the discussion about to take forth before us. We are here as an interim study, so this is not like a hearing, if you've been to it. We do not take testimony as proponents, opponents, and neutral. We just take them as you care to testify. If you are going to testify, in the corners of the room, both corners, there are these green sheets; we ask that you fill it out in its entirety. And as you come up, if you would give that to committee clerk Barb--and she will use that to help us keep an accurate record of your testimony. If you're here today and you want us to know that you're in support or opposition of the ideas presented before us today--there are these sheets in the corners as well--and you can sign in and tell us whether you're opposition or support, and then you'll go in the record as of having an opinion but not testifying. And we appreciate that. As you come forward to testify, you will see the lights in front of you; we do use those in the Natural Resources Committee. And they're five minute lights. You'll see the green light will be four minutes, the yellow is one minute, and then when you get the red light, hopefully, you've wrapped up and opened yourself up for questions from the committee after that. With that said, if you have things to hand out, we invite you and encourage you to do that, and one of our pages--we have two pages helping us in today's hearing. We have Ayisha Sydnor. Did I say that right? [LR481]

AYISHA SYDNOR: Ayisha. [LR481]

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SENATOR LANGEMEIER: Ayisha--I butcher it every time, I apologize--from Bellevue, Nebraska. She is a senior at UNL. And then I have Sonya Sukup from Verdigre, Nebraska, and she's also a senior at UNL. And they will be helping us. If you just hold them up, they will come and get them. We ask that you have 12 copies. And you don't have to do it until you come up to testify, though. They will help you hand those out. And then if it's also something that you're going to give us to look at, we're going to keep it as part of the record. So if you have something that is personal that you want to keep, just show it to us from the table, because once you give it to us, it becomes part of the hearing process. So with no further delay, we will start with LR481; and Senator Dubas is the sponsor, and she is recognized to open. And welcome. [LR481]

SENATOR DUBAS: Thank you, Senator Langemeier and member of the Natural Resources Committee. (Laughter) I know everybody is going a lot of different directions today. My name is Senator Annette Dubas; I represent the 34th Legislative District. I introduced LR481 over the last year and a half, or two. I've been having conversations with the Central Platte NRD, Fire Marshal's office, the forestry service, etcetera, about prescribed burns and the process that we have in place and is it working or isn't it working. And I want to be really clear and up-front right from the start. As soon as this LR was published, I started getting phone calls and e-mails from people who thought I was wanting to abolish prescribed burns. And in no way, shape, or form do I want to do that. I understand it is a very effective range-management tool when it is done correctly. But if it's not done correctly, we have seen some instances across the state where we've had property loss, etcetera. And so that's...the purpose today is to just have that dialogue and discussion about what prescribed burn does, how it works, and then some talk about the process and the procedures with the permitting that goes into getting a permit. The statutes are pretty clear. I mean they outline what's required. We have a statewide burning ban but with this exception to get this burning permit. But the statutes outline what is required for that burning permit. You have to...who...the landowner that is involved; what they are trying to achieve; you have to have a map of the area that is to

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be burned; the procedures that you would use to confine the fire to the prescribed area; a list of equipment that you will use in that fire, on hand; the types of and the condition of the vegetation that you're looking to burn; you need to identify the roads and houses and places that could possibly be impacted by the smoke or the escape of the fire; and also description of the weather conditions--wind, temperature, humidity, those types of things--because the conditions have to be a certain way to have an effective burn. This permit is submitted to the local fire department chief or, the statute says, his or her designee. And I know sometimes that has caused some problems where...especially in our more rural fire departments, the fire chief might not always be accessible and he or she has designated someone else to make these decisions. So maybe this procedure is not being followed as it should be. It's not my intention to make this process more difficult or to place any more burdens on our local fire departments. I understand the time and resources that they're giving to our communities as it is. And there are...you can become a burn boss, but there are extensive educational and time requirements involved with that, as well as financial obligations. So I'm not looking to make this a more burdensome process for our rural fire departments. But if this permitting process is not followed, that potential does exist for fires that go out of control and do serious damage. And we have seen this happen. So I hope that we will be able to determine a better way to handle, if there is a better way to handle, the prescribed burning permitting process. I know we have--several testifiers behind me are going to come up and be able to give us a lot more good, solid information about how prescribed burns work, why we need them, and maybe some talk about the permitting process also. So I hope that will give us the opportunity to ask more questions and get further clarification on this matter. So I'd be happy to answer any questions for you right now. [LR481]

SENATOR LANGEMEIER: Very good. Do you have a question? Senator Dubas, I'm going to ask you one question. And like we always do, we already know the answer, but I'm going to ask it anyway. What's the liability if I'm doing a prescribed burn and it gets away and the fire department has to come out and help? What's the liability back to the person that is doing that? And is it high enough? [LR481]

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SENATOR DUBAS: I'm not fully...I mean I don't know the real detailed answer. And I know that's been one of the questions in the past is, who is issuing these permits? Does the permit issuer assume the liability? Does the fire department assume the liability? Does the landowner assume the liability? And that's something I'm hoping to get a little more clarification on also. [LR481]

SENATOR LANGEMEIER: Very good. That's why I asked the question now. Senator Carlson. [LR481]

SENATOR CARLSON: I'll make a comment as it runs through my mind. Twenty years ago I had a pivot with shattercane, and I wanted to get rid of the shattercane, so I decided to burn it. And when pivot tires catch on fire, they're hard to get out. And that can move pretty fast across there, scarily fast. [LR481]

SENATOR DUBAS: Yeah, and I think those are some of the problems we may be hearing from some of the testifiers who--especially for the fire departments, you know, these fires definitely have to be controlled. Went on a tour this summer out around the Kearney-Lexington area and saw a pasture that had...was just really inundated with the red cedars; and the work that's being done in that pasture with the controlled burns is just phenomenal, how they've been able to reclaim that pasture. And for any of us who own pasture know that red cedars is probably one of the biggest problems we're dealing with right now. And you look out in the pasture and you'll think, well, I can go out there and chop those few cedar trees; I can get my clippers out. I did that one day last summer. And you get out in the grass and you've just got thousands of those tiny, tiny, little ones. So this is definitely a very useful tool. So I want to make sure that it stays in place but that we're addressing the liability issues, we're helping our volunteer fire departments and our land management processes also. [LR481]

SENATOR LANGEMEIER: Very good. Thank you very much. [LR481]

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SENATOR DUBAS: Um-hum. [LR481]

SENATOR LANGEMEIER: You've heard the opening for LR481. We open the floor up to testimony, and as the next person...come on up, whoever wants to testify. And as we're waiting, Senator Schilz, who I introduced earlier, from Ogallala, Nebraska, has joined us. [LR481]

STAN PILCHER: I've got several handouts. [LR481]

SENATOR LANGEMEIER: We'll go ahead and hand those out for you. Thank you. [LR481]

STAN PILCHER: (Exhibits 2-5) Okay. Senator Langemeier and Natural Resources Committee, I'm Stan Pilcher, and I'm from Curtis, Nebraska. And I represent a land...the Loess Canyon Rangeland Alliance, which is, actually, an association of private landowners. And it was organized in 2001, and, actually, we got incorporated as a nonprofit corporation. And this is very important to the organization, because then we could apply for grants and actually acquire our own equipment cage. We also have--the NRCS and the NRD are very important components of the organization. Other partners are the Nebraska Natural Legacy Project and the Nebraska Grazing Land Coalition, the Pheasants Forever, the Rocky Mountain Elk Foundation. We even have volunteer fire department personnel and also local community members. But they say economics really just dictate prescribed burns for cedar suppression. Have you noticed at the top of the page, the Forest Service, the Nebraska state Forest Service, estimates that 750,000 acres of landscape have cedar encroachment. There's a 2 percent increase in canopy closure per year, with complete canopy closure in 40 years is predicted, and this was in 2002. And this is primarily where we are active and actually conducting prescribed burns. And that area geographically would be between Maxwell to Farnam to Maywood to North Platte. We do extend beyond those boundaries too. Anyway, we...with receipt

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of this conservation incentive grant, we actually have been able to purchase \$30,000 worth of equipment, and it's used to actually conduct these burns. But we're required to actually come up with three deliverables. And one, within three years we would burn 3,500 acres with 10 different landowners. And currently, 10 years later, we have conducted over 14,456 acres, we've conducted safely, without any loss of...or any problem on 25 different landowners. We've conducted that many prescription burns. Another part of it is publish a risk management assessment, whereby if you are planning to do a burn, you would have to fill this out, and, actually, it covered such things as: Have you contacted REA? Have you contacted, if you have a pipeline going through your land, those people? And there's over 50 different factors on this particular publication. You can actually check off whether you successfully have completed all these activities. The other thing that I wanted to pull out--we've actually worked a lot with our local volunteer fire departments. And there will be two letters: one from a fire chief in Curtis, and he also works for the NRD, and also another fire chief from Farnam. But they would hope that everything would remain within control of the local fire chiefs. And if you read those letters, it might be of interest. I guess I'm really about out of time. Sure open it up to questions. [LR481]

SENATOR LANGEMEIER: We will, okay, we will submit those letters from the Farnam Volunteer Fire Department and the Curtis Volunteer Fire Department in the record as testimony. [LR481]

STAN PILCHER: (Inaudible) [LR481]

SENATOR LANGEMEIER: You bet. Are there any questions? Senator Dubas. [LR481]

SENATOR DUBAS: Thank you, Senator Langemeier. You are, obviously, an example of how it should be done correctly. Was there any particular impetus that caused you to form this association, or you just realized as a group you'd be able to get...accomplish more things as a group? [LR481]

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STAN PILCHER: Yeah, a little bit of both, actually. We thought if we formed a group of landowners and not only obtain our grant to buy more equipment, but also within the group we could purchase our own equipment and become organized and where we could actually...the big problem with trying to cut...the demand is great for prescribed burns, especially now where it is also being cost-shared with NRCS EQIP. But at any rate, we only usually have about four to five days since last year that we could stay within compliance. And so by obtaining more equipment...and we also worked on forming another association to the east of us, and maybe we can combine two groups so we could actually conduct more prescription burns within those limited periods of time. [LR481]

SENATOR DUBAS: With your association, where does the liability fall if a burn would get away from you for whatever reason; who could end up being liable for any property damages? [LR481]

STAN PILCHER: It's really the landowner. [LR481]

SENATOR DUBAS: The landowner. [LR481]

STAN PILCHER: The landowner. And he has to strike the match to start the fire. And everything is recorded; you know, if you file a burn plan, everything is recorded, that you started, you stayed within constraints of the burn plan. And all the way through we monitor the weather factors, all--I mean every hour, all the way through the burn. [LR481]

SENATOR DUBAS: As I said, I mean, you're a great example of how to do it right, and you have a cooperative working relationship with your fire department, which is critical, because they're the ones that are in charge of the permitting process. And unfortunately, it's not that way all across the state. [LR481]

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STAN PILCHER: Is that right? [LR481]

SENATOR DUBAS: That's where the problem lies, is, you know, that sometimes these permits are given without actually following all of the proper procedures. And so, again, I'm not looking to make things harder for our fire departments, and I think those decisions are best made at the local level. So how can we address some of these problems where procedures aren't being, for whatever reason, where it's just lack of manpower or lack of understanding why they aren't being followed. So I appreciate your coming and sharing this information about your association and how well it's working. I think you could be used as an example to others. [LR481]

STAN PILCHER: Thank you. [LR481]

SENATOR LANGEMEIER: Very good. Are there any other questions for Mr. Pilcher? Seeing none, thank you very much for your testimony, appreciate it. [LR481]

STAN PILCHER: You're welcome. [LR481]

SENATOR LANGEMEIER: I liked the pictures he gave us. One shows a shed with a bed that burned up, and it's under their risk management section. I like that. Further testimony on LR481. Welcome. [LR481]

SCOTT STOUT: (Exhibits 6 and 7) Thank you, Senator Langemeier and Natural Resources Committee. My name is Scott Stout, S-c-o-t-t S-t-o-u-t. I'd like to talk to you a little about the prescribed burn management plan. I'm also from the Loess Canyon Rangeland Alliance. I am the vice president of the group. And I've taken the role of the burn boss in...when we put on the burns. And the risk management plan, that she's handing out right now, goes through all of our preparation work we go into and any risk that might occur during or before that burn. We follow a lot of the requirements set by

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the NRCS restrictions, weather-wise and as far as the burn preparation as far as lines and--the risk as power lines, standing structures, such and such and so on. A lot of the times we require to have these pastures set aside for fuel load in order to have a more successful burn. It kind of goes through states that we also...in order to put these burns on, we go through and we have feet restrictions on standing structures...or standing trees. Most have to go out and clean a lot of these areas out for safety reasons. We require a 100-foot line on any standing trees from the...from your outside of your line--burn line. Any grass line needs to be 50 foot or more; any mowed lines has to be 20 to 30 feet. As you go through there, you can see a lot of the things that we have to go through to even put on a burning. A lot of times that we...the planning and thought process goes into these burns a year to two years in advance of actually putting on the burn. So there's a lot of preparation that goes into these burns. If you get towards the back, you have an organization sheet. That will give you your team roster. That's what it takes to...what we use to put on these burns. Generally, we have anywhere from 25 to 50 people on each burn. We kind of require that within our group to...landowners helping landowners, that's kind of how we get by on a lot of this situations. And like I said, we usually get anywhere from 30 to 50 people on one burn. And I think we stay very well organized as we meet. A lot of the NRCS restrictions--and they actually help us out a bunch. Doug Whisenhunt has been very instrumental in this group and he helped us. He's taught me a lot about what to expect and what to look for. He pretty much taught me everything I know about the fire, being the burn boss and so on. On the map...on the backside of the maps there, there will be two different burns that we have done. You can kind of see how technical it gets from us. And that helps describe to people where they need to be and what they are supposed to be doing. It gives you kind of a layout of the land and what directions to follow. The second handout I gave you was some of the post-burn effects we have had. And it will give you some aerial photos of pictures just to kind of help you see what benefits we've been doing, post-burns compared to nonburned areas. It really helps you see what we have been accomplishing. I think that's about all I really have. If you guys have any questions, I'd sure appreciate to answer them. [LR481]

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SENATOR LANGEMEIER: Senator Carlson. [LR481]

SENATOR CARLSON: Thank you, Senator Langemeier. Let's take this. [LR481]

SCOTT STOUT: Sure. [LR481]

SENATOR CARLSON: And just, if you would, quickly go through that. We're not timing you now. [LR481]

SCOTT STOUT: Okay. Oh, okay. Mainly, on these areas here, just, like, this first few pages were all from the same burn. This pasture here was primarily, probably, 60 percent to 70 percent canopied before this burn. I think this burn was taking place in 2008. And, you can see, I think we ended up about 75 percent to 80 percent kill on... [LR481]

SENATOR CARLSON: Go to this one. [LR481]

SCOTT STOUT: That one there. That... [LR481]

SENATOR CARLSON: That's the first one that the...it's a wide landscape. [LR481]

SCOTT STOUT: Okay, is that the one with the pond in it? Yes. That is a burn we did in 2009. That pasture there was about 80 percent canopied. We went through there and I think we primarily, except for the south end, we had a 90 percent kill on that. Then...which definitely goes back to our internal ignition and some of the safety things we go through and a lot of the cutting and stuff we do. It really helped out on that burn there. [LR481]

SENATOR CARLSON: Is the next page the same pasture? [LR481]

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SCOTT STOUT: Yeah, there's about two, three pages in there. A lot of these pages here are off--from aerial photos from that...about four pages there were off of that burn there. Just from different sites. [LR481]

SENATOR CARLSON: Is this one? [LR481]

SCOTT STOUT: Yes. [LR481]

SENATOR CARLSON: Here's the burn and here's the one that wasn't. [LR481]

SCOTT STOUT: Yeah, that is the same pasture, just across a little dry creek--the same exact pasture. [LR481]

SENATOR CARLSON: Okay. [LR481]

SCOTT STOUT: And that's what we have been trying to accomplish and I...can really see the effects of what we've been doing. [LR481]

SENATOR CARLSON: Thank you. [LR481]

SENATOR LANGEMEIER: Senator Dubas. [LR481]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you for your testimony. Did you say that you are a burn boss? [LR481]

SCOTT STOUT: Within the group, yes. Yes. [LR481]

SENATOR DUBAS: And what kind of training did you take to get that? [LR481]

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SCOTT STOUT: I have had some NWCG training and some classes that they have offered to the...Pheasants Forever. And that's basically all I've had for training besides hands-on training through the NRCS. [LR481]

SENATOR DUBAS: So you have worked with the NRCS as far as... [LR481]

SCOTT STOUT: Yes. Yes. The NRCS has been very instrumental in what we've been doing. [LR481]

SENATOR DUBAS: Okay. I see we have several land associations formed across the state. Do you do anything to help promote the forming of those land associations? [LR481]

SCOTT STOUT: As far...we do a lot of speaking engagements, plus we do a lot of tours on our own. We invite a lot of people to come and see what we have been doing. Stan Pilcher and I have...we've been...we usually go to do five or six speaking engagements. We've been to South Dakota; we've been to Sidney; we've been all over the state talking about what we have accomplished here. [LR481]

SENATOR DUBAS: Thank you very much. [LR481]

SCOTT STOUT: Yeah. [LR481]

SENATOR LANGEMEIER: I have a question. As Senator Dubas brought up in the start of her opening statement, that we have statutes that are pretty clear how this should all work. And you guys have formed a group; what about that is working for you and what isn't working? What do you think we should change or what should we enhance? [LR481]

SCOTT STOUT: I don't think, personally, you need to change anything. I mean, it's

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been working well for us. We have taken upon ourselves to follow these guidelines, and we have been real successful at it. And I really think that it...local control definitely needs to be...to stay in local control, because anything further will affect us. Really, we do need prescribed fire in our business to stay alive. I mean, honestly, because you go from 60 percent canopy to 20 percent, you know, that's a real vital amount of money there that you're losing each year you gain back. So anything to restrict...any restrictions more I think would affect that. [LR481]

SENATOR LANGEMEIER: Okay. Very good. Are there any other questions? Seeing none. Thank you very much for your testimony. [LR481]

SCOTT STOUT: Thank you, guys; thank you. [LR481]

SENATOR LANGEMEIER: Appreciate you coming down. Further testimony on LR481? [LR481]

ALICIA HARDIN: Senator Langemeier and the rest of the Natural Resources Committee, my name is Alicia Hardin, and I'm representing the Nebraska Game and Parks Commission. [LR481]

SENATOR LANGEMEIER: I need you to spell your name. [LR481]

ALICIA HARDIN: Oh, sorry. A-l-i-c-i-a, Hardin is H-a-r-d-i-n. As Senator Dubas already mentioned, fire is a natural part of our communities in Nebraska and of our planned communities. And without it, we start seeing a shift, as you've noticed, some of the landowners have said, to a more woody vegetation type not so necessarily natural with our ecosystems here in Nebraska. Game and Parks has burned close to 10,000 acres just in this year alone on our public areas. But we know if we want to make a big difference in the state on the landscape level, we need to work on private lands, where 98 percent of our lands are. So to do this, we need to work with the private landowners

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in the area on what the best management practices can be that works for them on their ranches and farms and what also meets our goals and expectations. Mr. Pilcher is one really great example as well as some other landowners in the Loess Canyons area, which is in Lincoln County near North Platte. The landscape itself has changed dramatically over the years. It used to be the canyon tops...I don't know if you're familiar with that area, but you can see the pictures: lots of canyons, and the tops of the canyons used to have very few trees on them. Over the years without a lot of mechanical or fire to be there on those areas, it has turned much more to trees, to the eastern red cedar. And we've started working with those landowners with our Natural Legacy Program and with our other conservation organizations to try to help clear some of that area, both for the wildlife benefits and for the benefits of that rancher so they have more area for grazing and such too. So we found, as far as cost effectiveness, mechanical clearing can cost \$150 to \$300 per acre to do, very expensive on the landscape. Whereas prescribed fire, if you have a bunch of landowners working together as a coalition, you sort of are paying it forward, and it's free to most of them if they have the cache, the fire cache, or the tools available to them to do that. The Game and Parks Commission has been working with other conservation organizations, both government and nongovernment, to help provide some training to landowners who are interested in learning how and why to implement prescribed burning on their lands. We've also been working collaboratively with the state Nebraska Forest Service and the State Fire Marshal's office to learn about how to train our staff more on prescribed burning practices. But in the end, we would really like to ensure that prescribed fire remains accessible to all private landowners who wish to use this cost-effective tool on their land. And we are very happy that you are looking into the subject. And we, obviously, very much support this practice. So with that, I'd answer any questions. [LR481]

SENATOR LANGEMEIER: Are there any questions? Senator Dubas. [LR481]

SENATOR DUBAS: Thank you, Senator Langemeier. Are you getting a lot of interest

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from landowners who would like to know more about prescribed burn? [LR481]

ALICIA HARDIN: Absolutely we are. And, like I said, very fortunately we work with our conservation organizations, and Pheasants Forever is actually represented here in the audience today. And I think he will tell you more about some of the associations and the training that they're putting together. But, yeah, there's a lot of interest there. And there's...with all of our Natural Legacy Program, a lot of times the best tool we can use is fire out there. And it's something that we get a lot of interest in, and people want to know more how to do it. So we want to help them, enable them to do that, because we, you know, we can't do it all ourselves. And when they start forming these associations and coalitions, I mean it is paying it forward. It is exactly what we want to see out there. And so with that kind of training and help with these conservation organizations that help provide the training and some of the tools, it's a really good combination, we feel, out there. [LR481]

SENATOR DUBAS: So do you do some things to help in the formation of these associations? [LR481]

ALICIA HARDIN: Well, a lot of times, again, we might help with some grant money; we might help with a match for a grant to help an organization form. But we definitely support some of the staff and the cooperators that are out there helping provide some of those management...those prescribed burn plans and things like that, so, yes. [LR481]

SENATOR DUBAS: Do you work directly with any of the fire departments, or are you working mostly with landowners? [LR481]

ALICIA HARDIN: Mostly we are working with landowners, because the landowners are the ones that are going to get the burn permit. So we want to make sure that they have a good prescribed burn plan. If you have a good plan and you keep to your prescription, you're going to have a safe fire. [LR481]

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SENATOR DUBAS: But what I have found is not all fire chiefs...and I'm not in any way putting down our fire departments, I'm just...I don't want anybody to get that impression, but just not having an understanding of what a prescribed burn really means or entails. And so how do we get that education out? Of course, our landowners are going to be the primary beneficiaries, but it's those fire departments who are issuing those permits and helping them understand exactly what they need to go through and just how important that process is. And the statute is very clear for a very obvious reason. [LR481]

ALICIA HARDIN: Yes. And I think some of the associations I've seen or been a part of, we've always invited and encouraged the volunteer fire department or any fire departments in that area to come and learn how and why. And especially in that Lincoln County area that Mr. Pilcher was talking about, we...I used to live out in that area and was part of that prescribed burn task force out in that area. And we always encouraged the volunteer fire departments to go and come. And then when we would go on the ground and actually do the burn, they would come with us and learn more about it and see that--the safety procedures that we follow, and we don't light the match unless we're in prescription weather-wise and all these other important factors that go into it. [LR481]

SENATOR DUBAS: Thank you. [LR481]

ALICIA HARDIN: Thank you. [LR481]

SENATOR LANGEMEIER: I do have one question. And maybe it goes back to the definition of what a prescribed burn is. Let me give you a little example; in northern Colfax County we have a piece of CRP, and we get an option at certain times to either burn that off or disk it for reseeding for the next year...next contract. And we had an individual come in that, out of South Dakota, that says, we'll do a prescribed burn. And so he shows up one day with a match and tells the landowner to get two or three guys

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and we're going to do this. I would say most of our prescribed burns are more that. What's really going on is that exact thing versus the organized plan we see here. I have a father-in-law that lives in western Nebraska, and they are very good at neighboring and getting together. I don't quite see that at this end of the state. Everybody is friendly, but you just don't see that assisting. So maybe we need to look at what we call a prescribed burn. [LR481]

ALICIA HARDIN: Okay. Well, what we call a prescribed burn is one that, you know, we look at the area of land and we know what our objectives are for that piece of land. And so whatever that is--maybe it is for the reseeding purposes--we say, what is the best thing we could do? Okay, prescribed burn. All right, so, now we need to look at the area itself and what is it going to take to do. So we create this burn plan. And some of it's looking at the risk associated with that area. Where are the trees? Where is the road? Where is your burn line going to be? Where is the smoke going to go? And what kind of weather conditions do we need to make sure this goes safely? And you write all that out in a burn plan. And you have it clear. This is what our prescription is going to be. We're going to have these weather conditions. We're going to need this many people on the crew. We're going to have these tools available to us, and...before we set that fire. And then we're going to go and get our burn permit, and this information is given, like it says in the statute, to that fire chief. And they look at that and make sure you're following all the rules of the statute, which, hopefully, they are. And that's when they would issue a burn permit or not. But the prescription itself is trying to meet the objective of the land and also writing out the plan exactly how you want to go about doing that burn, all the pieces that fall into it. [LR481]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none. Thank you very much for your testimony. [LR481]

ALICIA HARDIN: Thank you. [LR481]

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SENATOR LANGEMEIER: You did a great job. [LR481]

ALICIA HARDIN: Thanks. [LR481]

SENATOR LANGEMEIER: Further testimony on LR481? [LR481]

DAVID CARR: Senator Langemeier and members of the Natural Resources Committee, my name is David Carr. And today I'm testifying on behalf of the Central Platte Natural Resources District. I'm a Prescribed Fire Burn Boss Type 2. I've been certified... [LR481]

SENATOR LANGEMEIER: David, I've got to stop you. I need you to spell your name for the record. [LR481]

DAVID CARR: D-a-v-i-d C-a-r-r. [LR481]

SENATOR LANGEMEIER: Thank you. [LR481]

DAVID CARR: (Exhibit 8) I'm a Prescribed Fire Burn Boss Type 2. I've been certified through the National Wildfire Coordinating Group system when I was employed with the U.S. Fish and Wildlife Service. I have safely conducted prescribed burns in Nebraska for ten years. Thank you for this opportunity to provide testimony on the practice of prescribed burning. Today I'd like to promote the positive benefits of prescribed burning to protect future ecosystems while at the same time ensuring that lives, property to be burned, and the adjoining properties are protected. Fire can be an effective, affordable, and efficient tool managing Nebraska's natural resources. Proper planning and execution are key components in using fire as a conservation tool. Fire, historically, has been a part of the prairie and forest ecosystems, with some species responding positively to fire. Unfortunately, fire in many cases has been viewed as a threat to society. And as a result, fire prevention and suppression programs have become the

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norm. In some situations, smaller, more frequent fires prevent the occurrence of large, damaging fires that we sometimes see on the news. When these events occur, several public agencies expend public resources including tax dollars, along with private resources, and they act to bring the situation under control. Fire planning and use, when properly applied, can minimize these impacts. I'd like to emphasize four main points that would assist in creating successful prescribed burns and a greater acceptance of the use of this management tool in Nebraska. The first is collaboration with local fire districts. Rural fire districts are where a majority of prescribed burns are carried out. We need to work with our local fire districts to enhance common understanding of what environmental and other factors need to be in place to conduct a safe prescribed burn. More training is needed in this regard. Incorporating more training into the Nebraska State Volunteer Firefighters Association fire school and other venues could be a good opportunity for partnerships to improve the safe use of prescribed burns. The Central Platte NRD would be willing to share our experience for these training opportunities. Development of burn plans and permitting, state statute 81-520.05, requires the development of a plan prior to conducting a range-management burn. I provided each of you with a map as an example of a potential range burn, as others have done. The map shows proper boundaries, ignition techniques and provides safety information regarding the fire typically. Burn safety is enhanced if burn bosses and fire districts work together to ensure that a comprehensive burn plan is submitted and reviewed before any written permits are issued for range-management burning. My third point is training to certify burn bosses. Currently the prescribed burn training within the state of Nebraska is limited. The Nebraska Forest Service has taken a great initiative in applying for a grant which would help train numerous burn bosses in Nebraska. Creating a voluntary training for those issuing permits and a voluntary certification program for burn bosses that pulls together all entities involved is a positive step towards gaining consistency. Coordination with all local and state, federal agencies is my fourth point. It is important to coordinate with the appropriate agencies to ensure that regulations, state laws, and safety precautions are being met. It may be beneficial for the state to consider some type of advisory prescribed burn board. Such a board would consist of all agencies and

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organizations involved with prescribed burning. It would also have a fair representation for private landowners. This board could help create the form for collaboration which would help ensure burns are conducted safely. The practice of prescribed burning can be an effective, efficient, and affordable tool in use to manage Nebraska's natural resources. It is vital for the preservation of the tall-grass prairie in our state. It is important with this and any tool that lives, property, and future environments are protected to gain further recognition and acceptance of this tool. Thank you for the opportunity to testify at this hearing. [LR481]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Dubas. [LR481]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, David, for coming. Have you been doing any education...taken any educational opportunities with any local fire departments? [LR481]

DAVID CARR: Yes. We held our own training at the same time as the volunteer firefighters school in May last year in Grand Island. And we had a prescribed burn plan seminar, where we went over the different elements of a prescribed burn plan with the fire chiefs. And we had fire chiefs that stretched all the way across the state. And their total attendance was probably about 20 individuals. And so we would, obviously, like to reach out to more people. But in addition to that, the prescribed burn task force has held several what we call firefighter burn schools during the spring, when we have our landowner burn schools. So we'll have the volunteer firefighter burn schools in the evening, as an evening session. And so we've done several of those. [LR481]

SENATOR DUBAS: Would you see any way that the local NRDs could collaborate or cooperate with the local fire departments in the processing or the assessing these prescribed burn permits...applications when they come in? Because again, our volunteers...they're working their other jobs. They don't always have the time, energy, or

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expertise to be looking at these plans to see if they are the way they should be or even educating their landowners about the need to put these plans together. Is there a way that the NRDs could collaborate with the volunteer fire departments to assist with technical expertise? [LR481]

DAVID CARR: Well, I think we're trying to do that through training on both ends, with the fire departments and with the private landowners. As far as reviewing the burn plans, I know how...what we can do within our program to be more proactive is to be better at getting the burn plans to the fire chiefs in advance of the burn day. A lot of times the burn day comes up, weather is very tenuous, and so we don't know exactly when we're going to burn, but we end up in a situation where we're trying to give somebody a burn plan and get a permit right now, and they might not necessarily have time to review that plan. But I think that's very important to have that plan prepared for that fire, whether it be one of our prescribed burns or a private CRP burn, have that burn plan done and have the fire chief look that over to make sure that the necessary things are in place that should be there, as far as burn boundaries, whether they're disked or mowed, make sure we're operating within the right prescription and with the appropriate amount of equipment. And I think that if we do that, we'll shut down these three- or four-person fly-by-night CRP fires that get away. Because when I look at the types of burns that I do and the people that I've worked with and trained, I can't name...I don't know of any disastrous escapes off the top of my head that have occurred using these types of precautions. But I do know of several escapes that have happened around my district that were these undermanned, not very well planned type range-management burns that I really don't call a prescribed fire. But they are, technically, a range-management burn, so they should have this plan in place before they get the written permit. And I think that those need to be done and be reviewed. [LR481]

SENATOR DUBAS: Well, I think, like Senator Langemeier said, I think a lot of our fires, especially in the eastern end of the state, are: I think this would be a good day for a fire--and got a couple of farmers that get together and go out and do it. I think there's

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just a lot of lack of knowledge about what a real prescribed burn is and why we have the statutes as they are and why the process is the way it is. So I just see us needing a lot of education out there both for fire departments and landowners. But thank you for the work you do. [LR481]

DAVID CARR: Yep. I agree. [LR481]

SENATOR LANGEMEIER: Very good. Any other questions? Seeing none, thank you very much for your time and your testimony. [LR481]

DAVID CARR: Thank you. [LR481]

SENATOR LANGEMEIER: Further testimony on LR481? Welcome. [LR481]

JOHN ORTMANN: (Exhibit 9) Good afternoon, Chairman Langemeier and other committee members, and thank you for having me this afternoon. My name is Dr. John Ortmann; that's O-r-t-m-a-n-n. My job is prescribed fire coordinator of the Lower Loup Natural Resources District. However, I need to specify that I'm testifying today on behalf of the Prescribed Burn Task Force. The handout explains what that is; I won't go into it now. I've provided a synopsis of some comments, and I've also done a one-page, probably somewhat tedious review of the economics of fire and rangeland and trees. As far as my bona fides, I've been working in prescribed fire for over 20 years. That goes back, actually, to the very beginnings of prescribed fire in Nebraska. I do have some federal rankings, not actually burn boss. I am, however, a burn boss in the extent that I've bossed well over a hundred fires, or 150 more likely, and planned many more. Probably more importantly, my research, my master's degree research, back in the early '90s informs much of what is being done with fire and especially cedar management in Nebraska today. And, incidentally, I was part of an effort that helped put together the law that is now in place, and I actually wrote the first draft of that law back in the early '90s as well. So I've been in this for a while now. I'm not going to go through

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this whole thing. As far as point number three, the position of the Prescribed Burn Task Force is that the current system, whereby permits are issued by local fire chiefs and no special government-imposed training standards are required, has proven generally effective and not in need of radical change. There are inconsistencies among departments on how or if permits are issued. This is an educational issue both for fire personnel and burners. Federal training is almost completely oriented, in my experience, toward wildfire suppression in more volatile forest types, usually mountainous areas--obviously, those are very complex and need a lot of training--but has very little to say about igniting fires in grassland; it's not the same thing. It seems to me that local chiefs have the best knowledge of their local fire environments and the people: If Fred has been doing some fire and has some credibility and comes in, that may be all right; but if Joe is sort of a...one of the neighborhood guys that goes out half-cocked, that might be a red flag. The chief knows this. I'd like to reiterate what, I think, Dave just said. There's no reason these permits--or plans can't be submitted months in advance and give plenty of time for review, with the permit being issued closer to the burn date. And ideally that's the way it should happen; it shouldn't ever be a hurry-up thing. There should be plenty of time to reflect and make changes if the chief feels that that's necessary. Going on, I was a little puzzled by number five: The required knowledge of surrounding natural resources and wildlife habitats to conduct prescribed burning. I wasn't sure "surrounding what," but if this is a reference to the depth of knowledge of fire ecology of lands to be burned, I would say the answer is--not very much. And if this statement seems surprising coming from an actual fire ecologist, let's consider the case of corn herbicide application. A producer will use a particular herbicide at the recommended rates, timing, and so on, because it has been shown to work. The producer has no need to understand the complex biochemistry behind the herbicide's mode of action. That's my job to find those things out and pass it on. Similarly, at the level of application, using fire for either brush control or herbaceous-species manipulation is fairly simple and well understood. For example, because the most critical need for prescribed fire is to manage eastern red cedar invasion, the knowledge required is that you can't have it both ways. You can either

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have predominantly grasslands with fire or predominantly woodlands without fire. There isn't a middle course. Other, more technical aspects such as wildlife-habitat suitability are moot if non-action allows the establishment of low-diversity, low-productivity woodlands. And then finally, to close, as noted, there is a need for both fire personnel and would-be burners to understand what constitutes a legal and realistic plan under current law. And by far, planning the work and working the plan is the very best way to reduce the real and perceived risk of prescribed fire. And with that I'll take questions. And I would also like to invite any committee members out to my country, show them around, and show them some burns. [LR481]

SENATOR LANGEMEIER: Are there any questions? Senator Dubas. [LR481]

SENATOR DUBAS: Thank you, Senator Langemeier. So if a landowner calls you up and says: I'd like to do a burn; will you help me put my plan together? You'll do that? [LR481]

JOHN ORTMANN: Yes. And I would start that with a photo reconnaissance and then a site visit. I want to know all about that piece of ground. And that's absolutely essential to base that on some intimate knowledge of the actual piece of property to burn, what the hazards and things that might help you out there as well. [LR481]

SENATOR DUBAS: Is there a cost to the landowner for you to do that? [LR481]

JOHN ORTMANN: Not under the current program that I'm operating under. [LR481]

SENATOR DUBAS: Okay. All right, thank you. [LR481]

JOHN ORTMANN: You're welcome. [LR481]

SENATOR LANGEMEIER: Are there any other questions? Seeing none. Thank you

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very much for your testimony. Very good. I was going to ask you who all made up the burn task force, but you have that on there. Nice list, thank you. Welcome. [LR481]

TOM BRAGG: (Exhibit 10) Thank you. Good afternoon. I'm Tom Bragg, B-r-a-g-g. I'm a professor with the department of biology at the University of Nebraska at Omaha, although today I'm representing myself here, rather than the university as a whole--although I am in charge of the preserve program at UNO and also the charge of prescribed burn program. I've been burning for about 35 years, about two or three times a year. I'm still learning about fire, as you would expect. You don't really know everything at any time, and you're always ready for everything. But I do think I have some perspectives. You do have a sheet that kind of covered what I intended to talk about. A lot of it has been covered already adequately, including what you started out with. I'm going to just make some highlights in there. But I am supportive of many of the comments that have already been made, and I think they are already in the document here. It goes without saying that Nebraska is a prairie state. It's a state that prairies were a part of the systems in the thousands of years. But it's not just about the effect of fire on trees, which has been a major focus here and which, of course, is a major focus from the rangeland perspective. So part of what you're going to get from me is kind of an ecological perspective. Because as an ecologist, we view things differently, and that's not to say bad or good, this is just a different perspective of things, and it's important to keep in mind, because often burning management does not really consider other ecological aspects. In addition to keeping the trees out, historically fire also invigorated the prairie. In fact, many of the species actually increase in production and in seed production in response to burning. It also removes the litter that allows for seedlings to germinate and maintains the diversity of the system. So when you're looking at fire as a system, you need to look at the management objective. Range-management objectives have one thing...and I work closely with range managers, because I do the same kind of thing they do, but I also have an interest in how the diversity of the system is there, which may not be to maximize productivity. So what fire does is not about...is not just about trees, it's about a number of other things.

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And I think it's important that you keep that in mind, that often a burn plan may not be what you...what one might think is going to be the maximum productivity, but it may be accomplishing some other objectives. Of course, prescribed fire is now necessary because over the time, as has been mentioned, the fires, natural fires, have been intercepted by roadways and cultivated fields and active suppression, so we've had to pick time and place in the way to do burning. And that's really where the objective is. It's important to keep in mind that fire is not just about range management, it's also about managing for diversity of a system. I make that point several times because from an ecological perspective it's often the one thing that gets overlooked, not that it's...it's just one of the things that doesn't really get thought about. It's not unimportant, it's just often overlooked because there's not...it's not a big economic issue. But it certainly is an issue. The preserves that I manage, we manage for diversity, and that's where my principal focus has been, including my research, which involves a lot of different studies on different times of fire. So if you look at both the range-management objectives and the diversity and all the other uses and objectives of land management, it's important that given this great diversity of management--objectives, I should say--that have been out there and the prairies that are managed by fire actually have different effects. The effects of fire in the Sandhills is very different from the effects in the tall-grass prairie. So it's not just...there's no one-size-fits-all type of approach to a fire plan. So what we need to do is have, as you're trying to work out here, is a process that enables the land manager to manage his land or her land in the way they want to. If fire is an appropriate tool to do that, allowing fire would have to be one of the tools that they actually use in maintaining the fire. So my experience with the prescribed burning in Nebraska...and I've been getting burn permits since 1970-something or other. And, of course, the process has changed there. I think it's basically a system that works. There are occasional instances where individual fire chiefs or individuals in the system kind of inhibit the use of fire, even though it may be the best management practice. And I think that we may need to look at to make sure that the process is set in place where we actually can use the tool that is necessary under the right conditions, because obviously we have a set of conditions that are met--the range, the burn plan, and all that is

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required. And it's important that the land manager be able to use this particular tool. As one whose livelihood is involved in basically gathering information and trying to make informed decisions, I think that's why it's important that what you're doing here right now is to get all the input. If there's one thing I would ask, it's that you make sure that this ecological component is not lost in the process of the much more important economic considerations. I think that's the key to getting all of the input from all of the people that are out there that are involved with prescribed fire. And I thank you for the opportunity. And I'd be happy to take any questions. [LR481]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you very much, we appreciate it very much. [LR481]

TOM BRAGG: Thanks. [LR481]

SENATOR LANGEMEIER: Further testimony to LR481? Good afternoon. [LR481]

JIM EGR: Good afternoon, Senator Langemeier, committee members. I'm legal counsel...and Senator Langemeier--I'm in his district. My name is Jim Egr. I'm an attorney in David City, Nebraska. I'm also legal counsel for the Nebraska State Volunteer Firefighters Association. I've been as such for... [LR481]

SENATOR LANGEMEIER: Got to stop you; you didn't spell it. [LR481]

JIM EGR: Oh, I'm sorry. E-g-r, just three letters. When we came over, we didn't bring any extra vowels. (Laughter) We're Czech. I have...my biggest concern is for our chiefs--and also because I do represent several political subdivisions including second-class cities, villages, and rural fire protection districts--is the liability. And I want to first of all compliment the folks who have testified ahead of time and Loess Canyon Range Alliance. Those folks have their things together. And that's not what my concern is. That's not what, I don't think, our association's concern is or my concern as legal

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counsel. Senator Langemeier hit it right on the head--the problem is the example he gave with the CRP ground. Range people, people with trees--they've got their stuff together. There is no problem with that, in my opinion. The problem is that CRP ground. And I believe the problem is there because there are no regulations that really govern or direct somebody who's got 160 acres of CRP ground what they're supposed to do. They get a burn permit maybe from the fire chief. I think a lot of fire chiefs are concerned about their liability, and that's why I'm here. I'm concerned about their liabilities. Yes, the fire chief, his or her designate are considered employees of the political subdivision under the Political Subdivisions Tort Claims Act. But why should that political subdivision have that liability flow to them to increase their insurance liability? The one who benefits, the one who gets the CRP payment, and the one who gets the lesser cost is the landowner. You also are dealing with, again, volunteers. They don't get paid for going out. And if that thing gets away, that is our taxpayers' dollars being used with that equipment to put out those fires and also those volunteers who are giving up their time with their families, with their activities they want to do and the risk of life without pay. So if I'm going to be critical and say that's a problem, I should be able to have a solution. And this is what I want to suggest that this committee consider from that standpoint. Number one, CRP ground needs to be specified in the statute to require some form of burn plan. The folks in rangeland, like I said, and the trees and so forth--they got their plan together. We need to specify in the statutes that CRP ground, any of that type of burning that occurs...eastern part of the state should be covered and make it definite. Number two, liability of landowner should be absolute. The statutes should say if you get the benefits and you get the savings, you should have the full liability, absolute liability. I own land too. I think Senator Langemeier knows I've got farm ground in Saunders County, we got farm ground, wheat ground, in Cheyenne County. But they're the ones with the...getting the...paid the money for CRP; they are the ones getting the lesser cost by going with a burn; they should have the responsibility. Third, the statutes should specify that the chief and his or her designate and the political subdivision have absolute immunity in issuing the permits. My biggest concern on liability is for a court to come back and say: You, Chief, gave the permit; things should have been okay; if they

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weren't, then you're stuck. That's my concern--chief, his or her designate, the political subdivision has absolute immunity. And finally, there should be on the landowner's part two things--proof of having sufficient insurance that would cover the costs in case things got out of hand. And I don't mean to create problems for the range people, but I think having the sufficient insurance and also that coverage that would take care in case that thing got out of hand--that those costs to that political subdivision, of which we taxpayers support, are covered; that can be by insurance, that can be by a bond, whatever. I think those are the four things that would be very, very helpful; it would be very helpful to chiefs because I know they have a concern what their liability is--their political subdivisions', who are their bosses--and it would take care of the problems, again. My time is up. I compliment the range people. I wish we could get CRP to follow that same guideline. Questions? [LR481]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Dubas. [LR481]

SENATOR DUBAS: Thank you, Senator Langemeier. I'd just like a clarification. You're...what you...your testimony, I guess, here today--you're speaking, representing the local volunteer fire department association. [LR481]

JIM EGR: That's correct, as the association. [LR481]

SENATOR DUBAS: This isn't your thought, this is your association's. [LR481]

JIM EGR: Yes, I am their legal counsel. Jerry Stilmock is also the lobbyist for us, and he will be speaking also. [LR481]

SENATOR DUBAS: I just wanted to make... [LR481]

JIM EGR: Okay, but I... [LR481]

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SENATOR DUBAS: ...sure I was clear on that. [LR481]

JIM EGR: ...he has more concerns about the legislative, and I got more concerns about the liability end. [LR481]

SENATOR DUBAS: Gotcha. Thank you very much. I just wanted to clarify that. [LR481]

JIM EGR: Okay. [LR481]

SENATOR LANGEMEIER: Other questions? And we don't take questions from the audience. Thank you. You had your time. We can have somebody else come up. One thing I do have a question on--you talk about the CRP plan. It's my understanding that you have to get a plan with the NRCS before you can burn your CRP. It may not nearly be as detailed as what was presented earlier. [LR481]

JIM EGR: Um-hum. [LR481]

SENATOR LANGEMEIER: But you do have to go to them and show you have a plan before you burn. But I don't know that it's quite to that extent. [LR481]

JIM EGR: Um-hum. [LR481]

SENATOR LANGEMEIER: But we can look into that. Any other questions? I appreciate it. Now I do want to have one more discussion with you on the liability. [LR481]

JIM EGR: Okay, sure. [LR481]

SENATOR LANGEMEIER: Kind of like I was talking about eminent domain, it gets to be a big issue. When we talk about liability, first we have the liability of the firefighters that,

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per se, would get hurt driving the truck out there, having a wreck... [LR481]

JIM EGR: Um-hum. [LR481]

SENATOR LANGEMEIER: ...responding to a fire. [LR481]

JIM EGR: Sure. [LR481]

SENATOR LANGEMEIER: Then we have another, secondary set of liability that is what I would say is the liability of the burn boss or the landowner or somebody else, that the fire even got away. [LR481]

JIM EGR: Um-hum. [LR481]

SENATOR LANGEMEIER: So we have a couple different little, you know, first you got the liability that called the fire department. Then you have the liability of the fire truck and the fire department trying to help you. When you talk about immunity, you're talking about the lot...I would assume, and we'll verify this farther, but the liability of it getting away is already there to the landowner. Now the liability in the next stage, of the fire department guy falling off the truck or spraining his ankle on the truck or something like that, is the next set of liability that you referenced should also go back to the landowner. [LR481]

JIM EGR: That is correct. That's what I'm respectfully submitting to this committee, because why do I suggest that? I suggest that because that would then emphasize to that landowner the seriousness of what's going on with fire. [LR481]

SENATOR LANGEMEIER: Sure. I just wanted to be clear on that, because I think it's pretty clear that the liability goes back to the landowner for the fire getting away and having to call somebody in for help. [LR481]

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JIM EGR: I don't think that that's that clear, Senator. [LR481]

SENATOR LANGEMEIER: Okay. [LR481]

JIM EGR: And Jerry Stilmock may address it, what happened someplace else. But I believe there's the potential, as I had mentioned, that if chief gives that permit and then things change or things happen and the fire gets away, that I believe there's an exposure to that chief--well, really to his political subdivision, because under the Tort Claims Act they can't be held personally liable. But because of the fact of that administrative duty of issuing that permit, they could be held also contributorily negligent or some type of liability to them because they issued it in the first place. That's what I'm looking at, is I don't want my volunteers liable. I don't want their political subdivision liable. The one who benefits, the one who gets the money, the one who gets the savings is the landowner--that's where the liability should remain. [LR481]

SENATOR LANGEMEIER: Very good. [LR481]

JIM EGR: And most of your volunteer departments work with the rangeland people. [LR481]

SENATOR LANGEMEIER: Sure. [LR481]

JIM EGR: I mean, there is no problems there. [LR481]

SENATOR LANGEMEIER: Are there any other questions? Seeing none, thank you. [LR481]

JIM EGR: Okay, thank you. [LR481]

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SENATOR LANGEMEIER: You bet, good job. Further testimony on LR481? Good afternoon. [LR481]

SCOTT JOSIAH: (Exhibit 11) Good afternoon. Scott Josiah, S-c-o-t J-o-s-i-a-h, and I'm the director of the Nebraska Forest Service. Good afternoon, Senator Langemeier, Senator Dubas, and Senator Schilz. Appreciate the opportunity today to explore in a detailed way the impacts of prescribed burning. The Nebraska Forest Service is unique in the state in that it's a conservation organization that also works very closely with the fire community, so we have a foot in both worlds, in a sense. Our position is clear--that prescribed burning is an important conservation tool for landowners and land managers to use to maintain healthy forests and grassland ecosystems as long as it is done safely and used to protect and enhance natural resources including forests. A lot has been said here; a lot of really good testimony, I think, has been shared already. There's been a dramatic increase in the number of prescribed fires over the last decade. And in some cases, that has caused unsafe conditions for landowners, for firefighters, for burners, as well as for causing relatively frequent escapes. In fact, over the last...from 2000 to 2008 about 10 percent of the wildfires reported, or 1,100 wildfires, were escaped prescribed burns. Those are statistics that are reported to the Nebraska Forest Service from all the different volunteer fire districts, so we clearly have a bit of a problem there. We acknowledge the hard work of many across the state, including the burn associations, to establish and implement landowner training programs for prescribed fire. And we recognize the urgency felt by a lot of landowners and natural resource professionals of their need to arrest the spread of trees, predominantly eastern red cedar, on grasslands and under existing forests, I might add, through the use of prescribed fire. This urgency, however, should not allow us to rationalize the development of ad hoc certification programs. We have a lot of very heavy fuels that have accumulated on these forests and grasslands. And they could potentially blow up, in a sense of major wildfires, if it's not done correctly. So we really exercise and recommend caution as we move ahead here. And I think this is a great step, this hearing. We believe it's critically important to remain within the NWCG certification system for standards. Indeed, NWCG certification

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is the nationally recognized gold standard for firefighter training. We have a number of recommendations. And I forgot to hand these out, but...given that our predominant or preeminent concern is for the safety of landowners, burn participants, volunteer firefighters, and adjacent neighbors, and balanced with the requirements of NWCG certification, we recommend six points. Any state burn boss standard developed should meet NWCG standards. All government agencies and nonprofits involved in prescribed burning should have at least one person on staff that is certified to the NWCG Prescribed Burn Boss 2 level or higher to develop and review burn plans and direct and lead prescribed burns. Landowners and members of the burn associations utilizing prescribed fire to manage land should be strongly encouraged to further their formal prescribed training and education with an accepted NWCG curricula or the equivalent state standards, of which there are none right now. We don't have any equivalent state standards. To ensure safety to life and property, larger and more complex fires should be directed by an on-site burn boss certified under the Prescribed Burn Boss certification, Type 2. Some of the fires are getting larger. There are larger and more intense prescribed burns that are being established, and this is of some concern. Private contractors should have at least one person certified to Burn Boss 2 level. And open burn permits should remain the responsibility of the local fire chief. There needs to be an addition to the open burning law that includes forests as well as rangelands. Right now forest lands are not included in that legislation. And finally--and some of you have heard this from me before--we believe that along with adequate training and certification, one of the best long-term, sustainable, and safest solutions to reducing the heavy fuel loads of flammable trees in our forests and grasslands is to develop markets for this biomass, which increases in this state by 1 million tons per year. Markets would develop a long-term solution to removing that biomass from our rangelands and forests using market incentives. Look forward to working with you and all of our colleagues in this room in forging a solution to these issues. Thanks for the opportunity. [LR481]

SENATOR LANGEMEIER: Very good. Are there any questions of Mr. Josiah? Senator Schilz. [LR481]

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SENATOR SCHILZ: Thank you, Senator Langemeier. Dr. Josiah, thank you so much for coming in today. I do...just a couple of questions, I guess. [LR481]

JAMES EGR: Sure. [LR481]

SENATOR SCHILZ: The first one is, do you...I mean, obviously, it's recognized that fire, if used properly, well, even if not used properly, is beneficial for ecosystems, forests, things like that, to keep it healthy, keep it unencumbered, so to speak. [LR481]

SCOTT JOSIAH: That is generally true, yes. [LR481]

SENATOR SCHILZ: Right. So then, in that sense, if you're doing a prescribed burn in areas or if a fire burns in areas, wouldn't there be benefits to more than just the people owning the land? [LR481]

SCOTT JOSIAH: There are some ecological benefits, for sure. And we have a pretty major program of fuels reduction in pine forests in the Niobrara Valley and the Pine Ridge and Wildcat Hills. We spend...we pass through almost, frankly, over \$1 million a year to landowners for reducing fuels mechanically and then at some point in the future to follow up with prescribed burning under those forests. [LR481]

SENATOR SCHILZ: Once you get the fuels down to the point where they don't just... [LR481]

SCOTT JOSIAH: Right. [LR481]

SENATOR SCHILZ: ...scorch everything out. Right? [LR481]

SCOTT JOSIAH: Right. So one of the major impacts is improved wildlife habitat,

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reduced fire risk. [LR481]

SENATOR SCHILZ: So, in fact, what you're saying is, is that if we don't use some of these things it's actually going to cost us more as we go forward. [LR481]

SCOTT JOSIAH: That's correct. Oh, yeah. I mean, if we don't--for instance, in some of our forest lands if we don't reduce fuels, fuel loads, we will have catastrophic wildfires, as we did in 2006 in both the Niobrara Valley and the Pine Ridge. [LR481]

SENATOR SCHILZ: So that should be of very great concern to the fire chiefs out there as well, don't you think? [LR481]

SCOTT JOSIAH: It is, and it's the safety of firefighters. And it's also, again, when we set off some of these very large prescribed burns and heavy fuels, even on rangeland where it's, for instance, 70 or 80 percent canopy cover of cedar, that's essentially a cedar forest, very flammable. And we have an intense wildfire going in the center of that, and we have spot fires going ahead of that fire because of the intensity, and so we have to be careful about that. And we have to have people on the ground that really know what they're doing. And we have to examine exactly why we're doing what we're doing when we set...when we light fires that reach that intensity. [LR481]

SENATOR SCHILZ: So we're kind of a...so, basically, where we find ourselves is kind of caught in the middle here. We haven't done enough in the past to manage what we're doing, but yet now that it's grown so much and everything, we're scared to do anything because of our management practices before. Is that correct? [LR481]

SCOTT JOSIAH: I think we have a biological issue of we have very high fuel loads that have increased over time during fire suppression, and we have a fairly rapid adoption of prescribed burning over the last 10 or 15 or 20 years. And there's been a lag in terms of having enough people in the state that are adequately trained at a high enough level to

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really provide statewide guidance. And we have a lot of players in this, a lot of good people that are doing a lot of good things. But we need to ramp up the capacity of this state in terms of training and certification under NWCG standards to achieve safer burning for everybody. [LR481]

SENATOR SCHILZ: So we need...okay. So what you're saying is we need more burning to happen and more people to take care of it? [LR481]

SCOTT JOSIAH: We need to reduce our fuel loads in our forests, for sure, whether mechanically and then follow it up with prescribed burning. Yes, that's going to increase over time. Rangeland fires, prescribed burning is increasing over time because of the expansion of eastern red cedar. So, yes, prescribed burning, I would imagine, will increase. So because of those trends, we really do have to ramp up our training programs. And the Nebraska Forest Service just submitted a \$300,000 grant request to the Forest Service--I don't know if it will be funded or not, but...this year, and if it's not, we'll apply again to begin to establish a training program that starts for all...not just for us... [LR481]

SENATOR SCHILZ: Sure. [LR481]

SCOTT JOSIAH: ...in fact, for all of the players that are in this room, so that we can ramp up our capacity as a state to have highly trained burn bosses out there in the field and in the offices of these agencies. We see it as a training program and a capacity-building program. [LR481]

SENATOR SCHILZ: Thank you. [LR481]

SENATOR LANGEMEIER: I do have one question. In the six item bullets you gave us here to think about, in your third one you talked about that every landowner or member of a burn association should have this fire training accepted by the NWCG--which I'm

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not sure what that stands for but I'll figure it out here in a minute--or equivalent state standards. What other...and you also keynoted, I wrote it on there, you said we have none, which is true. Do other states have standards? [LR481]

SCOTT JOSIAH: Other states do have a variety of different standards. And they're all over the place. We do have various certification programs in this state. There are--some of the burn associations have a six-hour training program. NRCS has different standards that they require. There's a lot of different standards. NWCG, again, is the gold standard; it's national, and it's the best...probably the best protection against liability issues. Should this state go down the road of establishing a state standard, what we're saying is that the state standard should include--should be parallel to the NWCG standards and use equivalency. There's a lot of experienced people in the state that just haven't had the formal training. But some of that can be sort of grandfathered in so that we can raise the capacity and certification level of those individuals rapidly over time under a state standard type of thing. I don't know if we want to go down that road of state standards. Probably some do. But if we do, we need to make sure it's pretty rigorous, because it's...we're going to have more burning in the future, I can pretty much assure you of that. [LR481]

SENATOR LANGEMEIER: Okay, very good. Seeing no other questions, thank you very much for your testimony. [LR481]

SCOTT JOSIAH: Thank you. [LR481]

SENATOR LANGEMEIER: Further testimony on LR481? Come on up. [LR481]

SENATOR DUBAS: No fighting. [LR481]

SENATOR LANGEMEIER: You have a gun, so he's going to let you go. (Laughter)
Good to see you. Welcome. [LR481]

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JOHN FALGIONE: (Exhibit 12) Good afternoon, Senator Langemeier and members of the Natural Resources Committee. My name is John Falgione, J-o-h-n F-a-l-g-i-o-n-e, and I am the director of the State Fire Marshal's agency. And I want to thank you for the opportunity to discuss some of the Nebraska revised statutes which impact and guide the process of prescribed burning. The State Fire Marshal's agency recognize that prescribed burning can be an important tool used to assist the land management community. That issue was clearly determined and the methodology to use fire was carefully thought out by the Legislature, the fire service, and others when first debated, passed, and put into law. Nebraska Revised Statute 81-520.01 establishes no burning. You're all familiar with that. Section (2) does provide the fire chief or his designee of each fire district the authority to grant a waiver to the statewide burning ban, in the form of a burn permit, provided certain conditions are met for the safety and health of those within their district. Statute 85-520.03 provides a definition of "range-management burning." Statute 81-520.04 offers very specific guidance for the fire chief by laying out parameters to be followed if a permit to burn is issued. The specific requirements for the issuance of such a burn permit are addressed in 81-520.05. Statute 81-520.05 is a step-by-step guide for those wishing to burn and the fire officials to ensure that safety parameters are consistently followed for a safe and effective operation. As I stated in the beginning, the State Fire Marshal agency recognizes the value and importance of using fire for land management in certain terrain and under specific conditions. However, it is very important that persons or groups performing prescribed burns have the necessary training and qualifications for this activity. Our Training Division teaches many classes and works very hard to educate those that want to be educated in the proper techniques. We will continue to work with and educate those involved with prescribed burns, and we will continue to follow the statutes as we are charged to do. It is also important that the control regarding the use of fire through the issuance of different types of burn permits remain with the local fire chiefs. The statute recognizes the fire authorities of each district as the ones having the responsibility to maintain the control of fire activity in their areas. The fire departments in this state devote many

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hours to training and are responsible for the safety and protection of the citizens in their district. They are also responsible for the effective use of millions of dollars of fire equipment, but their first concern is for the safety of their firefighters. As you know, most of the firefighters in this state are volunteers, and the fire chiefs must be diligent to make sure that there are enough personnel to respond at all hours to all situations, whether at a house fire or a prairie fire that is out of control. For these reasons, the fire chiefs are the best-suited local public officials to make the decision whether or not a prescribed burn should be allowed. We look forward to continuing to work with other agencies and interest groups on this issue. Again, thank you for the opportunity to speak today, and I will be happy to answer any questions you might have. [LR481]

SENATOR LANGEMEIER: Very good. Are there any questions? Senator Dubas.
[LR481]

SENATOR DUBAS: Thank you, Senator Langemeier. Thank you, Chief Falgione. I think it's become clear as the conversation has been going on this afternoon, it's really about education and helping our fire chiefs understand--as Dr. Josiah said, there's...the types of fires are so much different now than maybe they have been in the past--we have so much more fuel out there to burn--and so helping our fire chiefs and fire departments understand these types of fires. And I know you have ongoing educational programs to help with that. And we have to do educational programs with our landowners also. Do you think that's...is that the road we need to stay on? I mean, the statute is pretty explicit. Do we just need to continue to push on this education and helping our chiefs understand, when they issue this permit, that all these things need to be in place before...you know, no over-the-phone type: Okay, go ahead and burn type permits?
[LR481]

JOHN FALGIONE: Absolutely. And it all comes back to a number of different issues, such as what Mr. Egr referred to as liability issues on different parties' behalf. But I don't know if it's the sole thing that we need to go with. But, yes, we do need to keep

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hammering on it. And I think we've made some pretty good strides in the last couple of years with that, because we're doing more classes at fire school. We had...we worked with the forestry service and did a fire chief's toolbox class there to educate them on what needs to be done and the parameters they follow. Some of the fire chiefs aren't really aware of all the options open to them to be able to allow a burn permit to be issued. And they're the ones that are best...the best...know their community where they're working. And I don't necessarily know that they have a great deal of problem with the local people as much as they do with some other people that come from outside that aren't familiar with the rules and regulations in this state. Our...one that will be coming up here shortly is--the fire chief from Grand Island Rural is Chuck Hoffman, who happens to also be the chief of my Training Division. And perhaps he can maybe inform you more about the classes that we do have ongoing for that type of thing. One thing I'd like to address, though, is sometimes the people have the urgency...and this goes back to the education, if they read the statutes. Burn permits can be issued for up to 30 days. So the idea that I've got to have a burn permit in the next hour...because it takes a while, as you are aware of, looking at these burn plans. And if the fire chiefs look at these burn plans and review them, it takes a little bit of time to verify everything that's in there. I can only give you an example. I got a call two weeks ago from a fire chief that had a burn plan presented to him that was dated in March of this year. And none of the parameters fell within the weather, time, humidity, location, but it was: Here is a burn plan; I need a burn permit now. And he refused to give it to them until they came back with a proper plan. So they did burn a few days later. And he went out and helped them, you know. So, I mean, it isn't that there's an element of "uncooperativism" in this whole situation; it's a matter of everybody doing everything and trying to do it in a safe manner. [LR481]

SENATOR DUBAS: Thank you. [LR481]

JOHN FALGIONE: Okay, thank you. [LR481]

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SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much; appreciate your time. [LR481]

JOHN FALGIONE: Okay, thank you. Thank you very much. [LR481]

SENATOR LANGEMEIER: Good afternoon. [LR481]

RICH BRINGELSON: My name is Rich Bringelson. I did not plan to testify this afternoon. I'm a private landowner. [LR481]

SENATOR LANGEMEIER: Need you to spell your name for me. [LR481]

RICH BRINGELSON: B-r-i-n-g-e-l-s-o-n. [LR481]

SENATOR LANGEMEIER: Thank you. [LR481]

RICH BRINGELSON: (Exhibit 13) I live in Doniphan, or west of Doniphan, Nebraska, but my interests are with the LCRA group. I'm testifying as a private landowner. The testimony I've passed out to you basically explains something I just planned to put in the record. It's why I've chosen fire as an option. I prefer not to use fire. Most...a lone spot in my life was when I put the match down on my fire. I mean, you don't experience that unless you've done it. I mean, it's...my dad was sitting on my shoulder. He was already dead, but he said, you can do what you want to do, but I won't light the match, because it's just too tense. But anyway, there's two or three things here I want to say. If you adopted all the suggestions put before you here, there would be no prescribed burn fires, because you'd just have to...as a landowner you probably couldn't do it, the training to take it to...I think the issue we have in Nebraska is that we...our landscapes are so diverse. If you train in one area, you may not be effective working in another area. Loess Canyon is probably one of the most aggressive topography we've got. You go into a flat CRP and it's ridiculous that you have CRP land getting away from you,

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because there is technology and strategies for dealing with that--a model plan and do stripping. And, I mean, there's...some people kind of get their jollies out of seeing how high the fire can go. Old man like me, I don't want high fire, I don't need high fire. Scott is my neighbor. The Forest Service is on two boundaries of mine, and we've talked about some of the things. But, I think, if you go for a national standard, you're going to make it...it's going to...basically we'll be working forest lands. And maybe there's some things there. I would personally, as a member of the LCRA, like to invite anybody from the Fire Marshal's office or from the Forest Service to come work with us on burns and kind of see if they've got some advice on things we need to do. But I think a heavily prescriptive legal training program would be onerous and very difficult. I (inaudible) we don't need training; we do need training, every day. Every fire you do you use as a learning experience. Thank you very much. [LR481]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, thank you for sharing your thoughts with us; we appreciate that. Further testimony on LR481? Good afternoon. [LR481]

PETER BERTHELSEN: Good afternoon. My name is Peter Berthelsen, P-e-t-e-r B-e-r-t-h-e-l-s-e-n. I'm the senior field coordinator with Pheasants Forever Incorporated and work with staff in half of the country, but I'm located here in Nebraska. Pheasants Forever is very interested in the increased use of safe and effective prescribed burning, and we've been actively working to try and make those things happen in the state. Pheasants Forever has identified three limitations to prescribed burning, and I'll bet you can relate to these: I don't know how to burn; I don't have the equipment to burn; I don't have enough manpower to do a burn. And we've identified several scenarios to address those three limitations. Some of the things that we are doing is to help form local burn associations like you've heard about today, and we have formed six in the state. Every year, Pheasants Forever conducts anywhere between 8 and 15 prescribed burn training workshops for landowners across the state. We've had 351 landowners attend those training workshops in the last two years. And then the other thing that we're doing is

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we're actively providing each burn association that we start with a collection of prescribed burn equipment that we call a mobile prescribed burn unit; it's an enclosed trailer that contains all of the equipment that you would need to effectively run a prescribed burn in a grassland ecosystem here in central Nebraska. So those things we're actively working on. In my limited amount of time here today, I want to try and wear two hats. And I want to try and now speak to you as a landowner that conducts prescribed burning. As a landowner that acquired a piece of ground in 2005, and there were cedar trees on it like hair on a dog's back, I needed to do something about it. And in 2005 I wanted to conduct a prescribed burn. It's the most cost-effective way of controlling those cedars. I didn't have the equipment and didn't have the manpower. I fell into two of the three categories. I had the training, but I didn't have the other things. So I hired one of the very, very few local contractors that there are available in this state. When I say very few, I mean there's a handful, hardly any that are out there. The one that I hired actually resides in Senator Dubas' district. I'm sure you're well aware of who that person is. Subsequent to 2005, I've burned every year. We have now formed a local prescribed burn association in my area, and I'm now able to conduct prescribed burns every year safely, effectively, and at virtually no cost except my sweat equity that I put into it. Last week, Thursday, my fire marshal informed me that, going forward, the only way that a burn permit will be issued is if the person has a red card, NWCG training, which you've heard about earlier today. That's his policy going forward. Never been an escaped fire associated with the burn associations or anything. There is one landowner in that fire district that is red card certified; you're looking at him. In that example of where in 2005 I hired the burn contractor that resides in your district, as a landowner with this new rule I will not be able to burn, because that contractor, with greater than 20 years of experience, is not red card certified. I became red card certified in 1983, 27 years--it doesn't seem like it was a long time ago--but 27 years ago. I've gone through red card training twice. I'm very familiar with it. Every year the 18 employees that Pheasants Forever has in the state of Nebraska undergo advanced NWCG training, every year. They are all red card certified. They take additional advanced training after that because they write burn plans, they help guide local training

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associations, and they help provide the training that goes on at our workshops that we put on, so we want those people well versed in those activities. You know, Senator Langemeier, you know, asked, what do you think about the laws, to an earlier presenter. I think they're great, perfect. But there is one, sometimes, potential problem, and that is where, in my opinion, there's two extremes. Senator Langemeier identified a situation where it's grab a couple neighbors and we'll drop a match. That's not a prescribed fire; it's absolutely not a prescribed fire. The other problem is the other end of the extreme, where we now have a fire marshal that says, well, I'm not going to give any more burn permits unless you're red card certified. You know, just in case you don't know what that is--40 hours, 5 days, 8 hours a day, and at least 90 percent of it does not relate to prescribed burning of grasslands. It's about how you fight a fire in a forest, a wildfire. So it's completely different than what we're doing and talking about with prescribed burning. So I got the red light, which I figured I'd get. [LR481]

SENATOR LANGEMEIER: You're doing good. Are there any questions? Senator Dubas. [LR481]

SENATOR DUBAS: Do you feel that that fire marshal's decision is related to liability? Is he concerned about liability on the department or...? [LR481]

PETER BERTHELSEN: I get along great with the person, and I haven't dug further. I have no clue, because this fire marshal came to a prescribed burn association--happened to be on my property, the burn, last March 25--participated in it, was an active member playing a role on the burn, and that evening came to our burn association meeting, stood up at the meeting and complimented the burn association on how effective and organized and safe they were. I have no idea. There have been no escapes at all, so I don't know where they're coming from. [LR481]

SENATOR DUBAS: Thank you. [LR481]

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PETER BERTHELSEN: But it's a burn...a fire marshal that has NWCG training, so he knows what he's saying. So I don't understand it. But it will be highly, highly restrictive to prescribed burning. As described, I will be the only landowner that can fit that requirement in his fire district. [LR481]

SENATOR LANGEMEIER: So just for clarification, and I don't want a name,... [LR481]

PETER BERTHELSEN: Yeah. [LR481]

SENATOR LANGEMEIER: ...but State Fire Marshal or local fire chief? [LR481]

PETER BERTHELSEN: The local fire chief. [LR481]

SENATOR LANGEMEIER: Okay. [LR481]

PETER BERTHELSEN: I may have misspoken... [LR481]

SENATOR LANGEMEIER: So it's not a fire marshal, it's a local fire... [LR481]

PETER BERTHELSEN: ...if I said something else. It's the local fire chief. [LR481]

SENATOR LANGEMEIER: Okay. I just want to clarify that. [LR481]

PETER BERTHELSEN: Yeah, thank you, if I got that wrong. [LR481]

SENATOR LANGEMEIER: Are there any other questions? If it was the Fire Marshal, I was going to ask why he was giving a burn permit. We were going to go down a whole different line of (inaudible) here, because...(laughter). So anyway, any other questions? Seeing none, thank you very much. [LR481]

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PETER BERTHELSEN: You bet, thank you. [LR481]

SENATOR LANGEMEIER: I appreciate it. Other testifiers on LR481? Welcome. [LR481]

CHARLES HOFFMAN: Senator Langemeier, members of the committee, my name is Charles Hoffman. I live in Grand Island, Nebraska. I'm the chief on the Grand Island Rural Fire Department. I appear before you here today just to address a few concerns that a fire chief might have. In my district, in my mutual aid district we have a very large area or large amount of the Platte River bottom. You've heard that because of weather conditions the fire loading that we have in this state has increased significantly over the past two years. The water flow in the Platte River has also exacerbated this situation. And we have high fire loads of both trees as well as fine fuels at the floor of the forest, so we have both of the situations. We are not against prescribed burning. We support the subscribed burning in our district, and we have no problem with it; it is an effective tool. We do have a problem sometimes if we do not get significant notification prior to when the burn is going to occur. That problem has taken care of itself for the most part in the recent years, because we have worked at the local level to solve our problems. The education that should be forwarded to the fire departments and firefighters should be quality education and should be given by those who are qualified to educate. I may know well what I am doing. I may not be able to get my point across. The fortune cookie I had today at my dinner said: It is not necessarily what you know but how you use what you know. I think that's most appropriate in this situation. The other hat I wear is that of the manager of the State Fire Marshal Training Division. We try to provide classes not only for those areas that have forested problems but for those areas that have fine fuels problems at the base of the forest. We gave something this year at fire school that was directed especially to that. We had over 40 students in that class. It is important that when we do train the trainers within the state of Nebraska, that we have qualified trainers, people who understand education as well as fire. It is also important that when we train people for prescribed burn we also train them for suppression not just necessarily ignition. Because once you put the fire down, you are responsible to control

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the fire, and that goes to suppression. So it is important for us to have a training program which is varied and all-encompassing so that those who are doing the fire boss position understand the fire theory and fire dynamics as well as how to put it down, where to put it, how to develop the program, how to develop the prescribed burn, and to use it effectively. From a fire chief's position, I'm part of that plan. I am there if something goes wrong. If that is the case, then if the prescribed burn is using me and my department has an EMS call, do I shut down the prescribed burn? There are many factors that should be taken into consideration when the fire chief makes his decision not to allow burn in his district. Those are some of the things that as a fire chief I'm concerned with. I also have to know, is there a burn in my overall mutual aid district? Because it may affect whether or not I can respond to assist other departments in the suppression of a fire. I would be glad to answer any questions that the group might have at this point. [LR481]

SENATOR LANGEMEIER: Are there any questions? I do have one. In your area, and being in Natural Resources dealing with the grass--and the issues along the Platte River seem to be a 24-hour occurrence for me...I wish Senator Carlson was here as he tries to spray and kill the best of that as he can. In your area, have you...how many requests have you had for prescribed burns? [LR481]

CHARLES HOFFMAN: Umm. [LR481]

SENATOR LANGEMEIER: Let me back that up. On a monthly basis, how many might you get? One a month? If you took a year-round...I know there's a window when you want to do these, but... [LR481]

CHARLES HOFFMAN: Less than that. [LR481]

SENATOR LANGEMEIER: Less than that. So, you know... [LR481]

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CHARLES HOFFMAN: Perhaps one or two a year. [LR481]

SENATOR LANGEMEIER: Okay. [LR481]

CHARLES HOFFMAN: Two years ago we got several, because landowners were addressing, when they could, problems up and down the Platte and clearing out pastures and working with that. This year I have received prescribed burn requests for habitat from the Game and Parks. And I think we've received two from them. [LR481]

SENATOR LANGEMEIER: Okay. And then I'm going to stretch you here. And if you can't answer it, don't answer it. But in your fire school and your talking to other chiefs that have come in for this training--you had 40 people at a training--would that be typical across the state or would...or...? And maybe you didn't talk about it, so you don't know. But... [LR481]

CHARLES HOFFMAN: It is typical for many fire chiefs who do not have specific problems, such as the red cedar problem or control of fine fuels in river bottoms or a lot of CRP--those seem to be the three areas that will require the most prescribed burn permits. In my area, I would say that, in the center part of the state, that's not unusual to get the number that I have. They may have more in areas where the problem is more concentrated. [LR481]

SENATOR LANGEMEIER: Okay. That's fine. I'm just trying to get an idea of numbers. Any other questions? Seeing none, thank you very much taking your time to come down and testify. Good job. Further testimony on LR481? [LR481]

JOEL CERNY: Good afternoon, Senator Langemeier and committee members. My name is Joel Cerny, C-e-r-n-y. I'm the current president of the Nebraska Volunteer Firefighters Association and an assistant chief with the Linwood Fire Department in Senator Langemeier's district. And talking about CRP acres, of our 51-square-mile

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district, I probably currently have at least 5 to 6 square miles that are planted to CRP. So it's...and there are stretches where that will run 6 to 8 miles long. So it is a concern for us. The main reason I came before you today is to testify that our association wants to go on record as to leaving the burn permits in the sole...fire chiefs to be solely in charge of that. We don't want just anybody can get a fire permit whenever they want. The problem with that is we have a lot of people do come up last minute wanting fire permits. And that is a real issue with us. We need time to look at them burn permits. And it is a concern in a lot of the small departments when people want to burn Monday through Friday. I know when I was the chief in my department and writing burn permits, I did not allow burn permits Monday through Friday from 7:00 in the morning until 3:30 in the afternoon, because I knew if we had an escape we did not have enough manpower to help that person with their escape. So that's also a concern for a lot of the volunteer fire departments. That's about all I really had to do and tell you. And if you have any questions I'd be happy to answer them. [LR481]

SENATOR LANGEMEIER: Are there any questions? You're getting let off the hook easy here. I should have some for you, but... [LR481]

JOEL CERNY: Well, you know where I'm at; you can call me. [LR481]

SENATOR LANGEMEIER: I do. Thank you, thank you. (Laughter) Drive by your house every day. [LR481]

JOEL CERNY: All right, thank you. [LR481]

SENATOR LANGEMEIER: Thank you, very good. Further testimony on LR481? [LR481]

JERRY STILMOCK: (Exhibit 14) Senators, my name is Jerry Stilmock, S-t-i-l-m-o-c-k. Just listening to some of the testimony, I thought I'd try to do a couple gap measures.

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The history of the legislation was, you know, some people refer to that it only refers to range management. And when the legislation was being written, then-Senator Wickersham jumped in, language was written, and it was written all towards range management. I think what we've come to learn is, especially through this afternoon, there seems to be four different areas of range management: of course, where the red cedars are coming in for pastures or prairie, forest, CRP land, and then debris fires. The landowner collects trees for five years, and then all at once, after collecting and drying out, they want to burn them. So those four areas--are those four areas covered in the burn permit application process? You know, I think most people treat them as they are. But some, I think, are pointing to the fact that in the language of the statute it says range management. And so they say, well, range management is not CRP treatment or is not forest, so do these applications, do these guidelines in the statute, do they apply? I think most fire departments, fire chiefs are looking at them as they do apply. But that might be one clarification. No one has said anything about somebody going off without a burn permit, but the history of that is it used to be a Class V misdemeanor, now it's a Class IV. That was changed in 1994. The maximum fine is a dollar fine: \$500. It shows up on the Supreme Court's fine register as a \$100 waiverable. You can sign your ticket, pay your 100 bucks' court costs, and you're done, without having to show up in court. So far at least this afternoon it doesn't seem like that's an issue, but I thought it might be helpful for the committee members to know that. I had a case to pass out, and I think I killed more trees than some people referred to today. The case--it talks about liability. And I felt it might be important given the fact of what--kind of the way the conversation went this afternoon. In this description, in this case, there are two players--the property owner that went out for a burn had a proper burn permit, and the other player is the rural fire protection district of Syracuse, by golly. And what happened was a farmer went out, got a burn permit, Mr. Pletan. Mr. Pletan started this fire. He had a crew around. He had some equipment. There was a natural break, and that was by a creek. The fire jumped over the creek; it was not supposed to jump over the creek; it did. Fire department was called out; fire department lost a fire truck in fighting that fire that got out of control. And so it's important because it sets out a couple of things. Number one, when the fire

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department lost its vehicle, the fire department--fire district, specifically the fire district, pointed to the burn permit that was signed by the chief. And it said basically that the landowner is going to be held responsible. What the Nebraska Supreme Court ended up saying is, you know, that agreement or, excuse me, that permit is, in fact, not an agreement; all it is is a license. It permits you, the landholder, to go burn. So in the fire district we learned a couple things--it's a license; it's not a contract. The other point we learned is that fire departments, firefighters fall under the caveat of an older law that's still the law--is called the "fireman's rule." And so basically it stood for--if I started a fire and injured...a fireman was injured in that fire, could that firefighter come back to me because I negligently started that fire? Basically, what I would hope my message in trying to relay that case quickly--is the "fireman's rule" basically says, look, if a fireman is injured or if the firefighter's property is damaged or destroyed, there's no recovery. So the only thing we're talking about in terms of liability is the liability of the landowner and perhaps adjacent land that is not involved in that permit. We know, because the Supreme Court at least to this point has said, there is no way that a fire department can go back for lost property and try to claim that from that person that got the burn permit. So there were a couple of issues that we talked about or that were discussed this afternoon that I thought at least to bring up that case and let you know we do have some law on it and that issue has been addressed in terms of what liability there is for the property owner to the fire department. I have a couple of other points, but I'll stop. It's been a long afternoon, and I can share those with the committee at other points in time. [LR481]

SENATOR LANGEMEIER: Very good. Are there other questions? I want to ask kind of a facetious question; this is because I know you pretty well. Okay, you change it so the landowner then is liable for the equipment. My fire department wants a new ladder truck and they brought it out and they don't know where to park it and they...I'll be damned it burns. Am I liable for that? [LR481]

JERRY STILMOCK: No. [LR481]

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SENATOR LANGEMEIER: Should I be liable for that? [LR481]

JERRY STILMOCK: Well, I guess you're asking me to be judge. And I kind of accept that role right now. (Laughter) [LR481]

SENATOR LANGEMEIER: I kind of get that role right now, so... (Laughter) [LR481]

JERRY STILMOCK: The...on the taxpayer side of it, no, because that property owner has already paid taxes in order for that equipment to be purchased. The one difference and distinction is that the cases that we're discussing, this Pletan case, Senator, were that all the reference were to, look, people, you pay your taxes so you shouldn't be hit a second time. You shouldn't have to pay your taxes and then pay damages for damage to the equipment. That would be a double hit on the taxpayer. The exception to that is there's usually a string of words: You are taxed so that those taxes can be used for the purchase of equipment, manpower, and labor costs to fight that fire. Well, the one difference is, is we're talking about volunteers, and so there's not a payment going out to volunteers. And so should that rule be any different for volunteers? I'd be hard-pressed to say yes, that the landowner who started the fire in a prescribed situation and the truck came in--as your scenario was--I'd be hard-pressed to say yeah, that landowner ought to be held responsible. I recently read, so I have the benefit of throwing out a couple of things--in the case it talked about, you know, typically that rule--the only exception to the rule is if that landowner did something, you know, that was reckless, in disregard of the firefighter or the equipment safety and--almost in a trap type of setting, it's with knowledge and intent to harm that firefighter or the firefighter's equipment. [LR481]

SENATOR LANGEMEIER: Very good. Are there any other questions? Seeing none, thank you very much. [LR481]

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JERRY STILMOCK: Okay. All right. Thank you, senators. [LR481]

SENATOR LANGEMEIER: Further testimony on LR481? Good afternoon. [LR481]

BRAD ELDER: Good afternoon. Thank you for having this hearing. My name is Dr. Brad Elder, E-l-d-e-r. I apologize if I lose my voice; I've been fighting some sort of... [LR481]

SENATOR LANGEMEIER: Was it Brad? [LR481]

BRAD ELDER: Brad, yeah, B-r-a-d E-l-d-e-r. [LR481]

SENATOR LANGEMEIER: Thank you. [LR481]

BRAD ELDER: (Exhibit 15) I'm a fire ecologist. I teach at Doane College. I've been burning for 20 years now, mostly in Kansas. I've been in Nebraska for seven years and been burning up here and down in Kansas also. I'm part of the Tri-County Burn Association that's been sponsored in part by Pheasants Forever. And so there's a couple of things--most everything that I was thinking about talking about today has all been covered. There does seem to be a lack of training in Nebraska in homeowners, landowners, that isn't there in Kansas. Kansas has been burning for a long time. Their fire plans just at a ranch or local land level--they actually put breaks in place so that you can burn the land by yourself. It's not uncommon to have farmers do ditch-to-ditch burning or design their burn area so that they can burn it with minimal manpower. We burn at night, you know, when it's nice and cool and the humidity drops down and you burn backfires and it just creeps across your land. That knowledge is historic. So if you've done this for two or three generations, then kids grow up experienced to that, and it's much simpler for them. Coming to Nebraska, a couple of things that have shocked me when I've been working with landowners and trying to teach them how to burn is just it's a completely novel concept, at least in this part of the state around Crete, Nebraska, and kind of in Lancaster and Gage County, the counties I'm working in.

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They're really...just don't have the experience and don't have the experience of going over next door with their neighbor and helping them for one or two years and kind of getting it under their belt. So there's a lack of training. The red card certification is...it's like training someone to drive a motorcycle but putting them through a semi training class. Yeah, you learn the stop signs, you learn some basic stuff, but there's a lot of stuff that just isn't useful. And the red card certification really is a scorecard or a grade card or a transcript. So as you take additional classes, that just is added onto your transcript. So you should think of it as a red card transcript and not a, ta-da, you're certified. And maybe something the state needs to think about is a more formal training program. In hearing today the fire marshals having training programs, Pheasants Forever, there's several different training programs going on. I've seen a couple of them, and they're wildly different in terms of quality. And I think one of the best points...you know, I may have been doing it for 20 years, but if I'm a bad teacher I probably shouldn't be the one doing the teaching. And we really need to look at that. The last training workshop I went to wouldn't have helped anybody do anything, and it could have made it worse; it could have given landowners the courage to: Well, I've had my training; I can go out and do this fire. And they would be, you know, that would be what we'd be hearing about today if they'd gone out and done that based on that training. So I do think we need some sort of formal training plan. And maybe that's, you know, I think one of the things frustrating about this meeting is I really just want to sit and talk to everyone else and say let's hammer something out. And maybe that's something that needs to happen in that respect. As far as liability--this has just come up in listening about it and talking about it--if you start a campfire in the Rocky Mountains and it gets away, you're not held liable for all of that, the firefighting that comes into place. Now, if you're reckless and throw a cigarette out your window or something and start a fire, that's something different. So I think if we put liability too hard on the landowner, it will stop burning, because I'm not going to lose my farm, my family, my kids, their future, everything else because I wanted to go out and take care of my prairie and protect it in sort of a natural way and keep it maintained. So I think that would stop that. One other thing I want to talk about. Nebraska, as far as I know, doesn't have, at

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least talking with the prescribed burners I've worked with, have any rule about putting smoke across a highway. And I may be corrected. But I've worked with some pretty good burners who don't seem very concerned about putting smoke over a highway. Kansas--we had a lawyer drive into that, hit a bunch of other cars, killed his family. And we got a law put in place that said you can't put significant smoke across the highway; you have to stop traffic. The best I've seen so far with burn crews are putting up signs saying there's a burn ahead. But I have pictures of our citizens driving straight through that smoke, and on the back side you can just see cars coming out of smoke, and you can't see them for the first few minutes until they pop out. And I think that is a law that we should either put in place now or it will be put in place when someone is killed. And that's something I really think we should look at. So with that, I'll take any questions. [LR481]

SENATOR LANGEMEIER: Very good. Are there any questions? Seeing none, and as you talked about sitting around, that's the next step on this if something goes forward. So further testimony on LR481? Come on up. [LR481]

RICHARD HODSON: Thank you for this opportunity. My name is Richard Hodson, H-o-d-s-o-n. I am a landowner, and I am representing myself. As a sideline, I am also a member of our local fire board and our county fire board. So I do have that perspective also. My neighbors and I have been burning together probably for approximately 15 years. We'll conduct anywhere from 2 or 3 burns a year to maybe 15 or 20 and, in size, from a few acres to several hundred acres. Basically, what I want to say today is please don't take that opportunity away from us. It's very necessary for us in maintaining our property. I grew up on some land that, as a youngster, there was virtually no trees. And then a few years ago we had to go in and do severe removal of trees mechanically and also with burning simply because there was no place for grass to grow. You couldn't even ride a horse through or chase a cow through it because of the encroachment of the trees. So basically I want to say please don't take our ability to improve our pastures, our rangeland--don't take it away from us through restrictive ordinances or too

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many hoops to climb through to get permission to burn. Our group that we burn with is not a legal association or anything; it's just neighbors getting together helping neighbors. It goes back to the old time when we'd get together for brandings. One person can't brand a herd of cattle by himself, and so the neighbors got together. And it's the same way with conducting these burns; we can't do it by ourself, so we cooperate with our neighbors and perform those burns. Thank you for your time and for the opportunity of talking to you. Any questions? [LR481]

SENATOR LANGEMEIER: Very good. Are there any questions for Mr. Hodson? Seeing none, thank you very much. [LR481]

RICHARD HODSON: All right, thank you. [LR481]

SENATOR LANGEMEIER: (Exhibits 16-18) Thanks for coming down. Further testimony on LR481? Seeing...before I do that, I do have three letters. I have a letter from Dr. Butterfield from Chadron State College; John Skold from the Nature Conservancy; and Al Steuter from Johnstown, Nebraska--letters to go into the record. Seeing no other testifiers, Senator Dubas, you're recognized to close if you'd like to close. Senator Dubas is going to waive closing. That concludes the hearing on LR481. Thank you all for testifying and coming down today. We're going to go from fires to the lake. Hadn't thought about it, but I thought we might need the water to put the fire out. Can I ask that you move your conversations out into the hall. We do have another hearing to start next. We will open the hearing on LR491, introduced by Senator Schilz, regarding boater training. And Senator Schilz is here and you're recognized to open on LR491. [LR481]

SENATOR SCHILZ: Thank you, Senator Langemeier, members of the committee. My name is Ken Schilz, K-e-n S-c-h-i-l-z, and I'm here today to introduce LR491 to look at mandatory boater education. This issue was brought to me by a couple of constituents from my district. One of them is actually a Coast Guard Auxiliary member, and the other

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one is actually the boating safety officer at Lake McConaughy. And when they first brought this to me, having grown up around boats and lakes my whole life, I didn't think too much of it at first. But then as I started looking at the information that they were providing me and the data that was out there, it really is stark in looking at what the effects of this education program that's in place right now for folks that are age 14 to 18, I think it is--don't...there will be other folks here that can make sure that I'm speaking correctly. But I know this for a fact, that those folks that have taken that course--and it's not just for...anybody can take it--the amount of accidents that those folks have is greatly, greatly reduced from the general population. So it's a big deal; it made me take notice; it made me look at it. And in this day and age with budget considerations the way we are, with resources being the way they are, it may be something that we need to look at to maintain the safety of our waters out there. Used to be, when I was young, I mean, all that ever went around on the lakes were boats. But now with personal watercraft and things like that, it's really become somewhat a much bigger issue; lakes and waterways are much more congested. And, you know, everybody has to have a license to drive, but there are roads and signs and everything like that. On the water there are none of those things. So pretty important to just start to look at those kind of considerations. I know that there's a couple folks here that will come up and give you the particulars on the information that I talk about and what they see out there. And I will be happy to answer any questions at this time. [LR491]

SENATOR LANGEMEIER: Very good. Are there any questions for Senator Schilz? Seeing none, we're going to let you off the hook. [LR491]

SENATOR SCHILZ: Thanks. [LR491]

SENATOR LANGEMEIER: We'll ask the testifiers behind you. We'll open up for testimony on LR491. Come on up. [LR491]

MICHAEL DODGE: Senator, members of the committee, good afternoon. My name is

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Mike Dodge. I'm a member of the board of directors of the Nebraska State... [LR491]

SENATOR LANGEMEIER: Mike, can I stop you? I need you to spell it. [LR491]

MICHAEL DODGE: It is Michael, M-i-c-h-a-e-l, Dodge, D-o-d-g-e. [LR491]

SENATOR LANGEMEIER: Thank you. [LR491]

MICHAEL DODGE: Sorry about that. I heard that enough, I should have... [LR491]

SENATOR LANGEMEIER: That's okay. [LR491]

MICHAEL DODGE: (Exhibit 19) I'm a member of the board of directors of the Nebraska Lakes Association. I appear here today in support of the mandatory boater safety education that our state motorboat operators has suggested in your resolution. The Nebraska Lakes Association is a nonprofit organization created in 1997 to provide a networking and educational resource for lake residents in our state. We are incorporated under the laws of the state of Nebraska and currently represent 32 privately owned lakes with over 5,000 families that either own cabins or year-round homes on these lakes. We extend memberships to lake associations and individuals that are interested in the betterment of their lake community. The primary goals originally set by the Nebraska Lakes Association are to permit private lake associations to enforce safety rules on their lakes and go beyond...that go beyond the general boating regulations and improve the watercraft and water sports safety on private lakes. Our mission is to provide a forum for information and resources to educate members so that the lake experience is safe, healthy, and enjoyable. Boating safety, water, lake water quality, and rule enforcement are among issues that we address on an ongoing basis. Due to the importance of this issue, many of our individual lake associations have already begun implementing mandatory boater education for all of our boat operators on their lakes. As an additional level of showing our commitment, in 2009, October of 2009,

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our membership passed a resolution to support the timely implementation of legislation for the mandatory boating safety education for all Nebraska boat operators. The resolution is attached to the document that I handed out. And with that, if you have any questions, I'd be happy to try to answer them. [LR491]

SENATOR LANGEMEIER: Senator Schilz. [LR491]

SENATOR SCHILZ: Thank you, Senator Langemeier. Michael, thank you for coming in today; appreciate it. You say that your organization started in '97, is that correct? [LR491]

MICHAEL DODGE: That's correct. [LR491]

SENATOR SCHILZ: When did you...and maybe you said this. When did you find that you had an interest in making sure that all of your folks that were members of your association have a boater training, and what came about with that? How did that happen? [LR491]

MICHAEL DODGE: Well, it's been an ongoing result of the education that we've had that takes place. There have been issues about enforcing covenants on private lakes and so forth for many times. And so the rules and regulations for our people--speeding on the driveways around your lake, are they speeding with their boats and so forth--well, then you get into the issue that you kind of alluded to just for a second there, is that you don't have any markings on the road. And novices, brand-new people on the lake, are the ones that are the biggest offender. They come in with the biggest boat that don't know how to drive it and so forth. Many of them are common sense. But how do you pass each other on the waterway and so forth? So all of those things became issues that we started to address. And so as we've become more and more familiar with those issues, that's one of the things that came forward. We also were...the state of Nebraska Game and Parks gives us a report on the number of accidents that take place. And I'm

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sure Herb will talk about that some more here. But the impact of the ignorant boater is dangerous. And so we really need some education for that. [LR491]

SENATOR SCHILZ: Sure. How many--maybe this is a question you could answer or you can't. How many boaters do you have in your association? Do you know or is it... [LR491]

MICHAEL DODGE: No, I wouldn't... [LR491]

SENATOR SCHILZ: ...just wondering how many people it affects. [LR491]

MICHAEL DODGE: ...I wouldn't be able to. We affect 5,000 families, over 5,000 families. And those are... [LR491]

SENATOR SCHILZ: Oh. Most of it they're... [LR491]

MICHAEL DODGE: ...lake dwellers. [LR491]

SENATOR SCHILZ: Right. [LR491]

MICHAEL DODGE: So the chances of them being associated with boating is really heavy. [LR491]

SENATOR SCHILZ: Is pretty high. Right. [LR491]

MICHAEL DODGE: So from our association that's...yeah. [LR491]

SENATOR SCHILZ: And then can you give me an idea of the size of the impoundments that you guys are talking about? I mean, how big are the lakes? What's the range? [LR491]

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MICHAEL DODGE: Well, they're privately owned. [LR491]

SENATOR SCHILZ: Sure. [LR491]

MICHAEL DODGE: So I don't know. Capitol Beach might be one of the larger ones that are involved in that. [LR491]

SENATOR SCHILZ: Okay. [LR491]

MICHAEL DODGE: There are a number of...in the Central City area, there are a number of lakes that are there--Fremont Lakes and those types. I don't know how familiar...but... [LR491]

SENATOR SCHILZ: Sure. [LR491]

MICHAEL DODGE: ...but all of our association members right now are with the private lakes or people with impact with that. [LR491]

SENATOR SCHILZ: Sure. So that being the case, quite a bit of congestion on those at times because of the size of them. Yeah. [LR491]

MICHAEL DODGE: Yes. Well, the smaller the lake, yes, the smaller the lake, the more... [LR491]

SENATOR SCHILZ: Yeah, absolutely. Well, to me Capitol Beach is a pretty small lake. (Laugh) [LR491]

MICHAEL DODGE: Well, it is. It's all relative, yeah. [LR491]

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SENATOR SCHILZ: That's right. Thank you very much. [LR491]

MICHAEL DODGE: You bet. [LR491]

SENATOR LANGEMEIER: Any other questions? Senator Carlson. [LR491]

SENATOR CARLSON: Yeah, thank you, Senator Langemeier. Mike, on the resolution, "support and encourage the timely implementation of legislation for mandatory boating safety education," so what would the...would it be a card or something that a person would carry that would show that they've completed this education? [LR491]

MICHAEL DODGE: Yes. [LR491]

SENATOR CARLSON: Then what happens when--as far as the tourist trade is concerned? So if somebody comes in from Kansas with their boat, then they're held to that? [LR491]

MICHAEL DODGE: Well, I guess I have two trains of thought to answer your question. Yes, it would seem reasonable that they should be held to that same standard. And that's one of the reasons that you would like...I would like to see or I think our organization would like to see one that's recognized nationally. So that when I go to New Hampshire and I can get on a larger lake, I can meet the criteria that is there for that state's requirements. So ours is a...our current education is a Coast Guard-approved program. So, yes, I think you want to have knowledgeable people that are not causing a problem. Sure wouldn't want them to not have a driver's license for the roads because they're in a different state. [LR491]

SENATOR CARLSON: No. But nationwide, of course, everybody has got to have a driver's license in order to drive, but not the same with boating. So it just on the surface would seem like it would be a hindrance to tourist activity, which we don't want. But how

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do you solve that without making it so cumbersome that Nebraska has...don't go to Nebraska, because you're going to have to go through it--you can't produce this certificate. [LR491]

MICHAEL DODGE: Well, you passed my ability to answer your question. I understand, that's the second side of the point that I understand very clearly, so...of your question. [LR491]

SENATOR CARLSON: So it's something that would need to be resolved and...because we want good people to continue to be able to come here--good, responsible people. [LR491]

MICHAEL DODGE: Yes. [LR491]

SENATOR CARLSON: Yeah. [LR491]

SENATOR LANGEMEIER: The way the law states today, from ages 14 to 18 you have to have this training. So I'm driving down the road and I see a boat along the road and I think, gosh, that looks pretty cool. And I had more money than brains at the time, so I bought it. This is all hypothetical. And I have a 15-year-old son, and I'm over 18, so I can take it and go put it in McConaughy, whatever, as long as I license it at the courthouse and pay my boat tax. But my 15-year-old son--he wants to drive it, because I want to ski, and I think he can. Where do I get this training that currently the law states he has to have? [LR491]

MICHAEL DODGE: Well, the Game and Parks has a program that there are a number of instructors, some of them volunteer, some of them paid by the state--the game warden portion of that. And they can provide that training at the request. And there are many of them that are ongoing--many of those programs ongoing on a regular basis. So if you contacted the game warden or Nebraska Game and Parks, they'd be able to help

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you facilitate that. [LR491]

SENATOR LANGEMEIER: They'd get us in a class. [LR491]

MICHAEL DODGE: Um-hum. [LR491]

SENATOR LANGEMEIER: Very good. Thank you. [LR491]

MICHAEL DODGE: Um-hum. [LR491]

SENATOR LANGEMEIER: Any other questions? Seeing none, thank you very much. [LR491]

MICHAEL DODGE: Thank you very much. [LR491]

SENATOR LANGEMEIER: Did a great job. Good afternoon. [LR491]

HERB ANGELL: (Exhibit 20) Good afternoon, Senator Langemeier and other senators of the committee. My name is Herb Angell, H-e-r-b A-n-g-e-l-l. I'm the state boating law administrator. I'm employed by the Nebraska Game and Parks Commission, and I'm here representing the Nebraska Game and Parks Commission in this effort. I've given you a packet. There's no way I can get through that in five minutes, of course. But maybe I can give you a little thumbnail sketch here of where we've been, where we're going, and the impact that mandatory education would have, and maybe to answer Senator Carlson's question, also, as far as coming from another state, how is that going to...we know that tourism is a real good cash crop for the state of Nebraska, probably the second most favorable for our state. And certainly we wouldn't want to interfere on that. To give you a little bit of a historical background, the days of a 14-year-old going out in a boat and doing a little fishing with his 25-horse motor, that's just something of the past. It really is. The technology, much like the technology in everything else,

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boating--we have...we just have boats out there that are huge, they're fast, and they're really pretty...a lot of fun. Boat registrations in our state--that is managed by us in the Game and Parks Commission, and I can tell you that boat registrations have increased gradually over the years. About ten years ago, there were around 75,000 boats registered in the state, and now there's about 84,000. So just looking at the boats that we have in the state and the increase, we've not increased water to that same rate. And then we have to take into account that 75 percent of the visitors in Senator Schilz's district there at Lake McConaughy are about--they're all from Colorado. Look at Harlan County Reservoir, I would venture to guess that at least 60 percent of the visitors there are from Kansas. So we do have a lot of influx from--and we welcome those folks, you bet. But historically, the days of just going out in a little fishing boat and soaking a worm, those are pretty much gone. When you think about it and to put in perspective, before 2003 the only requirement to operate a motorboat in our state was to be age 14, and that's to put a person...that kind of responsibility on a person to drive a machine that goes as fast as a car that does not have brakes. We looked into that; we saw that there was a lot, a lot of accidents going on. And to put it into perspective, the things that we do--with hunting in our state we have a fatality every two years, average. With boating, since 1965, we average five a year. This year we've had six fatalities already. We think that the cure for that is boating safety education. And we went to the Legislature back in 2003 and asked and pretty much presented the same information. The only thing is, the information is expanded and much greater than what it is. But now we can report back and tell you what the impact education has had, and we've seen a significant decrease in accidents with that age group that we're addressing--people under 18. That would be 14-, 15-, 16- and 17-year-olds. As a matter of fact, the very first year, accidents involving people in that age group dropped 19 percent, and we're really pretty proud of that. We've not had a fatality, ever, that I know of--and I've been the boating law administrator since 1996, and I've got all the records back to '65--that the person that was involved in the fatality had boater safety education. I think that speaks really, really loud. Last year, of the 87 boat operators that were involved in accidents--that's fender-benders and injury accidents and fatalities--only 5 reported that they had boating

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safety education. So to me, that's an indication that people that don't get boating safety education get into accidents. And we think that...we feel real strongly that the education is the key to boating safety. We are asking or proposing two issues in order to get mandatory education for all boat operators and address the folks that it really is impacting, the folks that are really getting into these problems. First of all, and it's a pretty common method, is a phase-in method. It's called a quick phase-in. New York State just did it; the state of Washington just did it. And what we would propose is that this quick phase-in would take five years to get everybody on board with us, and that would be everybody under the age of, say, 25 starting next year, which, when you look back since 2003, those people are the folks that we've already educated. I mean they're going to be 24 years old now, 18-year-olds that were seven years ago, they're going to be of that age group. The people that we're not addressing are the folks that go out and buy a boat now, that go out there and don't have a clue. Then the following year everybody under age 35; then the following year, 2013, everybody under 45; and then everybody under 55 in 2014. So it would be a five-year phase-in. The economic impact: We are already doing it. We're already supplying 100 classes a year, and we're averaging about 1,400 people. We recommend to our volunteer instructors not to take more than 25 per class. Our class is recognized nationwide. Canada, that has their national mandatory boating safety education, recognizes our course. We're really, really proud of our course here in Nebraska, because it is recognized. To answer your question earlier, Senator Carlson, as far as what would we do if somebody came in from our state, right now Missouri just passed a law that would be our second option that we would offer--would be a born-after date--anybody born after 1986, for instance...if I could just finish this sentence. [LR491]

SENATOR LANGEMEIER: You're our last testifier. Finish up. [LR491]

SENATOR SCHILZ: You can go ahead; you're fine. [LR491]

SENATOR LANGEMEIER: You're all we have, yeah. [LR491]

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HERB ANGELL: Thanks. The second option would be a born-after date. Missouri just passed that law last year. We share 56 miles of Missouri River with those folks, and there are a lot of people in Nebraska that boat in Lake of the Ozarks, in that area. They recognize boating safety course that we offer in Nebraska. A lot of people that go on vacation down there take our course, in addition to the fact that there's some people in Missouri that take our course, too, because they know it's good in their state. So they have adopted a born-after date, and I believe it was 1986--I'm not real sure--if you're born after 1986 you have to have the education. The differences in these two options would be the quick phase-in would take five years. The born-after would take 30 years. Either way, it's mandatory education. Either way, we can do that. We have our system already built in. The course is nationally recognized through the National Association of State Boating Law Administrators. Their education committee reviews all the courses. In your packet I have a list of states and the mandatory education that they are. Almost every state has mandatory education of some kind, of some kind. And there...I also listed some of the territories, like the Northern Mariana Islands, Guam, other places, that...the Virgin Islands, that are part of the United States and as far as boating safety education. Some of those places don't have any, but the majority of the states have some sort of education. We feel strongly that education is the key to reducing fatalities. It's just...I think that if those statistics that I gave you--the comparison between hunting and boating fatalities--if those numbers were turned around, people would be pretty upset that we'd be having five hunting fatalities a year. So with that, and the packet that I gave you, I think I could probably answer some questions if you have them for me. [LR491]

SENATOR LANGEMEIER: Are there questions? Senator Schilz. [LR491]

SENATOR SCHILZ: Herb, thank you so much. Thanks for bringing me all the information and getting me up to speed to where I can understand the issue here. I appreciate that. You were talking about boats that have no brakes. But I think

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everybody needs to consider, too, that in most of...in quite a few of the new boats, the jet boats that are coming out, you don't even have the steering unless you're under power. So, I mean, and that's something that when you jump on a Jet Ski or something like that and you don't know it--and so you're going along and you see somebody that you want to turn away from, well, in order to turn away, you have to still maintain under power. If you let off, you don't have...you can't steer anymore, and so you got no brakes and no steering now. And it's just part of...I mean, I've seen it happen. It can be a pretty serious deal. They got personal watercraft out there with 200 horsepower. They'll do 80, 90 miles an hour across the water, and they're very maneuverable. And if you're behind them or coming along and you don't know how to keep an eye out for them, they can get in your way pretty fast. So those are just a couple of issues there. Can you...I mean, you know, since...and you say that you're looking at those, and here on this page you've got this graph? What did you see as far as a percentage drop in the number of accidents from those folks? And maybe you said this already. It was really significant that those folks that have taken it--you just don't see many problems, do you? [LR491]

HERB ANGELL: It's...and I apologize for the graph; it's a little bit complicated, but it has to do with age groups. And then each of the colored bars have to do with that year. And if you look at people under the age of 18, in 2002 they were involved in a lot of accidents. And as soon as we incorporated education, they went down. The age group that's probably our biggest problem are people that can afford to buy boats. Of course, that kind of makes sense. And those would be people--probably the same group that gives us problems with cars--18 to 45, around in there; specifically 36 to 45 seem to just be involved in a lot of accidents. The older you get, then--maybe they do less boating--but it seems to drop off again. It's almost like a bell curve. But we saw a significant drop--the very first year, 19 percent drop--in accidents that people under 18 were involved in. And again, we reckon that it's the fact that they're exposed to education. [LR491]

SENATOR SCHILZ: Can you tell me...and maybe this is a question that...I mean, most

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of what we're talking about, boating on lakes and things like that, are mostly in rural areas--obviously the Missouri River and things like that. But as I look at...you know, you look at fatalities, you look at accidents, how much does a fatality cost to investigate? I mean, do you know? I'm sure it's not cheap. [LR491]

HERB ANGELL: I couldn't tell you in dollars and cents. You could only imagine the economic impact--the loss of a wage earner. I mean they're mostly male. We're not a real special place here in Nebraska. People die in boating accidents the same way they do nationwide, and that's either by falling overboard or boats capsizing. This year out of the six fatalities that we had--five of them, people fell out of their boats. A couple of them, we don't even know how they did it--and there were no witnesses--but fell out. And, you know, five of the six people would have been saved if they wore their life jacket, but that's a national thing that they're looking at that--we already have laws for that. [LR491]

SENATOR SCHILZ: Right. I guess the only thing that I come back to is this isn't just...I mean it's obviously about saving lives. But within that saving of lives is a lot of costs that don't have to be paid, both on the human side and the monetary side. And I think that's important as well. [LR491]

HERB ANGELL: Exactly, exactly. [LR491]

SENATOR SCHILZ: Thank you. [LR491]

SENATOR LANGEMEIER: I have one question. Tell me about the class--what's it cost; how long does it take; how easy is it to get into it? Could I get into it tomorrow? [LR491]

HERB ANGELL: Yes, you could. We'd fix you right up. The class, to meet the national standard, is six hours long. And you go, oh, my gosh. You know, that's okay for somebody under 18, because that's what they do every day, so it's nothing to them. We

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found that that was really not acceptable for us, and so we went back to the national standard folks that do it, and they said, well, sure, if you can get people...what do you do for driver's license? We walk in and take a test. Do you study beforehand? Some folks do. Some folks don't. Why would it be any different for boat operators? All of...what really gives our class credibility is all of our testing is proctored. They take their test in front of somebody. This last year we have offered another course that...it's really the same course, is they study it. We send them the materials; they study it; they review it; they come back; we'll give them a review in front of a live person, one of our certified instructors or one of us, and they sit down and take the test. And we did that as an experiment because we wanted to see, was there any difference between the test scores? And what about the questions they were missing on the test? Were they the same? We saw no difference at all. So we're looking at that as being an alternative. There's no fiscal impact with this at all. Again, it's mathematical. Last year we offered 110 classes across the state. And from those classes, we certified just a shade over 1,400 people. If you want to just even that out, that's 14 people per class. If we were getting 25 people per class because of an increased mandate, we would not offer anything more. It would cost us a little bit more on education materials, but we need to order education materials this year anyway, because we bought five years' worth or six years' worth back in 2003. So the economic impact would be nothing as far as what's the cost to us. We're already offering 100 classes. Our classes are taught by volunteers. We have about 125 active volunteers, about 300 on the books. A handful of us spend a lot of time recruiting volunteers. A lot of our volunteer instructors come from the Coast Guard Auxiliary. Their mission is boating safety education. When we first mandated even this limited group, we thought, what is the point of knocking heads with somebody? We have a shared mission here. And so they volunteered to teach our course. And they were already up to speed with national standards. We just wanted them to get up to speed with the state standards. So we're really pretty fortunate to have that group of people--also the members of the U.S. Power Squadron; that's part of their mission, and they also teach it. But we have a lot of people...we've integrated it into some schools, especially schools by large bodies of water. Raymond Central High

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School--their shop teacher teaches a boating safety class out there, and he teaches way more than six hours. But a minimum of six hours meets the national standard. I just taught a class at Ralston High School a couple of nights ago where I split it up, and it was for deaf kids. It was a unique, new experience, and they did just fine. So we know that we're getting the good information out there. The fact that Canada will recognize our class really gives it a lot of credibility, because they had a quick phase-in over the last five years. And now if you go to Canada and go fishing, you have to have a boater safety card. So in order to answer your question, if someone wanted to come to our state and come on vacation and let their son or daughter operate their motorboat, that wouldn't be a huge problem at all. We could get that taken care of. [LR491]

SENATOR LANGEMEIER: So it's six hours, no cost to me? [LR491]

HERB ANGELL: The cost is in statute. It was...initially we wanted...we at Game and Parks wanted to offer the class for free, just like hunter education. But there were a couple of senators said, no, we think that there should be some responsibility. Some of our instructors teach it for free, but the statute allows a fee of up to \$10. And our program is subsidized or funded through motorboat registrations. But we get a federal grant from federal tax on motorboat fuels, and we get 50 cents back for every \$1 that we spend, so our program is relatively cheap, for what we budget. [LR491]

SENATOR LANGEMEIER: Six hours, \$10; go to the Nebraska Game and Parks Web site to find out where the next class is. [LR491]

HERB ANGELL: That's where you go, to our Web site to find out where the next class is; that's right. And right now if you were to go to our Web site, you would see no classes offered. As soon as school starts, the season is just about over and our volunteers are directing their efforts someplace else. But by the end of January, we'll have at least 80 classes scheduled all over the state. Sometimes we...and we realize there's rural areas where we can't get to or where our instructors aren't. Here in the

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populated part of the state, we've got plenty of instructors. So we save the test-out, the test and review, and go to them. We bring the course to them and let them test out after a short review. [LR491]

SENATOR LANGEMEIER: Very good. Are there any other questions? Senator Carlson. [LR491]

SENATOR CARLSON: Thank you, Senator Langemeier. On the proposed changes here on the last page, it does say--10 is crossed out and 15 is put in on dollars as a proposal. But number (2) there, "no person born after...shall operate a motorboat or personal watercraft...unless he or she has successfully completed a boating safety course." Well, that's pretty clear. But what's the penalty? [LR491]

HERB ANGELL: The penalty is in statute, and it's through the administrative rules Game and Parks goes through. And I will only be taking a guess, but I think it's \$35. It's a \$35 "waivable" fine for operating a motorboat. It would be underage operation would be what the violation would be. [LR491]

SENATOR CARLSON: Okay. Thank you. [LR491]

SENATOR LANGEMEIER: Senator Schilz. [LR491]

SENATOR SCHILZ: One more question. I just thought of this. You know, I was sitting here thinking about it. You have to have a license to drive a car. Don't have to have a license to drive a boat, but don't you have to have a license to go scuba diving? I think you do, a certificate anyway. [LR491]

HERB ANGELL: I think you have to have a certificate; that's right. [LR491]

SENATOR SCHILZ: That takes at least six hours to get. I know that. So...and you're not

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going to be...shoot, you're just strapping an air tank to your back there; you're not strapping yourself in a 200-horsepower motor. [LR491]

HERB ANGELL: Probably not. [LR491]

SENATOR SCHILZ: Anyway, I was just...sorry, I just wanted to bring that up. [LR491]

HERB ANGELL: Actually, that is something that has come up with my peers in other states. And I belong to the National Association of State Boating Law Administrators. As a matter of fact, I was fortunate enough to be recognized enough to get elected to their executive board. And I must be the token small state representative, (laugh) I think. But the issue of licensing versus education has come up. Alabama is the only state that license in that...licensing, I think, is a huge nonfunded burden on boat operators, to where they're licensed to operate it, but they're willing to take a class. And maybe sometimes it's just a difference in the language that we use. It's a one-time thing. You don't have to renew it. I mean, how many times would you have to learn the rules of navigation? The people that take my class, I always tell them, they need to be really, really cautious when they do go out on the water, because they're the only ones that really know the rules, and wouldn't it be nice if everybody did? I don't know that it would...there still, I mean, we all have to have a driver's license to drive a car, but we still get in wrecks, because people choose or make that choice to speed or make a left-hand turn when they're not supposed to. [LR491]

SENATOR LANGEMEIER: Very good. Seeing no other questions, thank you very much for your testimony. [LR491]

SENATOR CARLSON: Thank you. [LR491]

HERB ANGELL: Thank you very much. [LR491]

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SENATOR LANGEMEIER: You did a great job. And we all just sat here for six hours. [LR491]

SENATOR SCHILZ: That's right. (Laugh) Yes, not a big deal, right? [LR491]

SENATOR LANGEMEIER: We all could have had a card. Thank you. [LR491]

SENATOR CARLSON: I got a question for him. Is he going to close? [LR491]

SENATOR LANGEMEIER: Oh, would you like to...yes, you have to close now, because he has a question. [LR491]

SENATOR SCHILZ: You have a question for me? [LR491]

SENATOR CARLSON: I do, I do have one. [LR491]

SENATOR SCHILZ: Ready for my 15-minute closing now? [LR491]

SENATOR CARLSON: No. No, I'm not. (Laughter) [LR491]

SENATOR SCHILZ: Senator Carlson, can I answer a question for you, please? [LR491]

SENATOR CARLSON: What's in here? [LR491]

SENATOR SCHILZ: What's in there? Uh-huh. [LR491]

SENATOR CARLSON: Well, it's the 2010 reported boating accidents. [LR491]

SENATOR SCHILZ: Um-hum. [LR491]

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SENATOR CARLSON: There's 27 of them listed, and only 4 show alcohol related. Now there's surely a bigger percentage that are alcohol related than 4 out of 27. [LR491]

SENATOR SCHILZ: I guess I would have to defer to Herb on that one. Go ahead. Do you mind if we switch it out? [LR491]

SENATOR CARLSON: No, it's okay. I just...I didn't want you to be left out, so I (laughter) wanted to ask him. [LR491]

SENATOR SCHILZ: But I just averted it. [LR491]

HERB ANGELL: Thank you, Senator, for letting me speak on your behalf. What was your question, Senator Carlson? [LR491]

SENATOR CARLSON: Well, we've got the 2010 boating accidents listed here, and it explains a little bit about each one, and I went down through those and checked off where it indicated alcohol related; some of them even gave the blood-alcohol content. But there was only...I could only see 4 out of the 27 mentioned alcohol. Surely it's higher than that. [LR491]

HERB ANGELL: And we believe that it is. The ones that are in that report, in that summary, are the ones that we know about. People aren't tested for that as frequently as I personally think that they should be. But I think the blood-alcohol that's listed in that summary is only in the fatalities, I believe. I don't have that with me, but... [LR491]

SENATOR CARLSON: Well, it didn't...well, let's see, one was a fatality. Maybe it is. [LR491]

HERB ANGELL: Because when we do that summary, we try to show that here's the things that happened. [LR491]

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SENATOR CARLSON: Here's one that nearly drowned. [LR491]

HERB ANGELL: All right. Woodcliff, recently. [LR491]

SENATOR CARLSON: Yes. And the last one on there, which I think is maybe supposed to be September 9 instead of August 9, but either way it's pretty recent--48-year-old drowned when he fell out of his boat while fishing. His BAC was .24, and he was not wearing a life jacket. He didn't die, so... [LR491]

HERB ANGELL: I believe he did. [LR491]

SENATOR CARLSON: Oh, he did. [LR491]

HERB ANGELL: Is that the one at Johnson Lake? [LR491]

SENATOR CARLSON: Yes. [LR491]

HERB ANGELL: Yes, he did die. [LR491]

SENATOR CARLSON: Okay. So it's the fatalities. A lot of the rest of them you don't know how much alcohol was involved. [LR491]

HERB ANGELL: Or it wasn't an important enough factor to even mention it. But we felt really strongly that we'd give as much information about the fatalities as we can. If you'll notice on those fatalities in the summary, we give the person's name. [LR491]

SENATOR CARLSON: Yeah, I see that. [LR491]

HERB ANGELL: And the rest of them we just give gender and age. [LR491]

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SENATOR CARLSON: Okay. Okay. [LR491]

SENATOR LANGEMEIER: Maybe we just need to up the fines for not wearing your life jacket. [LR491]

HERB ANGELL: Senator, there is a movement nationally, and the Coast Guard is looking at mandatory life jacket wearer. And, you know, when we think about life jackets, we think of that orange horse collar, and I can understand why people don't wear them. I mean, they're really ugly; they really are. But with modern technology...and those of us that patrol on the water--and I neglected to mention to you that I am a law enforcement officer and have been for a long, long time, way too long--we have our guys wear inflatable life jackets, and you can't even hardly tell that they're on. And modern technology has made it so that if they get wet or if I fall in the water and I bonk my head and I'm unconscious, it'll inflate automatically and roll me up face up. So modern technology is to the point where there's almost no excuse. When people say, well, you know, I really don't like those tan lines. Well, the Coast Guard has just approved--which is one of the conditions on our life jackets in our state, or every state for that matter--and they just approved a fanny pack to where you pull a tab and it inflates in front of you and you put it over your head and put it on. So modern technology is to the point where there's really not much of an excuse to not wear a life jacket. But we do, we do it as a matter of liability for the state. We want to protect our guys, so they wear them all the time. [LR491]

SENATOR LANGEMEIER: (See also Exhibit 21) Very good. Any other questions? Seeing none, that concludes the hearing on LR491. Thank you all for testifying. [LR491]