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Natural Resources Committee
January 23, 2013

[LB16 LB102]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, January 23, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB102 and LB16. Senators present: Tom Carlson, Chairperson; Lydia Brasch, Vice Chairperson; Annette Dubas; Ken Haar; Jerry Johnson; Rick Kolowski; Ken Schilz; and Jim Smith. Senators absent: None. [LB102]

SENATOR CARLSON: Welcome to the Natural Resources Committee. I'm Tom Carlson, state senator from District 38 and Chair of the committee. Committee members are, to my extreme left here, Senator Rick Kolowski from Omaha, District 31; next to him and just coming to his chair is Senator Ken Haar from Malcolm, District 21; and then Senator Jim Smith from Papillion, District 14. The empty chair is Senator Ken Schilz from Ogallala, District 47. To my immediate left is Laurie Lage, our legal counsel for the committee. And to my far right is Barb Koehlmoos, the committee clerk. And next to Barb is...

MANDY MIZERSKI: Mandy.

SENATOR CARLSON: ...Mandy.

MANDY MIZERSKI: Just observing.

SENATOR CARLSON: And you're observing and learning today, so welcome to the committee. Then Senator Lydia Brasch from Bancroft, District 16, and she's also the Vice Chair of the Natural Resources Committee. Next to her, Senator Jerry Johnson from Wahoo, District 23; and then Senator Annette Dubas from Fullerton, District 34. And Senator Schilz just joined us. Our pages are Tobias Grant--Tobias, would you stand up, he's from Lincoln, but he's a senior at Doane--and David Postier from York, and he's a sophomore at UNL. So those are our pages for the committee. Today we have LB102 and LB16, and we'll be introducing those in just a couple minutes. But perhaps today--we don't have a big crowd--this will be as much for me for practice as it is for you for information. But if you're going to testify, please pick up the green sheet and fill it out before you testify, and that's at the table at the back of the room. If you don't wish to testify but you want your name entered in the official record as being present, there's a form on the table back there that you can sign. This will be part of the official record of the hearing. And, again, fill out the sign-in sheet before you testify; print so that Barb can read it; and it's important to complete the form in its entirety. When it's your turn to testify, give the sign-in sheet to Barb over here in that box that's next to her, and this will help us keep a more accurate record...public record. If you don't choose to testify, you can submit comments in writing, and they can be read into the official record. If you have handouts, please make sure you have 12 copies for the pages to hand out to the committee. And if you're not prepared in that way today, you can ask

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

one of the pages to help you out on that. When you come up to testify, speak clearly into the microphone. And you don't have to do a thing with the microphone. You don't have to touch it because it picks up everything, and so you don't have to be a certain distance from the microphone. Tell us your name and spell it. If you don't do that, I'll stop you right away and make sure that you do, again, so that we have information that's complete. We've gone through this as a committee, but turn off your cell phones. And, particularly at the committee level, we're not using those during the committee hearing. And, again, if we had a big crowd, I would say keep your conversations soft, or if you've got to be loud, go out in the hallway. There's no displays of support or opposition to a bill, and that's one of the ways we keep everything orderly in the Legislature and in a hearing. We won't use the light system today, so I won't go through that. But just as a point of sharing, to me and to those of us on the committee, committee hearings are a very, very important part of the whole legislative process. And I don't know how many people we have, maybe none that...few today that would testify that we would say are really just private citizens that have come here. But the citizens of Nebraska are our second house. And so we want the citizens that come to a hearing to feel comfortable that come up and testify, even though I know if they've never done it before and they get in that chair and they look us in the eye, they're going to be scared to death. And we'll try and do what we can to make them feel comfortable. So this really is an important part of the process that we have. Any questions of anyone? All right, we'll go to LB102. And, Senator Watermeier, we'll recognize you to introduce the bill. Welcome. [LB102]

SENATOR WATERMEIER: Well, thank you. Thank you, Chairman Carlson and members of the Natural Resources Committee. I am Senator Dan Watermeier, spelled Dan, D-a-n, Watermeier, W-a-t-e-r-m-e-i-e-r, representing District Number 1, located in southeast corner of the state. I am here today to introduce LB102. LB102 simply strikes the requirement that applications for a permit to appropriate water and a permit for incidental or intentional underground storage list the Social Security number of the applicant. The inclusion of Social Security numbers on such applications was intentionally...initially required as part of a comprehensive legislation entitled, the "License Suspension Act." The Legislature found that the potential suspension of a professional, occupational, or recreational license or a motor vehicle operator's license for failure to pay child support was an effective technique for the enforcement of child support orders. Similar legislation to LB102 has been passed in recent years eliminating the Social Security number identification requirements from certain applications after determining that its inclusion wasn't necessary to carry out the purpose of the original law. The most recent example would be the passage of LB805. That repealed the Social Security number requirement for individuals seeking a fireworks display permit. The Department of Natural Resources searched the records and have found no requests from the Department of Health and Human Services for information in regard to child support collection. The inclusion of this information serves no purpose to the Department of Natural Resources but requires additional work of the staff to protect the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

applicant's identity, as these documents are public record. With the widespread problem of identity theft, the passage of LB102 will help protect the privacy of the public without hindering the original purpose of the license suspension law. Therefore, I ask for your favorable vote on the advancement of LB102. If there are any questions, I would be happy to try to answer them. I do want to point out that Mike Thompson, head of the Permits and Registration Division of the Department of Natural Resources, will be testifying shortly after me. So thank you for your time. [LB102]

SENATOR CARLSON: Okay. Thank you, Senator Watermeier. Any questions of the committee? Yes, Senator Smith. [LB102]

SENATOR SMITH: Thank you, Mr. Chair. Senator, are the permit applications typically just a individual's, or are they ever a business that is seeking the application? [LB102]

SENATOR WATERMEIER: Well, it could be a business, but I'm going to let Mr. Thompson answer that question behind me. [LB102]

SENATOR SMITH: Okay. [LB102]

SENATOR WATERMEIER: He can probably answer that better. We went over some things here, but I don't have all the details about that. [LB102]

SENATOR SMITH: So I would say, even more so if it were a business. And maybe, you know, the Social Security number would not be appropriate; maybe in that case a tax ID number, something of that nature. [LB102]

SENATOR WATERMEIER: We don't have that in the bill; so if we need a federal ID number, then that would be a change we'd have to make. [LB102]

SENATOR SMITH: Yeah. Thank you. [LB102]

SENATOR CARLSON: Okay, any other questions? All right, thank you for your testimony. Are you going to be here to close? [LB102]

SENATOR WATERMEIER: I'm going to leave. I've got to go to Health and Human Services. [LB102]

SENATOR CARLSON: Okay. All right. [LB102]

SENATOR WATERMEIER: So I'll waive closing. [LB102]

SENATOR CARLSON: Okay, thank you. [LB102]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

SENATOR WATERMEIER: Thank you. [LB102]

SENATOR CARLSON: All right, proponents. How many proponents do we have, to testify? Okay, we won't put the light on you. (Laughter) Welcome. [LB102]

MIKE THOMPSON: Thank you. Chairman Carlson and members of the Natural Resources Committee, for the record, my name is Mike Thompson, M-i-k-e T-h-o-m-p-s-o-n, and I'm the head of the Permits and Registrations Division at the Department of Natural Resources. Director Brian Dunnigan and Deputy Director Jim Schneider were unable to attend the hearing, as they are attending another hearing in Portland, Maine, today. I am here to testify on behalf of Director Dunnigan in support of LB102. Senator Watermeier introduced LB102 at the request of the department. LB102 would amend state statute Sections 46-297 and 46-637 by removing the requirement that applicants provide their Social Security numbers on applications for water appropriation. Identity theft is a significant problem, and the requirement for submitting a Social Security number for a water application creates a completely unnecessary risk. Additionally, requiring applicants to provide their Social Security number creates extra burdens on the department to ensure the information is safeguarded after the submittal. This personal information is neither pertinent nor necessary for processing water appropriation applications. Since the law change requiring Social Security numbers on water applications was passed in 1997, the department has not received any requests for a record search of applicants based upon Social Security number. I want to thank the committee for your time and the opportunity to testify in support of LB102, as well as thank Senator Watermeier for introducing this bill. I would be glad to answer any questions you may have. [LB102]

SENATOR CARLSON: Okay. Thank you, Mike, for your testimony. Any questions of the committee? Senator Haar. [LB102]

SENATOR HAAR: Thank you. So right now, then, are the applications with Social Security number, are they available for public viewing? [LB102]

MIKE THOMPSON: What we do, we have to take several steps. We anticipate public records requests for various reasons, and they've been on the uptick in recent years. And initially when we identified this problem of potentially having Social Security numbers wrapped up in large, kind of broad public information requests, we had to go through significant efforts. And essentially what we did was, for the records that would have been provided as part of a records request, we had to essentially get copies and redact, i.e., black out where the Social Security numbers are. And yet we don't modify original documents, so it...what we've gone to subsequent to that is we have a digital scanning system where we actually, physically have to make a copy, redact the information, scan the document again, and then substitute that in our digital system. And it's just a number of steps that there's a...you know, every time you do something

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

manually, there's a potential for making a mistake. And it has no bearing on the criteria that we look at for granting a water right application. [LB102]

SENATOR HAAR: Will this then allow you to...I take it that right now Social Security numbers are stored in some database somewhere that you have. [LB102]

MIKE THOMPSON: It...what we've...what we decided to do is not store it in a database, because that just creates an extra risk. And since it's not necessary for any of our functions, what we have is the...it's the paper and the scanned image of that paper, which is on-line. But we've made an attempt and we hope we've found all of those instances on those application forms and redacted them. But it does create, you know, an additional burden. So what we would do in the future is simply remove that from the forms, where the applicant would not need to put that on the form in the first place so that in the future we wouldn't have that risk of exposure of the paper document. [LB102]

SENATOR HAAR: Okay. And because of what you've done already, those existing ones would have been redacted, and so you don't have to worry about them. [LB102]

MIKE THOMPSON: We don't have to worry about them in the current system we have. The issue is, in the future when we change our...there's a possibility always of going back through and with new technology, better-quality imaging and whatnot, there's a possibility that those could be scanned again to improve...I don't, probably, need to go into a lot of details, but there are some good reasons why we would potentially go through it again, and we'd have to then, once again, you know, redact. So the fewer records that we have to do that, the less chance there is of exposing private information. [LB102]

SENATOR HAAR: So, essentially, then, those Social Security numbers from the past will likely not...they could be, but they'll likely not be duplicated, then. [LB102]

MIKE THOMPSON: Right. [LB102]

SENATOR HAAR: Yeah. Okay. [LB102]

MIKE THOMPSON: And we would have to go over some, you know, policy issues, but if we no longer are required to take this information, one recommendation I would make, but it's not my decision, would be to permanently redact the original records since it wouldn't be a requirement, just to make sure that those applicants are protected, that there would not be records...that would be the simplest way. But we're reluctant to make modifications on original documents. [LB102]

SENATOR HAAR: Okay, well, that's kind of what I was trying to get at with those originals...and eventually be redacted. I think that would be a good idea. [LB102]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

MIKE THOMPSON: Right. To me, it would be a...I will make that recommendation. It would be a prudent measure, if we're no longer required to take those Social Security numbers, to look back and say, well, it would be reasonable to just permanently redact them. [LB102]

SENATOR HAAR: Would that be an amendment we should do on this bill, or is that just something the department can do? [LB102]

MIKE THOMPSON: I would consider that a records management... [LB102]

SENATOR HAAR: Okay. [LB102]

MIKE THOMPSON: ...issue at the department. [LB102]

SENATOR HAAR: Okay. Okay. [LB102]

MIKE THOMPSON: I wouldn't necessarily recommend it, no. [LB102]

SENATOR HAAR: Okay. Well, the only reason I ask...and I really am concerned about personal security issues, and so...a good bill. Thank you very much. [LB102]

SENATOR CARLSON: Senator Dubas. [LB102]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Mr. Thompson. I know this requirement was put in place via a state law, correct? [LB102]

MIKE THOMPSON: Yes, it was a state law that was implemented in a very broad sense as a reaction or in concert with a federal law that was passed. And it was applied in a very broad manner in some circumstances, including these two application types. [LB102]

SENATOR DUBAS: Okay. Just knowing, in some other areas that I've dealt with, you know, if you don't stay in compliance with federal laws, it could cause you some problems at the state level. Would this, by making this change, would this put us in crossways with the federal government? [LB102]

MIKE THOMPSON: Well, I can give you some, I believe, what, for me, what is some insight into the reason we believe it was an overbroad application to apply this to applications for water. In this original statutory language, Nebraska Revised Statutes 43-3340, part (1)(a) is the, in my opinion, applicable part. And it's referring to the need for the Social Security numbers for "any applicant for a professional licence, commercial driver's license, occupational license, or marriage license." And so it appears that it's a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

bit of a stretch to apply that to a water right application. [LB102]

SENATOR DUBAS: Well, that's what I thought when I read the language. I mean, these are all licenses, and you aren't giving a license for...I mean, you're... [LB102]

MIKE THOMPSON: Yeah, I... [LB102]

SENATOR DUBAS: ...permitting a water use. [LB102]

MIKE THOMPSON: Right. I would only be speculating, but the common thing here is the word "application" or "applicant." And I believe that's likely to be the source of that application to these two statutes. [LB102]

SENATOR DUBAS: And, then, in regard to these permits that you're giving, there's no monetary exchange between you and the applicant. Is there money paid for the permit? [LB102]

MIKE THOMPSON: There is a filing fee, a relatively modest filing fee. [LB102]

SENATOR DUBAS: But there's not any money that's...why I'm asking is, you know, quite often when you're getting money from the government they want to be able to do some cross-referencing, as far as 1099s or... [LB102]

MIKE THOMPSON: Right. There is no governmental... [LB102]

SENATOR DUBAS: Okay. [LB102]

MIKE THOMPSON: ...payout to these applicants. [LB102]

SENATOR DUBAS: So it's just a payment for the permit. [LB102]

MIKE THOMPSON: Yeah. There's a one-time filing fee to process the application, and that's the end of the monetary nature. [LB102]

SENATOR DUBAS: Very good. Thank you. [LB102]

SENATOR CARLSON: Okay. Senator Kolowski. [LB102]

SENATOR KOLOWSKI: Thank you, Senator Carlson. Mr. Thompson, just out of curiosity, what's the volume of...the number of applications in a year... [LB102]

MIKE THOMPSON: We have... [LB102]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

SENATOR KOLOWSKI: ...generally? [LB102]

MIKE THOMPSON: It's typically...is an interesting question. And I did look at that before I came over to the hearing. And we're on the uptick. In the three previous fiscal cycles, there was approximately 200 surface water applications, on average. But we're well over 300...I haven't done the final stats for 2012, and just in the first few months of 2013 we're going to be over 300 easily, just in the first three months. So it gives you an idea. Several hundred would probably be the best answer. But it's on the uptick. [LB102]

SENATOR KOLOWSKI: Okay. And back to Senator Smith's question on individuals versus corporate bodies or something like that, would you address that, please? [LB102]

MIKE THOMPSON: Right. Interestingly, the 46-297 applicant pool is likely to be some public entity, like a natural resources district or an irrigation district or a canal company. Those are the most likely applicants for intentional or incidental underground storage. The other statute, 46-637, involves wells that are situated very close to a stream. And those are likely to be individuals because the effect of the well is very immediate upon the flow of the river. And so it requires that those particular well owners that have...the wells that are put in place after the year 2000 require a surface water application. So those would be individuals; the other ones, most likely some entity. [LB102]

SENATOR KOLOWSKI: What percent would they be on 300 possible applications? [LB102]

MIKE THOMPSON: Okay, the percent...the actual percent of the total applications of these types of applications is fairly small. In terms of the intentional underground storage and incidental, intentional, I believe there's only one, which was a pilot project by the Upper Big Blue Natural Resources District; and then there's dozens of incidental underground storage applications that are associated with irrigation district and canal company operations. And the underground storage is a consequence of their irrigation activities. In terms of the wells, because of the exemption, only wells after 2000, there's only a few dozen of those currently. And so it's just kind of a question as to, you know, how people want to draw water, whether they put a surface... [LB102]

SENATOR KOLOWSKI: Sure. [LB102]

MIKE THOMPSON: ...pump site in or a well adjacent to the river. That's their preference for the withdrawal. So... [LB102]

SENATOR KOLOWSKI: Certainly sounds like it needed a piece of legislation, and I applaud it from the personal security side; I think it's a very important...thank you. [LB102]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

SENATOR CARLSON: Okay. Thank you. Any other questions? Yeah, Senator Johnson. [LB102]

SENATOR JOHNSON: Thank you for coming in, Mr. Thompson. I'm assuming that, within the resources districts, that you do not need Social Security numbers for anything else. [LB102]

MIKE THOMPSON: Right. These are the... [LB102]

SENATOR JOHNSON: I'm amazed. [LB102]

MIKE THOMPSON: ...only two specific...yeah. These are the only two specific instances of applications...within our spectrum of many types of applications there were only these two that were identified as somehow being applicable to this original statute. And so it is...in terms of the volume of applications we have come through the department, a relatively small percentage require the Social Security number. And when you're dealing with a public records request, it doesn't particularly matter whether you need to try and protect 100 individuals or 1,000; in some sense, the needle in the haystack is harder to find. But it is not a requirement of all of our application types that a Social Security number be provided. And no tax identification numbers have ever been provided or have been necessary from these entities that have frequent water applications. [LB102]

SENATOR JOHNSON: Thank you. [LB102]

SENATOR CARLSON: Thank you. Any other questions of the committee? Senator Brasch. [LB102]

SENATOR BRASCH: Thank you, Mr. Chairman. And thank you again, Mr. Thompson, for your testimony today. Are these permits a lifetime permit? Do you issue them once, or do they need to be renewed every ten years, or...? [LB102]

MIKE THOMPSON: It's...as long as the permit is used frequently--and there are specific cancellation statutes--the basic filter for maintaining your water appropriation, which can be permanent, is it needs to be used once, at least once, for the intended and permitted purpose every five years. And there are some excusable reasons that will get you up to 15 years. But the basic standard is, if you use your appropriation at least once every five years for the beneficial use that it was permitted for, then you'll maintain it in perpetuity. [LB102]

SENATOR BRASCH: Very good. Thank you. And one more question is, are these permits also public record? I did some research during the drought, and I pulled up a Web page that showed...I thought it was water permits for different areas that did list

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

individuals' names but...their wells and... [LB102]

MIKE THOMPSON: That was most likely our Web site. [LB102]

SENATOR BRASCH: Right. [LB102]

MIKE THOMPSON: And we have a subset of the information about the water appropriations that is publicly viewable. [LB102]

SENATOR BRASCH: So there are names to the permits that are listed. [LB102]

MIKE THOMPSON: Right. One of the things that you do see when you're looking at using our filtering system through our Web site, for instance, you can select a basin and irrigation from a natural stream as a type of appropriation that you're filtering for. And one of the bits of information that you will see is who is that holder of that water right. So there would be a name associated with that water right in that listing. [LB102]

SENATOR BRASCH: And there could be several names, for example several Brasches, with different permits. And do you have a way... [LB102]

MIKE THOMPSON: Right. [LB102]

SENATOR BRASCH: ...to identify which one, or which "Smith," holds the permit? [LB102]

MIKE THOMPSON: Well, internally we would, but it wouldn't... [LB102]

SENATOR BRASCH: Okay. [LB102]

MIKE THOMPSON: ...be something that would be necessarily... [LB102]

SENATOR BRASCH: Public. [LB102]

MIKE THOMPSON: ...a public person using that database filtering Web site... [LB102]

SENATOR BRASCH: Okay. [LB102]

MIKE THOMPSON: ...wouldn't necessarily know which Smith is which, just... [LB102]

SENATOR BRASCH: Okay. [LB102]

MIKE THOMPSON: ...by viewing our...unless they actually knew that person. [LB102]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

SENATOR BRASCH: Your Web site had a lot of details in it, with no Social Security numbers... [LB102]

MIKE THOMPSON: Right. [LB102]

SENATOR BRASCH: ...mind you. [LB102]

MIKE THOMPSON: Right. We made a conscious decision quite awhile ago that we did not want the actual Social Security numbers in our databases... [LB102]

SENATOR BRASCH: Right. [LB102]

MIKE THOMPSON: ...because there was no reason for us to have it. But we're required to collect it. So we felt, well, we've got it on the application form, which is what we were required, and we do have, in our water right appropriation files, we do have a complete record of paper documents; even though we have imaging and database information about that record, the original record is in a paper form. [LB102]

SENATOR BRASCH: Very good. Thank you very much. [LB102]

SENATOR CARLSON: Okay. Thank you. Any other questions of the committee? Well, thank you for your testimony. And I think this is...it's important from the standpoint of identify theft. And I hope in the next few years you are overrun with intentional storage and recharge projects. So we'll get this in place just in time. [LB102]

MIKE THOMPSON: Thank you, Senator. [LB102]

SENATOR CARLSON: Okay. Thank you. [LB102]

MIKE THOMPSON: Appreciate it. Thank you, Senators. [LB102]

SENATOR CARLSON: Any other testimony as a proponent? Anyone testifying as an opponent? Or anyone in the neutral position? Seeing none, and Senator Watermeier has waived his closing, that closes the hearing on LB102. Thank you. And so we will open the hearing on LB16. And, Dan, you're taking the place of Senator Christensen, so, welcome. [LB102]

DAN WILES: I am. Thank you, Mr. Chairman and members of the Natural Resources Committee. I am Dan Wiles, D-a-n W-i-l-e-s, legislative aide to Senator Mark Christensen, who represents the 44th Legislative District. And I am here to introduce LB16 for Senator Christensen. LB16 amends Section 90-278, which was enacted by LB739 in 2012 to convey Champion Mill State Historical Park and Champion Lake State Recreation Area from the Game and Parks Commission to Chase County. This bill

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

would add contingency language to Section 90-278 that in certain conditions the title would revert back to the Game and Parks Commission. Chase County commissioners contacted Senator Christensen this fall, informing him they were working out some contingency language with Game and Parks regarding the transfer of property passed last session and that they would like him to introduce it. Both Chase County and the Game and Parks Commission worked together and have come to an agreement regarding the contingency language in LB16. The two conditions provided in the clause revert the title of the property back to Game and Parks in the event that Chase County ceases to operate the property as a public park and recreation area or a financial need arises pertaining to the park that is detrimental to the county. No one from Chase County was able to make it today, but Roger Kuhn with the Game and Parks Commission will be following me to testify in support of LB16. Senator Christensen thanks you for your consideration of LB16, and he would urge its advancement to General File. Thank you. [LB16]

SENATOR CARLSON: Okay, thank you for your opening. Any questions of Mr. Wiles? Seeing none...you going to be here to close? [LB16]

DAN WILES: No. [LB16]

SENATOR CARLSON: Okay. You'll waive... [LB16]

DAN WILES: Well, I'll wait around, but... [LB16]

SENATOR CARLSON: Okay. All right. We'll ask for proponents. Welcome, Roger. [LB16]

ROGER KUHN: Chairman, commissioners (sic), my name is Roger Kuhn; it's R-o-g-e-r K-u-h-n. I'm here on behalf of the Nebraska Game and Parks Commission. And just a brief background on Champion Mill State Recreation Area and Historical Park. I first of all want to thank the community of Champion and the county of Chase for their support over the years of Champion Mill. They've been great partners to work with; they're very passionate about this state recreation area. And part of the reason we're here is, you know, over the years, the Game and Parks Commission operating this particular park at one time had a full-time person assigned there. And through the years, over budget, cuts and so forth, services were reduced to where we currently have managed the area as a satellite area from a distance from one of our other facilities that are a number of miles away. So the community of Champion has always been there at the plate volunteering, doing a lot of work at the mill. It's approximately an 11-acre-size area, mostly water. There's a pond there, an impoundment that has a dam; it operates the flour mill. The flour mill is on the National Register of Historic Places. The mill was created in the late 1800s as a community mill, producing flour. In 1969 the Game and Parks Commission took it over as a state recreation and state historical park. It's got a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

long history, obviously. We spend approximately \$12,000 annually for the operation and maintenance of the mill. It generates about \$550 of revenue through some camping fees that are there on the pond. Recently--and we've always done a lot of improvements at the mill, requiring maintenance or park improvements, etcetera--but recently, due to a flood that more or less devastated the dam and did a lot of damage, along with a hailstorm that did a lot of damage to the mill itself, we invested approximately \$200,000 in reconstructing the dam so the pond would be back in order. Also we replaced the roof and did a lot of the siding work, repainted the mill, etcetera. So, basically, the mill and the state recreation area today is, you know, all fixed up, ready to go. So, you know, it's not like we're unloading something onto Chase County that isn't in good condition; it's in very good condition. So I think this is a great partnership and a great opportunity. We have surplus for some of the centers that have been around for a while; we have transferred several of our park areas in recent years to local communities. Arnold Lake is an example of that, Bowman Lake, Atkinson Lake, Brownville State Recreation Area. So this isn't a new thing. But as local communities come forth, they don't want to see these local attractions deteriorate as we have reduced services, so they've stepped to the plate. The reversionary clause is a safety net, more or less, that the community wanted in there. In case, for some reason, they can't take care of it, it would revert back to the state of Nebraska, or the Game and Parks Commission. So with that, I'd answer any questions that the committee may have. [LB16]

SENATOR CARLSON: Okay. Thank you. Questions? Senator Haar. [LB16]

SENATOR HAAR: Thank you. Just...I'm just curious. Now, you invested \$200,000; that would be a lot if the county had to invest it. If there was a tornado, whatever, that caused that kind of damage again, could your department reinvest money to keep that up, or how would that work? [LB16]

ROGER KUHN: Well, the majority of that money came from FEMA. That was due to a flood event that was eligible...or declared as a disaster area, due to the flood. So it was FEMA reimbursement or FEMA money that helped pay for that dam replacement. For us to come up with \$200,000, if there wasn't FEMA support, would be a real challenge. So, yeah. And the same is true with the roof. During the same storm, with the hail and stuff, there was some federal dollars that helped fix that up. So it's not our dollars; partially it is, but the majority of it is FEMA dollars. [LB16]

SENATOR HAAR: But in the future again, if there was something that happened, how would that...because I know we've done a number of these others; I've been a part of that. So if there were larger costs involved, would it be reverted back then, do you think, and... [LB16]

ROGER KUHN: It could be, under this bill... [LB16]

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Transcriber's Office

Natural Resources Committee
January 23, 2013

SENATOR HAAR: Yeah. [LB16]

ROGER KUHN: ...sure. If the county couldn't afford to pay for the maintenance and/or operation of the mill or the pond and they just bailed out and said, we're done, it would revert, according to the legislation... [LB16]

SENATOR HAAR: Okay. [LB16]

ROGER KUHN: ...back to the state, to us. [LB16]

SENATOR HAAR: Thank you. [LB16]

SENATOR CARLSON: Okay, Senator Johnson. [LB16]

SENATOR JOHNSON: Thank you. Thank you, Mr. Kuhn, for coming in. I know there's a lot of pride in that community with that mill. And sometimes a community might try and hang on to it because it's theirs. Does it ever get to the point where it needs to be really refurbished; will the Game and Parks have any right to ask for it back in order to preserve it, from a bigger perspective? [LB16]

ROGER KUHN: The way I understand the bill, that would be the county's initiative. You know, if for some reason they didn't want to operate it or take care of it, or couldn't, my understanding is, according to the language, it would revert back to the commission or the state of Nebraska. It says, "a financial need arises pertaining to the park that is detrimental to the county." So... [LB16]

SENATOR JOHNSON: So it's their determination. [LB16]

ROGER KUHN: Yeah. My understanding is, they take this over, fee title, with this reversionary clause in it. So if we wanted to step in, I don't believe we could without the county's blessing or, you know, willingness to do so. [LB16]

SENATOR JOHNSON: If you felt it important to the Game and Parks or to the community, the culture of the community, to, hey, let's make sure this is safe, but they don't want to give it up, they can't "pull the trigger" so we don't lose it. [LB16]

ROGER KUHN: Yeah. I understand. I understand. I mean, if something starts deteriorating...and a lot of times these things are, you know, easier or cheaper to fix early on than later on. [LB16]

SENATOR JOHNSON: Yeah. [LB16]

ROGER KUHN: I know where you're coming from, but that would be the way I'd

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

understand the language. I'm not an attorney or anything, but that's how I would read it. [LB16]

SENATOR JOHNSON: Thank you. [LB16]

ROGER KUHN: Yep. [LB16]

SENATOR CARLSON: Senator Kolowski. [LB16]

SENATOR KOLOWSKI: Thank you, Senator Carlson. Mr. Kuhn, would the county carry insurance for that kind of catastrophic storm or something like that? Do you know if they're going to go that route? [LB16]

ROGER KUHN: You know, I couldn't answer that for the county. [LB16]

SENATOR KOLOWSKI: Okay. [LB16]

ROGER KUHN: I don't know, once they take title... [LB16]

SENATOR KOLOWSKI: Wasn't in discussions. [LB16]

ROGER KUHN: ...what kind of insurance coverage the county has or not. [LB16]

SENATOR KOLOWSKI: Sure. [LB16]

ROGER KUHN: For liability, I would imagine they'd be protected under the Recreation Liability Act unless they started charging some sort of fee to the individual or something. [LB16]

SENATOR KOLOWSKI: Sure. [LB16]

ROGER KUHN: But other than that, I don't know what the county's insurance policies are. [LB16]

SENATOR KOLOWSKI: Thank you. [LB16]

ROGER KUHN: Um-hum. [LB16]

SENATOR CARLSON: Okay, any other questions? Yes, Senator Schilz. [LB16]

SENATOR SCHILZ: Thank you, Senator Carlson. Roger, how are you doing today? [LB16]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

ROGER KUHN: Good. Good. [LB16]

SENATOR SCHILZ: Thanks for coming in. [LB16]

ROGER KUHN: Thank you. [LB16]

SENATOR SCHILZ: Not that...since everybody started down this line of questioning, if the county or the city of Champion comes to you and says, "Hey, we can't handle this anymore; will you take it back," then do you have the ability to say yes or no? Or how does that work? [LB16]

ROGER KUHN: I don't believe so. "In either case, title to such property shall... [LB16]

SENATOR SCHILZ: Okay. [LB16]

ROGER KUHN: ...revert to the Game and Parks Commission." [LB16]

SENATOR SCHILZ: That's...okay... [LB16]

ROGER KUHN: Yeah. [LB16]

SENATOR SCHILZ: ...thank you. [LB16]

SENATOR CARLSON: Okay. Any other questions? Do you know, when you talk about FEMA dollars that helped on this rehab, does Game and Parks have any kind of insurance that cover the facilities? Or do you depend on something like a disaster payment following a storm to rehab something? [LB16]

ROGER KUHN: Yeah, we depend on a disaster payment through NEMA, you know, Nebraska emergency agency... [LB16]

SENATOR CARLSON: Yeah. [LB16]

ROGER KUHN: ...but otherwise, no. I mean, we're self-insured, basically. And we do have insurance on buildings, in case of a fire or that type of thing. We do have insurance on buildings and contents in some cases, where we have valuable contents, artifacts, that kind of thing; we do have insurance on that. But on ponds and lakes and so forth, you know, we have trees that get blown over, or windstorms or tornados, and if there's not disaster relief, oftentimes we're on our own. Well, it's actually up to the Legislature, if we request in a budget to repair or replace something; we go through the budget process. [LB16]

SENATOR CARLSON: On that pond, it's 11 acres, is there fish? [LB16]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

ROGER KUHN: Yes, uh-huh. That's one of the more popular activities is the fishing there. [LB16]

SENATOR CARLSON: Okay. [LB16]

ROGER KUHN: Yeah. [LB16]

SENATOR CARLSON: Now, you mentioned the total annual income off of fees was only five hundred-and-some dollars. [LB16]

ROGER KUHN: Yeah. [LB16]

SENATOR CARLSON: So who pays a fee? [LB16]

ROGER KUHN: People that camp there. [LB16]

SENATOR CARLSON: That camp there... [LB16]

ROGER KUHN: There's a camp fee. [LB16]

SENATOR CARLSON: ...not that go there to fish. [LB16]

ROGER KUHN: No. [LB16]

SENATOR CARLSON: Okay. [LB16]

ROGER KUHN: Well, there's fishing permit. You know, you have to have a fishing permit to fish there. But we don't track that directly to the pond because a fishing permit is used statewide. But camping fees that are directly related to the area is the revenue that's being talked about here. [LB16]

SENATOR CARLSON: What is the camping fee? [LB16]

ROGER KUHN: Primitive camping fee is \$7 a night. [LB16]

SENATOR CARLSON: Okay, so that would be quite a few nights. But there's a lot more use to that 11-acre pond than simply camping. [LB16]

ROGER KUHN: Oh, yeah. [LB16]

SENATOR CARLSON: Yeah. [LB16]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Natural Resources Committee
January 23, 2013

ROGER KUHN: There's... [LB16]

SENATOR CARLSON: Okay. [LB16]

ROGER KUHN: ...it's mostly day use from local constituents that use the area. [LB16]

SENATOR CARLSON: Okay. [LB16]

ROGER KUHN: You know, they come out and fish. And then the mill. We've had the mill open on weekends in the summertime. We hire a seasonal person there that's a local that we actually...the mill is functional; it's operational; you can run it, and so forth. But we've been having it open on weekends during the summertime. But that's all we're open for public use. [LB16]

SENATOR CARLSON: Okay. So somebody that could come there on the weekend to observe that wouldn't be paying a fee. So there's a lot more traffic there than it appears by the fees. [LB16]

ROGER KUHN: Yeah. Sure. [LB16]

SENATOR CARLSON: Okay. [LB16]

ROGER KUHN: Um-hum. [LB16]

SENATOR CARLSON: Okay. Thank you. Any other questions? All right. [LB16]

ROGER KUHN: Okay, thank you. [LB16]

SENATOR CARLSON: Thank you for your testimony. [LB16]

ROGER KUHN: You bet. [LB16]

SENATOR CARLSON: Is there anybody else testifying in support? Anyone testifying in opposition? Or anyone in neutral? And seeing none, that closes our hearing on LB16, and thank you for coming. And, committee, let's stay a few minutes. I would entertain a motion to go into Executive Session. (See also Exhibit 1.) [LB16]

SENATOR SCHILZ: So moved. [LB16]