

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: OK. Welcome to the Natural Resource Committee, I'm Senator Bruce Bostelman. I am from Brainard and represent Legislative District 23. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is just part of the process as we have bills to introduce in other committees. I ask that you abide by the following procedures and better facilitate today's proceedings. Please silence or turn off your phones. Introducers will make initial statements, followed by proponents, opponents and then neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table in the back of the room. Please fill out the green sign-in sheet before you testify. Please print, and it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to a page or to the committee clerk. This will help us make a more accurate public record. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate white sheet on the table that you can sign for that purpose. This will be a part of the official record of the hearing. When you come up to testify, please speak clearly into the microphone, tell us your name and please spell your first and last name to ensure we get an accurate record. We will be using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When we-- when you see the yellow light come on, that means you have one minute remaining and the red light indicates your time has ended. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise, is allowed at a public hearing. The committee members with us today will introduce themselves starting on my far left.

GRAGERT: Good afternoon. Tim Gragert, District 40, northeast Nebraska.

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

AGUILAR: Welcome. Ray Aguilar from District 35, Grand Island.

BOSTELMAN: And my right.

GROENE: Senator Mike Groene, District 42, Lincoln County.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

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

BOSTELMAN: To my left is committee legal counsel, Cyndi Lamm, and to my far right is committee clerk, Katie Bohlmeier. I'd like to thank our pages that are with us today, Malcolm and Joseph. Thank you for being here with us today and we appreciate your support. With that, we will-- we have two reappointment confirmation hearings to hear first, gubernatorial appointments, Mr. Scott McPheeters, please come forward. Good afternoon. Give us your name, tell us a little bit about yourself, what you do, perhaps on the Ethanol Board and any other information you'd like to share with us.

SCOTT McPHEETERS: OK. I'm Scott McPheeters from Gothenburg and my day job is a farmer. We raise food grade corn and also soybeans and alfalfa and manage rangeland there and-- with two sons and my wife. And my position on the Ethanol Board is the business rep and that is really a result of my position on the board of managers of the Nebraska's only farmer-owned ethanol plant, KAAPA.

BOSTELMAN: Sorry to interrupt you. Spell your name for us, please.

SCOTT McPHEETERS: Oh, sorry. Scott, S-c-o-t-t, and then McPheeters, M-c-P-h-e-e-t-e-r-s. And so a group of farmers started a fuel ethanol plant and been producing since 2003. So the Nebraska Ethanol Board has been in existence since the early '70s and has its mission is to develop and help monetize really the ethanol industry for Nebraska. And at this point, it's about a \$5 billion, with a B, industry for Nebraska.

BOSTELMAN: Thank you for coming in today. Are there questions from committee members? Senator Hughes.

HUGHES: Thank you, Chairman Bostelman. Mr. McPheeters, good to see you again. So this is your second term or--

SCOTT McPHEETERS: Yes, reappointment. I was appointed in interim for one who went on to bigger things. And so then I was appointed, and now it's my reappointment for a second term.

HUGHES: Okay, so you've served one partial term and you're coming on for a second full term.

SCOTT McPHEETERS: Right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

HUGHES: OK, so what-- what have you enjoyed most about the Ethanol Board?

SCOTT McPHEETERS: Well, I think it's-- it's-- it's great credentials to have the state of Nebraska involved when we visit Washington or wherever. There's lots of trade groups and other interested parties, but when you say you're with a state agency, it's a-- just lends credibility to the situation. So that's been helpful. And I guess just helping one of the industries in our state that helps broaden the tax base and makes everybody's economics better is-- and makes-- cleans environment is-- I enjoy that a lot.

HUGHES: Very good. Thank you for your service to the state.

BOSTELMAN: Are there questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman, and thank you, Mr. McPheeters, for serving on the board and being here today. I-- just generally, can you tell us what the Ethanol Board does?

SCOTT McPHEETERS: Sure. Well, in its beginnings, there really wasn't ethanol in gasoline. And so there was a demonstration where 10 percent was added and so really today that's the standard and it kind of started here in Nebraska. And so 98 percent of the fuel in the United States is now sold with some level of ethanol, and about 10 percent of our fuel supply is ethanol. Of course, some fuel has no ethanol, very little, but other has more than 10 percent. And of course, E15 is approved for all 2001 newer vehicles by the EPA. And so it's-- I think there's been 12 billion miles driven on that fuel now, and it's really becoming more popular all over because it's one point higher octane and a nickel cheaper generally. So to answer your question more directly, it's those things that we try and help develop and demonstrate the advantages and testify where needed, and just some promotional things all the way from helping sponsor the University of Nebraska engineering teams race car-- and they burn ethanol so we're pretty happy about that, and there's a lot of other cars that are converting to ethanol as well on that race team.

J. CAVANAUGH: And so in that sponsorship, where does the money come from for that?

SCOTT McPHEETERS: So our funding is based on really a checkoff of the denaturant that's added to alcohol and it's generally at two percent-- the denaturant level. And so it's a-- that's a fraction of a cent per gallon of denaturant. So it's really a checkoff in essence.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

J. CAVANAUGH: And so just-- I guess, to circle back, Ethanol Board funds that uses that denaturant funding to-- in, I guess, give grants, demonstration projects, education, those sorts of things. And then you additionally would advocate for the industry at the national level.

SCOTT McPHEETERS: Exactly. And we hired an administrator and also two staff. And so it takes a-- roughly half of our budget. And so we have the rest to do those other things. And one of the things most recently we did that's fascinating is, oh, three years ago, I think it was, we asked the-- the Department of Environment and Energy, I guess, and also the U.S. EPA for our special dispensation to burn 30 percent alcohol in traditional cars, not flex fuel cars. So we did a year-long demonstration with 50 vehicles from the state fleet and 25 of those-- they had data recorders on all of them, 25 of them burned E30 and 25 of them went ahead and burned their typical fuel they had been burning, either E10 or E15. And after, I think it was about 400,000 miles and a yearlong study, the drivers kept logs. All that data and the university assembled it for us and had peer review and so that report's available to you. There was no difference in mileage, appreciable at all for E10 to E30. And there was also no maintenance issues. And so just as in the '70s, we kind of, you might say, started the E10 thing. We're hoping to further the E30 thing because if you talk to any engineer, they will say that is the sweet spot. That's where the octane kicks in. That's the, that's the optimum. Just-- we didn't start it that high, but it'd be good to get it that high.

J. CAVANAUGH: Thank you.

BOSTELMAN: Senator Moser.

MOSER: I noticed in your opening, you said, you grow food-grade corn. Don't we eat all corn somehow or another?

SCOTT McPHEETERS: Well, it's interesting. And of course, some of it is processed through livestock or other products, you know, corn flakes or whatever. But this is most specifically to corn chips. And so it's a little bit more direct path, but I appreciate--

MOSER: Do you contract with a chip manufacturer?

SCOTT McPHEETERS: Frito-Lay is who our contractor is and we-- it's a basis contract with them and they give us some varieties that they like to see and we pick out the ones we like to grow and then we make the corporate chips.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

MOSER: You have to handle it a little bit differently than you would if it was going to the ethanol plant or going to feed cattle with it.

SCOTT McPHEETERS: We do. It's primarily just the recordkeeping and also the sustainability movement that's happening throughout the industry. We have additional forms we fill out and things that we, we do to, like for instance, sprinkler irrigation is much more efficient than, say, gravity flow irrigation. And so they're interested in buying corn that is more sustainably produced. So there's some things like that. But generally speaking, it's the cultural practices are not substantially different.

MOSER: Thank you.

BOSTELMAN: Senator Groene.

GROENE: Thank you, Chair Bostelman. So what I'm hearing is the Ethanol Board is more of a marketing board.

SCOTT McPHEETERS: Really developed-- oh, sorry, go ahead.

GROENE: They develop products or they market in advertising and something like the Corn Board.

SCOTT McPHEETERS: Um-hum. It's not unlike those organizations that are driven by or funded by checkoff. In our case, there's really not much development that goes on as far as a new enzyme to process or a new product to use. It's more the facilitation of somebody who wants to be involved in the ethanol plant, the ethanol industry and in a broad level where things go. But as far as developing markets, I would say it's more primarily education and more legislation because we're able to testify and help everybody understand what we need help with and what we can do to help them. And the environmental benefits are huge, and so that's really what we work on lately too.

GROENE: Thank you.

BOSTELMAN: Do you represent a certain position on the board, producer, industry or--

SCOTT McPHEETERS: The business rep is or industry is what I am, and it's primarily because I'm involved with the ethanol plant that's farmer owned. So there is other-- there's like a union labor representative and there's all the basic commodities that could be made into ethanol or represented there as well, sorghum.

BOSTELMAN: OK. Any other questions from committee? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman. I was remiss not asking about if you guys were doing any development with carbon capture and sequestration with the ethanol plants? We're hearing a lot about that, but [INAUDIBLE].

SCOTT MCPHEETERS: There is. And of course, by its very nature, corn is what produces ethanol and there's some carbon dioxide that's given off in the fermentation process. So that's really what they're talking about capturing is that. But there's also a big interest in the corn that is produced and goes into that is a big carbon sink and re-- sequesters carbon in the soil. So there are a number of projects afoot in the state, both by commercial developers and individual plants. It's really costly and so that's why we're probably going to have to get together and, and do more on a group basis or, you know, industry basis rather than an individual plant.

J. CAVANAUGH: But is the Ethanol Board playing a role in that discussion with the industry?

SCOTT MCPHEETERS: We are, just kind of on the front end of it because there's so-- it's moving so fast. But we have an emerging issues conference every year, and so there will be a panel about that. Several panels actually, and so I actually moderate one of those. So if you have time, and I think it's March, to come and I can get you more details if you'd like, but it's lots of interest and lots of talk about that.

J. CAVANAUGH: Thank you.

BOSTELMAN: Seeing no other questions, thank you, Mr. McPheeters, for coming in today.

SCOTT MCPHEETERS: Sure. I might add one thing, and you mentioned about food, and I thought you were going to ask me about what's the food versus fuel? And if I had to say, I'd say that we have more food because of ethanol rather than less because the livestock and other livestock that can't use the amount of starch that's in corn, so we ferment the starch and are left with a high quality protein. And so-- and Nebraska is number one in cattle feeding and it's really because we have good ethanol production and good feed.

BOSTELMAN: Thank you. One last question then. Is it white corn or yellow corn?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

SCOTT MCPHEETERS: We raise both white and yellow, about half and half. They go to different products in their lines.

BOSTELMAN: OK, thank you. Thank you for coming in today. Appreciate it.

SCOTT MCPHEETERS: Thank you.

BOSTELMAN: Would anyone like to testify as a proponent for the reappointment of Mr. McPheeters? Seeing none, would anyone like to testify in opposition? Oh, I'm sorry?

REID WAGNER: No worries. Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Reid Wagner, spelled R-e-i-d W-a-g-n-e-r, and I'm the administrator of the Nebraska Ethanol Board. I'm appearing before you today to testify as a proponent for Governor Ricketts reappointment of Scott McPheeters to serve as the business rep for the Nebraska Ethanol Board. Scott offers an excellent perspective and a wealth of experience as we've kind of seen. He's a diversified grower, raising food grade corn, soybeans, alfalfa, hay and even has the hand in the beef production through owning his rangeland. He also helping found the KAAPA Ethanol plant and establishing the Flex Fuel Plaza that's actually located out in Gothenburg, Nebraska. Over his time with the Nebraska Ethanol Board, Scott's direct involvement in nearly the full suite of the industry and how it relates to Nebraska and agriculture has really made him a strong, valuable voice in the strategic direction of our board activities. He has also given an added presence among other national organizations, including the American Coalition for Ethanol, ACE, where he is an active board member. His level of advocacy, combined with his deep understanding of all those facets of the ethanol industry, will be key as the Nebraska Ethanol Board pushes forward to meaningfully support the industry in new markets, cleaning our air, keeping our fuel affordable and bringing money back to rural communities. So, thank you.

BOSTELMAN: Thank you for your testimony. Any questions from committee members? Seeing none, thanks for coming in today. Appreciate it.

REID WAGNER: Thank you.

BOSTELMAN: Any other proponents for the reappointment of Mr. McPheeters? Any other proponents? Seeing none, any opponents to this reappointment? Seeing none, anyone testify in neutral capacity? Seeing none, that will close our hearing on the reappointment of Mr.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

McPheeters to the Ethanol Board. Next, we'll have the reappointment to Taylor Nelson to the Ethanol Board. Good afternoon, Mr. Nelson. Please state and spell your name and tell us a little bit about yourself on the board, what you do, just some general information, we'd appreciate it.

TAYLOR NELSON: Sure. Good afternoon, Chairman Bostelman and members of the committee. My name is Taylor Nelson, T-a-y-l-o-r N-e-l-s-o-n. I'm currently serving as the corn representative on the Ethanol Board. Little background about myself. I'm a fifth generation farmer. We farm in the northeast Nebraska area near South Sioux City, near the small town of Jackson. We raise corn and soybeans. All of our corn gets delivered to our local ethanol plants. We have ethanol up in Jackson, and my position, I guess, as a farmer delivering grain there was unique because from 2012 till 2020, as a part of the opportunity that was propagated by the ethanol industry and by having a plant in our area, my family established a convenience store truckstop business where we install ethanol blender pumps and really brought that whole Golden Triangle to fruition-- being able to retail the fuel that was made at our Jackson ethanol plant at a convenience store right there in Jackson. And so my perspective to the board is-- comes from a retail background with eight years in the industry. Also as a farmer and also as somebody who delivers grain to an ethanol plant and has been around on that whole entire industry. So that's kind of where I come from. And going forward, I look, I look at-- in my youth, I guess-- this industry is built on a lot of hard work from generations past and from people who have worked to build this industry out. And I have a futuristic perspective on how, you know, we can continue to grow the industry and keep it strong in our state, how we can look for, you know, making ethanol a low-carbon solution in the realm of-- I'm trying to decarbonize society and, you know, as a-- something to help, not just with the electrical vehicle side of things, but having a solution in our state that comes from renewable fuels and from corn production. So as I look forward, I look at the opportunities that can come from that and I'm excited about that on how I can continue to help grow the industry and make it stronger.

BOSTELMAN: Thank you, Mr. Nelson. Are there questions from committee members? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman. Thank you, Mr. Nelson. You heard the question I asked Mr. McPierson, that if there's anything-- Mr. McPheeters, sorry --anything else the board does that he didn't hit on. You don't need to rehash everything but if there's anything else you thought need mentioning.

TAYLOR NELSON: They're just always in-- keeping an eye on market development opportunities and looking to facilitate that. We've had some discussions in our meeting about the biochemical realm, too and how there's opportunity for expansion with existing plants in that space. So that's worth noting that we're always keeping an eye on some of the opportunities in that world too.

J. CAVANAUGH: Biochemical, is that like plastics and things?

TAYLOR NELSON: It's chemicals that come off of the-- it's like a bolt on opportunity that-- or a over the fence opportunity where you can take different portions of the stream that are being used for ethanol and divert it to be able to make different chemicals, or maybe some of the base substances that are used in things like plastics or cleaning solutions or different things like that, but keeping it renewable.

J. CAVANAUGH: And you mentioned decarbonization. I asked about the carbon capture sequestration. You're forward looking, what do you-- how do you see the-- the Ethanol Board's role in potential carbon capture in the state of Nebraska?

TAYLOR NELSON: Well, I think that the ability to use carbon capture provides a very strong economic opportunity to our plants in our state. And so our duty is going to be to facilitate those discussions and make sure that, you know, whether it's farmers and how they're growing their crops in a low carbon fashion to be able to feed into that system, or to provide information to plants across the state to make sure that they understand what the benefits would be and how that can add value to the bottom line for the products being produced in the state.

J. CAVANAUGH: Thank you.

BOSTELMAN: Other questions? How often do you meet-- the board?

TAYLOR NELSON: Typically four times a year.

BOSTELMAN: And where do you meet at?

TAYLOR NELSON: Usually in Lincoln.

BOSTELMAN: And where are your other members? They from-- scattered across the state, central to eastern or?

TAYLOR NELSON: Yeah, they're from all across the state. I'm, by far, the most northeastern, and there's a lot from all across the state.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: Any other questions from committee members? Thank you very much for coming in today. Appreciate it, Mr. Nelson. Any proponents to the reappointment of Mr. Nelson? Please step forward.

REID WAGNER: Hello again.

BOSTELMAN: Yes.

REID WAGNER: I'll do it one more time. My name is Reid Wagner, the administrator of the Nebraska Ethanol Board, spelled R-e-i-d W-a-g-n-e-r, testifying as a proponent for Governor Ricketts' reappointment of Taylor Nelson to serve on our Nebraska Ethanol Board. Taylor brings an important viewpoint and integral experience in the way that consumers actually interact with ethanol. He, too, is a diversified grower, actually raising corn and soybeans, as he pointed out, up in northeast in Jackson, Nebraska. He also, as he mentioned, brought up Jackson Express, the convenience store chains located throughout the city, bringing new products and services to customers, filling that need, as well as being a champion for ethanol use in the state. And throughout his time with the Nebraska Ethanol Board, he's brought a great understanding of the importance of Nebraska's Golden Triangle between renewable fuel, feed and livestock. He also understands how ethanol fits into the greater picture of Nebraska and agriculture, as that was very well apparent. Over the years, he's been an integral part of the board by bringing ideas for efficiency and spending in the agency to make sure that what we spend is spent pointedly and purposefully to really move the industry forward on behalf of our producers and the great state of Nebraska. The future of ethanol is bright, but it's also complex and highly technical in nature. He went into, of course, the biosciences. You know, this is a new realm for-- for, you know, using ethanol as a building block molecule. It represents a lot of opportunity through the state. So his mix of experience on that retailer side and from being a grower will be crucial too, you know, that sort of development. So as we kind of continually support the ethanol industry, Taylor will be a wonderful proponent of expanded growth opportunities as well as ensuring that our growers and landowners are a part of that conservation.

BOSTELMAN: Thank you for your testimony. Is there any questions from committee? Question, I-- is there-- what type of budget does the Ethanol Board have? Do you know?

REID WAGNER: So it can fluctuate. We have, as Scott mentioned, a checkoff basically on denaturant. So as the prices of denaturant and ethanol kind of fluctuate, you can actually see percentages between 2

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

and 5 percent of denaturant added to gas-- to ethanol to be put into gasoline. So it kind of fluctuates, but if you're talking about 2 percent, you know, it's roughly, I would say, probably it's between 25 and \$50,000 a month probably.

BOSTELMAN: OK.

REID WAGNER: It's where we're at.

BOSTELMAN: OK. Senator Moser.

MOSER: Wouldn't drinking gas be enough deterrent, so you wouldn't have to add denaturant?

REID WAGNER: You'd think, you would think. The denaturant is added as a way to ensure that a slipstream isn't pulled off for consumption because we aren't up to food grade, you know, and we need--

MOSER: And you're not licensed to sell.

REID WAGNER: Correct, and we don't want to sell it as a beverage and then mix that with the fuel pot as well.

MOSER: Yeah, that was just curiosity. Thank you.

REID WAGNER: Yeah, it's a fun question.

BOSTELMAN: OK, thank you for your testimony. We appreciate it. Thanks for coming in.

REID WAGNER: Thank you.

BOSTELMAN: Any other proponents for Mr. Nelson? Please step forward. Anyone would like to testify in opposition? Seeing none, anyone would like to testify in the neutral capacity? Seeing none, that will close the hearing on the reappointment of Mr. Taylor Nelson. Thank you for coming in today. Next, we'll get ready to do opening on LB1023. I would ask folks, if you're going to testify as a proponent or opponent when we get to that, if you can move up on this side over here to those chairs, that would help us move through the hearing a little bit quicker. So kind of make your way up as you can, fill those seats and that'll, that'll move us through the afternoon a little bit quicker because I'm sure there'll be a few of you that want to testify and we, we appreciate that. Having said that, Speaker Hilgers, we appreciate you coming in today, two days in a row.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

HILGERS: Two days in a row. Our treat.

BOSTELMAN: You're welcome to open on LB1023.

HILGERS: Thank you very much, Chairman Bostelman and members of the Natural Resources Committee. My name is Mike Hilgers, M-i-k-e H-i-l-g-e-r-s. I represent District 21, which is northwest Lincoln and north Lancaster County. I currently serve as Speaker of the Legislature, and maybe more importantly for this particular hearing, I also serve as Chair of the State Tourism and Recreational Water Access and Resources Special Committee, otherwise known as STAR WARS, and I might take this moment to acknowledge my note of appreciation to Chairman Bostelman. I think I see a BB-8 lapel pin and I did see you earlier, and I think that's a Darth Vader tie, so thank you for that. Colleagues, I'm very pleased to open on LB1023, which I think is an important step towards creating transformative projects for the state of Nebraska. When we started the 107th Legislature last year it was my opinion as Speaker, and I said it on the floor, that we had an opportunity to make a significant generational change for the state of Nebraska along a number of fronts. And one front in particular is how to, how to build on the immense natural resources and beauty of the state of Nebraska. And to that end last year, this, this body passed LB406, which created the STAR WARS Committee and that committee was tasked with finding such projects and transformational opportunities in three specific areas. One was in Keith County, Lake McConaughy region, another was in Knox County in northeast Nebraska, specifically Lewis and Clark, as well as the Niobrara region, and also the lower Platte in eastern Nebraska. And the committee was formed with a number-- with ten senators from across the state representing all those particular areas with differing views and different ideologies and different ideas as to what would be transformational and successful and the inputs into that process were pretty extensive. We worked with our, our partner, HDR, over a six-month period. We sprinted pretty fast. We had listening session, visioning, visioning sessions, hearings in each of the locations, multiple meetings, a lot of work with a number of stakeholders. And I'm very pleased to say from that process, the committee voted unanimously 10-0 to recommend the preferred initiatives that you're seeing in front of you today. Those initiatives include sort of going west and north and back east in, in Keith County, Lake McConaughy region, what we think will be an incredibly important, resilient marina. If you go out to Lake McConaughy, that is the number one tourist attraction by visitor count in the state of Nebraska. Almost two million people visit Lake McConaughy every year. It's the largest lake, reservoir, as you know, in the state of Nebraska. Many of those visitors, by the way, come

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

from out of state. There's very limited access to the water at Lake McConaughy, which is pretty incredible and they don't have a marina facility. In fact, we saw when we were there the tractors that would pull-- get, get people close access to the water. They don't have a marina. One of the proposals is to build a marina, a resilient one that would actually be able to handle the fluctuation of water that, Senator Bostelman, you were talking about yesterday at the 10:15 hearing. In addition to that, there's some very important road, road work that's proposed as well, some placemaking at the Lake McConaughy region we think will catalyze additional investment in economic opportunity there. Turning northeast in Knox County, there's two sets of proposals. One was in the Niobrara area. If you, if you have not been to Niobrara State Park, I would encourage everyone to go up there. It has some of the most gorgeous and beautiful views in the entire state of Nebraska. Some of the proposals there include building a sort of what I would describe a smaller Lied Lodge event and lodging facility up in Niobrara State Park. There's additional boat access there as well. And then in Lewis and Clark-- if you haven't been to Lewis and Clark, you should go there. It is one of the gems, true gems in the state of Nebraska, is the second largest lake in the state. And when we went there, boat access was another critical thing that we heard. There's a 121-slip boat marina, excuse me, at Lewis and Clark Lake with a waiting list that is, I think, was hundreds of people long that can take years to either get through or most people would actually just drop off. And so the primary project that we're proposing is a, a almost five-times, almost a six-times expansion, six-x expansion of the slips at Lewis and Clark, which allow us to compete more aggressively with South Dakota. If you go to the north side of the lake, the amount of development that South Dakota has at Lewis and Clark is pretty incredible, we think this will compete and allow for better enjoyment of one of our great gems. And then coming down between Lincoln and Omaha in that region, Senator Bostelman's, we have two sets of projects. One is a really important flood control project. As you know, from the 2019 floods, that area was flooded very significantly. And through a lot of the guidance and input from Senator Bostelman and local NRD, we proposed a Wahoo Creek flood control project with a series of ten dams that we think will be very important to protect those areas from future flooding, as well as a jetty repair at Schuyler. And then last, but not least, and I think probably most significant for this particular hearing is the proposed construction of a roughly Lake Okoboji-sized lake between Lincoln and Omaha. That project, we anticipate, would have at least a \$5 billion economic impact just from the construction, as well as a nine-figure, I'm sorry, a nine-figure yearly impact. And these are just, just from

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

the lake, these are just economic dollars and cents. It's, it's hard to state, I think, in economic terms, the amount of value that these projects, whether it's the lake, the marinas that the additional lodging facilities at Niobrara will do for countless Nebraskans. I think if we think about Nebraska without a Lake McConaughy or out-- without a Mahoney State Park, as an example, or without a Lewis and Clark, we really can't envision that. And there are untold Nebraskans who have, who have benefited in the-- from the quality of life in being able to access those particular resources. Those-- many of those were built decades and decades ago. And it's really an opportunity for this Legislature to, to be able to have-- take this generational opportunity to do something that will impact generations to come. How do we make those a reality? Well, there are two pieces to that here in the Legislature. One piece, which really isn't in front of this body or I'm sorry this committee today, but it's worth describing is the financial component. As you heard at the Governor State of the State, STAR WARS Committee requests \$200 million and the Governor included in, in his budget proposal, the \$200 million for these projects. Now I want to be clear, those dollars in the budget will fully fund, we believe, will fully fund the-- all of the projects, except the lakes, so the Niobrara State Park, the Lewis and Clark marina expansion, the Lake McConaughy marina expansion, as well as some of the other, the flood control. Those will all be funded from those dollars. That's one particular train for the lake itself, so there will be money to do design and planning and very important hydrology studies, environmental studies, those haven't happened yet. I want to be very clear. But one, one part, we have two trains on the track. One, one train is the budget, and understand-- and having the funding in the lake for the environment of those kinds of studies, design planning. That's one. The other one is LB1023. LB1023 creates the mechanism to the public-- to create the public-private partnership to be able to draw in the private investment necessary to build and develop the lake. Those are the two trains. If they both get to their destination, this will become a reality. If either one of them doesn't, then it will not. So I want to go through LB1023 briefly-- and really I want to-- I believe I communicated this with, with the Chair and, and I want to tell the committee now, we intend to introduce a white copy amendment. It's not quite done, but we will be introducing a white copy amendment to the committee and I'd like to walk through a couple of those provisions and the proposed changes because it does impact at least a little bit of the, of the hearing today. So that there's no change to the first section. The second section, which is legislative findings, we'll have some additional findings there. I do want to-- in consultation with counsel for the committee, we did include some

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

additional language to make clear that the lake would not be-- there would be no damage. As, as we put this in LB406, it was in our recommendations, a very important part. We haven't-- no proposal to build a lake has ever gotten this far. And one reason is because those prior proposals have discussed damming the Platte River and having strong negative impacts on the city of Ashland. It is critical for that, that that is not part of this particular proposal. It was not recommended by the committee. It's not in the legislation itself. We, we are belt and "suspendering" this particular provision. It includes later in a different section that there would be no damming of, of the Platte, the main channel of the Platte, and so we're including that as well. In Section 3, which is the empowerment for the Department of Natural Resources, we are adding some additional conflict of interest legislation. I'm sorry, a provision that we've modeled off of other areas of statute. The rest of that Section 3, it really just deals with kind of the run-of-the-mill types of authority that the department typically has, but directs it towards actually creating the lake. Sections-- the third change, Section 5 and 6 are going to be removed. Those are-- that's appropriating language. As I mentioned when we introduced this bill, we weren't exactly sure how it was going to get introduced in the budget. This was a placeholder, so we're taking Sections 5 and 6 out because that is in the budget language. The fourth change, we're including-- this actually-- so second part of LB1023, the first part it relates to the lake. The second part is some additional legislation to help spur economic development and cut red tape both in the Keith County and Knox County region. So we'll have some additional changes there. One will be relating to Keith County in helping do something-- will have some additional language to help spur economic development there. And the last one-- the last major material change to reference now is Sections 10 and 11, which it strikes the appropriations provisions that relate to the second half of LB1023. There will be some additional changes that we're working on. Nothing of note at the moment, but certainly if there's anything that comes from this particular hearing, we would include that as well. I do want to have a couple of thank-yous here before I close. There's been a number of stakeholders throughout this process, some of whom were opposed initially or at least skeptical initially, skeptical initially. But we have worked very collabora-- collaboratively throughout this process, and I just want to name a few. One is Central Public Power. As you know, Central manages Lake McConaughy, they were outstanding teammates on this. Game and Parks. The Nebraska Game and Parks Commission has done really an outstanding job working with us throughout this process. The Ponca Tribe, they have been a great partner. Keith County Economic Development Organization. I will say

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

about Keith County, when we went out to their hearing, that community is primed to go. The, the leadership in that community and the collaboration across multiple different stakeholders, that community's ready to go and we're excited to help them catalyze some of their efforts. The friends of Knox County, that organi-- that group in both Niobrara, but then also Lewis and Clark, great, really outstanding people. I think some of them may be here to testify here today. And I'll also say the city of Lincoln and MUD, they have a significant concern, one that I share about the water supply here in the city of Lincoln, as well as in Omaha. And as, as you all know, we discussed it yesterday at the 10:15 hearing, both of those entities do draw from the Platte River, and so nothing we would do here would be, what we intend to be and the studies that we would put forward as part of the appropriations process would, would confirm if this were to go forward, that we wouldn't have any negative hydro impact on the water supply here. I will tell you our preliminary analysis on the water is that actually this would have an incremental marginal positive benefit on the city of Lincoln. I-- we've gotten-- we did about two years of work in six months and there's a lot left to do. And we-- I know there's a number of stakeholders left to talk through a lot of the questions. Some of them are here today, many of them we've, we've had the chance, especially recently, to be able to talk through and have conversations. Those conversations are going to continue. And really, I, I just want to maybe close with two last points. One is-- and in your packet, I've included a article from the Ashland Gazette and this is an article that was published shortly after that we in our press conference where we announced STAR WARS and these preferred initiatives. And the thing that struck me and the reason I included it is that the comments in that article from a lot of the leaders in Ashland were positive. They were positive and it's the first time a project like this has been proposed where there was anything, anything other than extreme opposition in anger. And to have this level of positivity, I think, is a reflection of both the effort that we've tried to take throughout this process, which is one, not of zero-sum, but one of abundance, one in which if we work together and try to come at things innovatively and creatively, we can actually create winning solutions for everybody. And I think that's an important part of what we're going to do going forward. So we have a lot of steps left to take. There are a number of stakeholders that are here and others that we need to talk to, and we're going to take the exact same approach, one of collaboration, creativity and innovation, and one with a winning approach. I think that will create a spirit of abundance. And the last is, this is an opportunity to do a big swing for the state of Nebraska that will have a material transformative impact both

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

economically and for countless Nebraskans across the state. And I am incredibly excited about it, and I hope that both this committee will pass this out to General File, this has been prioritized by Senator McDonnell, and that the Legislature will, will pass it to the Governor. And with that, I'm happy to take any questions.

BOSTELMAN: Thank you, Mr. Speaker. Are there questions from the committee members? Senator Groene.

GROENE: Thank you, Speaker-- Chairman. Speaker's over there. What-- on this Lower Platte River area, is-- where does the water comes from, for that lake, like did you say? Is that just dredging it and natural groundwater?

HILGERS: That's correct. That's correct, Senator Groene. It's not, it's not dammed so it'll be a dredged lake.

GROENE: There's no inflow from a creek or a feeder creek, tributary to the Platte?

HILGERS: The locations we have looked at and the final location, despite some of the public reports, has not been-- one, it hasn't been fully set within the committee. Two, we have to do the studies. The locations we looked at do not have any other tributary.

GROENE: So it would be just natural--

HILGERS: Correct.

GROENE: --ground water levels?

HILGERS: Yes, sir.

GROENE: All right, that's fine. Then on the-- where's that at-- is that the bay there on the Lake McConaughy is that just, just dredging that bay so it's always full of water that's on the east end near the dam?

HILGERS: So on the location I want to emphasize, you know, we've tried to have this process be collaborative with local stakeholders. What we didn't want to do is have them feel like people in Lincoln were showing up telling them where it ought to be. That's the preliminary location, but we're going to work with local stakeholders and Game of Parks to make sure we have the right location. So that does show on the east side. I think you're, you're stretching beyond my knowledge of the engineering, but that's my understanding, Senator Groene.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

GROENE: Because there's a natural ridge in there that needs to be dredged out to keep that full. All right, anyway, that's what I thought it was. Thank you.

HILGERS: Thank you, Senator Groene.

BOSTELMAN: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman. Thank you, Mr. Speaker, for being here two days in a row. In terms of-- I know we're creating a structure to create this lake. And in terms of that structure, who's going to own the lake?

HILGERS: Under the-- I think it's in the bill, the, the state will own the lake. The state-- it will be a state asset. The development, which might be your next question, if I can answer, if I may answer, the development around it, we think we can attract a billion dollars or more of private investment. In order to attract that, we would need to have some mechanism to, to be able to develop at least part of the outside of the lake. We envision, sitting here today, that a significant portion of the perimeter of the lake would, would be reserved for the-- absolutely reserved for the public, public marinas, campgrounds, potentially Game and Parks, cabins, and the like. But some portion of it would be privately developed.

J. CAVANAUGH: And that private development, that's part of the mechanism we're creating here. I guess who's-- when, when we build this, we're going to buy some land, I assume--

HILGERS: Correct.

J. CAVANAUGH: --and dredge it as Senator Groene talked about, and so we would own that. Once we dredge the lake, then would we sell that-- the land to a private developer?

HILGERS: No, it's a good question. And, and some of these, some of these questions will have to be and will, will be answered on the-- what's the, what's the best sequencing to be able to invite or entice the money-- the private investment to come in? Is it dredge the lake first and then sell it to a developer or is it to get the financing and then dredge the lake and keep ownership to the outside and do a lease? Those are, those are a lot of really good questions, and that's sort of in the second train over the next two years. A lot of those questions will have to be answered. I have some, I have some guesses as to how-- what the best approach would be, but I don't have the final answer.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

J. CAVANAUGH: So would those require further legislative action then this just beginning, like, the beginning framework and we need a secondary framework after that?

HILGERS: Potentially. Potentially. I mean, certainly, we set it up not with the intent to have additional language or-- but as you can imagine, a project as complex as this would likely have to have some second round of additional legislation.

J. CAVANAUGH: Thank you.

BOSTELMAN: Other questions from committee members? Senator Groene.

GROENE: Thank you, Chairman. Maybe it's, maybe it's better for a hydrologist or somebody, but when you first proposed this, we talked about something in a hearing here, the city of Lincoln is nearly out of sources of water because they're growing, which is good, but they wouldn't-- would they draw right out of the lake for their supply or, or I heard something about set-- put wells around it because now the, the groundwater would be recharged by the lake? Do you know what the-- what their theory is?

HILGERS: The city of Lincoln's theory, Senator Groene? So--

GROENE: How does it help? How does this lake help their water system?

HILGERS: Yeah. So, so our preliminary analysis is, and what I mentioned in my opening, sort of an incremental additional benefit, doesn't come from a well in the lake itself. And to be very clear, the city of Lincoln owns well fields that are close to the area that we've sort of circled. And it's important to us to ensure that we protect the city's water resources where I'm completely aligned with the city on that. Our preliminary analysis, the reason why it would be helpful is in the, in the summer months in the low period when the Platte River is lower. And in fact, this happened in 2012 in the city of Lincoln. In the summer, we actually had some water restrictions here. That the having a reservoir within the same water table would, would actually help bolster those flows and have some recharge. So in the summer months, it would have some incremental positive benefit is what our preliminary analysis showed.

GROENE: Would the-- I have a pond right next to a river. When the river goes down the pond goes down because it's the same type of lake, but they're an anchor. So when the river's dry, the lake will go down, too, because it's fed by-- it stays at the level of the groundwater, basically, normally, when you just have a back groundwater-fed lake. I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

just don't understand. I guess, the timing would be slower. It would take slower to go down the river, but that's their theory.

HILGERS: If, if I were to, if I were to, if I were to guess as to why, and I'm not an expert in this field, that would be, that would be-- it would be it would go down slower than, than compared to the pond that you're describing.

GROENE: Through, through the dry time.

HILGERS: Yeah, the, the water experts at HDR did the analysis, and that's what they've concluded, and I have no reason to disagree with that. But if, but if you want, Senator Groene, I'm happy to connect them with you offline to answer that question.

GROENE: But this is-- it would be, to me, a big benefit if, if the water situation for Lincoln was partially solved by this.

HILGERS: Absolutely. And I would say another-- so-- and I've had some conversations with the city of Lincoln on this, but this is where you could have a winning solution. So city Lincoln is-- I know that they need a second source. They need additional water. Our city is, is capped with growth if we don't find some other source of water. They also have a call on the river. And so there are people who have junior rights. If they ever have to, it could-- there's a lot of pretty devastating effects in the region. One potential path that you could envision with something like this, if we were able to entice enough investment, you could-- and some of those dollars could be used to help build out maybe a regional second source, not just for the city of Lincoln connecting to the Missouri river, but, but actually impact positively other communities in the area. So that's--

GROENE: Going east to the Missouri River was the best thing you said.

HILGERS: Yeah.

GROENE: Thank you.

HILGERS: Yeah, thank you, Senator Groene.

BOSTELMAN: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman. Thank you again, Mr. Speaker. I just was wondering about this \$5.6 billion economic impact and the one point-- \$150 million is-- can we-- I'm not asking for right now, but is there, like, a document that says kind of what those

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

estimates are based on, where we would expect to see those that we could see?

HILGERS: Yeah.

J. CAVANAUGH: Those of us, those of us who weren't lucky enough to be on the STAR WARS Committee.

HILGERS: Yes, there is an underlying document I'm happy to get for you.

J. CAVANAUGH: Thank you.

BOSTELMAN: Seeing no other questions, you'll stay for closing?

HILGERS: Yeah. Yes, sir. Thank you.

BOSTELMAN: Thank you, Mr. Speaker. I'd ask for first proponent for LB1023, please step forward. Good afternoon.

JIM SWENSON: Good afternoon, Chairman Bostelman, members of Natural Resources Committee. My name is Jim Swenson, J-i-m S-w-e-n-s-o-n. I have the privilege of serving as a deputy director of the Nebraska Game and Parks Commission, 2200 North 33rd Street, here in Lincoln. Water Recreation Enhancement Act component of this legislation specifically addresses projects at three park areas managed by our agency. Game and Parks supports the concepts proposed at those locations as each facilitates enhancement of a recreation opportunity that serves park visitors, hunters, anglers, boaters in Nebraska. Concepts that bring economic benefit to the local communities in the region, Game and Parks proudly boast that we consider ourselves a part of those communities. The agency staff has been active in contributing to the concepts that were developed during the STAR WARS planning process. Those represent desired infrastructure development that we've previously identified during part of our long-range planning efforts. Those parks identified are tourist destinations and, therefore, economic drivers for both Keith and Knox Counties. Businesses and residents are dependent upon tourism generated at those nearby parks. Residents are in fact calling for improved facilities to improve water access and to, to help increase recreation opportunity. We thank you for investing in the public parks and in outdoor recreation. We look forward to working with the committee further, and I'll be happy to answer any questions that you may have.

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

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

J. CAVANAUGH: Thank you, Chairman Bostelman. Thank you, Deputy Director-- is it Swenton?

JIM SWENSON: Swenson.

J. CAVANAUGH: Swenson. So I was just thinking about, like, the return investment-- obviously, the \$5.6 billion is the total project estimate, but I think something, like, Lake McConaughy, \$34 million for the marina. What is our kind of estimate of the increase in revenue that's going to be generated from that? How long does it take to make back \$34 million based off of an increase in usage?

JIM SWENSON: Yeah, you know, there's a number of factors that play into it, Senator, it's a very good question. You know, the size of that marina, the number of rentals, opportunities that exists there, how it's managed, whether we manage directly or it's managed through a third-party type agreement. So those all play variably into, into that equation. But you know, as a point of reference, I'll look at the project at Lewis and Clark, potentially, where, you know, right now we generate approximately \$140,000 in, in revenue just off of those 122 slips that we have available. So if we grow that to the number that we're hoping, 650 to 700 slips, and if we use the present pricing structure that we have, that alone would generate another half million dollars annually in revenue. But because we'll be able to serve a larger-- larger vessels and different styles of vessels, I think the revenue potentials make it greater so want to look at that as an example with, you know, payback that kind of stretches out over a few years. But it's, but it's feasible.

J. CAVANAUGH: Well, with Lewis and Clark, it's a little different in the sense that, well, it's a higher price tag. But I remember the hearing we had about the regional economic impact we're talking about, and that money is obviously drawing more people from the South Dakota side. McConaughy is, is heavily used already, right?

JIM SWENSON: Um-hum.

J. CAVANAUGH: And I think we've had a problem-- well, Senator Hughes isn't here, but we've had a lot of conversation about limiting the number of people who can use it or actually maybe trying to get fewer of them to use McConaughy, right?

JIM SWENSON: Well, actually, from that standpoint, you know, we've been successful with that plan and that was designed to control some of the overnight occupancy there. We've done nothing to really try to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

control the day use activities and the water recreation. There is, you know, that's a big reservoir, there's a lot of opportunity to enhance-- and enhance that opportunity. So the prior, prior capacity issues were addressed more at the camping side and protection of threatened endangered species on the beaches, things of that nature.

J. CAVANAUGH: And there's other parts in here, I think there was a camping site improvement, roadway improvement. I guess maybe not. Am I misreading that? Is there going to be camping site improvement at McConaughy?

JIM SWENSON: It's-- actually, that's part of our overall master plan of Game and Parks. It is somewhat separate from this. But you know, as this moves forward, there's still a lot of discussion that can occur. But we do have what we call a commercial services plan that would allow some expansion in campsites out there as well.

J. CAVANAUGH: And as to the lake that we're talking about on the Platte River, that is-- the spots we're talking about are not currently owned or operated by the Game and Parks, correct?

JIM SWENSON: That is correct.

J. CAVANAUGH: So this would essentially need to become a new Game and Parks entity.

JIM SWENSON: You know, we have not been party to those conversations. You know, we're interested in the potential this does for water recreation because in eastern Nebraska there is an excessive demand for water recreation. But we have not been part of discussions on, on management or anything at this point in time. Pretty, pretty preliminary.

J. CAVANAUGH: OK. Thank you.

BOSTELMAN: Senator Groene.

GROENE: Thank you, Chairman. On the Niobrara Lodge-- like, Lake Mahoney [SIC] is that lodge, is it self-sufficient?

JIM SWENSON: Yeah, at Mahoney State Park?

GROENE: Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

JIM SWENSON: Yeah, Mahoney State Park is, is a, a operation we're proud of. It, it generates revenue in, in excess of expenses. So yes, it is profitable.

GROENE: So would this one at Niobrara be similar?

JIM SWENSON: That we'd want to analyze, you know, in the early concepts, you know, looking at the size that has been stated, we'd want to evaluate the business plan. We've asked for evaluation along that avenue, in fact, to better determine that. But, you know, with promotion of the offerings in the area and such, I think it has potential to be a-- to sustain itself. Yes.

GROENE: Thank you.

BOSTELMAN: Senator Wayne.

WAYNE: You just said you haven't been privy to some of these conversations in the early stage. So who would own the lake, the 4,000-acre lake?

JIM SWENSON: That has not been determined as far as I know. Well, Senator Hilgers indicated the state would own it, but beyond that, I'm not sure, Senator.

WAYNE: Who would own the land around the lake?

JIM SWENSON: I'm assuming the state would own the land around the lake, but again, that's-- perhaps, Senator Hilgers, in his closing, could address that.

WAYNE: I'm not going to be here for the closing, so I'm asking you. Sorry, just the way it's going to be today. So do you know if there will be any restrictions on housing developments around the lake?

JIM SWENSON: I have not been involved in any of those discussions, Senator.

WAYNE: Thank you.

BOSTELMAN: Senator Gragert.

GRAGERT: Thank you, Chairman Bostelman. Thank you for your testimony. I just want-- how old is Niobrara State Park?

JIM SWENSON: Pardon me, sir?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

GRAGERT: How old is the Niobrara State Park?

JIM SWENSON: Oh, gosh, Niobrara State Park, you know, we've had that facility-- we just celebrated 100 years. You know, Niobrara is probably 80-- 75, 80 years old, I'm guessing.

GRAGERT: Has there been any significant improvements to the park since it's been built?

JIM SWENSON: Yeah, it has. We've, we've got 20 cabins there. We've put a nice little fishing pond enhancement in there, we've built a group lodge facility there-- a small one, serves a small audience, swimming pool enhancements, campground expansion. Recently, we worked with the National Park Service and Department of Transportation to put in a kayak launch access in that vicinity. So yeah, there's been, been quite a bit of development there.

GRAGERT: And with the, with the enhancement that the STAR WARS Committee has-- or HDR has been proposing with the event center and the lodge would it increase the rooms at the State Park by how many?

JIM SWENSON: Yes, it certainly would. You know, the early concept is a 40-room lodge. It would certainly expand the opportunity and offerings there to complement what we have.

GRAGERT: Thank you.

BOSTELMAN: Seeing no other questions, thank you, Deputy Director, for coming and testifying.

JIM SWENSON: Thank you.

BOSTELMAN: Next proponent, please. Good afternoon.

DEB SCHILZ: Good afternoon, Chairman Bostelman, Senators, the Natural Resources Committee. My name is Deb Schilz, D-e-b S-c-h-i-l-z, and I'm here today representing the city of Ogallala and the Lake McConaughy Advisory Committee. Ogallala and our area representatives have worked extensively over the last three years to promote Ogallala, Lake McConaughy, and Keith County. And I am here today to testify in support of LB1023. In 2019, a number of us local stakeholders and state entities came together to solve some pretty sizable issues with Lake McConaughy. Overcrowding and shortage of staff with Nebraska Game and Parks made it hard to control some of our crowds and also hard to collect fees, patrol the park, and provide a fun and safe experience for our guests. With Nebraska Game and Parks, the leaders and our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

stakeholders of our community and county, we, we resurrected the Lake McConaughy Advisory Committee and that was formed in 2014 to help with the Lake McConaughy 20-year master plan. The committee has helped bring everyone to the table and given us the ability to have open communication that has led to solutions that five years ago we would not have been able to accomplish. Few examples of why Ogallala and Keith County should be high on this list for LB1023 when it comes to opportunities for growth in rural Nebraska include our increase in sales tax during the pandemic. In 2020, we had a 1.5 percent increase in our sales tax revenue. And while that may seem small, most of the counties in the state during 2020 saw decreases in sales tax revenue. Also, our lodging taxes-- I served on our Keith County Visitors Committee, 2020 was the highest revenue we'd ever seen of over \$400,000 in lodging tax. In 2021, we had a 14 percent increase over 2020, and we are on track right now for 2022 at 20 percent over the 2021 figure. So with that and just, and just in general with our tourist season yet to begin, we expect to have another record year. Ogallala and Keith County are-- also have unprecedented interest in development with our community. We are a major tourism contributor to the Ogallala community with Lake McConaughy with approximately two million visitors per year, 75 to 80 percent of that comes from the front range of Colorado. The projects included in LB1023 are what Lake McConaughy and the Ogallala community are looking for, for our visitors and their expectations when they come to our community. Looking into the future, our community leaders recognize the need and opportunities to find more amenities. Every year, our community looks at-- turns down at least three to four larger conventions that could be held in Ogallala or Lake McConaughy due to lack of facilities. We're looking at other amenities, including resorts with spa opportunities and other things for people to do when the lake is not available due to weather, it's cold, whatever the case may be, as well as also other development for ancillary businesses in our community. With the amount of outside people that come to the community, the development that we are looking at here with this LB1023 is crucial for our continued success. The marina, the welcome signage and also road upgrades, along with infrastructure upgrades, do create these new opportunities for concessionaires around the Lake McConaughy area. One thing we want to continue to see happen is the ability to have the land around Lake McConaughy be developed by private investment. That future growth of Lake McConaughy and Keith County needs to be simple and streamlined processes for development with Central Nebraska Public Power and Irrigation District and Nebraska Game and Parks. Our window of opportunity for development and attracting customers-- or attracting visitors to the area is short since we are a seasonal

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

destination. Having a streamlined process allows that development to happen in months versus years. I want to thank Senator Hilgers and the STAR WARS Committee for the LB406 study, coming to Lake McConaughy and to the Ogallala area and having a hearing this last summer, and the developments that they have been proposing for our area because we are very excited to see this come to fruition. Thank you for the opportunity with LB1024 [SIC--LB1023]. And we appreciate the support of the bill in getting it to the floor.

BOSTELMAN: Thank you, Ms. Schilz. Are there questions from committee members? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman. Thank you, Ms. Schilz, for being here.

DEB SCHILZ: Yes.

J. CAVANAUGH: I remember when you came and talked about this Ogallala and the, the overuse of the lake at the time, I think was the conversation. So couple questions. I mean, you heard my earlier question, I think the Deputy Director answered that--

DEB SCHILZ: Um-hum.

J. CAVANAUGH: --but that presumably to get the return on investment, do you see more people coming and staying off-site then and using the marina?

DEB SCHILZ: There-- I believe there would be a mixture of both. We have seen a huge amount of development around the Lake McConaughy area with seasonal housing as well as during COVID, people moving from the front range and permanently locating around Lake McConaughy. So I could see a mixed use of that, where the building permits for new housing and new development has been tremendous over the last two years.

J. CAVANAUGH: Those are not on the lakefront itself.

DEB SCHILZ: No, because that is owned by Central. Now, on the south side of the lake, there is some private land available that is being developed for housing and multi-use, potentially multi-use housing, as well.

J. CAVANAUGH: And as to the developing, you talked about a streamlined process. Is there anything in this bill proposal that would actually

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

achieve that streamlining that process or you're just talking about that aspirationally going forward?

DEB SCHILZ: I would like to see that going forward, but I believe there's probably some language in there, and Senator Hilgers may be able to answer that better that might just help move that process along with going through all the government entities.

J. CAVANAUGH: Thank you.

DEB SCHILZ: Um-hum.

BOSTELMAN: Seeing no other questions, thank you, Ms. Schilz.

DEB SCHILZ: Thank you.

BOSTELMAN: Next proponent. Good afternoon.

DALE SCHROEDER: Good afternoon. Thank you for, for the opportunity to speak with you today, Chairman Bostelman and, and members of the Natural Resources Committee. My name is Dale Schroeder, D-a-l-e S-c-h-r-o-e-d-e-r. I'm a Keith County commissioner. I represent District 1 in Keith County, which is the eastern, almost eastern half and southern quarter of the county now with redistricting. You're being handed a letter that the commissioners have signed off on. And I will read that here shortly, but I just want to, first of all, thank you guys for funding-- thank the Legislature for helping to fund-- funding things that are currently being utilized at, at Lake McConaughy with some things that are going on in Game and Parks. It's, it's most needed and welcomed. Lake McConaughy and Keith County are in a very unique position to grow right now. We are very excited for new opportunities that, that will help facilitate that anticipate an unexpected growth. I think you all have this letter now, I'm just going to go ahead with it. Senators, the Keith County commissioners in support of-- stand in support of LB1023 to adopt the Lake Development Act and the Water Recreation Enhancement Act. The studies resulting from LB406 for public safety, infrastructures and proper uses of lands to serve and manage waters for residents, tourism and encourage development is a significant step for growth not only in Keith County but in Nebraska. COVID pandemic brought awareness and provided the abilities to work remotely from home while raising families. Nebraska needs to continue to manage the waters and promote, excuse me, access to recreation, tourism, development, and Nebraska values. Water remains one of Nebraska's greatest resources and, and to be-- needs to be protected and managed responsibly. LB1023 recognizes and addresses

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

the need to retain this control. We generally-- we all urge you please to vote yes on LB1023.

BOSTELMAN: Thank you, Mr. Schroeder. Are there questions from committee members? Senator Moser.

MOSER: So around Lake McConaughy, some of the shores are public areas and some of the shores are owned by private people?

DALE SCHROEDER: Yeah, there, there is private housing. Yes. The ground is owned by Central, but--

MOSER: Central?

DALE SCHROEDER: Public Power. There is a--

MOSER: All the way around the lake?

DALE SCHROEDER: South side? Yeah, I think it's all the way around.

MOSER: And they lease land to people?

DALE SCHROEDER: Yes, the people lease the land. Yes, the, the homeowners lease the land. Yeah.

MOSER: Yeah, I was just curious how they control that because, you know, that's a beautiful lake and--

DALE SCHROEDER: It is.

MOSER: --be a wonderful place to have a home. But--

DALE SCHROEDER: Certainly.

MOSER: --how do you give everybody the opportunity to have that experience?

DALE SCHROEDER: Yeah, that's the one thing that we aren't making any more of is land and it's going for a, a high price these days. And we have a lot of people that are very interested in, in owning property at Lake McConaughy and, and owning a house, vacations, retiring there. We have all kinds of things going on there right now. We have a lot of, lot of opportunity currently in existence.

MOSER: Thank you.

DALE SCHROEDER: Yep. Yes, sir.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: Senator Groene.

GROENE: Thank you, Chairman. So we've heard in the past about Game and Parks restricted to [INAUDIBLE] campers and walk-ins because of the alcohol. What part does your county sheriff's department play in policing that lake?

DALE SCHROEDER: They do--

GROENE: If you want economic development. Are you going to increase your sheriff's department so that--

DALE SCHROEDER: I think that's something that will have to be looked at. Yes. I believe it wasn't just the alcohol aspect of it, that there was just a lot of, a lot of things that were going on out there that needed to be policed. And funding-wise, you know, we're hoping that maybe this will help us in that respect. Our, our Keith County sheriff does, does the best job he can with, with the resources he has. Our State Patrol does a fantastic job helping on the, on the big weekends and holidays out there at the lake. The Game and Parks Commission, the officers do a great, you know, the best they can do. Our volunteer fire departments and ambulance services do a wonderful job of, of doing the best we can. When our, when our community turns into, you know, Lincoln on the weekend, a community of 5,000 in Ogallala, you know, and Keith County, about 8,000 people total.

GROENE: So the development will help you with more property taxes if you can increase the funding to the--

DALE SCHROEDER: Perhaps, yes. Yes.

GROENE: --to the Police Department?

DALE SCHROEDER: Yeah, perhaps that would be something.

GROENE: I don't think they own-- Central owns ground too far back, there's--

DALE SCHROEDER: No.

GROENE: --developments up in the, up in the-- further back there's some private land, too, isn't there?

DALE SCHROEDER: On the--

GROENE: On the south side?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

DALE SCHROEDER: Oh, around the lake? Yeah, yeah, they don't own-- they own the lake frontage area and then they own some other. I mean, Highway 92 runs on the north side of the lake, and that's something that this funding would help with. Senator Cavanaugh, you mentioned about shutting down the lake or, or having less people come. That's not our objective to have less people come to the lake, it's, it's to control the problems that we were having. I think the-- what we've seen happen in this past year is the onset of a lot of private campgrounds being built, and we're going to see that more and more now. And that's going to facilitate, excuse me, that's going to facilitate more people coming to the lake and we're going to see those things. I was mentioning Highway 92, we're going to have-- we will need to widen places in Highway 92. A lot of people that come into the lake come up from Denver. They come on the weekends and they get there late at night. That highway is a two-lane highway, there's no turnoffs. We're trying to make some turn lanes, things like that, to help for public safety and, and access.

GROENE: Yeah, that seemed to me 92 on, 92 on the north side?

DALE SCHROEDER: Um-hum. Yes.

GROENE: That's where the development is and then you got a railroad track in there.

DALE SCHROEDER: Yes, and the campground.

GROENE: But, but the south side is, is, is the area that has no railroad.

DALE SCHROEDER: There's no railroad.

GROENE: If a road was there, would the development move there?

DALE SCHROEDER: There is development there. There's housing development there.

GROENE: I know there is, but there isn't highway all the way around the south side until you go--

DALE SCHROEDER: Yeah, 26.

GROENE: --Highway 26--

DALE SCHROEDER: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

GROENE: --but that's too far away.

DALE SCHROEDER: Yeah, it's-- well, I mean, that's, that's the access--

GROENE: Compared to 92.

DALE SCHROEDER: Pardon?

GROENE: Compared to 92, it's pretty [INAUDIBLE].

DALE SCHROEDER: Oh, sure. Yeah. Yes. Yeah, it's, it's a couple of miles. And it depends on which end of the lake you're on too.

GROENE: Is there a road proposed here on the south side?

DALE SCHROEDER: There will be, depending upon the marina that this new-- Senator Hilgers touched on that, I think. And that's something that I wanted to mention too, the Bayside Golf Course and, and the Bayside area, which is on the south and west end, there will be hard surfacing of the road, improvement of the roads in that area. Yes. And I think that's maybe what you're asking me?

GROENE: Yeah. Well, yeah, because if you got a road, you're going to get development.

DALE SCHROEDER: Certainly. Yeah, we're going to-- well, and--

GROENE: The marina--

DALE SCHROEDER: --some people want the development without the road, but that's what we're--

GROENE: That's why they're already there.

DALE SCHROEDER: Yeah, they're there. Precisely.

GROENE: The marina, is it proposed on the south side? Makes sense to me.

DALE SCHROEDER: It-- there, there, there-- it's not, it's not been decided upon yet. I mean, there, there are ideas for both the north and the south to my understanding. Yes.

GROENE: When the winds come out of the summer there, I'd put it on the south side.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

DALE SCHROEDER: You know, it depends. I wouldn't-- sure wouldn't put it on the east end maybe by the dam--

GROENE: Thank you.

DALE SCHROEDER: --it gets pretty rough.

BOSTELMAN: Senator Gragert.

GRAGERT: Thank you, Chairman Bostelman. Thank you for your testimony. I was just wondering, you know, we, we took a tour out there. And one thing that came up was the communication between your fire rescue and, and police with-- to include the Nebraska State Patrol. Are there any plans to improve that communication through a radio system or--

DALE SCHROEDER: Yes. Yes, we're working on that. Our commissioners are working on that right now. We have just-- we're funding digitiz-- digitizing our radio communication and upgrading our EOC to make that more possible to have better communication with everyone involved.

GRAGERT: Thank you.

DALE SCHROEDER: Yes.

BOSTELMAN: Seeing no other questions, thank you for being here-- coming here today, Commissioner Schroeder.

DALE SCHROEDER: Thank you very much, Senator.

BOSTELMAN: Next proponent, please. Good afternoon.

KEN SCHILZ: Good afternoon, Chairman Bostelman, members of the Natural Resources Committee. My name is Ken Schilz, spelled K-e-n S-c-h-i-l-z, and I'm a registered lobbyist for Keith County Area Development. Keith County Area Development is a nonprofit economic development entity that works in service of Keith County and all of the communities that are within the county there. They have worked extensively on all of the issues that, that you're dealing with today as far as McConaughy-- Lake McConaughy goes with LB1023. What I'd like to do today is just go back a little bit. First, I want to thank Senator Hilgers for his kind words about, about Keith County and the lake area and our ability and, and readiness to move forward. And I'd like to just go back and give a little bit of history of, of how we got here. Of course, I think most of you remember a few years ago when, when everything blew up with Lake McConaughy and Game and Parks. At that time, nobody really knew quite what to do. So we got together with Keith County Area

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

Development, Game and Parks, and as, as Deb said earlier, we reconstituted the Lake McConaughy Advisory Committee. And when we did that, we populated it with people that not only, not only had decision-making authority within Ogallala and Keith County, but also businesses around the lake, Game and Parks, State Patrol, the sheriff's office, first responders. You know, anybody that had a stake in what was going on at the lake, we brought them all together to talk about how this would work. And I can tell you that three years into the process, we've created a system of communication and working together that has changed the face of Lake McConaughy and really put us on a path that has been unprecedented and unseen before. We-- the reservation system that was put in place, not only did it alleviate many of the problems that we were having with overnight campers, but then it also made sure that Game and Parks was receiving all the money that they were to get for those campers on the beach. Their revenues went up significantly. We also worked with Senator Hughes, we very much appreciated that, to double the price for out-of-state permits, which we think will be a huge boon to help with not only, not only projects for capital improvements at the lake, but also for operations and management, including helping with some of that security and things like that that you've talked about. And like I said, these successes have put Lake McConaughy in a position that-- and Keith County in a position that they've never really been before. And it's, it's rejuvenated the community and it's in that success that the park has turned into opportunities for the broader community. The STAR WARS proposals for Lake McConaughy and LB1023 is an affirmation that Keith County, Game and Parks, and Lake McConaughy are moving in the right direction. The proposed marina project will give Lake McConaughy a great anchor point for ongoing development, although it will be necessary to be mindful of where the marina will be located because there are a number of different areas for this opportunity and a feasibility study should be conducted to have proper placement of this important amenity. As, as Commissioner Schroeder talked about, the roads project contained within the project are crucial because of the public safety aspect. The fact is, traffic counts continue to rise and two-lane roads without shoulders or turning lanes are a dangerous combination with the larger RVs and boats that are common today and go up and down our roads. The welcoming structure that they talked about will be an important and significant wayfinding and a first impression's piece for our community, and we are excited to be able to welcome visitors to, to Lake McConaughy with that structure. These important projects will not only add amenities and much needed options for visitors, it will also give the community a sense of pride in what they've accomplished that so many have tried in the past and failed to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

date. To complete the transformation of the region into a cohesive, thriving, and much more vibrant community, it will still be necessary to bring all parties together that have a stake within the county to create an understanding of the needs of the county and the potential for growth. This will be needed to develop processes and programs that encourage additional development for the Keith County community. Lake McConaughy sits on 30,000 acres, give or take, that was taken out of production and taken off the tax rolls when Lake McConaughy was built. This has hindered the county as they work to grow and thrive. Add in what used to be an overburdening situation with summer crowds, and you can see that Keith County has had to play from behind the eight ball since the reservoir was established. And with that, I think it's time that we all know and we all understand that Keith County and Lake McConaughy can be a huge economic driver not only for the region, but for the state itself. And with that, thank you, and I'd take any questions.

BOSTELMAN: Thank you, Mr. Schilz. Go back to answer a couple of questions that's been asked before.

KEN SCHILZ: Um-hum.

BOSTELMAN: So as we look at the lake itself, Central owns, I'll call it, shoreline. Is that accurate--

KEN SCHILZ: That's correct.

BOSTELMAN: --around and then the, the ground behind it is private?

KEN SCHILZ: They own, they own ground up to it. Yep, they own up to a specific elevation level, and I don't want to say what that is because I know I'll get it wrong within one or two feet. But, but yeah, but then anything beyond that is privately owned.

BOSTELMAN: And then there are some concessionaires that are located in different areas, mostly on the north side, I believe.

KEN SCHILZ: That's correct. Yep. And there's concessionaires that are both located on Central property. And then there's concessionaires that are, that are located on private property as well.

BOSTELMAN: And primarily, we're seeing camping on the-- coming in on the north side as well?

KEN SCHILZ: Yeah, there's-- that's where most of the camping is. The, the whole park, the SRA, is almost, as far as camping goes, is almost

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

completely located on the north side. And so as you look around the lake, probably the first 20 percent, first five miles of the lake, right, is where all the camping is on the north side. And then you've got another 90 miles of shoreline that, that's, on the north side has been developed pretty much. But on the south side, there's much room for, for much more development.

BOSTELMAN: And that's why, especially on the north side when we're talking about the campers and the road improvements we need to have because of that traffic flowing in and--

KEN SCHILZ: Absolutely.

BOSTELMAN: --out of there, we need to have some improvements to those roadways coming in and out. There are also-- so one of the spots I see in here that's projected is with the marina maybe on the south side.

KEN SCHILZ: Um-hum.

BOSTELMAN: That has access already or is that--

KEN SCHILZ: There's, there's certain areas that do have access, but the access on the south side is not as-- it's not as good as the access on the north side, there's just more hills, more canyons and things that you have to deal with so that, that, that in itself becomes somewhat of a question as to, you know, how are you going to get there? Where are you going to park, folks? All that kind of stuff. So that'll all have to be figured out during, during this study that we do to figure out placement.

BOSTELMAN: OK, thank you. Other questions from committee? Senator Groene.

GROENE: Thank you, Chairman. So we heard that there's private campsites coming in.

KEN SCHILZ: Um-hum.

GROENE: Are those on the north side?

KEN SCHILZ: There's-- yeah, actually, there are-- there's a couple campgrounds that are being built on the north side. There's a campground that is being built on the south side of the lake, but not on the shores of the lake. It'll be-- if, if you're familiar with Ogallala at all, if you know where the Y is that separates as you go

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

26 or 61, it'll just be straight off about a mile over the hill there towards the lake. So--

GROENE: So how many, how many sites you think they'll have?

KEN SCHILZ: Well, they're looking at in the next five years that, that privately there could be as many as 200 to 250 sites that will be built in the next five years. And that's, that's just what we know of so far.

GROENE: And how many were open last summer?

KEN SCHILZ: Last summer, there weren't many of those private sites open, but what Game and Parks did do was allow a few of the concessionaires to open up their beach and manage their beach for their own private camping. And of course, they had to take care of security and things like that. And I think that's one of the things that, that I think is a huge accomplishment is that Game and Parks allowing concessionaires to take control of the beach in front of their areas. It does a couple of things. First thing it gives, gives folks that have that some ownership, and it takes some of that responsibility away from Game and Parks so that they don't have to work as hard and spend as much. And, and most of the people that have concessionaire agreements down there, they understand that, you know, this is, this is their livelihood. So they're, they're not going to trash it or anything. And then the second thing it does is it gives them, gives them opportunities to economic development in those areas. We know, we know folks that are thinking about putting in swimming pools on some of their ground, putting in little restaurants and cabanas on the beach, all those kind of things. So it's, so it's pretty exciting.

BOSTELMAN: Senator Moser.

MOSER: How do you balance the private leases or ownerships of the shore with the public use of the lake?

KEN SCHILZ: Yeah. And how that, how that works right now, it's any place on the lake, on the shores is, is public. You can, you can go there however you want. You can get out of a boat. You can-- if there's a road that takes you there and there's access, you can, you can go that way. So the whole lake, all the beaches are wide open and public, and that's part of a FERC requirement, the Federal Energy Regulatory Commission, for Central to have that license is they have to keep those, those beaches public. But you have to remember that a

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

lot of the ground that's around that is private property. So just because the beaches are public doesn't mean that there has to be public access from private property onto it.

MOSER: So do you have conflicts of local owners versus the people who come in to just use the lake?

KEN SCHILZ: Not very often, not very often. Everybody understands that the, that the beach is wide open and everybody pretty much acknowledges that and gets along. And, and if, if people are going to take off on the south side off-road to try to get somewhere, they're going to have a-- there won't be any trouble with-- the landowner will have to tow them out is what will happen, probably.

MOSER: Thank you.

KEN SCHILZ: Yep.

BOSTELMAN: Senator Groene.

GROENE: Thank you. On the south side there, it's just night and day difference from the north side, it's open prairie. Like you said, the canyons. Is there-- how many landowners [INAUDIBLE]?

KEN SCHILZ: You know, that's a good question. There, there wouldn't be as many as you'd think. I know, I know there's two--

GROENE: I think there'd be one or two ranchers.

KEN SCHILZ: Yeah, there's two large landowners. And then I think there-- well, there's three large landowners that I know of right now. And then there's probably-- I would say there's less than a dozen to 20. That's a guess on my part.

GROENE: The whole 90 miles.

KEN SCHILZ: Yeah, but I'm thinking-- yeah.

GROENE: Are they longtime family ranchers?

KEN SCHILZ: Most of them. Yeah.

GROENE: Thank you.

KEN SCHILZ: Yep.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: So you feel the improvements that we have may have economic development opportunities beyond what's being proposed beyond that?

KEN SCHILZ: I would, I would say that's the case. In fact, in fact, we're already seeing interest from, from developers that want to come and build, build housing and stuff because after, after the LB406 process and they've seen everything that's gone on and it's kind of, it's kind of raised the bar and kind of lifted us up and, and, and people are interested. So yeah, we're excited. We think it's already starting to happen.

BOSTELMAN: OK. Any other questions? Seeing none, thank you, Mr. Schilz, for being here today.

KEN SCHILZ: Thank you.

BOSTELMAN: Next proponent, please.

EUNICE PALU: Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Eunice Palu, spelled E-u-n-i-c-e P-a-l-u. I am a resident of Knox County and I am here today on behalf of Friends of Knox County. Friends of Knox County is a coalition of business owners, community leaders, and active citizens who are dedicated to the growth and prosperity of Knox County. I'm testifying in support of LB1023 and the recommendations set forth by the STAR WARS Committee. We would like to thank Senator Mike Hilgers and the members of the STAR WARS Committee for bringing this important and timely legislation. I'd like to personally thank Senators Gragert and Flood for leading us through the HDR project and effort. It was well done and really helped us see the great potential that exists in rural Nebraska. We are excited and committed to making it a success. We also want to thank Governor Ricketts for his support of the STAR WARS Committee's recommendations. As background, Knox County is located in northeast Nebraska, it is perhaps one of the best kept secrets of the state. As I'm sure you've heard earlier today, it is home to Nebraska's second largest reservoir, the Lewis and Clark Lake and the Niobrara State Park, which boasts some of the most beautiful scenery in the country. What makes it even more unique is its location. It is located between one to three hours from some of the most large population bases in three states, including Nebraska, Iowa, and South Dakota. According to South Dakota, the region attracts over two million visitors each year. The South Dakota Game, Fish and Parks agency reports over 1.2 million visitors to the park along the Lewis and Clark Lake each year, and that number is growing. I share these stats because this presents a huge opportunity for Nebraska as we work

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

to retain and attract people. We have a built-in base of repeat visitors to market to. It is no secret that the COVID-19 pandemic has forever changed how people work, live, and play. I can personally share that we are seeing more and more people from other states buying property in Knox County because they can work anywhere. They love to hunt, fish, boat, and enjoy all that our area has to offer. We not only need to grow of tourism, but more importantly, we need to attract and retain young people, and this proposal will help accomplish this critical goal. Thank you for your time to the-- and service to the state of Nebraska. A special thank you to those who took the time to visit Knox County and to you that survived our boat tour. We also thank you for your assistance and work to help areas like rural Knox County survive and thrive. We are part of the solution and this proposal will take Nebraska to the next level. Now I'd be happy to entertain any questions I maybe could answer.

BOSTELMAN: Thank you, Ms. Palu. Is there questions? Senator Hughes.

HUGHES: Thank you, Ms. Palu, for coming. And yes, I, I am a survivor of your boat ride. And I, I do want to thank you for hosting us. I guess my question for you-- is there any kind of a local group that's gotten together and, and been talking about, you know, since the, the committee had been up there, additional plans that you would like to see? I'm sure you've seen the, the proposal, Speaker Hilger's proposal. But have there been additional ideas that have come out that--

EUNICE PALU: Not that I'm aware of.

HUGHES: --the locals have generated?

EUNICE PALU: The Friends of Knox County is very new and we're there to support this and help make the area attractive and grow and thrive. And that's what I'm representing is the Friends of Knox County.

HUGHES: OK. Very good. Thank you.

EUNICE PALU: Um-hum.

BOSTELMAN: Senator Groene.

GROENE: Thank you, Chairman. I've been up in that area. I used to live up in that area. What is the reason South Dakota was able to develop their areas so much faster and so much and the, and the-- our side just really never took off?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

EUNICE PALU: That's a great question.

GROENE: Is it topography, the hills or is it because the, the Niobrara comes in there? You got any idea why? Yankton's close. Is that what it was, maybe?

EUNICE PALU: Yankton is close. There's a great demand for boating slips at Weigand, which is part of what this proposal brings. It just hasn't been developed.

GROENE: That devil something up there didn't work out either, did it? Devils Nest was it? Yeah.

EUNICE PALU: That's-- it did not. But that's quite a ways farther west.

GROENE: All right. I just wondered why, if it, if it was a state investment in South Dakota, if it was private investment in South Dakota, was--

EUNICE PALU: I think it's state on the South Dakota side, sir.

GROENE: And it was the seed that started the development around whatever the state did, probably.

EUNICE PALU: The state has done a great job on that side developing recreational areas.

GROENE: Thank you.

BOSTELMAN: Senator Gragert.

GRAGERT: Thank you, Chairman Bostelman. Thank you for your testimony. Could you give us more specific-- Speaker Hilgers said hundreds. Do you happen to know how many are on the waiting list for a boat slip at Weigand?

EUNICE PALU: I don't have a specific number, but I do know they are no longer taking more applicants because the list is so long that they know that there's no way they could fill them right now.

GRAGERT: And part of the development, would you say, is not-- is, is because of the topography? South Dakota has a lot more sandy beach area than we happen to have over on the Nebraska side?

EUNICE PALU: We have more bluffs, yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

GRAGERT: So that's what part of this is about, like, we went into further things as far as the STAR WARS Committee on more campground, more camp spaces for campers and stuff like that, right, there are-- there is room for that, though?

EUNICE PALU: There are private areas right now that are being developed. Private landowners are developing more camping ground and they're getting them filled.

GRAGERT: OK. Thank you.

EUNICE PALU: Um-hum.

BOSTELMAN: Any other questions from committee? Seeing none, thank you for coming today, Ms. Palu. Next proponent, please. Good afternoon.

ERIC SCHROEDER: Good afternoon. My name is Eric Schroeder, E-r-i-c S-c-h-r-o-e-d-e-r. I'm a network engineer for North Central Public Power District in Creighton and also a member of the Creighton City Council. This project is a slam dunk for not only northern Knox County, but for Nebraska as a whole. As a person who frequents Lewis and Clark Lake each weekend, I see the dollars cross the state lines into South Dakota, and that side of the lake continues to develop and flourish, while the Nebraska side of the lake continues to squander the ample opportunities for economic growth. Look no further than our neighbors to the east and the Iowa Great Lakes as an example. The key to this project is to seek the economic growth while maintaining the natural beauty of the area. This project maintains that delicate balance. The goal is to help elevate these recreational areas to the level that our surrounding states do and to even the playing field for these ecotourism dollars. Hopefully, by doing these projects, we encourage private businesses to continue to invest in these areas and to take advantage of the natural resources that we have. Thank you for your time and consideration.

BOSTELMAN: Thank you, Mr. Schroeder. Are there questions from committee members? What specific in this do you see that's-- that stands out to-- the, the most impactful?

ERIC SCHROEDER: I personally am someone that had a dock slip over on the Nebraska-- or the South Dakota side just because of-- that I could actually get in over there. The wait time for the Yankton Marina is a little over a year. The Nebraska side, like, like someone just said they're not even taking applications at this time. So if I wanted to get my boat in, I needed to go over to the Yankton side, so I actually

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

have a permanent campground on the Yankton side. But that's also because there's ease of amenities over on that side. You know, there's, there's shopping there, there's places I can get groceries and I don't want my camper farther away from my boat. So if I put my boat in at the Yankton Marina to get to the nearest campground on the Nebraska side would be a 22-minute drive.

BOSTELMAN: So I don't know if you were in discussions on where there may be a marina put in here or how does that affect what we're talking about?

ERIC SCHROEDER: I believe at the Yankton Marina, there's already-- or at not the Yankton Marina, at the Weigand Marina, where they're talking about putting in these additional boat slips, there's already some private campgrounds coming in that area. They're not finished yet, but I believe that if we added some additional boat slips and there was more traffic to that area, you would see that private business start to grow in that area.

BOSTELMAN: OK. Senator Groene.

GROENE: Is it because of, of management of the lake, government management? Can a private individual go in there and make a marina?

ERIC SCHROEDER: I don't believe that a private individual can, Senator. I believe that's because the Corps owns most of the ground on the Nebraska side.

GROENE: So they would have to work-- and the state of Nebraska owns the marina on the south side?

ERIC SCHROEDER: On the Weigand Marina, yes, the state of Nebraska owns that.

GROENE: And they have an agreement with the Corps--

ERIC SCHROEDER: Correct.

GROENE: --for management of it?

ERIC SCHROEDER: That's, that's my knowledge. Yes.

GROENE: Thank you.

BOSTELMAN: OK, thank you, Mr. Schroeder, for being here today.

ERIC SCHROEDER: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: Next proponent, please. Good afternoon.

KELLY HANVEY: Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. I am Kelly Hanvey, the director of Knox County. Spelling is K-e-l-l-y H-a-n-v-e-y. Thank you for this chance to support-- to voice my support of LB1023. LB406 and the STAR WARS Committee identified three project areas in the northern half of Knox County. These projects will not only be transformative for the northern half, but the entire Knox County and, and northeastern Nebraska. The Weigand Marina expansion and retrofit will make our area comparable to the South Dakota side of the Lewis and Clark Lake. We've already mentioned the 100 existing boat slips and the extremely long waiting list and limited availability. If we were to expand it by five to six times, restaurants and amenities, concessionaires and vendors would pop up in abound, more servings of the very best soft serve ice cream could be served on the Nebraska side of that lake. We do have the second largest reservoir, and it would great-- it would be great to see more boats, more boating, more camping, fishing, and all other outdoor opportunities in that area. The second project, the Niobrara Landing, alleviates the hardship of the sedimentation and the devastating effects of the 2019 flood. Access to the water will be increased, as well as safety upon entry of that water. The village of Niobrara will be enhanced not only for the residents that are there now, the ones to come, and the increased tourism that will be coming to that area. Hunters, fishermen, sportsmen will be seeking the world class hunting we have. Outfitters, guides, and cabin rentals will surge. Vendors for kayaks and canoe rentals will soon be available and even more will crop up. Outdoor adventure seekers will be making their way to northeastern Nebraska. The, the existing outdoor recreation opportunities we have in place will have increased sales. The third project, the Eagle View Lodge, now has a meeting room that was very cozy, as you may have noticed during your visit with us. It will accommodate, according to the sign on the wall, 110 people. But an event center for 300 and a lodge of 40 rooms will open this to a venue of conferences, weddings, reunions, other events, and meetings. This possibility partnered with a cultural experience in the presence of not one but two tribal entities will make this project ideal for both the Niobrara State Park and the village of Niobrara and surrounding area of Knox County, a gathering place with that magnificent view of both the Missouri and Niobrara River valleys with the, the spectacular sunset seen nowhere else in the world. Despite the epic flooding and the pandemic our county saw, lodging tax amounts for our county have risen each year with just over a little over \$50,000 in 2020 and then \$69,000 in 2021, so we expect that to continue to rise. Tourism

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

generated from these proposed projects will have exponential growth in our county's economic development and that of northeastern Nebraska. I thank you for your time and I will entertain any questions you have for me.

BOSTELMAN: Thank you, Ms. Hanvey. Are there questions from committee members? Seeing none--

KELLY HANVEY: Wow. And I was a--

BOSTELMAN: --you did a great job.

KELLY HANVEY: --pontoon survivor. Thank you for your time.

BOSTELMAN: Thank you. Next proponent, please. Good afternoon.

DAN BROZ: Good afternoon, Chairman Bostelman and the committee. My name is Dan Broz, that's D-a-n B-r-o-z. I'd like to maybe take a little bit different tact from what the other people that have testified have. Maybe a little more personal tact to this problem. I'm an owner of a business that provides online bidding service to auctions. The company name is DVAuction. We started the business in 1999. During that time, I traveled extensively. Over the time period, I bought my partners out. I am now sole owner of the business. The business has been very successful. I have a business-- or I have a support office in Norfolk, Nebraska. I have a technical office in Lincoln. The business office is located at my house on Lewis and Clark Lake. I'm very fortunate, but I figured out long before COVID that my business could be operated and many business could be operated offsite. You don't have to be in your office to operate your business, a cell phone. I started out with a, with a tower computer and a, and a monitor that I'd unload in the motel every night and do my work. Graduated to a laptop, then to a pad-- an iPad tablet, and my cell phone, and was able to do that. I'm 66 years old. I'm ready to become one of the nontaxpayers. I'm getting close to retiring. Who's going to take my place? Who's going to take my place? Who's going to be paying the taxes? We have to figure out a way to attract more people to the state of Nebraska. We don't need to be losing them. My business mainly deals in livestock. So you're going to have to find-- I need to find somebody that's interested in the livestock business that's technically savvy. That's also a people person that can run my business. Those three criteria, if you think about it, require a very youthful approach. I was fortunate, I had two boys who were both very technical. They're both computer programmers. Neither one has the desire to take over my business. They're both well-established in what

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

they do. So I need to find that person. To attract that person, obviously, you're going to take money, opportunity. But today, one of the big three is quality of life. Quality of life allows those people to come to our state and enjoy the recreation that I think this bill will allow to expand on. With that, I think we'll be able to not only retain the talent that we have in our state, but we'll be able to attract the talent into our state. We all know that if you believe it and I do because I try and hire people, we have one of the lowest unemployment percentages in the country. That's pretty amazing when you think about it. But we need more people. I, I would add two people to my staff immediately if I could find those people and, and we're struggling to find them. So I think we need to expand upon that quality of life. If we can do that, we can attract those people. And I believe this bill will go a long way towards doing that. Thank you.

BOSTELMAN: Thank you, Mr. Bose-- Broz for--

DAN BROZ: Broz.

BOSTELMAN: --being here. Senator Groene.

GROENE: Thank you, Chairman. Where you have a place up there, do you have high-speed broadband?

DAN BROZ: I don't. Actually, I have a friend that's across the lake and I use a wireless connection to get that to me.

GROENE: From over there?

DAN BROZ: From across the lake.

GROENE: So South Dakota side has their broadband completely developed over there?

DAN BROZ: Correct. Correct.

GROENE: Sounds like we're finally starting to look at some economic development out of-- besides two counties on the eastern part of the state.

DAN BROZ: I'm hoping so.

GROENE: Yeah, I do, too.

DAN BROZ: I sure hope so.

BOSTELMAN: Senator Hughes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

HUGHES: Yes, thank you, Mr. Broz. Good to see you again.

DAN BROZ: You too.

HUGHES: As multiple survivors of the boat ride, the, the only reason was because Mr. Broz was piloting so he kept us very safe. But I, I do want to ask you, you, you have your boat in a different marina than what Weigand is?

DAN BROZ: Correct.

HUGHES: But is there opportunity to expand that at all?

DAN BROZ: Our marina there is not. We're landlocked with our marina.

HUGHES: OK, so about the only opportunity on the Nebraska side of the lake would be to have Weigand to increase the number of boat slips?

DAN BROZ: Correct.

HUGHES: OK, very good. Thanks. It's very nice to see you again today.

DAN BROZ: Thank you.

BOSTELMAN: Other, other questions from committee? Seeing none, thank you for being here today, Mr. Broz.

DAN BROZ: Thank you.

HUGHES: Thank you. Next proponent, please.

MONA WEATHERWAX: Good afternoon.

BOSTELMAN: Good afternoon.

MONA WEATHERWAX: My name is Mona Weatherwax, M-o-n-a W-e-a-t-h-e-r-w-a-x, and I am the Niobrara Clerk Treasurer, speaking on behalf of the village of Niobrara Board of Trustees. I'd like to thank the committee for this opportunity to speak in favor of LB1023, particularly as it pertains to the projects planned in northern Knox County. In 1930, the village of Niobrara gave the Niobrara Island Park to the state of Nebraska to become Niobrara State Park. And so began a strong relationship between the village and the park. Our destinies have been tied together ever since. To survive, both the village and the park have moved to higher ground and we continue to reinvent ourselves with the changing times. In support of the ideas that were proposed at Niobrara State Park, an event center and lodge and a new

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

river access, the village of Niobrara is committed to revitalization of our downtown to make it a more aesthetically pleasing, walking friendly town square with more green space for events outdoors, housing for workers, the elderly, and affordable apartments will be a priority to help support the efforts of Niobrara State Park. Niobrara has already shown a commitment to economic development post 2019 flood. As we rebuild roads, walking trails, recreational areas, sewer and water infrastructure for new businesses, including an RV campground, which will be for long-term campers not fulfilled by Niobrara State Park, and a rental business that will support adventure tourism. Niobrara lives by the four seasons: turkey, duck, deer, and the summer fishing boating seasons. Perhaps now we could add two new seasons: conference season and wedding season. And we are seeing a trend from the pandemic, with more people taking advantage of our beautiful scenery and outdoor recreational opportunities as they are able to work from anywhere. In fact, just in the last two months, we have had two residents move from Oregon and Minnesota to Niobrara to be able to work from there. The timing is right for a new event center and lodge at Niobrara State Park. New river access is also vital to the Niobrara area. Niobrara has been a river city since the early steamboat days and it's a part of our identity and our lifeblood. We lost access to the ferryboat landing in the 2011 flood, and we are now losing access to the main Niobrara boat dock since the 2019 flood. The flood changed the path of the Niobrara River into the Missouri, and it is bringing sedimentation in front of the boat dock. Excavation of the sand each spring has been a temporary fix, but it is a battle that will be lost over time and, therefore, the village of Niobrara supports any efforts that the state may take to ensure new river access. We are not only committed to supporting efforts for the Niobrara area, but we are also committed to those at Lewis and Clark State Recreation Area and the Weigand Marina. We want to be a committed partner to their success as well. Thank you.

BOSTELMAN: Thank you, Ms. Weatherwax. Are there questions from committee members? So I was not able to attend when the committee came up to the area up there. Could you explain a little bit more about geographically where Niobrara is to other--

MONA WEATHERWAX: Other people? Yes, OK--

BOSTELMAN: --other cities down further.

MONA WEATHERWAX: --if you, if you look at the state of Nebraska map, Niobrara is located where there is a notch in the map upon the-- on the northern border. And that was so in early times people could look

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

both up and down the river. Not only is it a beautiful site and the Ponca Tribe have lived there for over 400 years, and then this village of Niobrara began 1856 was then moved in 1881 to after that flood to its site in what we call the Old Town, and now was moved up on the hill in the late 1970s. Yes.

BOSTELMAN: So there's opportunities there for private development along the river in that area to, to-- especially with the boat docks coming in, maybe to bring more camping or other type of interests in there?

MONA WEATHERWAX: Yeah, there's area probably more so to the west of us. Right along the river we have the issue of a lot of this is U.S. Corps of Engineers' land, and it is because the sedimentation of Lewis and Clark Lake, it's becoming wetlands more and more as the years progress. So there's-- there are areas, but there are other areas where that's limited.

BOSTELMAN: OK. Any other questions? Senator Gragert.

GRAGERT: Thank you, Chairman Bostelman. Thank you for your testimony. I was just wondering and, and use the [INAUDIBLE] Niobrara, do you see this as an opportunity to synergize, you know, Niobrara, the Ponca Tribe and Niobrara State Park?

MONA WEATHERWAX: Yes, I think so, because as we said, there's been two major flooding events in the last decade, 2011 and 2019, and there are many things, you know, walking trails, various things in those two floods that have been lost. And I think this is a time for us to kind of begin to rebuild some of that and to work together. And yes, I think that's--

GRAGERT: Thank you.

MONA WEATHERWAX: --very possible.

GRAGERT: Thank you.

MONA WEATHERWAX: Um-hum.

BOSTELMAN: Senator Groene.

GROENE: Thank you. So my wife and I are finally getting to that 66 age, too, and get out of this place, and we decide to take a road trip, a weekend road trip, and we want to go to Niobrara and we show up there on a Friday. Where do I stay?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

MONA WEATHERWAX: Where do you stay? There are many places to stay. Besides the Niobrara State Park, there are at least eight places to stay within the village of Niobrara--

GROENE: There is?

MONA WEATHERWAX: --ranging-- um-hum-- ranging from cabins-- most of them are just a few rooms. We have the old style retro motel and we have then various rooms and lodges and, and cabins, etcetera, in the community. Yeah, and we would expect there--

GROENE: And they fill up?

MONA WEATHERWAX: --to be more. For a village of 365 people, yeah, there are 8 places to stay. There are four eating establishments.

GROENE: Do they fill up each weekend?

MONA WEATHERWAX: Um-hum. There are--

GROENE: Serve breakfast?

MONA WEATHERWAX: Um-hum. There are two bars. We have people come to Niobrara regularly from Florida, Alabama, Mississippi, Louisiana during spring and fall turkey season. You can have sweet tea in Niobrara because there's enough people there who want to have that, and so they're going to brew it for them. We have, yeah, people from, like I said, all over the country. It's not just the 365 people who live there.

GROENE: But 365, it's been there for decades, it's about 300--

MONA WEATHERWAX: Right, right.

GROENE: Well, do you want to grow that community? Can it grow? Does it have room to grow?

MONA WEATHERWAX: Yeah. Yeah, that's why we're talking about doing some different things in the downtown to make areas for workers, etcetera. Because we do have some limitations, we can go to the south of us that would require buying up some lands, but we can go to the south. One of the questions that we have had is whether or not school lands, which are, are leased lands, which that land would ever become available because that's the land right up to the south of us to the village borders. So yeah, we'd love to be able to grow if, if that's possible.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

GROENE: Thank you.

MONA WEATHERWAX: Um-hum.

BOSTELMAN: Seeing no other questions, thank you, Ms. Weatherwax, for being with us today.

MONA WEATHERWAX: Yes. Thank you.

BOSTELMAN: Thank you. Next proponent, please.

HOLT ROBINETTE: Hi.

BOSTELMAN: Good afternoon.

HOLT ROBINETTE: I'm Holt Robinette. That's H-o-l-t R-o-b-i-n-e-t-t-e. I'm from Niobrara, representing the Niobrara promoters. I'm here on behalf of the people of Niobrara and northeast Nebraska that are unable to attend. And I want to offer some insight from my community. When Senator Flood first shared his ideas and vision for northeast Nebraska, it was a familiar story. Much like the stories we hear when someone new is introduced to the natural beauty that Niobrara has to offer. When I would bring a friend home from college or a buddy from Omaha or Lincoln, and more specifically my wife, they would all say the same thing. Wow, you grew up here. I had no idea Niobrara was this beautiful. I wish I lived here. The theme of the story is that Niobrara is an absolute hidden gem of Nebraska. One thing I can guarantee is that the people of Niobrara are without a doubt, ready for the proposed improvements to the area and stand firmly together. Through multiple floods that would have broken most towns, Niobrara has continued to show grit in the face of diversity. With the support of the state, Niobrara will embrace change and make the necessary modifications to our town. We are ready. We understand the importance of this bill to our area. The wheels of change are in motion between community leaders and will not stop until the job is done. The proposed boat dock and fish-cleaning station are a complete game changer to the locals and the thousands of visitors that utilize the area for the elite fishing and hunting that Niobrara has to offer. After all, what is a river town without a boat dock? Pair that with the prime location for a venue comparable to the Lied Lodge in Nebraska City capable of hosting large events and housing visitors with a connected hotel, you have a recipe for success. Myself and others are very appreciative of the hard work of the STAR WARS Committee, HDR, Game and Parks, and the Ponca Tribe for the countless

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

hours that have been committed to the improvement of northeast Nebraska.

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

HOLT ROBINETTE: Thank you.

BOSTELMAN: Any questions from the committee members? Seeing none, thank you for your testimony. Thanks for coming in.

HOLT ROBINETTE: Thank you.

BOSTELMAN: Next proponent, please. Good afternoon.

TRACI JEFFREY: Good afternoon, Chairman Bostelman and members of the committee. My name is Traci Jeffrey, T-r-a-c-i J-e-f-f-r-e-y. I am the director of the Norfolk Area Visitors Bureau and also representing the Nebraska Travel Association as past president. Thank you for your time and attention to LB1023 to adopt the land development and the Water Recreation Act. I am here to support the concept and further analyze such policy. Since Norfolk and northeast Nebraska do not lie in the path of the Interstate 80 and are not immediately proximate to metro areas, we've had to work hard to spur economic growth opportunities, including the area of tourism. In 2018, Madison County served 292,000 visitors, which spent \$46.6 million in our local economy. Tourism is the third largest industry behind agriculture and manufacturing. Our work has paid off, but we have further potentials for growth. In recent years, we have promoted our regional attractions-- tourist attractions, including Knox County area. We recognize the unique natural resources and environments in the Knox County area possesses. The Missouri River has many miles of water to explore by boat, kayak, or canoe. The beautiful chalkstone bluffs along the lake and the river provide a scenic backdrop for visitors to enjoy beautiful natural history, scenery, and wildlife. Our tourism foundation is strong, but we need further resources to enhance existing attractions and create more opportunities to help draw visitors to our region and our state. In northeast Nebraska, our proximity to both, to both South Dakota and Iowa position us to conveniently draw out-of-state visitors, but we have to continue to provide reasons for people to experience our unique attractions. Thank you for your time.

BOSTELMAN: Thank you, Ms. Jeffrey. Are there questions from committee members? Seeing none, thank you very much. Next proponent, please.

JoAn SCHLOTMAN: Good afternoon, and--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: Good afternoon.

JoAn SCHLOTMAN: --thank you for letting me come and speak. My name is JoAn Schlotman, it's J-o-A-n S-c-h-l-o-t-m-a-n. I am the Tribal Council representative for the Ponca Tribe of Nebraska for District 1, which includes Knox County. And I'm here today to be a proponent for this, this bill because, as you've already heard from everybody else, what they're talking about doing with the, the boat landing and the, and the center and everything. Our area up there needs to grow and it's not going to grow unless we put some money into it and start bringing people up there. And our tribe has been there for many, many years. It was-- it's our homeland and it's where Chief Standing Bear came back to from Oklahoma. And there's a lot of history and culture up there that goes unnoticed or un-- well, I don't know how to say it, but, but people don't know about it. And I would think if we had people start to come up there and bringing the tourism and steal some people from South Dakota to come over to Nebraska, then that would be a good thing for us to get some of that culture out there to let people know what actually happened in the history of, of Knox County. And to get more people to move up there and live up there, I think that would be a, a good thing because with technology and with people being able to work from home and everything now, people never wanted to go to the little towns like, like Niobrara, Radell, or anything like that. And now with the, the technology, it's easier to work from home. And I think that would bring a lot of people up there. We need a lot of youth up there before the population is going to die out. And if we can get housing up there, that would be great because there's always a shortage of that. And the Ponca Tribe is, is very interested in being partners with a group that's going to be working on these things. And that's-- at one time many years ago, Tom Brokaw, when they built the bridge, Tom Brokaw called that the bridge to nowhere on national news, and I want that to be the bridge to somewhere. I want that to be the bridge to Knox County. And did you have any questions?

BOSTELMAN: Thank you, Ms. Schlotman. Correct?

JoAn SCHLOTMAN: Schlotman.

BOSTELMAN: Thank you. Are there questions from committee members? So could you tell us, the committee, a little bit more about that partnership that-- do you know much--

JoAn SCHLOTMAN: Well, we--

BOSTELMAN: --what we're talking about?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

JoAn SCHLOTMAN: --we haven't really discussed anything definite, but we were-- the lodge and-- and the convention center area up there and being kind of a partner with that, getting involved with that, and, you know, we've-- we've put a lot of money into Niobrara with our-- our headquarters building up there. And we have the powwow grounds and the community center and stuff, and we want to see it grow. And if we can get more people to come, any way we can help out.

BOSTELMAN: So do you have an-- do you have an annual powwow then?

JoAn SCHLOTMAN: Yes, we have one every year, second week in August every year. It's-- it runs from Friday to Sunday.

BOSTELMAN: And do you draw people from across the country?

JoAn SCHLOTMAN: Oh, all over, yeah, all over the country.

BOSTELMAN: And where do they stay?

JoAn SCHLOTMAN: A lot of them stay at the, at the, at the park, and then we have-- there's camping down at the powwow grounds. And some stay in the-- there's like two cabins-- or two little, little rooms in town next to the gas station, and there's a bed-and-breakfast. And some of us stay out at the Ohiya Casino hotel down there.

BOSTELMAN: So this would potentially open up a lot more opportunities for a lot more people to come into that area--

JoAn SCHLOTMAN: Yes, yes, it would.

BOSTELMAN: --and stay during that time--

JoAn SCHLOTMAN: It would.

BOSTELMAN: --and maybe others, I would-- do you have--

JoAn SCHLOTMAN: Yeah, and that's one-- one of the reasons some people don't come, because they think they can't get in-- a place to stay and they don't want to drive that, that far if they don't have a place to stay, and if there was a 40-room lodge, that would really help out.

BOSTELMAN: Does the tribe have other events, I would-- I'll say, other than the powwow that we-- you attract or could attract people from other states, from across the country to come too?

JoAn SCHLOTMAN: We're talking about a Standing Bear museum and, and right now we do have a small museum, but we don't have a great big.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

But once we, we talk about getting a bigger museum, and we were thought-- thinking about the-- we could think about the-- like the Smithsonian has a lot of things that belong to the Ponca and we could do kind of an on-loan kind of thing and do history and language and something like that with a museum-- with a museum area. And we have a buffalo herd out there that I know a lot of people like to come, and we have the Standing Bear Trail.

BOSTELMAN: OK. OK, thank you. Are there any other questions from committee members? Seeing none, thank you, Ms. Schlotman, for coming in today.

JoAn SCHLOTMAN: Thank you for letting me talk.

BOSTELMAN: We really appreciate it. Next proponent. Good afternoon.

MARGARET SANDOZ: Good afternoon. Thank you, Senator Bostelman and the Natural Resource Committee. My name is Margaret Sandoz and I'm the superintendent of the Niobrara Public Schools and a hometown girl. In the words of Winston Churchill: Continuous effort, not strength and intelligence, is the key to unlocking our potential. As a young girl growing up in Niobrara, my dream was to live in Lincoln and Omaha, work for a travel company, and see all the beautiful places and enjoy destinations as part of my work life. I didn't realize then that I had the most beautiful views in my own backyard. In those days, I rode the paddle boats at the Niobrara State Park and desperately wanted to pick the lily pads out of the pond, but I knew I had to leave them so others could enjoy. Fast-forward 30 years: The siltation of the rivers has for-- has forced both the state park and the community to relocate and rebuild. But Niobrara is showing continuous effort. As a young person, I worked at the Niobrara State Park in a variety of capacities and started working in the office and later became the swimming pool manager. These experiences allowed me to meet many new people from across the world. I attribute those work experiences and my need to explain the Niobrara area to our guests as the start of my lifelong dedication to the community of Niobrara. Tourism and recreation are by far the major factor for survival of our community. During the recent 2019 flood, it became apparent that the community was not willing to let Mother Nature destroy everything that they had worked to accomplish, and others noticed. There was a huge outpouring of support, generous donations and genuine help from our surrounding community, state, and the nation. Once again, no matter the circumstances, there has been a showing of continuous effort. Niobrara State Park has a long history of partnership with Niobrara and the Niobrara school. Partnerships with the Niobrara State Park include the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

building of privies as part of our career education curriculum, and students and-- and community members volunteering to build trails up and down the hills of the state park. As LB1023 reaches the end of its journey, before you decide if you will support or decline this legislation, please know that the people of Niobrara are dedicated and willing to put forth continuous effort. Niobrara is poised to become the destination community of Nebraska. Today, I know that I don't need to travel in order to enjoy the beauty that the Niobrara and the Missouri Rivers share with me each day. If you have never enjoyed the sunrise or the sunset near the confluence of the rivers, I encourage you to take a drive and explore, and I guarantee you will not be disappointed, because everyone at Niobrara, we know that continuous effort will unlock our potential. Thank you.

BOSTELMAN: Thank you, Ms. Sandoz. Are there any questions from committee members? Oh, could you spell your name, please.

MARGARET SANDOZ: Excuse me. Margaret, M-a-r-g-a-r-e-t, Sandoz, S-a-n-d-o-z.

BOSTELMAN: Thank you. Seeing no questions, thank you for coming in today. Next proponent, please. Afternoon.

JONATHAN JANK: Good afternoon. Chairperson Bostelman and members of the Natural Resources Committee, my name is Jonathan Jank, J-o-n-a-t-h-a-n J-a-n-k, and I serve as the president and CEO of the Seward County Chamber and Development Partnership, or SCCDP. The SCCDP is the sole combined chamber of commerce and economic development organization in Seward County, with a standing membership of about 280 public and private sector business partners. I'm also an active member of the Nebraska Economic Developers Association, or NEDA, and chair their scholarship committee. Additionally, I am the immediate past president of the Nebraska Chambers Association, a statewide network of chamber of commerce professionals. I would like to go on record as a representative of NEDA and enter this written testimony in support of LB1023, a bill which would adopt the Lake Development Act and the Water Recreation Enhancement Act, boosting local economies through flood protection and water recreation opportunities. I first want to thank members of the Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee and their stakeholders for the fantastic work they completed over the past several months to investigate economic development opportunities in our state. As LB1023 states, the future vibrancy of the people, communities and businesses of Nebraska depends on reliable sources of water. The Nebraska Economic Developers Association recognizes the critical role that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

water plays in our communities, on our farms, and for our businesses. It is our lifeblood. NEDA is composed of 236 members spanning Nebraska, from Omaha to cities and villages dotting the state. Our members witnessed firsthand the loss of life and livelihoods during the 2019 floods. Many are still grappling with these impacts. In Seward County, we suffered millions of dollars of damages to infrastructure, land and livestock, and were forced to restrict our water usage for a time to avoid overwhelming the sewer system. LB1023 further strengthens flood control in our state, our communities, and our farmlands, helping to prevent devastating economic impacts to our people and our businesses. LB1023 not only responsibly reacts to the historic 2019 floods, but also proactively capitalizes on changes in working lifestyles. Prompted by the pandemic, the great reshuffle has proven that many people are rethinking where they live. Remote jobs have grown exponentially, creating the opportunity for our communities and our state to attract and retain residents who otherwise might not have considered Nebraska as a place to remain or relocate. At the same time, we are grappling with record low unemployment. This project will result in water recreation opportunities in key areas of our state, ripening the opportunity for people retention and attraction, tourism and business development. Thank you for your time and consideration.

BOSTELMAN: Thank you, Mr. Jank. Are there any questions from committee members? Seeing none, thank you for coming and testifying today.

JONATHAN JANK: Thank you.

BOSTELMAN: Next proponent, please. Good afternoon.

BRUCE BOHRER: Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Bruce Bohrer. For the record, that's spelled B-r-u-c-e B-o-h-r-e-r. I'm here this afternoon on behalf of the Lincoln Chamber of Commerce in support of Senator Hilgers' LB1023, of course, the Lake Development and Water Recreation Enhancement Act. As you're aware, LB1023 is the successor of sorts to last year's LB406, which created the Statewide Tourism And Recreational Water Access and Resource Sustainability Special Committee. The STAR WARS study defined a vision for three of Nebraska's natural resource areas, meant to serve as a catalyst for more tourism, economic development, population growth, job growth, and resource sustainability. I think the, the previous testifiers have done such an excellent job of covering ground there, and I'm just so proud as a Nebraskan who grew up all across the state to be here and be part of this committee and support this bill. So more recently, we saw the unveiling of some of the-- by state leaders of some of the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

transformational initiatives for the Lower Platte River area, Niobrara River area, Lake McConaughy, Lewis and Clark Lake. We've heard about it all. It's just amazing. I think it's unifying as well, and again, very proud to be here. As noted in the prior legislation, Nebraska has tremendous water resources across the state, including but not limited to what you've heard today: the Ogallala Aquifer, Lake McConaughy, the Platte River, Republican River, Missouri River, Particularly, back as a kid, spent a lot of time on-- in Alma, Nebraska, at Harlan County Reservoir. The state's lakes and rivers definitely help Nebraskans enjoy the water resources in our state and make Nebraska an even more attractive place to live and raise a family. We welcomed Senator-- or Speaker Hilgers to our board of directors meeting this morning on this very topic. We talked about other issues as well. In fact, heard about the statewide interest in the Perkins Count-- Perkins County Canal. So I think, again, kind of to continue the theme today, our board of directors adopted a statement that references the chambers and our affiliate organizations, which is LPED, our Partnership for Economic Development, and our Con-- Convention and Visitors Bureau, are interested in being involved in advancing big ideas such as these and where we want to be engaged in further review as details and plans are more fully developed. Additionally, and as a caveat, if you will, and the Speaker is certainly aware of this, we are keenly aware and will be protective of interest related to water wells. You've heard a little bit about that. And I think we've got our Lincoln director for Transportation and Utilities Department here to talk a little bit more about that as well. And also companies involved in sand and gravel mining, these interests, we believe, must be protected and fully appreciated. Again, it's a caveat. I think it's already been talked about. I think the Speaker is fully aware, and STAR WARS Committee and the, the consultants as well, but we want to get that on the record. Again, we have a strong interest in the big-idea initiatives such as this. And we are, as Speaker Hilgers said this morning, committed to working collaboratively to find winning solutions for everybody. We realize there are several phases yet to be completed on the reservoir issue, especially, obviously, the other enhancements that we've heard about this afternoon are really a lot further along. They've already got their reservoir or lake in place; they just need more enhancement around it. I especially appreciated the comments from Mr. Broz on attracting-- attraction and retention and quality of life, totally agree with that across the state, and I'm, I'm really happy to follow Jon-- Jonathan from Seward County, and also representing NEDA. So with that, I just want to say we commend Senator-- Speaker-- excuse me, Speaker Hilgers and all the members of the STAR WARS Committee for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

their vision and leadership. And I'll conclude my remarks un-- unless I can answer any questions from anybody.

BOSTELMAN: Thank you, Mr. Bohrer. Are there any questions from committee members? Seeing none, thank you, Mr. Bohrer--

BRUCE BOHRER: OK. Thank you.

BOSTELMAN: --for being here today. Any other proponents who would like to testify on LB1023? Any other proponents? Seeing none, anyone like to testify as opponent to LB1023? Again I'd ask, if we do have other opponents, that's-- please come up and sit in these chairs up here. It will just help us move along a little bit quicker.

AL DAVIS: Good afternoon, Senator Bostelman.

BOSTELMAN: Good afternoon, Mr. Davis.

AL DAVIS: I make it a regular here. My name is Al Davis, I'm here today as the registered lobbyist for the 3,000 members of the Nebraska Sierra--chapter of the Sierra Club. The Sierra Club is opposed to LB20-- LB1023 for a number of reasons. The Sierra Club is an environmental organization whose focus is on protecting and preserving the few remaining wild spaces in the United States and fostering environmental programs which provide habitat for wildlife while also offering opportunities for humans to enjoy and participate in nature. The STAR WARS Committee worked hard at identifying projects which would improve recreational activities in our state, but with little focus on the preservation of natural surroundings and more on attempts to augment recreational opportunities associated with water sports by laying out big ideas. LB1023 envisions the construction of marinas at Lewis and Clark Lake and Lake McConaughy, as well as additional improvements at both sites, including a massive lodge at Lewis and Clark Lake. The McConaughy Marina will cost \$34.3 million with a \$1.1 million gateway entrance to the park. For decades, Lake McConaughy has been a summer draw for residents of the Front Range, and managing the massive number of people at McConaughy is a challenge for Game and Parks every year. A few years ago, Game and Parks began limiting the number of camping spaces at the lake to control attendance, so the construction of a large new marina seems to run counter to the intentions of the Nebraska Game and Parks Commission to reduce lake visitation. It's a beautiful lake and also a significant contributor to the bottom line for many Keith County businesses. But a marina which may bring bigger boats and more people to an already overburdened lake is a questionable investment, and you have to wonder

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

who those boat slips are being built for, Nebraskans or Coloradans? At Lake McConaughy, there are other significant improvements which could be added to improve the experience without massive expenditures. Lewis and Clark Lake has different problems from McConaughy. With tons of sand washing into it each year, experts predict that it will be completely silted in-- within 50 to 75 years. Just as at McConaughy, there are multiple opportunities to improve the lake and augment the outdoor experience without a focus on major capital investments, which will become stranded assets in 50 years. A \$41.5 million dollar marina and a \$42.4 million sound great, but both will require upkeep through the years and will have little or no value at the end of the life of Lewis and Clark Lake. That said, the Sierra Club is most opposed to the headline piece of the STAR WARS proposal, which is the construction of a sandpit lake between Omaha and Lincoln on a floodplain farm ground. The construction of a 4,000-acre lake is visionary, but unfortunately there would appear to be a number of significant environmental problems with the state-- which the state should consider before moving forward with the project. The proposal will convert Platte River Floodplain farm ground into a lake, which will remain within the floodplain and would be subject to infiltration from flood waters unless massive levees are built around the lake to keep floodwaters from infiltrating it. If the lake is breached by floodwater, its depth will be a catch-all for silt coming down the river, as well as the introduction of carp and other alien fish into the lake. Further, the dredge-and-fill operation will also alter the groundwater table near the lake and could result in some siphoning off of river water into the lake, which may threaten downstream wildlife. Finally, the architect's image of the lake shows many McMansions lining the edge of the lake. The state should ask itself if it is spending \$71 million to provide a playground for wealthy Nebraskans when it makes more sense that the investment isn't going to benefit the average individual. Despite claims to the contrary, this lake is not going to draw tourists from Iowa and other states. The Sierra Club believes that much could be done with these funds, which would create a better quality of life for all Nebraskans. Expansion of the state trail system is a low-cost alternative. Nebraska's Cowboy Trail remains unfinished, despite being the nation's longest trail, and the intermittent segments of the trail between Lincoln and Omaha could also mean tremendous recreational opportunities for Nebraskans if they were united. Another possibility would be to purchase land between the three state parks along the Platte and unite them in between into one large wilderness area to explore for our citizens. Additional investments at the state's many smaller recreational areas and lakes increase access for all Nebraskans and give our citizens a more

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

natural experience than a day on a jet ski or in a fast motorboat. We urge the committee to reconsider this proposal and reevaluate what Nebraskans really want, rather than buying into high-profile investments, which are far from natural, are costly, and benefit largely those with high disposable incomes. Thank you, and I'll take any questions.

BRUCE BOHRER: Thank you, Mr. Davis. Are there questions from the committee members? Senator Groene.

GROENE: Thank you. I've been by the trail quite a bit up there at Valentine. It was-- if I was going to-- in August wanted to help, had a heart attack, that is not the place I'd like to have one because I don't know when the next person would come along. But at Lake McConaughy, people pack in there. Isn't Sierra Club's deal to get people out into nature, or do you want them sitting on a-- watching Discovery Channel?

AL DAVIS: Well, we think that there are better opportunities to get people out into nature.

GROENE: They don't want to ride a bicycle; they don't want to take a hike. They want to go boating.

AL DAVIS: There are already existing lakes in the state where you can do that--

GROENE: You said--

AL DAVIS: --and we could develop more of those in other locations.

GROENE: You just said they're over-- over--

AL DAVIS: I said McConaughy is-- McConaughy itself admits that it's overloaded. That's why they restricted the camping sites there.

GROENE: We also heard Lewis and Clark was.

AL DAVIS: Well, I'm-- I'm-- I speak of Lake McConaughy because I know that lake.

GROENE: Yeah, well--

AL DAVIS: It's close to my home.

GROENE: Well, anyway, I just wanted-- I thought maybe your mission was to get people out in nature. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

MOSER: Further questions for Senator Davis? Yes, Senator Cavanaugh.

J. CAVANAUGH: Thank you, Vice Chairman Moser. Thank you for being here, Mr. Davis. So as to the sandpit lake, I like that description. It makes it easier than-- to describe. That lake, so you talked about the potentiality of being overrun by floodwaters. Are you familiar with any other, I don't know, lakes like this in the country, anybody--

AL DAVIS: I'm not. I'm not.

J. CAVANAUGH: So then I guess I don't have a follow-up question about that. But, I mean, the, the things you're saying are, I guess, the concerns I haven't heard raised yet about that kind of cross-contamination. And, I mean, what you said, said was about the potential for it being a trap for silt. Does that kind of mean that-- are we going to be re-dredging this lake every couple years?

AL DAVIS: Obviously, if there's a flood, there's a lot of silt that comes down the river.

J. CAVANAUGH: Yeah.

AL DAVIS: And when you have a big basin, the-- other words, you've got water flowing along the top at a rapid rate of speed and you hit a low-- low spot, a place where there's more water, it will slow down and that silt will settle out. So I would certainly think that -- you, you remember a few years ago when we had three or four foot of sand in the valley-- the Missouri Valley and east of Omaha.

J. CAVANAUGH: Yeah.

AL DAVIS: I mean, I can sure see that happening if, if the lake isn't protected with some significant berms on the side.

J. CAVANAUGH: And as far as the habitat, potential impacts, are there-- are you aware of any federal implicat-- laws that would be implicated in terms of building this lake that we should be considering as we go forward?

AL DAVIS: No. That doesn't mean I don't think that there might be some. You know, there-- obviously, there are a lot of permits that have to be gathered in and we have, we have to see whether there are-- whether it's wetlands. If it's not-- if it's a wetland, it can't be done. So it's floodplain. I would think it'd be sort of borderline

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

wetland. But, you know, we-- I really don't know the site where it's going to be constructed yet, so.

J. CAVANAUGH: Well, and it sounds like we haven't specifically settled on a site.

AL DAVIS: Right, and without the site, you can't really answer that question.

J. CAVANAUGH: And so Speaker Hilgers talked a little bit about hydro-- a more robust hydrological study. They did one as part of this original study. Are there other studies that we should make sure that if we do go forward-- there's certainly a large amount of interest in going forward. So are there things that we should certainly ensure are considered as we consider the sites, as we consider what mitigation we should undertake if we were to go forward?

AL DAVIS: You know, you're making a huge investment, so you can't make a huge investment like that without doing all the due diligence that would need to go into a project like that to be sure that it could be successful, that you could deal with the issues of flooding and you could deal with issues of, you know-- there-- I mean, I don't know all the specifics of it, but if you open a body of water close to the Platte River, it seems to me that you're going to-- that water will flow to the point of least resistance, so I would think it would siphon off some water into the lake that will be more prone to evaporation, I mean, so a lot of questions. Four thousand acres is a significant lake. It's huge, for this part of the state especially.

J. CAVANAUGH: Thank you.

MOSER: Other questions from the committee? Thank you, Senator.

AL DAVIS: Thank you.

MOSER: We appreciate you coming to talk to us today. Next opponent. Seeing none, neutral testimony.

JOHN HANSEN: Mr. Vice Chairman, members of the committee, for the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n. I am the president of Nebraska Farmers Union and appear before you today as their president and also their lobbyist. Unlike yesterday, where we were not able to figure out where we were landing on yesterday's bill, and that's how we got to neutral, we would differentiate the different parts of this proposal. And we think that there's an awful lot of merit in building, developing, enhancing and maximizing the benefits

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

of the existing natural resource base that we have and the projects that we have in the state and have been an advocate in the past of investing more state dollars in those kinds of projects that-- that help us as a state better utilize the gifts that we already have, and that we are in support of all of those projects where we differentiate and draw the line is where we create a new, publicly financed sandpit that would be in its own way used for-- a very shallow sandpit, by the way-- used for a lot of commercial development. So when, you know, we look at the feedback that we've gotten, there's a lot of concerns about putting in an awful lot of houses that are not tied to a central sanitation system, they would all be using some sort of septic tank drainage system on sandy soils with high water levels, and that that is not probably the maximum or appropriate or best use of-- of-- of our dollars or as developments go. The-- the rest of the projects for the most part, and I'm familiar with, I think, all of those sites and have been there and used all of those, is it's been a knock on, on Nebraska versus South Dakota-- I'm from northeast Nebraska-- for a long time that South-- South Dakota has a lot more tourism because they invest a lot more money and they go at it like they're killing snakes. They, they mean business. They have a plan. They go out and they, you know, look at these as great opportunities. And the state of Nebraska seems to have been, you know, three steps back and watching what South Dakota does. And so I'm not that far from the northern border and I'm familiar with that area. And so if you look at what goes on, on the South Dakota side compared to the Nebraska side, you've got to, you know, go, well, it's nice what we're doing, but it's not competitive with what our neighbors are doing. So do we have a lot more vacation and tourism potential in our state? We have a beautiful state. We have a lot of great natural resources. It is a good thing to be able to maximize the opportunity to use those. That is, it seems to us, the-- the smart build. That's the good investment. That's the working with local folks. The support you saw today tells you that there's a lot of those communities that are looking forward to the opportunity to really take the next step forward and-- but that is a different matter, and that's why I'm neutral today, because I think that's the best way to differentiate our testimony where we're in support of those kinds of projects, but we can't get to yes on the other project between Lincoln and Omaha that seems a lot more environmentally suspect. And I would also just point out that there is a lot of really important lessons that need to be taken to heart over what we learned by figuring out just where the 500-year flood pool in Nebraska is. And we did an awful lot of damage because we had an awful lot of folks who had no idea they lived in either the 100-year flood pool, but especially the 500-year flood pool. So you look at that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

project and the 500-year flood pool and where, you know, the Elkhorn River is three or four miles wide in areas where it's usually 100 yards. I-- I can't imagine that you would build a project in that area that wouldn't be overrun by floodwaters. With that, I'd end my testimony. I'm glad to answer any questions.

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

JOHN HANSEN: Thank you very much.

BOSTELMAN: Next neutral testifier. Good afternoon.

PHILIP YOUNG: Good afternoon. Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Philip Young, P-h-i-l-i-p Y-o-u-n-g. I'm here today testifying as a private citizen, but I am the corporate secretary for Beacon View Incorporated, an approximately 100-acre area of 29 homes and cabins located along the Platte River north of Highway 6 in Sarpy County. My father and I are both cabin owners in this area, and my father has owned a property there for more than 60 years. As a point of reference, our property is located directly east, across the Platte River from the National Guard Camp Ashland. Our group has not taken an official position on this project, but I'm testifying here in the neutral position on LB1023. Under the proposals I have seen, and obviously the map that I handed out, this is a-- this is one characterize-- or one drawing of where this lake might be located, but it hasn't been finalized yet. But this seems to be the most common one of-- that we've seen in everything that we have seen. Our property would be located between the Platte River and the new lake project. If you look at the map I handed out, we are the red dot on the map, with the Platte River on the left and the proposed lake project on the right. Although we have several questions about the project, including, but not limited to, the exact location of the lake, how this project would affect our safety, specifically, any additional flood control measures and northern egress from our property in case of a flood occurring, what will happen with Highway 6 and our access to Gretna, Interstate 80, and the Omaha area. There could be possible benefits to our members from a project like this. Depending on how the project is developed and flood control around the lake, it could cause us concern for our safety in case of flood waters coming in from the north, as happened in 1993. Because of our pro-- immediate proximity to the lake project, Beacon View, Inc., would appreciate it if a representative of our group could be included in future meetings on this project, so we can better understand how the project would affect our safety, property values,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

and the quality of life we currently enjoy in our area. Thank you for letting me address the committee and I'd be happy to try and answer any questions you might have.

BOSTELMAN: Thank you, Mr. Young. Appreciate your testimony. The question I have, how do you get to your property now? I mean--

PHILIP YOUNG: Highway 6, either-- from either direction, and then Highway 6, we-- instead of turning into Linoma Beach, you turn left on 255th Street, cross the railroad tracks, and then you see Dan Bundy's farm, who's also here watching this hearing today, and then you turn left into our property.

BOSTELMAN: OK.

PHILIP YOUNG: It's a gated-- we have a gate on it, so--

BOSTELMAN: Sure.

PHILIP YOUNG: --with a card key.

BOSTELMAN: OK, thank you. Senator Groene.

GROENE: So you-- do you have river frontage, your--

PHILIP YOUNG: It depends on which cabins are where. We have a lake that sort of makes a big loop, or a canal, we call it, in the area.

GROENE: Flood control?

PHILIP YOUNG: And-- no, it was actually dredged back in the 1920s, I think, by Chicago Lumber Company, who originally owned this before the members got together and purchased it from them in the early '70s. But we-- but some of us do. My dad and I happen to. We're on a hill that overlooks the Platte River--

GROENE: So--

PHILIP YOUNG: --and in 2019 we were standing on our levee while Camp Ashland was getting destroyed in that flood.

GROENE: So that's my next question. Did you flood?

PHILIP YOUNG: No, the only--

GROENE: In the 60 years your dad owned it, has he flooded?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

PHILIP YOUNG: Oh yeah. Before the levee, we used to get three feet, maybe four feet of water in our general area. And then after 1993, when they decided they wanted to build the levee project and were going to raise Interstate 80 in that low spot where I-80 actually was closed because of lowland flooding, they came in and wanted to put up a levee. And so they put up a levee, took out a bunch of structures, bought them out, and they were either able to get a lot or rebuild at a higher location that was over the hundred-year--

GROENE: And not since '93, you haven't flooded the levees out there?

PHILIP YOUNG: There might have been some in '97-- before the levee, I mean, there might have been some too, I think in '97, maybe. But since the levee has been built, it has held off anything. I think there's only been twice where it would have actually flooded, had--

GROENE: The levee not been there.

PHILIP YOUNG: Yeah.

GROENE: All right. Thank you.

BOSTELMAN: Other questions, committee members? Sir, we have your contact information on your green sheet if we need it?

PHILIP YOUNG: Yep.

BOSTELMAN: OK, thank you, Mr. Young, for being here.

PHILIP YOUNG: Yes. Thank you very much.

BOSTELMAN: We appreciate your testimony. Next neutral testifier. Good afternoon.

DAN BUNDY: Good afternoon. Thank you, Chairman Bostelman and the members of the Natural Resource District [SIC]. My name's Dan Bundy, D-a-n B-u-n-d-y. I am one of the landowners that will be severely impacted by the Lake Development Act. Since the press conference showing conceptual rendering of the proposed lake development district, it didn't take us long to-- for myself and my neighbors to recognize this land, as we have been farming it for over 100 years. As you may imagine, this led to many questions and concerns from myself and my neighbors, and I am here today to ensure that some of the questions and concerns are presented to you and put into record. I've had the opportunity to meet briefly with Speaker Hil-- Hilgers, Senator McDonnell, John Engel with NRD-- or with the NR--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

HDR, excuse me, to discuss some of the questions, along with the copy of the testimony to the committee. One of the most pressing concerns comes to land acquisition. Under what circumstances and when would the state exercise eminent domain to acquire a property? As you may imagine, we and other landowners in this area have had our properties taken from us by the government, and our determination of fair market value has been a little different from the government's determination. At one point not too long ago, the Corps took some land from my family that wasn't for sale through eminent domain at a far less value than we felt it was worth, and ultimately, we had no-- little choice other than to sign under threat of condemnation. Based on the rendering, there is little doubt that there could be a huge windfall for the state of Nebraska and property owners who have land development around the lake. But what about those of us, like myself and my family, who would be under the lake? How do you value our property that would be used to create billions of dollars in economic development long term for the state of Nebraska, Sarpy County and landowners around the county? When a community uses tax increment financing, they used an anticipated increase in property value from the site's redevelopment to finance a loan to pay for redevelopment. Would a potential lake development district offer similar value capture for the people who currently own and operate or farm this land? And as it would be for the developers, county and the state, would we be shareholders or corporations that would benefit ma-- benefit in the mass increase in property value, or would our family's legacy be erased in the name of development? This development impacts each and-- each of the landowners differently based on the stories and their dreams. Land acquisition is one of the many questions that we have, and I'll remind the committee that this land is not for sale. Other questions we have and would-- or how this would impact the Platte River, how the lake would be constructed, how it would impact water sustainability as of-- as of the area, potential contamination or even Lincoln's water supply. How does it help with flood control? How to keep the river from overwhelming the lake during a flood event? Would it be mined, and who would benefit from the mined resource? We also have questions about who would be responsible for maintenance, law enforcement and roads. Would it be the lake development district or Sarpy County? Would Highway 6 remain? I do believe these questions could and should be answered in further studies, but right now they're about as conceptual as the rendering. I appreciate you taking time to hear me today and being aware of some of the concerns and questions the-- of the impacted landowners. There is no doubt this is a big idea and similar concepts have been explored around the Lower Platte almost as long as the Bundys have been farming here. Supporters have been

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

willing to have these conversations and work on these questions, but right now there are more questions than answers. I have shared with you a list of questions that have come up, and I'm sure there will be many more. Thank you for your time, and I can answer questions.

BOSTELMAN: Thank you, Mr. Bundy, for coming in. You did very well. Is there comments, questions from committee members? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman. Thank you, Mr. Bundy, for being here. So I don't know if you would have the rendering that-- I assume it's the one you're talking about. Is-- your land would be completely under the water here?

DAN BUNDY: Almost all of it.

J. CAVANAUGH: OK.

DAN BUNDY: We-- we-- our family would have somewhere in that-- I haven't done exactly the math, but somewhere in that-- well, depending on the size of the lake, we'd be-- we'd have-- somewhere around a third to half of the acres would be ours.

J. CAVANAUGH: A third to half of the acres under the water?

DAN BUNDY: Um-hum.

J. CAVANAUGH: And I mean, you've heard them say that this is just a rendering, and I-- honestly, I have no idea what stage they're at in any type-- type of site selection. But, I mean, I think you raise a very good point that I had not-- honestly not considered. What happens to the person who has value under the water? So I appreciate you coming in.

DAN BUNDY: Well, it appears that our land is the most important, it turns out to be the least valuable.

J. CAVANAUGH: That's a fair point. I appreciate your testimony.

BOSTELMAN: So you're north of Highway 6 then?

DAN BUNDY: Yeah, we're both north and south of Highway 6.

BOSTELMAN: North and south of Highway 6, OK.

DAN BUNDY: Where the dot is, where Beacon View is, you come over the tracks and you-- you're looking at our place. You turn right across--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

right next to the tracks and go back to Beacon View, we are between Beac-- Beacon View and what would be the proposed lake.

BOSTELMAN: And you say it's about half, about how many total acres? How many total, if you-- if you don't mind, how many total acres do you farm in that area?

DAN BUNDY: Pushing 1,500.

BOSTELMAN: OK. Senator Moser.

MOSER: Well, I don't know if this is any consolation to you or not, but I'm sure as the process goes forward, there would be public hearings and opportunities for you to appear and--

DAN BUNDY: And--

MOSER: --ask your questions about, you know, where the lake will be, how it will affect you. And then-- and it sounds like you've been through this before. You've had property condemned before?

DAN BUNDY: Um-hum.

MOSER: Yeah, I've been involved in some condemnations in my political history, and we're not going to go there because it's a long story, but they can be very contentious. And hopefully in the end, it works out for the greater good and the people who were damaged get fair compensation. That's the goal of it. So, you know, I hope it all turns out well for you. Maybe you'll have some lakefront property or something that you can use.

BOSTELMAN: Senator Groene.

GROENE: So you-- the fellow before you's map says that north is-- that, that lake would lay in there north and south?

DAN BUNDY: The proposed lake is north and south, yes.

GROENE: I didn't know the Platte River ran that far straight north and south anywhere. But--

DAN BUNDY: That current area is where the Platte's actually making a big bend--

GROENE: Oh, it is?

DAN BUNDY: --in the river and then it comes-- it bends to the west.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

GROENE: So then you-- how about your farm ground flooding in the last hundred years of your-- of your father and your grandfather--

DAN BUNDY: Multiple times, yes.

GROENE: Multiple times. So the Corps, with their levees, hasn't helped you at all.

DAN BUNDY: Well, after the '93 flood, which was the worst one for us because our levee system wasn't as good on the eastern side of the river as it was the western side, so we usually got the bulk of the floods.

GROENE: But this last flood you didn't?

DAN BUNDY: The '90-- after the '93 flood, they re-- they went in and rebuilt the-- the levee system on both sides. And in the '19 flood, it tried to top the levee for a few hours, but eventually it blew out in two locations on the other side of the river and took pressure off us.

GROENE: So-- but that wasn't where they-- eminent domain view was, the, the levees to build to protect your farm, was it?

DAN BUNDY: The ground that is, yeah, right along the river is where they took 140 acres from our family.

GROENE: But it actually helped you in the long run, right, the levee?

DAN BUNDY: Well, the eminent domain wasn't for the levee system.

GROENE: Oh, all right.

DAN BUNDY: The eminent domain was the Corps and Nebraska National Guard--

GROENE: So do you--

DAN BUNDY: --because we're, like Phil said, across the road from-- or across the river from us is the National Guard. So they-- they come on our side of the river and took a bunch of ground so they could drain.

GROENE: Oh, I see, for the-- for that area. All right. So east, west-- I guess west here, when you go-- I always considered north of the Platte, you'd start running into the hills of Nebraska, you get far enough south too. Is there any place you would build a lake? I mean, Turkey Creek, I don't know how [INAUDIBLE]

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

DAN BUNDY: Somebody else's ground-- no, I don't-- no. I guess I haven't looked into-- haven't looked into it.

GROENE: Well, the best answer would have been "my neighbor's ground."

DAN BUNDY: Yeah.

GROENE: I understand where you're coming from, sir. Nobody wants to lose their homestead.

BOSTELMAN: Senator Gragert.

GRAGERT: Thank you, Chairman. Thank you for your testimony. I would just be interested, you, you say you have 1,500 acres?

DAN BUNDY: It'd be short of that, but pretty close to it, yes.

GRAGERT: And you get that all planted every year?

DAN BUNDY: Oh, yeah.

GRAGERT: So was '93 the last time that your crops been flooded out?

DAN BUNDY: The only time the Platte River floods has flooded us is during the ice jam, which is usually real late February, early March. So as far as crops, crops, we haven't had any crop damage from floods.

GRAGERT: OK.

DAN BUNDY: Was that the question?

GRAGERT: Yep.

DAN BUNDY: OK.

GRAGERT: Thank you. Thank you.

DAN BUNDY: It's usually in the winter and it's-- leaves debris and ice everywhere and--

GRAGERT: OK.

DAN BUNDY: --we go out and clean it up and plant after that.

BOSTELMAN: Seeing no other questions, thank you, Mr. Bundy, for being here today.

DAN BUNDY: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: Appreciate it. Next neutral testifier. Good afternoon.

ELIZABETH ELLIOTT: Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Elizabeth Elliott, E-l-l-i-z-a-b-e-t-h E-l-l-i-o-t-t. I am the director of Lincoln Transportation and Utilities Department. I'm here today to testify in the neutral position for LB1023. The city of Lincoln recognizes that this project creates significant tourism and economic opportunities that will benefit our community and other communities across Nebraska. I want to thank Senator-- Speaker Hilgers for his continued commitment to protect Lincoln's water system and his willingness to ensure that our water system is not negatively impacted by this project. We great-- greatly appreciate the multiple conversations that we've had about the work and research completed so far and the potential that this project has. A project this large and complex requires significant analysis to fully understand all of its impacts. The initial study has looked at several situations and is a good start to assessing the full impacts and possibilities of this project. As Senator Hilgers mentioned, additional work and studies are needed to review several technical aspects that this initial study was unable to analyze due to the limited timeframe that they had. For example, the study addresses drought conditions, but it does not address flood conditions, which may impact the property owners, as well as Lincoln's current and future wells, which are crucial to Lincoln's success in the immediate and long-term future. A water quality analysis also must be undertaken to ensure that Lincoln's quality-- water quality is not impacted. Additionally, further analysis and discussion must take place once a final location has been determined to dec-- to assess the property needs of this project, as well as the city of Lincoln's future well locations that we plan to add in order to maintain services for our growing community. We believe that an independent study is needed to continue to review options and ensure that Lincoln's water will not be impacted negatively. Senator Groene, to your point earlier, although this does provide tourism and economic benefit, it does not provide additional water capacity to the city of Lincoln. Lincoln must, therefore, continue to pursue our second water source. We do welcome the opportunity to continue working with the state and all of you at the Legislature to solve Lincoln's long-term water needs. We also appreciate the opportunity to be at the table and to collaborate with this committee, Speaker Hilgers and the STAR WARS Committee to review and assess options that would make this a successful project. Thank you again for the opportunity to testify here today, and I would be happy to respond to any questions that you may have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: Thank you, Ms. Elliott. Are there questions from committee members? Senator Groene.

GROENE: So I keep hearing rumors, read stories over the last 20 years, about a pipeline from the Missouri River. What's the cost of that?

ELIZABETH ELLIOTT: In today's dollars, it would be approximately \$800 million, roughly.

GROENE: How big a pipe, 10, 12 inches? What would do it?

ELIZABETH ELLIOTT: That one, I-- it depends. I-- I'm not sure at this point what we would ultimately need for that, but--

GROENE: But Nebraska has enough claim on the Missouri River that that wouldn't be a problem, removing water from it?

ELIZABETH ELLIOTT: Right now, Omaha has water well fields that are there, but Lincoln does not. So if Lincoln were to go there on our own, we would have to get that claim now. We do not currently have one.

GROENE: So what's-- where are you going to-- you're growing fast and I understand your--

ELIZABETH ELLIOTT: Yeah.

GROENE: So where are you going to fill that need now?

ELIZABETH ELLIOTT: Right now, we are currently looking at options to see what we have. Obviously, one option is a direct connection to the Missouri. The other option could be an interconnect. We are looking at all of our options over the next several months and hopefully within the next year we will have a specific decision on what our viable option is.

GROENE: And you would draw right out of the Missouri?

ELIZABETH ELLIOTT: That is one option.

GROENE: The Blue isn't that far from you. What's-- why couldn't you go to the Blue? By the time it's there, it's pretty wide and it's heading toward the Missouri anyway.

ELIZABETH ELLIOTT: Given the, the, the volume and capacity, we believe the Missouri would serve the long-term futures-- the long-term future and would be probably the, the most viable option. But all options are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

being considered because we do not-- well, we want to make sure it's the right decision for our community for now and into the future.

GROENE: Yeah. Thank you.

ELIZABETH ELLIOTT: Thank you.

BOSTELMAN: You testified out at Ashland, I believe--

ELIZABETH ELLIOTT: I did. Yes.

BOSTELMAN: --when we were there. Could you-- and I asked you the question there, do you-- could you forward to the committee the city's future plans on how to reduce its water consumption and/or use of gray water or other, other ways of trying to limit, reduce the, the use that you have?

ELIZABETH ELLIOTT: We do take a number of water conservation steps. Obviously, the, the biggest one is more of the educational route. It is something that we continue to pursue and research all of our options. And at, at this point, we don't do much with the gray water, so that's something that we would have to research and continue to look into.

BOSTELMAN: So is there a plan on reduction of either business or residential water use?

ELIZABETH ELLIOTT: No, there is not at this time.

BOSTELMAN: OK. Any other questions? Thank you, Ms. Elliott, for coming in, appreciate it.

ELIZABETH ELLIOTT: Thank you very much.

BOSTELMAN: Next neutral testifier. Good afternoon.

RICK KUBAT: Good afternoon, Chair Bostelman and members of the Natural Resources Committee. My name is Rick Kubat, R-i-c-k K-u-b-a-t, here today on behalf of the Metropolitan Utilities District, testifying in a neutral capacity on LB1023. A little bit of background in terms of the Platte River and its water supply for the Omaha metro area, we serve just over 700,000 Nebraskans with their natural gas and, and public water supply. We do so with a treatment facility on the Missouri River that provides half of our capacity; the other half of our capacity comes from the Platte River, and there's two different water treatment facilities on that Platte River. We're slightly

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

differently situated from the city of Lincoln, where 100 percent of their water supply comes from the Platte River. But collectively, if you add up the two population bases, that Lower Platte River is extremely important to us in the sense that it serves just north of half of our state's population with their public water needs. Speaker Hilgers and Senator McDonnell have both been very gracious to listen to our concerns. Our testimony is very similar to Ms. Elliott, that we believe that if building a Lower Platte lake or reservoir in the system is a 200-step process, it's our contention that step one, the very first thing that we should do, is we need to take a deep dive into any consequences that a reservoir system could have in terms of the public water supply, not only with water quality, water quantity, infrastructure. We want to look closely just to make sure that we're able to tell our growing communities on the eastern side of the state that we're going to be able to serve your businesses and that we're going to be able to continue to serve the, the public with, with their water. That being said, in conversations with Speaker Hilgers, he's aware of the fact that what we'd like to do is to have money pulled out and provided for the city of Lincoln and MUD to engage in a joint study to make sure that our, our bases are covered, that are i's are dotted and our, our t's are crossed in terms of our public water supply. We-- I-- you deal with the Speaker all the time. We know he's extremely busy, and so is Senator McDonnell. We're very appreciative of the fact that he's given us the time to address this concern. But we would like to engage a third party to come in and take a close look at that. With that, I would be happy to answer any questions that you might have.

BOSTELMAN: Thank you, Mr. Kubat. Are there any questions from committee members? Senator Groene.

GROENE: Thank you. From where you pull out of the Platte, between where Lincoln does, how many rivers come into that, the Elkhorn, the Blue? What is the flow, cubic foot of flow where you pull it out of the Platte versus where Lincoln does?

RICK KUBAT: We-- we pull water in-- in different spots. I-- there's-- there's a lot of, I guess, answers to your question, Senator Groene. When we need water the most, it's primarily coming into us, both of us, from waters coming from the Loup and Elkhorn Basin. That being said, our Platte West facility would be upstream of Lincoln's well field, and then we have a Platte South treatment facility that would be downstream from Lincoln, near where the confluence of the Platte River and the Missouri River are, so one plant upstream, one-- one plant below Lincoln.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

GROENE: Where you pull over there, where the Loup and the Elkhorn and, as you said-- what's the other one-- Blue come in, your, your, your cubic feet, your flow is a lot more than where Lincoln draws, right? I mean, you-- you're not taxing that area at all, are you, as far as the water use?

RICK KUBAT: What I would say-- and, and your question is better formed to a hydrologist. We're-- we're both pulling from a similar groundwater table, but because of where we're situated, any--

GROENE: So you don't pull out of the river; you pull groundwater.

RICK KUBAT: We're pulling groundwater that is--

GROENE: [INAUDIBLE]

RICK KUBAT: --affected directly by surface water flows. In other words, if, if the Platte River dries up, that's certainly going to become an issue for both Lincoln and water, so their groundwater wells that are fed, essentially, are replenished by the stream flow of the Platte River.

GROENE: Thank you.

BOSTELMAN: Senator Moser.

MOSER: Would your rights to that water be superior to the rights that the developers of this lake would have?

RICK KUBAT: I would, I would think so, Senator Moser. My pers-- my perspective, though, in terms of assuming you establish a lake, I don't know if they necessarily have a right to the, the, the water in the same sense that the-- that a public utility--

MOSER: But if they did something that harmed your water flow, you would have the right to exist or the right to that water before they did, I mean.

RICK KUBAT: I-- I would think so. And that's one of the things that we want to take a close look at, is we want to make sure that the operation of, of that kind of lake or reservoir system in terms of the public, whether it's, you know, providing gas and diesel to the boats or making sure that the necessary infrastructure around it is not a sepic-- septic system but has appropriate infrastructure for sewer, just to make sure that we're checking all of those boxes, that we're doing our due diligence in terms of protecting the groundwater table.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

MOSER: And I would assume that the state would be willing to work with both Lincoln and Omaha to make sure that everything is-- that the development of this lake does not negatively affect your water supply, would be my guess. I mean, I'm not an attorney, and maybe you are, I don't know, but there probably are-- you know, if things went badly, the attorneys might get involved and then--

RICK KUBAT: To-- thank you for that, Senator Moser. And to that degree, we all come out looking bad, whether it's the State Legislature or anybody involved in this kind of project, if, if we don't do the appropriate due diligence on the front end.

MOSER: Yeah, I-- you know, I think their intentions are good and I think they're going to work with you, so I wouldn't take a lot of-- I mean, I understand you're smart to be concerned and plan ahead and to do everything you can in advance. But I don't think their intentions are to try to diminish your ability to provide water to the citizens and-- at all.

RICK KUBAT: Complete-- completely agree with that consensus, and, and, and very good conversations with the Speaker, same thought process there. Right now, we've had an engineering firm take a look at a lot of things as it relates to the project. I think it would probably be a next step forward if we bring in a third party that's not wearing several different hats as it relates to the project to kind of look at it with a third-party, objective, wonky engineering firm to come in and look at it from the perspective of the public water supply.

MOSER: Thank you.

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

RICK KUBAT: Thank you.

BOSTELMAN: Appreciate you being here. Next neutral testifier. Good afternoon.

MELISSA MOSIER: Good afternoon. My name is Melissa Mosier. It's spelled, M-e-l-i-s-s-a M-o-s-i-e-r. I am the Platte River program manager for Audubon Nebraska, and today I'm offering neutral testimony on the sections of LB1023 that pertain to the Lower Platte River Basin. Overall, we are simply-- there are simply too few details available about how the bill will change the hydrology and ecology of the Lower Platte River, how the associated projects will be designed to mitigate flooding impacts, and how it will affect current and future residents of the watershed. I've been working on a Lower Platte

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

for the past ten years, through 2012, when much of the Lower Platte's riverbed was dry, and through 2019, when we saw some of the largest flows on record come through this portion of the river. The hydrology and ecology of the Lower Platte are deeply tied together. Fluctuating high and low flows are a driving force, creating-- creating a diverse matrix of habitat that supports a robust ecosystem. Seasonal pulses of stream flow carry sediment that create, redistribute, and then clear sandbars in the river's channel, where the threatened piping plover and other important bird species find nesting habitat. The seasonal change in flows is also tied to species' reproductive cycles, such as the endangered pallid sturgeon, which is cued by high spring flows to swim further up into the Lower Platte system to lay eggs. To comply with federal endangered and threatened species rules, millions of taxpayer dollars have been spent in nearby river systems to artificially recreate habitat and ecosystem processes that look just like what we already have on the Lower Platte. Care must be taken to ensure that we do not disrupt the balance between hydrology and habitat that the Lower Platte currently provides. Although higher stream flows are vital to Lower Platte's ecology, we understand that protecting people and property from those larger flows is necessary too. Language on LB1023 that encourages development within the Lower Platte's floodway and floodplain needs to be aligned with the bill's intent to protect the state's citizens and their property. A large sandpit lake in the Lower Platte will not provide significant flood protection and language in LB1023 does not provide details about other flood-control structures or strategies that may be planned within the watershed. More clarity on the proposed flood control benefits of LB1023 need to-- needs to be provided to ensure that the project design will allow-- will actually provide protection and resiliency for people and wildlife in the Lower Platte, rather than putting them more at risk. Audubon Nebraska supports smart development that protects lives, property and investments from the anticipated impacts of natural disasters, including floods and droughts. Property owners and developers at the proposed lake site will need to have a clear understanding about the frequency and impact of flooding events on their property, as well as what the lake will look like and how recreation-- the recreation economy will fare during drought years. Audubon Nebraska agrees that all citizens should have access to the benefits provided by our state's natural resources. Very often, however, access to natural re-- natural spaces is limited by one's race, income and education level. In light of LB1023's emphasis on private investment and assumed use of American Recovery Plan Act funds, we need to consider how broad access to the benefits of the proposed lake will be assured. The Lower Platte River provides

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

Nebraska's citizens with a number of benefits, including habitat for endangered and threatened species, recreation, municipal drinking water supplies, and a rich sense of place. As economic and recreational development opportunities arise, we must be mindful about safeguarding the features of the-- of the Lower Platte River that make it hydrologically unique and ecologically essential. Thank you.

BOSTELMAN: Thank you, Ms. Mosier. Are there questions from committee members? Seeing none, thank you for coming in today and your testimony.

MELISSA MOSIER: Thank you very much.

BOSTELMAN: Any other neutral testifiers on LB1023? Seeing none, Speaker Hilgers, come up. For the hearing record, we have position comments of two proponents and one opponent. Speaker Hilgers, you're welcome to close.

HILGERS: Thank you, Mr. Chairman, and thank you, members of the committee and all those who came and testified-- testified today. There were a lot of really good questions at the end of the-- I'll start at sort of the end of the day and then go back to the beginning. So when I-- when I started my testimony, I talked about this sort of train metaphor, and it's maybe not the, the greatest, but it works, at least for me. So the, the budget proposal that we will have when it gets to the floor, if it makes it into the Appropriations Committee budget, for the lake specifically, where many of the questions were addressed, has in it, we think, will be about \$15-20 million to do precisely what, what has been proposed by many of the neutral testifiers, which is analyze the impact on water, the hydrology study, how will it impact the city of Lincoln and how will it impact MUD. The environmental study, Senator-- Senator Bostelman, to your question, there are some federal environmental laws that are implicated by a project like this. You have to do all of the study and design before you even go to the land acquisition because if you, you don't want to do it the other way around. You want to go do it-- you don't want to go acquire land and say, oh, no, we can't do this. And so the process we're contem-- contemplating does exactly what I think many of the testifiers are asking, getting the answers to those specific questions. And so I think that's really important to emphasize because we need to answer those questions before we go to do a project of this magnitude. One other comment from-- or I'll make is regarding the investment. There's at least some question from some of the testifiers at the end, say, hey, you know, this is a-- this is a big dollar amount for the state. There's no doubt about that-- that it is. And

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

maybe we should put it somewhere else. But I want to-- I want to emphasize this is a significant investment but that what we are contemplating here is a significant private investment. We think this is a billion-dollar-plus initial project, 90 percent or more of which will be funded dollars from outside of the state of Nebraska taxpayers. So when you have that kind of 10x or more initial investment, I think it's important to emphasize that these-- what we're not contemplating and this is we're just-- the state's just going to build it all and then it will be done. This is significant. If you can put in a dollar and get ten or more, I think that's a worthwhile investment. Going back to the beginning, I was really-- I was really gratified. It was great to hear from all the people on the ground, the testifiers. "Transformative," "slam dunk," there were a lot of-- a lot of words that I, I underlined and wrote down. And I think the, the, the transformative nature of this, of these projects, I think, were pretty clear of people, and I was excited to see it. There's two points I want to make that came from the testifiers that I didn't do in my opening that I thought I would want to-- or at least didn't really flesh out my opening. One is, and it was from Mr. Schilz, he said-- for-- or, excuse me, former Senator Schilz, he talked about how already the LB406 process in and the STAR WARS Committee has already started to attract business investment, and our task in LB406 of STAR-- from LB406 and the STAR WARS Committee was, how do we find projects that catalyze additional economic investment? So, Senator Cavanaugh, when we talk about the economic impact of our study, that doesn't take into account, first of all, it doesn't take into account the quality of life, the things that you can't calculate, but it also doesn't take into account the multiple-- the, the catalyzed economic investment that comes from those initial-- from the initial project. You heard it from Keith County. We've heard, anecdotally, Lower Platte, as well as Knox County. I think that's-- that's very important. The other thing is the sense of urgency to compete with other states. It was really-- to hear-- I didn't write her-- down her name, but the Niobrara, I think, superintendent who talked about the resident from Oregon, the resident from Minnesota who moved to Niobrara recently. When we were in Lake McConaughy, anecdotally, we-- I met an individual who moved from California. He lives on the lake and he works remotely. He's, he's there because of the beauty of the state-- that the state has to offer. We-- we talk a lot about competing and urgency, and there is urgency. People are living-- rethinking what it means to-- or where they want to live, where they want to work, where they want to be, and that means people can leave the state of Nebraska, and we see that. In South Dakota, Senator Groene you-- this-- part of the reason South Dakota has been--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

the growth on the nor-- on the side of-- the North-- South Dakota side of the lake is because they have invested in that marina. Well, this is an opportunity for us to compete with those states. There's a lot of urgency for us to do that. And so I thought that was a point that I didn't quite make in my opening that I wanted to emphasize here. The last thing I had, if I didn't misplace it-- and then I'll-- I'll stop talking and answer any last questions-- the, the testifier from Norfolk passed around a letter that was not her testimony, but it was from the, the president/CEO of the Norfolk Area Chamber of Commerce. I thought it really summed up parts of, of why we're doing this, especially outside of Lincoln. And this is just the quote, and I'll leave you with this: It is bills like this that let the folks of my area know that we matter to Lincoln. Let's keep Nebraskans in Nebraska by staying competitive with South Dakota. I think that's true for what we're trying to do in northeast Nebraska, but also the, the western part of the state and the Lower Platte. With that, I appreciate the consideration of the committee. I'd ask that you'd advance it to General File after we get the amendment to you, which I hope will happen first part of next week. And I'm happy to take any last questions.

BOSTELMAN: Thank you, Mr. Speaker. Are there questions? Senator Gragert.

GRAGERT: Thank you. Real quick, I was looking through the bill and, you know, with the projects up in northeast Nebraska, and specifically at Niobrara, I don't see the Niobrara landing in the bill.

HILGERS: Yeah. Thanks-- thanks for the question, Senator Gragert. Those projects, that will be within the budget appropriation.

GRAGERT: OK.

HILGERS: So this-- this bill, sort of two tracks, there's the, the funding of the projects. For the, the projects that don't relate to the lake, there's-- there's a lot less work that needs to be done. You don't have to do the same kind of design-- I mean, you have to do design and permitting and planning, but it's not as extensive to be able to build a marina at McConaughy or, for instance, the expansion of Weigand because work has already been done on that. And so for this-- for this particular-- for LB1023, we didn't need include the, the boat landing, but it is included in the projects and contemplated within the \$200 million that's in the budget.

GRAGERT: Thank you.

HILGERS: Thank you, Senator Gragert.

BOSTELMAN: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman. Thank you, Mr. Speaker. Been a very interesting afternoon. A lot of, I think, excitement from folks around the state about this, and it is one of those things where people get really excited and sometimes maybe we move too fast. So I appreciate your reference to the fact that we're going to spend-- I think it was the-- it's like \$20 million in here for that site study, preparation, and we're not going to move forward, is what I'm hearing from you, if those studies come back and say this isn't really feasible. Is that what I'm hearing?

HILGERS: You're hearing a little bit more than that, even. So there's-- there's a lot of-- there's at least a couple different ways that this-- that the project wouldn't ultimately go forward. One way would be if the studies come back and say-- so for-- as an example, a study comes back and says, if you do this, the city of Lincoln will run out of water ten years earlier than it otherwise would. That would be an example of something. But another reason, this LB1023 sets up a parallel path, parallel track, the other train on the track where we're-- we have to determine whether or not we can actually do what we think we'll be able to do, which is attract the outside investment to build and develop the lake. We don't want the state of Nebraska to spend the money that it would take to build the lake to develop the property. That's a pretty big ask of taxpayers. If that piece doesn't come through, then that would be another reason potentially that you wouldn't go forward with it.

J. CAVANAUGH: So that's a good point. So to Mr. Kubat's kind of question, are we going to bifurcate the two studies? Because you're talking about, one, there's a business case study we'd use to determine whether there's an economic benefit that, that attracts other investment. But we shouldn't conflate that decision with whether this makes sense environmentally for our water resources and for our communities, right?

HILGERS: Yeah, that's right, and that, that bifurcation, and, and I-- it's a good phrase to use with conflation-- that bifurcation is, is kind of laid out nicely with the bills. The budget bill accounts for the first study, set of studies, the design, the permitting, environmental, hydrology. LB1023 creates the structure to determine whether we can get the private investment.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

J. CAVANAUGH: OK, well, that-- I like-- I like to hear that. And so then, for my last question, there's the capital account portion of this. Why do we need to appropriate-- this is kind of the same question Senator Wayne was asking yesterday about the canal. Why do we need appropriate more money to actually develop a project if we are only really at the design and planning phase? Why do we need to appropriate capital money?

HILGERS: Couple-- couple of things. One is, as I mentioned in my opening, the amendment will pull out--

J. CAVANAUGH: Oh.

HILGERS: --of LB1023.

J. CAVANAUGH: Sorry.

HILGERS: Nevertheless-- but it's a good question because there will be-- as part of the budget process, we, we do contemplate some additional funds put into a separate reserve. I think it's part-- when you think of the next pro-- I can't remember, Sen-- Senator Cavanaugh, if this was the year before you got here or not, but the next project was very-- kind of a similar-- it's a good historical precedent for this. Next project, at a very high level, was a state commitment, but only that-- those state dollars were reserved sort of in escrow only if the other additional federal dollars came into play. So that showed the commitment on the state but didn't actually bind the state. The state didn't have to spend any of the money. So I think also, I think the Space Force project that last year we did put some money aside into a separate account for Space Force, if we were able to get that project. We didn't and, in fact, in the Governor's proposal, we're taking that money back. So I think what-- the reason why you would-- you wouldn't appropriate, you would put into a fund dollars over and above the appropriation for the design and permitting is so that you can show those developers and private investors that the state is serious about putting the dollars in to go acquire the land, and that would be the reason. If it doesn't, if, for instance, then-- but it still retains the flexibility of the state to pull the dollars back if the project doesn't go through.

J. CAVANAUGH: I know I said last question, but so does that mean \$26 million is our foreseen ceiling on how much it would cost the state for the state's commitment or is that just the "we're serious" amount of money?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

HILGERS: In-- in the 26-- I'm-- I apologize, Senator--

J. CAVANAUGH: That's what is listed on here as the capital account money that--

HILGERS: And where-- where's here? I'm sorry. I thought we--

J. CAVANAUGH: Oh, it's in the fisc-- looking at the fiscal note.

HILGERS: Oh, I'm sorry, because we had the-- in LB1023, I believe the green copy, we didn't put a specific number. I thought we kept that.

J. CAVANAUGH: OK.

HILGERS: So-- so can you restate your question? I apologize.

J. CAVANAUGH: So is the \$26 million the total amount we would expect would be the state's obligation if we were to go forward, or is that just a amount to show the developers, "we're serious" amount, like I guess is this giving us a-- close to an idea of how much that we're going to be committing to this, or is this just the "first drop in the bucket" amount of money?

HILGERS: That's a good question. So the-- the-- I think the math-- so I did see that portion of the fiscal note, but I-- it's sort of back of the envelope. I think that-- I think that what the-- what that is contemplating is this. We have the \$200 million request. That was what the STAR WARS committee asked for the preferred initiatives. As I mentioned in my opening, that covers the full cost of everything but the lake. The lake, you couldn't-- it would take far more than \$200 million, and what we've contemplated is all of those being funded. Now there are some additional sources of dollars, federal infrastructure dollars, potentially Game and Parks, other sources where the cost of those other projects could be in part borne by some other stream of income outside of that \$200 million, so it's not gov-- it's not gov-- Cash Reserve, it's not General Fund, it's not ARPA. In that event, some of-- we still would like-- we still are asking for the \$200 million, just some more money would go into the Lake Development Fund, if that makes sense. We think that the more within that \$200 million, the better to show seriousness and interest. But it's-- but I don't think there's a thresh-- I don't know what the magic number is, Senator Cavanaugh. I think the overall appropriation within the \$200 million-- I'm sorry, the overall request within the \$200 million is currently about \$46 million. That's how I think the \$26 million comes out. I think that's suff-- that is at least sufficient to do what we want to do, I think. I mean, having not built a lake before or been

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

involved in that process, I'm not entirely sure a little more would be better, but we wanted to keep within the \$200 million so we're making sure the other projects got fully funded.

J. CAVANAUGH: Thank you.

BOSTELMAN: Senator Groene.

GROENE: Thank you, Chairman Bostelman. My brain's finally working. I wish somebody would've reminded me I flunked sixth grade geography and the-- and the Blue River doesn't flow into the Platte, but, but anyway, I'm looking at a map here. I'm coming to the conclusion this has nothing to do with flood control, it has nothing to do with water supply for a city. This is just purely a lake to go boating on and economic development.

HILGERS: Well, the full project includes flood control, Senator Groene, so we do have-- we do have the-- the Wahoo Creek flood dam system that would-- that is part of flood control.

GROENE: No, I'm talking about the big lake.

HILGERS: Yeah, the primary purpose of the lake, it does have some beneficial impact, as I mentioned, on the city of Lincoln water supply, but absolutely, it's a-- it's an economic engine, yeah, absolutely a catalyst.

GROENE: Did-- when you guys did your study, did you look, ask the hydrologists, after a big flood like 2019, would there have been a strategic place so we get more bang for our buck-- buck like maybe the Loup River system prior to hit-- before it flooded Columbus or the Niobrara before it hit Omaha, how we could have put a dam there and got the recreational, the water usage, and also the flood control?

HILGERS: I don't recall that area being-- it might be a little bit outside of the scope of the LB406 region that we were focused on, so.

GROENE: That area isn't that far to take-- channel canal water to a metropolitan area like Lincoln, but I was going to-- Senator Moser can probably correct me. But that Loup River that-- the small one that goes by my place, sure turned into a torrent and a huge lake at the confluence with the Platte at Columbus, so I was just--

HILGERS: Well, let me-- I'm sorry, Senator Groene.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

GROENE: But you didn't look into that using all three numbers, the flood control, the, the recreation, plus the municipal water usage of that lake to use it for more than just one purpose?

HILGERS: Well, we certainly looked at a lot of different sites, but you're somewhat. We, we, we have some restrictions. We could-- we-- under the LB406, we couldn't dam the Platte, as an example. And there's a lot of other reasons why other areas wouldn't work, and the area that we're thinking of might not work for other reasons. I do think there's enough flexibility in LB1023 because LB1023 just says don't dam the Platte, like what we've said, and a couple other restrictions. And so it doesn't-- it-- it-- those-- we did have some preliminary analysis, Senator Groene, but the, the point of the initial tranche of appropriation-- appropriated money, that is, as part of that, you could certainly, if, if the area we're looking at, there's-- doesn't work, it's possible another area could be selected.

GROENE: That has more-- more purpose than just recreation, flood plus water--

HILGERS: Certainly. I mean, that would be the ideal, if you could do all those three things. I do think that the location-- and we did look-- I will say we looked at some areas on the other side of the Platte even further away from Omaha. I mean, it wasn't as if we just-- we just circled between Lincoln and Omaha and said, this is where we've gotta go.

GROENE: No, I know.

HILGERS: We looked at other areas. This has some other unique, I think, economic benefits far beyond recreation, given its location, but-- and let me say, if I might, Senator Groene, it didn't-- wasn't directly related to your question. I appreciate Mr. Bundy and Mr. Young. The final location hasn't been set. We've had-- started having some dialog with, with some of the landowners, and it's-- this is about finding some winning solutions for the right location. And so we're going to have a lot of conversations with them. It may never even get to land acquisition; for some other reason, it-- it's not going to work.

GROENE: You did great with a great idea. We gotta look for water. Doesn't belong in the Gulf of Mexico. I think we're-- I think I'm right on that [INAUDIBLE] long ways up there. Thank you.

BOSTELMAN: Senator Gragert.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

GRAGERT: One last quick question, the area that you're looking at, and I know you haven't pinpointed any area, but was this flooded in 2019? Was a lot of the area around where they drew this lake anywhere, was that flooded in w2019?

HILGERS: That's a good question, Senator Gragert. A lot of the areas we looked at within our, our-- what we're-- what we're sort of targeting were all underwater in 2019, and in the-- LB1023, in the green copy and in the white-copy amendment, it'll stay there. We've directed Department of Natural Resources to look for areas that are-- have been-- are in the floodway or in the floodplain. So whether they were actually in the 2019 flood or not, we're targeting areas that are in those-- in part because those are areas that are going to be-- they're more-- they're encumbered, and if you're in the floodway, you really can't build. And so now you can have farm ground, of course, but you can't-- you can't build. And that, that was another-- that was another way for us to try to signal, hey, we're letting-- no, we're not trying to impact anyone's economic development that they've got already or, or community or something like Mr. Young was talking about.

GRAGERT: Thank you.

BOSTELMAN: Seeing no other questions, that'll close our hearing on LB1023. I would ask those who are here for LB1023, please, exit the room. We do have another bill coming up right away, so.

HILGERS: Thank you, Mr. Chairman.

BOSTELMAN: Thank you. OK. OK, we're ready to open our hearing on LB1185. Senator Morfeld, you're welcome to open.

MORFELD: Thank you, Chairman Bostelman. Members of the Natural Resources Committee, for the record, my name is Adam Morfeld; that's A-d-a-m M-o-r-f, as in "frank, -e-l-d, representing the "Fighting" 46th Legislative District, here today to introduce LB1185, a bill to improve accountability and transparency in Nebraska's electric-- electric industry. LB1185 closes gaps in current law that allows for essentially any organization to be incorporated under the Electric Cooperative Act, regardless of its primary purpose. It clarifies that an electric cooperative or-- organized under this act must be engaged in the selling of electricity at retail to end users, which almost every electric cooperative in the state does, and it removes language that is vague and un-- and ambiguous from the statute. This is important because entities incorporated under the Electrical

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

Cooperative Act are granted with powers, like eminent domain authority, that demand the state ensure that they serve a public good and do not abuse their powers. Nebraska is a 100-percent public power state, as many of you know. Most Nebraskans receive electricity from public power districts or municipal electric systems, both of which are political subdivisions of the state and subject to open meeting laws and public records requirements, among other provisions, to ensure that the interests of Nebraskans are being served. In addition to public power districts and municipal energy systems, Nebraska has several electric cooperatives, which are nonprofit private entities that provide electricity to Nebraskans. Cooperatives organized under the Electric Cooperative Act are provided with significant powers, including the power of eminent domain and the power to collect rates and other charges from Nebraskans in their service territory. However, unlike PPDs and municipal energy systems, these organizations are not subject to open meetings laws or public records requirements, and are exempt from other requirements that public power districts and municipalities are subject to. Considering the powers-- excuse me-- considering the powers that the state gives to these entities, the limited oversight that we have over them, and the limited transparency that they are required to adhere to, we need to make sure that it is clear that what their primary purpose is and how they provide a public good. As an electric cooperative with the power of eminent domain, the state should ensure that their primary purpose is to provide electricity to Nebraskans through the generation or transmission of electricity, or distributing electricity directly to consumers. Right now, an organization called Nebraska Generation and Transmission Cooperative is incorporated under this act and has all the power that this act provides. But the cooperative doesn't actually generate, transmit or sell electricity to end users. It's hard to see why an organization that does not deliver electricity to Nebraskans should be incorporated under the Electric Cooperative Act and granted the powers that it provides. This is a gap in law that has, quite frankly, allowed for abuse. This organization has funneled money that it receives from its members into political campaigns. The money that its members paid to this organization is money that everyday Nebraskans have paid for electricity, i.e., public dollars. This indicates a couple of things. One, clearly, Nebraskans are overpaying for their electricity because there's excess money floating around that are spent on elections and candidates they don't like. And two, the lack of oversight, combined with the powers of this organization that have been granted under the Electrical Cooperative Act, has resulted in abuse and highlighted that there is a gap in the law that must be fixed. Imagine for a moment that we have a county association that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

only counties, as their members, takes dues or monies from those counties and then uses that money from taxpayers to fund campaigns against senators who disagree with that association's view. That's exactly what's happening with this group. Consumers don't have a choice in where they get their electricity from. They don't have a choice in whether or not they pay for their electricity bills, and their bill payments are being used to contribute to elected officials that they may or may not support. I think that we can all agree that this is wrong and the state should not be about aiding and abetting in this activity, as we are now by granting them a wide range of powers under the act, including the ability to operate outside the public eye. It is clear that this organization uses the powers that they've been granted of the state to operate in the shadows and abuse its powers. We know that they do not generate, transmit, distribute or sell electricity to end users, so we must wonder what their primary purpose is, and question why they should be organized under the Electric Cooperative Act when they don't do anything that electric cooperatives are supposed to do. I urge your favorable consideration of LB1185, and I'd be happy to answer any questions that you may have.

BOSTELMAN: Thank you, Senator Morfeld. Are there questions from committee members? Seeing none, you'll stay for close?

MORFELD: Yep.

BOSTELMAN: OK, thank you.

MORFELD: Thank you.

BOSTELMAN: Proponents. I would ask anyone who would like to testify as a proponent for LB1185, please step forward.

JOHN HANSEN: Mr. Chairman, members of the committee, again, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of the Nebraska Farmers Union. And as most of the folks in this committee know, Nebraska Farmers Union played a very aggressive and instrumental, instrumental part in helping form the public power system. We helped argue it, we helped do all of the necessary things to bring the, the, the, the unmet need that was in rural Nebraska to the attention of folks to work together cooperatively, so our history with co-ops. Public power is, is, if you think about it, a kind of unique, publicly owned cooperative, so the principles that we supported in all of our co-op building, all of those things. So in my tour of duty of 32 years, it was always my understanding that the G&T's role was to, after its initial responsibilities, to help bring

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

power to unserved rural areas and do what they could to help do that, which was a, a legitimate use, was to really kind of level the playing field between the different REAs and other cooperatives, et cetera, that were, that were negotiating with Nebraska Public Power District over power supply contracts. And so at that time, they were all sort of coming due at different times. So the, the the rationale for the G&T was-- it was-- rather than each REA acquire the technical expertise that they needed to, to get to the point where they felt like they were on an even par with NPPD for contractual negotiations, you would have one entity that would gear up, provide that expertise, and then help the REAs negotiate their contracts with NPPD. Well, as my understanding of this history goes, that-- well, then they started saying, well, you know, if we would put more contracts together, then we would have more leverage. And so we could negotiate and [INAUDIBLE] our contracts together at one time. So as the contracts have been gathered and bundled and negotiated, then, when you've got a very substantial number of them that are negotiated, and you just don't have one every year or several every year coming up, you have folks who have expertise who, you know, don't really have all that much else to do. And so what it looks like to us is that the G&T is, in my, you know, 32 years, it's doing things that it never did historically, in terms of the amount of public advocacy that it does, the amount of recruitment of candidates that it does, the, the-- a lot of the things that the G&T does, in my opinion, are already done by the Nebraska Rural Electric Association. And that's the, the role and the value of that association; and we support that role. So the G&T seems like they're just-- kind of got a new, a new set of things that they want to be doing. And a lot of the things that has caused a lot of conflict, as, as things have developed, especially in the last five years, are, you know, their involvement in, in, in campaigns, not just recruiting campaigns but forming PACs. The G&T, in my understanding, unless I'm completely wrong-- which I always, I just want to say, for the record, I always assume it's entirely possible that I could be entirely wrong. But my idea is that the only money they get is from ratepayers in one form or another. And if you're taking that money and you're loaning it to your PAC, then you're not paying it, you know, getting it paid back. That's ratepayers' money indirectly being involved in, in, in a campaign. So if the G&T does things that are not favorable, that are not viewed positively by the owners of public power, that's where we get engaged. And that's why we're in support of this bill, is that it reflects badly on public power. And our-- I'll tell you that we are-- I don't know of any other organization that has more consistently supported public power and all that it does. And if

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

it, under-- if anything that goes on undermines public power, then we're against it. So I'm glad to answer any questions if I could.

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

J. CAVANAUGH: Thank you, Mr. Hansen, for being here and for testifying on this. So you talked about a specific scenario where there seems to be a divergence from what you think is appropriate conduct. This bill proposes striking, basically, some authorities from these nonprofit corporations that are the, that are formed under the statute. Do you think that the cooperatives that you're familiar with could operate as they, as we need them to, as expected under the, the charge of-- what is it, 70-703 without this, with these sections struck?

JOHN HANSEN: So far as I know, yes.

J. CAVANAUGH: You know, so that-- you're in favor of this, obviously, so you think this is a-- so you don't think this would undermine the intent of Rural Electrification then?

JOHN HANSEN: No. And if it did, we'd be against that.

J. CAVANAUGH: Thank you.

JOHN HANSEN: Absolutely against it. And you know, if things were-- if the G&T was doing what the G&T was doing 20 years ago, 30 years ago when I started, we wouldn't be here.

J. CAVANAUGH: But to be clear, this bill applies to more than just this scenario, the one entity you're talking about. There are-- I don't actually know the answer to this, but there are more-- there's more than one cooperative nonprofit in the state of Nebraska.

JOHN HANSEN: Yes. And so what I am, to be honest, not really all that schooled on or clear is what those other, those other potential implications might be.

J. CAVANAUGH: OK. I think there'll be other folks I can ask on that. Thank you.

BOSTELMAN: So my question, I guess, is, you seem to be part of power generation, state of Nebraska, because you continue to come before this committee and say: I was a part of, I'm a part of, I did this, I did this. So are you a public utility? Are you a private utility? Are-- what is your-- I, I guess I don't understand, when you continue

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

to come before this committee and you tell us that I'm a part of this, and I was a part of this, and I set this up, and I made this. Well, I, I'm, I'm trying to understand, are you Farmers Union or are you something different?

JOHN HANSEN: I am, I am the president of Farmers Union, who helped build cooperatives across the state and helped create the Unicameral system that politically supported the creation of the public power system. So our organization has been very much involved in all of the different public steps-- the creation, the, the, the authorizing legislation, the creation of the public support. So not all farm organizations were, Senator and Mr. Chairman, and so we were. So it was a battle. It was a, it was a public policy battle over whether or not you created a public power system, because there were a bunch of folks who were against it. They said it was just galloping socialism, that it was, and I know we-- you know, let the private sector develop it. And if the private sector doesn't development [SIC], well, you know, that's tough luck. And we said, Well, here's, here's a model that we think that would turn the lights on in rural Nebraska. So we have a lot of organizational political ownership over the effort to create the public policy support to create the public power system.

BOSTELMAN: So do you represent your membership? Is that what you're telling me?

JOHN HANSEN: Yes.

BOSTELMAN: So do you represent your membership through this entire time of creating public power?

JOHN HANSEN: I'm, I'm the elected president of a farm organization who has policy that is developed by its members, that I follow.

BOSTELMAN: Right. And you're following your membership, correct?

JOHN HANSEN: My, my--

BOSTELMAN: [INAUDIBLE].

JOHN HANSEN: --members are, are very strong supporters of our public power system.

BOSTELMAN: I, I, I understand. I, I, I hear you, but you represent your membership as Farmers Union, that you--

JOHN HANSEN: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: Farmers Union, and that-- OK. That's what I'm just trying to understand.

JOHN HANSEN: Yeah, we're a general farm organization. We're a membership-driven affinity.

BOSTELMAN: You're, you're a credit union.

JOHN HANSEN: No.

BOSTELMAN: Farmers Union.

JOHN HANSEN: Farmers Union is a general farm organization.

BOSTELMAN: OK.

JOHN HANSEN: There are four basic general farm organizations in the state. There's Farm Bureau, Farmers Union, Grange, and Women Involved in Farm Economics. And so we're the second oldest, and we're the second largest. Grange is the oldest. Farm Bureau--

BOSTELMAN: Appreciate it. I'm just under--

JOHN HANSEN: Yep. Farm Bureau is the largest.

BOSTELMAN: --understand it. Appreciate it.

JOHN HANSEN: No, no. You're fine.

BOSTELMAN: Senator Moser.

JOHN HANSEN: We, we see people who see the Farmers Union sign and still think of the co-op, right? And so there's all this confusion. We organized, helped organize the co-op, but our name is associated with it yet, and yet we don't have any official legal relationship.

MOSER: But when you say, I was involved in setting up public power and all this, you'd have been in grade school or not even alive yet.

JOHN HANSEN: No, I was not. My organization was.

MOSER: There you go, there you go.

JOHN HANSEN: My organization's history is--

MOSER: Goes back--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

JOHN HANSEN: Yeah.

MOSER: --before your time.

JOHN HANSEN: I'm--

MOSER: So you're--

JOHN HANSEN: I'm extremely old, but not that old.

MOSER: I, I was trying to give you a compliment.

JOHN HANSEN: And I, I like to think of it as a young person that a lot has happened to.

BOSTELMAN: Senator Groene. Yep.

GROENE: Thank you. You said 20 or 30 years ago, this wouldn't have happened, but 20 or 30 years ago, there wouldn't have been an international wealthiest conservation organization. The Nature's Conservatory has been in, coming in and spending hundreds of thousands and millions of dollars to affect our public power, with no mission of anything else but green energy. I think this is a reaction to that. If you were to survey your membership and said, there's an organization from outside the state coming in and spending all of this money on candidates, what do you think your organization's membership would say about that, about trying to influence their local public power?

MORFELD: Well, I, I imagine there'd be a lot of them that would not be supportive of that.

GROENE: Thank you.

BOSTELMAN: Seeing no other questions, thank you, Mr. Hansen, for being here today.

JOHN HANSEN: Thank you, and I, I hope that maybe I've cleared up the water a little, Mr. Chairman.

BOSTELMAN: Appreciate it.

MOSER: Don't mention water.

JOHN HANSEN: I know. It's, it's for fighting.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: Next proponent, please, on LB1185. Any other proponents on LB1185? Seeing none, anyone who'd like to speak in opposition to LB1185? Good evening.

JAMES DUKESHERER: Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is James Dukesherer, J-a-m-e-s D-u-k-e-s-h-e-r-e-r. I'm the director of government relations for the Nebraska Rural Electric Association. The NREA is testifying today in opposition to LB1185. Our oh, our association represents 34 rural public power districts and electric cooperatives throughout the state. The more than 1,000 dedicated employees of our system serve 240,000 meters across nearly 90,000 miles of line, and we were created with the signing of the Rural Electrification Act in the 1930s. I do want to begin by saying thank you to Senator Morfeld for offering to work with our association on language that would reach his goals and protect the interests of our association, of our association membership. At the end of the day, however, my association was not able to produce any language that would alleviate our concerns with the bill. LB1185 says that, if you're an electric cooperative that is organized under electric could, under the Electric Cooperative Corporation Act, and you do not serve the customers exclusively at retail, you no longer have the authority and privileges authorized under the Act. So what does the act say? Among some things Senator Morfeld already said, the act allows us to, to sue, to be sued, to adopt a corporate seal, to generate, manufacture, purchase, acquire, accumulate electricity, energy and transmit, distribute, sell, furnish, dispose of electric energy, to borrow money and contract indebtedness, to have the powers for the physical operation of plants, systems, transmission lines, to make any and all contracts necessary, to fix, regulate, collect rates, fees, rents or other charges for electricity. My point is, is that there's a lot of powers granted under this act that a cooperative needs to function. Not all of Nebraska's electric needs are served exclusively by public power districts, and LB1185 would impact our state's rural electric cooperatives. Three rural electric cooperatives are headquartered in Nebraska. They serve rural customers outside of Grant, Alliance, and O'Neill. Addition, additionally, six electric cooperatives are headquartered outside our state. Their service territories cross state lines and serve Nebraska's rural residents. These electric cooperatives do serve customers at retail, but LB1185 could limit these entities to distributing electricity at retail only. Senator Morfeld said that almost all electric cooperatives provide electricity at retail. He was right-- almost all. However, beyond the electric cooperatives that are engaged in the sale of electricity at retail,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

there are also important wholesale providers that are organized in the state's electric cooperatives, Tri-State Generation and Transmission Association and Basin Electric Power Cooperative, for example. These are important wholesale suppliers of electricity that operate in western Nebraska. These cooperatives do not serve-- these cooperatives do not, do not serve customers at retail, but they provide a vital wholesale service to Nebraska's electric ratepayers. LB1185 could call into question their ability to exist and to function in our state. The Nebraska Rural Electric Association membership and our wholesale partners prioritize serving Nebraskans with low-cost and reliable electricity. All of our public power entities need the power and freedom to operate as effective businesses in our state. It is for this reason that we ask the committee to oppose LB1185. Thank you.

BOSTELMAN: Thank you, Mr. Dukes, Dukesherer. Are there any questions from the committee members? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Mr. Chairman. Thank you, Mr. Dukesherer. Could you give me those numbers again a little bit slower? How many rural electric cooperatives are there in the state?

JAMES DUKESHERER: So we have three headquartered in the state: Niobrara Electric, headquartered at O'Neill; Panhandle Rural Electric Membership Association, headquartered out at Alliance; and Midwest Electric, headquartered out at Grant. And then there's an additional six that cross state boundaries that come out of-- some of South Dakota, some out of Wyoming, some out of Colorado.

J. CAVANAUGH: And those six are incorporated in Nebraska under the statute?

JAMES DUKESHERER: I don't believe so. They're incorporated in their own states and they serve in Nebraska.

J. CAVANAUGH: So the--

JAMES DUKESHERER: Which--

J. CAVANAUGH: --the three that you listed-- none of them were the ones that you listed that did wholesale, though, right?

JAMES DUKESHERER: That's correct.

J. CAVANAUGH: OK. And so I-- and I might be wrong about this, but so this change in the statute would not change the powers and authorities

of somebody incorporated in another state then because it would only apply to people incorporated under the statute.

JAMES DUKESHERER: So the two that specifically that I mentioned, Tri-State Electric Generation and Transmission and Basin, also headquartered out of the state of Nebraska, operating in the state, not serving at retail, it, it's fuzzy on their, on their end because they're operating in the state, not necessarily incorporated in the state, but nonetheless, corporate, corporations operating in the state, not serving at retail.

J. CAVANAUGH: So this. I mean, neither here nor there, but I think the statute says specifically incorporated under the statute. So-- that you have a problem with the retail distribution part, I get that part. What about this section that kind of strikes Section 17? I don't know if you'd take a look at it, had a chance to take a look at it. It strikes a big section of this, of, of other things that these corporations can do. Does that cause you a problem? Is that a--

JAMES DUKESHERER: You're talking about page 4?

J. CAVANAUGH: It's actually page 3 on mine, but there's a big addition on page 4, but page three, Section 17-- It strikes: to perform either for itself or its members, any other corporation organized under the Electric Cooperative Act or for members thereof, any and all acts and things to have and exercise any and all powers as may be necessary, convenient or appropriate to effectuate the purpose of this corporation.

JAMES DUKESHERER: Right. So yes, we would have a problem with that, and I'll go back to those cooperatives that do serve at retail, that striking that retail at the beginning basically says they couldn't just do wholesale as well. And then that would-- if they chose to, or if there was a need for that somewhere in the future, then of course, this, this would be an important part of the bill as well. So it could impact those co-ops we had talked about earlier.

J. CAVANAUGH: The, the three that are--

JAMES DUKESHERER: That currently serve retail.

J. CAVANAUGH: --that serve retail. Can you just elaborate on that? What, what is-- I, I guess I'm reading this and it basically is just sort of a catchall that says you can do whatever you need to do to execute the other things we said you could do. Is that-- ?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

JAMES DUKESHERER: That, that's how I read it as well.

J. CAVANAUGH: OK. So are there any examples of things that you wouldn't be able to do if this were the only change in the statute, I guess, without the retail portion, that, that would affect those three folks?

JAMES DUKESHERER: That's something I'd have to think about.

J. CAVANAUGH: So immediately, there's nothing you're doing now that you would have to stop doing if we passed the statute under those, those three cooperatives?

JAMES DUKESHERER: I would still contend that for Tri-State Electric and Basin Electric not serving at retail, it could open up a bunch of questions for them.

J. CAVANAUGH: Right. I'm just trying to, I guess, narrow the scope of the conversation so I can, I can better understand the issue. Those three companies that are only operating at retail currently, if we were to adopt this, this statute as is written, would they have to do anything differently than they're currently doing today?

JAMES DUKESHERER: I don't believe so.

J. CAVANAUGH: OK, thank you.

BOSTELMAN: Is NMPP and MEAN-- one of those is a co-op, act as a co-op? Is NMPP or MEAN? I don't, I don't remember 'cause in southwest Nebraska, a year or two ago, we came in to change the organization of how they vote because there's a-- it's a co-op, and every, every entity has a membership in there. Do you know?

JAMES DUKESHERER: Nebraska, Nebraska Municipal Power Pool, I don't believe operates as a co-op. I think of them as an association, but I don't speak for them.

BOSTELMAN: OK. All right, thank you. Senator Cavanaugh.

J. CAVANAUGH: Sorry, I-- this is-- believe it or not, I've learned a lot about this subject just by reading this bill that I didn't know that I didn't know. So co-ops, they did-- as Senator Morfeld said, not elected, publicly elected like an NPPD. So they have a board that they form, kind of like if you're a nonprofit corporation, and they have a board that's elected. Do you know, do they service a specific physical territory?

JAMES DUKESHERER: Yes.

J. CAVANAUGH: And everybody in that physical territory, that person is serviced by them? Or do they have a choice to be serviced by the co-op or some other entity?

JAMES DUKESHERER: No. Just like the public power, power district, there are service, there are service territories throughout the state that are, that are fixed. If your co-op, your board is publicly elected, just not on the ballot, there's an annual meeting. You attend the annual meeting, you vote for your board members.

J. CAVANAUGH: Right. So there are-- every person who is a ratepayer gets to vote. They just don't vote on a state-run ballot.

JAMES DUKESHERER: Correct. They're member owners and they vote at an annual meeting.

J. CAVANAUGH: But you still-- you cannot opt out of being a co-op member if you live within that service territory.

JAMES DUKESHERER: No.

J. CAVANAUGH: OK, that's what I wanted to understand. Thank you.

BOSTELMAN: Seeing no other questions, thank you for your testimony. Next testifier, please, in opposition. Good evening.

DARIN BLOOMQUIST: Good afternoon-- evening, early evening. Chairman Bostelman and members of the Natural Resources Committee, my name is Darin Bloomquist, D-a-r-i-n, last name Bloomquist, B-l-o-o-m-q-u-i-s-t. I am the general manager of Nebraska Electric Generation and Transmission Cooperative, Inc., headquartered in Columbus, Nebraska. NEG&T is a cooperative that serves the power needs of nearly 150,000 consumers in rural Nebraska. NEG&T was organized under the Electric Cooperative Act and currently administers an all-requirements contract for wholesale power supply and delivery from Nebraska Public Power District that runs through 2035. This results in approximately \$240 million in revenues delivered to NPPD annually. In 2021, NEG&T sold over 4.5 billion kilowatt hours to its member, making NEG&T NPPD's largest wholesale customer in aggregate. LB1185, if adopted, would seemingly prohibit NEG&T from serving its 20 rural members, 19 public power districts and 1 electric cooperative, as it has done for the past 66 years. The bill seeks to alter, alter a statutory mechanism that has stood since 1937. LB1185 seeks to require electric cooperatives to serve only retail customers. NEG&T has no

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

retail service area and serves no customers at the retail level. It only serves its members at the wholesale level. I believe LB1185 would also be an unconstitutional taking of NEG&T's contractual rights. Furthermore, the legislation could be considered special legislation and punitive. It must be asked: What is the purpose of LB1185? What purpose does LB1185 serve, and why change it now after decades? The bill would seemingly prohibit NEG&T from operating and, thereby, in the eyes of the drafter, punish NEG&T. Is it because we insist on bringing what is going on in public power district director races to the attention of the public and legislators? Regardless of these attacks, my organization, a Nebraska not-for-profit corporation with an impressive record of promoting and faci-- facilitating billions and billions of dollars in commercial and agricultural growth and innovation since 1956, will continue to speak out on the behalf of Nebraska's ratepayers' desire for reliable and affordable electricity. LB1185 brings no value to the ratepayers of Nebraska and, in fact, stands to disenfranchise, disenfranchise thousands of electric consumers from the representation and advocacy they need and wholeheartedly deserve. This bill is unconstitutional, ill-advised, and should be killed in this committee. Speaking on behalf of the majority of public power districts in Nebraska and thousands of customers that they serve, this bill only brings harm. It is motivated by the objective to influence the election of public power districts, a purpose that is contrary to the public powers' intent to provide reliable power at the most economically viable rates possible. Thank you for your attention. I would attempt to answer any questions you may have.

BOSTELMAN: Thank you, Mr. Bloomquist. Are there any questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman. Thank you, Mr. Bloomquist, for being here again. So-- well, first off, you made some legal assertions in your statement here. Did you con-- do you have a lawyer's opinion or-- that says these things?

DARIN BLOOMQUIST: I, I have a lawyer that I consulted with. I am not an attorney, sir.

J. CAVANAUGH: OK. I'd be, I'd be curious to see that opinion. So like I said earlier, you heard me say, I learned a lot about the cooperative nonprofit membership corporations in the last, basically, 24 hours reading this bill. And my first reading of 70-703 says: Cooperative, nonprofit, membership corporations may be organized for the purposes of engaging in rural electrification and furnishing of

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

electric energy to persons in rural areas not served with electric energy through existing facilities within such rural areas. So that's 70-703, which is the kind of definition of the whole Cooperative Nonprofit Act [SIC]. I guess my question is: What purpose does engaging in electioneering with your ratepayers' funds serve towards rural electrification and serving those people?

DARIN BLOOMQUIST: I don't believe that we engaged in electioneering with ratepayers' funds, respectfully, Senator Cavanaugh.

J. CAVANAUGH: I, I know you, you and I disagree about your definition of a loan, and those sorts of things, and we don't need to go down that path today.

DARIN BLOOMQUIST: We can talk sometime, though.

J. CAVANAUGH: I would gladly do that, ad nauseam, but I know everybody here doesn't want to do that. So I'm respecting the other members of the committee and not going down that path at this point in time. But you said it-- just, just now said that you're bringing attention to these board races. So again, what purpose does bringing attention to board races do in that-- in the service of what the charge of these corporations is?

DARIN BLOOMQUIST: Well, if I may be extended a little latitude, what I believe is that we are a contractual firm today. We do not own transmission lines or generation. We have owned them before. We don't own them now, but we reserve the right, under this act, to do so. So we're contracted with one entity that we believe is one of the premier power servers in the nation, if not the world. And they have first-class generation, first-class executive team, and, and all their employees. So when we see things that, in our eyes and my, in our opinion, could affect that and reduce the reliability that Nebraskans have come to know since the foundation of public power and the affordability, that concerns us. And so that, that would be why I would say that. Whoever testified before was right, we, we did not have-- I would say election races were very low on our, on NEG&T's radar for many decades, sir. And I wish it would go back to that; I honestly do. But you know, when the membership that we have and-- is concerned about some of the things that are happening. And that's, that is what I would answer to that.

J. CAVANAUGH: And is your membership-- and you listed, I think it was 20 or 19, and I can't remember what that number was there-- but are

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

they all other corporations incorporated under this act or the Public Power Act?

DARIN BLOOMQUIST: Nineteen public power districts and one electric membership cooperative is, is my membership.

J. CAVANAUGH: And the co-- the membership cooperative is a cooperative formed under this act.

DARIN BLOOMQUIST: I, I believe so.

J. CAVANAUGH: OK.

DARIN BLOOMQUIST: They, they are not a wholesale entity. Technically, we are the only wholesale entity organized under this act that exists solely in the state of Nebraska.

J. CAVANAUGH: And so-- and you and your entire stream of the revenue comes from them buying power from you that you've negotiated, that is purchased from NPPD.

DARIN BLOOMQUIST: I'm sorry. Say that again, please.

J. CAVANAUGH: I'm trying to understand your business model, I guess, is the question.

DARIN BLOOMQUIST: So we, what, what we do is, we administer-- we have the master contract for all 20 of our members with Nebraska Public Power District. We pass through 100 percent of those costs that we receive from NPPD for our members, to our members. And there is a small dues structure that is added on to that bill.

J. CAVANAUGH: That they all pay.

DARIN BLOOMQUIST: That's correct--

J. CAVANAUGH: OK.

DARIN BLOOMQUIST: --for memberships, on a pro-rata share. Not all my members are equally sized.

J. CAVANAUGH: So I guess I would go back to my question about, you know, the, the-- how spending the \$7,500 loan-- and I don't want to go back on whether that's a loan or a gift or what, what it is-- but how does that serve the objective that is, that is set forth in the statute for corporations incorporated under the statute?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

DARIN BLOOMQUIST: I, I really don't want to go down that path either, sir, respectfully. I'm here to talk about LB1185--

BOSTELMAN: OK--

DARIN BLOOMQUIST: --and I'd, I'd like to--

BOSTELMAN: Can we be, be specific to the bill?

J. CAVANAUGH: Well, I mean that, that I think that it is specific to the bill. I think that there was talk of the fact that this is the reason-- this particular action is the reason that action has been brought to change the bill that went into effect in-- what was it-- 1936, I think. And the bill says, specifically says that the objectives of these-- these corporations are different than regular nonprofit corporations, right? You have special powers. You have eminent domain, you have the ability to contract under the state, and those other powers that Mr. Duk, Dukesherer talked about. So there's a special situation here, and you could incorporate as a different corporation, right? You could have incorporated as any other form of corporation.

DARIN BLOOMQUIST: I'm not sure what was available in 1956, Senator, honestly. Possibly-- I, I, I don't know that.

J. CAVANAUGH: That's a fair answer. So you're saying this is special legislation to apply to you, but it really-- I mean, I'm reading this bill, and I'm looking at it and thinking this is attempting to get back to the original intent of the bill, which is to have public power cooperatives be for the sole purpose of serving ratepayers and generation of electricity and distribution of electricity. And so that's why I'm asking these questions, I guess, and that's why I'm here. But I, I get that we have a fundamental disagreement about vocabulary, and so we're not going to get anywhere on that conversation. So I, I'm done. Thank you.

BOSTELMAN: OK, thank you. Seeing no other questions, thank you, Mr. Bloomquist, for being here today.

DARIN BLOOMQUIST: Thank you very much.

BOSTELMAN: Anyone else who'd like to testify in opposition to LB1185?

SEAN KELLEY: Good evening, Chairman Bostelman and members of the Natural Resources Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y. I am appearing this evening as a registered lobbyist for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

the Cooperative Council as Rocky Weber is out of state this week. The Nebraska Cooperative Council is a statewide trade association representing agriculture and rural utility cooperatives. The council opposes LB1185. The council has three rural electric cooperatives, cooperatives as members. Over 7,000 rural farmers and ranchers are served by these three rural electric cooperatives, with combined service areas totaling over 12,000 square miles. Electric co-ops were formed by their member-owners to construct, maintain, and provide electric service to the rural member-owners. While cooperatively owned by their members, electric cooperatives are private nonpublic entities. They are not public power districts and, therefore, not political subdivisions of the state of Nebraska. Their revenues are not derived from, nor are they considered public funds. Electric co-ops are managed by board directors made up of member-owners who are elected at annual cooperative member meetings. Board elections are not run as part of the state election system with other state and political subdivision elections. There exists no public policy reason to support the amendments to the Nebraska Electric Cooperative Act found in LB1185. Indeed, the amendments create restrictions on electric cooperatives that may impact their ability to serve the several thousand owners of electrical co-ops that rely upon them for electric service. We cannot know what the future holds for a consistent delivery of electric power to rural Nebraska. It is entirely possible that, in order to maintain service in the rural areas served by these co-ops, that they will need the power or ability to acquire electric power or deliver electric power in ways that go beyond the restrictive language of LB1185, that limits electric co-ops to retail distribution only. Further, to remove the statutory language of Section 70-704(17), that provides for the general power of an electric co-op to undertake any and all acts to exercise any and all powers as may be necessary to effectuate the purpose for which an electric co-op is organized, unreasonably handcuffs the ability for electric co-ops to adjust their business operations as future unknown contingencies arise, in order to continue to provide electric service to their members. For the foregoing reason, the council urges the committee to send-- to not send LB1185 to the floor of the Legislature. And I will take any questions you may have.

BOSTELMAN: Thank you, Mr. Kelley. Are there questions from the committee? Senator Groene.

GROENE: So the co-op board then, are they elected on a ballot, on a statewide ballot or a district ballot?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

SEAN KELLEY: Not in a political subdivision manner. So it's, it's not on a general ballot, as a member of the Legislature.

GROENE: Who votes for the board members of the co-op?

SEAN KELLEY: The ratepayers, the members.

GROENE: The members.

SEAN KELLEY: Yeah.

GROENE: So what we have here is a co-op, not a [INAUDIBLE].

SEAN KELLEY: Correct. Yeah, I am here on behalf of the Nebraska Cooperative Council. Three of our members are electric co-ops.

GROENE: And they, they fit on the same rules as a farm co-op then?

SEAN KELLEY: Well, they're incorporated under the, the sections have found here in this bill, but--

GROENE: But they're a nonprofit.

SEAN KELLEY: Correct.

GROENE: So the, the rural co-ops form the Co-op Council, and they give money to campaigns. What's the difference here between you guys and them? I don't see it.

SEAN KELLEY: Well--

GROENE: You can't do it-- well, I, I think this is about political campaign donations.

SEAN KELLEY: Right, but this restricts the uses of our, three of our members, and that's why we're here in opposition.

GROENE: Thank you.

BOSTELMAN: I think what-- I'll follow up with Senator Groene's question-- is, there's other co-ops that exist--

SEAN KELLEY: Right.

BOSTELMAN: --with memberships that contribute to political campaigns.

SEAN KELLEY: Correct.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

BOSTELMAN: Correct? So why is this one singled out and the other ones aren't? It would affect them the same. I mean, it wouldn't affect them the same 'cause they're just this one. It's-- I mean, we all receive-- or not all, maybe-- but I mean, there are co-ops that are in the state that provide, you know, do, do, do political, you know, campaign funding or other participations. So, you know, if, if this was all co-ops instead of just a specified electric co-op, how-- well, how would that affect them?

SEAN KELLEY: So in the same way, you'll see NREA here for, for that reason. So a secondary reason the co-ops would oppose this bill is, maybe next year a bill is-- would affect our, the majority of our membership in that way and prohibit political action that, that those co-ops do enjoy. But this, the bill before us this evening really applies to how these electric co-ops are incorporated, and that's why they're only the ones impacted.

BOSTELMAN: I understand, but my-- I guess my question goes down to the, comes back to us like-- other co-ops [INAUDIBLE] did not target specific, the specific electric co-ops. If it was just co-ops in general, it would affect them all.

SEAN KELLEY: Correct.

BOSTELMAN: And so-- and all of them get give, so I, I'm just making sure I understand-- if I'm understanding, I guess, correctly that, in the sense that co-ops give, can give-- some do, some don't-- to political campaigns, this one targets one specific co-op out of all the others.

SEAN KELLEY: That's correct. Yeah, it's very narrow.

BOSTELMAN: Thank you. Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman Bostelman. So these co-ops you're talking about-- thank you for being here, Mr. Kelley.

SEAN KELLEY: Yep.

J. CAVANAUGH: So you represent three electric co-ops, and the rest are what kind of co-op?

SEAN KELLEY: Agricultural co-ops.

J. CAVANAUGH: OK, so agricultural co-ops. Are the memberships compulsory? Do people have to join an agricultural co-op?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

SEAN KELLEY: No. Yeah, that's voluntary.

J. CAVANAUGH: OK. And the distinction between an agricultural co-op and an electric co-op-- well, are your three electric co-ops the same as Mr. Duk, Dukesherer? Sorry for the mispronunciation.

SEAN KELLEY: Yep, located in Grant, Alliance, and O'Neill.

J. CAVANAUGH: OK. The people who are the customers of those co-ops don't get to opt out, correct?

SEAN KELLEY: Based on the testimony prior, that's my understanding, but I can't-- I am not-- I don't have an answer for that.

J. CAVANAUGH: So the distinction between an agricultural co-op and an electric co-op would be voluntariness.

SEAN KELLEY: That's correct. That's my understanding.

J. CAVANAUGH: And the distinction between spending your, the ratepayers' money is that they don't get to choose not to pay that or not-- versus an agricultural co-op. If someone doesn't like the policy decisions of the agricultural co-op, they could not be a member of that co-op. Does that sound correct?

SEAN KELLEY: That's fair.

J. CAVANAUGH: OK. That was not the question I was intending to ask, but I wanted to get to it. I have to ask you the question I was going to ask everybody.

SEAN KELLEY: Yep.

J. CAVANAUGH: Is there anything this bill would do that your co-ops would change, that they couldn't do right now? I know you answered prospectively.

SEAN KELLEY: Yeah, right. No, no, although manufacturer seems like something that could be very plausible, but no to your question-- at this moment, no.

J. CAVANAUGH: Thank you.

BOSTELMAN: Senator Moser.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

MOSER: Couldn't ratepayers elect to get their electricity from someone else, I mean, an adjacent power provider? Could they go to the Power Review Board and ask to be partitioned into a different area?

SEAN KELLEY: That's a good question, Senator. I don't know the answer to that. My understanding, from prior testimony, was no, but I, I defer to some colleagues behind me for that answer.

MOSER: OK, thank you.

SEAN KELLEY: Thank you.

BOSTELMAN: Seeing no further questions, thank you, Mr. Kelley.

SEAN KELLEY: Thank you.

BOSTELMAN: Anyone else who would like to speak in opposition to LB1185? Seeing none, anyone who'd like to speak in the neutral capacity? Seeing none, Senator Morfeld, you are welcome to close.

MORFELD: Thank you, members of the committee, and appreciate everybody testifying, and learned a little bit myself, as well. I just want to make a few different notes. The general manager of the organization in question, that we were talking about here, noted that, and admitted that this would only apply to his co-op at this point in time. Now the statute has a general applicability, so I don't think that there's any special legislation concerns, and it's up to the Legislature to determine how our nonprofits are organized and what the qualifications are for them or not. The other thing that I'll say is that the other electric co-ops-- and I just took some notes here-- the other electric co-ops sell at retail to end users. So striking 7, Section 17 wouldn't really affect them from being able to do their work. I think Tri-State and then Western Basin-- Basin-- was brought up. They'd still be able to operate in Nebraska because they own generation and/or transmission, as I understand. If that's not the case, then we can amend the legislation accordingly. And the bottom line is, is that contract negotiations happen about every 20 years, but we have an organization that exists 365 days a year with full time staff, and doing something with their time. But it doesn't really add up, given everything that goes on and how contract negotiations work with this. So they're politically engaged in a lot of lobbying and political activity, which nonprofits, regular nonprofits are able to do that. But this is a special type of nonprofit, given special powers. And I think that there should be some restrictions in place, particularly if they're not providing the same services that were intended for these

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 10, 2022

types of nonprofits to provide, and particularly if they're fully funded by what I consider taxpayer dollars, and then using that to engage in campaigns one way or the other. We can get into a long debate on what the definition of that is or is not. So with that, I know we're getting close to 6:00. I'll end my testimony.

BOSTELMAN: Thank you, Senator Morfeld. Are there other questions? A question I have: Isn't, isn't the targeted co-op similar to unions that do not engage in certain companies but represent those who do?

MORFELD: I don't know. I'd have to think about that, Senator-- get back to you.

BOSTELMAN: Appreciate it. Seeing no other questions, that will close our hearing on LB1185. Thank you, everyone, for staying around today. Thank you, Senator Morfeld.

MORFELD: Thank you.