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Natural Resources Committee
January 25, 2012

[LB739 LB849]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, January 25, 2012, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB739 and LB849. Senators present: Ken Schilz, Vice Chairperson; Tom Carlson; Mark Christensen; Annette Dubas; Ken Haar; Beau McCoy; and Jim Smith. Senators absent: Chris Langemeier, Chairperson.

SENATOR SCHILZ: Welcome to the Natural Resources Committee hearing. We have two bills today, LB739, introduced by Senator Christensen, and LB849 introduced by Senator Sullivan. First of all, before we get going, I'd like to introduce the committee members that are here. To my far left, Senator Jim Smith from Papillion. Next to him is Senator Ken Haar from Malcolm. At the introducer's table, Senator Mark Christensen, from Imperial. Myself, I'm Ken Schilz, I'm the Vice Chair of the committee from Ogallala. That is Laurie Lage to my right, legal counsel for the committee. And then to my far right is Barb Koehlmoos, the committee clerk. Senator Beau McCoy from Omaha. Senator Tom Carlson next to him from Holdrege. And Senator Annette Dubas from Fullerton. Once again, like I said, we've got...if you're coming in today to give testimony, we've got the green sheet here that we'd like you to fill out, sign, and hand it to Barb before you speak. If you don't want to testify, but you want to let people know you were here, there's a sheet, kind of looks like this in the back, you can mark down who you are and whether you are a proponent or opponent of the bill that's up. And one other thing, when you come to the table, please say and spell your name for the record. And today we probably won't use the lights. But as I told Senator Christensen, if he goes too long, we'll just shut him off. So I'll keep an internal light and see what happens. But (laugh) don't get started yet. But please, I would suggest everyone to shut off your cell phones or turn them to silent while we're having the hearing. And with that, Senator Christensen, you are welcomed to open on LB739.

SENATOR CHRISTENSEN: (Exhibits 1 and 2) Thank you, Mr. Chairman. Members of the Natural Resources Committee, I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n, I represent the 44th Legislative District. I'm here today to introduce LB739. LB739 would convey the property of Champion Mill State Historical Park and Champion Lake State Recreational Area, which are located in my district, from the Nebraska Game and Parks Commission to Chase County. Chase County would be required in this bill to operate and maintain the properties for the public usage according to the requirements in Section 37-354. Chase County commissioners contacted me this fall that this transfer was being considered. After coming to an agreement with Game and Parks, they have decided to move forward with the transfer and requested my help with the necessary legislation. In addition, now after I had introduced the bill, it was brought to my attention that there was a couple of technical word changes as recommended by the surveyor with Game and Parks. Here is a technical amendment, AM1669, that would make these recommended changes to LB739. AM1669 changes the word "commencing" to the

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word "beginning" in three places throughout this bill. Also, I have a letter of support from Chase County commissioners I have for the record. Unfortunately, no one was able to make the trip to Lincoln today. Since this committee has dealt with similar legislation before to transfer parks to county control, I'll end my testimony here and let Game and Parks answer any specific questions or any questions you would have for me. Thank you. [LB739]

SENATOR SCHILZ: Any questions for Senator Christensen? I guess I have one real quick. Do you know, does the county, because I've been down there to...and it's a pretty neat little area, does the county have a plan to maintain and keep that up? What's their plan for it? [LB739]

SENATOR CHRISTENSEN: Well, I guess I haven't asked them recently, but the community of Champion has always rallied around, doesn't matter if there's a storm, they've even got permission before and dredged the lake. I mean, they've done a lot of work on this. They actually go out and probably do more cleanup around there every year than the staff at Game and Parks can do right now because of limited staff. So they have a vested interest and have done a nice job. [LB739]

SENATOR SCHILZ: And it is right there, almost in the middle of town. [LB739]

SENATOR CHRISTENSEN: Yes. [LB739]

SENATOR SCHILZ: Okay. Thank you, Senator Christensen. Any other questions for Senator Christensen? Thank you very much. At this point we'll take proponents for LB739. [LB739]

ROGER KUHN: Senator Schilz, committee, my name is Roger Kuhn, it's R-o-g-e-r K-u-h-n, and I'm administrator with the Nebraska Game and Parks Commission. And Senator Christensen summed it up pretty well, but Champion Mill State Historical Park and State Recreation Area is approximately 11 acres in size. Most of it is a small lake or pond. It's a historic park; it's registered on the National Register of Historic Places. It was a mill that was established in the late 1800s. And in 1969 it became a state recreation area to tell the story of the mill along with provide recreation at the pond, which has a long history with locals especially, recreating there as far as swimming, and boating, and fishing and these type of things. Generally speaking, the operating expenses are higher than what the revenue is that it generates. Part of the reason for that is we manage the area from a distance. We have a staff at Enders Reservoir that come over and take care of Champion, so there's a lot of travel and this type of thing, expenses of that nature because of the location of Champion. Once upon a time Champion Mill had a full-time park superintendent there, back in the 1980s, but over time due to budget cuts and so forth, that position was eliminated. As Senator Christensen pointed out, the local people in the community of Champion and the county

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have always been very passionate about Champion Mill. And I have been out there numerous times and visited with the local community people and they do a tremendous job and have for years on a volunteer basis. I can think of an example that one time there was a flood, and we've had some flood events out there, where the pond was filled up with silt. And due to budgets and so forth, we weren't going to get at it for awhile. The locals put together a team of volunteers and brought about every piece of equipment you could imagine from, I think, 1940 tractors to 1990 tractors and trucks and they themselves cleaned out the silt and took care of it just so they could have that area back open to them. And so I think this bill is a good bill. We recently redid the lake, rebuilt the impoundment, if you will. There was a major flood that did a lot of damage to the historic dam. Working with DNR and so forth and using FEMA funds that were available due to the flood damage, we were able to put in a retaining structure that kept the pond going. The pond is now full of water and usable again. So it's good to go. And I think this is a good bill. I think Champion Mill is a place that probably should be under local control. And I think they'll do a fabulous job if history continues the way they've done it in the past. So with that I'll try to answer any questions. [LB739]

SENATOR SCHILZ: Thank you. Senator Haar. [LB739]

SENATOR HAAR: Roger, thanks for being here. Just a general question. Is there any kind of follow-up, I mean sometimes communities get smaller and maybe go away, little towns and so on. When we transfer these parks over, is there ever any kind of somebody looking back to make sure that there is ongoing maintenance? [LB739]

ROGER KUHN: Well, and in the bill you'll notice language talks about the area being maintained at an acceptable level, meeting certain criteria as far as if there are facilities on there, rest rooms and so forth, meeting health standards and that type of thing. And in the bill it also refers to the fact that Game and Parks Commission will be responsible for making sure and ensuring,... [LB739]

SENATOR HAAR: Okay. [LB739]

ROGER KUHN: ...the way the bill is written, that that is adhered to. It's a tough situation because we, ourselves, have areas that need work and need attention. So depending on budgets and so forth, can dictate how those things go. But we would hope, like I said, if history repeats itself, the county has always been very passionate about keeping the area up. So I would think they would. But we certainly do keep an eye on it. In this particular area there is no federal funding strings attached to the property. Past properties that were transferred, there were some federal funding that were invested in those properties and there are certain requirements that we have to adhere to as a state so we don't jeopardize future federal funding. In this case, that's not true with Champion, but even with that, we still...in the language it talks about us watching over that, so we will do that. [LB739]

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SENATOR HAAR: Okay. Well, thank you. All of these that we've been doing seem to be good fits. And appreciate what you do with...as we know, limiting staff, and I have the advantage of living only a half mile from Branched Oak. So we use the trails all the time. Thanks so much. [LB739]

ROGER KUHN: Appreciate it. Thank you. [LB739]

SENATOR SCHILZ: Senator Carlson. [LB739]

SENATOR CARLSON: Thank you, Senator Schilz. And Roger, I'm for the bill, I'm not looking for reasons to be against it. But it would seem to me like a community like that, there's no economic real value for them in doing this. It's got to be sentimental, so there's got to be just enough pride with people that remember it and want to keep it nice and that's about the incentive, isn't it? [LB739]

ROGER KUHN: I would say that's probably true, yes. [LB739]

SENATOR CARLSON: Is there economic value? [LB739]

ROGER KUHN: None that we've been able to create. [LB739]

SENATOR CARLSON: Yeah. Because you can't look at it as having economic value, that's why you needed to have something else done there. [LB739]

ROGER KUHN: Right. [LB739]

SENATOR CARLSON: And the hope is then there's enough pride in the community that some of whom use that themselves would want to keep it nice. [LB739]

ROGER KUHN: Yeah, and I think it's important to note that what we do as an agency, you know, we're a public service agency, and so state parks...there a number of state parks that don't generate a profit. You know, they're not necessarily designed to generate profit. There are some that do. But overall, it's a public service to the citizens of the state, or in this case, the citizens of Chase County and I think that's probably part of the deal is the history and the fact they want to keep it available for public use, public service. [LB739]

SENATOR CARLSON: Thank you. [LB739]

ROGER KUHN: Thank you. [LB739]

SENATOR SCHILZ: Thank you, Senator Carlson. Any other questions? Seeing none,

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thank you. [LB739]

ROGER KUHN: Thank you. [LB739]

SENATOR SCHILZ: Any other proponents for LB739? Seeing none, any opponents? Neutral testimony? Senator Christensen. [LB739]

SENATOR CHRISTENSEN: I just quickly want to thank Game and Parks because in the process of taking this over, they agreed to do some extra painting and things just to clean it up a little bit for Champion. And I appreciate that and I just wanted to mention that in the record. [LB739]

SENATOR SCHILZ: Great. Thank you, Senator Christensen. That will close the hearing on LB739. At this point I see Senator Sullivan is here. We'll move forward to LB849. Welcome, Senator Sullivan. [LB739]

SENATOR SULLIVAN: Thank you, Senator Schilz, and members of the committee. For the record my name is Kate Sullivan, K-a-t-e S-u-l-l-i-v-a-n, and I represent the 41st Legislative District. I appear before you today to present LB849. The purpose of this legislation is to convey Pibel Lake State Recreation Area in Wheeler County from the Nebraska Game and Parks Commission to Lower Loup Natural Resources District. Game and Parks provided the legal description of the Pibel Lake property. The Pibel Lake State Recreation Area totals a little more than 53 acres. This agreement was reached between Game and Parks and the Lower Loup Natural Resources District. The NRD has agreed to maintain the facilities and keep the park open for public use as per the requirements set forth in Section 37-354. As you can see from the fiscal note, this transfer would actually save Game and Parks approximately \$8,700 annually. The Lower Loup NRD has a representative here today to testify in support of this bill. They will answer your specific questions about their plans for the future of the facility and the area. If you have questions, I'd be happy to answer them if I can. I thank you for your time and your interest and I strongly encourage you to advance LB849 to General File. [LB849]

SENATOR SCHILZ: Thank you, Senator Sullivan. Any questions for Senator Sullivan? Seeing none, thank you. [LB849]

SENATOR SULLIVAN: Thank you. [LB849]

SENATOR SCHILZ: At this point we will move on to proponents of LB849. Good afternoon. [LB849]

RUSSELL CALLAN: Good afternoon. Senator Schilz and members of the committee, my name is Russell Callan, and that's R-u-s-s-e-l-l C-a-l-l-a-n, and I am the assistant

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general manager of the Lower Loup Natural Resources District. I'm here today to express my district's support for the passage of LB489. And I want to express my appreciation to Senator Sullivan for sponsoring the bill. Last September we were contacted first by Dick Brown, is with the Pibel Lake Bible Camp, and then by our good friend, Kirk Nelson, with the Game and Parks Commission, inquiring about the Lower Loup NRD if we would be interested in taking possession of Pibel Lake Recreation Area. He explained that the Game and Parks' current budget restraints, it was no longer feasible for them to keep up the area and that the Game and Parks would like to transfer the property to another local government entity. On September 22, we took the proposal to our board and they unanimously agreed to proceed with the transfer which brings us to this point. The Lower Loup NRD has the authority to develop and manage recreational park facilities, we have the resources, and we have experience managing a similar area, Davis Creek Reservoir, south of North Loup for the last 25 years. I'll be happy to answer any questions of the committee. [LB849]

SENATOR SCHILZ: Thank you, Mr. Callan. Any questions? Senator Carlson. [LB849]

SENATOR CARLSON: Thank you, Senator Schilz. The question would be a little different for you because as an NRD, you've got budget constraints as well, perhaps look at it a little differently than a community like Champion might. Why do you want to do this? [LB849]

RUSSELL CALLAN: Well, recreation is one of our directives as far as natural resource districts, so we're very interested in keeping that Pibel...especially Pibel Lake going within our district just because of what it is. It's a very nice spring-fed structure. It has recreation potential there that...has been there in the past with the Game and Parks and we don't want to lose that. So I would see that that being a...a...one of our bullets for natural resources district's responsibilities. [LB849]

SENATOR CARLSON: So you're prepared to realize, probably, that you're going to have to put some budget dollars into it to pay for the maintenance and you're justifying it on the basis of people near you want to keep that as a nice facility. [LB849]

RUSSELL CALLAN: Right. And just our recreational responsibilities as far as natural resource districts. Davis Creek Reservoir, you know, we put money into that facility. We do not charge folks to camp there. So, you know, that's a budget item we do not...we don't intend on replacing that with fees. So we do that now. I don't know that that's the same case that would be with Pibel, we haven't got that far into the process yet. But I'm guessing that we would like to keep it that way. [LB849]

SENATOR CARLSON: And if I heard correctly, I think it was going to save Game and Parks \$8,700 a year. What do you plan on putting into it? [LB849]

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RUSSELL CALLAN: Initial, we're starting with about \$10,000 in the budget and kind of see where we go. That's about what we spend at Davis Creek, \$12,000 to \$15,000 a year at Davis Creek. [LB849]

SENATOR CARLSON: Okay. [LB849]

RUSSELL CALLAN: And so we've done a little preliminary work on that and also looking at maybe some upgrades also and some of the road structure and that kind of thing at Pibel now. [LB849]

SENATOR CARLSON: Okay. All right, thank you. [LB849]

SENATOR SCHILZ: Thank you, Senator Carlson. Senator Christensen. [LB849]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman. Question. Can you...after your discussion with Senator Carlson, you talked about you didn't charge fees. Are you able to? Could you continue on the practice that Game and Parks had for some type of permit, things that way? [LB849]

RUSSELL CALLAN: Yeah, sure. We definitely could do that. And there's a few districts in the state that do do that also now. We haven't in the past. And mainly because Davis Creek was more of a...oh, what do I want to say, like a...it's not...there's no electricity and that as far as camping pads, so it was more primitive camping, so we didn't charge. And that's the way Pibel is right now, so. But we could do a fee if the board was in so mind to do that. [LB849]

SENATOR CHRISTENSEN: Thank you. [LB849]

SENATOR SCHILZ: Senator Dubas. [LB849]

SENATOR DUBAS: Thank you, Senator Schilz. Thank you, Russ, for being here. And I am familiar with this area that we're talking about. And I know that the locals and even some not-so-local people, you know, come up and use the facility. You mentioned Davis Creek being still a primitive-type camp. I think you said you would consider that same type of maintenance for this area. [LB849]

RUSSELL CALLAN: Yeah, at this moment, that's what we're thinking, yes. [LB849]

SENATOR DUBAS: But even with some small improvements, do you think you could increase the usage of the area? [LB849]

RUSSELL CALLAN: Definitely. I do think so. And some of the work we looked at was being a little more defined on where the camping facilities are. And there's electricity

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right there because of the camp. So it is possible that that could be brought in, where Davis Creek, the electricity is a mile away, so we would actually have to bring it clear to the facility. So that's some of the options we're looking at. [LB849]

SENATOR DUBAS: For anybody looking for a nice place to camp, like I said, I'm familiar with it and it's a very nice serene place. So I'm glad you will be taking this over. [LB849]

RUSSELL CALLAN: Yes, it is. Yes. [LB849]

SENATOR SCHILZ: Thank you, Senator Dubas. Senator Carlson. [LB849]

SENATOR CARLSON: Thank you again, Senator Schilz. I look in here and it's pointing out the location and so forth, a distance of 750 feet to the point of beginning, excepting lots 49, 50, 77, and 78 in the Platte. What's on those lots? [LB849]

RUSSELL CALLAN: Right now there's two separate locations where those lots are. One of them there's nothing, nothing on it. The other one borders right up against the Bible camp and there's an old road access that goes through there. And it's actually...it's within our boundary, but on the edge of it. So it's something that was just fenced around before and it was just never part of the camp area. The other one does sit amongst the camping facilities and we haven't pursued what to do with that actually. Right now it's just part of the camping. [LB849]

SENATOR CARLSON: Okay. So there aren't cabins or anything in those areas? [LB849]

RUSSELL CALLAN: No. Just the Bible camp site is the only thing that's there, so. [LB849]

SENATOR CARLSON: Okay. Thank you. [LB849]

RUSSELL CALLAN: Um-hum. [LB849]

SENATOR SCHILZ: Thank you, Senator Carlson. Any other questions? Seeing none, thank you, sir. [LB849]

RUSSELL CALLAN: Thank you. [LB849]

SENATOR SCHILZ: Any other proponents for LB849? [LB849]

ROGER KUHN: Senator Schilz, committee members, my name is Roger Kuhn, R-o-g-e-r K-u-h-n, administrator with the Nebraska Game and Parks Commission.

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You've heard testimony already on Pibel Lake. Just a little bit of background, it's been a public area since the 1930s. So it's a long history there. And as Senator Dubas pointed out, it's a very attractive area, about 53 acres. We, over the years, have done a lot of work at Pibel Lake and invested a significant amount of money. We did an aquatic habitat project there a number of...well, I say it's probably been about eight or ten years ago to revamp the fishery there and that was a good project so that investment has been made there. Again, like a lot of these impoundments, we did have a flood event there a couple years ago that did a lot of damage to the dam and the structure enough that the county road that goes over the top of the dam was closed for a period of time. We ended up doing some work ourselves along with a contractor repairing the damage so that's been completed. So that's all been fixed and repaired. But it is a nice fishing lake. You mentioned the Bible camp or the lots; there were lots established there years ago and the Bible camp has been in existence a long time. I don't know when it was established, but it's been there as long as I've been around. But again, I think this is a good bill. We have been taking care of this area from Calamus Reservoir. We have a full-time superintendent at Calamus Reservoir. This is one of the areas under his responsibility. It's about a 70-mile round trip from Calamus to Pibel, so we would go there during the season maybe twice a week to do trash, rest rooms, mowing, those types of things. So it wasn't real convenient as far as a management situation goes for us. And as was pointed out, the NRD operates and manages Davis Creek currently. I think this would fit well with their mission. So we're certainly in support of the bill. In the bill you might notice one part that refers to...this is a little different than Champion, including the maintenance of the area is federally funded under item 4. There's a statement there that it will be maintained, etcetera, including the maintenance of the area is federally funded public boating access facilities existing on the property which is especially assigned and required through 2024. And what that means, basically, is some of these areas we manage or own or have, we have received federal grants to do certain projects on. And when you receive those federal grants, there are certain requirements that you have to adhere to for a certain period of time. So that is written in that bill to honor that requirement. We are obligated to that requirement, otherwise we would jeopardize future federal funds from that particular program. So that's written in the legislation for that reason. With that, I'd try to answer any questions that you may have. [LB849]

SENATOR SCHILZ: Thank you. Any questions for Mr. Kuhn? Seeing none, thank you very much. [LB849]

ROGER KUHN: Thank you. [LB849]

SENATOR SCHILZ: Any other proponents for LB849? Any opposition to LB849? Neutral testimony? Senator Sullivan, do you wish to close? Senator Sullivan waives closing. That will end our hearing today on the two bills and that should be it. [LB849]