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Natural Resources Committee  
February 20, 2013

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[LB272 LB493 CONFIRMATION]

The Committee on Natural Resources met at 1:30 p.m. on Wednesday, February 20, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB272, LB493, and a gubernatorial appointment. Senators present: Tom Carlson, Chairperson; Lydia Brasch, Vice Chairperson; Annette Dubas; Ken Haar; Jerry Johnson; Rick Kolowski; and Jim Smith. Senators absent: Ken Schilz.

SENATOR CARLSON: Welcome to the Natural Resources Committee. I'm Tom Carlson, Senator from District 38, Chair of the committee. And committee members present here today, to my far left is Senator Rick Kolowski from Omaha, District 31; next to him Senator Ken Haar from Malcolm, District 21; and next to him Senator Jim Smith from Papillion, District 13. To my immediate left is Laurie Lage our legal counsel for the committee. To my far right is Barb Koehlmoos, the committee clerk. And then next to her Senator Lydia Brasch from Bancroft, the Vice Chair of the committee, District 16. And next to her, Senator Jerry Johnson from Wahoo, District 23; and Senator Annette Dubas should be joining us before too long from District 34. Our pages today are Tobias Grant from Lincoln and David Postier from York. David went off on a duty, did he? Okay. Those are our two pages today. If you're planning on testifying, make sure you picked up a green sheet, either side by the doors; fill those out and have those ready to go before you testify. And if you don't want to testify, but want your name entered into the official record, there is a white form that you can sign back there and that will become a part of the record. As I said, have the sheet filled out before you testify. Come up to the chair and then for all of us in here, sometimes it's nervous energy, but there's no need to touch the microphone. And I don't need to touch it either. In fact, it is so sensitive that if I sit back and whisper, it's going to pick me up anyway. So, just leave the microphone where it is when you testify. If you choose not to testify but want to submit something in writing, you can do that and that will be read into the official record. If you have a handout, make sure there are 12 copies and give it to the pages and they'll distribute it to the committee. When you begin to testify, and I'll give you the welcome sign, give your name and spell it so that we've got accuracy in our records. If you don't do that, I'll stop you and have you spell your name. None of the committee members use any electronics during the hearing and if you've got cell phones or something either turn them off or put them on vibrate or silent. I don't imagine we're going to have any problem with this today, but there will be no vocal or other support or opposition to a testifier that makes a statement and that keeps everything, I think, on the right track. Now, of those of you that are in the audience today, how many of you intend to testify? Okay. I don't think it's going to be necessary to use the lights. The lights give you five minutes. I'll kind of keep track of that and if you go beyond five minutes, I'll probably try to encourage you to sum up what your statement is. And then, of course, the questions we ask, there's no time limit on those, so. Any questions before we begin? We have a confirmation hearing and then we have LB272 and LB493. So we'll open the

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confirmation hearing on Mick Jensen. Please come forward and take your spot. Welcome to the committee. And this is for appointment to the Game and Parks Commission, so give us a little background and tell us why you ought to be reappointed.

MICK JENSEN: (Exhibit 1) Thank you, Mr. Chairman, members of the committee, appreciate being able to be here and visit with you this afternoon. A little bit about myself; I grew up in Blair, Nebraska; graduated from Blair High School. Got a business degree from the University of Nebraska here in Lincoln. Was in the communications business for many years, Great Plains Communications; we served 84 small rural communities around the state. And that's kind of where I...of course I grew up on a farm, so I have a rural background, but that's kind of where I began to really enjoy my rural roots. Became very acquainted with the needs of small communities and the rural people. And that's one of the reasons that I appreciate the appointment to the Game Commission because I think we can work very closely with our rural communities, our rural tourism, and with our youth. But I've been, as you probably know, this will be my second four-year term. It's hard to believe that the first four years went as quickly as they did, but I really have enjoyed that. And I guess I would tell you that I'd appreciate the opportunity to do another four years. [CONFIRMATION]

SENATOR CARLSON: Okay, thank you for your opening, your testimony here. Do we have questions of the committee? Senator Smith. [CONFIRMATION]

SENATOR SMITH: Thank you, Mr. Chair. And, Mr. Jensen, good to see you. [CONFIRMATION]

MICK JENSEN: Senator, thank you. [CONFIRMATION]

SENATOR SMITH: And I guess my most pressing question had to do with the Universal Service Fund, but I'll save that for another day and another committee. [CONFIRMATION]

MICK JENSEN: Very important. [CONFIRMATION]

SENATOR SMITH: Very important. But you've been around for four years now with the Game and Parks and I assume you've had a chance to really understand and study it. What do you see as some of the greater challenges facing the Game and Parks going forward and appreciate your input on that? [CONFIRMATION]

MICK JENSEN: May I start an answer by telling you what I think we've accomplished in the last four years? [CONFIRMATION]

SENATOR SMITH: That would be great. [CONFIRMATION]

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MICK JENSEN: When I grew up and I read about the game commissioners, the game dads, if you will, I didn't really know who they were or what they did other than set bag limits and seasons and this kind of thing. And I found out as soon as I became a member that...of the game dads, I guess that shows how old I am, it's a lot more complicated than I ever imagined. And I should have known that with a budget of \$60 million, that there is a lot of complicated activity there. But in the last four years, I think our group has done a fairly good job of pressing the agency forward. Probably the most noted thing that we did was we replaced a director that had been there 24 years with Jim Douglas who is now our new director and here with me today. That was a considerable undertaking, and I think vital that we got that right. Shortly after that, we reorganized the agency. I don't know if you're aware of that, but I found that a lot of very dedicated people, I got to be part of that committee, and we shot towards a...we aimed towards a 15 percent savings in our budget and reallocation of physical resources or human resources. We achieved 10 percent, we didn't quite get to 15; but we did put more boots out in the field where we felt like we needed to be working with our constituents more readily than we had been in the past. We privatized some food services. And I don't know how many of you have been to Mahoney to try our new restaurant offerings there. But the last time I was there, I was very impressed and I was very pleased with the service provided by those people. And that helped us with some savings also. One of the things we found was that our marketing...the marketing of the agency was a little behind the times. And we've made some extraordinary efforts, in my opinion there. We are ahead of many, many states around us in the use of social media and working with our customers, if you will, our clients. We've placed more emphasis on local tourism and we've started working with local people, local chambers of commerce, other people around the state so that we can help bring more economic vitality and tourism to that part of the state. We translocated 41 bighorn sheep from Alberta, Canada, to the western part of the state, out around Harrison. We've achieved the opportunity to use mobile apps on these electronic devices that you don't want in this room. But we found out that a lot of people like to use that and it makes us look like we're up and coming in the state and the states around us. And we've done quite a little bit with wind and solar energy. You asked about what our challenges are. Well, number one right now is invasive species, would be the zebra striped mussel, and, as well as, what is it, trepolo...can't think of the...there's an invasive plant, I can't think of the name of it right now, that we need to start getting a handle on that or we could...it's in Iowa, it's in South Dakota, it's in North Dakota, Minnesota, the mussels are, and if we don't get a handle on that pretty soon, we're going to have a serious problem. I think we need to continue to work with our youth. One of the reasons that I really like being on the commission is I like to have outdoor activities for kids, in addition to the tourism. And I think our \$5 hunting fee is a real bellwether activity on our part and we've got a lot of kids out. I know families that have come from other states and spent a week or more here deer hunting or whatever else with their kids because of the \$5 fee. We have a backlog of maintenance in our parks which we need to really address that. And the Cowboy Trail is a costly item at times. But we need to...with the advent of the \$7 bushel

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corn, our pheasant populations have suffered dramatically, and that used to be a big revenue producer for the state and tourism. We're working on that. We have been able to, in the southwest corner of the state, come up with some dollars to help subsidize some of the farmers to get them to leave some more habitat. And I haven't had a chance to go out and hunt out there yet, but I've been told that it is somewhat like it used to be. When I was a kid growing up, I lived on Highway 75 north of Omaha and on 4:00 in the morning until about 8:00 in the morning there was nothing but taillights going north out of Omaha up 75, up towards your part of the country, Senator, and that doesn't happen any more, so we're trying to get back to that. On the balance, until this year, we had a very viable deer population, even a problem at times in places. But, of course, with the diseased die off we had year, we have to manage that this year a little better. Turkey are doing very well, they've adapted to human habitation very, very well, and we need to try to harvest, in my mind, some more of those. But those are just a few things that I think we need to do. [CONFIRMATION]

SENATOR SMITH: All right, well, thank you for your willingness to serve, appreciate it. [CONFIRMATION]

SENATOR CARLSON: Okay, thank you. Other questions of the committee? Senator Brasch. [CONFIRMATION]

SENATOR BRASCH: Thank you, Chairman. And good to see you again. [CONFIRMATION]

MICK JENSEN: Thank you, you as well. [CONFIRMATION]

SENATOR BRASCH: And thank you very much for your willingness to serve. [CONFIRMATION]

MICK JENSEN: You're welcome. [CONFIRMATION]

SENATOR BRASCH: As your representative, I do believe that you and others are truly unsung heros. And I want to specifically talk about the flooding along the Missouri River. During that time I was able to ride along with the game warden twice, looking at how things were...not only did we look, but the game warden and I both got out of the car and worked on sand bags post flooding and then a year later Director Douglas and yourself initiated a ride down the Missouri River. So I want to commend you and thank you for those efforts. [CONFIRMATION]

MICK JENSEN: You're welcome. [CONFIRMATION]

SENATOR BRASCH: You mentioned something that I do hope to see more of, is the youth program. The one you had last summer for students to participate in a work

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camp, I don't know if you can elaborate a little on that. I think you're looking for some, possibly, funding from the Legislature again, but it was a successful program.  
[CONFIRMATION]

MICK JENSEN: Senator, that worked very well, in a number of respects, in my opinion. Number one, we got a lot of work done out in the parks. But, number two, I think we provided an opportunity for some of the young people today that can't find opportunities to, number one, develop a work ethic, find out how to do some of these things and perhaps be able to experience our parks. And I think we were very successful in doing that. And we enjoyed the opportunity to let those young people come out and learn and experience. And I think it gave our people a sense of accomplishment when they were able to work in that regard and work with the people. I think it gave them...I think there was a mutual benefit both ways. We hope that we can do that again. [CONFIRMATION]

SENATOR BRASCH: I've heard raving reviews of it. [CONFIRMATION]

MICK JENSEN: Good. [CONFIRMATION]

SENATOR BRASCH: So thank you and send thanks to others also. [CONFIRMATION]

MICK JENSEN: I shall do that. [CONFIRMATION]

SENATOR CARLSON: Okay. Senator Johnson. [CONFIRMATION]

SENATOR JOHNSON: Thank you, Chairman. Thank you for coming in, Mr. Jensen. Your thoughts on...you commented on the maintenance...behind on maintenance and funding. Any comments on the funding mechanism in order to get more money to the parks? I know there is some discussion about the permits and that. [CONFIRMATION]

MICK JENSEN: Well, Senator, at the moment, recalling from memory, I believe we're about \$30 million in deferred maintenance throughout the parks system. That's at least a reasonably accurate number. And we don't see it getting better. So, as you may be aware, we have been working on legislation to help with some revenue in that regard with vehicle registrations. [CONFIRMATION]

SENATOR JOHNSON: Um-hum. [CONFIRMATION]

MICK JENSEN: And we're at a critical juncture. We have done, I think, quite a bit of work in sharing our opportunities with local county and city governments. We've turned a couple of parks back and we've turned a lot of the maintenance over in some areas to local governmental institutions. And that's worked well, but I think we're about to the point where we have major structural activities that we need to get accomplished. And so just partnering with somebody isn't going to quite get the job done. So as a

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commissioner, I consider...as a citizen, I consider myself very conservative, but as a commissioner, I also realize that it's my responsibility to keep those parks in the condition that our citizens want and safety used for kids. I had the opportunity to camp over Thanksgiving out in Fort Kearny. And while there weren't a lot of people there, you need safe campgrounds, you need safe water, you need safe sewer systems, you need safe recreation equipment, and the lakes and ponds and so forth need to be up to scale to where they need to be. And so we just have a lot that we need to be done. And if you let things get behind, you don't ever catch up. [CONFIRMATION]

SENATOR JOHNSON: So how high a priority is that maintenance other than new programs or more parks or...where do you feel that would be? [CONFIRMATION]

MICK JENSEN: I consider that a very high priority. And I think the rest of my commissioners do as well. [CONFIRMATION]

SENATOR JOHNSON: Okay, thank you. [CONFIRMATION]

MICK JENSEN: Um-hum. [CONFIRMATION]

SENATOR CARLSON: Okay. Any further questions? Mine would be, I think everybody on this committee really feels strongly about adequate funding for Game and Parks. Some of us are struggling with the connection between the vehicle registration and parks. In the hearing we had, it was brought out that the parks are a treasure of the state and everybody should have a hand in being responsible for having those parks maintained properly and so forth. I don't even argue with that. But I could also say that Big Red football is also a treasure of the state and should we have a fee on vehicles to bring in some more money for Big Red football. What's the connection, in your mind, between vehicle registration and Game and Parks? [CONFIRMATION]

MICK JENSEN: The connection in my mind, Senator, would be surrounded by the opportunity for, number one, more people to use the parks. I get a lot of people talking to me about why do we have to have those stickers anyway? And I point out to them, that it brings in, I think, around \$5 million a year in revenue to maintain the parks. And well but...I can't ever find where to get them; I don't want to take the time; I don't want to drive in; it's too much of a hassle to get them; why do I even have to do it? Well, we have to have the revenue. In my opinion, this opportunity will allow us to collect more revenue than we need to maintain the parks. But it will also do something else that I think is equally important and that's allow a new group of people to enjoy the parks. And maybe they haven't discovered them in the past. Maybe they didn't want to pay the \$25 which was \$20 until last year. Or maybe they didn't just want to take the time to pull into some place and get it. I don't know what the reasons are, but when I go to Colorado, I can pull in any state park, and I'm an out-of-stater, I can pull in any state park, I can fish as long as I have a license out there, or I can hike, or I can do anything I want to and

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whether I would or not if I had to buy a park permit, I'm not sure. But I believe that there are a class of people in the cities and other places that do not know what we have in the way of our park system. And if we can have the opportunity to have them...to provide them as easy an access as possible, I think we're going to find more people willing to come in and support our parks and make use of the outdoors. I even had one individual say, you know what, if you would charge me \$50 or \$75 and give me a sticker that I can carry in my billfold so I don't have to put one on every car and make sure I've got the right car going in, I'd be happy as a lark. Well, the problem with that is, we still would have to stop that car and have him pull that out of his billfold and that requires labor. And right now, in my mind, we've got a number of people sitting in these kiosks, or entry areas at the park and that's all they're doing. They're sitting there monitoring cars and selling stickers and so forth, when we don't have them. And we can deploy that labor in other areas and make ourselves more efficient. So I think there are a number of opportunities that this affords us, Senator. And I think it's a very positive step if we can get it done. [CONFIRMATION]

SENATOR CARLSON: Thank you. One other question. Have you had any discussion or given any thought to the line on the state income tax return immediately before the total you pay as a voluntary contribution to the Game and Parks? [CONFIRMATION]

MICK JENSEN: We have discussed it. I'm not sure that we've made a decision on that. I don't know that we've really decided that that would be as good a revenue producer as the other item that we're trying to move through the legislation. But we have considered it, and we're still talking about it. [CONFIRMATION]

SENATOR CARLSON: Some people on the committee have indicated they would pay \$100 if that was an option instead of buying...instead of vehicle registration, but it would be voluntary. [CONFIRMATION]

MICK JENSEN: I'm not sure how many people would feel that generous. (Laughter)  
[CONFIRMATION]

SENATOR CARLSON: Okay. All right. Thank you. Any further questions?  
[CONFIRMATION]

MICK JENSEN: I'd like to think a lot of people think it's worth \$100. [CONFIRMATION]

SENATOR CARLSON: Okay. Well, thank you for coming and testifying.  
[CONFIRMATION]

MICK JENSEN: Thank you. [CONFIRMATION]

SENATOR CARLSON: And that's it. [CONFIRMATION]

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MICK JENSEN: If you have any further questions, why I'd be happy to respond.  
[CONFIRMATION]

SENATOR CARLSON: Okay. Thank you, Mick. [CONFIRMATION]

MICK JENSEN: Thank you for your time and thank you for your service.  
[CONFIRMATION]

SENATOR CARLSON: Anyone testifying as a proponent for Mr. Jensen? Anyone as an opponent? Or anyone in the neutral position? Then seeing none, we close the confirmation hearing on Mick Jensen. Thank you. And we go to LB272 and Laurie Lage, as committee counsel, will introduce the bill. Welcome. [CONFIRMATION]

LAURIE LAGE: (Exhibit 2) Thank you, Senator Carlson and members of the committee. My name is Laurie Lage, L-a-u-r-i-e L-a-g-e, I'm committee counsel for Natural Resources and here to introduce LB272. The Nebraska Association of Resources Districts asked Senator Carlson to introduce this bill. It's based on a resolution the association members unanimously adopted at their annual meeting. The NRD support raising the caps on chemigation fees...chemigation permit fees, excuse me, which have not been adjusted since 1986, to help offset the costs to the NRDs and the Department of Environmental Quality of administering the program. The bill would also change the time period that a district has to review and decide on an emergency chemigation permit from 48 hours to two working days so the applications do not have to be approved on weekends and holidays. Chemigation permits are required for anyone using a process of applying chemicals to land or crops through a water irrigation distribution system. The NRDs are charged with inspecting chemigation safety equipment, receiving permit applications and fees, and issuing chemigation site permits. The Department of Environmental Quality coordinates the chemigation program and issues applicator certifications. Permit fees would help the NRDs and department carry out these duties. The original bill raised some concerns with some of the agriculture groups that the suggested fee amounts would not be in proportion to the actual costs of administering the chemigation permit program. To address those concerns, the NRDs have proposed the amendment that is, I believe, in your books. It's not officially drafted, but it's in your books. The suggested amendment would replace the \$500 emergency permit fee with a fee cap of \$500 with \$10 going to the department rather than \$100. The amendment also replaces Section (5) of the green bill with language that allows the districts to establish permit fees which are to be sufficient to cover the reasonable ongoing administrative and inspection program costs. Caps are set at \$250 for regular and special permits; \$200 for renewals; and \$500 for emergency permits. Finally, the amounts that would go to the department would be \$5 for regular and special permits, and \$2 for renewals. I believe at this time that the exact cap amounts are still being negotiated. The interest groups will be here to testify their opinions on that. And I



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believe they're continuing to work on the amendment. And so we'll hear from them. And with that I'll just ask if there are any questions. [LB272]

SENATOR CARLSON: Okay, thank you. Any questions of Laurie? Seeing none, thank you. All right, we're ready for proponents of LB272. Welcome, John. [LB272]

JOHN C. TURNBULL: (Exhibits 3 and 4) Senator Carlson and members of Natural Resources Committee, good to see you today without having to scoop snow to get here. [LB272]

SENATOR CARLSON: Maybe to get home. [LB272]

JOHN C. TURNBULL: Yeah, I'll try not to talk too long. My name is John C. Turnbull, that's J-o-h-n, middle initial C, T-u-r-n-b-u-l-l. I'm the general manager of the Upper Big Blue Natural Resources District located in York, Nebraska. I also serve on the Nebraska Environmental Quality Council. Today I'm here to present testimony in support of LB272 on behalf of the Nebraska Association of Resources Districts. In 1986, the Legislature passed the Nebraska Chemigation Act which gave oversight of the chemigation activities to the Nebraska Department of Environmental Quality and Nebraska's natural resources districts. With that legislation, the NRDs were required to issue and reissue permits for chemigation sites, as well as conduct inspections to ensure the sites are being properly operated and have installed the required safety equipment needed to protect groundwater and avoid accidents. The Department of Environmental Quality is required to provide education and certification for individuals who practice chemigation. Contained in the legislation was a schedule of fees for different permits with funds collected being used to administer the Chemigation Act. All permit fees are collected by the NRD and a portion is sent to the Department of Environmental Quality. Over 90 percent of the permits are renewal permits and the fee for this has been set in statute at \$10. Since 1986, the fees have remained the same while the cost of administering the chemigation program has increased. In comparison, the average price of gas in 1986 was 78 cents compared to today's average price of \$3.76, and the federal minimum wage was \$3.35, today's required minimum wage is \$7.25. According to the act and as stated, each district is required to establish and carry out inspections of chemigation systems which is the most significant cost to districts. During the last reporting year, there were approximately 21,500 permits issued or reissued and over 11,000 inspections were conducted by district staff. The cost to conduct these inspections varies from district to district due to variations in personnel, contract employees, fuel and other considerations. Considering all factors, running the program ranges from \$7 to \$74 per permit. In many situations, funds from other sources are needed to supplement the chemigation program. When working with Senator Carlson on this bill, several other programs the department administers and charges a fee for were evaluated to determine if any could be used as a model. Several of these were considered including a solid waste management program; livestock waste inspection

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fee, and on-site wastewater facility registration. Rather than being set by the Legislature, the Nebraska Environmental Quality Council established this fee and must be approved by the Governor. After introduction of the bill and following the NARD's delegate discussion, agreement was reached that it would be difficult for the Environmental Quality Council to set an appropriate fee for all 23 districts when the permit cost to administer the program varies so greatly. Since that time, the Nebraska Association of Resource Districts, and agriculture groups including, have been working with Senator Carlson to amend LB272 to allow each NRD to set its own permit fees that would be reflective of the actual local costs of administering the program. As well, the caps for each permit will be lowered significantly, however would still allow some room to avoid frequent future legislation to raise the allowable upper limits. In closing, we would like to thank Senator Carlson for bringing this bill forward that would allow each district to establish fair and reasonable fees for chemigation and allow the program to be self supporting. We will continue to work with all interested parties to amend the bill and encourage the committee to pass this bill on to the full Legislature for consideration. And I will be glad to answer your questions. I'll explain just a little bit about the second handout that was passed around. The first one, it's two pages, the first one is a graph with blue bars on it and that is the cost of inspections by districts. And this was reports turned in from all the districts to the association. And those vary; the lowest one would be the Upper Loup at Thedford at about \$7 per inspection. And the most expensive one is Lower Platte North at about \$74. So it's quite a range. On the second page then, there's a graph that shows blue bars and red bars; the blues ones are the fees and incomes collected from the permit fees by district and then the actual cost of inspections is listed beside it...to give you...or the total inspection costs so you can see. Lower Loup has, by far, the largest costs. But it does vary quite a bit across the state. I'd be glad to answer your questions, fill in some gaps for you. [LB272]

SENATOR CARLSON: Okay, thank you for your testimony. Any questions of John? Yes, Senator Haar. [LB272]

SENATOR HAAR: Thank you. We've already had a bill talking about spreading manure, basically, through center pivots and so on. Is that covered by this at all or is that separate; is that considered chemigation? [LB272]

JOHN C. TURNBULL: You got me on that one. Generally, chemigation deals with application of fertilizers like nitrogen, liquid nitrogen... [LB272]

SENATOR HAAR: Okay. [LB272]

JOHN C. TURNBULL: ...through the system or pesticides or fungicides. But in any case, they all need to have the safety equipment and they need to be inspected to see that it is operating properly. And the safety equipment is a check valve and it's also...and it involves with the wiring and the shutoff system in case the power plant quits operating

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and everything shuts down so we don't get any return flows going down the well.  
[LB272]

SENATOR CARLSON: Okay. Any other questions? Senator Johnson. [LB272]

SENATOR JOHNSON: Thank you, Chairman. Thank you, Mr. Turnbull. I'm still struggling a little bit in my learning curve with each district and I realize that each district is unique. [LB272]

JOHN C. TURNBULL: Um-hum. [LB272]

SENATOR JOHNSON: I'm not sure it's unique enough that we would be seeing this much of a variation, and your chart with program costs, any reason why there is so much variation? Is it the way they allocate or can these be quantified more to come up with a little better number? [LB272]

JOHN C. TURNBULL: Well, that's a really good question. And, of course, the real expensive ones will jump right out at you. [LB272]

SENATOR JOHNSON: Yeah. [LB272]

JOHN C. TURNBULL: I think one thing to keep in mind is, generally, the districts with the higher expense per inspection are those districts that cover a much larger geographic area. Take as an example Central Platte or the Lower Loup, the Lower Loup is out of Ord. Those fields that they're checking are scattered, generally, throughout that district and they have a lot of miles between inspection sites. [LB272]

SENATOR JOHNSON: Um-hum. [LB272]

JOHN C. TURNBULL: Whereas, if you look at the Upper Big Blue District around York, our sites are fairly close together. So the mileage between the sites is not near as great so we can get more sites inspected per day. So I think that has a lot to do with the cost. The other one is, of course, everybody uses a little bit different accounting and what costs do you put against the program? We try to keep ours at the Upper Big Blue, as an example, just to that staff time and vehicle costs as going out to the sites. But I'm not sure how each other manager looks at those costs. But I think this does show us, though, that there is a wide variation in those costs. And so it would be difficult to set a level from the state's viewpoint...or from Environmental Quality Council's viewpoint of what the fee should be. We may cover the costs for say the most expensive one of them, if you have one that has a very low cost, they're making a profit on it. And as a district manager, that's not all bad, but I don't know that that's really fair. [LB272]

SENATOR JOHNSON: Okay, thank you. [LB272]

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SENATOR CARLSON: Okay. Any other questions? So the amendment takes care of that, doesn't it, John? [LB272]

JOHN C. TURNBULL: Yes. It would set an upper limit, decided by the Legislature, and it would be up to each district to set the fee according to what their costs are. Some districts may decide to subsidize it some with property tax or other funds, and some may decided to have it completely self-supporting, all within the limit that you set. [LB272]

SENATOR CARLSON: And the upper limit is \$200? [LB272]

JOHN C. TURNBULL: It's the way I understand the amendment. [LB272]

SENATOR CARLSON: Okay. All right, thank you. Any other questions? Thank you for your testimony. [LB272]

JOHN C. TURNBULL: Um-hum. Glad to do it. [LB272]

SENATOR CARLSON: (Exhibit 5) Next proponent. Okay, do we have any opponents? We have two letters of support...from the Nebraska Water Coalition and John Turnbull; and then from Jack Andersen, Lakeside...okay, that's the other bill today. I got to get used to the way Laurie gives me information here, so. (Laughter) We're not going to count the letter twice. She's trying to tell me and I'm not listening to her. Okay, welcome, Scott. [LB272]

SCOTT MERRITT: (Exhibit 6) Mr. Chairman, my name is Scott Merritt, S-c-o-t-t M-e-r-r-i-t-t, I work for the Nebraska Corn Growers Association. We're here today in opposition of LB272, but I'd like to quantify that, we have a strong support for the Nebraska Chemigation Act and what it does and what it represents. We also believe that the NRDs should have the ability to set up the fees so that it covers their costs in this very valuable program. The two concerns that had us more on the opposition side than the support side is number one, the proposed increase. We have been talking with the NRDs and some of the folks, and I know that...we appreciate those conversations. We hope we can get something worked out. My folks just feel it's too big of increase at one time and hopefully we can work something out. The second issue that comes up is the two business days that is reflected in the bill and that changes it from a 48 hour for the permitting time. As we say, the emergency clause is...my folks believe it is an emergency clause. They cited the example that if a problem is realized on Friday afternoon, by the time they could get to town and get their permits filed over the weekend and then wait two more business days, that they could actually have a five-day window and that in some infestations that could have a devastating economic impact. Here again, we don't really have a solution or an idea on how that could be

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handled, but we'd still like to continue to work with the NRDs and perhaps this is a particular NRD, case-by-case, that we could visit about. But overall, like I said, it's just the concerns of the rate increase. We do support the NRDs setting the rates. We do want them to have adequate funding to carry out this program. It's just that the jump seems a little big for us at this time. We will continue to work with the NRDs and hopefully the committee to try and find some common ground that we can all accept. And that's...I handed out written comments with a little more detail for the committee. [LB272]

SENATOR CARLSON: Okay. Thank you, Scott. Questions of the committee? Now, not having read through this yet, your statement, how do you respond to the amendment, or have you seen the amendment? [LB272]

SCOTT MERRITT: I know the amendment is still in work. We had some discussion earlier today. I think the numbers we're hearing, 150, may be a little more, a better...I can't, Senator, tell you what the magic number is that my folks, but I think we're headed down the right path. [LB272]

SENATOR CARLSON: Okay. And I know you're not enemies, so you're going to work with... [LB272]

SCOTT MERRITT: Correct. [LB272]

SENATOR CARLSON: ...the NRDs and decide where you think this should end up. [LB272]

SCOTT MERRITT: It was very difficult...I had a split in my committee that reviews all my bills, so whether we should support the bill or oppose the bill. So, I mean, we're willing to work forward on this and I think we can find some common ground. [LB272]

SENATOR CARLSON: Okay, good. Any further questions? Thank you for your testimony. [LB272]

SCOTT MERRITT: (Exhibit 7) Just for the record, we'll submit some...letter...a neutral position from the Nebraska Soybean folks; they asked me to drop their letter off, so I'll submit it. [LB272]

SENATOR CARLSON: Okay, thank you. Anyone else as an opponent? Anyone in a neutral position? Welcome, Jay. [LB272]

JAY REMPE: Good afternoon, Senator Carlson, members of the Natural Resources Committee, my name is Jay Rempe, J-a-y R-e-m-p-e, vice president of governmental relations for Nebraska Farm Bureau here today on behalf of Nebraska Farm Bureau in a

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neutral capacity. And, basically, are going to say the exact same thing that Mr. Merritt said on the Corn Growers, except from the neutral capacity. We recognize that the fees in the program have not been adjusted since 1986; and, obviously, costs have changed since then. And some adjustments needs to be made to the program to keep it cost effective, I guess, for the NRDs. And so we're willing to look at that. We think the amendment...we've been working closely with Dean Edson and the NRDs. We think the amendment is a step in the right direction, and we like giving the NRDs the authority to set the fees that...continued on their own programs and what they're facing in their districts. We think that's a step in the right direction. We agree with the Corn Growers that, I think, the cap...the maximum caps in the amendment and the bill are a little too high, it's a little too big of a jump. But we've had some discussions with the NRDs on dropping those back and we'll continue to be eager participants in that discussion. I'll end with that. [LB272]

SENATOR CARLSON: Okay. Thank you. Any questions of Jay? So you're going to be working with the NRDs as well. [LB272]

JAY REMPE: Right, yep. [LB272]

SENATOR CARLSON: And let us know what you kind of come to an agreement on. [LB272]

JAY REMPE: Yeah. And I think from the conversations we had yesterday afternoon, I think we're pretty close. [LB272]

SENATOR CARLSON: Okay. All right. Thank you for your testimony. Anyone else in a neutral position? Welcome. [LB272]

ED WOEPPEL: Senator Carlson, members of the committee, I'm Ed Woepfel, that's E-d W-o-e-p-p-e-l and I'm here today representing the Nebraska Cooperative Council and we're in a neutral position. And I believe the issues that Scott Merritt and Jay Rempe talked about already are the same kinds of things that our membership saw with that. And looking at the amendment, I think, again, we're probably headed in the right direction. So I won't repeat anything that has been said, but that's where we're at at this point in time. So if there are any questions, I'd certainly be glad to try and answer those. [LB272]

SENATOR CARLSON: Okay, any questions? Thank you. Any questions of the committee? This is when it's a nice situation where even the opponents and the neutrals are working together and you'll come up with the best solution. [LB272]

ED WOEPPEL: Certainly. [LB272]

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SENATOR CARLSON: So I appreciate your testimony. Thank you. [LB272]

ED WOEPPEL: Thank you. [LB272]

SENATOR CARLSON: (Exhibit 7) And we do have a letter in the neutral position from the Nebraska Soybean Association. Any further testifying in neutral position? Seeing none, we'll close the hearing on LB272. Thank you for testifying. And we will open the hearing on LB493. Senator Davis, welcome. [LB272]

SENATOR DAVIS: (Exhibits 8, 9, and 10) Thank you, Senator Carlson. Good afternoon, Chairman Carlson and members of the Natural Resources Committee. I am Al Davis, D-a-v-i-s, and I represent the 43rd Legislative District. I am here today to introduce LB493 and to offer AM292, which became the bill. It's an amendment which came about as a result of conversations with Nebraska Game and Parks Commission. LB493 and AM292 would allow the Game and Parks Commission to lease or transfer portions of the Cowboy Trail to a political subdivision or lease portions to a nonprofit organization. Any entity that assumed responsibility for a portion of the trail would be required to do so at its own expense. The bill with the amendment would provide public or private entities an opportunity to develop the trail in a manner that best meets the needs of the citizenry in their area of the state. Terms of the lease or transfer would require that the trail remain available for conversion back to a railbed, if the need developed. For anyone who's not familiar with the Cowboy Recreation and Nature Trail, I want to provide a bit of history about the trail. The Cowboy Trail is the nation's longest rails to trail conversion and was Nebraska's first state recreational trail. The trail was donated to the state of Nebraska in 1993, and development and maintenance of the trail was assigned to the Game and Parks Commission. And the original trail went from...there's a map associated with this presentation and if you look at that you can see that the original trail started in Norfolk and was projected to go out to Chadron. It's on the old Chicago North Western rail line that was abandoned back there about 25 years ago. So as you can see from the map, the trail spans a total of 321 miles in northern Nebraska. It passes around or through a total of 29 communities where trail users can enjoy small-town features that only rural America can offer. Currently, the trail is completed from Norfolk to Valentine. Hikers and cyclists who use the trail can enjoy our state's cropland, timber-covered riverbanks, ranches, native prairies, rivers, and vast grass-covered dunes in the Pine Ridge country near Chadron. The trails pass through scenic parts of our state, and its proximity to so many cities, towns, and villages could provide recreational and economic development opportunities which are of great benefit to rural Nebraska. Last year, Sheridan County residents told me they wanted a voice in how the Cowboy Trail in their county might be completed and maintained. I introduced LB493 and AM292 to provide these residents and others along the entire trail...length of the trail an opportunity to assume local control for a recreational feature that spans eight counties in northern Nebraska. If the local control option is exercised, it would to some extent relieve the Nebraska Game and Parks Commission from a responsibility it has

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shouldered for 20 years. I also have a letter to offer in support of LB493 from former state senator and current Gordon city manager, Fred Hlava. Just to give you a little bit of background information on that part of the state, the Game and Parks Commission invested a tremendous amount of money in renovating the bridges, doing some overlay, and doing a lot of work with the trail east of Valentine, and the trail is finished to Valentine from Norfolk. From that point west, it still is an undeveloped project, and for about 100 miles there, from Valentine to Gordon, the biggest town is Cody, which would be about 125-150 people. So in that particular area of the state, there's, at this point, not a lot of interest in doing something with the trail. When you get to Gordon, you get to a community of 2,000. Rushville is down the road with 1,000 people, and then Hay Springs is a little farther with 800 people. So you get another group of residents there who are interested in doing some development work and interested in providing some recreational abilities for their citizens. I've worked with Game and Parks on the bill. They are, as far as I know, going to testify today in favor of the bill. And I'm really excited because I think it will really offer our area some needed economic infusion. One other little aspect of the discussion that we had was that perhaps the trail might even become an equestrian trail at some point. So I'd be glad to take any questions. [LB493]

SENATOR CARLSON: Okay. Thank you. Any questions of Senator Davis? Senator Haar. [LB493]

SENATOR HAAR: Thank you. Thanks for your bill. If I heard you correctly, it couldn't be, for example, sold off or whatever. It would have to remain...now it said in terms of a railroad, but that would be a trail or whatever. Is that correct? [LB493]

SENATOR DAVIS: The...when that legislation was put through the Rails-to-Trails bank, it's a rail bank, is what it is. [LB493]

SENATOR HAAR: Yeah. [LB493]

SENATOR DAVIS: So it always has to be available to be converted back to a railroad in the event that some railroad would want to come in and develop that. And the whole trail would probably go that way. It wouldn't just be the abandoned portions of it. And I think that was done in response to some discussion that if a railroad was abandoned, the property would revert to the property owners in between. So they developed this sort of quasi entity which is called the Rails-to-Trails program. And so anyway, to answer your question, yeah, it would have to be maintained. It can't be...it always has to be available for a railroad in case they want it. [LB493]

SENATOR HAAR: Well, I know South Dakota has a really neat bike trail that goes from north to south, and Wisconsin and Minnesota have trails and people come from long distances. So eventually this could...might then be developed fully. Is that correct? [LB493]



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SENATOR DAVIS: Well, I think I would like to see that happen. I think it would be good. I think with the terminating at Valentine, and if you've talk to Game and Parks, like I said, they've put a lot of revenue into the trail. Then there was some flooding on the eastern end. They had to rebuild a lot of the bridges. A lot of the revenue is gone now. And you heard earlier that Game and Parks is experiencing fiscal problems just like every... [LB493]

SENATOR HAAR: Uh-huh. [LB493]

SENATOR DAVIS: ...aspect of government. So my vision of this would be if something gets developed in Sheridan County, which is where this language first came from, we originally just targeted it for the communities of Sheridan County. Game and Parks approached us and said, you know, maybe some other counties might be interested in doing something like this with this along the road. So does that answer your question? [LB493]

SENATOR HAAR: Yes. Thanks. [LB493]

SENATOR DAVIS: Yeah. Thank you. [LB493]

SENATOR CARLSON: Okay. Thank you. Any other questions? Senator Dubas. [LB493]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you for bringing this bill forward, Senator Davis. Do you have any numbers as far as how many people are actually using the portions of the trail that are open? [LB493]

SENATOR DAVIS: I don't have that information. But if Game and Parks is here today and going to testify, I bet they may be able to help you with that or they can get that information. [LB493]

SENATOR DUBAS: All right. As far as the support from the communities along the trail, my understanding is there's quite a bit of support. [LB493]

SENATOR DAVIS: Some very significant support from the Gordon area and Sheridan County. You'll see someone will be testifying in support of the bill and there will petitions and things that will demonstrate that there's a lot of community support, also from commissioners in Sheridan County and the city of Gordon. [LB493]

SENATOR DUBAS: Very good. Thank you. [LB493]

SENATOR DAVIS: Thank you. [LB493]

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SENATOR CARLSON: Okay. Thank you. Other questions? So the amendment takes out selling as a possibility. That's not an option. And it just opens it up for more area. [LB493]

SENATOR DAVIS: Yes. [LB493]

SENATOR CARLSON: Okay. [LB493]

SENATOR DAVIS: They can transfer it to a government entity of some kind or lease it to a nonprofit. Yeah. [LB493]

SENATOR CARLSON: Okay. All right. Thank you for your testimony. Are you going to be here to close? [LB493]

SENATOR DAVIS: I'll be here to close, yes. [LB493]

SENATOR CARLSON: Okay. [LB493]

SENATOR DAVIS: Thank you. [LB493]

SENATOR CARLSON: Thank you. All right, we're ready for proponents. Step forward and testify. Welcome. [LB493]

KRISTEN FERGUSON: Thank you. [LB493]

SENATOR CARLSON: Just relax and enjoy yourself, okay? [LB493]

KRISTEN FERGUSON: (Exhibit 11 and 12) Okay. Good afternoon, Chairman Carlson and representatives of the Natural Resources Committee. My name is Kristen Ferguson, K-r-i-s-t-e-n F-e-r-g-u-s-o-n, with the nonprofit Cowboy Trail West, Inc., in Sheridan County. I live in Gordon and I'm here today in support of LB493. I was hit by a car while riding my bicycle. On June 11, 2011, a young driver was going about 65 miles an hour and went off the road and drove into me. But by the grace of God, I sit before you today. While recovering from multiple injuries, I decided that I never wanted anyone in my family or community to suffer the same fate. We have a lot of runners and bikers and walkers in our little towns along Highway 20, and many are my friends. And so I started talking to Game and Parks and different people, wondering why the trail wasn't ever completed. It was intended to go from Norfolk to Chadron and it stopped at Valentine and it seemed to be permanently stopped at Valentine. So in order to get some answers to these questions, I formed the nonprofit organization which I represent today. I want to thank you and I want to thank the state of Nebraska Game and Parks. They've really done a remarkable job of building trails in Nebraska. In 1983, there were only 3.5 miles of rail trail developed in our state in the Kearney area. In the last 29

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years, 320 miles of rural rail trail has been developed. One hundred and ninety-five of those miles is the completed portion of the Cowboy Trail, and along the Cowboy Trail, 190 more miles are just waiting for completion. The Cowboy Trail really is one of the nicest trails in America. It is one of the longest. I do believe the Katy Trail in Missouri might be just a touch longer, but they're both quite long. And the Cowboy Trail does cover one of the most scenic areas in our whole country, I think. We go through rich farmland. We get to see the very unique landscape of the Sandhills and then out into the High Plains, and most Americans never get an opportunity to see those areas. A completed trail would offer that opportunity for people within and without Nebraska to see the beauty that we have. The trail, as Senator Davis mentioned, could offer tourists economic development opportunities. You'd be surprised how many people will go, especially when they have a significant thing like being the longest. The Katy Trail alone draws more than 300,000 visitors annually. And most importantly to me is it would offer a safe place for people, both young and old, to be active. According to the CDC Web site, in 2010, 64.1 percent of adults in Nebraska were overweight and 26.9 percent, and in our county of Sheridan 27.4 percent, were considered obese. It's 91 percent of our population. We need to find a safe place for these people to be active. I know we can't just do it by putting trails there, but, you know, through education on diet and giving people places to be active where they feel safe and comfortable is a good...is a step in the right direction. And western Nebraska is not exempt from these statistics. In 2009, it was number seven in the fattest cities in America, and so our organization has already started trying to hold runs and walks for people to come and be active, and we've had all ages, from little kids to retired adults, and so it's encouraging. The Nebraska Game and Parks Commission, the Nebraska Department of Health and Human Services, and the Park and Recreation Association have shared a common goal to promote Nebraska's park and recreational activities to keep people active. The Great Park Pursuit Program was created with the goal of encouraging residents to discover healthier lifestyles while increasing their awareness of Nebraska's rich outdoor recreation opportunities. We've had a lot of discussion between our organization, the Game and Parks Commission, Sheridan County Commissioners, the cities of Rushville and Gordon and Hay Springs, and we're all trying to work together to find a good way to develop and maintain this portion of the Cowboy Trail. And this bill would just simply be a tool, allowing those groups to find a good way to make it happen. Another option is for the Legislature to just tell Game and Parks to finish what they started but... (Laughter) We have a lot of local support. You will find in your packets a proposal by the Nebraska Trails Council, which is one of the discussions that we've had with Game and Parks about being able to complete this portion of the trail; a list of names of people who signed a supporters list that we had locally for the trail. We have letters of support from Sheridan County citizens, including the Gordon-Rushville High School administration, the Sheridan County Commissioners, and the cities, the cities have expressed a willingness to maintain trail within their city limits and maybe, you know, a bit beyond just for that portion. And we know funding is tight and we know projects like this take time, but our organization and the people that I've been in contact with in Sheridan

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County really are willing to work hard to see that it happens and is taken care of for years to come. Just because of my experience, honestly, we don't want anyone else hurt and we want to see people being able to be active in a safe place. So I just ask you today to be in support of this bill so that we can make that happen. Thank you. Do you have any questions for me today? [LB493]

SENATOR CARLSON: All right. Thank you for your testimony. Any questions of Kristen? Senator Johnson. [LB493]

SENATOR JOHNSON: Thank you. Thank you, Kristen. I appreciate your enthusiasm for the project. I've been involved with a couple trails in the past and within our city we're working on one. Setting up the foundation, I'm sure, is a first step. In order to make this foundation viable and to raise some money, do you have a projection of a plan, drawings or, in order to sell this, what's it going to look like? Is it something that's going to have to be approved by Game and Parks, you know, what you're going to do, anything like that? Or how far along are you in actually developing the plan? [LB493]

KRISTEN FERGUSON: The plan for the construction or fund-raising? [LB493]

SENATOR JOHNSON: Well, sometimes you have... [LB493]

KRISTEN FERGUSON: Both. [LB493]

SENATOR JOHNSON: ...to have the plan before you can raise the money, so... [LB493]

KRISTEN FERGUSON: Right. We haven't developed a construction plan because we were sort of is it the chicken or the egg. We were...Game and Parks has control of the property and so we couldn't go out and fund-raise for something that we hadn't even gotten Game and Parks to agree to building. Because if we go to our local businesses or even for grant writing, we have control of it. [LB493]

SENATOR JOHNSON: Uh-huh. [LB493]

KRISTEN FERGUSON: So we felt as though, once we determined that perhaps we could transfer the property with legislative support, that was our first step. But we have actually--did bring an example--we have been selling shirts. This is for the rearview mirror. (Laughter) And it's a small thing. We've also hosted runs. We've talked to a lot of business people in our area as far as locally getting some contributions. We have ideas on grant writing. We have some people in our community who do well at grant writing and have offered to help us. But again, we didn't really have control of the property. I've been working at length with the Nebraska Trails Council and they have a lot of resources available to them that would help us figure out development. And Game and Parks, I met...I went to their commissioners meeting in October and they indicated to

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me that they would be willing to guide us as well, as far as construction goes. So we're hoping that if we can get this passed and go to Game and Parks and, say, Sheridan County and figure out an acceptable transfer type, at the same time then we can go to people and write grants that allow us to be more specific with what we have control of. [LB493]

SENATOR JOHNSON: Well, one of the...and I don't know if it's a big flag or not, but when they talk "shall maintain," what does it mean to maintain? Are you able to enhance...how much are you able to enhance it, or is it just mainly to keep gravel or keep limestone or whatever on the trail? Those are some questions. And it says, you know, you would maintain it, transferred it and maintain it at your own expense. What happens if you can't and at that point Game and Parks says, we're not going to take it back? There's nothing in the agreement. [LB493]

KRISTEN FERGUSON: Right. What we're hoping to do is work with Sheridan County. And I can't speak for the commissioners, but there's been some discussion of if there was a transfer, perhaps it could be transferred to Sheridan County, so there's a governmental entity that could, in theory, always maintain it if I get old and can't ride my bike and go away. (Laughter) [LB493]

SENATOR JOHNSON: Okay. [LB493]

KRISTEN FERGUSON: And then our local group, knowing the local government works with them, and if they're satisfied with what we can do for them, that's where, you know, that's how we would ensure perpetuity with maintenance. And I know we've gotten some information on maintenance costs of mowing and keeping the weeds down and fixing badger holes and things like that. Yeah, I know there's been a lot of expense in eastern Nebraska along the Cowboy Trail because of flooding and the Elkhorn River crisscrosses the trail, but from Gordon to Hay Springs, we have just a handful of bridges, most of which have no running water 90 percent of the time. So not that it can't flood there, but the likelihood is far less. And it's the flooding and the bridge maintenance that has caused much of the maintenance problems in eastern Nebraska. So realistically, I don't foresee a lot of that, and in talking with our commissioners, they don't see a lot of big, big maintenance issues other than just your yearly stay on top of the weeds and mow type, and fix badger holes. And when I talked to Game and Parks, that's kind of what they indicated to me and that their big expenses were when the bridges washed out. [LB493]

SENATOR JOHNSON: Well, I think, you know, your first step is to be able to get it transferred to you, and I'm sure there will be a lot of agreements that will have to satisfy both sides. [LB493]

KRISTEN FERGUSON: Absolutely. Absolutely. [LB493]

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SENATOR JOHNSON: And I'm sure you're on top of that. Okay. Thank you. [LB493]

KRISTEN FERGUSON: Uh-huh. [LB493]

SENATOR CARLSON: Thank you. Senator Kolowski. [LB493]

SENATOR KOLOWSKI: Kristen. Thank you, Mr. Chairman. Kristen, thank you for your presentation and testimony, and I think it's a wonderful project. Looks like it's got tremendous potential. And just to pinpoint from what this request is for this proposal, though, you're only looking at this action taking place in Sheridan County only? [LB493]

KRISTEN FERGUSON: Currently, yes. [LB493]

SENATOR KOLOWSKI: At the current time,... [LB493]

KRISTEN FERGUSON: Yes. [LB493]

SENATOR KOLOWSKI: ...only there. And I've got a question I'll ask Mr. Davis later on as far as some of the history with the whole thing. But this would be a tremendous connection to see this whole 300-plus miles come to fruition. To have that kind of resource in the northern part of the state would just be a tremendous draw, you think, because of tourism and bikers and all the rest that would make this a real, real gem of a trail. I hope it comes to fruition. I wish you well in that work. So thank you. [LB493]

KRISTEN FERGUSON: Thank you. [LB493]

SENATOR CARLSON: Thank you. Senator Haar. [LB493]

SENATOR HAAR: I'm a backpacker and I ran into this guy in the Wind River Range who said you don't stop hiking because you get old; you get old because you stop hiking. [LB493]

KRISTEN FERGUSON: I agree. [LB493]

SENATOR HAAR: So probably the bicycling is the same. You don't stop biking because you get old. So anyway, best of luck. And I think again, seeing what South Dakota and some other states have done, that this has real potential for economic development along the way as well. [LB493]

KRISTEN FERGUSON: We hope so. [LB493]

SENATOR HAAR: Yeah. Good luck. [LB493]

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KRISTEN FERGUSON: Thank you. [LB493]

SENATOR HAAR: Thanks. [LB493]

KRISTEN FERGUSON: Thank you. [LB493]

SENATOR CARLSON: Okay. Any other questions? Well, seeing none, thank you for your testimony. [LB493]

KRISTEN FERGUSON: Thank you, sir. [LB493]

SENATOR CARLSON: You did very well. [LB493]

KRISTEN FERGUSON: Thank you. [LB493]

SENATOR CARLSON: Okay. Next proponent. Welcome, Tim. [LB493]

TIMOTHY McCOY: Thank you, Chairman Carlson and members of the committee. My name is Timothy McCoy, spelling T-i-m-o-t-h-y M-c-C-o-y. I'm the deputy director of the Nebraska Game and Parks Commission. We're here today to testify in favor of this bill. We appreciate the opportunity to work with the senator on some of the language because the initial language was pretty narrow and specific, and we thought this may present an opportunity for other...if there are other entities that would be interested in trying to do this with the trail. I'm going to go through a little bit of history and just provide a little bit of information to kind of help address, I think, some of the issues that I've been hearing or some of the questions that have been coming up. The history of the Cowboy Trail is actually we were...it was actually legislated that we were going to take this and we were going to be responsible for it as the commission. The original...in that original setup there were General Funds that were...supported the Cowboy Trail and its development from 1996 to 2002. Following 2002, that General Fund support went away. What we got instead was the ability to use NORDA funds, which is the Nebraska Outdoor Recreation Development Act. Those funds come from cigarette tax. A penny on each pack, I think, from that fund comes to us. That was originally intended to actually help us with capital development and deferred...and maintenance and operation on parks. So it circles back to one of the challenges we face. We got the authority to continue to build the Cowboy Trail, but it sort of took money to do that. We take that money out of that fund that we've been using, that one of our primary uses to attack our deferred maintenance. As has been mentioned, the completion of the Cowboy Trail has been a struggle. Our original intent was to move progressively and develop this trail and connect it across the state. In 2010, those plans changed and those plans changed with a cost of about...of over \$4.6 million to go back and repair what we had done on the Cowboy Trail. We, in fact, have never had a true grand opening for the completed

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stretch of the trail we have right now and that's because we were just preparing to do that before that flood hit. And we had one bridge alone, a major bridge replacement west of Norfolk, that was over \$1.5 million that was part of that. So we had to sort of pull back, and that's really slowed our progress. All the expenses on the existing part of the trail have raised a lot of other questions, too, in terms of continued maintenance and how we were going to maintain that. The transfer of land, in terms of development of these trails, is very important, and the reason is there are federal transportation enhancement funds or grants that can be available to entities to develop these trails. Typically, how they're developed is the trail itself, the land, is used as the match. It's used as the 20 percent match for that because developing a trail does take some significant funds. We've...the 195 miles from Norfolk to Valentine have cost about...almost \$4.5 million in order to develop. The other thing that we have to do on all those bridges as soon as they're received, is the decking has to be modified on those, on all those railroad trails for use as a recreational trail. So those are the costs. And you know, that 500- or 1,000-year flood on the Elkhorn did really set us back and that's created some of these challenges. However, we do have the...this bill would allow us the ability to actually transfer that land, and that is a critical piece for someone else to be able to develop and take on that maintenance issue for a trail. As a land transfer, I would expect, since the state gave us the authority and the responsibility for these trails, there will likely have to be some language in there that relates to what happens if the entity that takes that on is no longer willing to maintain it. I surely expect that will have to be part of it from our standpoint, in a legal sense. The other question that was asked, and I'll answer it before it's asked again, was users. In 2012, we had about 14,000 users on the Cowboy Trail and that...the challenge is we still have a section of the trail where the river washed out the actual trail itself that we have not been able to rebuild. So it's not...what we've completed is not fully connected right now. It's actually we've got a spot that's cut off and we're still working on that. And we expect those repairs are going to run over another \$2 million to get that fixed and that's going to require us to do some considerable work with the Corps of Engineers in terms of getting that replaced. [LB493]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions? Senator Haar. [LB493]

SENATOR HAAR: Now isn't it the case that in some places NRDs do trail development? [LB493]

TIMOTHY McCOY: On other trails in the states, yes. There are other trails in the state, like the...I just...the Jamaica Trail that I think the NRDs have had a strong role in developing and completing those trails. And actually, in our mind, that was one of the things that we thought of as we talked about the provisions in this amendment because, you know, the remainder of the trail is largely covered by one NRD. So there may be some opportunities there for another partner that might become interested in this, and so we just think it's good to have those opportunities. We still would like to see that



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Cowboy Trail completed across the state. The other reason that we haven't done much, the western end of the trail...the other challenge was there was still an active railroad from Merriman to Chadron. Nebkota was running an active railroad up until 2008, so there was...until then, we weren't pushing real hard to get that next step developed because there was still an active railroad on part of it. [LB493]

SENATOR HAAR: And then you kind of explained this already, but we've done a number of these land transfers with other pieces of parks and so on. Would somebody actually be going out and making sure, then, that what was agreed to is happening in terms of development, maintenance and so on, or how does that work or...? [LB493]

TIMOTHY McCOY: Well, because it's a transfer to another governmental entity, they take on that responsibility. Now if it was raised as a question, either they would have to self-police or we would be required to go back and make sure that it's meeting those goals in terms of those parks lands. That's one of the challenges of doing a transfer of something that you've invested in is there's an interest in maintaining that. And we also expect that, you know, the community themselves, the parks users, probably will be the first ones that notice that and they'll bring it to everyone's attention. [LB493]

SENATOR HAAR: Okay. Thank you. [LB493]

SENATOR CARLSON: Senator Brasch. [LB493]

SENATOR BRASCH: Thank you, Chairman. And thank you for your testimony today as well. I'm curious if...are these transfers made to these associations or groups that they become, or is it the county that takes the transfer? [LB493]

TIMOTHY McCOY: We can only...we cannot transfer...the way this...the way the amendment is written is it would allow transfer to another political subdivision that has that...has, you know, has some authority. We would only be able to lease it, I think, to a nonprofit organization. [LB493]

SENATOR BRASCH: To a nonprofit organization. [LB493]

TIMOTHY McCOY: Yeah. [LB493]

SENATOR BRASCH: Okay, and... [LB493]

TIMOTHY McCOY: And that's because of the requirements that it stay...that from our standpoint we would...we think that that would be the only way to ensure that long-term viability in terms of that, especially maintaining a portion of the trail and those expenses. [LB493]

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SENATOR BRASCH: And that is my concern: Is a nonprofit group able to sustain such expenses over a period of time where Game and Parks could not? Because I imagine, not only with maintenance; liability, someone falls and hurts themselves. I mean is that...a tree has fallen down and they didn't see it on their bicycle and something was broken. Is it...who does it...if that happened today, would it come back to the state of Nebraska or are we immune to that or is that going to go to a...you know, all those details, I guess, that when a lot of people, you know, in our counties, you know we struggle for funds for our local police officer. You know, I come from a very small community and just to sustain regular operations, let alone something above and beyond, would be a challenge. [LB493]

TIMOTHY McCOY: Yeah, and that's the...I mean that's one of the reasons that I...one of the reasons that we've identified that. I think the other reason is there's some legal reasons in terms of the way that the overall rail banking program works. It defines that it needs to be a governmental entity or a political subdivision that can have...that can actually have the...it's not full ownership but can take...have authority to take those railroad trails and actually take that responsibility. That's part of the provisions and they're actually...I think those are repeated in our state law too. [LB493]

SENATOR BRASCH: Okay. I have no other questions. [LB493]

SENATOR CARLSON: Okay. Thank you. Any...yes, Senator Kolowski. [LB493]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. [LB493]

SENATOR CARLSON: Both hands went up at once. [LB493]

SENATOR HAAR: That's fine. [LB493]

SENATOR KOLOWSKI: Mr. McCoy, thank you again for your testimony. And when you look at the challenge of the red lines on our map from Valentine all the way to Chadron, how far is that distance as far as what has not been completed yet approximately? [LB493]

TIMOTHY McCOY: We've constructed 195 miles. There's 136 miles, if my math is correctly...is correct on that,... [LB493]

SENATOR KOLOWSKI: To go. [LB493]

TIMOTHY McCOY: ...excuse me,... [LB493]

SENATOR KOLOWSKI: Okay. [LB493]

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TIMOTHY McCOY: ...to go. [LB493]

SENATOR KOLOWSKI: The questions that were asked about responsibility and all that, I appreciate that also. I really like the comment in the write-up that we have that makes us think in a different way, that it's a 3,893-acre linear park. (Laughter) That's...the concept is just really, really great to think about because of the space that is contained within that. [LB493]

TIMOTHY McCOY: Yeah. [LB493]

SENATOR KOLOWSKI: Could you talk about what exists in the current pathway as far as rest areas? Do they shoot for the next town as far as whatever they want to do or to use a space rather than anything along the way that they could utilize, any camping locations, all those kind of things? Could you fill us in on that? [LB493]

TIMOTHY McCOY: Yeah. Because it's railroad right-of-way, they're very narrow. Usually, you're up. It's, you know, berm... [LB493]

SENATOR KOLOWSKI: Elevated. [LB493]

TIMOTHY McCOY: ...with ditches, elevated with ditches on the side. So we don't have...we haven't developed facilities such as camping or anything in association with the trail because there's really not much room to do that. But what it does, what happens is, you know, those local communities, I think we saw, you know, businesses take advantage of that, and local communities that have camping areas can take advantage of it. [LB493]

SENATOR KOLOWSKI: You bet. [LB493]

TIMOTHY McCOY: And the other challenge is right now it's hard to see the long-term vision of what the Cowboy Trail can be because it's never really been, I mean even what we've developed hasn't been whole. I actually spent about ten years in Missouri and very familiar with the Katy Trail, and as that developed it became a real driving force for people coming just to ride that trail on their bikes. [LB493]

SENATOR HAAR: Uh-huh. [LB493]

SENATOR KOLOWSKI: Uh-huh. [LB493]

TIMOTHY McCOY: And I think the Cowboy Trail probably has that sort of potential. We just...we've never quite got there with it. And I think that's where those local areas, normally the walkers and runners and bikers that use it are moving from town to town or have a plan for how many miles they want to go and will plan ahead. [LB493]

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SENATOR KOLOWSKI: Okay. And the BRAN, Bike Ride Across Nebraska, has not used this to date, have they? [LB493]

TIMOTHY McCOY: I think they used part of it. [LB493]

SENATOR KOLOWSKI: At one time? [LB493]

TIMOTHY McCOY: I think they used part of it, and it may have been in 2009 or 2010. But because we've...after...I know they haven't in recent years because we're in the rebuilding phase. [LB493]

SENATOR KOLOWSKI: So long-term, full development, we could see Chadron become the bikers' Sturgis for Nebraska in the future someday? (Laughter) [LB493]

TIMOTHY McCOY: Maybe Gordon, I don't know. [LB493]

SENATOR KOLOWSKI: There you go. Either one of them. [LB493]

SENATOR CARLSON: Senator Haar. [LB493]

SENATOR HAAR: Several years...three, four years ago the trail going from Lincoln to Omaha almost looked like it could be blocked because of problems happening in one county. And I worked with Senator Pankonin and that all got worked out and that was neat. By transferring property, let's say that a particular county decided they really didn't want it developed. Is that a possibility or does this assume that a trail will be developed? [LB493]

TIMOTHY McCOY: On our side, I don't think we would transfer it to a county that didn't have the intent to do so. [LB493]

SENATOR HAAR: Okay. [LB493]

TIMOTHY McCOY: I think that would be pretty shortsighted on our fault...on our part. It would be our fault if we did that. I think that would likely be part of the transfer agreement. Yes. [LB493]

SENATOR HAAR: Okay, so we need to trust you on that part. [LB493]

TIMOTHY McCOY: Yeah. [LB493]

SENATOR HAAR: Yeah. [LB493]

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SENATOR CARLSON: Okay. Any other questions? Seeing none, thank you for your testimony. More proponents? Welcome, Andy. [LB493]

ANDY POLLOCK: Thank you, Senator Carlson, members of the Natural Resources Committee. My name is Andy Pollock, A-n-d-y P-o-l-l-o-c-k. I appear before you today as a registered lobbyist for the Nebraska Travel Association in support of LB493. And I would like to thank Senator Davis for introducing the legislation and just kind of saying "me too" to the support that you've heard. I think it's really encouraging to hear someone like Ms. Ferguson up in front of this committee talking about the opportunities for part of the state that is near and dear to her heart. And it's also refreshing to hear Game and Parks say, you know, there's other ways that this can be developed other than by Game and Parks. Obviously, they've had their challenges, unforeseen because of the flood, and they've had to take care of portions of the trail that had been developed. But that obviously means portions have not. So I think it's a win-win. The Travel Association that I represent represents interests across the state which believe in the value of tourism, our largest...our third largest industry in this state, and sees the future of the Cowboy Trail as a great opportunity. It's not very often that I get to come up here and kind of take lobby hat off, but I enjoy that area of the state, as Senator Davis knows. I had grandparents up in the Sandhills and I come from Ogallala so some familiarity with the western part of the state. And I also organized a marathon called the Sandhills Marathon up in Cherry County and I can attest to you that hikers, bikers, runners, recreationalists including Senator Haar, I'll include him in this, are kind of an odd bunch (laughter) in a good way, and I include myself too. I spend a lot of time backpacking in the Rockies and we really need a resource like this. For the Sandhills Marathon, we attract 150 people to a very remote area of Cherry County. We fill four hotels for that race. And there are races of that type that are run all across the country. I had a friend run a 100-mile race up in Leadville, Colorado, and they're just looking for a venue like the Cowboy Trail. So I think this presents the state a great opportunity. Recreationalists do things that the normal person doesn't, and this creates an outlet for them and a great opportunity for economic development in an important part of the state. With that, I'd try to answer questions. [LB493]

SENATOR CARLSON: Good. All right. Thank you for your testimony. Senator Kolowski. [LB493]

SENATOR KOLOWSKI: Mr. Pollock, thank you for your time. Thank you, Mr. Chairman. How...the very name, the Cowboy Trail, and from my western history remembrance, with all the cattle drives and all the head locations where cattle were driven to and trains were later developed to pick up that beef to take it to the major slaughterhouses like Chicago and Omaha and other places, are we going to capitalize...try to capitalize on some of this history in the future or would you correct me if I'm misspeaking on any of this history? [LB493]

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ANDY POLLOCK: Well, we represent diverse groups, so that's probably a question better directed towards a group, maybe even Ms. Ferguson, up in that particular area of the state. But I, yeah, I just...I see what they've done in Ogallala, which was the terminus of the Cowboy Trail, Texas Trail, and obviously I would think people are probably brainstorming right now as to how to pull that in. I think one of the things, growing up in Ogallala, that you saw promoted in a very unusual way was the connection between the old west, the Texas Trail, and a great recreational resource in Lake McConaughy, which Game and Parks also manages. And this is the same kind of opportunity to wed the old with the new. [LB493]

SENATOR KOLOWSKI: I'll check with Senator Davis, but I hope we can capitalize on the history because... [LB493]

ANDY POLLOCK: Yeah. [LB493]

SENATOR KOLOWSKI: ...sometimes that history gets lost with our generations. And I hope we can understand why railroads were built to pick up those...the cattle and... [LB493]

ANDY POLLOCK: Right. [LB493]

SENATOR KOLOWSKI: ...all the major industries that developed on them. Thank you. [LB493]

ANDY POLLOCK: Yeah. Thank you. [LB493]

SENATOR CARLSON: Senator Haar. [LB493]

SENATOR HAAR: Would you agree it takes one to know one? (Laughter) [LB493]

ANDY POLLOCK: Absolutely, and I am probably going to pay the price for that comment. (Laughter) [LB493]

SENATOR HAAR: Okay. Thank you. [LB493]

SENATOR CARLSON: Any other questions? Seeing none, thank you for your testimony. [LB493]

ANDY POLLOCK: Thank you. [LB493]

SENATOR CARLSON: Anyone else as a proponent? Now we do have some letters of support, this one from Jack Andersen from Lakeside, Nebraska, in support of LB493. (Exhibit 13) We have a letter from Fred Hlava from Gordon, Nebraska, who's the city

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manager, in support; we have a letter from the Nebraska Trails Foundation in support; from the Sheridan County Board of Commissioners, James Krotz; we have from Gordon and Rushville Public Schools, Merrell Nelsen, superintendent; Lori Liggett, principal; and we have from a couple, Rick and Ellen Yusten, in support of the bill; we have a letter from Trisha Loosvelt in support from Rushville; and Sara Rittgarn from Gordon, Nebraska, in support; all these in support of LB493. Do we have any testifiers in opposition? Or any in the neutral position? Senator Davis, would you like to close? [LB493]

SENATOR DAVIS: Thank you again, Senator Carlson and members of the committee. I appreciate the time and your interest in this project and, obviously, I am proud to bring it to your attention. I would like to just address a few of the points. Senator Johnson asked about the phrase "shall maintain" in the language, and what I'd like to remind you of is that really the trail as it is right now is not maintained. It's like it always was. I recognize that if the city of Gordon or Sheridan County needs to take this on, they will have to do that. But you got to remember that the trail right now is basically just weedy, old railbed, is what it is. Of course, I want to praise Kristen Ferguson, who's been a great advocate for this project from the beginning. And her accident out there is tragic and thank God she's with us today. You know, I live down by Hyannis and I go to Alliance quite often. There's a person that runs along Highway 2 down there and a lot of times she'll be out at 5:30 or 6:00 at night and I'm driving along and I think, man, that's a scary thing. Because as you well know, a lot of times when you're driving in the country, if any of you do, and you know that road pretty well, your mind is way over here on something else. And so I always worry about that woman every time I see her. Now this isn't going to solve that problem, but this will take care of some of that situation on Highway 20. Again, we've got communities that have a fair amount of population and demonstrated significant interest in the project. We have the support of Game and Parks Commission. I would remind you that all we're doing here is saying that Game and Parks has the option or the ability to do it. We're not saying you will do this. We're giving them the right to negotiate with the parties. I'm sure Game and Parks will do a great job doing that. And I'll just express one of the frustrations that you hear from people that live along the Cowboy Trail, which is this: That really should have gone back to the landowners, and if Game and Parks isn't going to do anything with it, it ought to happen. And I sympathize with that thought pattern because a lot of times the railroad runs right between two people's pastures. So it's been sitting there for 20 years; it's time that something happened. We've got a group of people that are interested and active and wanting to take it on. The letters that you have are from two of the Sheridan County Commissioners, Mr. Andersen, Mr. Krotz, so obviously we've got support there. And you've got one from Fred Hlava. I would urge you to pass this on out and "exec" on it as soon as we possibly can. I'd like to move it on as quickly as possible. Thank you very much. Any questions? [LB493]

SENATOR CARLSON: Okay. Thank you, Senator Davis. Any questions? Yes, Senator

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Johnson. [LB493]

SENATOR JOHNSON: Thank you. I'd just follow up. The devil is always in the details. [LB493]

SENATOR DAVIS: I know. [LB493]

SENATOR JOHNSON: And I'm sure, you know, the conversations that I've heard, it will be taken care of so that everybody is covered and everybody knows their obligations. So I'm comfortable with that. Thank you. [LB493]

SENATOR DAVIS: Good. Thank you. [LB493]

SENATOR CARLSON: Any...Senator Kolowski. [LB493]

SENATOR KOLOWSKI: Mr. Davis. Thank you, Mr. Chairman. Mr. Davis, great idea and I just can't thank you enough for bringing something like this forward. It could be a treasure for Nebraska when completed, and I think it would be a very, very popular trail to come to and to enjoy in our state. Could you expound on the history aspects that I asked about as far as the Cowboy name and the whole aspect of how this developed this way? [LB493]

SENATOR DAVIS: Well, I think that, you know, it was the Chicago, North Western Railroad and, of course, almost all those railroads that were put in through that part of the country, one of the big things they hauled was grain and livestock. [LB493]

SENATOR KOLOWSKI: Sure. [LB493]

SENATOR DAVIS: And that livestock was probably shipped to Sioux City, I'm guessing, which was one of the shipping points in those days. So I think when Game and Parks named it, they gave it a great name. I think the Cowboy Trail can be marketed and used very... [LB493]

SENATOR HAAR: You bet. [LB493]

SENATOR DAVIS: ...much. And again, I mentioned this earlier, but you know we talked a little bit with Game and Parks about maybe using it as an equestrian trail. I just visited with Ms. Ferguson a minute ago and she said she's been on trails where there are horse activities going on and it doesn't interfere with that, I guess with the exception of maybe a little bit of manure once in a while but... [LB493]

SENATOR KOLOWSKI: Cleaning, yes. (Laughter) [LB493]



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SENATOR DAVIS: But, you know, I think it's...I think we have the opportunity here to do something good for rural Nebraska and I think we need to move it as quickly as we can and... [LB493]

SENATOR KOLOWSKI: Thank you very much. [LB493]

SENATOR DAVIS: Thank you. [LB493]

SENATOR CARLSON: Okay. Any further questions? Seeing none, thank you for your testimony and presenting the bill. With that, we close the hearing on LB493 and close our hearing for today. [LB493]