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Transcriber's Office

Natural Resources Committee
February 22, 2013

[LB391 LB634 LR40 CONFIRMATION]

The Committee on Natural Resources met at 1:30 p.m. on Friday, February 22, 2013, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB634, LB391, LR40, and gubernatorial appointments. Senators present: Tom Carlson, Chairperson; Lydia Brasch, Vice Chairperson; Annette Dubas; Ken Haar; Jerry Johnson; Rick Kolowski; Ken Schilz; and Jim Smith. Senators absent: None.

SENATOR CARLSON: Welcome to the Natural Resources Committee. I'm Tom Carlson, State Senator from District 38, and we're a little short on people but this will fill in as our hearing goes along, and we do have people that are presenting bills in other committees and so we'll have some coming and going through our hearing today. Committee members who are present, to my left over here, Senator Ken Schilz from Ogallala, District 47; and to my immediate left is Laurie Lage, our committee counsel; to my far right is Barb Koehlmoos, our committee clerk; and then who will in about ten seconds be next to her is Senator Lydia Brasch from Bancroft, District 16, the Vice Chair of the Natural Resources Committee; next to her, Senator Jerry Johnson from Wahoo, District 23; and just joining us to my left is Senator Jim Smith from Papillion, District 14; and I'll recognize other senators as they join us. Our pages today are Tobias Grant from Lincoln and David Postier from York, and they'll be serving us as pages today. And joining us now, Senator Annette Dubas from Fullerton, District 34. If you're going to testify today, and this is going to be a little bit unusual and it's not the kind of thing that we like to do on a regular basis because it's kind of complicated, it makes keeping track of what's said a little more difficult, and...but there's a reason to do it today because of the weather and, of course, it didn't turn out for the most part of the state as bad as we thought it was going to be, but we have people that are calling in on their testimony today as a result of the scare of the weather. And so I'd ask those that are here to be patient with us and we'll make this work in the best way that we can. But if you're going to testify, fill out a green sheet which you find by either door, and make sure that's filled out before you come forward to testify. If you don't want to testify but want your name entered in the permanent record, there's a white sheet back there to sign and you can even indicate on there how you're feeling, what your feelings are about a bill. So you have the option of doing that. You also have an option of submitting something in writing if you don't want to testify, and if you do that, that's going to be read into the permanent record. If you have handouts to give the committee, bring those forward. We'd like 12 of them and if you don't have that many, then the pages will help you with that and they'll also distribute the handouts. When you come up to the table, there's no need to adjust the microphone because it will pick up your voice and it picks it up well enough that if I lean back in my chair and whisper, it's going to pick that up as well. So there's no need to touch the microphone, it will pick you up. State your name and spell it for the record and if you don't do that, I will stop you and have you spell your name and give it to us.

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CHUCK HUBKA: (Phone ringing.) That's your first confirmation hearing.
[CONFIRMATION]

SENATOR CARLSON: Okay. I'll just continue here a little bit and then we'll come back and get started that way. None of the people up here on the committee use electronic devices during the hearing and so we'd ask you to be the same and if you've got cell phones, either turn them off or put them on silence or vibrate. Shouldn't have any trouble with this either, but there's no public displays of support or opposition to what's being said by testifier and we keep everything very civil that way. How many here are intending to testify today? All right, when we get into it a little bit where we're going to use the light system and the light system when you start testifying, the green will come on and that means you've got four minutes and then the yellow comes on to warn you, you've got one minute, and then the red comes on and that's the signal to wrap it up and if I don't think you see it, I'll remind you the red light is on. And then once we start asking you questions, there's no time limit on that, so, but try and keep your testimony to five minutes or less. Any questions before we begin? All right, the first thing that we're going to do is by teleconference, we have a confirmation hearing for Tim Wistrom of Nebraska Oil and Gas Conservation Commission and Mr. Wistrom, are you on and can you hear me? [CONFIRMATION]

TIM WISTROM: Yes, I can. [CONFIRMATION]

SENATOR CARLSON: All right, I think committee...why don't you give us your name and spell it and we'll make sure the rest of the committee can hear you.
[CONFIRMATION]

TIM WISTROM: Okay. It's Tim, T-i-m, Wistrom, W-i-s-t-r-o-m. [CONFIRMATION]

SENATOR CARLSON: All right. Thank you for that, and this is for an appointment to the Nebraska Oil and Gas Conservation Commission. Tell us a little bit about yourself and your qualifications and what you're looking forward to, serving in this position.
[CONFIRMATION]

TIM WISTROM: (Exhibit 1) I'm married to Kathy Wistrom, have three grown children, and born and raised in Dix, Nebraska. Graduated high school from Dix and went off to college for two or three years and couldn't figure out just exactly what I wanted to do, so in '75 I came back to Dix and started my own contract pumping business in the oil field. Had been working with my dad in the oil field since I was about five years old. He started taking me with him checking wells then, so been there pretty much my whole life. And in 2008 I...my wife and I bought a small farm west of Kimball, so we've got a small farming operation to go along with the oil business yet. And Bill Sydow had asked me, oh, three years ago probably when there was a vacancy, if I would be interested in

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serving on the commission but at the time I was real busy so I turned him down. So when the opportunity arose again, I hated to turn Bill down because he's...I think, we're very fortunate to have Bill as the director. It's hard to find somebody that has that much integrity and is that knowledgeable so thought it would be a good chance to be around Bill a little bit and probably learn something. [CONFIRMATION]

SENATOR CARLSON: Okay. Appreciate that. What do you see as your role on the commission? [CONFIRMATION]

TIM WISTROM: You know when Bill had approached me, he had thought that I would be a good candidate because he said that not only was I an oil operator, but also a landowner and he thought that would be a good perspective to have on the commission to where you could come and see both sides of the issues. So I would say that that's probably the biggest part of it. [CONFIRMATION]

SENATOR CARLSON: Okay. Thank you. Committee, do we have some questions? Senator Brasch. [CONFIRMATION]

SENATOR BRASCH: Thank you, Chairman Carlson and thank you for your willingness to serve on this commission. I do have a question is, what do you think the greatest challenge is moving forward? I just thought I heard you say a couple minutes ago that you had some insight and what can you add to the challenges today and what are the opportunities? [CONFIRMATION]

TIM WISTROM: As far as oil and gas... [CONFIRMATION]

SENATOR BRASCH: Yes. [CONFIRMATION]

TIM WISTROM: ...you're talking about? [CONFIRMATION]

SENATOR BRASCH: Yes. [CONFIRMATION]

TIM WISTROM: You know, I know in our area here there's been a lot of talk about the Niobrara shale, but I don't see...I don't see that as being a huge thing in our area. There's been a lot of leasing going on so hopes that someone...I know right out behind my house there's a field that I take care of that's what we call deep oil. It's a lower producing zone of oil and hopefully all this interest that's been peaked over the Niobrara shale, they'll probably have to do something other than that, and hopefully they'll come across some more of this deep oil that we have around here. [CONFIRMATION]

SENATOR BRASCH: Very good. Thank you for your willingness to serve, Mr. Wistrom, and I have no other questions. [CONFIRMATION]

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TIM WISTROM: Okay. Thank you. [CONFIRMATION]

SENATOR CARLSON: Other questions? Senator Haar. [CONFIRMATION]

SENATOR HAAR: Yes. Tim, thank you very much. Next week we're going to...I think it's next week, we hear a bill on fracking. Senator Wallman is bringing that. How do you see the Nebraska Oil and Gas Conservation Commission tackling the fracking here in Nebraska? [CONFIRMATION]

TIM WISTROM: You know what, I think they do a great job of it. It's already...we just drafted some new rules and regulations and in that it addresses the fracking issue, and I think the Oil and Gas Commission can take care of that. I think they can regulate it and make sure everything is safe and everything is done according to the way it's supposed to be. [CONFIRMATION]

SENATOR HAAR: Okay. Now, you said, we are...I'm sorry, are you already on the commission or...? [CONFIRMATION]

TIM WISTROM: You know what, I have started. I haven't been confirmed but I have started. The fellow whose place I took had moved to Wyoming so I've been to, I think, three meetings now. [CONFIRMATION]

SENATOR HAAR: Oh, I see. Okay. And then the next question, I'm sorry to put you on the spot, but I have to ask you this. During the whole TransCanada set of hearings and so on, your director appeared in an ad for TransCanada that ran frequently and across the state. How do you feel about that? [CONFIRMATION]

TIM WISTROM: Personally, I'm in favor of it. I'm in favor of the pipeline for no other reason, I guess, that I think it's nice to buy oil from friendly people other than Middle Easterners, so, yeah, I don't have a problem with it. [CONFIRMATION]

SENATOR HAAR: Okay. Thank you. [CONFIRMATION]

SENATOR CARLSON: Okay. Any other questions of the committee? Senator Schilz. [CONFIRMATION]

SENATOR SCHILZ: Thank you, Senator Carlson. Mr. Wistrom, good afternoon. I guess my question, and I think and maybe you can explain this a little bit, it's just for my purposes and the committee's knowledge, the Oil and Gas Commission is set up as a promoter of the gas and oil industry in Nebraska, is that not correct? [CONFIRMATION]

TIM WISTROM: You know to be perfectly honest with you, I don't know. I would assume that's its role. I guess that and to regulate it and make sure it's safe and that we get the

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most out of our natural resources. [CONFIRMATION]

SENATOR SCHILZ: Right. Well, I just wanted to commend you guys, the commission, as well as Mr. Sydow with what he's done and what he's been able to do, so welcome to the bunch and I think you'll make a great addition. [CONFIRMATION]

TIM WISTROM: All right. Well, thank you very much. [CONFIRMATION]

SENATOR CARLSON: Any other questions of the committee? I'll ask a final question for myself here. What do you think the future is for gas and oil in Nebraska, the potential? [CONFIRMATION]

TIM WISTROM: You know what, I guess I think about back when I was a teenager and my dad was taking care of oil wells and someone had told him that he'd better be thinking about a different...a different job one day, that oil was never going to last. And that was probably when I was 15 and I'm 61 now and I'm still doing it, so I would think that there is a future here. I would think that new technology and... but all that new, the 3D Seismic, I would say that there's still a future for oil in Nebraska. [CONFIRMATION]

SENATOR CARLSON: Okay. Thank you. Any further questions? Hearing none, thank you, Mr. Wistrom for being with us on the phone and answering questions. In the next stage, we'll just keep you on the line a little bit because we ask if there's anybody here as a proponent for Mr. Wistrom? And now the next question. We don't mean it to scare you. Are there any opponents? Testifying as an opponent? Anybody in a neutral position? Okay, seeing none, that will close the hearing for the confirmation of Tim Wistrom. And Tim, thank you for being with us. [CONFIRMATION]

TIM WISTROM: Thank you so much. Thanks for your time. [CONFIRMATION]

SENATOR CARLSON: Okay. And with that, we'll open the hearing...confirmation hearing for Steve Lichter, Natural Resources...the Nebraska Power Review Board and so, please join us, take your spot there. Welcome, and tell us a little bit about yourself. [CONFIRMATION]

STEPHEN LICHTER: (Exhibit 2) Stephen Lichter, S-t-e-p-h-e-n L-i-c-h-t-e-r. I'm a mechanical engineer, I'm a professional engineer licensed in about 25 states around the country. I own five businesses in Omaha. We do primarily engineering and construction work for clients in the food, pet food, pharmaceutical and renewable energy markets. I'm currently on the Nebraska Power Review Board. I'm here today asking you to reconfirm me for a second term. Over the past several years we've had a lot of changes in the electric industry in the state with the renewable energy bill that was passed a couple of years ago, which is now law with some of the bills that are before the Legislature this year with the ROFR and things like that with three of our primary utility companies

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joining Southwest Power Pool with all the different projects and challenges that that brings. I've been sitting as the vice chair of the committee for the last year. I've also been involved with Chairman Siedschlag on the Regional State Committee for the Southwest Power Pool. I'd like to continue to stay involved in that and to replace Chairman Siedschlag as chairman when his term is up next year. [CONFIRMATION]

SENATOR CARLSON: All right. Thank you. Questions of the committee? Senator Smith. [CONFIRMATION]

SENATOR SMITH: Thank you, Mr. Chair. And, Mr. Lichter, thank you for being here and thanks for your willingness to serve. I see that Senator McCoy is your state senator and a reference point here from Senator Lautenbaugh, so you're associated with a couple of fine senators. [CONFIRMATION]

STEPHEN LICHTER: Thank you. [CONFIRMATION]

SENATOR SMITH: So you've been on the review board for a while now. Tell me what you see as a couple, three of the primary challenges facing the Power Review Board going forward, or for the state of Nebraska, that is? [CONFIRMATION]

STEPHEN LICHTER: From my perspective, really our biggest challenges are continued involvement in the wind energy and utilizing those resources in making sure that we do that work correctly. I also would say that another of our challenges is our involvement in the Southwest Power Pool. The projects that they've got slated for the next ten years in their project plan, a lot of that work is expected to happen in the state of Nebraska, which is from a personal perspective, which is one of the reasons why the Power Review Board has taken a position on the ROFR bill, which I think you had testimony on several weeks ago. We think that in order to protect our utilities in the state of Nebraska and ultimately protect our ratepayers, that that's an important aspect of that bill that needs to be modified in order to protect those interests. [CONFIRMATION]

SENATOR SMITH: All right. Thank you. [CONFIRMATION]

STEPHEN LICHTER: You're welcome. [CONFIRMATION]

SENATOR CARLSON: Senator Haar. [CONFIRMATION]

SENATOR HAAR: Yeah, just for curiosity, a question here. Engineering, automation and design, how does that fit into renewable energy because you mentioned that, renewable energy? [CONFIRMATION]

STEPHEN LICHTER: We've actually designed projects. We designed the first 30 million gallon a year biodiesel plant in the U.S. up in Minnesota. We've done work in ethanol.

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We're currently doing work in wood pellet for export industry down in the southeast portion of the United States. As you may know, the European market for their coal-fired plants, they have mandates of 20 percent renewable on their coal-fired facilities and a lot of that wood is being exported over to Europe for use in their coal-fired facilities.
[CONFIRMATION]

SENATOR HAAR: Excellent. Thank you very much. [CONFIRMATION]

STEPHEN LICHTER: You're welcome. [CONFIRMATION]

SENATOR CARLSON: Other questions? Senator Johnson. [CONFIRMATION]

SENATOR JOHNSON: I'll follow up a little bit on that. Your businesses are located in Nebraska, but you go throughout the United States and probably globally to a certain extent, or some of the things you do are affected globally. How do you rank Nebraska as far as being a long-term player in renewable fuels? [CONFIRMATION]

STEPHEN LICHTER: Well, certainly, Nebraska ranks up there in at least the top five, if not the top two or three, as far as wind energy. That's certainly a big opportunity for us in the state. I would also suggest that some of the second generation liquid fuels, I think there's potential if those ever become commercialized to the point that they can justify the costs. I think you have opportunities for the corn stover or wheat straw, those kinds of things, the biomass products to be converted into liquid fuels. [CONFIRMATION]

SENATOR JOHNSON: Thank you. [CONFIRMATION]

SENATOR CARLSON: Okay. Any other questions? Oh, Senator Dubas.
[CONFIRMATION]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you very much. I'm going to kind of pick up on the same line of questioning that's been going on here. You know, we...sometimes we get...we're so anxious to make things happen, especially in the area of renewable fuels and we feel like maybe we aren't moving fast enough but your view, you see things that are going on across the country, again, as well as what may be happening in other countries. So are we where we need to be? Are there things that we could be doing to maybe step up or get...move ourselves a little bit farther down the line in a quicker fashion, or are things going, do you think, in an appropriate manner?
[CONFIRMATION]

STEPHEN LICHTER: If you're speaking specific to wind energy, the one thing that I would say with wind energy across the country is that, you know, we still have a challenge as far as the transmission and distribution of wind energy which is why some of the projects that the Southwest Power Pool is looking at will assist with some of that.

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Do I think we're behind the curve? Probably not at this point. I think that in the next ten years we're going to have the unique opportunity to develop those resources in the state of Nebraska. [CONFIRMATION]

SENATOR DUBAS: And a lot of our focus has been on wind, but you brought some other things up. Do you see as much potential there, as many opportunities in those other areas of renewables as there is maybe with wind? [CONFIRMATION]

STEPHEN LICHTER: Speaking personally, my first project where I was involved in biomass conversion to ethanol was back in '91, '92. And at that time everybody said that we were ten years away from commercialization of biomass to ethanol or biomass to butanol or some renewable form. And here it is, 2013, and I'm still hearing the same, we're ten years away. I will say that there have been some advances, the Novozyme facility that was recently started up up in Blair, Nebraska. I think they're doing some very unique and innovative things as far as the conversion of biomass to liquid fuels. And I think that maybe we've got a shot at this point to actually be able to convert some of those what I'll call biomass raw materials, into liquid fuels. [CONFIRMATION]

SENATOR DUBAS: Do you think it's mostly the cost of doing this that maybe is keeping us from hitting that ten-year mark yet or are there other things that are putting some roadblocks in place? [CONFIRMATION]

STEPHEN LICHTER: Historically, I would say...I would say there was probably other roadblocks. I would say at this point the commercialization of liquid fuels primarily is, the cost is the primary driver of why it's not advancing more rapidly. [CONFIRMATION]

SENATOR DUBAS: Very good. Thank you so much. [CONFIRMATION]

STEPHEN LICHTER: You're welcome. [CONFIRMATION]

SENATOR CARLSON: Senator Brasch. [CONFIRMATION]

SENATOR BRASCH: Thank you, Chairman, and thank you Mr. Lichter for your willingness to serve and all your work and involvement with renewable energies. I'm very pleased to say that Novozymes is in District 16, my district, and I've had the tour and it is amazing at their capabilities and their future. I've also been on another tour on the far side of the district in Cuming County and actually just over the border where they are using, for biofuels, methane and converting it, using it with diesel or natural gas. Have you explored that or are you familiar with the ag operations being able to also produce energy and fuels through methane? [CONFIRMATION]

STEPHEN LICHTER: Actually I have. In fact, the Nebraska Power Review Board approved Lincoln Electric System's generation unit up at the landfill north of town. That

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was something that we approved here within the last three or four months. Personally, our company was involved in the E3 BioFuels facility in Mead, Nebraska, where they're actually taking the manure from the feedlot and converting it to methane and using that to fire the boiler for the steam for the plant. So we have had some involvement. You know, everything...all of renewable energy or all the energy that we use, it really comes down to a cost of conversion and whether or not you can build the processes necessary in order to capture that material or capture that waste and convert it to a usable form of energy. And we see that in oil and gas now. We have a cost of conversion for refining ethanol. We've got a cost of conversion and we've got similar challenges on the methane as far as being able to capture that and converting that to a usable fuel.
[CONFIRMATION]

SENATOR BRASCH: Very good. And just one more comment. I do see that...it's wonderful that you're involved in several youth programs for sports, and I believe the POWER...I'm not sure if it's related, but there's a youth group also with POWER that takes engines and works with it and promotes competition across the state with high schools. Are you familiar with that program? [CONFIRMATION]

STEPHEN LICHTER: Unfortunately, I'm not. [CONFIRMATION]

SENATOR BRASCH: It's also looking at fuels and efficiency... [CONFIRMATION]

STEPHEN LICHTER: That's wonderful. [CONFIRMATION]

SENATOR BRASCH: ...so that might be something that would also interest your board, so. Thank you for...not testifying, but your willingness to come forward today.
[CONFIRMATION]

STEPHEN LICHTER: Thank you. [CONFIRMATION]

SENATOR CARLSON: Okay. Any other questions? My question to you is really for the record, but what are the primary responsibilities of the Power Review Board?
[CONFIRMATION]

STEPHEN LICHTER: The Power Review Board is a quasi-judicial board. The primary responsibility is to, in my mind, is to settle disputes whether they're boundary disputes, customer disputes, although we don't have jurisdiction over rates, things like that. It's more of a willingness or ability to serve. I think part of our responsibility is also to the ratepayers, since we are the only state in the nation that has public power, is to ensure that when we're adding generation, when we're looking at renewable projects, that we are meeting what is legislated by this body and the folks in this building and making sure that we're meeting those standards. [CONFIRMATION]

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SENATOR CARLSON: One other. How does a person or an entity attain standing with the Power Review Board? [CONFIRMATION]

STEPHEN LICHTER: I'm not sure I understand your question. [CONFIRMATION]

SENATOR CARLSON: Well, the Power Review Board is there for public power, correct? [CONFIRMATION]

STEPHEN LICHTER: Correct. [CONFIRMATION]

SENATOR CARLSON: And you have a responsibility for new construction, extension of power? [CONFIRMATION]

STEPHEN LICHTER: Correct. [CONFIRMATION]

SENATOR CARLSON: And it's my understanding that public power, each public power entity has standing with the Power Review Board. Is that correct? [CONFIRMATION]

STEPHEN LICHTER: I'm going to speak personally and not as a member of the Power Review Board, because I believe that part of your question is the part of the ROFR bill changes and maybe some of the challenges with private developers. I know of two instances in the history of the Nebraska Power Review Board where we have accepted applications from nonpublic power entities because of the interpretation of the definition. One, I believe was the International Brotherhood of Electrical Workers in the city of Omaha that applied for a generation facility at their training facility in Omaha. If I remember correctly, OPPD signed a consent and waiver for that generation. I believe there was one other instance. I don't remember the details of that instance, but I do know that there have been at least two instances in the history of the Nebraska Power Review Board where we've accepted application from someone other than our public power entities. [CONFIRMATION]

SENATOR CARLSON: Okay. And you mentioned something about having a concern about economical rates for people who use power. So that falls into the category of what the Power Review Board deals with; would that be correct? [CONFIRMATION]

STEPHEN LICHTER: I don't believe that that's correct. We have no jurisdiction, is my understanding of the public power entities, over the rates that they charge to their customers. I believe they have boards that set those rates. I believe our...the Nebraska Power Review Board's jurisdiction falls short of any jurisdiction over the rates that are charged to the customers. [CONFIRMATION]

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

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STEPHEN LICHTER: Thank you. [CONFIRMATION]

SENATOR CARLSON: Do we have anybody as a proponent for Mr. Lichter? Anybody testifying in opposition to this appointment? Or anyone in a neutral position? Seeing none, we'll close the hearing on confirmation of Stephen Lichter to the Power Review Board. Thank you. And we'll open the hearing on LB634. Senator Davis, this is your day. Welcome. [CONFIRMATION]

SENATOR DAVIS: (Exhibit 3) "Davis Day" at the Natural Resources Committee. Good afternoon, Chairman Carlson and members of the Natural Resources Committee. My name is Al Davis, A-I D-a-v-i-s, and I represent the 43rd Legislative District. I'm here this afternoon to introduce LB634, which would adopt the Wildfire Control Act of 2013 and also we have an amendment which was handed out a few minutes ago and that's AM298. I believe Dr. Josiah has met with some of you and has handed out some information about the conditions last year. Two thousand twelve was the worst wildland fire year on record in Nebraska, with nearly half a million acres burned, 65 structures lost, and \$12 million in suppression costs alone. Higher temperatures, intense drought, increased forest fuel loads, and the spread of eastern red cedar by 38,000 new acres a year have created an explosive potential for very large wildfires across the state. These "megafires" occur far more frequently than in the past, spread and grow very rapidly immediately upon ignition, and burn over large areas for weeks. They are difficult to control, overwhelm local suppression capacity, cost enormous amounts of money, and put lives and property of residents, visitors, and emergency response personnel at great risk. Dangerous wildfire now threaten lives, property, communities, and infrastructure statewide, including the Pine Ridge, Niobrara Valley, Wildcat Hills, Central Loess Hills, loess canyons along the Platte, Republican, Missouri, and Niobrara Rivers, and many developing areas in eastern Nebraska. Whole community recreation areas and camps, housing developments and individual homes, Long Pine, Valentine, Chadron, Devils Nest, Wildcat Hills, Morse Bluffs, etcetera, are at an increasingly severe risk. Much of the Pine Ridge forest ecosystem has been lost to repeated catastrophic wildfires. The Niobrara Valley forests are now beginning to experience similar catastrophic losses in wildland fire. If I begin with the premise that in the simplest approach there is legislation that is desirable, more like a wish list, and legislation that is required, LB634 must be placed into that latter category. This is legislation which I believe needs to be done this year. In fact, the amendment that I have proposed, AM298, among other things adds the emergency clause to the bill. The bill provides for six components that will assist in making quicker and safer responses to these "megafires" when they occur, as well as providing the volunteer firefighters in the impacted areas with additional equipment provided on loan from the federal government, measures to ramp up the thinning of the forest so as to reduce the fuel loads, and then finally a rehabilitative measure to assist in areas that have been destroyed by wildfires. The details of the six components will be explained in greater detail by Dr. Scott Josiah, the Nebraska State Forester who will

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follow me. In that regard, thank you, Chairman Carlson, for allowing Dr. Josiah to follow me to present greater detail on the legislation and use additional time in doing so. I want to comment on the other proposed provision in AM298. It would simply place the development of a Nebraska-based Type III Incident Management Team with the Nebraska Emergency Management Agency rather than with the Nebraska Forest Service. This amendment made sense since NEMA is generally charged with organizing incident command structures pursuant to the Emergency Management Act. I appreciate your time and I'll take any questions. If not, I'd like to defer to Dr. Josiah. [LB634]

SENATOR CARLSON: Okay. Thank you, Senator Davis. Any questions of the committee? And I know you'll be here to close so I won't have to ask you that (laughter), so thank you for your testimony. [LB634]

SENATOR DAVIS: Thank you. [LB634]

SENATOR CARLSON: Dr. Josiah, you can come forward. And as Senator Davis mentioned, Dr. Josiah is our State Forester and his testimony is important, as all of them are today, but we are not turning on the lights for Dr. Josiah. We'll commence with those after his testimony. Welcome. [LB634]

SCOTT JOSIAH: (Exhibits 4 and 5) Thank you very much. My name is Scott Josiah, S-c-o-t-t J-o-s-i-a-h, and I'm the State Forester and director of the Nebraska Forest Service. Senator Carlson, members of the Natural Resources Committee, thank you for this opportunity to provide information to the committee on the Nebraska Wildfire Control Act of 2013. This legislation is critically important to address the substantial and growing problems of large-scale, dangerous wildfire in our state. For the last 35 years, the Nebraska Forest Service has worked to protect life and property by building the capacity and effectiveness of volunteer fire districts across the state. LB634 continues this approach and strategically enhances volunteer fire district capacity to more safely and effectively suppress increasingly large and dangerous wildfires. In fact, 83 percent of the funds that may be appropriated under this bill will be passed through for aviation contracts, fuels reduction cost-share programs, and burned land rehabilitation. The remainder will enhance and expand training, and provide more firefighting equipment to volunteer fire districts statewide. The Nebraska Forest Service is administratively housed in the University of Nebraska. For this reason, any funds that would be appropriated would be appropriated to Program 51, the University of Nebraska. Be sure that none of this money would be used for ongoing university programs. The entirety would be passed through to the Forest Service to specifically implement the actions outlined in LB634. To ensure that you're fully informed--that's my purpose today to provide the committee with any information they need--we've provided you with binders containing information related to the bill. It could take me a half an hour to go through this, but I promise you it won't take that long. I will run through it. Most of you are

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familiar with this information, so I'll just...if you'd refer to your binders, that would be great. And they're in sections, section 1 through 6...or 7, excuse me. The first section is "The Problem," and there are several photos in the beginning, indicating that this was indeed the worst wildfire year ever experienced in Nebraska, by far and away, twice as many fires or acres burned as ever before. The fires were extremely intense, off-the-charts fire behavior, enormous size, incredible intensity. It had all sorts of personal impacts in terms of the people fighting the fires, on landowners, on emergency personnel, and on the residents of those communities. So I'll switch to this. I'm going to go through these quickly, so there's a slide in here, "What is Happening?" Well, what is happening is that we are experiencing extremely hot, dry, windy conditions that are increasing in frequency over time. Forest fuel loads continue to increase far beyond what's natural, both in our forests and now with the spread of eastern red cedar. Fires are growing much faster immediately upon ignition, so what used to be a 40-acre fire several hours after ignition is now a 400-acre fire. Fire behavior is more intense and extreme, exceeding volunteer fire department suppression capacity. And then as I mentioned earlier, eastern red cedar is spreading rapidly across the state at a rate of about 38,000 to 40,000 acres a year of new forest. This is new forest that's emerging in front of our eyes. Just want to read a few things. The incident commander from the Pine Ridge fires this summer...last summer was...he described it as the worst, most explosive fire behavior he had seen in 36 years of fire experience across the west. Another volunteer from the Niobrara area said that fire burned through grass at more than 40 miles an hour. There was no way we could stop the burning through the community of Norden--just off-the-charts fire behavior. We lose a lot in these big fires. We lose life and property. We...again, \$12 million in suppression costs, which doesn't include volunteer firefighter time away from the job or nonreimbursed suppression expenses. Many impacts on homes, communities, parks, wildlife, municipal water supplies. Our rangelands are seriously impacted through hay, fence, waterlines. We even had pivot systems lose 400 tires to fire. Public infrastructure, and trees and forests, all are seriously impacted by these, what we call, "megafires." As Senator Davis mentioned, the Pine Ridge took a real beating this summer. We lost, oh, probably a third of the forested area less. We only have about 80,000 to 100,000 acres left of untouched forest. The rest has burned, sometimes repeatedly over the last six or seven years. And now the process is beginning in the Niobrara Valley. I want to turn your attention to this chart on fire occurrence. This would be easier with a PowerPoint, but we charted out the fire occurrence by size class of the fires for the last 50 years and found that the number of large fires has increased, the frequency of those fires has increased since 1989, and the size of the fires is increasingly dramatically as we go forward. That's a combination of perhaps changes in our weather, certainly hotter, drier conditions, and these excessive fuel loads. Several communities are at great risk. Long Pine is especially at risk from fires coming from the north, from the west, or from the south; and the same thing with Valentine with fires coming from the west or the north. The last page in that section shows the city of Valentine, the main street with...this was in 2006 when fires burned into that community. This was a relatively small but intense

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fire. It burned nine homes down and threatened the entire community. And it's a little disconcerting to see hundred-foot "flamelings" at the end of your main street. So we've proposed a series of solutions or attempts to address this problem. One is that we have to keep the fires smaller and hit them harder early on, and the only way to do that is with aerial assets, with aviation. So we propose to have two single engine air tankers, or SEATs, one in Valentine, one in the Pine Ridge area, that would be ready at a moment's notice to get on these fires as soon as they're detected, get retardant on them, and to either put them out or keep them small while the ground forces can get there. At the rate that they are spreading, we have to do something early on to get these fires under control. It can be expensive to do that, but it's a lot more expensive to bring in assets once these fires get big. On the last page of that section, of the section 2, I have some comparative costs and issues with Black Hawk helicopters, Chinook helicopters, and the SEATs. It costs \$100,000 a day to bring a Black Hawk helicopter in from Lincoln to the fire site. It costs \$200,000 a day to bring the Chinooks in. And it costs about \$4,000 a day to have the SEAT there and to be actively working a fire on an average fire year. The SEAT is there; it's available right away. It takes usually a day or two to get the helicopters up to the fires from Lincoln. So we can save money and we can get on these fires much quicker, keep them small before they become "megafires." Sort of the flip side of the equation is fuels reduction. We can keep the fires small, but if we keep doing that we still have the same problem with too much fuel on the ground. So we have a program in place with the Nebraska Forest Service which we'd like to expand significantly to reduce the amount of fuel. Our forests are way overgrown in our coniferous forests--our pine and cedar forests. And then we have the spread of eastern red cedar, again, by 38,000 to 40,000 acres a year, and that's statewide. There's a map that shows the extent of eastern red cedar forests as they exist right now, and the blue on that map indicates forest, as well as purple, and the rest is emerging forest. So again, you can see it from sort of central Nebraska east. This is no longer a Pine Ridge or a Niobrara Valley problem; this is a statewide problem. We've had a doubling in the number of acres in the last five years to 350,000 acres a year of eastern red cedar forests. Fuels reduction works. We had numerous examples. The last three pages of the section show that fuels reduction has saved houses, has saved lives. These, there are a number of houses, the last two pictures show two different houses where the landowners engaged the Forest Service and private contractors to thin their forests around their homes and to take certain steps to remove the...to reduce the risk. Both houses experienced severe wildfire around their homes but their houses survived. Training, that's another component. Right now only 10 percent of the firefighters in the state, volunteer firefighters in the state, are trained in the basic fire suppression courses that are certified, that make them certified. In other words, 90 percent are not, and 90 percent of our firefighters are not ready to deal with these major "megafires" of this intensity, which is very disconcerting. We are very lucky that we didn't lose firefighters last year in these intense fires. We would add two positions to the Nebraska Forest Service to specifically focus on training statewide and we would triple the number of folks, volunteer firefighters, trained on an annual basis. So we would start making a dent

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in those numbers very quickly. Type III Team: As these fires get bigger and more intense, it's become a growing consensus and agreement among a number of fire service and emergency management agencies that we need better incident management. There's been a lot of problems with incident management and coordination specifically. Most other states have Type III Teams at least; we don't and we need one. NEMA would develop and implement those teams. The Nebraska Forest Service would simply play a role in providing staff and perhaps providing assets and training support from the U.S. Forest Service. Sixth is "Excess Property." The Nebraska Forest Service has a program and has had one for many years to acquire surplus excess property from the U.S. military and then we have a fire shop. We refurbish that equipment, get it up to running condition, safe condition, and then we turn it over on loan to the fire districts. We have 450 pieces of equipment out there now. We're getting better and better and later model equipment all the time. We just simply don't have the people to process it to get it out fast enough. It's a very, very popular program. You can see from the pictures, we're getting equipment that costs \$250,000 for some of these tankers and we get it for \$4,000, essentially the cost of acquiring it. We may spend another few thousand getting it up to safety conditions, and then it goes to the fire district. They do the remainder of the outfitting, but still they get, you know, a major piece of equipment for pennies on the dollar. I think several people here will be speaking to this program today. Lastly, this is about land restoration as well. Some of these areas that burned, burned so intensely, or burned areas that had burned in 2006 burned again in 2012. There's no forest left on these expansive watersheds. In section 7, the first page you'll see an area that describes just that, that shows just that. It's devoid of vegetation at this point. If we get heavy rains--heavy rains would be nice but not all in one place--we would have tremendous runoff, tremendous erosion, tremendous damage. Several pictures here, the third picture shows what happens when you have really intense fire under cedar. This happens under pine as well. This is a really good picture showing these soils were baked, they're cooked, they're sterilized. There's no seed left in that. It will take a long time for that to revegetate. And in the meantime, they repel water, so they would...almost all the rain that fell on those sites would run off. The second to the last photo shows an area from 2006 that had burned, and that's what it looks like pretty much when it...when nothing is done. It's just, the dead trees fall over eventually, for more fuel for future fires to come through, lots of eroded areas, lots of soil erosion. So it's not pretty. We really need to step up and get something done. The problem is vast. We would have to be strategic in where we place these investments. Finally, there's just the description of what happened after the Fort Robinson fire, after the 1989 fire, and the following year they had a major 100-year flood, 100-year rainfall event that did a tremendous amount of damage, killed a person, wiped out their fishery...their hatchery, excuse me, and did a lot of other damage worth about \$5 million. So there's spillovers to this as well. In closing then, I think that more frequent and more intense occurrences of drought, high wind events, higher temperatures, and longer fire seasons, combined with the dramatically increased forest fuel loads over much of the state, have increased the risk of high-intensity "megafires"

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to occur in Nebraska. LB634 provides a short- and long-term strategy to substantially improve the protection of life and property throughout much of Nebraska, reduce wildfire size and intensity, reduce the risk, and increase the effectiveness of our volunteer firefighters as they work to suppress fires, and reduce fire suppression costs charged to the state emergency fund. So I hope I did that quickly enough for you and I'll take any questions, be glad to. [LB634]

SENATOR CARLSON: Okay. Thank you, Dr. Josiah, for your testimony, and we're open to questions. Senator Brasch. [LB634]

SENATOR BRASCH: Thank you, Chairman. And thank you for your testimony, Dr. Josiah. It's intriguing and also horrific at the same time. [LB634]

SCOTT JOSIAH: Uh-huh. [LB634]

SENATOR BRASCH: And what I wonder about is this is not an isolated Nebraska problem, correct, because I have heard of fires in Colorado and Montana. Is it due to aging geography we have in North America, or is it that we waited too long to do our maintenance work on new seedlings? Are we looking at different types of trees, ones that take less water, redwoods that would last a thousand years? I don't know. Or do you network with other states? Do we learn from each other? Is there...is this information based on something else or are we...can you...? [LB634]

SCOTT JOSIAH: This information is Nebraska specific, but... [LB634]

SENATOR BRASCH: Uh-huh. [LB634]

SCOTT JOSIAH: ...we are sharing the same trends that virtually every other western state is experiencing: higher temperatures, longer fire seasons, more intense fire seasons, larger fires than they've ever seen before. It's not just a Nebraska trend. We were late in joining it but we now, last year, are fully engaged in the same problems that the other states have. The only difference is that other states have a state suppression force. Nebraska Forest Service or Nebraska...state of Nebraska has no state suppression force. We rely entirely on our volunteer fire districts for fire suppression. [LB634]

SENATOR BRASCH: The suppression forest, is this a group of trees or a group of people? Are you... [LB634]

SCOTT JOSIAH: The suppression force is... [LB634]

SENATOR BRASCH: Force, f-o-r-c-e. [LB634]

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SCOTT JOSIAH: Force, not forest. [LB634]

SENATOR BRASCH: Okay, force. Okay, I heard that wrong. [LB634]

SCOTT JOSIAH: So they have fleets of air tankers and bulldozers... [LB634]

SENATOR BRASCH: I see. [LB634]

SCOTT JOSIAH: ...and firefighters and all that as state employees or state employment. [LB634]

SENATOR BRASCH: I see. [LB634]

SCOTT JOSIAH: We don't have anything like that. We have access to the National Guard. We have volunteer fire districts. [LB634]

SENATOR BRASCH: And this legislation will bring us into that or closer to that? [LB634]

SCOTT JOSIAH: It will bring us closer to that... [LB634]

SENATOR BRASCH: Closer. [LB634]

SCOTT JOSIAH: ...with the addition of the single engine air tankers. That will get us into this game of being able to suppress these fires faster. We start to join the...we start to build the capacity of our fire system, both statewide and through the volunteer fire districts. [LB634]

SENATOR BRASCH: And I, from a meeting earlier this week, I understand the Nebraska Civil Air Patrol was also a part of helping fight the fires this year. Is that correct or is that... [LB634]

SCOTT JOSIAH: Well, I'm not...I hadn't heard that. [LB634]

SENATOR BRASCH: Okay. [LB634]

SCOTT JOSIAH: But they might have provided some spotting. [LB634]

SENATOR BRASCH: Okay. [LB634]

SCOTT JOSIAH: After lightning storms, they might have gone up and helped to provide...spot new fires that were existing, that had ignited. But generally, we have a fleet, we have a number of volunteer aerial applicators, crop dusters that help, but they generally have a fairly small capacity compared to what a single engine air tanker would

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have. [LB634]

SENATOR BRASCH: I have no other questions. Thank you for your work and assist. [LB634]

SCOTT JOSIAH: Thank you. [LB634]

SENATOR CARLSON: Senator Dubas. [LB634]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you, Dr. Josiah. It was very helpful to have you come ahead of the hearing and kind of walk us through some things. But kind of picking up where Senator Brasch left off, so most if not all of...at least our surrounding states and other states around the country have this suppression force. So they have the resources available to address their states' fire concerns. [LB634]

SCOTT JOSIAH: I bet you, if you asked any one of them, they'd say they don't have enough. [LB634]

SENATOR DUBAS: Of course. [LB634]

SCOTT JOSIAH: But, yes, they all have some type of fire suppression capability. [LB634]

SENATOR DUBAS: So if we don't pass this legislation or something very similar to it, we would then be looking to those other states to help us fight our fires. Is that where we would turn to? [LB634]

SCOTT JOSIAH: That's correct. And what happens, then, is that anything that those states pay for in advance, say, single engine air tankers or other tankers or other equipment, if they have fires, those fires are their priority, not Nebraska's. So we are on a waiting list, then, for that equipment. We also don't have some agreements in place. We haven't been able to get a Great Plains Compact in place to avail ourselves of easier sharing across borders. It's doable; we just need to do that in the future. [LB634]

SENATOR DUBAS: So we really are putting our state's public safety, as well as our natural resources, at risk, relying on other states to come in and help us when they're probably facing the exact same issues we are as far as more intense fires, larger fires, fires that are demanding their resources and their attention. And if we aren't stepping up to provide that same thing for our state, we really are at their mercy. [LB634]

SCOTT JOSIAH: That is correct. [LB634]

SENATOR DUBAS: All right. Thank you. [LB634]

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SENATOR CARLSON: Senator Haar. [LB634]

SENATOR HAAR: Dr. "J," who in the state actually takes charge when a fire...that coordinates the volunteers and so on? [LB634]

SCOTT JOSIAH: It's my understanding that it's the fire chief who has jurisdiction over that and is the incident commander right now on a fire, until that fire becomes an incident requiring a Type II or Type I team, which is an outside team, outside the state completely. They bring in their own firefighters, their own... [LB634]

SENATOR HAAR: Uh-huh. [LB634]

SCOTT JOSIAH: ...communications and everything. And that costs \$1,200,000 a day. [LB634]

SENATOR HAAR: Wow! So it's the local fire chiefs who take... [LB634]

SCOTT JOSIAH: Uh-huh. [LB634]

SENATOR HAAR: ...take charge of this. [LB634]

SCOTT JOSIAH: Uh-huh. [LB634]

SENATOR HAAR: And it's all volunteer. [LB634]

SCOTT JOSIAH: It's all volunteer. [LB634]

SENATOR HAAR: And is it just that we haven't funded this or we haven't seen the level of problem? You know, I mean to...the thing we see on television often when you see the firefighter, you know, they're brought in from all over the country and they're paid and everything. Is it just that we haven't had the extent of the problem till now or...? [LB634]

SCOTT JOSIAH: I think that's part of it, yeah. I mean we had some bad fires in 2006, a series of large fires again in intervening years. But this was a huge wake-up call in 2012. I think the consensus has been growing that we do need a Type III team, an incident management team in this state to handle fires that are beginning to get large and serious, and that would then take over from the volunteer fire chief of that area. They would take over the incident command of that and bring in other resources as well. One of the biggest challenges on these fires, I think, for the volunteer firefighter chiefs is coordination, radio coordination, coordination of assets. I know the fires up in the Niobrara Valley had 140 departments responding to that fire. And just coordinating that

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many fire departments and where those firefighters are at any one time and where there's backburn operations going on and making sure people are in the right place and not in the wrong place is really important. [LB634]

SENATOR HAAR: And who did that in this last year? [LB634]

SCOTT JOSIAH: Well, the...again, the first chief, the Fire Marshal's Office, through the WIRAT team. And I couldn't tell you what that means, but anyway it's sort of a technical support team that helps the incident commander, the fire chief, handle things. It's sort of an intermediary step, as I see it, towards a full-blown Type III team. All of those trained people under the WIRAT team would become part of a Type III team, an important part, but there would be other groups. Everybody from the Forest Service to NEMA to even the Department of Roads, Game and Parks Commission, they would all have a piece of it, each with people trained for specific positions for the Type III team. It's a much more sophisticated, much more effective way to handle these big fires or growing fires. [LB634]

SENATOR HAAR: And you know, the point of the question, and I, you know, I think this is important, but we live in Lincoln, why should...I live in Lincoln or right outside. Why should I care? [LB634]

SCOTT JOSIAH: Well, I would say you have statewide responsibilities and, really, it's a statewide issue at this point. The spread of eastern red cedar makes it a statewide issue. We have emerging forests that are incredibly flammable and grow...these cedars now are exploding across the eastern part of the state. They grow right up to housing developments. They grow right up around ranches and acreages, recreation homes. It's a huge problem and we will be facing major losses due to wildland fires and cedar, there's no doubt. None of my...every one of my colleagues fully agrees with that. We're just waiting. We have to do something. [LB634]

SENATOR HAAR: But that's kind of a new perception of Nebraska, that we're a forest state. [LB634]

SCOTT JOSIAH: Yes. [LB634]

SENATOR HAAR: It's mainly...we think of it as a prairie state, but the cedars are coming. [LB634]

SCOTT JOSIAH: By 40,000 acres a year... [LB634]

SENATOR HAAR: Wow! [LB634]

SCOTT JOSIAH: ...of new forest. [LB634]

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SENATOR HAAR: Well, thank you for this and for the education of coming to my office earlier and talking about it. [LB634]

SENATOR CARLSON: Senator Smith. [LB634]

SENATOR SMITH: Thank you, Mr. Chairman. Dr. Josiah, thank you for coming and testifying today and appreciate also your time coming earlier to visit with each of us in our offices and going over this in more detail. And I'm looking at the fiscal note and there's five FTEs that are part of this package, full-time equivalent personnel, and two of them are for training, two of them are for...to expand the Federal Excess Property Program. I understand those two, I believe. But we have .5 of an FTE that's part of the Aerial Asset Program. Now are we contracting the aerial efforts, or is this going to be someone that is going to be part of the Nebraska full-time personnel to maintain that? How is that going to work exactly? [LB634]

SCOTT JOSIAH: The...when we contract for a SEAT, single engine air tanker, we...that comes with the plane and the pilot or pilots and the maintenance of the plane. So we don't cover any of that. That just is a turnkey operation. And we pay for them for their availability. They sit there and we pay a certain amount per day for availability. And then we pay a certain amount every time they fly, and that would include fuel costs and hourly rates and all of that. There also needs to be a person on the ground helping to coordinate between ground forces and the plane itself, and that person is called a SEAT manager or an aviation manager. We would provide .5 an FTE, basically during the fire season in the summer, to serve in that coordination function. [LB634]

SENATOR SMITH: And is that person going to be a state employee then? [LB634]

SCOTT JOSIAH: That would be. And that would be combined with some other functions of perhaps existing employees. [LB634]

SENATOR SMITH: And you mentioned potentially forming a compact down the road. How far down the road are we in being able to see something like that among the states to be able to share these costs? [LB634]

SCOTT JOSIAH: We're actually investigating sharing costs on the SEATs with South Dakota and Wyoming and with the Forest Service and the Fish and Wildlife Service. Those costs are for average fire seasons. If it's an exceedingly bad fire season, like last year, it would be far in excess of those costs. So it's in the best interest of the state to seek coordination with them. And on the other hand, in terms of seeking an interstate compact agreement with other states, Nebraska is one of the few states that does not participate in that and we would advocate that we should. And so it's just a matter of introducing and passing legislation to enable us to participate in the Great Plains

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Compact. [LB634]

SENATOR SMITH: Would you then see some of the expenditures that would be part of this bill being used in neighboring states, or how would that work exactly? [LB634]

SCOTT JOSIAH: If, say, our SEATs went to neighboring states to work on their fires if we didn't have any, upon their request, all of those costs would be reimbursed under the Great Plains Compact. [LB634]

SENATOR SMITH: All right. Thank you. [LB634]

SCOTT JOSIAH: Sure. [LB634]

SENATOR CARLSON: Senator Johnson. [LB634]

SENATOR JOHNSON: Thank you, Chairman Carlson. Thank you, Doctor. The focus is rightly focused on the forest side of it and western Nebraska we know and that risk. And to follow up maybe on Senator Haar's kind of a question, with the drought that we're in now, we've got a lot of grassland that is dry. We've got some areas, I know, in my district and other places in, I'll say, the eastern half of Nebraska that are subject to grass fires. How would any of this play into controlling or being proactive in controlling fires that might endanger some habitat, communities in a grassland area? [LB634]

SCOTT JOSIAH: Well, for...I think the two single engine air tankers would provide aerial support for a good part of western Nebraska because they're, you know, they're able to get to most parts of the state in an hour, hour and a half or couple hours if it were way south. For eastern part of the state, I don't think that would be feasible. But with that said, the components for better training and for a much expanded Federal Excess Property Program would provide volunteer fire districts in eastern Nebraska with substantially improved effectiveness to be able to deal with these fires. [LB634]

SENATOR JOHNSON: So the equipment part of it would not be as accessible, but other parts of the program would benefit the entire state. [LB634]

SCOTT JOSIAH: The aviation parts would not be as accessible to the eastern, far eastern part of the state, but the other programs would certainly enhance effectiveness of firefighters across the state. [LB634]

SENATOR JOHNSON: Okay. Thank you. [LB634]

SENATOR CARLSON: Senator Haar. [LB634]

SENATOR HAAR: Do you require enabling legislation, then, to enter into a compact or

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you say that's already possible? [LB634]

SCOTT JOSIAH: No, it would require enabling legislation. [LB634]

SENATOR HAAR: Is that something you need added on to here as an amendment perhaps or... [LB634]

SCOTT JOSIAH: I guess I would defer to Senator Davis. [LB634]

SENATOR HAAR: Okay. [LB634]

SENATOR DAVIS: I would certainly entertain looking at that. [LB634]

SENATOR HAAR: Okay. [LB634]

SENATOR CARLSON: Okay. Any other questions? Senator Brasch. [LB634]

SENATOR BRASCH: Thank you, Chairman, and just one brief question here. I'm very curious about the red cedar epidemic. Is that unusual or is it normal for red cedars, you know, the type of a tree? For example, in our pasture we have every year, doesn't matter what, we battle thistles. We're out there with buckets, we're, you know...and we know they'll come back. They've been around for centuries. So are red cedars...is this something new to our geography? Is it a noxious tree anymore? I mean how do you handle that? Is it something that Roundup takes care of? You know, what is...? [LB634]

SCOTT JOSIAH: Eastern red cedar is a native tree. It's very valuable for windbreaks and provide livestock... [LB634]

SENATOR BRASCH: Uh-huh. [LB634]

SCOTT JOSIAH: ...protection and for screening. It's also exploded in terms of the number of acres that it's occupying over the last five or ten years. We seem to be at the epicenter of this rate of spread. Kansas has some spread of cedar, North...or South Dakota has some spread of cedar but nothing like what we're experiencing. Oklahoma had the same kind of experience some years ago. A good part of their state is now covered with eastern red cedar and when you see the fires on the news of Oklahoma, it's cedar burning. That's why they lose many homes and communities, because of the cedar fires that they have. So it's an issue, it's a big issue. It's going to become a much bigger issue in years to come. What to do about it? We can cost-share for fuels reduction. It can be removed and converted to pasture, but it has to really be followed up with prescribed fire. Herbicides are okay, but it's expensive. What we really need to do is harness the private sector. The previous person in the previous hearing talked about biomass and we think that there's a tremendous opportunity to harness the

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private sector, find markets for this material. That 350,000 acres represents 5 million tons of wood. Just to put that in perspective, to heat and cool the Chadron State College campus it takes about 6,000 tons of wood, and we have 5 million tons of just cedar just sitting there. So we have a huge opportunity if we can figure out what the markets are. [LB634]

SENATOR CARLSON: Okay. Thank you. Any further questions? Well, my question, Dr. Josiah, the A bill on this is \$1,725,000. If this bill had been...if this money had been available the last five years, and I don't know if you've got those figures...or let's put it another way. If this bill passes, what do you think the savings are, had this been in effect the last five years? [LB634]

SCOTT JOSIAH: I think we would have had much faster suppression of the wildfires that took off last summer for sure, and some of those may not have grown to the size that they grew, saving millions of dollars to the state's emergency fund. I think that would have been the result. We would have done a lot more fuels reduction. Some of those wildfires may not have been crown fires, they would have been ground fires, again reducing the size and the danger. And we would have had three or four times as many people with...certified in basic fire suppression so we would have had more effective ground forces and coordination. [LB634]

SENATOR CARLSON: And it may be in here, and if so I missed it, because I think in our conversation we've talked about it, but what kind of expenditures have gone out of the Nebraska Emergency Fund fighting fires the last few years? [LB634]

SCOTT JOSIAH: That's a hard number to get. We only were able to get last year's and that was \$12 million. [LB634]

SENATOR CARLSON: That was \$12 million. [LB634]

SCOTT JOSIAH: Yeah. [LB634]

SENATOR HAAR: Twelve million, wow! [LB634]

SCOTT JOSIAH: Just for fire suppression. [LB634]

SENATOR CARLSON: But we can't say that had this been there, we would have saved \$12 million. [LB634]

SCOTT JOSIAH: No. [LB634]

SENATOR CARLSON: We'd still had fires. They just wouldn't have been as widespread. [LB634]

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SCOTT JOSIAH: Right. We had off-the-charts fire weather conditions last year, just unheard of conditions. So some of those fires might have still blown up. It's hard to tell. But I think...well, there was one incidence where a fire...where they were still mopping up after the big fires in the Pine Ridge and another fire broke out in the Pine Ridge. The helicopters were still there. They got on the scene right away; they put the fire out. It was that simple. It would have blown up. And there's a quote in this book from the fire chief up in Crawford that indicates it would have been thousands of acres again had they not had that helicopter. So having rapid initial attack makes all the difference. [LB634]

SENATOR CARLSON: Is it safe to conclude that if we don't have this, if we don't take a step and do something, then in 2013 and 2014 and on average each year from now on, we'll be spending a lot more money than this and probably it's going to multiply? [LB634]

SCOTT JOSIAH: I would agree with that, yes. [LB634]

SENATOR CARLSON: Okay. So that may be the cost of not doing anything. There's a cost to do something, but there's greater cost to not doing something? [LB634]

SCOTT JOSIAH: I think without a doubt, and we're also talking lives. [LB634]

SENATOR CARLSON: Okay. Okay. Thank you. Any further questions? All right, thank you for your testimony. [LB634]

SCOTT JOSIAH: Thank you. [LB634]

SENATOR CARLSON: Now I think we're going to try to go to Henry Thorne. Is that correct? So those of us in the hearing room here, we're going to have to give a little patience as we hook up with these callers to testify. Is this Mr. Thorne? [LB634]

HENRY THORNE: Yes. [LB634]

SENATOR CARLSON: Okay, Henry, it's Tom Carlson, Chair of the Natural Resources Committee,... [LB634]

HENRY THORNE: Okay. [LB634]

SENATOR CARLSON: ...and we have the committee here. We've heard from Dr. Josiah. And this is a different experience for all of us. We are trying to hold people to five minutes or less on their testimony and then an opportunity to ask some questions. We appreciate you being available and so we'll let you just open up on your testifying for

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LB634. [LB634]

HENRY THORNE: Okay. Can I start now? [LB634]

SENATOR CARLSON: Yes. [LB634]

HENRY THORNE: My name is Henry Thorne. I'm the mayor of Long Pine, situated right next to Pine Creek, which is in the north-central part of the state, about halfway between Bassett and Ainsworth. [LB634]

SENATOR CARLSON: Henry, I'm going to stop you a minute. As part of the procedure, we need to have you spell your name for our records, please. [LB634]

HENRY THORNE: Okay, my name, Henry, H-e-n-r-y, Thorne, T-h-o-r-n-e. [LB634]

SENATOR CARLSON: Okay. Thank you. You can go ahead. [LB634]

HENRY THORNE: Okay. Like I said, we're next to Pine Creek. It's a beautiful place, especially Pine Creek itself, very deep canyon with fast-moving spring water running through it, surrounded by Sandhills. It's a beautiful place but there's a problem--cedars, cedars growing so thick you can't get through them along both sides of Pine Creek and right next...which is right, as I said, right next to Long Pine. Now if these cedars ever caught fire, which they did this past summer, not in this...not here but in this area, Long Pine would be in imminent danger. Long Pine is, like I say, right next to Pine Creek. Part of the city limits runs up next to Pine Creek and two points are within a quarter mile of Pine Creek. Long Pine itself is on the east side of the canyon, and if there's a nice stiff southwest or west wind blowing during the height of the fire season, it'd be real quick where a fire would be hitting Long Pine. It's a community of about, like I said, 300 people, about 200 homes. Now Long Pine itself isn't the only place that would be in danger. There's also another little community that formed up here over the decades at the bottom of Pine Creek which is, well, it's Hidden Paradise and it's just at the southern edge of Long Pine. A lot of people go down there during the summer, families, and it's completely surrounded by cedars. If they ever caught fire, there would be a catastrophe down there, not only just from the number of people down there, but if people were trying to get out, they'd have trouble getting out of the single, narrow, one-lane dirt and sand road that goes into and out of Hidden Paradise. Not only would people have trouble getting out, but fire department personnel would have trouble getting in. And I'm not sure I'd even want them in there or not. Well, you want them in there, but the problem is getting in there is a problem and getting out would be just as much or even worse of a problem. But not only is Hidden Paradise and Long Pine in danger, but there's another problem here with the cedars. They surround our sole source of water. Our water is from a spring at the very bottom of Pine Creek. It's pumped up to the top of the hill where it's distributed throughout the city. So if either the pump house burned

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and/or the power lines burned, we wouldn't have any water for very long for domestic use. But the water would also be needed for fire department personnel, which, like I say, is our sole source of water. We don't have a backup. Well, there is one backup but it's Pine Creek, and if Pine Creek was burning and Hidden Paradise was burning and Long Pine was burning, well, that's the end of it. And I support LB634, specifically the one about thinning trees, because if the trees were thinned out along Pine Creek and Hidden Paradise, then there would be less chance of a fire getting started in the first place, there would be very little fire starting. But also, if the trees weren't so close together, the cedars were thinned out, it would be a lot easier to fight the fire. Now I know what it's like being in the cedars. I worked as a fireman for 10 years here in Long Pine as a Long Pine fireman, and I worked for a rancher along Pine Creek for 12 years. Whether you're chasing cows or trying to fight a fire in the cedars, it's doesn't work. It's impossible. And so that's why I support especially the...all of the parts of LB634 but specifically the part about thinning trees. Like I said, the trees are a problem, the cedar trees, not only to the 200 homes, if they started burning (inaudible) not only to the 200 homes here in Long Pine, the 60 cabins in Hidden Paradise, and the source of water that affects both. I'm open for questions. [LB634]

SENATOR CARLSON: Okay. Thank you for your testimony, Mr. Thorne. You are the mayor of Long Pine, correct? [LB634]

HENRY THORNE: Yes. [LB634]

SENATOR CARLSON: Okay. Well, we'll open this up to questions from the committee if they have any. [LB634]

HENRY THORNE: Okay. [LB634]

SENATOR CARLSON: Senator Haar. [LB634]

SENATOR HAAR: Yes, thank you. Does your community do anything on its own to try to get ahead of this or take care of the cedars, or would that just be too expensive? [LB634]

HENRY THORNE: Well, it could be very expensive. There is some thinning. I've even thinned a few trees myself, but there's so many of them, where do you start? The city does have some land itself, obviously, that crosses Pine Creek, but we just never tried anything on a scale that would make any dent in it. We're a small community, barely getting by, as a lot of small communities are. But we haven't made a concerted effort ourselves to try and fight the fires. We're just trying to take care of our infrastructure, the water and the sewers and all the other things. [LB634]

SENATOR CARLSON: Okay. Any other questions of the committee? Well, Mr. Thorne,

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thank you for calling in. Thank you for your testimony. And it's a little bit awkward not looking face to face with you, but thank you for calling in and we appreciate your interest. [LB634]

HENRY THORNE: Well, I appreciate the opportunity to speak. [LB634]

SENATOR CARLSON: Okay. Thank you. [LB634]

HENRY THORNE: Thank you. [LB634]

SENATOR CARLSON: And I think the next is Troy Shoemaker from Alliance. Is this Mr. Shoemaker? [LB634]

TROY SHOEMAKER: Yes, it is. [LB634]

SENATOR CARLSON: Okay. Troy, I'm Tom Carlson, Chair of the Natural Resources Committee, and so you are a part of the hearing now on LB634. The committee is here and we can hear you. We're ready to listen to you. And I would ask you, as you begin to testify, that you say and spell your name. You're the fire chief in Alliance and so we're glad to hear what you have to say. [LB634]

TROY SHOEMAKER: Okay, my name is Troy Shoemaker, that's T-r-o-y S-h-o-e-m-a-k-e-r. I'm the Alliance Fire Chief and also the president of the Nebraska Fire Chiefs Association. Today I'll be providing some brief testimony in support of LB634, the Wildfire Control Act of 2013, on behalf of the Nebraska Fire Chiefs Association. First off, I'd like to thank you, Senator Carlson and committee members, for allowing testimony on LB634 over the telephone. I did have all intentions to provide this testimony in support in person, but Mother Nature had other plans for us, although we do have blue skies in Alliance today. The Nebraska Fire Chiefs Association has supported the concept of what has become LB634 from the beginning. We had been presented the basis of the bill by Dr. Scott Josiah, the State Forester, in October of 2012, when he made a presentation at the Nebraska volunteer state firefighters' annual conference in Kearney. This was followed up by a teleconference in I believe December of 2012, if my memory serves me correctly. The Wildfire Control Act of 2013 undoubtedly needs to be advanced to General File by the Natural Resources Committee. LB634 brings critical funding to the Nebraska Forest Service in prevention and control of wildfires in our great state. It also brings additional funding to programs, such as the Federal Excess Property Program for critical and needed firefighter equipment for fire departments in Nebraska. This is a very popular program in the state and one my own department utilizes. Passage of LB634 will also bring the establishment of two SEAT bases, and I believe I heard Dr. Josiah say one near the Pine Ridge area and one in Valentine. The addition of the SEATs are adding an additional tool to our fire chief and the state toolboxes to assist in the quick detection

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and suppression of wildfires, one that I believe is greatly needed. We also see that LB634 is really about protecting our environment we live in, the property we own, and the lives that we protect. The Nebraska Fire Chiefs Association again urges the Natural Resources Committee to move LB634 to General File. It truly is in the best interest of the state and we look forward to working with the Nebraska Forest Service to make the Wildfire Control Act of 2013 a success. That is my brief testimony and I'm willing to answer any questions that the committee may have. [LB634]

SENATOR CARLSON: All right. Thank you for your testimony and for being so organized on it. We'll open the questions up to members of the committee. Senator Brasch. [LB634]

SENATOR BRASCH: Thank you, Chairman. And thank you for calling in for your testimony today, Mr. Shoemaker. And you had mentioned about this will bring, I believe your words were, critical funding for this project. Is that correct? [LB634]

TROY SHOEMAKER: Yes. [LB634]

SENATOR BRASCH: Okay. And are you familiar with the funding as laid out that...the question I'm going to have here is I see that they are asking for expenditures for five professional staff. Are you familiar with that? [LB634]

TROY SHOEMAKER: From the conversations that I had with Dr. Josiah, I am somewhat familiar with that. [LB634]

SENATOR BRASCH: Okay. And there's going to be five professional staff and it looks like they're at \$42,000 a year is...and plus benefits, \$63,000 a year, operating at the list. Are...do you know where these staff will be located? Are you familiar? Is there going to be staff in Alliance or Valentine or can you tell me a little bit more about that expenditure on this, that funding? [LB634]

TROY SHOEMAKER: I can't really answer that question as much as I believe Dr. Josiah would be able to answer that, but I do believe that part of that funding was going to go to one of the staff members that Dr. Josiah already has in the Chadron area. [LB634]

SENATOR BRASCH: Okay. So it's an existing staff person already plus four more maybe or perhaps. [LB634]

TROY SHOEMAKER: I believe so. [LB634]

SENATOR BRASCH: Okay. [LB634]

TROY SHOEMAKER: Again, I can't honestly answer if that's true or not. [LB634]

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SENATOR BRASCH: No, I was just curious if they strategically said five, so there would be one in Cherry County and have boots on the ground, where a fire may more likely come about, for responsiveness, if there was a discussion on that need, other than the helicopters and other hardware involved. I was more interested in the man or women hours needed here. But I have no other questions. Thank you. [LB634]

SENATOR CARLSON: Okay. Thank you. Senator Johnson. [LB634]

SENATOR JOHNSON: Thank you, Chairman. Thank you, Mr. Shoemaker, for calling in today and thanks for your service as the fire chief. I know you've not had the opportunity to hear some of the previous testimony and I don't want to put you on the spot, but we've heard quite a bit about the spread of the red cedar epidemic, as it's been described once. And I have a...is most of this expansion going on private land or is there much public land out there that the public would be part of the help of the control on it, or is most of it private land? [LB634]

TROY SHOEMAKER: I believe it's going to be both to help control the spread of the red cedar, from what I've seen. I don't think it's predominantly one area or the other. [LB634]

SENATOR JOHNSON: So there's a fair amount of public land out there that would be affected? [LB634]

TROY SHOEMAKER: I do believe so. [LB634]

SENATOR JOHNSON: Okay. Thank you. [LB634]

SENATOR CARLSON: All right. Any other questions of the committee? Senator Brasch. [LB634]

SENATOR BRASCH: Just one more question, and thank you. I am also curious, are these fires problematic to summer or do the fires also happen in the winter? [LB634]

TROY SHOEMAKER: Believe it or not, Senator, we had a grass fire just not too long ago in the months of November and December. So what we've predominantly seen in, say, the month of...the latter part of April and May and June was still affecting us in the later months of the year, in November and December, and even in January I believe we had a couple just in Alliance. And I think that's a fair assessment statewide. [LB634]

SENATOR BRASCH: And the fires that you're seeing in the winter hours now, are they also equal to the size and...of the summer fires? Are they requiring several communities to come rescue and multiple firefighters or personnel, or is it a fire in the winter where a helicopter would really come in very valuable to stop the fires? [LB634]

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TROY SHOEMAKER: Fortunately, the ones that we had in the latter part of the year were not even near the intensity of the ones that we had in June, July, and August. So the short answer to your question is, no, the fires that we've had in the latter part of the year, in the winter months, were smaller and we were able to control those with either one department or one mutual aid department. So they weren't as near as the equipment (inaudible) or personnel needed. [LB634]

SENATOR BRASCH: Okay. Very good. I have no other questions. Thank you. [LB634]

SENATOR CARLSON: Okay. Thank you. I think there are no other questions from the committee, Mr. Shoemaker. And so we thank you for joining us today. [LB634]

TROY SHOEMAKER: Thank you for allowing my testimony, Senator Carlson and the Natural Resources Committee. And again, the Chiefs Association urges LB634 to General File. [LB634]

SENATOR CARLSON: Okay. Thank you. [LB634]

TROY SHOEMAKER: Thank you. [LB634]

SENATOR CARLSON: And now we've got three more telephone testifiers according to my records here, and the next one is Brad Fiala from Ainsworth. So we'll wait for him to get on. Is this Brad Fiala? [LB634]

BRAD FIALA: Yes, it is. [LB634]

SENATOR CARLSON: All right. This is Tom Carlson, Chair of the Natural Resources Committee. The committee is here and you're part of the hearing this afternoon, and so we appreciate your time. And I will ask you when you start your testimony to say and spell your name for our records,... [LB634]

BRAD FIALA: Okay. [LB634]

SENATOR CARLSON: ...and then go ahead with your testimony on LB634. [LB634]

BRAD FIALA: All right. My name is Brad Fiala, B-r-a-d F-i-a-l-a. I'm the fire chief here in Ainsworth. And as far as LB634, recently this last summer everybody is well aware that we had our big fires out here for about ten days. And after responding to that fire, I was about one of the very first ones on scene at that fire, and if there had been any way that we could have been notified of that fire probably 15-20 minutes sooner it would have made a world of difference on extinguishing that fire. I am almost positive it would never have got near that big. So having, you know, an airplane out in our area to help us fight

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the fires. But what I'd like to see is if there's a lightning storm that comes through this area, that that airplane could also go up and spot our canyon areas and stuff, or the areas that were affected by that lightning storm previous to that. I think that would make a world of difference on getting the volunteers and the departments on scene a lot quicker and it would make a huge difference. Also as far as the clearing of trees and stuff, I do have a couple residents out here, the farmers and ranchers out here that have canyon ground that are very active in clearing of the trees. I've got one particular guy that's done a very, very good job clearing trees on his canyon. And over the last two years we've been called to his ground three different times for lightning fires and the areas that got struck there's no way we can get in with our firefighter rigs. We have to take ATVs or walk down in there. But he did such a good job of clearing that it's very easy to manage those fires. They might burn two or three acres but they don't burn from treetop to treetop. So it does work. You know, I'm very impressed on what has been cleared out here and hope to see a lot more of it done, because it just makes it a lot easier for firefighters to go out there when a fire does start. Also having our fires this last summer, we were able to have the WIRAT team come in and assist us. Of course, that fire when it first took off and was getting that big, our department and the surrounding departments were kind of lost on how to manage that. And having that team come in and help us manage it at the fire station, as far as managing it and also on individual areas of the fire, was a lifesaver. They told us kind of what to expect, what was coming next, and they helped us integrate also the Type II team that came in and helped us. So they were familiar with that. So if there is any way, you know, we could expand on that team and, you know, get that team more active and stuff, I think it would be great. Really that's pretty much all I have on that. I think the bill is a very good bill, reading through it and stuff, and I'd really like to see both those planes activated out here in this area, because we do have a lot of canyon ground out here that does have a lot of trees. And even if there's a chance to even get one, you know, right here in Ainsworth, you know, our airport is well big enough to maintain one of those and handle one of those airplanes, I think it would be great. [LB634]

SENATOR CARLSON: Okay, Brad. Thank you for your testimony and we'll see if the committee has questions for you. Senator Brasch. [LB634]

SENATOR BRASCH: Thank you, Senator Carlson, and thank you for calling in today, Mr. Fiala. I asked this question of the person before, from Alliance, and I'm wondering in Ainsworth are you having winter fires at this time? Are they...?. [LB634]

BRAD FIALA: You mean, winter fires, you mean fires this time of year? [LB634]

SENATOR BRASCH: Right. Is it...? [LB634]

BRAD FIALA: No. Right now, actually we've got, oh, about 6-8 inches of snow on the ground right now. And I have already issued six burn permits already today for the

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people that have done clearing and right now they're burning up all those tree piles and stuff. But I know last year we had a fire about this time last year, and I remember there's been three years straight within the last ten years that we've actually had fire on Valentine's Day, pretty good-sized grass fires. So they do happen this time of year. [LB634]

SENATOR BRASCH: And the grass fires that you have, is it something that your community takes care of as volunteer firemen, or are you calling in multiple communities? How large are they? Would it be that you would need an airplane this time of year to put that fire out as well? [LB634]

BRAD FIALA: Well, actually not this time of year, but during the months of, say, the latter part of June, July, August, and the beginning of September, those are our crucial months of firefighting. And if we have another drought like we had this last year, we have...we just burned just a fraction of our canyon ground along the Niobrara on this last fire. What's burned about, oh, just under 90,000 acres, and that's just a fraction of what burned. And just what I take care of in Brown County, and if we have another lightning storm go through and another drought, there is no way that the surrounding departments here can handle it by themselves. We do have to ask for air support to manage those fires. [LB634]

SENATOR BRASCH: During the summer months, correct? [LB634]

BRAD FIALA: Correct. Yes. [LB634]

SENATOR BRASCH: All right. And then are you volunteer firefighter? [LB634]

BRAD FIALA: Yes, I am. I have been for about 28 years. [LB634]

SENATOR BRASCH: Well, I want to thank you for that service. I know that's very critical to our rural communities. I know that they're also asking for funding basically of \$42,000 a year for five staff people. Are you aware, will any of those, that staff, be in your community, or...? [LB634]

BRAD FIALA: I'm not aware of that the staff members would be in our area. I'm sure we will reap the benefit of that staffing as far as knowledge and stuff like that. [LB634]

SENATOR BRASCH: Okay. All right. I have no other questions. And thank you again for calling in and being a volunteer fireman. [LB634]

BRAD FIALA: Sure. [LB634]

SENATOR CARLSON: All right. Thank you. Senator Johnson. [LB634]

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SENATOR JOHNSON: Thank you, Chairman. Thank you, Mr. Fiala. You commented about a couple property owners that had cleared out some of the trees. I'm not sure if it was red cedar or just did some clearing. I'm sure you appreciate that and they took their own initiative. My question is, I think you saw the value of those acres being cleared. Do you think there's a system out there, whether it's legislative or incentive-wise or anything, to be more proactive in preparing those clearings, which will not only help in fighting the fire, but maybe cut down the fuel that might fuel it from the ground? Do you see any incentives there or need for something that would be more proactive? [LB634]

BRAD FIALA: I do know by talking to several people that are doing it, and some people that wish they could do it, I do know it is a very, very expensive process and time-consuming to get that done. As far as the landowner, you know, they do it to, you know, try to regain some of their pasture ground with the red cedars and the other trees that are growing up. So they're doing it on that benefit, but also the benefit of forest fire control and stuff like that. But I do know there would be more people out here that would do it if there was some funding available to kind of offset some of the cost of that. [LB634]

SENATOR JOHNSON: Thank you. That's all I have. [LB634]

BRAD FIALA: You bet. [LB634]

SENATOR CARLSON: Okay. Thank you. Any other questions of the committee? Well, Brad, thank you for being with us today. [LB634]

BRAD FIALA: You bet. [LB634]

SENATOR CARLSON: We appreciate your testimony. [LB634]

BRAD FIALA: All right. Thank you. [LB634]

SENATOR CARLSON: Uh-huh. [LB634]

BRAD FIALA: Bye. [LB634]

SENATOR CARLSON: Okay, our next...we have two more left. Jay Templar from Gering. Is this Jay? [LB634]

JAY TEMPLAR: Yes, it is. [LB634]

SENATOR CARLSON: Jay, this is Tom Carlson, Chair of the Natural Resources Committee. And the committee is here meeting in our hearing in Lincoln, and we're glad

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that you're able to join us. As I allow you to start testifying, I would ask you to say and spell your name, and then go ahead with your testimony on LB634. And we appreciate you being here on the phone. [LB634]

JAY TEMPLAR: Thank you very much, and thanks for allowing us to do this long-distance and save travel on that storm, so. My name is actually James Templar. I go by Jay. It's T-e-m-p-l-a-r. And I'm a 33-year member of the Gering Fire Department. I currently serve as fire chief and have been in that position since 1991. I also serve as president of the Scotts Bluff County Mutual Aid Association which represents all the fire departments in Scotts Bluff and Banner Counties, and also Torrington, Wyoming. Personally, I've responded to many of these large wildland fires, dating clear back in the '80s to the first "megafire" I was on with the Fort Rob fire. Last year, I did participate in the fires in the Region 24 complex at Brown and Keya Paha County, the West Ash, Douthit, and Cottonwood fires in Harrison, Crawford, and Chadron. And I'm very proud of all the fire departments that responded to all those wildland fires last year. It amazed me to see how much support is sent across the state to engage in these fires. When these fires grow to the size that we encountered last year, there is a definite need from the state of Nebraska to assist with the management of these "megafires." These fires quickly surpassed the local jurisdiction's ability to manage and handle the financial responsibilities of these fires. We need assistance from the state of Nebraska on these large wildfires. We appreciate what state management resources that have been sent to assist these fires, but I think these resources need to be improved. Included in my fire district is one of the areas identified as has the potential for one of these "megafires," and that is the Wildcat Hills area. In Wildcat Hills we have a private subdivision known as the Wildcat Hills Estates which has over 50 permanent households out there. So my fire district will be directly impacted by this bill. The six points of LB634 will improve the response and hopefully reduce the size of these "megafires" in the future. We need to continue to expand the training provided to improve the current resources provided by the fire departments. Also, we need to continue and improve the federal excess program. The majority of our fire departments in Scotts Bluff County currently use this program and we'd like to see it expanded. One of the most critical things is the development of the Type III management team. It is very critical to be able to assure that we have enough people to manage these fires. But we also need to be reassured that the volunteer fire departments are included in this development and be active members of any management team because we have a lot of people with a lot of expertise and experience to share across the state. The SEAT program that they're introducing will be another great tool to be used in the initial attack of these fires. Although the SEAT program should not be used to reduce the use of National Guard helicopters, that response needs to continue and be more available for these wildland fires, as they are a great asset. I can tell you I've talked to several of the fire chiefs out here, west, and we think the program is just the start of this process to get this situation to become better for all of us across the state. And we want the state of Nebraska to continue to move forward and join the Great Plains Fire Compact with our neighboring

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states. I certainly support LB634. I thank you for your time and I'll try to answer any questions that you may have. [LB634]

SENATOR CARLSON: Okay, Jay. Thank you for your testimony and we do have the committee available and we'll see if there are questions of the committee members. [LB634]

JAY TEMPLAR: Okay. [LB634]

SENATOR CARLSON: Senator Haar. [LB634]

SENATOR HAAR: Yes, Jay, you said you've been on the volunteer fire force for some 30 years; and Dr. Josiah handed out a chart showing really an increase over the years in the number of these fires. What's happening? [LB634]

JAY TEMPLAR: Well, I think obviously the drought conditions have certainly increased that part and I think it's sometimes the stroke of fate of where these storms come through. We certainly have fires very similar to this every year, but maybe never to the extreme that we've had in 2006 and again here now in 2012. And obviously a drought has been a part of it, and other than that I think they...you know, they tell us through the Forestry Service that a lot of it is the influence of the red cedars. And obviously when we see these fires, we see some of that influence because of that type of tree. So I think some of the things in nature are basically against us, but the drought probably is the biggest part. [LB634]

SENATOR HAAR: Thank you. [LB634]

SENATOR CARLSON: Okay. Thank you for your answer to that. Any further questions? Jay, we've had several other testifiers before you and so you're not asked too many questions I don't think this afternoon. [LB634]

JAY TEMPLAR: Okay. [LB634]

SENATOR CARLSON: But your input is valuable and thank you for joining us. [LB634]

JAY TEMPLAR: Thank you for listening. We appreciate it. And any help will be greatly appreciated. [LB634]

SENATOR CARLSON: Okay. Thank you. And we have one more testifier and that's Will Davis from Niobrara Valley. Is this Will Davis? [LB634]

WILL DAVIS: Yes, it is. [LB634]

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SENATOR CARLSON: Will, this is Tom Carlson, Chair of the Natural Resources Committee. And the committee is here and we're conducting our hearing. We're glad that you can join us, and in just a moment I'll let you give your testimony. I would ask that you say your name and spell it for our records and then you're free to testify on LB634. [LB634]

WILL DAVIS: My name is Willis Davis, W-i-l-l-i-s, last name Davis, D-a-v-i-s. We, my wife and I live in the canyons along the Niobrara south of Norden, Nebraska, and I called today to testify on behalf of LB634. And I come from a different perspective perhaps than some of your other persons who testified today in that I'm a person who has done three projects, three fuel reduction projects with the Nebraska Forest Service. And frankly, after the Big Rock fire in Valentine, I believe that was in 2006, I attended a series of meetings which the Nebraska Forest Service put on, and I became aware that my house down here in the canyons was subject to danger from wildfire. So I worked with the Nebraska Forest Service and did the fuel reduction and the thinning on three different sections of our property. And they also provided some other really valuable information to me and suggestions. One of them is to have a defensible space around your house, which we did. They also suggested an underground sprinkler system to augment that defensible space. And then they had other commonsense measures that we took, that they suggested. And July 20, 2012, the Fairfield Creek fire started and that was probably about 12 miles south of us here in Brown County. We live in Keya Paha County but the fire started in Brown County across the Niobrara River. And we are about four or five miles as the crow flies from where that fire jumped the river. I think Dr. Josiah said earlier that the wind was 40 miles an hour, and it was. The temperature was 113 degrees and we had very low humidity, so it was prime for spreading the fire. The sheriff of Keya Paha County called us and told us to evacuate. And at that time we looked out the window and the fire was literally about a half mile away from us and it was spreading very rapidly. So we turned on our sprinklers and we left. We went to the village of Norden which is 2.25 miles north of us, and from that vantage point, frankly, when you looked at the plume of fire you are thinking: I will not have any place to go home to. We were not allowed to come back to our home that evening. There were still active fires going on and the State Patrol had the road barricaded. So we stayed in Valentine that night and we returned to our home the next day to find it totally intact. Where we live here, we fenced off an acre for our house and an outbuilding; and frankly, the fire burned up to the yard fence on all four sides. We're not a large landowner. We have 234 acres here, but there were probably two acres on our property, one of them being the house, that the fire did not burn through. The only other...well, frankly, the only fire departments we saw were, like, Springview and Ainsworth, and then there were some ranchers with their little fire rigs that they have on their property to help put out fires. And those were the only folks we saw early on. So, frankly, we were at the cutting edge of that fire that Dr. Josiah talked about that was headed to Norden. And there was no stopping anything as it came up through the canyon. We credit the good Lord and the Nebraska Forest Service and their advice and

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guidance to saving our house. The thinning project that we did right here around the house, yes, it burned through it; however, we didn't have the intensity of the fire that we would have had, had we had the creek bottom down here clogged with red cedar as it had been in the past. Those were removed and we credit that as to saving us. On the southern end of our property there is a lady who has a house on the...across the road, frankly, and we did a thinning project down there also, and the fire did not cross that area that was thinned. She had a little bit of fire damage but it was fire damage that backed into her from the other side. She did not, however, lose her home. And frankly, I don't think had we not done...I think if had we not done the thinning, I think she would have lost her home. I'm a believer in fuel reduction and all of that sort of thing. [LB634]

SENATOR CARLSON: Will, we're... [LB634]

WILL DAVIS: Frankly, we're... [LB634]

SENATOR CARLSON: Will, I'm going to interrupt you. We're...unless you've got...can you kind of wind up your testimony? We are keeping the light here and do you have any other specific points you'd like to make? [LB634]

WILL DAVIS: Frankly, only that if the drought continues and so forth, I think we need help. I'm also looking for advice from the Forest Service for rehabilitation of grassland meadows and damaged forest areas. [LB634]

SENATOR CARLSON: Okay. All right. Thank you, and we'll open it up for questions now from the committee. Senator Johnson. [LB634]

SENATOR JOHNSON: Thank you, Chairman. Thank you, Mr. Davis. A question I asked earlier and it appears you've been proactive on the thinning and removing some of the fuel. Part of it would be the thinning of the trees. I'm assuming part of the fuel removal would also be cleaning up off the ground and taking away that part. I don't want your exact numbers, but what...do you have a number that where you've cleared off maybe several acres, what does it cost to...what did it cost or what would it cost in order to clear an acre of ground enough that it would, you know, take away a big threat of the fire or help in the assistance of fighting the fire? [LB634]

WILL DAVIS: I don't have those numbers right at my fingertips. It seems to me that this little section here right around our house is probably 30 acres or so that we cleared, and I think that it was a cost-share with the Forest Service and I think that our out-of-pocket on that was \$2,000 or \$3,000. [LB634]

SENATOR JOHNSON: Thank you. [LB634]

SENATOR CARLSON: All right. Any other questions? You told a little bit about it was

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either yours or a neighbor's that had the forest thinning and then that made a difference. Just expound on that a little bit, would you? [LB634]

WILL DAVIS: Actually, it was both places, both our place and the neighbor's place. We did the fuels reduction. We drastically cut the red cedars out of it. And in that place the fire did not cross the road. It came down the hill from the back side and, frankly, melted some of her siding but did not destroy the house. And I credit the work of the Forest Service and the thinning that we did down there for it not just rolling over her. [LB634]

SENATOR CARLSON: Okay. Thank you. Any further questions? Will, appreciate your testimony, and I think that you in your giving thanks, you had the order right: the good Lord first and then the state fire people second, and it looks like you've got your priorities right. [LB634]

WILL DAVIS: Well, it all worked together. [LB634]

SENATOR CARLSON: All right. All right. Thank you for being with us today. [LB634]

WILL DAVIS: Absolutely. [LB634]

SENATOR CARLSON: Now that ends the telephone testimonies. How many people now do we have that are going to testify on this bill? Okay. All right, we're in proponents, so one right after another step forward. As somebody steps forward to begin testimony, others can come up and get in the on-deck chairs and we won't waste much time in between. [LB634]

MARTIN BRAMMIER: Good afternoon, ladies and gentlemen. [LB634]

SENATOR CARLSON: Welcome. [LB634]

MARTIN BRAMMIER: (Exhibit 6) My name is Martin Brammier, M-a-r-t-i-n, Brammier, B-r-a-m-m-i-e-r. I am the chief fire officer of the Avoca Volunteer Rural Fire District 5 in Cass County. I would like to speak today for LB634, primarily for the federal excess property. The Avoca Fire District covers approximately 57 squares miles of both Cass and Otoe Counties. We also cover the small farming community of Avoca itself. Our department does not have the benefit of a large tax base from which to draw funding from due to the overall lack of business and other taxable assets. What funding is received from our rural district is supplemented by our yearly fund-raising efforts. Our department has struggled for years to update and replace our aging fleet of apparatus, in an attempt to provide a more efficient and safe working environment for our firefighters and also a more reliable response time to our incident calls. We have spent much of our budget monies over the last few years constantly repairing or trying to update existing equipment. As many of you may already know, new apparatus such as

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frontline pumpers, tanker/tenders can cost upwards of \$250,000 or more. That same used apparatus can also quickly deplete a small department's working budget with a single purchase. The continued use of this equipment has put a strain on firefighters and the department in that recruiting and retention was also directly affected by our inability to move forward by improving the department's operational readiness. Two years ago, I began working with the Nebraska Forestry Service and their Federal Excess Property Program. This program and organization has provided for our department a means of replacing equipment that otherwise would have been unreachable. If we had been asked two years ago whether or not we believed that in the same time frame we would have three new vehicles and related firefighting equipment made available to us, the answer would have been a resounding "no." Instead, through this incredible program, we have been able attain three new or refurbished firefighting units in two years. The total value of these units at this time exceeds \$300,000. We took receipt of all three pieces of apparatus for a little over \$12,000. After repainting, lettering, lights and radios, plus additional tools, we still have less than \$30,000 invested and well within our overall replacement and operating budget. This equipment has brought new life and a greater sense of pride into our department in that in the last two years we have filled our staffing requirements completely. I would like to say that without this valuable program, many other departments just like ours across this state would be in dire straits of trying to provide our firefighters and citizens with a safe and affordable service that our taxpayers have come to expect. The Fire Service shop in Mead works extremely hard to refurbish, repurpose, and deploy these units to departments that can benefit greatly from their use. They have been instrumental, and at times have gone above and beyond their duties by providing technical training to our firefighters, operational and maintenance assistance, and continued support of all equipment. Lew Sieber and his crew work diligently to make sure that these vehicles meet not only the needs of the respective departments, but provide the safest and most cost-effective and operational needs of those departments. In closing I'd like to say, as federal grants diminish and so too the hopes of small departments to update and bring current apparatus up to national standards, the Nebraska Forestry Service's program and the voice of this department cannot and should not be allowed to suffer further cuts that would directly affect the operational status of this program. Without the valuable partnership that the Nebraska Forestry Service provides to the working firefighters of this state, many departments quite simply would go by the way of the dinosaur. [LB634]

SENATOR CARLSON: All right. Thank you for your testimony. [LB634]

MARTIN BRAMMIER: Thank you, ladies and gentlemen. [LB634]

SENATOR CARLSON: Any questions of Mr. Brammier? Seeing none, thank you. [LB634]

MARTIN BRAMMIER: Thank you. [LB634]

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SENATOR CARLSON: Welcome. [LB634]

SHANE CUTTLERS: (Exhibit 7) How are you doing, Chairman? Chairman Carlson and members of the Natural Resources Committee, my name is Shane, S-h-a-n-e, Cuttlers, C-u-t-t-l-e-r-s. I am the president of the Nebraska Society of Fire Service Instructors. I have been a volunteer firefighter for 26 years and a career firefighter for 15 years. I am here to speak in favor of LB634, particularly the training portion of this bill. The training proposed in this bill will benefit all firefighters in the state of Nebraska. We know what has happened for many years in the western end of the state, but many may not realize the same similar situation exists across the state. In the eastern half of the state we have a growing problem with the unmanaged spread of eastern red cedar trees. They are in pastures, conservation reserve program land, and along creeks and rivers. Take a drive from here to Omaha, and after you cross the Platte River look to your right, and along the interstate between the interstate and the Platte River you will see an influx of eastern red cedars in that area amongst the deciduous trees. There are many areas in the state just like this and are just waiting for the perfect storm to occur. These areas will not burn as the traditional grass fire that many eastern Nebraska firefighters are accustomed to, increasing the level of risk to firefighters that haven't attended wildfire training. Another item changing the landscape is most farmers now practice no-till farming. This is a good benefit for the farmers, for the environment, and to conserve water, but for firefighters it leaves harvest debris on top on the fields waiting for an ignition source. Both of these instances provide challenges for firefighters. The increase in wildfire training proposed in LB634 will better prepare firefighters, giving them the confidence, knowledge, skills, and abilities to fight these wildland fires more effectively and safely. In addition, training that meets National Wildfire Coordinating Group--NWCG--standards will allow firefighters to move up in positions and the ability to be credentialed according to the National Incident Management System. This also will help move Nebraska toward meeting NEMA's Special Directive Number 6150 on Nebraska Credentialing Policy. The Nebraska Wildland Fire Academy is already making an impact on the training of firefighters who now have additional qualifications for credentialing. The proposed additional training will allow more of this type of training for all firefighters throughout the state of Nebraska. I encourage you to vote in favor of this bill and put it on General File. [LB634]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions? Senator Johnson. [LB634]

SENATOR JOHNSON: Well, thank you. I don't just really have any questions. I just appreciate you and I want to comment on Mr. Brammier, too, bringing the issue a little bit closer to the eastern part of the state and seeing the value of it, and especially from the training area and the value you see of it. So I appreciate your testimony. [LB634]

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SHANE CUTTLERS: There's...a lot of the training would be beneficial to us firefighters in the eastern part of the state. In my own fire district just northwest of here, Raymond, there are several pastures with an influx of red cedars. And with our young fire force that we have right now, it's going to be very surprising to them when it does ignite. [LB634]

SENATOR JOHNSON: Thank you. [LB634]

SENATOR CARLSON: Okay. Other questions? You talk about the problem of eastern red cedar and it's my understanding that they also take a lot of water. Are you aware of that? [LB634]

SHANE CUTTLERS: I am not aware of that. [LB634]

SENATOR CARLSON: Okay. They do. They take a lot of water. And in our water management, the fewer of those we have the better off we are, so we have another reason to try and control them. But thank you for your testimony. [LB634]

SHANE CUTTLERS: Thank you. [LB634]

SENATOR HAAR: Yeah, I have a question. [LB634]

SENATOR CARLSON: Oh, Senator Haar. [LB634]

SENATOR HAAR: Yes. Shane, do you get involved with, like, the fires that go on in western Nebraska? [LB634]

SHANE CUTTLERS: Living here in the eastern part of the state and the departments I'm on here as a career and volunteer, I do not now. But I started my fire service career 26 years ago on the Crawford Fire Department and was on several large fires, including the Fort Rob fire at the time. So the additional training that will be given to us provided through this bill will greatly enhance our capabilities in the field not just for the western firefighters, but for the eastern firefighters as well. [LB634]

SENATOR HAAR: Good. Thank you. [LB634]

SENATOR CARLSON: Okay. Any other questions? Thank you for your testimony. Next. Welcome. [LB634]

DAVE KADLECEK: (Exhibits 8 and 9) Hello. Senator Carlson and members of the Natural Resources Committee, I'm Dave Kadlecek, D-a-v-e, the last name is K-a-d-l-e-c-e-k. I live about ten miles north of Hay Springs, Nebraska. I'm a rancher testifying in several different capacities today: as a private landowner in favor

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of...everything is in favor of the bill, speaking for myself. Also, I'm a director of the Upper Niobrara-White Natural Resources District, and I'm currently chairman of the Nebraska Natural Resources Commission. And I'm also testifying in favor for the Middle Niobrara; I gave a letter of support from the Middle Niobrara Natural Resources District. So there's two letters you have there. We have a new sign on our front porch. It's got my name on it. It's made of about a 6-foot long piece of pine timber that was burned in the fires this summer, a piece about 1 X 10. On the left side it says my name; in the center there's a bald eagle, an Indian medicine wheel, three eagle feathers down below it, painted; on the right it says "Blessed to have the same address." The fires in 2012 burned a half-million acres statewide, a lot of structures, costing...you know, you've heard numbers over \$12 million in suppression costs. Lost over 700 miles of fences--we've got a bunch that we are in the process of working on; 5,000 ton of hay; some livestock. You know, it was a disaster. The severe high temperatures, high wind, high forest fuel loads, and the spread of the eastern red cedars you've been hearing here a little...in this part of the state, down the road may exacerbate this fire situation across the state. Also, the lack of and mismanagement of public lands in the arena of the forested areas to log, thin, and also graze exacerbated the fire situation, because when the fires came out of those areas that nothing had been done to them, they were hot and really rolling. We lost about 1,000 acres of timber and grass on our ranch. Total acres burned, this was part of the Wellnitz fire north of Hay Springs and north Rushville, was about 75,000 acres in Nebraska, and it went on into South Dakota and burned another 25,000 acres up there. Originally, the Pine Ridge had somewhere around 250,000 acres of forested land. They burned 150,000 of it. They're down to 100,000 or less left today. There are huge burned areas in the Pine Ridge. It's important to a lot of people, not only those of us who live there and try to make a living out of it, as far as being our livestock operations, some timber management, but it's also important to people throughout the state and even worldwide that we see who come there, they were...you know, the aesthetics, but we've lost a bunch of that; recreation; or plain just solitude, you know. And so we see kind of that from all over. When the fires were going, the Hay Springs Fire Department said, hey, can we set up a backfire across your ranch? We have a road across about three miles. And that hits you upside the head when they say we want to set you, we want to light you. And I thought for two or three seconds. I had just come from up top, I could see what was coming at us, a two-mile wide front of fire of 100-foot-high flames. And I said, do it. And that took them 14 hours to put that four miles of backfire in. It took them forever. I didn't think they'd ever make it and the fire was approaching our buildings. It got within 150 feet of our house and buildings. That's close, I'm not telling you. You know, the strategies that are in the bill that Dr. Josiah went over, you know, the SEAT tankers, the expanded fuels reduction program. We've been doing a lot of that on our ranch over the years. We've done quite a few...several hundred acres of it. It did benefit us. It reduced the intensity of the fire where we had thinned it. We still lost some of the trees where we had thinned but not 100 percent, and so it did help. The expanded training program and stuff, you know, and one thing that was mentioned in there of private people, pretty near all of us ranchers, farmers, they all

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have some firefighting equipment. It's more geared towards mop-up, but it's out there. And so I'm sure some additional training would certainly be helpful for those of us too. I think this bill needs to be implemented but there needs to be an open line of communication between the Nebraska Forest Service, the Nebraska Emergency Management--NEMA, the State Fire Marshal, and obviously, the local fire departments. The fire departments have done a heck of a job in working with these fires this year, and they're certainly to be commended, but they need all the help we can give them. I would urge you to advance this bill on, you know, through your committee. So I thank you for the time today. [LB634]

SENATOR CARLSON: Okay. Thank you, Dave, for your testimony. Questions of the committee? Yes, Senator Haar. [LB634]

SENATOR HAAR: Thank you. Does the NRD...do the NRDs have a role to play in this fire suppression and thinning and so on? [LB634]

DAVE KADLECEK: You know, total resource management is an NRD function in our mission statements, you know, of dealing with the forest. As far as us having firefighting equipment, no we don't. You know, it's the local fire departments. But we are very much interested in that management of that resource. And, you know, in fire prevention or suppression is certainly something we're interested in. Yes. [LB634]

SENATOR CARLSON: Okay. Any other questions? Well... [LB634]

DAVE KADLECEK: You guys let me off easy. [LB634]

SENATOR CARLSON: Well, thank you for being here. [LB634]

DAVE KADLECEK: I've got 400 miles to go home. (Laugh) [LB634]

SENATOR CARLSON: Okay. All right. Yeah, we thank you for your distance you came too. [LB634]

DAVE KADLECEK: Yeah. Thank you. [LB634]

SENATOR CARLSON: Next testifier. [LB634]

RICHARD ENDACOTT: Senator Carlson and members of the committee, my name is Richard Endacott; that's R-i-c-h-a-r-d E-n-d-a-c-o-t-t. I'm the executive secretary of the Board of Educational Lands and Funds here in Nebraska. Our lands were impacted by the 2012 fires. We had 23 tracts, different tracts that were affected; about 9,500 acres. The rent that has to be adjusted in 2012 is about \$123,000. That's just for 2012, and that comes right off the top of our income which otherwise would go to the Nebraska

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public schools. That does not consider the future loss of rent on those properties because the grass has been burned. We have much less chance of leasing that for hunting because the trees are burned. So it's a...and it's quite a loss. And an additional factor is in the future, if the timber market comes back in the western part of the state, presently suppressed because of the blight up in the Black Hills, then we would be able to market that timber for a considerable amount of money, which would then also go to the public schools. We were approached in, I believe it was in the spring of last year, by Dr. Josiah in regard to a proposed thinning project in the Chadron area, and we agreed to do that. Now I have some photos here. I assume the folder has presented a lot of pictures of that, but if I may, Senator Carlson, if I could just walk around and show you the difference between our property which was thinned and our property before it was thinned, it might be kind of a dramatic... [LB634]

SENATOR CARLSON: Could we have the pages take that around? [LB634]

RICHARD ENDACOTT: We could do that. I think you will be able to tell the difference between the two. One shows some undergrowth, lower timber, and the other one shows really a clear path of that thinning project. I called Mr. Doak Nickerson, who is one of the gentlemen in Chadron who is with the Forest Service that we work with in these thinning projects, and he told me this morning that this project is basically a poster child for the Forest Service in their thinning projects. And when this fire went through it did not...it affected this land somewhat in that the grass below the thinned trees was burned but it did not affect the tops of the trees, which is called a crown fire. When you get a real hot fire it gets up in the top and kills the whole tree, and not only does it kill the tree as Mr. Nickerson pointed out to me, it kills the entire seed source for that area. So all the pinecones are gone. But in this project, even though the fire went through there, that seed source is still intact. So it really affected that property much less and I think that's a great example for the benefit of this particular bill. In closing, there was a lot of discussion that I heard about cedars and we are involved in the never-ending battle against cedars. We spend each year over \$250,000 on our school lands to try to reduce the effect of cedars on our properties. The other thing that we...and to answer one of the questions about water use, which Senator Carlson is very familiar with, Oklahoma State University did a study several years ago about how much water cedars use. And an acre of cedars will use 48,000 gallons of water per acre per year. So as you say, it uses a tremendous amount of water. The other thing that I've been trying to do, and I would admit unsuccessfully so far, is to get involved in a biofuels project which would involve harvesting these cedars for biofuel. And I've worked with the Forest Service who is also very interested in this. I've worked with several companies in Nebraska, mostly in eastern Nebraska, who have biofuel projects where they harvest trees, many of them cedars, and then turn them into, oh, dog...areas for dogs to sit and...or for horses. And the problem there...and we also try to work with the Curtis Institute and Dr. Sleight out there was very supportive. And the problem is, even though we have a great source of cedars here, we have no immediate market close to the source. The source is in central

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and some in the eastern part of Nebraska but more in the central part, and so there's no market for those cedars. The transportation costs are very high. So someday somebody is going to come in here and set up a plant to harvest these cedars, turn them into chips, and that will be the solution to the cedar problem. The other thing, on a small scale that we've been doing for the last 20 years, is we've been thinning the ponderosa pines in the Pine Ridge, chipping them, and selling them to Chadron State College where they heat and cool their college. I'd be happy to answer any questions. [LB634]

SENATOR CARLSON: All right. Thank you. Any questions of Mr. Endacott? Senator Brasch. [LB634]

SENATOR BRASCH: Thank you, Chairman Carlson, and thank you, Mr. Endacott, for your testimony today. I missed the first part. You represent an organization or are you here as a private citizen or...? [LB634]

RICHARD ENDACOTT: It's the Nebraska State Board of Educational Lands and Funds. It's a trust created by the federal government where they gave 2.8 million acres of land to the state of Nebraska when we became a state, and I'm the executive secretary of that organization. It's a state agency but it's also a trust. [LB634]

SENATOR BRASCH: Okay. And the trust is in land? [LB634]

RICHARD ENDACOTT: Yes. [LB634]

SENATOR BRASCH: And 2.8 million acres of land in a trust for schools? [LB634]

RICHARD ENDACOTT: Yes. It's...the constitution and the gift provide that all the money must be used exclusively for the public schools of the state of Nebraska. [LB634]

SENATOR BRASCH: And these lands are currently as forests or with trees? You showed pictures. [LB634]

RICHARD ENDACOTT: Well, there is both grassland and crop ground. There's a million acres of grazing property. This property that I referred to in the western part of the state is a combination. It has ponderosa pines on it but it's also grazed, so a million acres of grazing in that combination type of property as well as irrigated crop ground and dryland crop ground across the state. [LB634]

SENATOR BRASCH: And they generate revenues that come back into the schools? [LB634]

RICHARD ENDACOTT: Yes, ma'am. [LB634]

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SENATOR BRASCH: Very nice. Okay. I...no other questions. I just couldn't put the two together there. [LB634]

RICHARD ENDACOTT: Sure. [LB634]

SENATOR BRASCH: And where was that photograph that you showed us... [LB634]

RICHARD ENDACOTT: That was on our property near Chadron, Nebraska. [LB634]

SENATOR BRASCH: Near Chadron. Okay. [LB634]

SENATOR CARLSON: Okay, any further questions? Seeing none, Dick, thank you for testimony. Next. Welcome, Tim. [LB634]

TIMOTHY McCOY: Thank you, Chairman Carlson, members of the committee. For the record, my name is Timothy McCoy, 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 come to you today in support of this bill for several reasons. One is our agency and our staff spent a large amount of time last year helping fight fires in the Pine Ridge. We have several wildlife management areas in that area as well as a couple of major state parks. So our staff, actually beginning in June we had staff that were going out every time there was a storm in the area, looking for basically they call it looking for smokers. They're looking for smoke anywhere on the horizon, working on the main roads and the trails on our areas, to try and address potential fires before they start. If you're not familiar with the Pine Ridge landscape, it is rough. The topography is very extreme. Roads are in some cases few and far between. So the earlier you can get to those fires, the better off you are. We also have one of our staff at Fort Robinson who happens to be our park superintendent is very good on a dozer and spent a large amount of time last summer hauling that dozer around to help doze open trails on both public lands and private lands to help local fire departments get their grass rigs to some of these spots where fires were. It's a very inhospitable landscape and that's one of the reasons that we think it could be very valuable to have some air support that's local on that. It's one of the challenges in that landscape that you get in those remote canyons and with that topography it can take time to get people there or you're getting people there on foot or on ATVs. And that's a small amount of water to deal with, especially if you have anything that's wooden that's on fire. So we think that that's very valuable. The coordination, the ability to have some improved coordination as fires get bigger is also of extreme value. Our agency staff, we were running different crews to help with fire support. We actually have, because we're a land management agency, we have small firefighting rigs, either grass rigs or slip-on units in pickups, and ATV support that we sent to the fire, and we were actually rotating crews in and out. Having that coordination with the fire departments would be very valuable, especially as these fires grow. At some level, they get big enough, federal support comes in and they sort of take over that management of the fire. But there's a

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time in there where it moves from a smaller fire primarily managed by a local volunteer fire department to where you have many local volunteer fire departments on site, and that's a huge need for all the agencies and all the staff that are involved in these fires, and to have good communication and good planning so that resources are used to the best they can be in those situations to try to address them as quick as they can. With that I will take any questions. [LB634]

SENATOR CARLSON: Okay. Thank you, Tim. Questions of the committee? Well, appreciate your perspective. Thank you. Welcome, Pete. [LB634]

PETE McClymont: Chairman Carlson, members of the committee, for the record my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm a registered lobbyist and vice president for legislative affairs for the Nebraska Cattlemen. Our membership supports Senator Davis and LB634. Based on the comments that you've heard before, I'll restrict my testimony just to the red cedar issue. Obviously, for our rancher members that red cedars, nothing will get their disgust and ire up more than once they have red cedars on their ranches, you've heard by previous testifiers, because it takes continual surveillance to try to stay ahead and eradicate them. So between a skid steer that they have developed front-end attachments that can go in and cut them if they're any size, burning, spraying, any method they need to use, because we have a member who has two ranch parcels on the eastern edge of the Sandhills and he has a high school student every summer, not full-time, but a large portion of that young person's responsibilities is to trimming red cedars on the two different properties. So it's an awful thing, obviously mentioned by others on the water use and the way it spreads so quickly. And then also finally the Sandhills. Obviously, the Sandhills have flourished in large reason because of the management of livestock and cattle on there. And so once a fire goes through, obviously, it is a lot more difficult to reclaim that pasture and the growth of the grass after the fires that we experienced last year. So any help that can come forward with LB634 that Senator Davis has brought forward we would be happy to help provide for the committee, and I'll conclude my testimony. [LB634]

SENATOR CARLSON: Good. Thank you. Questions of Mr. McClymont? Senator Johnson. [LB634]

SENATOR JOHNSON: Just a quick comment I guess. The more I hear, the more I'm convinced we have a red cedar problem. Is this a separate problem? I mean, solving this problem could solve many issues, whether it's the livestock industry, the fire prevention, you know, Game and Parks. It just seems to affect all of it. I'm starting to wonder if there's a separation here. We need to be concerned about fire control but we also maybe we need to have a focus on eradication of red cedar. Is it...I could see all of Nebraska buying in on that myself. [LB634]

PETE McClymont: And that's a fair comment. Obviously, there's the noxious weed

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program that currently exists, any Nebraskan that owns property. Obviously, the musk thistle is the biggest one that comes to mind that you have to stay on top of. But it's my understanding that red cedars are not classified as a noxious weed, but still it doesn't minimize, you know, the commitment that a landowner has to have to make sure that it doesn't overwhelm the pasture and destroy the value of the grazing potential. [LB634]

SENATOR JOHNSON: Thank you. [LB634]

SENATOR CARLSON: Any other questions? Seeing none, thank you. [LB634]

PETE McCLYMONT: Thank you. [LB634]

SENATOR CARLSON: Next. Welcome. [LB634]

RICH BRINGELSON: (Exhibit 10) My name is Rich Bringelson, R-i-c-h B-r-i-n-g-e-l-s-o-n. My mailing address is 121 Campbell Avenue in Doniphan, in Hall County. However, my grassland is located in Lincoln County and south of Maxwell, Nebraska. Mr. Chairman, members of the Natural Resources Committee, for the record my land shares a couple of miles of fence line with the Nebraska Forest Service land in that area. I want to be a good neighbor; however, I want to be clear that I am testifying as an individual landowner by my own initiative. I have been an active member of the Loess Canyon Rangeland Alliance for over ten years and I will speak about that later. My parents taught me, mostly by example, that when we take responsibility for a piece of land we are to leave it in better condition than when we found it. That is our legacy, family legacy responsibility. I support this proposed legislation because I feel it outlines the tools for risk management by the state of Nebraska, which is all of us. Implementation will guide us in the design of procedures, equipment, and operating policies to help direct us toward a legacy of the land for future generations. This may require us to review how we see the world and options of how we need to interact to the new conditions facing us. Yesterday afternoon, or last evening when I finishing this testimony, I didn't realize I would be so much on target in terms of the issue of fuel load management, and I'm suggesting you add that to one of the education tools of the Forest Service. I raise this point based on personal experience. During my smallest prescribed burn fire in 2008, I was assigned as a mop-up sprayer behind the local fire chief who was training a pair of his volunteers in blacklining skills. There were some old growth cedar groves that were popping off pretty high. Today I can take you to this exact spot where he stopped the truck for a minute, he looked back over the fire, which was going pretty well, and he said: Rich, I would be a lot more comfortable if you did some tree shearing and piling and winter pile burning. He was teaching me about fuel load management. And during the last five years I have spent tens of thousands of dollars implementing his recommendation for my next reclamation burns on my 1,100 acres of pasture land--Cedar Canyons, par excellence. When I put fire down on my own property, risk management is one of my highest priorities. As a culture in this state, we

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all need information and practices on fuel load management to reduce wildfire exposure as much as possible. Is this proposed legislation one of the several places where we could strengthen the research and education in fuel load management? You may want to visit this Web site for a much more comprehensive discussion on this topic. It's supported by people from Texas, and some of whom I've met and respect. I might note that the issue of cedar trees goes all the way from Texas, Oklahoma, Kansas, and Nebraska, and I don't know how it goes further north, but it is a major concern. And I guess if I'm going to make recommendation to the committee, you give some thought to the possibility of an interim study looking at cedar encroachment as really an invasive species, and the history of how it got there, and so on. The Texas drought was in place before our drought started. Their wildfire experience is more extensive than ours. It is all well-documented. Item (4) on Section 3 regarding the state-level Incident Management Team appears to be a well-supported need. From my perspective, it appears that a Nebraska-based incident management team would be a good addition to the mutual aid relationships in the state. But from my perspective, the rural fire departments are better able to evaluate this proposal and the framework under which it would operate. Based on personal experience, the question comes to me: Where are the risk management and liability umbrella options for the operation of the Nebraska IMT? Where would that be in the state, would it be the Forest Service, where would be the supervisory and the leadership on that? I asked the LCRA membership if they wanted to be involved in the hearing. The group is a prescribed burn community association with a goal of managing the eastern red cedar invasion and range renovation. There was a meeting February 12 in Curtis, where the bill was discussed. The instructions from the secretary indicated that, as they understood the current language of the bill, the membership supports the intent of LB634, and they want to be kept informed of the action on the bill and development of policies for the implementation so they can support these important efforts. Thank you for allowing me to be here and provide input, and thank you for your work on behalf of the people of Nebraska. Any questions? [LB634]

SENATOR CARLSON: Okay. Thank you, Rich, for your testimony. Senator Dubas, a question. [LB634]

SENATOR DUBAS: Thank you, Senator Carlson. Thank you very much, Rich, for being here today. You and I have had many conversations and you have educated me a lot about the importance of controlled burns and what those can do to help us with this management issue. [LB634]

RICH BRINGELSON: It's one tool. The question was raised about costs for clearing. The contractor I work with, it can run between \$140 an acre to \$500 an acre depending on how big the trees are, and then you've got to figure out how to get rid of them once you cut them off. [LB634]

SENATOR DUBAS: You mentioned the organization that you work with. [LB634]

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RICH BRINGELSON: Yes, ma'am. [LB634]

SENATOR DUBAS: Do you know how many other organizations similar to that exist in Nebraska? [LB634]

RICH BRINGELSON: Well, during the last months there were probably 20 workshops across the state, some by local groups. A lot of local groups are working on the issue of how to manage their cedar problem. There's a lot of different approaches. I've spent personally probably close to \$150,000 on 1,100 acres trying to see if I can reclaim it. I'm not trying to live off of it. I'm just...can I...because there's something that I can leave behind. [LB634]

SENATOR DUBAS: Do you work closely with any NRDs to help you with this management? [LB634]

RICH BRINGELSON: Surely. The NRDs work...the Twin Platte and the Central Platte both work with us as well as some over into the Republican River. [LB634]

SENATOR DUBAS: So there has been an ongoing understanding that these red cedars are causing us some significant problems, but it's just getting it... [LB634]

RICHARD BRINGELSON: Yes, there is. And there's just different approaches to try to get to it. The suggested model here of load reduction. The problem is, on cedar trees you clear it once; five years later you get another crop, really a wonderful nursery going. [LB634]

SENATOR DUBAS: I certainly understand that. Thank you for coming in and testifying. [LB634]

RICH BRINGELSON: Thank you. [LB634]

SENATOR CARLSON: Okay. Any further questions? Okay, thank you for your testimony, Mr. Bringelson. [LB634]

RICH BRINGELSON: Thank you. [LB634]

SENATOR CARLSON: Next testifier. Welcome, John. [LB634]

JOHN HANSEN: Good afternoon. Mr. Chairman and members of the committee, for the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and also their lobbyist. The hour is late. There's been some really excellent testimony by folks more knowledgeable than I. We are in support of this

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bill, think it makes a lot of sense, and would say that it's appropriate for the state of Nebraska to figure out what it is that we might ought to do to be better prepared to deal with these kinds of fires. Unfortunately, at this stage compared to last year, last year we had about 59 percent acceptable subsoil moisture at this point in the year. At this point in the year we're down about 2 percent. So we are much more dry. We're also much more vulnerable to these kinds of fires. And if you're going to have these kinds of fires you have to have tools to be able to deal with them, and so we are in support of this bill. And with that I would end my testimony and answer any questions if I could. [LB634]

SENATOR CARLSON: All right. Thank you, John. Any questions? Okay, appreciate you being here. Thank you. [LB634]

JOHN HANSEN: You bet. Thank you. [LB634]

SENATOR CARLSON: Welcome, Jerry. [LB634]

JERRY STILMOCK: (Exhibits 11 and 12) Senators, thank you. And thank you for hanging in there with all of us on a Friday afternoon. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association in support of LB634. I was going to comment on a couple different issues. Given the time and the nature and the volume of the extent, I'm going to just give it as to one and perhaps I can catch you outside the committee on the other issues that I haven't had a chance to share with you. The item that the page is handing out is one small piece of the result of a survey and a study that the Nebraska State Volunteer Firefighters has commissioned with the University of Nebraska at Omaha, the Center for Public Affairs, the School of Public Administration. Several of the names you may recognize through your other careers: Robert Blair, Jerry Deichert, and David Drozd are all involved in this measure, and we have a brief bit of information. If you go to the 12 o'clock location on the diagram, 12 o'clock location, then reading to the left, this represents a total of 147 surveys that were responded to of volunteer fire departments throughout the state. Sixty-one of those 147 responded that they have members of their department that were engaged in some type of firefighting. It might be for the wildfires in 2012. It might have been a minimum of 2 hours that was reported or a maximum of 240 hours: 240 hours, 15 days, 16 hours a day. The average that the...this question 30, the average shows that it was 41 hours per volunteer firefighter that showed up was on the scene for these fires that began, the big ones reported, mid July through the end of August. Twelve o'clock location: What happens when the volunteers leave? They use their vacation, 9.2 percent were able to be fully compensated by means of using their vacation and employer payment during the time they were away from work. Those that were fully compensated by using vacation time to go fight a fire, put themselves in harm's way: 14 percent. Those that were fully compensated by their employers: 26.8. This is the point: 50 percent of the volunteer firefighters that showed up were not fully

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compensated for their time in fighting the wildfires. I represent a private group and I am proud to represent them. They don't toot their own horn. But we came to a point where because of the situations involved, the UNO study was requested. We're waiting for the final results. The comments made by the UNO person that was summarizing the information was, why do these people do this? Why do 50 percent of the people that went out, the volunteer men and ladies go out? And they did it because of the kindness of their heart. I just wanted to give you that perspective. If one extrapolates out to the number, the average number of hours that were spent to the 61 departments that sent members out, of those 61 departments that sent members out there was approximately 14 members of that fire department that were out fighting these wildfires. Just taking that computation alone, at \$17.50 is what a federal wildland firefighter is paid without any other fringe benefits, no insurance, just straight time out on the fire scene, \$600,000 that was spent just last year alone...\$600,000, my words were incorrect that was spent...that was saved; \$600,000 of volunteer firefighter time that we can account for and point at with accurate data. One hundred forty-seven departments responded. We know there's 456 departments out there. We believe that there are departments that responded to these wildfires that weren't even a part...that didn't contribute to the study and to the survey. My message is without the state of Nebraska having a wildfire state suppression team, it's all fallen in the hands of the volunteers, and these men and ladies out there need some help desperately. I have a handout again, please, that I'd offer, Senator Carlson, from the Nebraska Farm Bureau Federation in support that I've been requested to distribute to you as well. With that, I'll save my comments for sometime outside of the committee. Thank you for your help and appreciate the advancement of LB634. [LB634]

SENATOR CARLSON: Okay. Thank you, Jerry. Any questions of the committee? We appreciate your time and your organization on this. Thank you. [LB634]

JERRY STILMOCK: Thank you, sir. [LB634]

SENATOR CARLSON: Any further proponents? Okay. Welcome. [LB634]

JASON SKOLD: (Exhibit 13) Thanks, Chairman. Jason Skold, J-a-s-o-n S-k-o-l-d. I'm the director of conservation programs with The Nature Conservancy, and just some brief comments today. Our Niobrara Valley Preserve near Johnstontown, Nebraska, experienced the Fairfield Creek wildfire in the summer of 2012. Our 52,000-acre preserve, 29,000 acres of it were burned; so severe, severe impacts to our large preserve up there. I'm just going to bring up a, given the other testimony today, a couple things to suggest of improvements on the bill. Given the wildfire and the way we use prescribed fires in The Nature Conservancy, we're a little bit sensitive to the overall impression of fire. And in the bill it uses the word "destroyed" in conjunction with the lands that were impacted by wildfire. And from our view, you know, 29,000 acres of our preserve is not destroyed. It's been impacted. We understand houses, cabins, fences,

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other things get destroyed, but we really don't view the land as being destroyed after a wildfire. There will be some rehabilitation that is needed, but kind of a strong word for the way we view our lands after a fire, and wildfire, in particular. The second would be we've heard a lot about cedars. We try and control cedars on our preserves by using prescribed fire. So we think it's very effective in that and we also think it can be a very effective tool in preventing these large and catastrophic fires. And again, we've heard some talk about it today, but there's no real mention of prescribed fire in the bill. So those are the two improvements that we would respectfully offer for your consideration and appreciate everybody's time and attention to this important matter and this important legislative bill. That's all I have. [LB634]

SENATOR CARLSON: Okay. Jason, thank you for your testimony. Any questions of the committee? Seeing none, thank you. [LB634]

JASON SKOLD: Thank you. [LB634]

SENATOR CARLSON: Any further proponents? We do have letters in support from The Nature Conservancy, from Mike Murphy of the Middle Niobrara Natural Resources District, and from Jessica Kolterman of the Nebraska Farm Bureau Federation. Do we have anybody testifying in opposition? Anyone testifying in a neutral capacity? Okay, seeing none, Senator Davis, you're recognized to close. [LB634]

SENATOR DAVIS: Thank you, Chairman Carlson. I realize the hour is late and I won't take much of your time. I just want to say I love red cedar. I think you've heard a lot said today about the incredible amount of effort that went into putting out these fires, and I just want to reiterate how much we have to respect the men and women that took time out of their own lives to go out and address the issues. And I spent some time on the campaign trail up in Ainsworth during the fires there and hauled some of the crew out across to Norden and drove all across the devastation from Johnstown to Norden, and so I really realized at the time the scope of the damage and what we were looking at in the future if we continue to have more problems like this. Without those 147 departments, and there were people from Minden that were there, Axtell, a lot of different communities from a long ways away that were called in because the fires just got out of control so quickly. It was 113 degrees, you heard them say that, and extremely windy. So I've got nothing but admiration for those guys. I've been a volunteer fireman myself in my own community and went to fire school, and all these guys do that. You know, fire school is held in Grand Island every year. It's a great experience for the men and women of the communities, but again, it's all self-generated revenue; so nothing but respect for those guys. We need to enact this bill and get it into law because we need this kind of support for them, for our communities, and for our state. You've heard testimony from mayors and NRD representatives, and you can see what the need is and why we've got to do something. As to the thinning that we need to do, I wanted just to kind of clarify that. The Forest Service will...our federal government will provide

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basically 50 percent of the revenue; 25 percent will come from state funding; and then the other 25 percent will be the landowners' responsibilities. So the landowner is going to have some cost in it. I think it's important for people to know that. So just to finish up then, we're so lucky we didn't have a loss of life last year. But I would appreciate moving the bill quickly and thanks so much for your time. [LB634]

SENATOR CARLSON: Okay, thank you, Senator Davis. Any questions? Senator Brasch. [LB634]

SENATOR BRASCH: Thank you, Chairman. And I do just have a few questions on the fiscal note. When you're saying for contracting for two single engine air tankers, now what do you mean by contracting? Renting or purchasing or...? [LB634]

SENATOR DAVIS: They'll be leased. [LB634]

SENATOR BRASCH: They're leased. [LB634]

SENATOR DAVIS: They will be leased from a private entity. [LB634]

SENATOR BRASCH: And is it a year-round lease, is it...? [LB634]

SENATOR DAVIS: It's a three-month lease. [LB634]

SENATOR BRASCH: Three-month lease. [LB634]

SENATOR DAVIS: Um-hum. During the fire season...the peak of the fire season. [LB634]

SENATOR BRASCH: Okay, very good. And then the other is when we did look at the personnel services here, the professional staff involved, can you describe what this staff is, who they are, what they are doing? Are they part-time, three months a year, or all year, or...? [LB634]

SENATOR DAVIS: Some of the people will be...you know, I really should defer that question to Dr. Josiah, but some of the people will be full-time, you know, the training and some of the administrative work. Dr. Josiah, would you like to elaborate on that? [LB634]

SENATOR CARLSON: We'll have to talk to him on the side. [LB634]

SENATOR DAVIS: Okay. Separately. Okay, okay. [LB634]

SENATOR CARLSON: Okay. All right. [LB634]

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SENATOR BRASCH: Okay. I'll ask those on the side because I do...you know, I know our volunteer firemen, they volunteer. [LB634]

SENATOR DAVIS: Um-hum. [LB634]

SENATOR BRASCH: And they personally incur many expenses to be volunteer firemen and women... [LB634]

SENATOR DAVIS: Yes. [LB634]

SENATOR BRASCH: ...and first responders. And their communities also incur many expenses on their equipment. And I will...I am very interested in what this is and where these people will be located and what the plan is for carrying out this, so. But otherwise, you know, thank you so much for bringing this forward. [LB634]

SENATOR DAVIS: Well, thank you. [LB634]

SENATOR CARLSON: Any further questions? Senator Davis, is this a fair statement: Could this bill be viewed instead of a bill that spends money, it's a bill that saves money? [LB634]

SENATOR DAVIS: I think if you look at \$12 million in costs last year versus \$1.7 million, and probably if we have a year like...if the trend is what it appears to be, we're going to be going into a number of years where we're going to have serious problems like this. So I would think so. I think it would be a big savings. [LB634]

SENATOR CARLSON: Okay. All right. [LB634]

SENATOR DAVIS: You know, we don't even count all the labor, as you heard. [LB634]

SENATOR CARLSON: Right. Okay, thank you for your testimony. [LB634]

SENATOR DAVIS: Thank you. [LB634]

SENATOR CARLSON: And with that we close the hearing on LB634. Now we're going to take a little break here, but when we get into the other two bills, how many are testifying on the other two bills? Okay, it's seventeen after. We'll start back at twenty-seven after four. [LB634]

SENATOR CARLSON: Okay. Let's get ready and move into the next bill. We're ready to open the hearing on LB391. Senator Davis, you're recognized. [LB391]

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SENATOR DAVIS: (Exhibits 14 and 15) Thank you, Senator Carlson and members of the Natural Resources Committee. I'm Al Davis, D-a-v-i-s, and I represent the 43rd Legislative District. I'm here today to introduce LB391. This bill is intended to clarify the rights of a storage reservoir or facility when the Nebraska Department of Natural Resources is called on to administer water rights. I believe there is a need to examine the way in which statutes that apply to this issue are interpreted. At recent meetings I heard the views of irrigation district officials in my legislative district and those of state policymakers, industry leaders and DNR representatives. I concluded that this issue needs further discussion. Interested parties have said a legislative solution is needed. I don't know that LB391 as written can provide that solution. However, the introduction of the bill and its public hearing offer an opportunity for this committee and the parties interested in the rights of storage reservoirs and facilities when water rights are administered by the state, to come together to create a mutually acceptable solution. I have a letter and photograph attached to offer in support of LB391. It is from John Bauer who owns the Merritt Trading Post in Valentine. I also have a second letter from Michael Murphy, general manager of the Middle Niobrara Natural Resources District. I'd be happy to answer any questions if I can. However, individuals with specific knowledge of this issue are here today and will explain more fully the need for the Legislature to clarify the rights of storage facilities. [LB391]

SENATOR CARLSON: Okay. Thank you, Senator Davis. Any questions? To be hopefully accurate, your bill is one-word bill, isn't it? [LB391]

SENATOR DAVIS: It's a one-word bill, that's the word "downstream." [LB391]

SENATOR CARLSON: Okay. All right. Thank you. Any questions? All right, we'll call upon you to close. [LB391]

SENATOR DAVIS: Thank you, Senator Carlson. [LB391]

SENATOR CARLSON: All right. First testifier, proponent. Welcome. [LB391]

RODNEY SCHWARTZ: (Exhibit 16) Welcome to you too. I appreciate the opportunity to speak to you, Chairman Carlson, and the members of the Natural Resources Committee. My name is Rodney Schwartz, R-o-d-n-e-y S-c-h-w-a-r-t-z, and I'm testifying as a proponent of LB391, but with certain modifications addressed in the letter that I provided to the committee. The intent of LB391 is to prevent the opportunity for the Department of Natural Resources to continue interpreting existing statutes in a manner that results in forcing reservoirs that are downstream from a perceived irrigation need to release water for the...a basic, but nonexistent upstream irrigation need. By nonexistent, I refer to an irrigation need that could be resolved by the irrigator simply signing a subordination agreement with NPPD that would allow them to purchase an acre-foot of water for 55 cents per acre-foot, but for which basically five of them have

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chosen not to. I think the recent manner in which Nebraska statutes, specifically Section 46-241, are being cited and interpreted for irrigation in the Niobrara Basin by DNR results in a waste of a valuable resource, irrigation water, threatens the viability of a unique cold water fishery in the Snake River below Merritt Reservoir by forcing Merritt to dump water down on a trout stream and continue use, to contribute to dam safety concerns at Merritt Reservoir. Basically, Merritt needs to fill by a certain time because it's an earthen dam and if it doesn't fill by that point in time, ice forms below the protective shield of concrete that they've got on the upper portion of the dam, and could actually result in damage to the structure and potential downstream issues. This is an extremely complex issue and has probably taken me about a year to wrap my arms around it, so I hope I can do it justice in a few minutes. In researching the matter in order to understand the rationale what the problem is, I learned that NPPD has a senior water right of basically 235 cfs for hydropower generation at the Spencer Hydro plant. This water right is a senior water right that dates back to the 1800s. However, Nebraska law also uses a preference system which considers water needs in accordance with priority. Municipal use is first priority, followed by irrigation, and hydro last. This preference system, though, affords irrigators the right to purchase water from NPPD, who has a senior water right, to meet their irrigation needs even when NPPD has a call on the river. Thus, an irrigator can purchase water for 55 cents per acre-foot, and one would normally conclude that at such a reasonable cost, anyone with a valid irrigation need would indeed sign a subordination agreement with NPPD. While most irrigators on the Niobrara Basin have, a few upstream of both reservoirs near the Wyoming border have refused to do so, I presume because they're irrigating pastures and could do so before NPPD puts a call on the river and they could do so again once NPPD removes their call in the fall. It would seem that any professed irrigation need that is not worth 55 cents a day per acre-foot, to fulfill by exercising this right, could easily be called into question by the Nebraska Department of Natural Resources. And that is the issue, they are not. They are instead soliciting a need from these people by calling them. Nebraska Department of Natural Resources determines this irrigation need by individually calling these individuals who have not signed a subordination agreement and asking them if they would irrigate if NPPD did not have a call on the river. If you were one of these irrigators, what would you typically say if you received such a call? No, I wouldn't want to irrigate for free. I think not. Thus, because DNR views these irrigators without a valid subordination agreement as having a valid irrigation need and still desiring to irrigate late in the fall, they feel past court cases and current statutes prevent them from allowing downstream reservoirs to remain open for storage if these irrigators still have a profess to have an irrigation need that they could somehow be met by downstream reservoir releases. Now, they perceive those downstream reservoir releases are necessary to remove NPPD's call on the river. So NPPD has a call of 2,035 cfs on the river. The upstream irrigators have a need for 9 cfs. So, they're forcing Merritt Reservoir to release 250 cfs, Box Butte 13 cfs, which is 263 cfs of water to meet a 9 cfs need. Now, there's only 750 cfs in the river so with those two releases you're only going to get 1,012 cfs, which is in no way ever going to come close to meeting NPPD's call on the

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river of 2,035 cfs, so you're never going to get relief from NPPD's call so these guys can irrigate for free. But consequently, you're creating a lot of environmental harm in terms of these releases in the Snake River. You're getting erosion, water quality issues, temperature increases. You're also creating a situation that I feel they have the ability to interpret that subordination agreement in a different fashion. Plus, when NPPD exercises their maintenance call on the river in late September and October, they remove their call from the river so these guys can irrigate anyway. In the interim, you're preventing these reservoirs from storing water that is needed to return those losses that they sustain from irrigation and raise those levels in a timely fashion before fall and ice begins to form on the reservoirs, and you're creating a serious potential problem up there. And it just doesn't seem a smart thing to do. And so, basically, I think you need to include some language that forces DNR to recognize the right for those people to sign a subordination agreement and indicate that if they had the right to do that, they really don't have a continuing validation need that would force a downstream reservoir to release water. [LB391]

SENATOR CARLSON: All right. I think I'm going to stop you there and we'll ask some questions. Okay? [LB391]

RODNEY SCHWARTZ: Okay, sir. [LB391]

SENATOR CARLSON: All right, thank you for your testimony. Questions of the committee? Let's go back then in...are you saying the bill as drafted isn't going to do the job? [LB391]

RODNEY SCHWARTZ: No, sir. I have attached a letter from Brian Dunnigan which I wrote and specifically asked him what wording would he feel needed to be included in the statutes in order to resolve this issue. And he basically would not give me the wording that it would take, saying that they don't comment on legislation or proposed legislation, but he indicated that they would administer the statutes in accordance with any changes that came out of the Legislature. [LB391]

SENATOR CARLSON: All right, his answer is whatever the bill ends up being, and if that bill is passed, whatever the wording is, they'll interpret that wording and behave accordingly. [LB391]

RODNEY SCHWARTZ: Right. [LB391]

SENATOR CARLSON: So do you have the wording that you think it ought to be? [LB391]

RODNEY SCHWARTZ: I do have a wording similar to what I think it ought to be and basically the modifications to the bill would need to require the Nebraska Department of

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Natural Resources in the Niobrara Basin to conclude that when a call is placed on the Niobrara River, any irrigator claiming a need to irrigate must first have executed a subordination agreement. Thus, if an irrigator with a lesser preference had the ability to meet their irrigation needs via the execution of a reasonable subordination agreement, an existing irrigation need would no longer be considered for the purposes used to justify issuing storage closure notices to downstream reservoirs in order to meet those irrigator's needs in accordance with Nebraska statute 46-241. So basically what they're saying is because these five guys up by the Wyoming border, they determined to have an irrigation need because they wouldn't sign a subordination agreement, they're forcing downstream reservoirs to release water in an attempt to remove NPPD's call on the river. So that water is never going to meet their needs up there. NPPD is never going to get enough water to remove their call on the river and those guys are still never going to be able to irrigate until such point in time as NPPD removes its call on the river. So in the interim, they're forcing these reservoirs to release a whole bunch of water because I think they don't have the courage to interpret the statutes in the way that they were intended for beneficial use. There is no beneficial use in forcing those reservoirs to release that water, especially for an upstream irrigation need. [LB391]

SENATOR CARLSON: Okay. I'm going to say that as you can give specific language, I'm interested in hearing that and we're not going to solve it across the table today. [LB391]

RODNEY SCHWARTZ: Yes, sir. [LB391]

SENATOR CARLSON: But I think I hear what you're saying. I appreciate your testimony and let's see where this goes. [LB391]

RODNEY SCHWARTZ: Yes, sir. [LB391]

SENATOR CARLSON: Okay. Any other questions? Okay. Thank you. [LB391]

RODNEY SCHWARTZ: I thank the committee for your time and your willingness to begin to understand what these issues are, and how they're going to adversely affect people up there. [LB391]

SENATOR CARLSON: All right. Thank you. Welcome, John. [LB391]

JOHN McCLURE: (Exhibits 17 and 18) Thank you, Chairman Carlson, members of the committee. My name is John McClure, J-o-h-n M-c-C-l-u-r-e. I'm vice president and general counsel with Nebraska Public Power District, here today in support of LB391. The pages are handing out to you a copy of my testimony which I may deviate from, but I'd like it submitted for the record. Also a brief map of the region. Hopefully, a picture is worth a thousand words and we can talk a little bit about the landscape and the issue

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that's come up here. We are hopeful that this bill starts a discussion that resolves a problem up on the Niobrara River. Whether the one word "downstream" is sufficient to solve it I think remains for some additional discussion, but we certainly want to work with the interested parties and this committee to try to find a resolution that resolves this problem. As the map would indicate, on the right side is the Spencer Hydro which is owned and operated by NPPD. It's a facility that's been there for a long time. It has the largest water right on the river and a very senior water right, actually a series of water rights over the years. In 19...in 2007, we asked the department to administer for those rights because it was becoming clear that junior appropriators were diverting water ahead of NPPD's priority. As I think you all understand, in Nebraska for surface water, we have a system of prior appropriation. The first appropriator has the senior right, but we also have a preference category which says certain uses can be preferred over priority. And in order to exercise that preference, the junior appropriator has to compensate the senior appropriator in order to use that water. Since 2007, NPPD has offered subordination agreements to irrigators up there so that they could take water and irrigate and not have to worry about the call that was on the river. In fact, NPPD and its predecessors have had subordination agreements with the Mirage Flats Irrigation District and the Merritt Dam and the Ainsworth Irrigation District that respectively operate...that are associated with the Box Butte Dam and the Merritt Dam and those go back to 1943 and 1964 respectively. We've never had a problem with those subordination agreements being exercised until 2011 when DNR sent notices to the United States Bureau of Reclamation which operates the reservoirs, telling them not to store water. This was a new initiative by the DNR. We met with the department on a number of occasions in an attempt to understand why the subordination agreements that we had with those facilities did not permit storage. The reason appears to be tied to the way DNR is administering for other water users or irrigators who do not have subordination agreements with NPPD. The department is utilizing Section 46-241(5) as part of this administration. It does not appear to NPPD that this statute should be affecting these reservoirs unless there are irrigation districts, reservoirs, or facilities below the reservoirs with senior water appropriations. We're not certain again that this proposed legislation will absolutely solve what's been going on with the department's administration on the Niobrara River. We believe it should help, and we are hopeful a resolution can be found, and are willing to work with Senator Davis, the committee, and the DNR in efforts, as well as other stakeholders, to find a resolution. Again, so in a nutshell, what we've been told is that Merritt Reservoir has to release water apparently for the benefit of upstream irrigators, and as has been pointed out, we don't understand that connection. It is not the way the subordination agreements were interpreted for decades and we're not sure why there's been a change of position. I'd be happy to try to answer any questions. [LB391]

SENATOR CARLSON: All right. Thank you. Any questions of the committee? On the sheet that you gave us, where are these irrigators located that have brought about this bill? [LB391]

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JOHN McCLURE: Well, the...I believe the five irrigators, I don't know exactly where they're located, but I'm assuming they may be upstream of the Box Butte Dam, but I don't know for certain where they're located. [LB391]

SENATOR CARLSON: Okay. [LB391]

RODNEY SCHWARZ: They're near the Nebraska-Wyoming border, sir. [LB391]

SENATOR CARLSON: Okay. We've got our procedures here and he's on the spot and he's the only one that can answer questions, so we'll have to stick with that. The reason I asked it is because NPPD doesn't have an intent to stop these people from irrigating. [LB391]

JOHN McCLURE: No. We have, again, offered a subordination agreement. We have the senior...we are senior to almost all the irrigators on that river, but we've offered what we think is very reasonable terms for them to be able to go ahead and irrigate without being curtailed because of the call that's on the river. [LB391]

SENATOR CARLSON: Okay. And for my own benefit and the benefit of the members of the committee, and Senator Davis bringing this bill, you're a proponent, you're trying to cooperate so that these people can have their water to irrigate. [LB391]

JOHN McCLURE: Yes. We've tried to cooperate with everyone in the basin and find solutions. For example, last year when the folks at Merritt Dam and the downstream recreational interests were very concerned about the release having to happen and the impacts in that area, we accelerated our scheduled maintenance outage at Spencer to take the call off the river and resolve things at least for the year 2012. [LB391]

SENATOR CARLSON: Okay. All right. Thank you. Any other...any questions? Yes, Senator Brasch. [LB391]

SENATOR BRASCH: One question. I need to become more familiar with this aspect, but I thought I heard in the previous testimony...now, do you sell the water to those irrigators? Is this a business? [LB391]

JOHN McCLURE: We don't really sell it to...they get...they pay us, in 2012, the rate was 55 cents an acre-foot. That was to compensate us for not getting the water at the hydro. It was a very reasonable price and there's a statutory formula for it. [LB391]

SENATOR BRASCH: Okay. I see. All right, thank you. [LB391]

SENATOR CARLSON: Okay. Any other questions? Okay, thank you, John, for your

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testimony. [LB391]

JOHN McCLURE: Thank you. [LB391]

SENATOR CARLSON: Next testifier. Welcome, Mike. [LB391]

MICHAEL JESS: (Exhibits 19 and 20) Thank you, Senator Carlson, committee members, and Senator Davis. I'm here on behalf of the Ainsworth Irrigation District whose staff members, because of the snowstorm, were unable to get here today. [LB391]

SENATOR CARLSON: And name and spell it, please. [LB391]

MICHAEL JESS: Oh, I'm sorry. Michael Jess, J-e-s-s. They are the organization that I believe initially contacted Senator Davis, asking if he would be willing to introduce a bill, which he did, and we're grateful for that. Since its introduction, what I'm passing around to you is a very substantial amendment to the one-word bill that you have in front of you. And we realize that it's customary for new language to entirely be underlined and what you see there is not. All of what you've got in your hand should be underlined as signifying suggested new language to LB391. The previous speakers are correct. There are subordination agreements in the Niobrara River Basin in conjunction with the hydro electric plant at...Nebraska Public Power District owns. There are also an abundance of subordination agreements in the Loup River Watershed as well, involving a number of irrigators and the Loup Public Power District located at Columbus. And so what you're seeing in front of you would have application not just in the Loup River Basin, but elsewhere. What you have in front of you also is reflective of a resolution adopted by the Nebraska State Irrigation Association at its annual meeting last November. I am one of the board members and responsible largely for what you see in front of you. I think it fairly represents what the association had in mind for resolution of the issues in the Niobrara and elsewhere, and I can point out to you that Ainsworth is one of the board members as well. I'd be pleased to answer any questions you might have, given the hour of the day. [LB391]

SENATOR CARLSON: All right. Thank you for your testimony. Questions of the committee? So this is the proposed wording and you're saying it all ought to be underlined? [LB391]

MICHAEL JESS: Correct. [LB391]

SENATOR CARLSON: Every bit of it. [LB391]

MICHAEL JESS: Yes. [LB391]

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SENATOR CARLSON: Okay. All right. Thank you. Thank you for your testimony. [LB391]

MICHAEL JESS: Sure. [LB391]

SENATOR CARLSON: Welcome. [LB391]

MEL BROZEK: (Exhibit 21) Hello. I'm Mel Brozek, M-e-l, short for Melvin, B-r-o-z-e-k. We're in support of this bill. Our district is one of the smallest irrigation districts on the Niobrara with the least amount of water giving to a reservoir. And this water that we have to release is a big, big catastrophe for our district. We only get to deliver four inches of water a year. So every bit we can save would be a tremendous help. And we thank Senator Al Davis for the help in getting this bill presented. [LB391]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions? Mel, you...you're comfortable that you are getting some help today from NPPD as well as from the Ainsworth Irrigation District. [LB391]

MEL BROZEK: Yes. [LB391]

SENATOR CARLSON: Okay. All right. Thank you. Any further questions? You came a long way. Thank you for your testimony. Other proponents? Any opponents? Anyone testifying in a neutral position? Welcome, Mike. [LB391]

MICHAEL DRAIN: (Exhibit 22) Thank you, Chairman Carlson, members of the committee. My name is Michael Drain, M-i-c-h-a-e-l D-r-a-i-n. I'm here on behalf of the Central Nebraska Public Power and Irrigation District. Central Nebraska Public Power and Irrigation District is not located on the Niobrara, but we are interested in this bill. Central shares the concerns of the others that we believe that the Department of Natural Resources is simply misadministering the Niobrara River in the case when it involves the subordination agreements. It is our belief that this is a problem that should be fixed and we do support those efforts. The reason that we are testifying, though, in a neutral capacity, is that it's not certain to us that what is being proposed will fix the problem. It's not certain that, first of all, the department is going to change its administration because of this. It is our belief that, in fact, this is a misadministration under the current law and, therefore, there needs to be no change in the current law, but rather there needs to be a change in the way the department is administering. We also think that there are other things short of legislation that perhaps could be tried first including, for example, a rule making. It is a little disappointing, I think personally, that we are not getting greater engagement from the department on this issue. And that's difficult for us because we do have generally a good working relationship with the Department of Natural Resources when it comes to administration of water. Though we're on the Platte, we are interested in this issue because if there can be a

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misapplication of law on one river basin, there can be eventually be a misapplication of that law on another river basin. It is conceivable that at some point in the future we could need subordination agreements on the Platte River and that those could involve our district. It is possible that we could have other irrigators in the Platte River who would want subordination agreements with Central so they could use irrigation water rather than us using it for power production. It's also conceivable that a number of municipalities downstream of us anywhere in the Platte River system could some day want subordination agreements with Central or its irrigators so that water could be provided for municipal purposes. And we think subordination agreements would be far superior to having to go through an eminent domain process to get the cities to take our water. We have some concern that the legislation, even if it were to work, it would fix the very specific problem described in the Niobrara. But what if the situation were not a reservoir being called out by an irrigator, but another junior irrigator that would be called out by someone senior to them, but both of them would be junior to the hydro right that has subordination agreements. Fundamentally, we think we would look more favorably on some legislation that would just make it clear that if there's a subordination agreement in place, it doesn't change the amount of water that would be received by any other appropriator had that subordination not been in place. And that really is the problem on the Niobrara. With NPPD exercising its call, and not subordination agreements, we believe neither the reservoir nor the irrigators in question, subordination agreements or not, would get the water. The folks who signed the subordination agreements shouldn't then have to pass that water first to satisfy NPPD so that folks who have not signed the subordination agreements would get water they otherwise wouldn't get. I understand that's very confusing. This is a confusing issue. We're also concerned that it appears that there's a proposals for changes in legislation being made perhaps going with more than the one-word change. We would be very interested in reviewing that. It's another reason why we're staying neutral on this. I will yield the rest of my time back to the committee, (laugh) and answer any questions that there might be. [LB391]

SENATOR CARLSON: Okay. Thank you for your testimony. Questions of the committee? So you, Mike, you have not seen what Mr. Jess brought forth? [LB391]

MICHAEL DRAIN: I did see a copy, I believe, that was being passed around today. I think it would take more than just today to be able to consider whether or not that fixes the problem, lay it out in front of the issues. Like I said, we support the purpose but any particular language, you know, this is...this is law that has worked well for a century and to propose changes rapidly to fix a problem that is not a problem, could have unintended consequences, and that's our concern. [LB391]

SENATOR CARLSON: Okay. Well, I would encourage you to...it's one page, I'd encourage you to study it carefully and if you'd get back to me on what your opinion is, I'd appreciate that. [LB391]

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MICHAEL DRAIN: Yeah, and we are working with these other parties. We're a member of the NSIA and we will keep an eye on this and let you know our thoughts as language gets proposed. [LB391]

SENATOR CARLSON: Okay. Good. Any other questions? Thank you for your patience and coming to testify. [LB391]

MICHAEL DRAIN: Thank you, committee members. [LB391]

SENATOR CARLSON: (Exhibit 23) Any other proponents? Yeah, that's right, excuse me, we've gone from proponents to neutral. It's late, but...and I forgot to mention that we do have a letter in support from Aaron Thompson of the Bureau of Reclamation Nebraska-Kansas Area Office, in support of LB391. Any further testimony in a neutral position? Okay, Senator Davis. [LB391]

SENATOR DAVIS: I'll waive closing. [LB391]

SENATOR CARLSON: He waives closing and with that we'll close the hearing on LB391 and we'll open the hearing on LR40. [LB391]

SENATOR DAVIS: (Exhibit 24) Thank you, Chairman Carlson, members of the Natural Resources Committee. I'm Al Davis, D-a-v-i-s and I represent the 43rd Legislative District. I'm here today to introduce LR40. LR40 would express legislative resolve to request that the United States Forest Service reconsider its original decision not to pay a proportionate share of the replacement costs of fences destroyed by wildfires between private and public lands in Dawes and Sioux County, Nebraska. The federal government stated it does not have funds available to be used for cost sharing to replace fences destroyed by wildfires between private and public lands in Dawes and Sioux Counties in Nebraska. From mid-August to mid-September, wildfires in the northern Nebraska Panhandle area burned nearly 202,000 acres. Based on feedback to the USDA and the Sioux-Dawes-Sheridan Fire Fund, approximately 2,200 miles of fence lines were burned resulting in emergency movement and/or sale of additional cattle. The United States Forest Service told the members of the Sugarloaf Grazing Association at their October meeting that they could not secure funds to cost share fence replacement costs so the U.S. Forest Service's stance now is that the fence lines are owned by the landowners since the U.S. Forest Service is only required to have boundary markers. This contradicted earlier stances by the Forest Service that claimed the co-ownership of the fences allowing them to require certain construction standards. Security First vice president, Clayton Riesen, has indicated that a group of bankers estimate the economic impacts of the drought-fire complex to be \$100 million over the next three to seven years in the northern Panhandle. It is traditional for owners of adjacent lands to share the replacement costs of common fences, but the effected

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private landowners have already been devastated by a drought and forced to liquidate approximately 40 percent of their livestock. Adjacent landowners who have been devastated by drought and fire will be hard-pressed to secure the funds for their half of the fence, let alone replace the whole cost of the boundary fence between them and the Forest Service. University of Nebraska and the U.S. Department of Agriculture estimate that in the northern Panhandle, forage production was at 28 percent of normal forage growth in 2012. If this pattern repeats, the operators will not have the financial wherewithal to make necessary fence improvements and repairs. LR40 would demonstrate that the Legislature is supportive of efforts to maintain a partnership with the federal government on the issue of good stewardship of federal land in the state of Nebraska. The handout that I gave you was put together by some people in Dawes County just to talk about the drought and the wildfire impacts. I would point out again that it was over 2,000 miles of fence and about 150 miles, I believe, of boundary fence with the U.S. Forest Service was what burned. There have been precedent setting lawsuits in the past that have indicated that Forest Service would be required to pay. I just think it would be appropriate if we put this resolution out and passed it which will say to the federal government that we would certainly appreciate and would expect that they would help us with the cost of repair. It's only fair. I'll take any questions and thank you for your time. [LR40]

SENATOR CARLSON: Okay. Questions? Senator Dubas. [LR40]

SENATOR DUBAS: Thank you, Senator Carlson. So if I'm understanding correctly, they're saying, no, we don't have to help you pay for the fences, but everything that you've been able to find through courts and past history indicates that they do have an obligation. [LR40]

SENATOR DAVIS: It's a mixed bag in terms of how that works and I believe it's out of 17 cases, in 11 of those cases they were found to be required to replace the fencing. But it's basically an issue of good neighbors because if you're going...if they have grazing limitations on their land and there's no border fence and they're not going to pay for a border fence, how can they really expect the landowner next door to pay for the whole thing. [LR40]

SENATOR DUBAS: So there's got to be some give and take. [LR40]

SENATOR DAVIS: Yes, there has to be some give and take. [LR40]

SENATOR DUBAS: Thank you. [LR40]

SENATOR CARLSON: Okay. Senator Kolowski. [LR40]

SENATOR KOLOWSKI: Mr. Chairman, thank you very much. Thank you. Senator

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Davis, would you describe the...the fence. I'm trying to picture what you're talking about, the wooden post, barb wire, combination of slatted wood... [LR40]

SENATOR DAVIS: I would say most of these fences are barb wire fences and in the past, people have used cedar or pine or Osage orange as the post. Today, in this... [LR40]

SENATOR KOLOWSKI: Not metal stakes in any... [LR40]

SENATOR DAVIS: Well, now in this day and age we're replacing with metal, that's much more common. [LR40]

SENATOR KOLOWSKI: Okay. [LR40]

SENATOR DAVIS: And, of course, the metal will probably last but when the wood fences burned, then the fence collapsed... [LR40]

SENATOR KOLOWSKI: Correct. [LR40]

SENATOR DAVIS: ...and then when you try to reuse the wire, it's gone through a heating process, it's brittle, and it's really not functional. And, you know, the cost to replace the fence is anywhere between \$9,000...well, some say \$9,000 a mile. So we're looking at very extensive repair costs for those people and they just don't have the resources to do it. [LR40]

SENATOR KOLOWSKI: If they were metal posts, do they survive, or like you said, it becomes very brittle? [LR40]

SENATOR DAVIS: It will all depend on the condition of how hot the fire is, but I would think the posts would survive. The wire gets too heated and loses its temper very quickly. So once it loses its temper, it's just very brittle and it will break. If not then, down the road. [LR40]

SENATOR KOLOWSKI: Okay. Thank you very much. [LR40]

SENATOR DAVIS: Most of this is basically to replace the wood, you know, the posts that are gone. [LR40]

SENATOR KOLOWSKI: Yeah. Got it. [LR40]

SENATOR CARLSON: Further questions? Senator Smith. [LR40]

SENATOR SMITH: Thank you, Senator Carlson. Senator Davis, and so who erects the

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fences originally is the property owner? [LR40]

SENATOR DAVIS: I'm not sure when these fences were put in. Probably they could be a hundred years old and was probably put in maybe with a combination of Forest Service money and private money to put the boundary fence in. [LR40]

SENATOR SMITH: And the original purpose and the continuing purpose of the fence is to benefit the property owner to keep their cattle in, or...? [LR40]

SENATOR DAVIS: Yes. A lot...the Forest Service has grazing permits that are available. And so you're restricted to the number of head of cattle you can run on those. But these are the boundary fences that lie between the private land on the side and the Forest Service ground that I'm talking about. Now, there are a lot of interior fences that have burned up, too, that are on the...both private and public land. I'm not sure what the Forest Service is going to do about interior fences on their property because when they have a grazing permit, they will limit you to a certain number of cattle in a particular pasture and will say you can run ten pairs in a hundred acre pasture. Well, if the interior fences are gone on the Forest Service ground, and somebody has that grazing permit, I'm not sure how they're going to keep that separate unless they replace it. But I'm just trying to deal with the boundary fence between the private and the public land. [LR40]

SENATOR SMITH: Okay. But the ultimate benefit of the fencing is the property owner that has the cattle. [LR40]

SENATOR DAVIS: It's to the benefit of the Forest Service because why should the property owner, if he's not using Forest Service land, be required to replace the fence between him and the Forest Service in order to keep his cattle off the Forest Service. Shouldn't the Forest Service have some responsibility, which is the way Nebraska law is. Each landowner has the responsibility to maintain or replace half the fence between two private landowners. [LR40]

SENATOR SMITH: And then is there a possibility of the property owner, the private property owner having insurance? [LR40]

SENATOR DAVIS: No. [LR40]

SENATOR SMITH: It's not a possibility? [LR40]

SENATOR DAVIS: If there's fence insurance, I've never seen it. [LR40]

SENATOR SMITH: That's not something that they would have for their property? [LR40]

SENATOR DAVIS: No, no. [LR40]

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SENATOR SMITH: Okay. All right, thank you. [LR40]

SENATOR CARLSON: Okay. Senator Haar. [LR40]

SENATOR HAAR: Yes, I'm sorry I left that last hearing, but maybe you can talk to me about that more. But I just want to go back for one minute with the first bill we heard. We're actually, it was \$600...\$600,000 leveraging, \$2.5 million right? Because it said the state was...the landowner would put in 25 percent, the state would put in... [LR40]

SENATOR DAVIS: Oh, you're talking about the thinning? [LR40]

SENATOR HAAR: Yeah. [LR40]

SENATOR DAVIS: A landowner will be responsible for 25 percent of the cost. So if it's \$800, he would pay \$200. The state would have a \$200 cost and then the federal government would have a \$400 cost. [LR40]

SENATOR HAAR: But on the fiscal note there was \$600,000, I think, was attached to that particular item. [LR40]

SENATOR DAVIS: I think that's the... [LR40]

SENATOR HAAR: So really we're leveraging \$2.5 million doing that. [LR40]

SENATOR DAVIS: That's right. [LR40]

SENATOR HAAR: And in this current resolution then, would there be essentially again some leveraging money or is this just...? [LR40]

SENATOR DAVIS: This is just...this is just designed to encourage the folks in Washington to get behind trying to do something with this. You know, there are some cost share programs available for interior fences and that would be the EQIP money or Conservation Security Program money, some CRP money. If that were interior fence, that would be available for that because that's considered a way to manage grazing and improve pasture quality. Not true for fencing on the exterior between boundaries so that's wholly assumed by the landowner. [LR40]

SENATOR HAAR: Okay. Thank you. [LR40]

SENATOR CARLSON: Any further questions? Okay, unless I don't understand the fence law that we passed a few years ago, it's pretty clear that regardless of who the property owners are, when there's a fence that's appropriate and it's described as the

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fence that you described, it's 50-50. [LR40]

SENATOR DAVIS: Yes, that's correct, Senator. [LR40]

SENATOR CARLSON: Because one owner has the advantage of the other owner's livestock not coming on to his or her property or it might be the other way around. But there's mutual benefit there and our law defines it as 50 percent. [LR40]

SENATOR DAVIS: That's correct. [LR40]

SENATOR CARLSON: Yeah, okay. All right, any further questions? [LR40]

SENATOR DAVIS: And I should say, Senator Carlson, the federal government says they don't have to follow those rules. [LR40]

SENATOR CARLSON: I understand. I understand that. Okay. Thank you. [LR40]

SENATOR DAVIS: Thank you. [LR40]

SENATOR CARLSON: Do we have a proponent...proponents for LR40? Welcome, John. [LR40]

JOHN HANSEN: Chairman Carlson, members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. We are in support of this bill. I think I understand the same fence law that you do, Chairman Carlson, and I believe that there is an obligation to pay your half of the fence and I think that this particular kind of resolution might be helpful in reminding the feds that they do have that obligation. And if it would...I hope that it doesn't...we're not in a situation where landowners who are already very badly, adversely impacted by this fire, would have to try to round up the money to hire lawyers to sue in order to get their neighbor's to pay their half of the fence. So in that regard, I think this is a constructive effort. And with that, I'd end my testimony, and urge the committee to support this resolution and thank Senator Davis for bringing it. [LR40]

SENATOR CARLSON: Good. Thank you, John. Any questions? Okay, thank you for your comments. [LR40]

JOHN HANSEN: Thank you. [LR40]

SENATOR CARLSON: Next. Tim. [LR40]

TIM McCOY: Thank you, Chairman Carlson. My name is Tim McCoy, T-i-m M-c-C-o-y. I'm the deputy director of the Nebraska Game and Parks Commission. We support this

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bill for really three reasons. The first reason is we are actually neighbor to the U.S. Forest Service on some of our properties and we follow Nebraska fencing law with all of our neighbors. That's also the second reason because the fact that the Forest Service said they weren't going to pay for half of their fence, we started to have people asking us if we were going to follow their lead, which we were not. The third reason I really support this is it's taking it to the right place. Our discussions with the Nebraska Forest Service staff, the U.S. Forest Service that worked the Pine Ridge, indicate this is a policy level issue for the Forest Service that they basically at this point, they're being told there is policy in their policy guidelines that they do not pay for boundary fence. And so, the resolution for this has to be taken to the federal level to resolve that policy issue because they can't resolve it from their office. I think they understand the issue. They are able to cost share for their interior fences for management, but not for their exterior fences which...so that's the situation we're in. [LR40]

SENATOR CARLSON: Okay. All right. Thank you for your testimony. Any questions? Thanks for your testimony and your patience. Any more proponents? Any opponents? Anyone testifying in a neutral position? So, Senator Davis. [LR40]

SENATOR DAVIS: I'll waive closing. Thank you. [LR40]

SENATOR CARLSON: All right. We appreciate your work this afternoon and with that, we close the hearing on LR40. And committee, we're going to have a two-minute Executive Session. (See also Exhibits 25 and 26.) [LR40]