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Appropriations Committee  
February 29, 2016

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[LB537]

The Committee on Appropriations met at 1:30 p.m. on Monday, February 29, 2016, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on AM2236 TO LB537. Senators present: Heath Mello, Chairperson; Robert Hilkemann, Vice Chairperson; Kate Bolz; Tanya Cook; Ken Haar; Bill Kintner; John Kuehn; John Stinner; and Dan Watermeier. Senators absent: None.

SENATOR MELLO: Welcome to the Appropriations Committee. My name is Heath Mello. I'm from south Omaha representing the 5th Legislative District and serve as Chair of the Appropriations Committee. I'd like to do...start off today by having members do self-introductions, starting first with Senator Kintner.

SENATOR KINTNER: Hi. I'm Bill Kintner from Legislative District 2.

SENATOR COOK: I'm Senator Tanya Cook from Legislative District 13.

SENATOR KUEHN: John Kuehn, District 38.

SENATOR HILKEMANN: Robert Hilkemann, District 4, west Omaha.

SENATOR STINNER: John Stinner, District 48.

SENATOR BOLZ: Senator Kate Bolz, District 29 in south-central Lincoln.

SENATOR MELLO: Sitting next to Senator Bolz is Senator Ken Haar, who will be joining us shortly. Senator Haar represents the 21st District in northwest Lancaster County.

SENATOR WATERMEIER: Dan Watermeier, District 1 in Syracuse.

SENATOR MELLO: Assisting the committee today is Laurie Vollertsen, our committee clerk; and our committee pages for the afternoon are Bri and Julia. On the tables in the back of the room you will find some yellow testifier sheets. If you're planning on testifying today, please fill out one of the yellow sheets and hand it to Laurie when you come up. It helps us keep an accurate record of today's public hearing. There's also a sign-in sheet that if you do not wish to testify but, however, would like to record your position on a specific legislative bill. If you have any handouts, please bring at least 11 copies and hand them to one of the pages when you come

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up. If you do not have enough copies, please let the pages know so they can make more for the committee. We ask that everybody today begin their testimony by giving us your first and last name and spelling it for the public record. We will begin bill testimony this afternoon with the introducer's opening statements. Following opening statements, we'll hear from supporters of the bill, then those in opposition, followed by those speaking in a neutral capacity. We will then finish with a closing statement by the introducer if they so wish to give one. We will be using a very strict five-minute light system today for all testifiers other than the introducer of the bill. When you begin your testimony, the light on the table will turn green. The yellow light is your one-minute warning. And when the red light comes on, we ask that you please wrap up with your final thoughts. As a general matter of committee policy, I'd like to remind everyone that the use of cell phones and other electronic devices is not allowed during today's public hearings. And at this time I'd ask all of us, including Senators, to please make sure their phone is on a silent or vibrate mode. And with that, at this time we will begin today's hearings with AM2236 to LB537. [LB537]

SENATOR MELLO: (Exhibits 1-2) Good afternoon, Vice Chairman Hilkemann, members of the Appropriations Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. AM2236 would create the Military Installation Infrastructure Program to be administered by the Nebraska Department of Natural Resources. The program will be used to provide grants to a political subdivision where a military installation is located with or contiguous to its boundaries. The grants would be provided to political subdivisions to assist in the development and the improvement of the infrastructure related to the management of soil and water resources. AM2236 would provide that it is the intent of the Legislature that \$13.7 million in General Funds be appropriated to this program for fiscal years '15...or 2015-16. Though the amendment was drafted to use General Funds, it's my intention during committee discussions to recommend that the funds for this amendment come from the state Cash Reserve to be used for this one-time infrastructure appropriation. First this afternoon I'd like to start off by thanking Senator Watermeier and Senator Schilz for cosponsoring this amendment and for their ongoing work on water and natural resources issues over the past four years. I believe you'll also hear a communication from the Ricketts administration in regard to their support of the amendment to the Department of Natural Resources' budget. You should also have copies of letters of support for the Water Sustainability Fund application for the Missouri River Levee Certification Project. I recall the creation of the Water Sustainability Fund during the 2014 Legislative Session as one of the best examples of complex negotiation around the delegation of statewide resources. I value the compromises and the decisions we had made in previous Legislatures to allocate funding for water sustainability, and today I come before you to present a request that has broad support and in no light terms is a very critical investment for the future economic security of the state of Nebraska. During floor debate during LB1098 in 2014, the Missouri River Levee Certification Project was discussed as a critical infrastructure project that carries a significant economic impact and would protect the sustainability of valuable state

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assets, including not only Offutt Air Force Base but also the city of Omaha's Papillion Creek Wastewater Treatment Plant, pieces of U.S. Highway 34, and more items now listed on the handout I provided to the committee. The Missouri River Levee Certification Project responds to a mandate by the Federal Emergency Management Agency. I've been informed that the total cost of the rehabilitation to meet the FEMA standards is estimated at \$25 million and that the Papio-Missouri River NRD has secured a signed cost-share agreement with the city of Omaha, the city of Bellevue, and Sarpy County is securing commitments of up to \$3 million per entity. As you can see on the handout I provided you called the "Situational Awareness of Missouri River Levees," Offutt Air Force Base provides a roughly \$1.5 billion annual economic impact to the metro area economy and the state economy, and employs over 10,000 personnel with the potential to employ hundreds of thousands more. The handout further details the risks of loss associated with the levee project, particularly inaction jeopardizing the \$125 million runway project at Offutt Air Force Base and the potential of a base realignment and/or closure in the future. There will be testifiers after me that will delineate the metrics and the project details further in detail. As a committee, we make very difficult decisions. And when we take on the budget process, each of us are tasked with understanding the needs of the different parts of Nebraska, prioritizing state funds for obligations and other critical investments. This is one of those issues where I feel we are faced with an unfunded federal mandate and we have to take responsible action because this issue affects, truly, our entire state and our state's economy. In taking this action, we will be telling Nebraskans and the federal government that we understand the value of protecting the critical infrastructure around our military base at Offutt Air Force Base and we understand the resounding impacts it has on our state economy and over the 10,000 personnel that are stationed here in Nebraska. In light of what we've seen in the national political environment, rich with uncertainty, pettiness, and unfortunate partisanship, it's an honor to be able to serve with a number of colleagues in this body as well as local public officials that look beyond our differences to try to find a way to move forward on very critical infrastructure projects that we have before us. With that, at this time, Mr. Vice Chairman, I'd be happy to answer any questions you or the committee may have. [LB537]

SENATOR HILKEMANN: Are there questions from the committee? Seeing none, thank you, Senator Mello. [LB537]

SENATOR MELLO: Thank you. [LB537]

SENATOR HILKEMANN: Are there other proponents? [LB537]

SENATOR CRAWFORD: (Exhibits 3-9, 12-13) Good afternoon, Vice Chair Hilkemann and members of the Appropriations Committee. For the record, my name is Senator Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I'm here to testify in support of AM2236. I'm also submitting letters

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from Senators Kolowski and Smith in support of AM2236. Offutt sits in my district and much of my district falls within the floodplain protected by the Missouri River levees. As such, I've been involved in discussions of the role of the state of Nebraska in upgrading these critical levees since the concerns about recertification were first brought to my attention almost three years ago. Papio NRD, the cities of Bellevue and Omaha, and Sarpy County have stepped up to cover a share of the costs of fixing these levees. For the record, I would like to acknowledge the hard work of many, including John Winkler of Papio-Missouri NRD, Mayor Rita Sanders of Bellevue, the Bellevue Chamber of Commerce, Mayor Jean Stothert of Omaha, and the Greater Omaha Chamber that ensured this essential financial support from these various political entities would happen. AM2236 ensures that there will be sufficient funding to move forward with the state of Nebraska paying a share of the project. Funding this project and completing the levee recertification is vital for the economic vitality, not just of Bellevue or the Omaha metropolitan area but for the state of Nebraska. Offutt Air Force Base is a key economic partner of the state of Nebraska with an economic impact of more than \$1.3 billion annually, employing more than 10,000 people directly and 4,700 people through secondary jobs. Offutt's runway is in need of repair and a \$125 million project. Thanks to the hard work of our federal delegation and so many advocates in the state, including Governor Ricketts and Mayor Sanders, we are assured that the runway resurfacing project is very high on the Air Force list of capital improvement projects. Failure to remedy the levee situation, however, could put this funding and the future of the 55th Wing at Offutt Air Force Base at risk. I appreciate the work of so many senators on the Appropriations and Natural Resources Committees who pushed to include critical infrastructure as a criteria for funding when the Legislature created the Water Sustainability Fund in 2014, and who have vigilantly worked with me on this issue over the past few months. Senator Smith and Kolowski, who submitted letters today, as well as Senator Garrett, have regularly stepped up when letters or calls were needed to push this levee funding issue along. I appreciate the leadership of Senator Mello and Senator Watermeier and Senator Schilz to introduce AM2236 for a direct appropriation to ensure that the state of Nebraska provides the investment necessary to address the levee situation in a timely manner. I thank you for considering this amendment today and urge your support of AM2236. Thank you. [LB537]

SENATOR HILKEMANN: Thank you, Senator Crawford. Are there questions from the committee for Senator Crawford? You're going to get off easy today, Senator. The next proponent for AM2236. [LB537]

SENATOR GARRETT: (Exhibits 10, 17) Good afternoon, Chairman Hilkemann, members of the Appropriations Committee. I am Senator Tommy Garrett, T-o-m-m-y G-a-r-r-e-t-t, and I represent the people of District 3 in Sarpy County, comprising parts of Bellevue and Papillion. I'm here today to testify in support of AM2236 to LB537. First of all, let me thank Senator Mello and Senator Watermeier for their work on this bill. I really appreciate their hard work. It's hard for me to believe that we're having this conversation today. This issue is not new and should have

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already been addressed. The importance of Offutt Air Force Base to my constituents, Sarpy County, and the state cannot be overstated. I can remember how shocked everyone in the state was when ConAgra decided to relocate their headquarters to Chicago and the corresponding loss of 1,000 white-collar jobs. That loss was terrible for the people of Nebraska and it should serve as a wake-up call. If you think losing ConAgra is bad, just wait till you lose Offutt Air Force Base or the 55th Wing. The \$1.3 billion annual economic impact of Offutt...that Offutt has on our state economy does not fully represent what the base means to my constituents and the state. One of the primary reasons that I threw my hat into the ring to be considered for selection as a state senator representing District 3 was my fear that we were not doing enough to ensure the 55th Wing remains at Offutt Air Force Base and that Offutt stays off the base realignment and closure list, the BRAC list. The threat is real. The Department of Defense has a very real budget crunch and would love nothing more than to have another BRAC to reduce the excess capacity of bases, which is approximately 30 percent. Even if Congress prevents the DOD from having another BRAC, the services have the authority to consolidate missions. This is what I'm most afraid of. Offutt Air Force Base has many operational limitations. A single takeoff surface with no parallel taxiway, no alternate takeoff surface are unique for an active duty base, especially one that hosts a mission as important and unique as that of the 55th Wing. The infrastructure at Offutt is old but still serviceable, except for the runway. The runway is in dire need of complete renovation, a renovation that will cost approximately \$125 million. This is a huge cost for the Air Force, especially in light of the current budget environment. Now put yourself in the Air Force's shoes. Do you want to invest this kind of money on a base that is in a flood zone? That's essentially what we'll be asking the Air Force to do if we do not approve funding for the Missouri River levee project. Let there be no doubt that the Air Force has plenty of alternative bases that could easily accommodate the important mission of the 55th Wing without the shortcomings of Offutt Air Force Base. Colleagues, we cannot mess around here. We absolutely must get the \$13.7 million that is being sought with AM2236 to LB537 or risk losing a huge part of our economy, a huge part of our nation's defense, and the glue that keeps many thousands of military retirees in our state. With that, I'd be glad to take any questions. [LB537]

SENATOR HILKEMANN: Thank you, Senator Garrett. Are there questions for Senator Garrett? Senator Kuehn. [LB537]

SENATOR KUEHN: Thank you, Senator Hilkemann. Senator Garrett, thank you for your testimony today and for coming before us. I agree, we absolutely have to protect the Offutt infrastructure and economic impact. In your opening, you commented that...stated that you felt that it should have been done. Could you expand on that or give us a little bit of background? [LB537]

SENATOR GARRETT: Well, it just seems like we've been kicking the ball down the road on this. Again, it's been three years. You know, FEMA had recognized the levees as being a real

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shortcoming. And working out at the base, I can tell you that the waters were very close to the runway. And so it just seems like we've just kicked the can down the road too long. And I don't know, I don't care where the money comes from. We just needed to get it fixed. And again, it's a huge impact. And Offutt has many, many shortcomings from an operational perspective and we ought not be messing around. I've brought a lot of other bills to try and make Nebraska a veteran and active duty military friendly kind of place, and this is a huge thing, this, without that runway. [LB537]

SENATOR KUEHN: And so just to make sure that we don't make mistakes of the past, you know, if we appropriate this money, are there things that you have seen in the past where you felt it should have been addressed and didn't, so that we are clear with our intent in this bill and this appropriation that the money, as appropriated, goes exactly and specifically to where it needs to be, which is to protect Offutt? [LB537]

SENATOR GARRETT: Yeah, absolutely. That is critical. I tend to disagree with something that was said earlier about this being an unfunded federal mandate. The federal government doesn't care whether we build that levee or not. If we don't build that levee, that area is going to be in a flood zone and that's for us to deal with. It's not a federal government problem. And so, quite easily, it's as simple as that. And it doesn't just protect Offutt Air Force Base. It protects the communities of Bellevue and Omaha, and so there's a lot more to it than just Offutt. [LB537]

SENATOR KUEHN: Thank you. That's helpful. [LB537]

SENATOR HILKEMANN: Are there additional questions for Senator Garrett? Seeing none, thank you for coming. [LB537]

SENATOR GARRETT: Thank you. [LB537]

SENATOR SCHILZ: Good afternoon, Senator Hilkemann, members of the Appropriations Committee. For the record, my name is Ken Schilz, spelled K-e-n S-c-h-i-l-z, and I don't have a whole lot to say but I think everything that's been said before is exactly spot-on. I would like to take just a second and talk a little bit about the Water Sustainability Fund and where that is and why that fits in or does not fit in with what we're doing here. And as that group, that commission is coming up with their final, they've now gotten in all of their projects that are coming in. They are doing the first evaluations with that. DNR is doing that. And from what we heard, those will be made available to the full committee sometime in the end of March, first of April. And as we started to look at that schedule and to see how those were coming in, we were like, well, that's all fine and good but we need to make sure that this money is there before, you know, that's going to happen. And we don't want to have to take a chance of not having that funding come through the

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Water Sustainability Fund and then trying to figure out how we scramble to get it put together moving forward. So in my mind, for me, that's why I contacted Senator Mello and Senator Watermeier and said, hey, we need to talk about this. This is a project that is important enough for the whole of the state that I don't think we should wait. I think we need to make sure the money is there so that we don't have to ask questions later on or figure out why it didn't happen a certain way. We need to remember that the Water Sustainability Fund is just in its infancy, just coming out, just getting started on its first ever picking of projects to be funded. And so we need to be careful with that process too. So I think this is the right way to go. It's the prudent way to go to make sure that we don't have to worry about this question into the future. And with that, I'd take any questions if there are any. [LB537]

SENATOR HILKEMANN: Okay. Thank you, Senator Schilz. Are there any questions for Senator Schilz? Senator Kintner. [LB537]

SENATOR KINTNER: Thanks for coming. You weren't going to get out this easy. I know you're a Chairman of some important committee or something, but I do remember when we were putting the Sustainability...Water Sustainability Task Force together specifically talking about levees. [LB537]

SENATOR SCHILZ: Yes. [LB537]

SENATOR KINTNER: And that this is something that we're going to fund. We should fund levees and we should fund water projects out there that...sustainability things to make sure we have water for future use, make sure we comply with the compacts and all that. What happened? [LB537]

SENATOR SCHILZ: Nothing. [LB537]

SENATOR KINTNER: Why are we... [LB537]

SENATOR SCHILZ: Well, hold on. [LB537]

SENATOR KINTNER: ...even wondering about them funding it? That was one of the specific purposes of this. [LB537]

SENATOR SCHILZ: I understand. Here's what I'm afraid of. What I'm afraid of, as we get out there into May and June, when they'll start to let the money, and if it would happen not to be there, then my concern is...and remember, we are talking about a competitive process that takes

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into consideration all sorts of different criteria. And so if we want to take a chance on a process that's never been proved before--we're in the proving up stages of that--if we want to take a chance with that then I say let's go for it. Let's wait and see because I have all the confidence that what was built into that system will be there. But the question is, is the timing right? And then if it doesn't happen or if other projects come in and score better than it and it misses out, then what do we do and what do we say? And that's where I'm coming from. So I think it is prudent to move in this direction. I think it makes sense. And I know that you aren't going to find another issue in the state that has such broad-ranging impacts as that levee and what it means to the economy of the state of Nebraska. [LB537]

SENATOR KINTNER: But by appropriating this money, from whatever source, wouldn't that pretty much be telling them don't worry about it, you spend your money elsewhere, we got this one covered? Why would they even consider it? If we're going to put the money forth, why... [LB537]

SENATOR SCHILZ: Right. [LB537]

SENATOR KINTNER: ...why would they even consider it? [LB537]

SENATOR SCHILZ: And at that point, I don't think they have to. But I do think that as you continue to hear the testimony, I think that what you will continue to hear is that that's exactly what they want to have happen, is to not have to worry about it anymore, to have that certainty so that everybody can start to move forward to get everything done and fixed as quickly as possible. [LB537]

SENATOR KINTNER: Yeah, they'd rather spend their money on something else, have us fund this. And you know, that just irritates the heck out of me, because we had that discussion and there was an agreement as to what we were going to do and how we were funding it. And we all kind of came to agreement, we're going to do some flood-control-type stuff and some water sustainability stuff. There was going to be a mixture. [LB537]

SENATOR SCHILZ: That's right. [LB537]

SENATOR KINTNER: And the fact that we think there's a doubt to it and now we're going to do this, and then they're going to look at it and go, well, it's already taken care of, we'll just go spend some more money on something else. [LB537]



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SENATOR SCHILZ: Well, and I can tell you as far as water projects go in the state of Nebraska, there are plenty of needs out there and very few resources to get it done. So I think that... [LB537]

SENATOR KINTNER: So you think we'll be okay anyway in terms of the benefit for everyone involved. [LB537]

SENATOR SCHILZ: I do. I think that what you'll see as the impact of spending these dollars, no matter where they come from, will only benefit the state of Nebraska. And I also believe that those other dollars that will be spent under the Water Sustainability Fund will also benefit everyone in Nebraska, too, in the positive. [LB537]

SENATOR KINTNER: Yeah. I think so. Okay, I'll sleep better tonight. Thank you. [LB537]

SENATOR SCHILZ: Thank you, Senator Kintner. [LB537]

SENATOR HILKEMANN: Additional questions for Senator Schilz? Seeing none, thank you for coming today, Senator. [LB537]

SENATOR SCHILZ: Thank you very much. [LB537]

JOHN WINKLER: (Exhibit 14) Good afternoon, Chairman Hilkemann and members of the committee. My name is John Winkler, J-o-h-n W-i-n-k-l-e-r, and I'm the general manager of the Papio-Missouri River Natural Resources District. I'm also testifying today on behalf of the National (sic--Nebraska) Association of Resources Districts, as well as the Papio NRD in support of AM2236 to LB537. Excuse my voice but I had to help some officials at the district championship game on Friday, (laughter) so I'm still recovering from that, but we did win so that must have helped. But I wanted to express, first, our appreciation not only to this committee but also Senator Mello and Schilz and Watermeier for bringing this up. I could go on and on: the administration, obviously, and all the other senators that have testified so far today, as well as the ones that have submitted letters of support. It's kind of like the Oscars when you go through all the thank-yous. It could go for my full five minutes. Just a little background on the flood levees in question. The Missouri River Levee System R-613 and R-616 are federal levees and they do provide flood risk reduction in southeast Sarpy County. The levees were designed and constructed by the United States Army Corps of Engineers in the '70s and '80s. The protected areas behind the levees have a reduced risk of flooding from not only the Missouri River but also the Platte River and the Papillion Creek. And a little bit of geography of the Omaha area: The Papillion Creek drains over 415 square miles of urban area to one point, and that's south of the

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base in Bellevue. So you've got three major river systems or creek system that we're protecting all of that infrastructure from, from flooding. The protected areas obviously include Offutt Air Force Base; as Senator Mello mentioned, the city of Omaha's Papillion Creek Wastewater Treatment Plant. There's also two main lines of the Burlington Northern Railroad and the Union Pacific. There's also major substations from OPPD. There's countless infrastructure from sewer and water mains to telephone to fiber optics in the area. Also, there's a number of future not only commercial development areas but also current, and also residential areas as well. After the levees were constructed, they were transferred, ownership was transferred, to Sarpy County. And then when the Legislature created the NRDs in the '70s, 1974, the operation and maintenance was then transferred to the Papio-Missouri River NRD. It should be understood, though, that the NRD only has responsibility to operate and maintain the levees to the specifications of the Secretary of the Army, and that is the Corps of Engineers. The district has no contractual or legal obligation to construct these levees or rehab these levees to meet any other federal agency's requirements. And what we're talking about today, and we have been, is the FEMA requirements. And this is an unfunded FEMA requirement. We have been...we've worked with our delegation in Washington, D.C. We've had multiple meetings with FEMA to discuss is there is a waiver system, is there any credit for the current performance. I remember, these levees performed impeccably for four months during 2011. So we've tried to have those...either modify those regulations or waived or some...and to no avail. So this is the law of the land. This is what we are currently dealing with. There will be no change with the new administration...possibly, but that could be years in the future. We've...FEMA has already administratively notified the district that these levees are not in compliance with their new regulations. Now we have a very good working relationship with FEMA and they are very appreciative and very supportive that we are being proactive on this and we're getting out ahead of the game before we actually get formal notification that these levees are in...are not in compliance with their certification standard, so we are moving forward with them. As discussed, the levees protect vital infrastructure, not only Offutt but all the things I listed. You have the situation awareness sheet in front of you that lists a multitude of all of the assets that are there to be protected. As Senator Mello mentioned, we do have a cost-share MOU with the city of Omaha, Sarpy County, and Bellevue to provide up to \$3 million each for that. The district is also a part of that MOU, which we will provide \$4 million, and we've already spent \$3 million of our own funds to do the engineering, planning, and design and permitting. We are currently in the permitting phase of the levee project. We submitted our plans to the Corps of Engineers. They are reviewing them and they will be issuing the permit, we hope, sometime this summer. The plan is to go out to...for bids for construction in the fall of this year and start construction immediately thereafter, and it will be a two-year process before they're completely built. So obviously, we've heard about the implications with the runway funding. The math is quite simple. We talk to the Pentagon regularly. They check in. The base checks in regularly with us. The issue is, if you fund the levees and bring those levees into compliance, we will provide the funding for the runway; if you don't, there's no room in our funding. And so that's the simple math we're dealing with. And so I'd be happy to answer any

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questions that the committee may have or to provide any more details on the technical aspects of it. And I appreciate, obviously, the opportunity to speak. [LB537]

SENATOR HILKEMANN: Thank you, Mr. Winkler. Senator Stinner. [LB537]

SENATOR STINNER: I noticed in your write-up, you were...it talks about the Corps of Engineers is reviewing the consultants' work to ensure that meets the criteria and their approval. And then again you hired another external...independent external professional. When does that review process get done (inaudible)? [LB537]

JOHN WINKLER: The review process hopefully will be done again this summer. [LB537]

SENATOR STINNER: This summer? [LB537]

JOHN WINKLER: Yes. That's the...and again, we work...our consultant meets with the Corps weekly and so we're working through the permitting process and obviously that is quite extensive. It's amazing you have to hire another consultant to review two other consultants' work. But we're not leaving anything to chance with this project, and I think Senator Schilz touched on that in response to Senator Kintner. There's just too much risk to not make sure that we've got all of our i's dotted and t's crossed. [LB537]

SENATOR STINNER: So \$25 million was the estimate of whom: FEMA, Corps of Engineers? [LB537]

JOHN WINKLER: That is our consultant's estimate as well as the Corps reviews that to make sure that it's within line. [LB537]

SENATOR STINNER: Okay. [LB537]

JOHN WINKLER: Twenty-five million is just the construction. It will probably be over \$30 million before it's all said and done with what we've spent and what we're anticipating to incur later. Also, we will have an ongoing operation in maintenance of this project that the district will incur. It's about \$9 million over 50 years that we will incur on a continuing basis. [LB537]

SENATOR STINNER: Do you have anything built in for contingencies in the \$25 (million) just in case? [LB537]

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JOHN WINKLER: Yeah, we do. And the reason that we drafted the MOU with the three entities the way we did, we said up to \$3 million, and that's the reason--to cover contingencies or to cover additional costs that we weren't expecting. We didn't want to go to the organizations and say, hey, we asked for \$2 million but we need \$3 (million). We wanted to have that up-front. If in fact it's...if we get great bids, which we think we may, and it's less, then we will obviously adjust that accordingly. But I've dealt enough with construction projects over the years that they're never really lower than you anticipate. So we built that factor in there. [LB537]

SENATOR STINNER: Thank you. [LB537]

SENATOR HILKEMANN: Senator Haar. [LB537]

SENATOR HAAR: Thank you. John, you shared with me a study that you had done comparing with similar rainfall and so on that happened in Ames, Iowa, what would happen in Omaha. Does that relate kind of to what we're talking about here? [LB537]

JOHN WINKLER: Yes, it does directly. What the senator is referring to, we did a study. It's called the Ames Study. The district extrapolated the storm event that would have occurred in...or that occurred in Ames, Iowa, in 2010. And with current modeling the way it is, we moved that storm event over the Omaha metro area with meteorologists and geologists and all those types of things. And we picked that storm because it's close to the Midwest and it could have happened very easily here. The results were the current flood control system would have failed miserably. We are looking at over \$2.1 billion in damages. And the reason that it's relevant is because everything that we construct upstream for reservoirs or levees have a direct result on that one discharge point of 415 square miles below Offutt Air Force Base. So again, we have to not only protect the Missouri River and the Platte River, but you have to protect from storm events that occur interior in the Omaha metro area. If you looked at the flood map, and I've sent a few, there was...it was nearly a few feet from impacting the runway on the west side and not the Missouri River side. So if that storm event would have occurred in '11, there was nowhere for that water to go. It was like a big bathtub. It would have all backed up. The base would have been impacted then as well. So it can be flanked, and so that's what we were attempting to do, not only with this project but all of our other projects that we're doing, is to keep that from happening. And so, yes, it directly relates to the base. [LB537]

SENATOR HAAR: Maybe you could get us, the committee, copies of that map... [LB537]

JOHN WINKLER: Sure. [LB537]

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SENATOR HAAR: ...because I found it really interesting. [LB537]

SENATOR HILKEMANN: Additional questions? I have a question here now. In your testimony, you made it sound as if it's a foregone conclusion that, if this is done, the runway repair will happen. [LB537]

JOHN WINKLER: The communication...now, of course, there's never anything 100 percent in life, but the communication we've had with, like I said, not only the Pentagon but with the folks on the base, the engineering folks on the base, is the military is not going to make \$125 million or more investment in a facility that's at risk. And I would think any business would make that decision. And so I likened it to the fact that if I were here today talking about a future company that was going to locate in Nebraska, and they were going to provide \$125 million up-front capital investment, and they were going to provide 10,000 direct jobs and over 4,000 indirect, and they were going to contribute \$1.5 billion to the state's economy each and every year. And not only that, but Offutt also has the possibility to grow. We're talking about a base that would be protected by a state-of-the-art levee system. And we're the only state in the Union that can pull this project off. And so you're going to have a bunch of bases that are going to be at risk on the coasts and other parts of the country that are dealing with this exact issue, and they're going to be looking for a place to expand to move their missions out of harm's way. So you're not only talking about what's currently there. You're talking about additional missions. And you've got 138 acres of available space to expand that base if the levees are improved. So the Defense Department has played that and said, fix the levees, give us the infrastructure, and we'll make the investment. Now could that possibly go away? Yes. But every indication that we have is, Nebraska, you do it right. In fact, I have an e-mail that I will share with the rest of the committee from the Assistant Secretary of the Air Force that has said nothing about, Nebraska, you do it right; you've supported this base from the very beginning, you supported the military; we appreciate everything that you do. And they very much know that we are going to get this levee project done. And they are going to make that investment. And so that's the situation that we're faced with and we're saying if we spend \$25 million, you're going to quadruple that or ten times that in the end. And so that's how we've addressed this whole issue. [LB537]

SENATOR HILKEMANN: Additional questions? Senator Kuehn. [LB537]

SENATOR KUEHN: Thank you, Senator Hilkemann. With regard to your applications, you have sought funds through the Water Sustainability Fund? [LB537]

JOHN WINKLER: That's correct. [LB537]

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SENATOR KUEHN: Is that the only project for which you have applied to the Water Sustainability Fund? [LB537]

JOHN WINKLER: No, we requested a large project for reservoirs. [LB537]

SENATOR KUEHN: Okay. [LB537]

JOHN WINKLER: And those were, kind of getting back to Senator Haar's issue, those are priority projects, too, because we have to kind of control the flooding on the inside too. So, yeah, we do have two, two applications into the fund. [LB537]

SENATOR KUEHN: So with regard to the applications to the fund, did you prioritize those projects? [LB537]

JOHN WINKLER: Yes. [LB537]

SENATOR KUEHN: Did you...and which one did you prioritize? [LB537]

JOHN WINKLER: We sent a letter to I think everybody, I think Senator Mello and I know the Governor and I know the chairman of the Natural Resources Commission and the...or the director of the Department of Natural Resources that this was our priority project and that this had to be done. And so that was...we made that very clear. [LB537]

SENATOR KUEHN: So then why two applications in the same year? Why not do one application, Offutt, in the first year and then submit a second application that is less urgent in a future year? Why competing apps? [LB537]

JOHN WINKLER: That's a very good question and, you know, as Senator Schilz said, it's a new fund, new project. Well, no one knew how many applications there were going to be, since it was new. And if I remember right, we were the only entity to contact DNR staff to ask questions about the application process, to inquire of how many other applications were there. So what we did is we applied for our projects that were a priority for the district that met all the goals and objectives of the Water Sustainability Fund. And there was no rule that said you can only submit one. And there was no rule that said that it limited you. We could have submitted 800. I mean there was just no rule. No one knew how many we were going to submit or what those priorities would be. So I guess the issue is we followed all the rules as laid out to apply, and our projects are eligible projects. And there was nothing in the rules, too, that said, well, if we're going to fund one thing in Omaha, we're not going to fund anything else; or, if we're going to fund five

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things in western Nebraska, we're not going to fund anything else. So we submitted and we thought the commission and the DNR, it was their duty to in fact score those and make priorities. And you know, I've never really had a conversation with anybody from the commission or from the department that indicated that that was an issue. What we did have communication was...is people that were coming back say, we heard this, we heard this was an issue; why don't you withdraw your application? Well, why? We didn't do anything wrong. [LB537]

SENATOR KUEHN: So knowing it's a competitive grant process, you submitted two applications that you knew would be in competition with each other but didn't feel that that might potentially throw the primary one, the one of greatest importance that was specifically addressed in legislative intent in the establishment of the fund out of competition? [LB537]

JOHN WINKLER: That's why we sent the clarifying letter, because we got that kind of feedback back. We said, well, we don't want that to happen. But what if they were one and two? Are you saying then that, well, since we funded your one, you're ineligible to be funded for your second one? And there's nothing in the rules that state that or the legislative intent. In fact, some of the feedback we got from...which, you know, this is secondhand, but they claim the legislative intent is jibber jabber on the floor, quote unquote. And so... [LB537]

SENATOR KUEHN: And I understand that. My question still goes back to undoubtedly this is a top priority project. This is a project that has to be completed. So I'm questioning then why you, as a board, knowing that this is a project of integral importance, not only to your natural resources district, not only to the community of Omaha but to the state and to the region, why you would submit a second project that is in direct competition for those dollars. That is a fundamental question that I have yet to get an answer for. The rules may allow it,... [LB537]

JOHN WINKLER: Uh-huh. [LB537]

SENATOR KUEHN: ...and the rules allow a lot of things, but when it was clearly outlined in floor debate... [LB537]

JOHN WINKLER: Uh-huh. [LB537]

SENATOR KUEHN: ...during the establishment of this fund that the Offutt levees were a priority, I'm still trying to understand why you would submit a competitive application. [LB537]

JOHN WINKLER: The...and obviously, our board has to approve or disapprove of submitting or, you know, revoking or removing applications. I guess it's the issue of the board felt, you know,

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this is something that the board, that the Papio NRD is doing for the state of Nebraska and our local communities. We really have no responsibility to rehab these levees. We could say, well, we're not going to do it; have the state do it by themselves. And so our board says, well, we're going to take this on; we are the only entity that we think can put this together and accomplish this, and we are going to lead the charge and get this done. And so doing that, we've a little bit fallen on the sword. We've spent \$3 million of our own funds. We are going to spend probably \$4 (million) to \$5 million more of district funds on this project, and not to say it's not a worthy project, it is. But then you have these other priority projects that we're trying to accomplish. So you're saying, okay, NRD board, not only are you going to spend \$8 (million) to \$10 million of your own money on this unfunded federal mandate; we're also going to, what we've considered, we're going to penalize you another \$9 million because you shouldn't apply for more than what your fair share is. [LB537]

SENATOR KUEHN: So what you're saying is that this isn't the top priority of your board, because they did not want to put their eggs in one basket, that it's not their responsibility. I mean just trying to clarify where you went and you're going with this, there's a \$9 million project that you submitted... [LB537]

JOHN WINKLER: Uh-huh. [LB537]

SENATOR KUEHN: ...that you've established is not the top priority compared to Offutt. [LB537]

JOHN WINKLER: Right. Right. [LB537]

SENATOR KUEHN: But yet, you submitted it in direct competition for the Offutt dollars. [LB537]

JOHN WINKLER: Right. That application, as all of our applications, were submitted in competition with any other application that was there. The reason it was submitted is no one knew, no one knew what those applications would be. So what...there's no rule of how many you can apply for and there's a set amount in the fund. So why...so if those were the two applications that scored the highest by the committee that scores it, then we're doing a disservice to our constituency by not applying for money that they're eligible for to provide flood protection. [LB537]



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SENATOR KUEHN: So once you found out the number of applications and how subscribed the fund may be, did your board have a discussion to withdraw the lower priority application to remove it from competition for the Offutt project? [LB537]

JOHN WINKLER: We sent a letter that outlined that and then also we left open the possibility. I talked to the DNR director, Mr. Fassett, and indicated that if it becomes necessary, my board will have to take up that action. Now apparently the board's decision has been we're not going to...you know, we're going to keep those applications in there because we think they're both fundable projects that deserve consideration. Now, of course, if the committee acts and the funding is approved, then we will obviously remove, you know, the levee application. [LB537]

SENATOR KUEHN: So you feel the second application has the same degree of urgency and immediacy as does the Offutt project that you are competing it with? [LB537]

JOHN WINKLER: No, because we actually prioritized the Offutt project. And I...and not from the district's perspective. The district's perspective, we're prioritizing it because it's just something that's so glaringly has to be taken care of, and that's what I mean. That's why our board and we were willing to say we'll do what it takes to get this done. Now we didn't know that we would be put into a penalty situation by removing something that we were also eligible for, and I know that there's other entities that have more than one application in that Sustainability Fund. And then I think that's why the commission has a scoring criteria and the scoring committee to score those. And so I guess I don't know what the problem is besides we shouldn't get two projects funded. [LB537]

SENATOR KUEHN: I think that the challenge is, is that when you have a fund that is...has the potential to be fully subscribed, it requires all of the participants, in the effort of local control and supporting local control, to make and establish priorities. And by submitting two applications, knowing that they were in direct competition for those dollars, we assume that the applicants are taking into account the immediacy and the priority, not only to their individual local needs but to the state of Nebraska. And I think it's clear that this is a top priority for the state of Nebraska. So my question again is you seem to be saying, well, we have another project that's really more important to us but, golly gee, we'll do the right thing and we'll submit this one first. But yet you're not willing to make this the sole focus of your intent, the sole focus of your NRD's work. You're willing to have a competitive application out there which might compete for those dollars. And so it, while certainly we are...I'm going to support doing whatever we have to do to get the Offutt levees built and constructed. I think it's a bit disingenuous that you state the importance of this and then you put competitive applications in to take out those dollars when this is the top priority, when this was a firmly discussed and concretely discussed concept in the discussion of

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establishment of that fund. And it seems a little bit like wanting to pull out of every pot possible and it doesn't sit real well with me, quite frankly. [LB537]

JOHN WINKLER: I would just...for you to think about. I understand your thoughts and we've had this debate with others as well. But if you look at the watershed and how we're protecting that particular area, this isn't a competitive project. It's a complementary project because like as I said earlier, you've got the chance of flooding coming from the Papillion Creek, which will impact that base just as much as the Missouri River. So you've got a little bit of a flanking issue. And it's amazing, you deal with the military enough that you pick up on all these things. But we're just not protecting it from one source, flooding source. And so you've got an interior flooding source called the Papillion Creek that's one of the most flash-flood prone in the entire Midwest. And per the information I sent to Senator Haar and I'll share with everyone, that's a huge, huge problem. And so I would think it would be disingenuous of us not to attempt to cover that threat as well. It's a little bit like building a huge fort but leave the back door open. It's just something that we can't afford to do. And I understand, you know, with limited funding and all those things, and that's why we sent the letter. And it's amazing, because no one ever approached the district directly and said, hey, this is something that really we need to work on. I think Senator Mello might have been the first real official that I had a discussion with. And the DNR director never called us or the chairman of the commission never called and said, you know what, you guys, this is an issue we're having. It was all secondhand and "thirdhand" and it was...so it just led to...if we could have just sat down and said, here's the issue, you guys; we want to...we're going to fund this, we need to fund this, but you need to remove that application and apply again, there wouldn't have been a problem. [LB537]

SENATOR KUEHN: So if that roundtable and request were to be made now, you would withdraw that second application and this legislation becomes moot? [LB537]

JOHN WINKLER: No. That would be up to my board to withdraw that. I can't. I can't withdraw that. I'd have to take that to our board to have them do that. And if they would be willing to do that then I would make the request. [LB537]

SENATOR KUEHN: Okay. Thank you. [LB537]

SENATOR HILKEMANN: Are there additional questions? Seeing none, thank you for coming, Mr. Winkler. [LB537]

DAVID BROWN: (Exhibit 15) Good afternoon, Senators. My name is David Brown, D-a-v-i-d B-r-o-w-n, and I'm the president and CEO of the Greater Omaha Chamber of Commerce. Thank you for giving me the opportunity to speak today. I will try not to be redundant in the

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information you've heard from at least five. The last five speakers have all talked about the importance of this project and I will reiterate our support for this amendment and for this bill. The economic impact, of course, is something that the Greater Omaha Chamber of Commerce pays a lot of attention to. We're a regional economic development organization that covers eight counties, three in Iowa as well as five in Nebraska. The base is about \$1.5 billion economic impact, so it's a major employer and a major driver of the economy in our region. The base also represents a significant level of partnership with the units of government that exist in the region as well as the business community. There are a variety of different committees that support the base--the STRATCOM Consultation Committee, the Offutt Advisory Board, Nebraska Military Support Coalition, the Bellevue Chamber of Commerce, and the Greater Omaha Chamber of Commerce--all working together with each other to try and make sure that this base is secure. We have also been concerned about the availability of 30 percent surplus in Air Force facilities around the world. We know that the Air Force really wants to reduce the size of their bases, so we're trying to give them as few opportunities as possible to say there's a problem, a fatal flaw at Offutt Air Force Base that makes it easy for them to then take the facilities that are there, particularly for the 55th Wing and, frankly, eight other commands that are headquartered there, and move them somewhere else where they have capacity and where they might not have the fatal flaws that we have on our base. One of our biggest flaws at that base is the runway. It was built back in the '40s and '50s. It has been continually repaired. I found it ironic that when the Air Combat Command commander came in to visit about three months ago, he had to circle the base for about a half an hour while they got all the debris off of the runway so he could land safely. That's not a good sign. Now maybe it's a good sign that the guy who makes a decision about where to put money was the guy that had to be up in the air for an extra half an hour more than he planned, but the fact is that the runway really does need to be replaced. It cannot just be repaired. And so when you start thinking about things that could impact that, just keeping that runway expansion happen or the runway repair happen, the levees is probably the largest challenge that we have. For that base to be put under a floodplain as it would be under FEMA's new guidelines if the levees were not repaired, would put half of Offutt Air Force Base in the floodplain, which essentially means it unbuildable. I mean none of you would build in the floodplain if you didn't have to. It would be that fatal flaw that would make it impossible for the Air Combat Command to make the decision to invest those dollars at the base the way we need them to. And don't misunderstand either that this \$25 million that it's going to cost to fix this runway does not guarantee that the runway will ultimately be the top priority of the Air Combat Command this next go-around. We believe we're working in that right direction. We're being told that all signs are heading in that direction. But who knows what's going to happen? We believe that there's a process coming up here next spring where the federal government will ultimately make a decision that this is a top priority. They have allocated \$7.5 million for engineering for the runway expansion, which is always a good sign. The \$1.2 billion they're spending at the STRATCOM headquarters is a good sign. It's the largest Air Force construction project in the country right now. But STRATCOM could stay there without a runway. So we need to be in a

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situation where we've done everything right, we've gotten all the fatal flaws off the table so that we make it easier for the Air Combat Command to make the decision we need them to make to prioritize this. Finally, there are other impacts in this region as well. The money that was spent by this state, in partnership with the state of Iowa, on the Highway 34 bridge a couple of years ago opened up a significant level of development in this part of the region that we, frankly, have been counting on for continued growth in the area of Sarpy County, Cass County, and the Omaha metro area. This area would all be in the floodplain if we had this...if we do not fix this 18-miles worth of levee that needs to be repaired. So as important as all this is and with the myriad of opportunities that you have to invest dollars from the Reserve Fund into projects, I would contend that this has as much economic impact or more of any of them that you're looking at; that it's a significant one-time investment that can make a difference; that the partnership of local government who are putting money into this fund, in addition to the private sector which is spending time and dollars not only working with the base but also working with our federal delegation to make sure that the next step in this process works, I would contend that partnership and the importance of this project hopefully puts it at the top of your list as you're trying to figure out ways to invest in the infrastructure in the state of Nebraska. Thank you for the opportunity to speak and I'd be happy to answer questions you might have. [LB537]

SENATOR HILKEMANN: Are there questions for Mr. Brown? Senator Kintner. [LB537]

SENATOR KINTNER: Well, actually, I'm going to make a statement. I am very impressed with the Omaha Chamber and what you've done with the Air Force Base and bringing the private sector and our federal delegation and the Legislature together and putting the resources into seeing what it's going to take to make that base viable into the future. [LB537]

DAVID BROWN: Thank you. [LB537]

SENATOR KINTNER: And I think it's unprecedented what you all have done. The forward thinking of the chamber is to be commended. You guys have done a great job and I'm glad that I can work with you to make these things happen. I just haven't seen that with another chamber that I've worked with in other places that I've worked with chambers and lived. And it's pretty impressive, in my opinion. So keep up the good work. [LB537]

DAVID BROWN: Thank you, Senator. [LB537]

SENATOR KINTNER: Okay. [LB537]

DAVID BROWN: I appreciate that. [LB537]

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SENATOR HILKEMANN: Senator Bolz. [LB537]

SENATOR BOLZ: I'm just curious. [LB537]

DAVID BROWN: Yes. [LB537]

SENATOR BOLZ: I know that the information in front of us talks about the Air Force Base and transportation corridors and infrastructure. How many...how much residential area would be impacted by this change? [LB537]

DAVID BROWN: Well, if you think about everything south of...I don't know the exact acreage. Maybe John might be able to tell you more specifically than I. But in my mind's eye, I draw a line about halfway through the Air Force Base from north to south and draw the line east to west, and we know that it's going to cross Fort Crook Road and it's going to keep going till it hits a high spot. And so to start thinking about water everywhere, if you think about what happened in the northern part of near Washington County during the flood in 2011, if you flew out of Eppley Air Force Base (sic) and saw how the water spread out of the Missouri River and covered virtually every acre of farmland until it hit a ridge. I happened to be at one of the state parks and there's a tree there that showed about 15 feet up where the watermark was from the flood in 2011. That very same thing could happen in the southern part of Sarpy County. So I wish I had the numbers for you, Senator, but the visual in my mind isn't...doesn't want me to know the numbers. It's just too much to fathom. [LB537]

SENATOR BOLZ: The description is helpful. And of course the economic impact of Offutt Air Force Base is incredible. But I just was curious to understand the impact on homes and communities as well and the potential is significant. [LB537]

DAVID BROWN: Yes, very much so. Thank you. [LB537]

SENATOR HILKEMANN: Additional questions? Seeing none, thank you for coming, Mr. Brown. [LB537]

DAVID BROWN: Thank you very much. [LB537]

RITA SANDERS: (Exhibit 4, 18) Good afternoon, Senator Mello and members of the Appropriations Committee. Thank you for allowing me to have this time. My name is Rita Sanders, R-i-t-a S-a-n-d-e-r-s. I am the mayor for the city of Bellevue and I thank you for the opportunity to share with you today how important this issue is to Bellevue community and the

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state of Nebraska. I will keep my comments brief and right to the point. Over the past five years I have been honored to work with a team consisting of the city of Bellevue, our friends of the Papio-Missouri River Natural Resources District, the Sarpy County Board of Directors, federal and state, Greater Omaha Chamber, MAPA, and other agencies on this project. It is not only vital to the Bellevue Offutt community but the economy in the state of Nebraska as well. The rest of my talking points you have heard from those that have spoke before me today, and they've done well, so I'm going to skip over that to keep right to the point. The NRD and I have worked tirelessly to seek funding for this project from the past state of Nebraska administration, and were told that we would be better off seeking support elsewhere. With the huge impact this project has on our entire state of Nebraska, I couldn't disagree more. I want to thank Governor Ricketts as well as the members of the Appropriations Committee for their work on this issue. I would strongly ask the entire committee for their support on this amendment. Please, take away any doubt for the benefits of Bellevue and Nebraska. Thank you. Any questions? [LB537]

SENATOR HILKEMANN: Thank you, Ms. Sanders. Are there additional questions for Ms. Sanders? [LB537]

RITA SANDERS: Thank you. [LB537]

SENATOR HILKEMANN: Thank you, Mayor, for coming. [LB537]

TIM GAY: (Exhibit 16) Good afternoon, Senator Hilkemann and members of the Appropriations Committee. My name is Tim Gay, T-i-m G-a-y. I'm a registered lobbyist, representing Sarpy County Board of Commissioners. The reason Sarpy...we're handing out a letter. The reason...Sarpy County would like to also thank, by the way, Senator Watermeier, Senator Mello, and Senator Schilz for the bill and the amendment, and also other senators that you have heard have been strong supporters of the levee system and helping us out along the way. The reason, Sarpy County obviously is a partner, up to \$3 million, so it's very important. We just wanted to stress--I don't want to be repetitive--but stress the cooperation that they put together in the memorandum of understanding. And we'd love to see this go forward. And I know there's been other avenues but this is probably the most direct and efficient way and we'd encourage your support. Open for any questions that you may have. [LB537]

SENATOR HILKEMANN: Are there questions for Mr. Gay? Seeing none, thanks for coming. [LB537]

TIM GAY: Thank you. [LB537]

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SENATOR HILKEMANN: Are there additional proponents? Seeing none, we have...oh.  
[LB537]

SENATOR WATERMEIER: Vice Chairman Hilkemann, Senator Dan Watermeier, Watermeier, W-a-t-e-r-m-e-i-e-r. I'm in here today to testify as a proponent of this amendment to my bill, LB537. I just wanted to offer anything I could to you on record and just give you a little history. I served on my local NRD board for 20 years or a little less. I also served as a commission chairman for five or six years and involved with the Natural Resources Commission. To me what this is all about is prioritizing. This is what the state of Nebraska can do to prioritize something that's a direct benefit to the entire state of Nebraska. But this prioritization of prioritizing these levee projects also sends a message loud and clear to the federal government to prioritize fixing the runway, which will directly allow a prioritization later on and make sure we keep Offutt in Nebraska. But let me just ask you or just maybe offer a little outside editorial on how I worked with the commission all these years and how unique this project really is with levees. A lot of the times when we, as commission members, would get projects that come in, they would struggle to even benefit...to get to a break-even benefit, meaning if the state spent \$1 it would be a struggle for the benefits to even come back as \$1 even higher. But as I read this report, and this is very typical of a lot of levee reports, it's a 400 percent, I believe anyway, and Director Winkler can confirm that off the mike here. But what's so difficult about a lot of projects in the state of Nebraska, to become positive is you typically have to put recreational benefits in there and all...just to make them to qualify to a positive. There's no recreational benefits to this project. It's strictly protecting the public's interest. And so I just wanted to offer that as commentary from the side. I'm fully supportive of the amendment and all the work that's gone behind the scenes. And I think you, too, also need to understand that I'm not directly related to the Sarpy project. I'm across in Nebraska. I'm a rural senator and I believe in these kind of projects. I believe in infrastructure and I think this is what the state of Nebraska should be and could be involved with. So with that, I'll just end it and offer myself as far as any questions. [LB537]

SENATOR HILKEMANN: Senator Stinner. [LB537]

SENATOR STINNER: Senator Watermeier, would you educate me? Water sustainability included flood control as well as water projects. Was there any breakdown relative to that? Was it fifty-fifty or...? [LB537]

SENATOR WATERMEIER: No, it wasn't. The Water Sustainability Fund actually had another component in the fact that a certain percentage of it, I think it was 10 percent, had to be small projects because they were fearful that a big project would come in and sweep it all away. So you got to understand that water sustainability was quite a heated discussion on what really the definition of sustainability is. But when I look at water sustainability, to me it means water

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quality. And even flood water talks about water quality because it could impact, it could flood out wells. That's the biggest thing when we talk about water quality. It can protect wells by building levees, like what we could see in Lincoln and Omaha with the wells that are on the Clear Creek project right between Lincoln and Omaha. But this particular project will specifically help not only residential but a majority of it will go to helping Offutt. But there was no clear-cut, that I remember. It was all about water quality and quantity, all involved with sustainability. [LB537]

SENATOR STINNER: Okay. Do you understand this as something that will go to the committee for their vote or is this an emergency bill that gets done and...? [LB537]

SENATOR WATERMEIER: This will not go to that committee. In fact, I've been dealing in the last week with our fiscal analysts here as far as how it will be written. It will not go to the committee. It will be a...it's written as almost as a grant project. But we will still have some oversight. They will expend the money, then we will partition it back as they spend it. But the committee will be excluded from that discussion. But there's going to be...it's important that we get the language correct when we make the decision to appropriate these dollars from the Cash Reserve into the General Fund and we create this grant program, that we do that correctly, that we have a little bit of oversight that I think we are going to want to have. [LB537]

SENATOR STINNER: Thank you. [LB537]

SENATOR HILKEMANN: Are there additional questions for Senator Watermeier? Seeing none, thank you very much, Senator. [LB537]

SENATOR WATERMEIER: Thank you, Vice Chairman. [LB537]

SENATOR HILKEMANN: (Exhibits 2-11) Are there any additional proponents? Seeing none, I would like to...we have a list of persons who have sent letters and some of them have also appeared. But we have letters in support from Congressman Brad Ashford, from Congressman Jeff Fortenberry, from Omaha Mayor Jean Stothert, from Bellevue Mayor Rita Sanders, from the Sarpy County Board of Commissioners, from the Greater Omaha Chamber, we have a letter also from state Senator Jim Smith, state Senator Rick Kolowski, state Senator Heath Mello, state Senator Tommy Garrett, and state Senator Sue Crawford. Are there opponents to AM2236? Seeing none, are there any that would like to testify in the neutral position? [LB537]

SCOTT JAPP: Good afternoon. My name is Scott Japp, S-c-o-t-t J-a-p-p. I just happened to be here today and was interested in finding out what's going on. No one is arguing that Offutt needs



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to be saved, but whatever...and I strongly support saving Offutt. But, however, I believe there's a lot of misinformation being provided here. The levee is in two projects. The levee that needs to protect Offutt is on the north side of the Papio and it wraps around the Missouri River. That's only half the project. The other half, which isn't protecting Offutt or has nothing to do with Offutt, is on the south side of the Papio Creek, wraps around the Missouri River, and then go to the Platte River. Now I truly believe that we need to protect Offutt but we need to start saving money for the constituents of this state. Half of this project isn't for Offutt; the other half is. When are we going to stop spending money? The NRD, when I first got on the board, had a study. For \$20 million, they could have built the levees to provide 100-year flood protection, meet the new FEMA standards. However, in '09, this Legislature gave them LB160 which gave them ability to bond \$75 million. Well, when you're drunk on money, you don't save money. But for \$20 million they could have fortified the levee. Instead, they chose a \$120 million project to build dams that provide little or no flood protection. However, we still have not completed that because we don't have enough money. Now my board could have took action to save money to...and they knew those levees around Offutt were a high priority. However, they chose not to because we'll always come back to the Legislature to get more money, exactly what we're doing today. Two years ago when you implemented LB1098, again, funds were allocated for that project. And now we're hearing we may not use them. I have no idea. But my board did not prioritize one or the other projects. And do I think the board needs to? Yes. But I can't speak for the board. But if we keep funding projects and what I call the necessity is the mother of invention, we're not going to use some common sense and keep...get some fiscal control in this state. Thank you. [LB537]

SENATOR HILKEMANN: Are there questions for Mr. Japp? Seeing none, thank you for coming. Are there others in the neutral position? Seeing none, Senator Mello, would you like to close? [LB537]

SENATOR MELLO: Very briefly. Vice Chairman Hilkemann, members of the committee, just a couple points of clarification. First, wonderful testimony from David Brown representing the Omaha Chamber of Commerce. I believe he was also representing, for the record, the Nebraska Chamber of Commerce and the Lincoln Chamber of Commerce. Committee should have received a letter from the Nebraska Chamber of Commerce in support of the amendment. (Exhibit 15) Second as well, it was my due diligence of passing the baton off to our Vice Chairman. The letters that were read into the record were letters of support for the initial Water Sustainability Fund application that was made for the Offutt levee project. I just wanted to make sure that's a clarification for the public record. And third, in regards to that unfortunate negative neutral testimony we just heard, to some extent, when LB1098 was passed, I do not believe, knowing that myself, Senator Watermeier, Senator Schilz, Crawford, and others had a lengthy floor discussion, there was no such earmark in the bill and/or funding towards the Offutt levee project. I want to be very clear. It was discussed extensively on the floor about the importance of

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looking at critical infrastructure projects in light of water sustainability projects. But there was no clear-cut requirement that the Natural Resources Commission that was being newly reconstituted had to provide funding to this specific project. It was simply discussed at length on floor debate of how important this project was and the likelihood that if this fund was created and the Appropriations Committee at the time and the Legislature decided to fund that fund, that that project would be applying for funds out of the Water Sustainability Fund. With that clarification, I'd like to thank, obviously, Senator Schilz, Senator Watermeier for assisting today, as well as you heard great testimony from Senator Crawford and Senator Garrett as well, knowing they're very intricately involved in regards to the activities of Offutt Air Force Base and the Bellevue community. I think to some extent, colleagues, and I'd be remiss not to acknowledge to some extent there has been always a little bit of frustration when sometimes issues like this come on your radar. And to some extent, I appreciated Mr. Winkler's dialogue with Senator Kuehn. Unfortunately, I was probably one of those people who were clamoring, asking the Papio-Missouri River NRD to withdraw their other application to try to help clarify to the Natural Resources Commission, to clarify to the Legislature the importance of the project. But I understand the realities. They are a duly elected, separate board of directors for that Papio-Missouri River NRD and simply asking them to do something doesn't necessarily mean that they have to do it. They were elected in their own right to make their own decisions. But in discussing this with, obviously, Senator Watermeier, Senator Schilz prior to bringing, obviously, this amendment, I think the reality that we came to, to provide this proposal to this committee and to the Legislature as a whole is to take out the risk associated with this project. I don't think any of us come willing, wanting to spend money from the Cash Reserve for a project that could be possibly funded through another vehicle. I think the reality is, though, we know there's a lot of risk in regards to hoping that this project gets funded through another vehicle when you heard from the city of Bellevue, you heard from the NRD, you heard from the chamber of commerce the critical nature of this project not being funded, the impact it could have on other critical infrastructure financing at Offutt Air Force Base. And I think you've seen over the last few years the importance of wanting to protect that base against a potential Base Realignment Commission coming down the path somewhere down the road and the reality is knowing that we don't want to jeopardize any additional federal funding that could be beneficial to keeping the 55th Wing moving forward. And so to some extent we could wait. There is an argument that could be made, we could wait and see what happens. That decision wouldn't happen till after we're out of the legislative session. It would possibly not happen till the summer. In talking with, I think, Senator Schilz and Senator Watermeier, it was our best conclusion that it's best to take the risk out of the equation if at all possible and simply try to put this project forward as a critical economic development project facing the entire state and the state's entire economy. And I look forward to ongoing discussions in the committee as we look to finalize the budget and have further discussions on this amendment. [LB537]

SENATOR HILKEMANN: Are there questions for Senator Mello? Seeing none,... [LB537]

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SENATOR MELLO: Thank you. [LB537]

SENATOR HILKEMANN: ...that will close the hearing on AM2236 to LB537. Thank you very much for coming. [LB537]