

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**BOSTELMAN:** Good morning, everyone. Welcome to the Natural Resources Committee. I would remind everyone that we've moved hearing rooms today. So this is the Natural Resources Committee. If you're here for Natural Resources Committee, good. If not, you probably want to go to the other end of the hallway, just so you know. I'm Senator Bruce Bostelman from Brainard, representing the 23rd Legislative District, and I serve as Chair of the committee. The committee will take up the bills in the order posted. This public hearing today is your opportunity to be a part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the table in the back of the room. Be sure to print clearly and fill it out completely. When it's your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify, but would like to indicate your position on a bill, there are also white sign-in sheets back on the table. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Please speak loudly as well. Tell us your name and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement followed by the proponents of the bill, then opponents and finally, anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We'll be using a five-minute light system for testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining and the red light indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing. This has nothing to do with importance of the bills being heard. It is just part of the process, as senators have bills to introduce in other committees. A few final items to facilitate today's hearing. If you have handouts or copies of your testimony, please bring at least ten copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees states that written position letters to be introduced in the record must be submitted by 12, noon, the last business day before the scheduled hearing on that particular bill. The Legislature's website-- the only acceptable method of submission is via the Legislature's website at [nebraskalegislature.gov](http://nebraskalegislature.gov). You may submit a written letter for the record or testify in person at the

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Natural Resources Committee February 8, 2023

hearing. You cannot do both. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. I will now have the committee members with us introduce themselves starting on my right.

**JACOBSON:** Good morning. I'm Senator Mike Jacobson, District 42. I represent Hooker, Lincoln, Logan, McPherson, Thomas and three-quarters of Perkins County.

**BRANDT:** Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline and southwestern Lancaster Counties.

**HUGHES:** Jana Hughes, District 24: Seward, York, Polk and a little bit of Butler County.

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

**MOSER:** Mike Moser, District 22. It's Platte County and bits of Stanton County.

**BOSTELMAN:** On my far left.

**FREDRICKSON:** John Fredrickson, District 20, which is in central west Omaha.

**SLAMA:** He was all ready to go. Julie Slama, District 1: Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties.

**BOSTELMAN:** Senator Moser also serves as Vice Chair of the committee. Also assisting the committee today, to my left is our legal counsel, Cyndi Lamm. And to my far left is our committee clerk, Laurie Vollertsen. Our page for the committee this morning is John Vannes. Thank you for being here and helping us. With that, we will begin today's hearings with LB400. Senator Brewer, you're welcome to open.

**BREWER:** Good morning, Chairman Bostelman and members of the National Resources Committee. I am Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r. I represent 11 counties of western Nebraska and the 43rd Legislative District. I'm here today to introduce LB400. I'm introducing this bill on behalf of the district, but also game/bird hunters across Nebraska. This bill is very similar to South Dakota's law that addresses the nesting or nest predators in order to restore the bird populations, namely the ring-necked pheasant. I've heard from a lot of Nebraskans. Many of them remember the days of old. If you go back and when I was younger, it was very common to do two things;

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Natural Resources Committee February 8, 2023

listen to a Nebraska football game and go pheasant hunting. And back in the day, it really didn't matter where you were in Nebraska. You could find pheasants and it was an event that was a family event that everybody did. And it was kind of that, that one activity that everybody came together for. What has happened over the years is for a number of reasons, that population has dwindled and now to find a pheasant in Nebraska is actually a bit of a challenge. This past year, I went near McCook and hunted there. Went near Nebraska City, hunted there. Both places that I went to were locations where they stocked the birds. So there were birds available. Where we found our challenges is when we left the area that the birds were stocked and tried to just hunt. And what we found is that there just isn't a population left to speak of. Now, that doesn't mean there isn't pockets tucked away somewhere, but the problem is that if you have a young hunter who is interested and you force him to walk miles and miles, he never sees a bird, there's a point where they have no desire to hunt anymore. And it's sad that we've, we've got to the point where it's that way because it's, it's an activity that should be something that there's a reward for the effort that's put in. And, and we're not there and, and the idea of this bill is to figure out how to get us there. So if you take a look at the bill and, and how it is designed, it is simply a way that we can reduce the predator population so that we can reestablish the pheasant. Now, I did not include a mandatory release of pheasants in here, although I think that needs to be part of the discussion today. Now, last year was a one-off because of bird flu and some issues like that. But what I used as a barometer to try and figure out whether we were doing things right was trips to both South Dakota and Kansas to hunt. And this wasn't paid hunting areas. This is, this is areas that individuals had that just had an established population. And it wasn't so much the fact it was a great hunt, but it was an eye-opener to see the number of, of people wearing orange, people that were at the gas station, people at the restaurant, people who were at the hardware store, people that were there staying at hotels. If you, if you don't think it's an economic driver, I, I recommend you take a trip and, and see what they're doing. So we're losing in that we're not giving our youth the opportunity to become hunters and instill that spirit in them. I believe we're negatively affecting families just because some of the reasons that we all came together, well, we're not doing that anymore. And then we're losing out on the economic development, the tourism, all these things that should be a part of what we, we, we have here in Nebraska. We've got all of the right capabilities as far as land and open country. Some of this is due to the availability of ag ground and the fact that we're trying to farm every inch we possibly can. But I think there's got to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

be a way to manage the predators because as you narrow the opportunities for the birds to have places to be, it makes it just that much easier for coyotes. They can walk fence lines and hit these spots. Hides are no longer worth anything. So there used to be a desire to go and hunt them because you could make money on the side. Without that, there isn't the, the, the continued hunting of, of these predators. So as the predators get more and more, the fuse-- pheasants get fewer and fewer. It's, it's a death cycle that we can't get out of unless we do something fundamentally to change it. Now, we've had enough years of, of going the other way. We've got to figure out how to turn that around. And I think that having a way to, to have a take on these predators, to take them out of that cycle-- and, and some of these, what we call nesting predators are worse than others. I mean, a lot of folks love to love on a raccoon, but if you've ever seen what a raccoon can do to, to nesting birds, it's pretty devastating. Will we ever get back to the '70s? Maybe not, but if others can do it-- I used South Dakota and Kansas. We need to look at what we can do to at least get close. We may never be them, but we got to do better and that's the idea behind this bill. So I guess at this point, the other thing I'll share is, is if you're not familiar with how the government trapper program works, we do have government trappers. There's only a handful. They're essentially paid by the counties. It's kind of an unman-- unfunded mandate on the counties. I think we have to take a look at the possibility of having a trapping program as a part of the-- of Game and Parks because the desire of the federal government is to get out of that business and they will put that burden completely on the counties and I don't think that's fair. So that is another area that has to be addressed as part of this bill. So a government trapper is essentially the lowest-paid person that can be a federal employee. I think they're GS4 and they're given no benefits: no health, no dental, no nothing. They're simply given a vehicle, traps. I think they get a gun and shells and that's about it. And then the counties pick up a lot of this cost and this, this situation with the government trappers, I believe, will end soon. And that will leave us with no one to hunt them. So if we don't have the public hunting them because there's no value in them and we don't have any way for them to be managed by the government, this situation will only continue to, to spiral out of control. Back to the point of, of this bill and why, we have to come up with some type of solution not only to reestablish the pheasant population, but to be able to let them stay. Because we could turn lose a couple of million pheasants, but if they're all eaten, we're no better off than we were. Now, will this require maybe a step up each year as we can reduce some of the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

predators? Maybe. But it has to be a combined effort and that's what LB400 is about. So I will take any questions.

**BOSTELMAN:** Thank you, Senator Brewer. Are there questions from committee members? Senator Slama.

**SLAMA:** Thank you, Chairman Bostelman, and thank you, Senator Brewer. I appreciated you mentioning South Dakota and Kansas. Could you walk us through what South Dakota and Kansas are doing right? Do they have a depredation for-- framework for coyote hunting, removal of those predators or are they doing something else?

**BREWER:** No, they're-- they do have-- matter of fact, that's, that's how we fashioned the bill was using some of their actual verbiage. The amount that you give per predator can vary. They, they buy and I think they'll probably-- someone from Game and Parks that can hear can talk numbers, but they buy pheasants. To my knowledge, they don't, they don't raise them and release them. They're actually buying them from commercial folks. I think a hard look needs to be at how do they do it as far as when do they release them so that they're out and, and able to, to get into a cycle of nesting and survival? Because I think a lot of this is all about timing. If, if you're not killing the predators at that right cycle during the year to prevent them from just raiding the nests when they're, when they're trying to nest in the spring, then you're probably, you know, in a self-defeating cycle there. South Dakota, I think, will freely admit that they have birds they turn loose that probably are eaten by coyotes. But if you're in a cycle where you release enough of them, especially on public ground, and they have cover-- and, and if you look, there's more cover on public ground because we're not trying to plow it day and night. So you can, you can release them there and they have a fighting chance of survival. And maybe you do only have one of four that survive, but then over a cycle of years, you get them to become wild birds because the ring-necked pheasant was never a natural to Nebraska anyway. They've been implanted. So I just think that we have to come up with a better plan to figure out how to reduce predators and increase the release of the pheasants into the population.

**SLAMA:** And just for anybody who's not as familiar with this, one coyote, one raccoon can easily destroy an entire nesting area, several nesting areas, in fact.

**BREWER:** Yes.

**SLAMA:** Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**BOSTELMAN:** Other questions? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you, Senator Brewer, for bringing this bill. There's parts of this I really like and I guess I've got several questions. Where does the money come from? You're, you're authorizing 50,000 kills in here times \$10. That's a half-million dollars.

**BREWER:** Well, I think that without having visibility on Game and Parks' budget, I can't, you know, automatically say it should be Game and Parks that picks up that fee. I think that in order to get it established, it may be that we have to take it out of General Funds, at least initially, to get the program going and then they pick it up and run with it once, you know, the, the predator kill is at a level that's reasonable so we can increase population and not have one destroying the other.

**BRANDT:** And then I guess the, the second one is implementation. So we've got a date here where they can redeem. I mean, are we doing ears, tails, whole carcasses? How, how does this work?

**BREWER:** Well, that I think we can, we can determine. I think the more common one they've been using is tails just because your ears-- you know, you've got two ears. A little harder to count them. And anyhow, some will say, well, yeah, but what if they use road kills? Well, if the population is so great that you're getting road kills, I don't know that it's a big deal if they throw one of those in once in a while. Because that's the reality of things is you have so many that you're, you're actually having them forced on the highways and things like that.

**BRANDT:** And I guess the last thing is, as one of these farmers that farms fence row to fence row, we do have some opportunities out there. In southeast Nebraska, we used to grow milo. Milo is the greatest crop ever for pheasants. And we, we, we don't do that anymore for economics, but we can do small food plots in the center of the sections where it's tough to turn the, turn the equipment around anyway. I mean, there's opportunities here. If there were-- I, I'd like to see an incentive program to create habitat maybe coupled with this, but maybe that's too big of an ask.

**BREWER:** Well, I guess the concern was that if we make it too big, that it might die a death because it's too big, where if we could kind of start working our way to a positive end and, and build on it, then we might have a chance then. I mean, I would love to think that there was

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

some way to bring back the CRP ground. But, you know, those programs don't pay enough to allow you to pay your property taxes and, and be ahead. So that has kind of-- you know, either that program needs to, to give back more in compensation or else it probably isn't realistic.

**BRANDT:** All right. Thank you.

**BOSTELMAN:** Senator Jacobson.

**JACOBSON:** Thank you, Senator-- or Chairman Bostelman. Senator Brewer, I guess my question would be, do you know what efforts Pheasants Forever are doing and is there a way we can get more collaborative effort here to fund this program? It seemed to me they would be at the top of the list of people with, with, I guess, a dog in the fight or a pheasant in the fight.

**BREWER:** But they, they do have programs and they have, they have release programs. Their part would simply be maybe being able to throttle up the number of pheasants released. The predator part, I think, has to fall on us. I don't know who else would really give the authority to be able to go and do that, but.

**JACOBSON:** And, and I'm thinking more in terms of the funding side.

**BREWER:** Oh. Well, I have not asked them if they had spare money. I mean, what they do a lot of, of course, is trying to take smaller plots and make them available and then release into that. But to do a statewide program and to incorporate the predators, I guess, is why we didn't really have them as a, as a player in, in writing the bill.

**JACOBSON:** Thank you.

**BOSTELMAN:** Senator Hughes.

**HUGHES:** Thank you, Chairman. Thanks for coming, Senator Brewer. Was there a study done that proves that the population went down because of the predator or is it-- because I've always heard, like-- and this was my neck of the woods, but it's the lack of habitat. It's the farming and we get every grain off the ground. And so there's a lack of food source and a little bit lack of habitat. I mean, do we know-- do you know what I'm saying? Do we know for sure this would address the issue, I guess?

**BREWER:** If you're asking me if I did one, no, I have not. I mean--

**HUGHES:** Well, not-- yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**BREWER:** --most of mine is just, you know, life experience and seeing. I mean, if you go out at night with a, with a thermal scope, which I assume everybody does--

**HUGHES:** Clearly.

**BREWER:** --you can, you can see the movement. And if what you're seeing is four or five predators and nothing else, you know, it, it, it's obvious that there is an incredible population. And I was out in your neck of the woods up by McCook hunting and, and just talking to the landowners-- oh, I'm sorry. That's Senator Ibach's.

**HUGHES:** That's Senator Ibach. That's all right.

**BREWER:** Well, if you keep going west, you'll get there. Anyway, the, the, the landowners are the ones that come back and kind of give you the best feed on what's happened over the years and what they've seen and what their challenges are. And so, you know, I, I guess a lot of that was what I used. But I would, I would say when Game and Parks came up, that's the folks that have the biologists. I may question the wisdom of their biologists sometimes, but I think they might have some answers that would be close.

**HUGHES:** OK. And I want to just add to it. I'm really glad that-- you know, I could do a road kill, take it in because I've nailed a few in my time. My second question is kind of fun. So would nest predators like opossums whose gameplay is to play dead be disproportionately affected by this? I feel like they'd be easier to--

**BREWER:** Well, opossums usually are a little better at hiding than the rest of them and-- well, you know, I don't know. I don't know if opossums are easier to get. The-- they're a little hard to come by, but they are, they are more devastating than you'd think.

**HUGHES:** I'm just giving you a hard time.

**BREWER:** All right.

**BOSTELMAN:** Senator Moser.

**MOSER:** So the upland bird stamp, you have to have that to hunt pheasants, right?

**BREWER:** Yes.

**MOSER:** Or what do they call it nowadays? Is there another term for it?



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Natural Resources Committee February 8, 2023

**BREWER:** Game and Parks will be here and they get paid to know these things.

**MOSEER:** OK. Well, anyway, would it be possible to have a stamp that you'd sell for pheasant hunting that you could use to pay bounties for people who shot predators?

**BREWER:** Well, it might be. We'd have to just kind of walk through that to see how that would work, but that's a possibility. I mean that's thinking out of the box.

**MOSEER:** Maybe pheasant hunters would gladly pay a few extra bucks or something to-- and your bill doesn't change the rules on hunting predators.

**BREWER:** No.

**MOSEER:** You still can't shoot them on somebody else's property.

**BREWER:** No, no.

**MOSEER:** You can't shoot them out of your car.

**BREWER:** No, that, that, that--

**MOSEER:** Maybe that's the rule you should change.

**BREWER:** Right, no. Well, no, I, I think once you start on other people's property without permission, there's no, no good end to that. But I think if you have an incentive, at least pay for the gasoline to, to go out and spend the time doing it or the ammunition.

**MOSEER:** Yeah. But you can't hunt on the road right-of-way like we used to.

**BREWER:** No. No, for some reason, the people who are guns and badges get very narrow minded about that and I--

**MOSEER:** It used to not be a problem. We used to--

**BREWER:** Well, pretty sure it would be if you did, but you can ask Game and Parks. They have people with guns and badges to do those kind of things, so.

**MOSEER:** Well, we don't want to start another fight. We've got enough. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**BOSTELMAN:** Any other questions from committee members? Seeing none, stay for closing, Senator Brewer?

**BREWER:** You betcha.

**BOSTELMAN:** Thank you. Next, we'd like to have proponents for LB400 please step forward. Any proponents, please come up to speak. I would think we're probably going to have a few people speaking today. So as a proponent or opponent, when we get to that part, start moving forward to populate the front rows to kind of move things along a little bit quicker. So with that, welcome. Good morning.

**MICHAEL HERRING:** Good morning, sir. My name is Michael Herring. It's M-i-c-h-a-e-l H-e-r-r-i-n-g. I live in-- just south of Fremont, Nebraska. I'm here as a proponent because I've been a hunter and trapper most of my life and what we're seeing out there now is devastating to the bird population. It's also devastating to the cattle industry. We have people that are calling us to come hunt coyotes because they're after their dogs, their chickens, their cats. We have one farmer by Valley that's lost ten calves so figure out how much money he's lost. And this is to coyotes. Now, the other aspects of the bird-- the predators that they want to get rid of, right now, there is no market for furs. Because of what's going on overseas, everything that's pretty much trapped and shot in the United States went to Russia and China and Europe. Well, with everything that's going on, there is no fur market. I hunt with a bunch of guys. We spend \$60 to \$70 a weekend on gas and ammunition to take out these predators. I have about 40 landowners that have given us permission to hunt. And like I say, when you start seeing that these people are calling you because they're missing their cats and their dogs-- and they will kill dogs. The coyotes will kill dogs. And like I say, you have the skunks and the raccoons that carry distemper and rabies. So as this population gets bigger, you're going to start having more problems. And I think that these people-- you know, back in the '60s and '70s, there was a coyote bounty program that stopped and that was for \$2 an ear. And I'll say right now, none of these furs are worth anything. I've got friends that are trappers and they're throwing them in a creek because they're not worth anything. But they're killing deer fawns. I mean, it's, it's, it's changing the whole atmosphere out there.

**BOSTELMAN:** OK. Thank you for your testimony. Any questions from committee members? Senator Hughes.

**MICHAEL HERRING:** Yes, Senator.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**HUGHES:** Yes. Thanks for coming in, Mr. Herring. So when the farmers call you, are they hiring you to do this or they're just giving you the permission to hunt on their--

**MICHAEL HERRING:** They're giving us permission and, and people are calling us to come out because they know we hunt them.

**HUGHES:** And then so would-- my question then is, would that \$10 per bounty make a difference, do you think?

**MICHAEL HERRING:** Not to me because--

**HUGHES:** Because you're still going to--

**MICHAEL HERRING:** --I want, I want to eliminate them.

**HUGHES:** Yeah.

**MICHAEL HERRING:** But to other people, that might get more of the hunters and trappers back out and help control the population. In the past three years, we've eliminated over 200 coyotes and we're just talking probably a 20-square-mile or 30-square-mile area around Fremont.

**HUGHES:** OK. Thank you.

**MICHAEL HERRING:** You're welcome.

**BOSTELMAN:** Other questions from committee? Seeing none, thank you for coming in this morning.

**MICHAEL HERRING:** Thank you very much.

**BOSTELMAN:** Next proponent, please. Next proponent for LB400. Good morning.

**JOHN ROSS:** Well, good morning, Chairman Bostelman and senators of the Natural Resources Committee. John, J-o-h-n, Ross, R-o-s-s. I am testifying for myself. Senator Brewer, thank you for introducing LB400. For 60-plus years, I have hunted and farmed land that has been in the family since 1917. As Nebraska was settled, the prairie grass disappeared in eastern Nebraska. This led to the disappearance of the sharp-tailed grouse and prairie chickens from the eastern regions of the state. In 1911, Nebraska Game and Fish started stocking pheasants. That turned out to be a great decision. I wish I could shake the hands of the commissioners at that time. After the pheasant was then stocked

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

in the new habitat, they flourished. In 1927, the first pheasant hunting season was held. It was for three days in October. The daily bag limit was three. Fast forward to the 1960s when I started hunting. Pheasants, quail, rabbits and squirrels were all on the farm. There was a large number of pheasants. In 1962, the pheasant hunting season was 86 days. Estimated 1.5 million roosters were bagged. This was the peak of the harvest of the soil bank era. With the loss of habitat and low numbers of pheasants, I don't understand why we have a longer season today. Now, I was lucky to be able to hunt pheasants during the peak of the pheasant numbers. It did not take me very long to become a good enough hunter to bring home a bag limit of pheasants-- almost every time I hunted-- along with other game. It was then that my mother taught me conservation. I was limited to three shells. That only made me a better hunter. Many times, I still came home with three birds. She finally said, you have to leave some for next year and she closed the season. In 1972, I took over the farming on our family farm. The soil bank days were gone-- over. The habitat was still pretty good so there was still a fair number of birds. As farming began to change a lot, the habitat changed just as fast. There was very little good habitat for pheasants left. During the late '70s and '80s, fur prices were very high. There were huge numbers of predators harvested. We had predator control and I was part of that control, but I'm unable to do it now. When the fur prices dropped to almost nothing, there was very little predator control. The number of pheasants on my farm really dropped and have not come back in spite of me adding habitat. I have taught hunter education for many years. Today, the course teaches that hunting is used as an effective wildlife management tool. It helps balance the number of animals to the care and capacity of the habitat. We used to teach that in good habitat, predator control is seldom effective. We don't have very much good habitat left. Predator control should be used as a management tool. That would help balance the number of predators to the number of prey in the habitat. Game and Parks needs to have the tool of predator control to use. I'm asking you to please advance LB400 and thank you for your time.

**BOSTELMAN:** Thank you for your testimony. Any questions from committee members? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you for your testimony today. I can remember growing up, they used to have wolf hunts where the whole community-- and maybe this is kind of unique to southeast Nebraska. But after a snow, the community would start on a township, six by six, and basically walk to the center and harvest any coyotes-- just is what they were after at that time. Do you think programs like

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

that-- or what kind of incentives do you think we need out there to get more people to go after, after these predators?

**JOHN ROSS:** I participated in some of those hunts, Senator Brandt. I think this is probably something that needs to be worked on and to be advertised. There is a little bit of a safety factor in that, as you know. But the hunts that I participated in, it was shotguns only with small birdshot. So it was pretty safe. The bounty would help people offset some of the costs.

**BRANDT:** All right, thank you.

**BOSTELMAN:** Other questions from committee? Seeing none, I would like to recognize-- Mr. Ross, I believe you were recently recognized as a master hunter educator for the state of Nebraska. Is that right?

**JOHN ROSS:** Yes, sir, it is.

**BOSTELMAN:** Thank you very much for what you do for the education you provide our young folks.

**JOHN ROSS:** I was at the conference and had no clue that I was designated master hunter and instructor for the entire state of Nebraska.

**BOSTELMAN:** Thank you very much.

**JOHN ROSS:** This is a passion of mine.

**BOSTELMAN:** Thank you, sir. With that, we'll ask the next proponent, please step forward.

**KEN LAMB:** My name is Ken Lamb. Thank you, Senator Bostelman and Natural Resources Committee. I graduate-- I have the same experience as Senator Brandt participating in some of those--

**BOSTELMAN:** Sorry, spell your name, please.

**KEN LAMB:** K-e-n L-a-m-b.

**BOSTELMAN:** Thank you.

**KEN LAMB:** I had the same opportunities he did on the, the hunt, what they did with these surrounded sessions and I've been a pheasant hunter all my life. I graduated from the University of Nebraska with a degree in natural resources wildlife management. I worked for the Department Environmental Quality for 43 years, traveled east half of

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

Nebraska working with livestock operations. So I've traveled extensively and all my business was, was working with farmers and feeders. So I'm very familiar with the community and I've been heavily involved in Pheasants Forever and implementing CRP programs, as I was a native grass driller on the side because I've always farmed besides my job. I live in a Otoe County between Syracuse and Dunbar and Senator Slama and I have never met.

**SLAMA:** We're neighbors.

**KEN LAMB:** We don't live very far apart.

**SLAMA:** Yeah.

**KEN LAMB:** We're about seven miles apart. But I've been heavily involved with drilling native grasses for the last 25 years. I had 220 acres of CRP on my own land for 20 years and we started breaking it out when we had \$7 corn. So \$7 corn was one of the big factors in reducing CRP land. I still have 70 acres of CRP. Most of mine is in pollinator species that was in high demand for CRP, but used to be able to go out and I could see 20, 30 pheasants within a couple of hours. And now I saw one last fall and I think he was just on a trip trying to find some buddies to hang around with because there are just-- we have very few pheasants. And I have a different angle. I have grandchildren that live near me, three boys, 14 to 16. And esports, if any of you know what esports are, that's their participation, playing electronic games. I've tried to get them to shoot. There's not much interest. They've done it a little bit. One of them's gone through the hunter safety program with Pheasant Forever and shot his first bird last year, but he's so busy with school and sports, it's hard to get him involved. I think this would give him an opportunity for trapping maybe a little bit, to get some youth involved. But right now-- and, and I think there's other people involved with Pheasants Forever see that it's really hard to get these kids involved anymore. It's like Senator Brewer said, they go out there and walk and walk and don't see anything. And they're so used to this instantaneous response with the computer that, you know, to keep them interested, it's very hard to do. So that's-- I think this could help in two different angles from helping boost the population a little bit and help maybe get some youth involved. I don't have any more. If you have any questions.

**BOSTELMAN:** Thank you for your testimony. Senator Slama.

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Natural Resources Committee February 8, 2023

**SLAMA:** Mr. Lamb, thank you so much for being here today and thank you both for your work getting our youth involved and on the preservation side as well. From your experience in southeast Nebraska and Otoe County-- and I must admit, like, I'm relatively new to Otoe County. I'm more northeast Nemaha County. What's, what's the coyote population like? What's the predator population like?

**KEN LAMB:** I, I don't get to hunt a lot on coyotes. We didn't have very good weather this winter. A year ago, we went three days and we had good snow and we killed 26 in three days.

**SLAMA:** Wow.

**KEN LAMB:** And we lost some.

**SLAMA:** Um-hum.

**KEN LAMB:** There's a lot of coyotes out there. Now, I do have a neighbor has-- he has twin boys about ten years old and he asked me to go down to my pond and hunt frogs last summer.

**SLAMA:** Um-hum.

**KEN LAMB:** The next night, he called me and he said we went down and he's got a thermal scope shining across the pond, says 20 sets of raccoon eyes--

**SLAMA:** Yeah.

**KEN LAMB:** --down there. And I said, well, I think we need to start trapping them probably then. Birds don't have much of a chance where there's that kind of a predator base.

**SLAMA:** No, there's really not and that's a problem I see across the region too and I'm sure across the state is the same problem. So thank you so much for being here.

**KEN LAMB:** OK.

**BOSTELMAN:** Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Bostelman. Thank you, Mr. Lamb, for being here. And I really appreciated Senator Brewer's opening. I actually-- it might surprise some. I've been pheasant hunting in my lifetime with family so-- but my question for you is, you know, can you enlighten us a little bit about-- so you mentioned kind of the,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

the amount of coyotes, the amount of raccoons, for example. How does this compare to historically what predator bases have looked like? Are we seeing kind of unprecedented rises in this or--

**KEN LAMB:** Well, I think the, the lack of trapping and no market for furs.

**FREDRICKSON:** Yeah.

**KEN LAMB:** I mean, there used to be a lot of guys I knew in the area that trapped all the time. And a lot of those people are aged out and then the new people-- recruiting new people to do it. It's kind of tough.

**FREDRICKSON:** It's kind of tough.

**KEN LAMB:** If there's no prize for them, you know-- even if you got \$5, it's hard to go out and spend your time--

**FREDRICKSON:** Sure.

**KEN LAMB:** --doing that.

**FREDRICKSON:** So would it be safe to say that we're seeing increases in the--

**KEN LAMB:** Oh, yeah--

**FREDRICKSON:** --population--

**KEN LAMB:** --because there's, there's nothing that's-- you know, I'm sure coons have a few predators that-- coyotes probably kill a few coons. But, you know, coyote is kind of an apex predator in our area.

**FREDRICKSON:** Right.

**KEN LAMB:** You know, there's not much other than man that's going to get them. They're very-- I know guys that trapped them. It's very hard to trap. I've called a few in when I'm deer hunting, but I don't see that many when I'm hunting deer. But they get call smart real fast--

**FREDRICKSON:** Sure.

**KEN LAMB:** --but.

**FREDRICKSON:** Thank you.



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Natural Resources Committee February 8, 2023

**KEN LAMB:** OK. I don't know if Senator Brandt remembers me, but I was at his farm about 25 years ago.

**BOSTELMAN:** Senator Brandt.

**BRANDT:** Don't go anywhere.

**BOSTELMAN:** Sir. Ken.

**BRANDT:** OK. Yes. Thank you, Chairman Bostelman. Thank you for your testimony. Habitat destruction. If the state of Nebraska would not assess the CRP land or the habitat land and a crop land value, therefore you have a high assessment, it doesn't pay to keep it in there, you're-- I don't want to say you're forced to grow crops, but economically it makes sense. If we were to create another category of wildlife habitat possibly and assess it at nothing, do you think that would incent landowners to put more acres into wildlife habitat?

**KEN LAMB:** I think the economics are still there for corn and beans. I mean, I did it because I enjoy hunting. If you looked at my farm, it's pretty [INAUDIBLE] because I've got 70 acres of CRP scattered out across a mile and a half. I've got three-quarters of a mile of hedgerows. Everybody else is tearing their hedgerows out. I keep mine. I harvest a few posts here and there, but that's about it. But to keep people to get back into CRP, they have to be competitive with, with the cash rental rates. I got some back in at \$180 in this pollinator species and it was an incentive to me. Some of that is poor ground. Some of them shouldn't be broke out. And some of it, when it does come out, I'm going to leave it as pasture. I'm going to bring it back up.

**BRANDT:** All right. Thank you.

**BOSTELMAN:** Thank you, Mr. Lamb. Next proponent, please, for LB400, step forward.

**SPIKE EICKHOLT:** Good morning, Chair Bostelman. My name is Spike Eickholt, S-p-i-k-e E-i-c-k-h-o-l-t. I'm here on my personal capacity. I talked to Senator Brewer yesterday about my interest in this bill and I told him I think I'd like to support it and I hope that was a good choice. I am an avid bird hunter. That may be surprising, similar to what Senator Fredrickson mentioned. I do it regularly and done it for most of my life. There was a time where I didn't do it maybe when I started going to college because it wasn't cool. I was into other things, but I got back in it when I got out of law school and I really appreciated it. I don't want to just give anecdotes, but I remember when I first was living in Lincoln after I got out of law school. It

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

was easy for me to step out and hunt one of these public areas and at least get a couple of shots off at a rooster. At that time, I would be down in Senator Slama's district fairly regularly because it was really good hunting opportunities down there near Cook, near Syracuse, south of those areas. And then I remember hunting around Brainard area. There's a whole series of public hunting areas because I usually hunt public lands. I'm not really from Nebraska originally so I don't really have access to private land. A whole series of areas by that whole-- sort of shut down along Highway 92. It's, like, the [INAUDIBLE] or something like that. It's a shut-down place. I stopped going down to Senator Slama's district. I stopped going to the Brainard area because the birds just weren't there. And now we have to go clear up to north-central, northeast Nebraska-- I hunt with several friends-- to get anywhere and that has a consequence. Bird numbers are low and I like that Senator Brewer introduced this bill because even though this may not be the solution, it's a partial solution and it at least elevates this issue to the state legislative level. There's been some talks-- talk before about what this means for Nebraska. If people can't get action on birds, for lack of a better word, they just don't go hunting. There's a significant economic loss that the state is missing out on. I did-- I've been up to South Dakota a few times. I even pay for the out-of-state license and everything. They actually aggressively market their pheasant hunting. It's sort of almost-- I find it personally maybe too aggressive in the sense that they do it, but they make money off of it. For instance, you can't start hunting until noon early in the season or ten in the morning. So then what are you going to do? You're going to get your breakfast somewhere with all your friends. So the businesses benefit that way. You have to stay in a motel room. The nonresident licenses are good for 14 days, but you have to take a break. So they have to encourage you to come back for multiple trips and spend that much more money. There's nothing wrong with that. They've got birds up there. It's enjoyable, but it's a way that our state just never looks at this. Our younger son hunted with me when he was ages maybe 13 to 15 and then he just lost interest. And part of it, again, it wasn't cool. None of his friends were into it. But what Senator Brewer said is accurate. I don't go to those pay-to-shoot places. I only hunt wild birds on public land and I hunt other things besides pheasants and I wanted my son to encourage-- to experience that as well. And it is a tough ask to have a 14-year-old kid carry a gun and walk in CRP fields for three hours for one desperate, hurried shot because that's the only rooster you're going to see that day. And it's difficult to get-- to, to, to have interest in doing that. What does that matter? We've had bird numbers that are low for, I'd say, the last five years at critical low levels, maybe

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

three years. And I don't really see them getting better any time in the future. You've got a whole generation that is not experiencing this sport. That's something that Games and Parks should be concerned about, I would respectfully suggest, because they are a fee-funded agency. Senator Moser asked about fees. I pay a-- on a hunt license fee, there's a habitat fee, there's a wetland fee. There's-- if you buy a fishing license, there's another fee that's on there. We don't mind doing that. But if you don't have anyone who's interested in pursuing the sport, they're not going to pay the fee. They're not going to buy a hunting license. They're not going to pay for those things so revenue goes down. Most of the lakes and the public areas in the state have been paid for, at least in part by the money generated from those fees. So you are-- we are missing out on a generation that has interest in this sport. I think that there are other suggestions to be out there besides a predator bounty program. One, obviously, is habitat. Oh, I would submit we have some very good looking habitat areas down here. They look great. It, it looks diverse. The switchgrass looks great. The pollinators are there, but there is just no birds. It could be the pesticides and spraying practices that we have. It could be the way that we mow ditches. It could be the assessed value that we have on land that's to encourage landowners to not farm everything from fence row to fence row. And one of the things I know South Dakota does, it's permissible for South Dakota and not uncommon for landowners to charge people a daily rate just to hunt on their property for wild birds. I'm not talking about the pay-to-shoot places. We just don't have that mentality here. And I don't know if there's something in the law that could be resolved to change that. I think stocking of pheasants might be helpful as well. As Senator Brewer said, pheasants are not native. They were released and stocked here. Now, I know that habitat conditions are different. The farming was different back then. But we also had a stocking program for turkeys that were actually native to Nebraska. They were mostly wiped out for the state, but the Game and Parks implemented the plan and now we have a fairly good population of turkeys around the state. So I don't know if that should be discounted. Hopefully, Game and Parks will see this as an opportunity and others. And I would encourage the committee to consider and support this bill. I'll answer any questions if anyone has any.

**BOSTELMAN:** Thank you for your testimony. Any questions from committee members? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Mr. Eickholt, for being here. So we've heard about how good Kansas and South Dakota

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

are and you talked about your experience in South Dakota. Do they do stocking in South Dakota?

**SPIKE EICKHOLT:** They do some. What you see in South Dakota, they have a lot of these hunting lodges where it's, like, these mega ranches and mega farms where they are fairly big places. They usually have a lodge where hunters can stay and they regularly release birds to supplement their wild populations. Game and Parks in this state has had a release plan or program a couple of times around Thanksgiving and for the youth hunts. They have an early season youth hunt where kids under 16 can hunt and they've released some pheasants there. Those are released the day or two before the season opens. I would submit-- and maybe somebody can speak to it-- I bet those birds have relatively low survival rate because they're pen raised and they're let go and a matter of, like, 12 or 24 hours later, they're being shot at. But I think you can have a stocking program. I know up in South Dakota in some of these places, they release birds, both hens and roosters, throughout the year at different ages of the birds in an attempt to somehow acclimate them to living wild and supplement the population. I just-- I didn't go up to South Dakota this year. My friends did and they said they saw significantly more birds in South-- than Nebraska had even though they have a-- just like Nebraska, they have experienced a drought this year, which probably had an impact on populations in both states, but they did see more birds up there.

**J. CAVANAUGH:** Follow-up question: so-- and this might be a crazy idea in this context so nobody take it out--what if we didn't hunt them for a year or so? Like, would that--

**SPIKE EICKHOLT:** For-- I don't-- as far as pheasants, I don't think-- I would submit it doesn't have any impact. Hunting does not have any impact on them. First, you only can harvest the roosters and they're easily recognizable from the hens. They're more colorful. They're slightly bigger. They've got a white ring. They're polygamous birds so you only need, say, one rooster. Generally speaking, if you have a successful nest hatched, right, you have equal numbers of hens and roosters. You always have a surplus of roosters that you don't necessarily need to preserve the population the following year. So-- and there's probably biologists who can speak to that. Perhaps-- and I think the last speaker or speaker before mentioned that, that Nebraska season for pheasants starts usually the last weekend of October all the way to the end of January. I don't know how many people bother hunting in January. And if there's going to be a proposal to maybe shorten the season, I would respectfully suggest they not have it all the way to the end of January only because weather conditions are so

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

bad. If you are hunting, you're pressuring all the birds that are there to expose them to the elements. So both hens and roosters that you might flush while you're walking in the area will be exposed to the elements. And I don't know if there will be that much backlash or resistance from the hunting population if the season was to be closed toward the end of it because I don't think, respectfully, many people hunt as much as they do on October and November.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Any other questions? Senator Moser.

**MOSER:** Do you hunt coyotes?

**SPIKE EICKHOLT:** I have tried it a couple of times. I've got a call where you try to call them in and stuff, but I've never done an actual coordinated effort like some people do. And if I see one and if I'm in range, I certainly do that.

**MOSER:** Thank you.

**BOSTELMAN:** Other questions? Seeing none, thank you for your testimony. Next proponent for LB400. Any other proponents? Now, we'll move on to opponents for LB400. Please step forward and start populating the front rows, please, so. Good morning.

**ALICIA HARDIN:** Good morning, Chairman Bostelman, members of the Natural Resources committee. My name is Alicia Hardin, A-l-i-c-i-a H-a-r-d-i-n. I'm the wildlife division administrator for the Nebraska Game and Parks Commission. The commission is opposed to LB400. Our commission understands and appreciates the interest in trying to increase pheasant populations across the state. We also understand the increased interest in managing predators for the benefit of our ground nesting birds, such as pheasants, especially with the lack of a fur market. It should be noted the most important factor for pheasant survival is habitat. Whether it is for nesting, brood rearing, escape or winter cover, these different types of habitats are needed throughout the year. This bill-- other, other factors that also have an impact on our ground nesting birds is weather conditions. Meeting Ideal weather conditions during brood and nesting is very important as well; not too dry, not too cold and wet. This bill focuses on destroying predators, badgers, coyotes, opossums, raccoons, red fox and striped skunks, between March 1 and July 1. There have been a number of studies that have looked at predator removal in relate-- in relation to ground nesting birds over the years. Most conclude that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

predator removal at large landscape levels are rarely successful. They are hard to sustain both monetarily in an effort and often don't account for all the potential predators that are out there. It should also be noted that predators tend to alter their behavior and reproductive strategies to compensate for their reduced numbers. Other studies discuss the imbalance caused by taking only one type of predator. It releases others that aren't being then taken care of by the predators and the whole chain. In short, the dollars spent on habitat would have much longer-lasting impacts than paying for bounties. We have concerns with this program. Although it was not made clear in the bill where the funds will come from to pay for the bounty, if agency cash funds from the sales of permits for hunting and fishing are targeted, it would be considered a diversion of funds and would render the commission ineligible from further participation in the Wildlife and Sport Fish Restoration programs, or WSFR. That would be a loss of \$22.8 million per year for our agency. It would also conflict with State Statutes 37-901 and 37-903 as a diversion of funds. The bill also does not mention the cost of administering this program. Therefore, we have outlined the need for several positions in our fiscal note and would ask for additional appropriations to cover these expenses. Other concerns are the inability to prove that a tail turned in wasn't from a roadkill animal, something we discussed earlier, or saved from a previous harvest. So what is the commission doing about pheasant management? We have recently updated our Berggren Plan, which is our plan-- our pheasant plan. The plan focuses on many aspects of pheasant hunting and also management, including habitat, access, research and hunter recruitment. Since 2017, when we started our first Berggren Plan, we've impacted more than 300,000 acres of pheasant habitat in seven focus areas across the state. In relation to predators, we already have very long seasons that allow for unlimited take of the listed species in this bill. And in the case of the coyote and skunk, they are already allowed to be taken year round. Residents can take coyotes without a fur harvest or small game license, something that actually is required in the bill. In conclusion, we oppose this bill, but we would be happy to work with Senator Brewer and the committee to discuss other options that would also meet the intent of this bill to increase pheasant populations. Thank you.

**BOSTELMAN:** Thank you for your testimony. Questions from committee?  
Senator Slama.

**SLAMA:** Thank you, Chairman Bostelman, and thank you so much for being here. Just a preview of future events, what are some things that you would recommend in your discussions with Senator Brewer, things the Legislature could do to help restore the pheasant population?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**ALICIA HARDIN:** I really kind of like this idea of maybe an incentive for, for people who want to go into CRP. That, that's been-- you know, habitat, again, is our big thing. We've lost, you know, over half of our CRP acres. That's sort of the height of our pheasant boom in the, in the '90s. And a lot of that's because we, we just don't-- the rental rates aren't good enough in some areas and can't compete with some of the row crop farming and, you know, it would-- that might be a nice extra incentive. We also have other incentives that we provide landowners and when we work with them on conservation of their own land. We did ask for an increase in funding for our Berggren Plan in, in our appropriations bill. And the Governor's bill that came out took most of that out. So it would be nice to have that money back to be able to match against all of these federal dollars to help provide more of those incentives and really focus in the areas where we can have the most impact on habitat.

**SLAMA:** Thank you.

**BOSTELMAN:** Other questions? Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Bostelman. Thank you for being here. So I had a question kind of following up on that a little bit. So I'm-- what I'm understanding from what you're saying is sort of the habitat preservation seems to be more effective than, than the bounty hunt per se. Is there a world where there's-- like, both of these things kind of coexist in tandem and that's actually even more effective than strictly habitat preservation? Or can you educate a little bit on that or--

**ALICIA HARDIN:** Sure. Yeah, some of the studies, especially when-- you know, there's, there's been a lot of ground nesting bird studies with predators. Some of them are more waterfowl related. When they looked at some of those waterfowl programs where they had really good habitat, they had a good chunk of habitat, good nesting cover for the birds and in conjunction were able to do some predator management, they did see some increase. But it really takes keeping your foot on the gas all the time on that and that's expensive and really hard for-- and a large landscape to be able to do. But in, you know, in more of those smaller areas, in some cases, they were able to see an increase, so. But habitat first, then some predator management to maybe help in a little way. But again, balance is the key here. You can't take all of one thing and expect it not to impact all the other things that live out there, too.

**FREDRICKSON:** Thank you.

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Natural Resources Committee February 8, 2023

**BOSTELMAN:** Other questions? Senator Moser had to step out, but he talked about habitat stamps. So if you're a landowner, you do not have to buy a habitat-- have a habitat stamp to hunt on your own land.

**ALICIA HARDIN:** That's correct.

**BOSTELMAN:** Off your land, then you do. Every hunter does.

**ALICIA HARDIN:** That's correct.

**BOSTELMAN:** The other thing is the public-- anyone can buy a habitat stamp.

**ALICIA HARDIN:** That's right.

**BOSTELMAN:** You don't have to be a hunter or trapper.

**ALICIA HARDIN:** That's right.

**BOSTELMAN:** And there's also the conservation stamp or opportunity, I think, when you file your taxes.

**ALICIA HARDIN:** Right, the Wildlife Conservation Fund.

**BOSTELMAN:** So there's several areas there that you can contribute to. So I would say the loss of habitat is significant. As I grew up years ago, we would have-- in Superior, we would have people from Texas, Oklahoma, Florida, from all over come and stay in the community and because we had pheasant population. And now there is-- it's just not there anymore. So this is a key issue, I think, that's good to take up. So thank you for your testimony.

**ALICIA HARDIN:** Thank you.

**BOSTELMAN:** No other questions? Thank you. Next proponent-- or opponent, I mean. Sorry. Next opponent to LB400. Good morning.

**DREW LARSEN:** Good morning. My name is Drew Larsen, D-r-e-w L-a-r-s-e-n, and I'm here representing Pheasants Forever and our 60 chapters and approximately 10,000 members and supporters throughout the state. We certainly appreciate the effort to create tools to increase pheasant numbers in the state. And I certainly appreciate Senator Brewer's vision and I share your vision, Senator Brewer, about robust pheasant populations that we had back in the, back in the '70s and '60s. However, you know, science tells us that available habitat and weather are the two main factors that drive pheasant numbers and



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

this bill does not address either of those factors. We currently partner with the Nebraska Game and Parks Commission to assist with habitat improvements on private and public lands throughout the state. And our concern that is proposed-- that the proposed bounty program inadvertently take funds from existing habitat programs that have been proven to increase pheasant numbers. Nebraska already has a robust trapping program and we feel that a bounty program would not remove enough additional predators to make an impact on pheasant numbers. We would prefer to see the funds utilized for landowner incentives for habitat improvement instead of a bounty system. In summary, we know quality habitat works to protect birds during their entire life cycle. Habitat helps, helps birds survive harsh winters, drought, wet springs during nesting and also against nest predators. Unfortunately the places we find the predators listed in LB400 are generally also associated with invasive trees and planted windbreaks. When grassland is converted to cropland or invaded by trees, predators do well and upland game loses nesting habitat. This alone gives the impression that predators are the main culprit. At the end of the day, we still need quality habitat on the landscape to support robust pheasant numbers. We appreciate the opportunity to weigh in and will be open to further discussions to increase pheasant numbers. As currently written, we respectfully decline LB400.

**BOSTELMAN:** Thank you for your testimony. Questions from committee members? Senator Jacobson.

**JACOBSON:** Thank you, Chairman Bostelman. Mr. Larsen, I guess my question would have to do with maybe understanding. I'm a landowner in Clay County. I share the concerns. We've lost pheasant habitat. I remember as a kid being a human dog, helping with the-- with hunters that came in from out of state and we had a robust pheasant population. And that's, that's really dwindled significantly. Clearly, the economics today with \$6 and \$7 corn makes it a little more difficult to put too much into CRP at the rent rates. But I'm curious about these buffer strips, pivot corners, turn roads, that kind of thing. Is that helpful or is that just, as was indicated earlier, perhaps making it easier for the predators when you look at five-acre spots or two acre spots or something along that line? Is that productive? Is that helpful? Are you really needing more vast areas of land in one chunk to make a difference? How do you see that in terms of habitat?

**DREW LARSEN:** That's a great question and a lot of it depends on what's kind of around and available next to the habitat that we're implementing. So a five-acre, five-acre pivot corner in the middle of

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Natural Resources Committee February 8, 2023

Kearney County where I grew up-- around from-- the middle of corn, you know, probably isn't going to do a great deal of good. But if it's next to a wildlife management area of 300 acres, then that could be super valuable in terms--

**JACOBSON:** Thank you.

**DREW LARSEN:** --of pheasant production. So it really depends on where it's at--

**JACOBSON:** Thank you.

**DREW LARSEN:** --and what's in proximity.

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

**DREW LARSEN:** Thank you.

**BOSTELMAN:** Next opponent, please. Good morning.

**LAURA STASTNY:** Good morning. My name is Laura Stastny, L-a-u-r-a S-t-a-s-t-n-y. I am the executive director of Nebraska Wildlife Rehab, a nonprofit organization serving people and wildlife throughout the state of Nebraska. I would first like to speak to the purpose of this bill and some of this is going to repeat what you've already heard. Ring-necked pheasants are not native to Nebraska. They're native to Asia and were introduced here in the late 1800s. For that reason and to a point made in this bill, I would argue that they are not important to the ecology of Nebraska, which was noted in the bill. We do recognize, however, that they are important to our economy and our hunting economy. Because they are not native to Nebraska, they did not evolve in this ecosystem and that just may present them more challenges than some of our other wildlife in surviving naturally on their own. And in that way, they're not really analogous to the wild turkeys that we reintroduced to the state because they are a native species. Studies have shown that predators are not the primary influence on game bird populations, on pheasant populations. The effect on their populations is due to a lack of large, suitable areas of uninterrupted habitat that is not subject to human disruption. And pheasants, in particular, as Alicia noted, are more susceptible to unstable weather patterns. And of course, as we know, if there's one constant in Nebraska weather, it's unstable weather patterns. A 2012 study published in the Journal of Applied Ecology noted that when you're talking about avian ground nests-- this was done on galliformes, so pheasants, quail, etcetera. The control of meso-mammal predators, these mid-level predators in the area, did reduce their

predation on those nests. It did, however, but when you remove those predators, other predators move in to predate the nest. So think, like, snakes, reptiles, birds, etcetera, such that total nest mortality was unaffected. So controlling those predators had no effect on ground nest success. We also know that bounty hunts do not significantly change numbers of these mid-level predators in an ecosystem. This is why bounty hunts of the late 19th and early 20th centuries did not work. They didn't work because these animals have strategies to replace their numbers when facing a bounty hunt or a controlled hunt. What we actually know is that large predators control mid-level predators better than any human can. So although it's controversial, allowing mountain lions and coyotes on our landscape actually controls raccoons and other mid-level predators better than humans can. And also, I'm not going to get into this, but coyotes are actually not a major egg nest predator. And also, bounty hunting and killing contests of coyotes actually doesn't work and there are biological reasons for that that I'd be happy to talk about if you'd like to ask about them. Due to the fact that all three points in the purpose of this bill are not based in fact, we oppose the bill on those grounds. In addition, this bounty season hunt is laid out from March through July. That is the breeding and young rearing season of all of these animals that are targeted in this bill. One of the principles of wildlife management is to allow wildlife to rear their young unmolested in some season. This maintains populations and it's the right thing to do. A bounty during these months will leave thousands of orphaned baby mammals to starve to death in their dens. This is cruel and it's completely unnecessary. As noted before, there's no economic value at this point in pelts. So if there's no value to the pelts, it doesn't have any value to the harvester. It doesn't actually help pheasant nest success and it allows young to draw- to die a drawn-out death. I would propose that a bounty hunt is also immoral. Bounty systems are highly susceptible to fraud. There's no guarantee that people won't collect roadkill or even bring animals in from other states to collect our bounties. Bounty hunts also claim nontargeted species. In Nebraska, this could be the spotted skunk, the swift fox and even birds of prey. Those animals will have young that nest too. Bounty hunts like these are not part of a coordinated wildlife management strategy. We have a dedicated team of biologists at Nebraska Game and Parks who we trust to monitor wildlife populations and set our policies. They already do a good job of taking their commitment to the wildlife and people of Nebraska seriously. And I feel like a bill like this ignores the trust that we have in that agency. I think that senators should allow them to set policy as they see fit when it comes to wildlife management in our state. I

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Natural Resources Committee February 8, 2023

appreciate the chance to be here and talk to you all and I'd be happy to answer any questions that you have.

**BOSTELMAN:** Thank you for your testimony. Senator Jacobson.

**JACOBSON:** Thank you, Chairman Bostelman. You made a comment that you think bounties hunting is immoral. So how do you feel about hunting?

**LAURA STASTNY:** I absolutely have no problem with hunting at all and we are not an anti-hunting organization. We support hunters, especially hunters that are out there for food, sustenance. And in fact, many of our own staff members and volunteers are hunters.

**JACOBSON:** So how do you differentiate bounty hunting and, and game hunting?

**LAURA STASTNY:** Yeah, so specifically, I'm talking about the season here and the season is during animal breeding season. So our regular hunting seasons are set for when there aren't babies that nest.

**JACOBSON:** I get that part. I, I know you've mentioned that it was immoral to do-- I mean, it was-- wasn't humane to do this during the time they're nesting, but--

**LAURA STASTNY:** Correct.

**JACOBSON:** --then you made the statement after that that you felt that bounty hunting was immoral. I just wanted to make sure that I got the context.

**LAURA STASTNY:** In this context, I feel like it's immoral, yeah.

**JACOBSON:** That's what I wondered.

**LAURA STASTNY:** Yeah.

**JACOBSON:** Thank you.

**BOSTELMAN:** Senator Hughes.

**HUGHES:** Yeah. Thank you, Chairman, and thanks for coming in. Do you have any good ideas to try to increase habitat and things like that, something that we haven't--

**LAURA STASTNY:** I'm encouraged by everything that I've actually heard so far. I do believe that incentivizing-- and as a taxpayer, I am very pro my taxpayer dollars going into incentivizing landowners for

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

habitat restoration. One of the issues that we have in Nebraska is we have less public land than a state like South Dakota or Kansas, where the state can dictate what happens on those lands. We have to work with private landowners in our state in order to ensure appropriate habitat.

**HUGHES:** Thank you.

**BOSTELMAN:** Seeing no other questions, thank you for your testimony.

**LAURA STASTNY:** Thank you so much.

**BOSTELMAN:** Next opponent, please. Good morning.

**SCOTT SMATHERS:** Good morning, Chairman Bostelman, members of the committee. My name is Scott Smathers, S-c-o-t-t S-m-a-t-h-e-r-s, and I am the executive director of the Nebraska Sportsmen's Foundation, a 501(c)(3) here in the state of Nebraska with a 13,000-plus membership working on all outdoor resolution issues in hunting, fishing and trapping. Like many before me, we applaud Senator Brewer in his desire to increase the pheasant numbers. I am a lifetime member of Pheasants Forever. I am a former Pheasants Forever employee. Needless to say, I remember those days also. I'll be 59 next month and my fond memories of opening weekend breakfasts, camaraderie and hunting birds. Unfortunately, I wasn't as lucky as sounds like some of these. I was forced to carry the single shot Harrington Richardson with a shell in my pocket my first year as my training, so many birds were left for growth. The reality of this bill and the reason that our membership and our board has decided to oppose it-- it was very difficult decision. We had tremendous amount of debate over this bill because we, we would like to see more pheasants on the landscape, obviously-- all wildlife. However, we take objection to the funding source or lack of naming a funding source. And we repres-- we understand that the half a million dollar would most likely, by the Game and Parks, be either absorbed through other programs' depletion or passed onto sportsmen permits. There comes a limit when sportsmen will stop buying permits at cost and they keep dumping \$5, \$10, \$15, \$25 extras on permits. And the other issue we have is that-- with this bill is that there is no significant language in regards to the framework of the season. It's already-- we already have an established furbearer season and hunting seasons for these species. And as mentioned by the previous testifier, if you are a supporter of the North American Model of Conversation-- Conservation, you are bound to abide by the tenets of not wanton waste. And we feel that during this time of season for the furbearer seasons, the hides are in lackluster condition. You are

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

subjecting to the babies being left to die, which does not promote growth of the species. And so therefore-- and habitat-- you've heard of habitat is a key issue. I've been involved in a lot of habitat work privately on my own ground to a large sum of money that I've spent to control predators, put in habitat, and also public lands through a variety of different organizations I belong to. It is a key requirement. I keep hearing about South Dakota. I've been there many, many times. South Dakota is in, in a transition at this present point with their pheasant hunting. They have a-- close to a \$1 million initiative right now to restore pheasant habitat and winter cover because they've had tremendous loss the last two years in South Dakota due to winter. In fact, Nebraska-born individuals that-- in charge of the South Dakota habitat fund. Brian Bashore is from Milford, Nebraska, and now lives in South Dakota. We speak frequently. It has not had the effect, this program in South Dakota, that everybody thinks it has had. There's a lot of pitfalls. It's one tool. We need to continue the conversation. I encourage Senator Brewer and others. I like Senator Brandt's idea in regards to taxing issues on recreational grounds or improvement grounds for CRP. There's a lot of avenues we can go. Last thing I'll say is that predator control is a difficult conversation for a lot of folks. Again, wanton waste. What do you do with the hides with no market? Like I said, I personally own a tremendous amount of ground that's in Nebraska that I hunt. Senator Brewer would already owe me \$500 for coyotes underneath this bill for this year on my land alone, which is an incentive for taxes. But the numbers continue to grow, as you heard from the previous testifier. They are smart. Coyotes are extremely smart. Raccoons are extremely smart. When you start taking them out, they find ways to avoid the opportunity to be removed. We would welcome the chance to work with anyone, our partners behind us, Senator Brewer, any members of this committee on increasing habitat, pheasants, and the numbers-- and the number of participants. However, this current bill does not generate that direction. Thank you.

**BOSTELMAN:** Thank you for your testimony. Any questions from committee members? Seeing none, thank you for your testimony.

**SCOTT SMATHERS:** Thank you.

**BOSTELMAN:** Next opponent to LB400, please. Good morning.

**JAREL VINDUSKA:** Good morning, Senators. My name's Jarel, Jarel Vinduska. It's J-a-r-e-l. Vinduska is spelled V-i-n-d-u-s-k-a. I've got a farm in Sarpy County, Nebraska and I'm 70-- 72 years old. And in college, my degree was in wildlife management and I remember about the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

first, first day in class in wildlife management courses classes, the one thing they stressed was if the habitat is right, the animals will be there. And that's, that's the issue why I am against this bill is because, you know, I started pheasant hunting in the early '60s when I was a young teenager. And I have many fond memories of it because it was nice to always be guaranteed to see lots of birds. But the reality is that-- and the reason I'm against this-- is I hate government waste of money. And it's just unrealistic to think that, that on a statewide basis, you can remove predators in, in areas-- in vast areas of the state, which is probably 95 percent of the state in which the habitat just isn't there. So there wouldn't be pheasants there anyway. So what point is there in killing, killing animals that aren't the limiting factor? You know, you know, the saying that a chain is only as strong as its weakest link, well, that's the, that's the same thing as in, in wildlife management or wildlife populations. If the habitat isn't there and it's just not there, the animals just aren't going to be there. And I'm not suggesting that predator-- nest predators don't have an impact on all ground nesting birds, including endangered species like the piping plover and least tern. In those instances, it can be devastating. But my point is that if you're going to use the kind of money resources we're talking about, you need to focus in specific areas where the habitat is there and where they're-- where you have a chance of making a difference. So basically, you know, if you, if you want-- well, it's just like in Lancaster County here. When the settlers first came here, they used to kill prairie chickens by the wagon loads. Market hunters would just send them to town, you know? And why aren't there prairie chickens here now? Because there isn't prairie anymore. The only remaining ones are over by-- what is it-- the Spring Creek Prairie over by Denton, there's a small population because there's a big, there's a big prairie tract there. And the only way you're going to bring pheasants back the way they were in the '50s and '60s and '70s is if we farmed like we did back then. So if you really, really want to blame something for getting rid of pheasants, it's, it's Roundup and Roundup-ready crops in those years. You know, now there's no weeds and there's-- and because there's no forbs, you don't have the insects anymore that used to inhabit those weeds. When you'd hunt back then, the whole cornfield would be habitat. There'd be weeds in amongst the corn stalks. So a pheasant can have the whole field, the whole landscape to go around and he could avoid predators and he, and he could pick up grain everywhere. But no pheasants nowadays is going to walk out in the middle of a 160-acre bare ground with just a few stalks sticking up. He can only work the edges. So my point is it's just, it's just a waste of money and that money should be put toward habitat improvement

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

or, or, or predator control in specific zones where it, where it can do some good. But like I say, I can give you an example. On our farm, it's, it's prime turkey habitat and the surrounding farms are prime habitat. And about eight years ago, I could go out in the winter when they were bunched up in the best areas and, and be over 800 birds out and about in the field. Well eight years ago, the coyotes were infested with mange, dying like crazy. The raccoons and skunks had distemper. They died off like crazy. And the birds were thick then and now, now we're down to-- now the raccoons are healthy and all the other-- no distemper. And, and well, I'll make a long story short, but now we're down to about 100 and-- 100 to 120 birds. But, but the-- so that's the only thing that's changed. But sure, I can control the predators on my land, but eventually those diseases are going to come back and those predators are going to die off. And then the bird population will start going up again because the habitat is right. But if the habitat wasn't there, there wouldn't have been that many birds to begin with. So anyway, happy to-- any questions.

**BOSTELMAN:** OK. Thank you for your testimony. Questions from committee members? Seeing none, thank you for coming in this morning.

**JAREL VINDUSKA:** Thank you.

**BOSTELMAN:** Next opponent, please. Good morning.

**SCOTT LICKTEIG:** Good morning, Senators. Thank you. My name is Scott Lickteig, S-c-o-t-t L-i-c-k-t-e-i-g. Our farm in Nemaha County is entirely in CRP in an effort to increase population of wildlife; furbearers, deer and game birds. I am an outdoorsman. I am a hunter, fisherman and trapper for nearly 50 years. All these hobbies work together to make me a wildlife conservationist. LB400 is not the means to increase the pheasant population from a management perspective. The proposed bounty on furbearers during the primary nesting season of pheasants is contrary to the birthing season of furbearers. The offset of the depredation of furbearer mothers in an effort to reduce the nest raiding of pheasants is not equitable and does not ensure an increase in the pheasant population. Trapping and hunting seasons, as established by Nebraska Game and Parks, have been carefully determined to allow for the wise management of furbearers and other game animals. These seasons create rational means for the harvesting of furbearers during times when females are not having litters and when the fur is prime, meaning the value is-- of the fur is optimal. Paying the bounty during the already established seasons could help to offset the poor fur mark-- for-- poor fur prices and have increased participation. In my many years of fur trapping, this is the worst market we have ever



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

had. There is no scientific proof that these later bounty seasons will increase the pheasant populations. It will create a waste of the fur resource in the state. There are currently designated wildlife management areas established within the state. If LB400 is passed and a bounty on nest raiders is approved, these wildlife management areas should be the focus of the bounty harvest rather than having open access throughout the entire state. Unfortunately, there is a very realistic possibility that the bounties claimed will not come from the areas that even have pheasants or the possibility of a nesting area. As outlined in LB400, this proposal would have a massive financial impact on the Game and Parks Commission for a total of \$500,000 annually. How will the commission pay for this program? The costs would need to be absorbed as a budget line item, creating the necessity to eliminate positions within the commission, reduce other programs or pass the costs along to all permit holders. My final point would be the limited areas available for harvest during this time of year. With fieldwork starting for the planting season, the most accessible area for trapping these targeted predators will be road ditches. The legality of trapping in road ditches is determined by each county. It is a very real possibility of creating poor public perception of the program when the public drives by and sees animals sitting in traps in road ditches or hanging from a fence, all for the purpose of securing a bounty. Neither fur harvesters nor the Game and Parks Commission need this sort of media attention. Current farming practices have eliminated a large number of grass waterways and fence lines that were prime nesting areas for pheasants and other game. Without much habitat, no reduction in predators will create an increase in the pheasant numbers. Thank you for your time and your opportunity.

**BOSTELMAN:** Thank you for your testimony. Are there questions from committee members? Seeing none, thank you for coming in this morning.

**SCOTT LICKTEIG:** Thank you.

**BOSTELMAN:** Next opponent, please.

**KATIE TORPY:** Good morning.

**BOSTELMAN:** Good morning.

**KATIE TORPY:** My name is Katie Torpy, here today representing the Nature Conservancy. K-a-t-i-e T-o-r-p-y. We support a science-based approach to wildlife management. As many have, have identified here today, nest predators are not the driving source of low pheasant

populations. Land use change is far and away the biggest cause of reduced pheasant population. The increased fragmentation of our grasslands and the related increase in woody encroachment such as eastern red cedar leads to more woody habitat for the meso-predators and to smaller parcels of habitat for the pheasant. This means those predators have smaller grassland patches to search through for nests and birds. High annual losses of pheasants to predators should not be misconstrued to mean that predation is the driver when the cause of those predator numbers are equally driven by habitat structural change. We support the existing furbearer seasons established by the Nebraska Game and Parks Commission. Were this legislation to move forward, we would request that program operation be limited within the existing season. Further, we would request that any version of this legislation omit inclusion of coyotes. Suppression of the species, as others have described, is, is an especially fraught practice with cascading consequences known and unknown. Coyote suppression has been shown to have impacts on the populations of many other species. As just one example, one research project showed that coyote population reductions had a negative impact on the diversity of small mammals, but increased jackrabbit numbers significantly, which then competed with livestock for forage. Thankfully, well-designed habitat projects can reduce predation by up to 80 percent. The most immediate means by which to improve pheasant population would be simply to allocate more resources to cost-share programs that support habitat improvements on private land. Thank you.

**BOSTELMAN:** Thank you for your testimony. Any questions from committee members? Seeing none, thank you for coming in. Next opponent for LB400, please step forward.

**AL DAVIS:** Good morning, Senator Bostelman and members of the Natural Resources Committee. My name is Al Davis, A-l D-a-v-i-s, here to testify as a registered lobbyist for the Nebraska Chapter of the Sierra Club. I think everything has been pretty well said by people behind me so I'm just going to talk a little bit about some anecdotal observations that I've made. I've been around a long enough time that I, I do have some knowledge about the birds. So the first comment I want to make is maybe surprising to everyone in this room, but we did have a large number of pheasants in the Sandhills in the '70s and when I was a kid. Now, that's not grain country at all, but there were significant flocks of pheasants. We had a terrifically bad winter in '78-79. Probably many of you heard about the infamous year of '78-79. And after that, the pheasants were gone. That winter just took them out and they were never able to rebuild their numbers. So there are a few little isolated spots around Hyannis where there's-- down by

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Natural Resources Committee February 8, 2023

lakes-- lake bottoms where there's a few number-- a few pheasants. But I do think weather has a huge-- plays a huge part in this and obviously, that's out of our control. So you've heard a lot of references to habitat and we know how farming has changed significantly. We've lost all the, all the fence rows, all the trees that used to be there. And then one other change that's, that's taken place is, you know, farming equipment is so much more efficient than it used to be so it picks up all the grain that's there. So there's not as much forage out there for them to eat and not as much grain. We have to fix the habitat problem. If we're going to do anything here, I think that's the solution that we need to go. The last point I'm going to make, as has been said earlier, but when you eliminate predators on the top, you end up with more animals below that are not consumed. And so mice and rat-- and rats are one example of that that are consumed by coyotes and other creatures. So if we have a bounty program like this one, we're going to see more and more mice and rats and those animals also are egg eaters. So I just think this is a well-intentioned bill, but not a solution. Habitat is the solution. Anyway, appreciate your time. Thank you.

**BOSTELMAN:** Thank you. Any questions from committee? Seeing none, thank you for your testimony. Any other opponents, please step forward.

**JOHN HANSEN:** Mr. Chairman, members of the committee, good morning. 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. I-- our farm is in Madison County. Our area of northeast Nebraska was featured on the NBC program that Curt Gowdy did years ago. It was my great-uncle's farm. It was a huge operation. TV crews coming out into rural Nebraska was a big deal in the early '60s, but we had the pheasants and we had the peasants because we had the habitat. And we had not only soil banks, but we had a lot of tree lines. We had a lot of, of the the plantings that came in with the, with the shelterbelts of the '30s. We also had weeds. And I would tell you that as I was the, the human dog, Senator Jacobson, and as we were picking corn and doing those things, it was my job to entertain all of the friends that we had. It's amazing how many friends you can have when you have a lot of pheasants and that-- it was my job to help escort these folks around and do those things. But you could get toward the end of walking the cornfield where you have folks on the end that are the blockers and hopefully the better shots. And then you have the folks on the wings and then you have the folks in the middle. I was in the middle, but you could get amazingly close to the end of a lot of cornfields in those days and you couldn't see whether or not you still had pheasants on the ground running ahead of you or not. And so all of a sudden, there was a lot of excitement at

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

the end of the walk. These days with the herbicides that we have, when you look down to the end of the, of the cornfield, you can see everybody because the ground is bare because we've done a really good job of killing off all the weeds thanks to our herbicide programs. So we do a lot of things on our farm to try to help facilitate habitat and I would say that it works. We have probably as good a hunting as anybody in our part of the neighborhood, a little better than most. But this issue of how do we go about trying to stimulate populations is one that I looked at when I was on the Lower Elkhorn NRD Board. And so I was one of the early supporters of a program that we developed in that district, the Lands for Wildlife program, where we really aggressively tried to look at every piece of sort of rough or odd property that we could that had some habitat potential where we could pay landowners an incentive to be able to plant grasses and, and feed sources in those areas so that-- and give them an additional higher fee if they would allow public hunting. I think it was successful. It was successful enough that Game and Parks picked it up. So if, if the state of Nebraska is going to get serious, in our view, about trying to grow pheasant populations, we have to get serious about growing habitat. And I, I would support this bill if I thought it would work, but I don't think it is going to work. I'd take-- if I were doing it and looking at a list of predators, I'd take coyotes off and I'd put feral cats on it. Feral cats have killed a lot more birds in my neighborhood than coyotes do when you look at nesting pressure. The feral cats are just amazing hunters and they're very, very good at finding nests for both eggs and young birds. So as we look at the, at the list of options of things that our state can do, if we're going to really get serious on a statewide basis, in our view, we need to work with landowners and help incent them in order to provide more habitat. And with that, I'll be glad to answer any questions.

**BOSTELMAN:** Thank you.

**JOHN HANSEN:** I can't imagine at this point in the hearing you'd have any. Thank you.

**BOSTELMAN:** Any questions? Seeing none, thank you for coming in.

**JOHN HANSEN:** Thank you.

**BOSTELMAN:** Next opponent, please. Good morning.

**JOEL SARTORE:** Good morning. My name is Joel Sartore, J-o-e-l S-a-r-t-o-r-e. I appreciate the committee meeting on this bill. I speak in opposition to it for a number of reasons, but we own-- my

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Natural Resources Committee February 8, 2023

family owns farm and ranchland around the state, including we partner with the Wilson family out near Lakeside in Senator Brewer's district. And I, I appreciate his fond memories of growing up with Husker football on the radio and pheasant hunting. I did that myself with my father starting in the late '60s just, just to tag along and then we pretty much had wrapped it up by the '90s because we could see that there were no more pheasants to hunt. Well, the reason was my father worked for Lilly, a division called Elanco, which made, you know, pharmaceuticals for the agricultural industry. And it timed out just perfectly with the insecticides that are super good at eliminating insects. All birds feed their chicks insects. Without insects, you can have no young birds. Most people don't realize that, but insects are super important. Having these big blocks of habitat without any pesticides to kill the insects these birds must have to feed their chicks is a big deal. Big blocks of habitat with no chemical spraying, that is huge. I don't have much to say other than a couple just short pieces. I worked on-- I've worked on many stories for National Geographic over the years and the tendency when I've done natural resources stories or natural history stories is to blame the predator. Sea lions were, were blamed for the death of the salmon in the Pacific Northwest. But it's complicated, all the way from logging in the top of the watershed to, to netting, to netting out in the oceans to industrial runoff out in the oceans. You know, it's not really the sea lions. They may be a little-bitty symptom, but they're not the major thing. You know, blaming the predator is, is very typical, let's say, in endangered species work, where you-- I have sat in on meetings where a big committee of people, biologists mainly, are trying to decide where to release black-footed ferrets into a prairie dog town. We were specifically talking about one place in Montana, the guy with animal damage control from the federal government, whose job it is to eliminate coyotes, he says, kill them all. We got a great strategy for killing them all around this town. Whereas the coyote biologist who got his Ph.D. in coyote behavior, he says, actually coyotes are super territorial. They're, they're howling every night to determine whether there are other coyotes around. Their whole mission in life is to spread. He said, if you kill them, they're very, they're very dominant. The male and female, the alpha male and female, they're very dominant. They keep other coyotes away. You're going to have one family of coyotes there. You kill coyotes, especially the alphas, you're going to have every coyote from the neighborhood swarming that area you're trying to protect so hard. And they didn't listen to that guy and they introduced black-footed ferrets and they were all eaten by other things. So it's super important to follow the science. Certainly, there was a lot of good science presented today. And I,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

too, am a-- I'm, I'm in favor of the hunting tradition, of course, but it's got to be done in a smart way. And just for lower-- as Senator Brandt mentioned, perhaps lowering the tax basis on, on land to be used for conservation or leisure is a great place to start. And also mowing at the right time in state ditches, mowing on state grounds when ground nesting birds aren't trying to pull off nests would be a big deal, just delaying that mowing until they can fledge their young. Those would be big things. But I thank you for your time and I won't belabor anybody else's points.

**BOSTELMAN:** Thank you for your testimony.

**JOEL SARTORE:** Yes.

**BOSTELMAN:** Any questions?

**JOEL SARTORE:** Thank you very much.

**BOSTELMAN:** Thank you. Any other opponents? Any other opponents wish to speak? Seeing none, anyone like to testify in a neutral capacity on LB400? Good morning.

**BILL HAWKINS:** Good morning, Senator Bostleman and members of the Natural Resources Committee. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. I'm a lifelong Nebraskan and I grew up pheasant hunting. Pheasant hunting taught me gun safety. The early morning opening day of not being able to sleep the night before anticipating going out into nature and hunting pheasants. My dad was a road hunter. He grew up road hunting and it took me forever to get him to walk fields. No, Dad, I have permission to hunt in this field now. We can get out and hunt it. But his favorite parts of hunting were big, giant piles of dead timber where the roosters were standing around. That, in reality, was the loss of-- beginning of the loss of habitat. Those roosters had no other place to go. On a snowy blizzard day and walking to the end of a draw, a grassy draw, and coming up to the snow prints of the wings and tail of a rooster pheasant taking off and that's all you saw. That was worth that walk out in the field. We are losing that. Our youth are not learning to go out in nature. Not everybody believes in hunting, but it gets you interested in nature. It taught me to track. It taught me responsibility with guns and weapons. Property owning; when you open a gate, you shut a gate. You get permission from the property owner and you get to know those people. It's a community thing. I'm coming in here at a neutral position because I lost a good dog to trapping a long time ago. My other dogs kind of tore him apart trying to get him out of a trap. So I have some

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Natural Resources Committee February 8, 2023

reservation about putting out 50,000 traps out in the state. So I would highly recommend if we're going to do that, that we get good signage, we get good education. I appreciate Senator Brewer bringing this bill as a pheasant reestablishment act. We need to reestablish pheasants. We've had testimony pro and against this bill, a lot of science. And what we've heard is, number one, pheasants aren't natural to Nebraska. They were-- started releasing in the 1800s. That didn't work. Many times, it took many releases to establish pheasants. As the grain crops increased, the pheasant habit increased. I live out by Branched Oak Lake, north of town. I've lived out there for most of my life. At times during the '90s-- I hunt by myself with a dog and I would come up with flocks of hundreds of pheasants, hundreds of pheasants. Towards the end of the '90s, early 2000, my friend, my buddy, Jamie [PHONETIC], moved back. He was from Sidney, Nebraska, grew up a pheasant hunter, was highly successful in business and he came back, settled around back-- Branched Oak and had hundreds of acres of farmland. He kept track of his pheasants and he would take 50 roosters a year or more. He was a hunter. He was cut short through pancreatic cancer and passed away. But after he died, we had a huge winter, wiped out all the pheasants. I keep hearing about habitat, habitat. I live in habitat. There is habitat all over Branched Oak, but there is not one rooster pheasant and one hen pheasant per square mile anywhere around there. The Game and Parks throws out these rooster pheasants the day before a pheasant hunting and I come across my own hunt more because there's no pheasants. But you can almost watch it walk up and touch those birds. Senator Brandt had the best ideas that we have and I highly recommend this committee amend Senator Brewer's bill, work with these other people. We have to release pheasants. We have the habitat in a lot of areas, but without additional birds, we cannot have what South Dakota has. So the incentive with-- I'll finish my thought-- is that Senator Brandt, an incentive for pollinator habitat plants and giving them a tax incentive would really help. This would be a multimillion-dollar benefit for this state to be like South Dakota. So thank you for your time.

**BOSTELMAN:** Thank you. Thank you for your testimony. Any questions? Seeing none, thank you for coming in today--

**BILL HAWKINS:** Thank you.

**BOSTELMAN:** --and for your testimony. Anyone else like to testify in a neutral capacity? If you are going to testify yet, would you please move up to the front seat so we can continue moving? Good morning.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**MICHAEL RYAN:** Good morning. Michael Ryan, M-i-c-h-a-e-l R-y-a-n. I'm handing out a little document showing the faces of pheasants and predators. I think we need to summarize things as a whole. I've been to-- I've done a little research on pheasants. I grew pheasants since the age of seven. My dad was a farmer, is a farmer, and I've grown pheasants these last two years. You can buy pheasants for 50 cents apiece and you can raise them. It's a great opportunity for anyone in the state of Nebraska to learn how to respect wildlife and to put forth hunting. Hunting is a great, great, great thing, but so is conservation. Please look at these pictures while I'm speaking with you. I attended seven Pheasants Forever meetings, Pheasants Forever meetings across the country. And each one of them I went to, I've asked the president or the local state-- local chapter director if anyone was raising pheasants. Not a single one of these chapters of Pheasants Forever was raising pheasants. That seems counterintuitive to me. Pheasants are easy to raise. Pheasants are easy to raise if you know what you're doing and you have the education and the resources. It's just a matter of doing it. One solution that I see is not just shooting coyotes, but also starting in each county, you could have-- each county in Nebraska could have a central distribution site of eggs. Eggs are really simple to have and you could distribute them to each of the, each of the high schools. They could be making pheasants, releasing them. That's one way to save money. I also talked to the president of Pheasants Forever. And again, he told me our business model is not releasing pheasants. Our business model is making money. And from seeing these Pheasants Forever meetings, it's just guys getting together, paying \$100 for a ticket and trying to walk away with a free gun. Yes, there's a little bit of camaraderie, but it's also they're making money. I've spoken with Nebraska Game and Parks Department and asked them if they were willing to have pheasants or to start a pheasant program. This was during a period when I was trying to write a grant for the Nebraska Environmental Trust. The Nebraska Game and Parks Department had no interest in doing pheasants because they just seem to find ways to explain the situation away. And I don't think that's right. I easily see that we could grow the pheasant population. Pheasants, pheasants really enjoy wooded areas. Pheasants roost in cottonwood trees. There's all kinds of shelterbelts. There's all kinds of naturally forming trees within agricultural land that could be utilized for these pheasant rehabilitation areas. LB400 does not address the entirety of what could be done. But I think we should applaud Mr. Brewer to bring it to our attention. I have tried for the last five years to get pheasants more popularized and more-- just to catch on in Nebraska. Like, it needs to be a fad again. Like, the youth need to respect and see these birds. And there's so many



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

learning opportunities that come from handling a gun, from walking outside, from being with other guys and drinking coffee and cooking a pheasant on a fry pan. Like, the state of Nebraska could be doing so much more if we just started small, take small steps with pheasants. One idea that I had for the bounty program is we shouldn't be letting just anybody go out and shoot these pheasants-- shoot the coyotes. There are-- I thought maybe the National Guard. You should have, you should, you should have soldiers or employees with National Guard who have PTSD or, or anyone with the National Guard to go out there and shoot these pheasants; (a) you're giving people something to do that's constructive. And it's not just a matter of these drunken fools on weekends to go out there in four-by-fours and blast away at 30 coyotes. I have seen that firsthand. There's a right way and a wrong way to eliminate a pest and there's a right way and a wrong way to grow something that has implications for the economy of Nebraska. One other solution that we're talking about was buffer strips. All the land in Nebraska, most of the land has pivots so it's a round corner. So it's all marked out in squares. So on the outside corners, there's opportunity to plant different crops. We currently have six Pheasants Forever corners on our land. We have about 80 acres of natural prairie grasses: switchgrass, Indian grass, you name it. I've seen pheasants. They can survive in Nebraska. You just got to give them an opportunity and you've got to give them food. Milo, sorghum-- I think on those corners, if we planted more sorghum, that would be a great thing. County roads-- county owns a road up to 30 feet. If we just plant milo right next to roads, you would have a lot more pheasants, just like they do in South Dakota. Thank you.

**BOSTELMAN:** Thank you for your testimony. Any questions? Seeing none, thank you for your testimony. Anyone else like to testify in the neutral capacity on LB400? Anyone else like to testify in neutral capacity? With that, I invite Senator Brewer up. For the record, there are-- we did receive 8 proponent and 11 opponent letters.

**BREWER:** All right, thank you, Mr. Chairman. Where do I begin? First off, Senator Brandt, I think you do have a good idea. Understand that when you write one of these bills, the bigger and the more complicated you make it, the more impossible it becomes to pass. So what I was trying to do is figure out a way of just moving toward right without trying to do it in one bill. It has been revealing. And in that part of it, I guess I'm a little disappointed in the fact that Game and Parks had plenty of opportunity to come in and speak to me. Show me these studies that they have. They never did it. Neither did Pheasants Forever. So I will look forward to getting those. But I just sent a text to my LA to say add me to Erdman's bill to move Game and Parks to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

Sidney because if their purpose was to piss me off, they've managed to do it because that ain't right. Come in and talk about these things. Figure out how to get to a solution. Don't ambush people in a hearing. I'll have that conversation one on one with Tim McCoy when this is over. But back to the point at hand here, I don't have a problem with moving that time period that we hunt the predators. I agree. We, we shift that. That's an amendment. That isn't an ambush on the bill. Getting youth involved, that's one of the things that I've, I've tried to stress through this bill. And part of what I wanted to do out of this. There are plenty of naysayers that came in here. The fact that they're going to say, well, if you use any of our money from our general funds, then we lose millions of federal dollars. Could be. That's why I said we may have to look at taking this money out of our General Fund from the Legislature. Again, that should not be the reason that we don't do it because of a, a, a issue that Game and Parks has with where that money comes from. Is it the right thing to do? There will be a point where it's a loss for Game and Parks. If there's nobody that can find a pheasant, they're not going to be buying pheasant license, OK? So, you know, they'll, they'll fix the problems themselves if they continue to drive this thing in the ground. Now, the last testifier was very revealing because I have, from a distance, looked at Pheasants Forever and what the-- what their mission in life is and where they release pheasants. So I'm going to look a lot closer in the future. But if Game and Parks is not releasing pheasants except just before a youth hunt or something like that and nobody else is out releasing pheasants and we continue to have the predator props-- I texted the rancher who originally approached me with this and said, hey, how many coyotes have you killed? And he said, since the first freeze on the 16th day of October, I've killed 127 coyotes. Now you can tell me that coyotes don't eat pheasants. First off, I think you're full of it. I think they eat plenty of pheasants just as coons and everything else does. And if there are spots in Senator Slama's district where you can shine a light at night and find 20 sets of eyes, I guarantee you those coons are never going to let a pheasant live anywhere near there. So you can say what you want about hunting predators, but that's still a part of it. Now, are there other pieces we can put together to make this thing work? You betcha there is. And I'm open to it. But as we make this more and more complicated, if we want to give tax breaks to landowners, holy cow, you open up a whole new can of worms there. So let's, let's not forget that we could amend this, have a limited solution that gets us closer to, again, having pheasants somewhere in Nebraska without totally scrubbing the whole thing. And I will look

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

forward to the studies from those who said that they have them. That is all I have for my closing subject to your questions.

**BOSTELMAN:** Thank you, Senator Brewer. Are there questions from committee members? Seeing none, thank you for bringing LB400. Give you a break and then we'll start on LB450 in a couple of minutes.

[BREAK]

**BOSTELMAN:** OK, now we'll begin with the opening on LB450. Welcome, Senator Brewer.

**BREWER:** Thank you, Chairman Bostelman and good afternoon, fellow Senators. Sorry, it ain't quite afternoon yet. Good morning. Fellow senators of the Natural Resources Committee, I'm Senator Tom Brewer. For the record, that's T-o-m B-r-e-w-e-r and I represent 11 counties, the 43rd Legislative District of western Nebraska. I'm here today to introduce LB450. I'm introducing this bill on behalf of my constituents that asked for it. This will be a short introduction because quite frankly, it's a very short bill. It only reads one sentence. The sentence is this ban-- this bill bans wind turbine blade landfills in Nebraska. We, we're blessed here to have the fresh best water in the world, I feel, and I need you-- just for a moment, imagine if you filtered that water of the aqua-- of the Ogallala Aquifer down through thousands of tons of chopped up fiberglass, epoxy resin, different industrial toxic adhesives. This is what industrial wind blades are made of and just one of these blades can be up to 50 tons. So the idea that we would bury them here in Nebraska-- and so everyone understands, where this came from was a year ago, we got pictures from a mound of wind blades that had come out of Colorado that were being stacked south of Sidney, Nebraska. And some of the landowners had contacted me and say, hey, can they bury them here? And we came to find out that there was no rules against it so that's what generated this bill. What happened with wind energy is they took off about 2010, and it went, I guess, what you call wild. For a while, there was a lot of wind towers put up. But what also comes with that is the life of the blades 10, 15 years. And that life is now coming full cycle. Some of the other places where it took off sooner, like Colorado, they're already in the lifespan of those blades and they're being replaced. So in trying to research this, what we did find out is that Wyoming actually takes the blades. They have the ability to use their mines, coal mines, I think is the primary one, and they use them as a backfill into those mines. And so there are options of places you can take the blades. The issue with this bill is that you simply do

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

not bury them here in Nebraska. With that, I will be open to take questions.

**BOSTELMAN:** Questions from committee members? Senator Hughes.

**HUGHES:** Thank you, Chairman. Thank you. Senator Brewer. Do other states-- I mean, clearly, Wyoming is not preventing it. Have other states done something like this as well?

**BREWER:** Yes. I can't roll off all the states. I know that what they have tried to do in other places is figure out ways of cutting them up and then using components. They've had kind of limited success with that. So, you know, it is a constant because they are so big and take up so much space. What, what do you do with them? And it's part of the whole decommissioning of anything that has to do with wind energy.

**HUGHES:** Thank you.

**BOSTELMAN:** Other questions? Senator Jacobson.

**JACOBSON:** Thank you, Mr. Chairman. Senator Brewer, I, I apologize for being out for a part of your open so if I ask a redundant question, forgive me, but what, what are these blades made out of?

**BREWER:** Well, I'll run back over that. They're-- of course, fiberglass is the main component. There is a little bit of metal, but primarily it's a-- it is epoxy risen-- resin that's in them And yeah, that's, that's the major components of them.

**JACOBSON:** Well, I think-- I mean, you and I, I think, share the concern about I'm still scratching my head on this whole wind energy push. And if it weren't for the tax credits, we'd probably do away with the problem of having to dispose of them because there wouldn't be any put up.

**BREWER:** Amen.

**JACOBSON:** And so I share your concern on the disposal. And obviously, when you're looking at restrictions on other types of materials that can be dumped into landfills, that is-- this is another thing that we really don't want to be seeing out there, causing another problem down the road in addition to the one we had when they were up and working. So, so at any rate, thanks for bringing the-- for bringing--

**BREWER:** And keep in mind the-- like I always said, the, the-- part of the reason why is the calls from landowners that saw the blades being

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

stacked. Of course, these are Colorado blades. So the fear is that we may end up not a product that's from the wind towers built in Nebraska, but from other places. And in Wyoming, they can go down to either a rock base or a clay base with rock under it to put things where it basically holds it, where ours is an aquifer where it drains through.

**JACOBSON:** Exactly. No that-- and that's my concern is I don't want to see anything additional out there that's going to create a contamination issue. And, you know, I guess maybe you can increase the tax credit enough to pay for the disposal as well.

**BOSTELMAN:** Other questions? Seeing none. Stay for closing?

**BREWER:** I'm staying.

**BOSTELMAN:** Thank you. Any proponent for LB450, please step forward.

**BILL HAWKINS:** Good morning, Chairman or Chairman Bostelman and members of the Natural Resources Committee. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s. As I stated before, I'm a lifelong Nebraska resident. I live on one of the highest hills just north of Lincoln by Branched Oak Lake. I've lived there most of my life. I am about as big a environmentalist as there is. I've worn out four teepees in my life. I've chosen to live here in the state of Nebraska doing living history for kids. I live outside and as I stated, I live on one of the highest hills out here in the-- so I have 360-degree view of the great state of Nebraska. And as an environmentalist for a long, long time, it would be surprising to find that I am opposed to giant wind farms in the state of Nebraska that ship power to another state and destroy our way of life. If a local community wants to have a sustainable energy source with a, a group of solar panels and a windmill farm, that's great. The citizens decide that. But to cover our Sandhills with windmills that aren't green because we have this disposal problem of the blades, toxic blades, we have a tremendous amount of energy that it takes to drive those windmills. And then at the end, we leave a chunk of concrete in the ground that is 80 cement truckloads. So we never talk about conservation. If somebody comes in opposition to this bill of taking other states' used giant blades to bury in our state, it's like the-- out at Mead where we took all the toxic seed corn. We cannot be the dumping ground for the nation. So I appreciate Senator Brewer addressing this issue. We need to really look at a sustainable energy source that benefits Nebraskans and not some foreign, foreign company or another state. I really believe in the great state of Nebraska or I wouldn't still be here. But if I have my 360-degree view

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

destroyed by a massive wind farm, I'm not going to be very happy and it's going to ruin my way of life. I think we need to conserve more energy in our country rather than subsidize, as Senator Jacobson pointed out, this wind industry that claims to be green. And so, as I am the only proponent of this and I assume the people behind me are opponents and I can't see how anybody from even the Sierra Club or anywhere else would come and be opposed to banning burying toxic wind blades in our great state. And so I would appreciate this committee supporting this bill of Senator Brewer's and other bills that he brings back to address a sustainable energy source for Nebraska. So I thank you for your time and I'm happy to take any questions.

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

**BILL HAWKINS:** Thank you and have a good day.

**BOSTELMAN:** Thank you. Other proponents for LB450, please step forward. Any proponents? Seeing none, anyone, anyone like to testify in opposition to LB450, please step forward.

**AL DAVIS:** Good morning, again--

**BOSTELMAN:** Good morning.

**AL DAVIS:** --Senator Bostelman, members of the Natural Resources Committee. My name is Al Davis, A-l D-a-v-i-s, and I am the registered lobbyist for the 3,000 members of the Nebraska Chapter of the Sierra Club here today in opposition to LB450. As always, we appreciate the structure of the Nebraska Unicameral, which gives every bill a hearing and allows us to share our thoughts and opinions with each of you and our fellow Nebraskans. And as you might expect, the Nebraska Chapter of the Sierra Club opposes this bill. LB450 is a solution in search of a problem. Currently, no turbine blades are being placed in landfills, according to the fiscal note supplied on the legislative website. But the statement of intent implies that dangerous chemicals coming from these blades will leach through the landfill liners and contaminate the water table if they are placed within the landfill. This is a very speculative claim. The turbine industry is a legal industry. It contributes millions of dollars in taxes to counties and school districts across Nebraska, employs dozens of Nebraskans, has placed millions of dollars of disposable income in the hands of farmers and ranchers and has provided cheap energy-- sorry, I've lost my place-- and contributed to reduced electric rates across the state. Turbines contribute to the grid by providing cheap energy and have been quite

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

useful when conventional systems fail, as happened recently in Omaha when an ice jam on the Missouri shut down a coal plant for a time. In addition, the wind turbine industry has contributed significantly to efforts to reduce climate change. There are very few industries which contribute less to the degradation of our natural resources than the turbine industry, which is misunderstood on multiple levels. The Legislature has many important issues to address and this is not one of them and the bill should be killed. Thank you.

**BOSTELMAN:** Thank you. Mr. Davis. Any questions from the committee members? Seeing none, thank you.

**RICHARD LOMBARDI:** Good morning.

**BOSTELMAN:** Good morning.

**RICHARD LOMBARDI:** Chairman, members of the Natural Resources Committee, my name is Richard Lombardi. I'm the registered lobbyist for a group called the Advanced Power Alliance. We're a regional trade association of developers, financiers, builders, operators of wind, solar and battery technologies. Our footprint is the Great Plains and we-- on the back of my statement here are a list of the companies of who make up the membership of the organization I'm testifying on behalf. Quite simply, LB450 proposes to make an activity of commerce illegal. If you're doing business in the state, we all utilize solid waste and--

**BOSTELMAN:** Mr. Lombardi, sorry, could you spell your name, please?

**RICHARD LOMBARDI:** Oh, I'm sorry, Senator. Richard Lombardi, R-i-c-h-a-r-d, Lombardi, L-o-m-b-a-r-d-i. The wind energy industry is based upon conservation of resources and it has been one of the huge success stories in this state. And the rapid growth of it, the robust nature of this, just, just kind of ticking off just a couple of stats: wind solar battery development, it's a \$6 billion investment in the state. Over 2,500 people employed in very high and good-paying jobs. We save 2 billion gallons of water. We provide a fixed cost resource which guarantees the fact that rates will stay considerably lower from that resource. Thirty percent of the electricity generating these lights, probably a little more because we're in Lincoln, comes from renewable energy. I have included here solid waste is a huge issue, no doubt about it. And if you take a look at the chart I gave you, this puts this issue in context with the solid waste that, that everybody has to wrestle with, with landfills. And as you can see, we're talking about a really insignificant amount from a volume standpoint. Now,

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

having said this, the clean wind-- and there's 8,000 parts in a wind turbine. Ninety percent of those are currently recycled. And the issue that we're talking about today has been a vexing one because these turbine blades are built with, with polymers, as, as Senator Brewer has indicated, fiberglass. These are not toxic elements. I mean, you dispose of fiberglass already in your landfills. Now, having said this, our industry doesn't get satisfied until we have developed a solution for all of it. And that's why I have accompanied this with-- you with two companies that are doing work in this area; one's in Oklahoma and one's in Tennessee. And this is a very exciting thing that is, is developing and that a lot of technological-- two different companies. Interestingly enough, the company in Tennessee is using pyrolysis, which I think this committee has heard about in the, in the, in-- with regard to the Hallam plant with regard to hydrogen production. But it's a intense fire breakdown in an oxygen-devoid environment. And the other one has, has some construction aspects of how they, how they do that. Anyhow, those are two, two sheets on things that are going on that I suspect will have a tremendous impact to increase the amount of recycling. But at the end of the day, this bill strictly makes a legal commerce activity illegal and therefore, our industry opposes it.

**BOSTELMAN:** Thank you for your testimony. Any questions?

**RICHARD LOMBARDI:** Thank you, Senator.

**BOSTELMAN:** Senator Hughes.

**HUGHES:** Thank you, Chairman Bostelman. Thanks for coming in.

**RICHARD LOMBARDI:** Sure, Senator.

**HUGHES:** I have two questions. One-- well, one, I think this bill just says we can't bury them in landfills. It wouldn't-- I don't think how it's read would stop someone from coming and doing recycling of them. But my bigger question is, why do the blades only last 20 years? What-- can you just walk me through the process of what-- why we have to decommission them, to me, so soon after they've gone up.

**RICHARD LOMBARDI:** Right, the, the numbers go from 20 to 30 years.

**HUGHES:** OK.

**RICHARD LOMBARDI:** They're-- I think there's a couple of aspects. One, most recently, there's been some new designs. There's a lot of repowering going on within the industry. So there's, there's new



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

designs that are more efficient, that are with some of the designs of the polymers and, and that. They, they are-- they get pelted pretty bad. I mean, it's-- I've seen some of the, some of the blades after, after a lot of, a lot of use. So I-- just that it's a, it's very intense converting kinetic to mechanical energy and those blades undergo everything that the elements have on it, so.

**HUGHES:** OK. Thank you.

**RICHARD LOMBARDI:** Yeah. [INAUDIBLE].

**HUGHES:** Nope.

**BOSTELMAN:** OK. Senator Jacobson.

**JACOBSON:** Thank you, Chairman Bostelman. You indicate that, that this-- we cannot restrict this going into landfills, but yet we restrict other products from going into landfills today. So why would this be illegal to restrict, but yet tires and batteries can be legal to restrict?

**RICHARD LOMBARDI:** Right.

**JACOBSON:** What, what's that-- what's your rationale on that?

**RICHARD LOMBARDI:** Well, I'm just-- I'm suggesting that a product that is made out of the same products that a turbine blade is, is, is being treated differently than a turbine blade would be.

**JACOBSON:** So every-- everything that's made up in that--

**RICHARD LOMBARDI:** The fiberglass.

**JACOBSON:** --the polymers and your, and, and it's--

**RICHARD LOMBARDI:** Drywall. You know, I mean, it's just different construction waste. But having said that, obviously we have an industry that is totally committed to the environment and, and I think progress is being made. And I wanted to give you a couple of examples on the recycling side. But at the end of the day, this is a, this is a bill that basically takes a, a-- an activity of commerce that's, that is, is essential and says that you're not allowed to have access to it.

**JACOBSON:** And it's, it's, it's-- what's essential about this?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**RICHARD LOMBARDI:** Well, I think that, that everybody has a solid waste disposal. We have laws to govern that and that this proposal specifically looks at our particular industry and seeks to treat it differently than other products.

**JACOBSON:** I do have one other question. I hear about how this is renewable and how green it is and how important it is to our industry. But when you start looking at the cost to build them, the cost to transport them, the cost to maintain them, the oil that gets spilled that-- keeping them lubricated and all of this, if you took away the tax credits, how many of these would be built?

**RICHARD LOMBARDI:** You know, what's kind of spurious about these arguments on tax credits is that every energy source, the coal-fired plants, the nuclear plants, every energy source has a level of subsidy to it.

**JACOBSON:** That wasn't my question. I want to know how many of these would be built without tax credits.

**RICHARD LOMBARDI:** Well, I think that-- I don't know. I don't know.

**JACOBSON:** Would zero be a pretty good number?

**RICHARD LOMBARDI:** No. I don't think so.

**JACOBSON:** Would it be close?

**RICHARD LOMBARDI:** No, no. I think that, that there are a lot of folks that have had to make decisions in the business [INAUDIBLE] on renewable energy and have found it to be a valuable investment. And I think that it's-- you know, in the last COVID, in the last three years, wind has grown in the state by 30 percent. Solar, it's grown by 50 percent. People are going to find this--

**JACOBSON:** I understand that. And I don't want to get off topic--

**RICHARD LOMBARDI:** Yeah.

**JACOBSON:** --here either--

**RICHARD LOMBARDI:** OK.

**JACOBSON:** --but, but obviously, there's reasons it's growing and I think tax credits is the biggest reason for it. And so I'm just looking at when you start looking at cost of producing energy, wind is

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

one of the highest cost increase-- cost to produce wind energy today, fossil fuels or actually water-- hydrogen or hydro is the cheapest. And, and obviously when we're using the fossil fuels today, it is very inexpensive and the costs have actually gone up. But I-, I'm just-- we're-- I'm off topic on that, but I just-- I continue to look at that.

**RICHARD LOMBARDI:** I'd be happy to provide the factual, but--

**JACOBSON:** I've got the facts. I can--

**RICHARD LOMBARDI:** Yeah. OK.

**JACOBSON:** --I can look at yours as well, but thank you.

**RICHARD LOMBARDI:** Thank you.

**BOSTELMAN:** So I believe what Senator Brewer is talking about here is, is what they're seeing of blades coming in from other states being on people's land and then potentially going into landfills. Your comment is ninety-some percent of those are recycled.

**RICHARD LOMBARDI:** Ninety-- nine-- ninety percent of the, of the 8,000 parts that make up a wind turbine are currently recycled and repurposed.

**BOSTELMAN:** Can be recycled, right?

**RICHARD LOMBARDI:** Yes.

**BOSTELMAN:** So I-- in Butler County, we have Butler County landfill. And earlier a couple of years ago, they attempted to receive and bring in turbine blades to the landfill. The landfill right now is meeting capacity. The landfill right now is taking waste from a large area of multiple states, which is part of the process they're going through-- if they're going to seek a new permit or not. But where I'm going with this is they attempted to do turbine blades and what happened was-- is it broke their equipment. They put it into their crusher and it just shattered their equipment. So they, they're, they're like, this isn't good. We don't have the space in the landfill. I think maybe what Senator Brewer was saying is these take up a large area. So I guess if these blades can be recycled or parts can be recycled and we have problems with our landfills receiving them because they're- because they have limited space and we want to-- that space they're trying to, you know, keep for some of the other household needs that we did-- that we have because it is difficult to open up new landfills. I'm,

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Natural Resources Committee February 8, 2023

I'm not sure why-- that his bill wouldn't be appropriate in the sense that just trying to save that space and if we can recycle them, then I don't see where the issue would be.

**RICHARD LOMBARDI:** I think that each landfill, as I understand too, Senator, is that they could decide what they can put in there and what they can't, that that's a decision at that juncture. I don't know. It's a bunch of different scenarios. When I take a look at the companies that are, are developing the solution to recycling, they, they seem to be-- having wrestled with that exact point that you talked to this company out of Oklahoma, I think, has developed a next iteration of how to deal with that. There may be a need in the future for temporary or there also may be a business opportunity with landfills and these new technologies to, to, to process and utilize in the central location of Nebraska and its transportation advantages. And being in the heart of the, the wind, the wind belt, there may be opportunities here in the future. But I just-- I, I wanted to share with you, I think, kind of the progress of the, of the recycling side here.

**BOSTELMAN:** So, so it's a-- it's in infancy so we do have a large number of turbine blades coming in from other states. And when we have another state next door, Wyoming specifically, that will take them and putting them, putting them into a-- into their mines that they have that does have the either bedrock or clay formations underneath there where they will take them and they've got room to put them in, I guess it kind of seems to make a little sense that we encourage that in a sense-- in a way.

**RICHARD LOMBARDI:** One of the things I've noticed about this industry is that the market really drives it. And I think that the-- that, that that's what we're seeing as we see the development of the recycling, but making specific-- targeting a specific industry and saying that your solid waste is prohibited from coming in here, I just don't think that's a particularly positive policy.

**BOSTELMAN:** I appreciate your testimony and I think Senator Jacobson kind of made the point that we already have a lot of products that we don't allow in landfills specifically for certain reasons. But I thank you for your testimony.

**RICHARD LOMBARDI:** Thank you, Senators.

**BOSTELMAN:** Any other comments or questions? Seeing none, thank you.

**RICHARD LOMBARDI:** Thanks.

**BOSTELMAN:** Next opponent, please. Still good morning.

**JOHN HANSEN:** It's still good morning, just barely. Chairman Bostelman, members of the committee, again, for the record, my name is John Hansen, J-o-h-n Hansen, H-a-n-s-e-n, and I'm the president of Nebraska Farmers Union. This topic, I think Rich Lombardi did a good job of saying that it was a bit of a vexing challenge because the, the wind industry does want to make the case that they are a-- very green and, and they, they work hard at being able to repurpose and reuse and recycle the rest of the components. But obviously, the, the blades are a large item. They're also made of balsa wood along with other things. And so as you look at these blades, what do we do with them? We need a, we need, I think, a better solution. What I would suggest is that the committee take a look at doing a, a study of this issue. Our organization has been involved in, in development of renewable energy because it is value added and it does bring new and additional tax base and revenue to agriculture and rural communities. But our state, despite our, our urging and our efforts, has not been competitive relative to going after a lot of the good manufacturing jobs that are tied to this industry. So we don't have a wind turbine manufacturing plant here. We don't have wind turbine plants. We don't have a lot of the component parts in our state that other states do because they've strategically gone after those businesses. And that in addition to the two states that have businesses that are working on this issue, Missouri also has a facility that is in this process. And the thought struck me is that we're going to have a lot of blades coming on down the road in 15 or 20 years. Maybe if Nebraska can't be at the forefront of creating manufacturing jobs for building them, maybe we could try to recruit businesses that successfully repurpose them and recycle them. So I think there is a business opportunity here that I think would make some good sense for our state to do. And we support the wind industry and the solar industry. From our perspective, we are harvesting our sunshine and our wind resources in an economically and environmentally responsible way. And we're-- yes, we're using tax incentives to do that. And yes, we're also doing tax incentives called the oil depletion allowance, even though the oil industry is a mature industry. And those things that we used at the beginning in order to help incent that industry are still in place. And of all of the incentives-- and we've looked at incentives from that standpoint, Senator Jacobson, and the biggest single subsidy that exists in the energy world today, in our view, is the unaccounted for costs of carbon emissions. And they are not accounted for in the cost equation. And oil and coal are, are producing carbon emissions that are having

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

very substantial impacts on our climate and our weather. And our state is now receiving, unfortunately, the, the brunt and the impact of those kinds of events. We're having more and more intensity, size and frequency of extreme weather events. And NOAA has been putting that data out there for some time and we've been highlighting that data. So there is a good purpose for having this industry in our state and I really do hope we find a better solution for the blades than burying them.

**BOSTELMAN:** OK.

**JOHN HANSEN:** Thank you.

**BOSTELMAN:** Thank you for your testimony. Senator Hughes.

**HUGHES:** Thank you, Chairman. Thanks for coming, Mr. Hansen. So this bill says specifically we don't want them buried in Nebraska. We don't want to become a dumping ground for all the blades in Iowa when they decommission, bring them down. And you are saying, what if we would focus on-- since we're not going to build them here-- we haven't jumped onto that bandwagon-- let's jump onto the bandwagon of decommissioning them, shredding them, whatever. Wouldn't this bill encourage that? Because we're not going to let them be buried, the whole thing buried underground, but that would help lend to let's be more creative and shred them up like I've heard can be done, things like that.

**JOHN HANSEN:** Yeah, I--

**HUGHES:** Because the easy thing to do, right, would be just to bury them. Like, don't do anything with them. Dump them in the ground.

**JOHN HANSEN:** Well, I, I-- as of right now, given the technology that we have, I think that that's, that's certainly--

**HUGHES:** Right.

**JOHN HANSEN:** --one, one of the options. And you know, the-- our organization has had a longstanding and complicated relationship with the-- what we consider not-so-dormant portion of the dormant commerce clause and so-- as we've tried to do certain things at the state level that, that, that have run into the commerce clause. And I'm-- so the, the issue of the out-of-state blades coming into our state, it would be an interesting question to ask the Attorney General whether or not we could in fact differentiate between out-of-state blades and in-state blades. I suspect that the dormant commerce clause would cause us problems relative to that differentiation, which from a

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

public policy standpoint, we would support. We like the idea of every, every state being more or less responsible for cleaning up their own messes.

**HUGHES:** Thank you.

**BOSTELMAN:** Any other questions? It is interesting when you talk about recycling. I actually had a bill and all the opponents that came to oppose this bill opposed my bill and it was about recycling the turbine blades and the turbines, all of it, and taking the concrete out of the ground. Because we did a study in all the surrounding states and at the time, you made money when you, when-- it depend upon what state you were in, if you recycled-- decommissioned that turbine and recycled it, we had showed that those companies actually made a profit off of that. And that bill, when I had it-- I don't remember the bill number-- but that was strongly opposed. So, you know, I think Senator Brewer has got a, an arguable point here with what are we going to do with turbine blades or turbine parts? Because I've tried to, to look at that decommissioning and recycling. And I-- our study did show that you could do that, but then it was opposed significantly. So with that, thank you for your testimony.

**JOHN HANSEN:** Oh, thank you and thank you to the committee.

**BOSTELMAN:** Any other opponents to LB450? Anyone like to testify in the neutral capacity? With that, Senator Brewer, you're welcome to close.

**BREWER:** All right, we'll cut through some of the chatter here on those that testified. First off, a study is simply a way of moving this to the right so it doesn't happen. So don't let that one fool you. And then I want you to just take a deep breath for a moment and think about this. You had the Sierra Club come up here and tell you it's a good idea to bury wind turbine blades in Nebraska. I'm sorry. I don't care how you twist that. There is something fundamentally wrong with that. If the Sierra Club is truly doing what their mission statement is-- and I would gladly read to you if you want it. And then they want to come up here and testify in favor of burying wind blades. I don't even know what else to say. It's, it's like Pheasants Forever not wanting to put any pheasants out in the wild. That's how insane it is. Now, the usual three musketeers that come any time there's a wind bill have been here. And, and, you know, we can talk about wind blades and the life of them. The thing that you need to remember is we've got hundreds of wind towers in Nebraska and a lot of them have been there for quite a while. Their life is going to be up pretty soon. Or in some cases, they already are. And when we went out to Wyoming and you

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

talked to the recycle folks, they said that the blades can range, range from from 5 years to 15 years in a normal life. So to think that 20 and 30, I think, is stretching the limits. Now, do they get banged up? They do. They get banged up from hitting the eagles. They get banged up from hitting hawks and all these birds that are out there and nobody wants to talk about it because wind is great and it's wonderful for the environment. So when it comes down to the bottom line, what you guys need to decide is do we want to bury thousands of tons of chopped up wind turbine blades in Nebraska with our aquifer or not? That's simply what the bill does. It's not complicated. And if you can take the fact that these guys are paid guns by the wind companies to come in and tell you how bad idea is to do that and use that as a reason not to, then, then that's where you are. But common sense and I think logic people in Nebraska are going to say this is not something we should do. Thank you, Mr. Chairman.

**BOSTELMAN:** Are there questions from committee? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. I apologize, Senator Brewer. I was introducing another bill. You just made me think of one thing. So I-- and I missed the intro. Are there leaching chemicals in wind turbine blades that we're worried about getting into the aquifer?

**BREWER:** Well, I would assume that anything that is made of mixed up chemicals can then change back into the-- its original state if it, if it sits in an environment where it's exposed to moisture and, and decay. So I would imagine there, there's going to be all kinds of things that come out of them. I have not-- I don't know what that would be other than the fact that, you know, you've got the known things that are in a wind blade.

**J. CAVANAUGH:** Well, we don't need to rehash now. I was just-- it made me think of that, so I'll ask other folks afterwards so I don't have to drag, drag this out for everybody. But I appreciate the bill and I'll think about it. Maybe I'll ask you later.

**BOSTELMAN:** Senator Slama.

**SLAMA:** Thank you, Mr. Chairman. Just to follow up on Senator Cavanaugh's question, to confirm, there are chemicals like epoxy, plastics included in these wind turbine blades that when buried, would leach into the soil. So that's just what the composition of the windmill blades are and stands to reason that same leaching would occur. That's all.



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**BOSTELMAN:** Would you be-- you mentioned that there was a, I think, an article in the paper or pictures of what you saw. Was it in Scottsbluff for that? Could you--

**BREWER:** Sidney.

**BOSTELMAN:** Sidney. Could you provide the committee with those--

**BREWER:** Sure.

**BOSTELMAN:** --at some point? OK. With that, there's no other questions. That will close our hearing on LB450. Thank you, everyone, for coming today.

[BREAK]

**BOSTELMAN:** All right, good afternoon, everyone. Welcome to the Natural Resources Committee. Just to remind everyone, this is not our usual hearing room. So if you're here for the hearing, other than Natural Resources, you're probably going to be either across hall or down the hall. This is for Natural Resources Committee hearings this afternoon. I am Senator Bruce Bostelman from Brainard, representing District 23rd-- 23, and I serve as Chair of the committee. The committee will take up the bills in the order posted. This public hearing today is your opportunity to be a part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifiers sheets that are on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify, but would like to indicate your position on a bill, there are also white sign-in sheets back on the table. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally, anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer, if they wish to give one. We will be using a five-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining, and the red light indicates you will need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

come and go during the hearing. This is-- this has nothing to do with the importance of the bills being heard. It is just part of the process, as senators have-- may have bills to introduce in other committees. Final-- few final items to facilitate today's hearings. If you have handouts or copies of your testimony, please bring up at least ten copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may cause for you-- may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committee, committees states that written position letters to be introduced or included in the record must be submitted by noon, the last business day before the scheduled hearing on that particular bill. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. You may submit a written letter for the record or testify in person at the hearing. Not both. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. I will now have the committee members with us today introduce themselves, starting on my far right.

**JACOBSON:** Thank you, Chairman Bostelman. Good afternoon. My name is Mike Jacobson, representing District 42. I represent Hooker, Thomas, McPherson, Logan, Lincoln and three quarters of Perkins County.

**BRANDT:** I'm Senator Tom Brandt, District 32: Fillmore, Thayer, Jefferson, Saline and southwestern Lancaster Counties.

**HUGHES:** Jana Hughes, District 24: Seward, York, Polk and a little bit of Butler County.

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

**MOSER:** Mike Moser, District 22. It's Platte County and most of Stanton County.

**BOSTELMAN:** On my far left.

**FREDRICKSON:** John Fredrickson, District 20: central-west Omaha.

**SLAMA:** Julie Slama, District 1: Otoe, Nemaha, Pawnee, Richardson and Johnson Counties.

**BOSTELMAN:** Senator Moser also serves as Vice Chair of the committee. Also assisting the committee today, to my left, is our legal counsel, Cyndi Lamm. And to my far left is our committee clerk, Laurie

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

Vollertsen. Our pages for this afternoon are Trent Kadavy and Landon Sunde. Thank you both for being here this afternoon. With that, we'll begin today's hearing with LB292.

**MARGARET BUCK:** Good afternoon, Senators.

**BOSTELMAN:** Good afternoon. Thank you for being here and introducing for Senator Cavanaugh.

**MARGARET BUCK:** I am. Senator Bostelman and members of the Natural Resources Committee, I'm the legislative aide to Senator Machaela Cavanaugh, who represents District 6 in west-central Omaha. My name is Margaret Buck, M-a-r-g-a-r-e-e-t B-u-c-k, I'm here to introduce LB292 because, as many of you, she has multiple commitments in other committees. LB292 proposes to prohibit the use of eminent domain in the Lower Platte River Lake Development area. For those of you who were not in that debate last year and the year before, I'll briefly mention the bills that [INAUDIBLE] all of this. The Statewide Tourism and Recreational Water Access and Resource Sustainability or STAR WARS Special Committee of the Legislature was created by LB406 in 2021. In 2022, LB1023 authorized several projects recommended by the STAR WARS Committee. One of these projects is called the Lower Platte River Lake Development Project. The purpose of this project is to construct a combined reservoir and lake within the floodplain of the Platte River. The statement of intent for LB1023 stated that the lake will be a 4,000 acre lake that will provide unprecedented new development and recreational opportunities, as well as enhancing flood control and water quality in the area. The bill authorizes the Department of Natural Resources to administer the Lower Platte River Lake Development Project. During that debate, former Senator Mike Hilgers repeatedly stated that there would be no use of eminent domain in the development project. Landowners from that area, near the Platte River around Ashland, were calling senators' offices, wanting assurances that they would not be forced off their family land. So Senator Cavanaugh talked with Senator Hilgers and filed an amendment to the bill in debate to prohibit the use of eminent domain. But time ran out and debate on the bill ended before the pending amendment was considered. The use of eminent domain has been a contentious issue since the beginning of our country and remains contentious today, especially when the purpose is for developers to build million dollar homes and displace current family farms. Senator Cavanaugh urges you to protect those families in that area and prohibit the use of eminent domain. That's all I got.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**BOSTELMAN:** Thank you for the opening. Appreciate it. As it's a staff member that does, we do not ask questions and there will not be a closing. So with that, I would ask anyone who would like to be-- testify as a proponent for LB292 to please step forward. Any proponent, someone in support? Good afternoon and welcome.

**MELISSA KEIERLEBER:** Thank you. Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. I'm Melissa Keierleber, M-e-l-i-s-s-a K-e-i-e-r-l-e-b-e-r. I'm here representing my family that has been farming near Gretna for almost 100 years, and we will be severely impacted by the state's desire to build a recreational lake. My family's farming operation has been under the threat of eminent domain two other times, and when you are farming in bottom ground, the price you receive is neither just nor fair. I am here today to testify in support of LB292. I agree there should be-- there should not be eminent domain in what is now called the JEDI bill. I believe this bill needs to come out of committee to allow the legislative body a chance to vote on whether or not eminent domain can be used to potentially grab thousands of privately owned acres for a recreational lake. Now, last session, former Speaker Hilgers stated many times over that his desire is that any land acquisitions would not use eminent domain but would use arm's length transactions. And by definition, an arm's length transaction is a business deal in which buyers and sellers act independently without one party influencing the other. However, right off, the state has undue pressure. They have the ability to use eminent domain. Take our price. We don't want to use eminent domain, but we will if we have to. If we take a look back at where this project started with LB406, it started in the wake of the 2019 floods. The stated intent of LB406 was to come up with 3 to 5 potential flood control infrastructure projects along the river basin of the Platte. LB406 passed and the state was given \$2 million that HDR won the bid to use. However, once LB1023 came up last session, it had four recreational projects in it, and the biggest was a sand pit lake that aims to remove almost 200 million cubic yards of dirt that is 30 feet deep, over 4,000 acres. LB1023 still states the primary purpose is flood control. However, we were unable to see the results of that HDR study showing exactly how much flood control. Additionally, everyone in the state was told, even after a map of the site was released, that they still had no idea where the lake would actually be. So after the passage of LB1023, the state was given another \$20 million and then the HDR study was released. What did it show? It did not show any alternate sites. It shows a singular location right outside of Gretna, our family's farm. It also shows essentially no flood control. The study states that there is a less

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

than 5 percent flood control benefit. However, John Engel of HDR stated to a group of landowners that it was really less than 1 percent. The objective is to use the sandpit lake as off-channel storage. This is an exceptionally bad idea as it will allow toxic water, garbage, dead animals and sand to fill the lake. It will be a continual money pit for the state to clean up. There are 21 other sites that are mentioned in the study as reservoirs that do achieve a much greater measure of flood control and water sustainability and wouldn't potentially mess with MUD and Lincoln water. They wouldn't have to move thousands of acres of dirt. But none of these sites are being pursued for this project. Why? Those sites also wouldn't have half of the problems that this site has: an interstate, high-voltage power lines, drainage ditches. There's also a highway, railroad and transcontinental fiber optic cable that run right through the middle of it. Just to mention a few. I think this project is far from its original goal of flood control. But more important than that, it is having the state doing the bidding of private corporations and developers that want to grab this site because they want to make money off of it. And the state now sees it as jobs and economic development, not to mention a perpetual incoming stream of tax revenue for the state. Now, I believe the purpose of government is to protect its citizens from entities larger than the individual, whether that be another country, large corporation, or even the state itself. If the state is going to be in the business of building recreational lakes, then it also needs to protect citizens from government overreach. If the state is going to be run like a business, like former Governor Ricketts regularly states, then businesses don't have the use of eminent domain to grab land that they want to use for private development. I greatly appreciate your time here today, and I would be happy to answer any questions that you have.

**BOSTELMAN:** Thank you for your testimony. Are there questions from committee members? Senator Jacobson.

**JACOBSON:** Thank you, Senator Bostelman. I guess my, my biggest concern, I sat through the debate on this project and I heard that that certainly was a preference of Senator Hilgers. But I don't think I ever heard any guarantees that eminent domain would not be used. And I would just tell you from a practical matter, I'm a landowner, a farm landowner. I get the concern with eminent domain. I have concerns if it were being imposed upon me, I wouldn't like it either. But I think from a practical standpoint, you could find willing sellers all around. But if you got two or three pieces that are left and you can't get the sellers to agree, and this is a huge project that has a public benefit, which this would have, I don't know how you get it done

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

without eminent domain. I think there could be, as I understand it, there was an interest in paying a premium price to get the land that might be necessary for this project. I just fundamentally have concerns that we can't just go out and pick and choose eminent domain. So how would you-- how would we do this as it relates to other projects if we carved this one out? How, how would we be consistent in the future?

**MELISSA KEIERLEBER:** Well, I don't think my aim necessarily is to, like, look at other locations. I think that's probably the state. But they should probably be places that achieve the goal that they were looking at for flood control, which this definitely doesn't. But I think in our county that we can see like Facebook came in and they, they had a lot of acres that they were going after and they knocked on doors and wrote checks. And if people didn't want to sell, they had to go around them. And I think they've gotten a lot of that since then. But there's been large corporations here that have successfully gotten large chunks of land without the use of eminent domain or using the state to do the bidding for them.

**JACOBSON:** So you're thinking a project this size could all be done with-- without use of eminent domain?

**MELISSA KEIERLEBER:** Facebook successfully did it. I think there's also places that are--

**JACOBSON:** Well, they didn't buy-- they didn't get this big a site though, did they? I mean, isn't this a much bigger site?

**MELISSA KEIERLEBER:** Well, there are places that the state could have looked at that the state owns as well.

**JACOBSON:** And I'm just saying-- I'm just asking more as a matter of eminent domain use, is that I'm just concerned that how would this be separate than anything else that might be done with the eminent domain? That's where my concerns would come. And it just seems, as are you have other solutions then?

**MELISSA KEIERLEBER:** I think the bill is very specific to just this project.

**JACOBSON:** I get that. Well, thank you. I appreciate that. I think you've told me what I needed to know. Thank you.

**BOSTELMAN:** Senator Brandt.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**BRANDT:** Thank you, Chairman Bostelman. Thank you for your testimony. So how many acres of your farm would be affected by this?

**MELISSA KEIERLEBER:** We're just a little bit north of 600 acres.

**BRANDT:** And I'm a farmer also, and I think it's just inherent in a farmer that we just don't like people telling us what to do.

**HUGHES:** Taking the land.

**BRANDT:** Yeah, yeah, they're taking the land. But I, I kind of agree with what you said. I mean, as opposed to the eminent domain, what-- as long as they paid you too much, you would probably be open minded to trading land or, or, or, or something like that, would you not? Or-- I mean, you're just absolutely a hard no?

**MELISSA KEIERLEBER:** I would not say that, like, we're a hard no. But we know what eminent domain is. Like I said, we've experienced it twice before. And when you're in the bottom ground, that price, it isn't based upon what this site would potentially be. And we can't change what our land is, is valued as. To say it's like development of land or something, which is what they're going to do to it. So in the bottom ground, where it's in a floodway, they get to take it for, you know, pennies on the dollar, so to speak.

**BRANDT:** And I agree with you, they shouldn't be able to do that.

**MELISSA KEIERLEBER:** Yes.

**BRANDT:** OK? And they have every right to come in and pay way too much for it. This is how I look at the world.

**MELISSA KEIERLEBER:** Right.

**BRANDT:** And usually they use this right of eminent domain and hang it over that seller's head because they don't want to do that. But I mean, that option is always out there, too. So thank you for your testimony.

**BOSTELMAN:** Other questions from committee members?

**MOSER:** I've got one here.

**BOSTELMAN:** Senator Moser.

**MOSER:** Have you heard any indication that the state plans to use eminent domain to buy this land?

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**MELISSA KEIERLEBER:** Yes. Senator McDonnell stood in front of a, a meeting room of about probably 75 people and said that he wasn't going to B.S. us, he was willing to use eminent domain for this. So that was our first--

**MOSER:** This is lately or--

**MELISSA KEIERLEBER:** That was right when this came out for-- when we first found out about it. We didn't find out about it from the state.

**MOSER:** Before Hilgers said that it wasn't going to use eminent domain?

**MELISSA KEIERLEBER:** This was at the, the introduction of LB1023. This was actually after, I think, the-- the first meeting was after it passed. So yeah, that would be after it passed, I would say.

**MOSER:** Thank you.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you for being here. You mentioned that you-- your-- this same land has been under threat of eminent domain before. Has eminent domain been used--

**MELISSA KEIERLEBER:** Eminent domain has been used against our family, yes.

**J. CAVANAUGH:** And do-- what were those, do you know what the projects were?

**MELISSA KEIERLEBER:** Well, the one that's closest to us is right in between the rivers. It's right in between the Elkhorn and the Platte. And it wasn't extremely profitable, you know, farm ground because it's-- it has-- there's a lot of sand there because it's been flooded. And so my grandfather was looking to sell those acres to somebody who wanted to use it for hunting and, you know, recreating, so to speak. And as soon as he put it up for sale, the state stepped in and said that they wanted to protect sturgeon and piping plovers. I think like killdeer, things of that nature. And so even though it was assessed at double what they gave them and the person that was looking to purchase it was going to pay even more than that, the state paid half of what it was assessed at. So it's again, when you're in a floodplain-- and then it's that land has been flooded obviously several times. And the purpose that they used it for, they, they dug some channels through there. And they dug it out once I believe, and now this last time they just left it as is. So the thing that they're, they were intent for



using it for, the sturgeon to pass through, it's not even being used for.

**J. CAVANAUGH:** And what was-- you said two times. Was there a second?

**MELISSA KEIERLEBER:** The second was the Oahe Dam up in South Dakota. So that was a reservoir that was-- they were putting a dam in for the Missouri. And it's yet again another instance of we've experienced flooding along the Missouri. Everyone in Nebraska knows about, about that. And they keep too much water in the reservoirs, and then I think they had a successful class action lawsuit saying you guys have held too much water in these dams for recreating. And so they don't-- they still don't use them for necessarily the purpose that they're supposed to be used for when it's recreation is attached to it.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Other questions? Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Bostelman. Thank you for being here and for testifying. So one of the things that you talked about, and if you're not the person to answer this, maybe let me know. But you spoke about the flood control benefit specifically. And so can you kind of in-- and what I'm reading here is you say that only 5 percent flood control benefit. Was your understanding of what was the project intended to do more than that or what's your--

**MELISSA KEIERLEBER:** Well, I think originally when this was discussed, Senator Clements spoke with me that Senator Bostelman and himself were very concerned about them damming the Platte because Senator McDonnell was talking about that in the wake of the 2019 floods. So it was added to their that there will be no damming of the Platte. So it's going to be a reservoir that would sit to the side, essentially, of the Elkhorn and Platte River. And if you know anything about the lakes down there, the lakes essentially sit at the same level as the, as the rivers do. And so the amount of, of storage that there would be would be like the difference between the top of the lake and, like, surface tension, there wouldn't be much. So when HDR did the study, they show a graph of a potential of a singular lake system or a dual-lake system and then what happened in 2019. And if you look at the graphs, that would be the proportion where it's less than 1 percent. They literally sit on top of each other. There is no difference. It would be-- a flooding, when it happens down there, it happens because of ice, ice jamming. And where the levees break, it breaks, and water will pour in wherever it wants to, to go in. And there will no longer be land there

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Natural Resources Committee February 8, 2023

to stop it, so it will cut through there and then cut out somewhere on the south side, unless they talked about putting, I think, gates to open on the south. And so it doesn't really do much--

**FREDRICKSON:** Right.

**MELISSA KEIERLEBER:** --by their own admission.

**FREDRICKSON:** Yeah. Thank you.

**MELISSA KEIERLEBER:** Yeah.

**BOSTELMAN:** Seeing no other questions, thank you for being here today. Thank you for your testimony.

**MELISSA KEIERLEBER:** Thank you.

**BOSTELMAN:** Next proponent for LB292.

**JAREL VINDUSKA:** My-- hi, Senators. My name is Jarel Vinduska, J-a-r-e-l, Vinduska is V-i-n-d-u-s-k-a. I would like to thank Senator Cavanaugh for bringing this bill forward. Our farm is not in this project area, it's downstream in the Platte Valley a ways. But the reason I came here today is I feel like if anybody's property rights are trampled upon, we all have the chance of losing someday. And it's just not right. And to have that in our country, I mean, eminent domain has been used, abused way too often. I mean, it was, you know, you know, what it was originally meant for, was highways and things that we wouldn't have as a, as a society unless we had that ability. But when you transfer over to recreation so that somebody can, you know, build fancy houses around it, that, that should never be allowed. And but to answer your question, Senator Jacobson, you know, how would, how would you, how would you do this? Well, as far as I'm concerned, the way it's being proposed is just incredibly stupid and costly. Just think how much, even at today's land prices, how much is going to be spent just for the study of this lake? You know, I know you appropriated, what was it, \$20 million? And then but part of that is for a couple other projects, but even maybe \$10 million is going to be studying it, and maybe more by the time you're done. I don't know what the exact figure. But even at today's land prices, just think how much land-- a pretty good chunk of land you could buy for \$10 million or more. And then what, what you could do is lease it out to a gravel pumper. And instead of costing money to pump the-- to get the reservoir, you're getting paid royalties for the gravel. Because did you ever stop and think, like, I'm an excavator and maybe you people can't picture this, but on 4,000 acres, if you peel out 30 feet, you

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

could build a ski resort in Nebraska. That's such an immense amount of material. It's just mind boggling how much you'd have to move and the cost of that. Whereas like I say, like I say, if you pumped out a place, got paid for the gravel royalties, and sure, it would take more time to get done, but you would be making money for the state instead of spending it. And then, and then by the time you pumped out one spot, surely there would be some other willing seller. You know, people are getting older, they're retiring and, and if you paid a fair price, they'd sell it. So you move that one and you just keep moving, working your way up the valley and you'll have a nice lake. And as far as in-- wut what, what annoys me the most is where they, you know, they try to pretend eminent domain is justified for flood control. This is just the opposite of flood control. Since the, since the lake will match the river-- level of the river, there's no storage area as a result of that. And actually you, like the previous testifier said, when the, when the dike breaks during these bad flood events, the floodplain is where the water is stored then. Well, if now, now what happens-- like on our farm, if I want to put a fence post in the floodplain, I'd have to spend a-- hire a professional engineer to give a no-rise certificate that shows that that fence fence post isn't going to impede the, the net rise of the river. And even though there's a cottonwood forest of mature trees all the way up and down the river, but I still have to prove that and expand that, there's not going to be no net rise. But here you take 4,000 acres out of the floodplain that would have stored water if, if the dike broke. Now you build big dikes around it, it's excluded. So are you going to say there's no net rise to the flood elevation? The people downstream are going to have a bigger net rise. And so I guess what it boils down to, you know, I've, I've spent my adult life, you know, fixing up the farm, you know, planting trees, putting conservation work in, making wildlife habitat, planting prairies and stuff like that. And it just scares the heck out of me that after a lifetime worth of work, some government agency could come in and say, oh, we're taking this, we're going to make a hole in the ground. And it just frightening. I don't know if you're-- to somebody that isn't a landowner, maybe you don't have that feeling, but it's just scary beyond belief. And, and I can really sympathize with these people that have been several generations on the same land, you know, and it's, it just isn't right. So I hope you'll do your best to make sure this passes and put an end to this nonsense. Any questions?

**BOSTELMAN:** OK. Any questions from committee members? Seeing none, thank you for coming in. Next proponent, please, for LB292. Good afternoon.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**JODI O'BRIEN:** Hi. Hello, my name is Jodi O'Brien, J-o-d-i O-'-B-r-i-e-n. And thank you, Chairman Bostelman, for allowing me to come and, and the committee for allowing me to come. I don't do this regularly, just so you know. I'm testifying on behalf of my father, Joseph Kojel [PHONETIC], myself and my family who reside where the big lake development is being proposed. I would like to start off, if I could, just by asking some questions to you all. How would you feel if you spent 84 years on a piece of property that you love, sacrificed to buy, and then the government wants to come in and take it so that real estate developers can become rich and sell it for profit? How would you feel if you raised your family on a piece of property everyone calls "a little slice of heaven" and the government wants to take it so that real estate developers can become rich and sell it for profit? How would you feel if your farm ground, horse barns, house, lake, hunting ground, fishing area, an entire family who reside on the property had to leave so that real estate developers can become rich and sell it for profit? How would you feel if your legacy would be destroyed and all the memories gone only that-- so that real estate developers can become rich and sell it for profit? And finally, how would you feel if you already went through three separate expensive court trials to save your property from eminent domain and lost? Then to find out the government is farming your property and making profit off it. This happened to my father, and now it's likely to happen again. Why? How does this happen to everyday hardworking people? All my father and my family ask is for you to put yourself in our shoes. How would you feel? Since we heard about this project, I have been trying to find out more information and have been very unsuccessful. If it were not for the media, I would not have learned about this project. It seems that the only other information I receive is from digging deep, asking a lot of questions and researching. At no time have I or any landowners around me received notification by mail, phone or public announcement. I ask why. However, as mentioned in the article by the Nebraska Examiner, Metro Omaha Builders Association, MOBA, was presented with a PowerPoint presentation by one state senator. Why? In the article, as Ryan Krejci, MOBA board member said, quote, Put water anywhere and a house next to it, it's good as gold, end quote. It sounds as if this project is for the rich and not the little guy. Take from the little guy to empower the rich. Many investors are already on board making comments in articles about luxury houses, etcetera. Why are all the landowners who are potentially facing eminent domain not afforded the same time and consideration as the wealthy developers? So the question arises, has there already been private arrangements or discussions between government officials and the current landowners and developers? What

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

authority does a state senator representing a district not in the big lake project area have presenting real estate to real estate developers? What information has the state senator provided from the HDR assessment to Metro Omaha Building [SIC] Association and others that the general public have not had privy to? I have to be honest, the last thing I ever wanted to do was come here before the committee. I'm not a public speaker. I am a little bit nervous, as you can probably tell, but I felt I needed to come and share my 84-year-old father and family's concerns with you. This project is not about society needing water or any other necessity for survival. We have been a victim of eminent domain in the past and don't want to lose what is left of our property that we maintained and improved over the last eight decades with our sweat, blood and tears. What harm is there to have the Legislature debate on the floor in regard to this? Thank you so much.

**BOSTELMAN:** Thank you. And you did fine on your--

**JODI O'BRIEN:** OK.

**BOSTELMAN:** --testimony. That was-- did a good job. So thank you. Any questions from committee members? Seeing none, thank you very much. Thanks for coming in. Next proponent for LB292. Afternoon.

**AL DAVIS:** Good afternoon again. This is a big day for me. I'm here for all your bills. Al Davis, representing the Nebraska Chapter of the Sierra Club, A-l D-a-v-i-s. And as you know, there are 3,000 members. I'm not going to read my testimony to you this afternoon because you'll have copies of it. But I think the people who spoke ahead of me did an eloquent job of explaining the primary reasons that the Sierra Club opposes this. First of all, I just will say this. The scope of the project is immense. And if you think about what this amounts to in terms of the soil that you're going to be removing, and you heard that referred to earlier, it's about six miles by four and a quarter miles. So you're taking out soil to a depth of 30 feet in that size. So if that's not hauled away, that's going to have to be piled somewhere. Pile it on top of the ground there and you build homes on it or something, you end up exacerbating the flood risk rather than mitigating it. So if this had been touted as a flood control project, I think it's a huge failure. We all know that most of the argument behind this lake is we need recreational activities, and that it's going to help it keep our young people in in the state of Nebraska. I just don't buy that argument. I never have. I think young people want to have good jobs, that's the main thing they want to do. And they want to have opportunities to engage with their cohorts. Getting to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

the last part of this, people who own this property have worked hard to keep it all these years and they've kept it up. They've done a good job managing their farm. Using eminent domain for a public benefit that isn't really so public, but is really more towards enriching other people, is just improper and immoral in my opinion and in the opinion of the Sierra Club. The last thing I'm going to say is there are a lot of good habitat situations in that area because of the closeness to the rivers. We heard earlier talk about why we need to work on habitat. So let's not tear up more habitat to build mansions and roads. Let's have some natural places remain natural. Thanks to Senator Cavanaugh for introducing this bill. We fully support it. And I understand that the state does not have that authority now, I hope that you will work hard as senators to maintain that. Thank you.

**BOSTELMAN:** Thank you for your testimony. Are there questions from committee members? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Mr. Davis, for being here. Different Senator Cavanaugh, for the record. So we heard folks, and you just kind of addressed it, that it will exacerbate the flood control bas-- basically based on how you do this. And do you think that they project, as you said, people want this project because of the recreation aspects, but there's some playing up of the flood control aspects of this-- I have not heard this 5 percent or even 1 percent flood control aspect before-- to bolster the case for utilization of eminent domain.

**AL DAVIS:** I think it does bolster the case. I think, I think it's hard to justify a project for recreational purposes strictly. If you can say that there are other-- we're going to contribute other, other--

**J. CAVANAUGH:** Public benefits.

**AL DAVIS:** Public benefits, I'm sorry. There you go. It certainly raises the, the quality of the project, which I think brings more people into thinking we need eminent domain to get it completed.

**J. CAVANAUGH:** Well, the important people in the eminent domain aspect would be the courts who would be granting the eminent domain--

**AL DAVIS:** Correct.

**J. CAVANAUGH:** --if somebody objects to it, right?

**AL DAVIS:** Right.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**J. CAVANAUGH:** And so--

**AL DAVIS:** But the state does-- at the present time, the state does not have authority to use eminent domain on this project.

**J. CAVANAUGH:** On this project. And why do you say that?

**AL DAVIS:** I heard from your Chairman this morning.

**J. CAVANAUGH:** OK. I must have missed that part of this morning.

**AL DAVIS:** I think you were out of the room.

**J. CAVANAUGH:** I was out of the room. Thank you, Mr. Davis.

**BOSTELMAN:** Senator Moser.

**MOSER:** I wouldn't assume that. You know, one person's offhand remark about what they intend to do may or may not be binding on the state. And, you know, this project came up numerous times in the past, they were going to dam up the Platte. And the problem ideologically with damming up the Platte is that it's such a wide valley and there's so little difference in the elevation. So you would have to have an enormously long dike to collect any water, and then your depth of water would be so shallow that you'd have a bog. And, you know, I live just off to the side of the Loup River, and then a few more miles south is the Platte River. And we've had numerous ice jams where the two rivers actually flowed together and went to the east. And so, you know, I've lived-- well, one day, I couldn't get here. I drove through water in North Bend and the state patrolman said I had to go back. And I said, well, you can't stop me if I want to drive to Lincoln. And he says, well, he said, if you insist on driving ahead, he says, I want your next of kin and your phone number. Because he said, you're going to be bobbing down the river toward, toward Omaha. And, you know, those natural forces are hard to contend with. But I wouldn't assume. I mean, maybe that's correct, that the state can't use eminent domain, but eminent domain is nasty. It's a nasty--

**AL DAVIS:** And that's one more reason why this--

**MOSER:** --contentious--

**AL DAVIS:** --bill shouldn't be passed. You know, if that's the case. Because I think it's just a bad project, always has been a bad project. And the discussion about the damming up the Platte was kind of a pipe dream that didn't make a bit of sense. So the, the

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

originators of this idea said, well, now we can maybe do something here. But the displacement of the amount of soil is massive. It's just a huge amount of soil that's going to be moved. And if it's all, not all-- if it's not all the way, you're going to create slopes and runoff and exacerbate the problems.

**MOSER:** I would assume that they'd want to raise the elevation a little bit so that, you know, if there is a flood, that their houses aren't going to be flooded.

**AL DAVIS:** So, you know, I have a sister in law who has a cabin at Horseshoe Lake, which is basically right on the Platte. But it's you know, it's a little horseshoe bend. And when that flooded in 2019, I mean, the water came up, you know, six feet into the house. So it can be a bad thing.

**MOSER:** Yeah. Thank you.

**AL DAVIS:** Thank you.

**BOSTELMAN:** Any other questions? Seeing none--

**AL DAVIS:** Thank you.

**BOSTELMAN:** --thank you for your testimony. Next proponent for LB292.

**JOHN HANSEN:** Good afternoon, Mr. Chairman. 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. In my former life, I was also on the Lower Elkhorn NRD board for-- from 1974 to 1990. Our NRD was involved in the building of the largest multipurpose structure in the state. And I think it's maybe a bit instructive when we're talking about eminent domain to revisit just how it is we got to that point and how that worked out. But Game and Parks used to have the power of eminent domain, and they used it and they abused it and they lost it because of the enormous amount of pushback from landowners and the public. And rightly so. So along comes the NRDs, authorized in '72, fully operational in '74. And so they were given eminent domain authority for flood control projects. And so then as time went on, gee, if you could do a flood control project, that was good. But what about a multipurpose project? So if you could do a multipurpose project, though, wouldn't that still be a good justification of eminent domain? Well, yes. And so NRDs then got the power of eminent domain for multipurpose projects without any sideboards or guidance. So at what point does the multipurpose project cease being a multipurpose project and should really be categorized as a single-purpose project? So that



was the issue that I raised as a board member of the Lower Elkhorn NRD, because that Willow Creek project, which is, I believe, still the largest project of its kind, it's either first or second, depending on how you measure surface area relative to the Wanahoo project at Wahoo, was, according to the data that we had from the consultants that we hired, was 96 percent recreation, 4 percent flood control. But that 4 percent flood control really helped sell the project. So how did this work relative to landowners? Well, when you go to a landowner and you say, this is willing buyer, willing seller, except that I have eminent domain in my pocket, and if you don't sell to us on a willing basis, we'll use eminent domain, whoever it is that is doing that has an inherent advantage. So when I get calls from landowners in this particular project area, and this is kind of-- I've worked in this area for a very long time and I make all the phone calls to the folks that I think I ought to call. And I can't find anybody, any entity that in this state, that in this situation on this project has eminent domain authority that could be used. So that's my opinion. I think that you can't use eminent domain because I don't think there's any entity that qualifies for it. And if you take the NRDs out, then there is none. Well, when I'm getting calls from landowners and they're getting different signals from reading the press, but also talking to public officials. And the hint is there that eminent domain could be used, that really colors the consideration. So what I think the honorable and the straight-up thing to do in this particular case is to support this bill. And if we're not going to use eminent domain, let's be straight up with the landowners and make it clear to them that we're not going to be using eminent domain and it's going to be an arm's length willing buyer, willing seller relationship. And if they want to-- if they are compensated at a point that they're finally willing to sell, you have a project. And if they're not, we don't. And we shouldn't. Because, in my opinion, eminent domain should not be used in this particular project because, in my opinion, it has virtually no flood control benefit and is not an appropriate use of eminent domain. So let's just be straight up with landowners. Let's do the straight-up thing and let's send a clear signal. And so I appreciate Senator Machaela Cavanaugh bringing this bill. And I think that this would help clear up the state's intent. And if it is, in fact, our intent not to use eminent domain, let's make that clear enough that everybody involved understands it. With that, I'd be glad to end my testimony and answer any questions, if I could.

**BOSTELMAN:** Thanks for your testimony. Any questions from committee members? Senator Cavanaugh.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Mr. Hansen, for being here. So just to put a bow on it, this is just a cleanup bill, right?

**JOHN HANSEN:** If, if, if in fact the state was not intending to use eminent domain, it would be a cleanup bill.

**J. CAVANAUGH:** If only the state were only one person, I guess. There's a few interests.

**BOSTELMAN:** Senator Moser.

**MOSER:** You don't think that the state has a legitimate reason to use eminent domain on this project?

**JOHN HANSEN:** Not for a single-purpose recreation project with developmental economic benefits. I don't think that that is an appropriate use of eminent domain. But of course, I represent landowners as an organization.

**MOSER:** Are you an attorney?

**JOHN HANSEN:** I am not. I'm the president of a general farm organization with--

**MOSER:** Yeah.

**JOHN HANSEN:** --with over 30,000 members. And eminent domain, if you want to start a conversation that quickly escalates my organization, start using-- talking about using the speculative power of eminent domain to take their land for whatever purpose.

**MOSER:** Yeah. Well, that's an interesting question, you know, what purposes the state can use eminent domain for. And it typically, the state or the governmental body will take possession of the land. And then in the eminent domain proceedings, they later decide how much they have to pay for it. But basically, they get to use it and the amount that you get is settled later. Because we had numerous eminent domain actions when we built a road, and we built the road and they settled all those cases later. It's a nasty business.

**JOHN HANSEN:** It's a nasty business, in my opinion. It's such a, such a powerful tool that it needs to be done in a very careful and carefully described and prescribed kind of way.

**MOSER:** It's kind of a--

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Natural Resources Committee February 8, 2023

**JOHN HANSEN:** And it meets certain kinds of conditions and that the rules of the road are very clear.

**MOSER:** It's kind of a nuclear force tool.

**JOHN HANSEN:** Yeah, it's certain-- yeah, from a landowners perspective, it certainly is, because it completely changes the nature of the arm's length negotiation. And we, we found the very same thing on, on the pipeline issue. And so we were front and center in the middle of the pipeline issue. So it's when, when people have that power and that authority, it is so powerful, they're going to use it to negotiate their interests. So, you know, we had, we had that whole discussion.

**MOSER:** Yeah. Thank you very much. I don't want to get you all worked up here.

**JOHN HANSEN:** Yeah. Yeah. No, it's-- I only have about 6 hour's worth of eminent domain discussion on that topic, Senator. But thank you.

**BOSTELMAN:** So part of the discussion we had after our morning session, I think, Mr. Davis had talked about as we discussed this. And the thing was I didn't, as I-- we were talking, I didn't know in statute like what you're saying, that eminent domain would apply. But I would be interested in learning once we hear the-- have the hearing is, is there someplace in statute that, that this would-- where eminent domain would apply? I just didn't know at the time that there was such a application for it. Would you agree? I mean, with the comm-- not with, with the discussion that we had?

**JOHN HANSEN:** Yeah. You know, going through the list of entities who could use the power of eminent domain and, you know, I, I couldn't think of any state agency that would necessarily have the power. The one that would come to my mind that would be the most logical would be the NRD. And that one has already been set aside. So then if there was a threat of using eminent domain, I don't know who it is that would do it. But, Senator, I've learned a long time ago to always factor in the, the very strong possibility in my case that I could be wrong. But yet I, I don't know who, what entity that would be. But if that is, in fact, the case, then I think that there is merit in making that clear.

**BOSTELMAN:** Right. I would, I guess the comment that I have is that we had a similar discussion was we just didn't know where in statute specifically this would, and was-- would be interested in hearing this afternoon to understand more about where that might apply and try to find in statute. If it does, eminent domain could apply where that

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

would be, and that was kind of the framework for our discussion. So thank you for your testimony.

**JOHN HANSEN:** Thank you.

**BOSTELMAN:** Next proponent then. Good afternoon.

**KENNETH WINSTON:** Good afternoon, Chairman Bostelman and members of the Natural Resource-- members of the Natural Resources Committee. My name is Kenneth Winston, K-e-n-n-e-t-h W-i-n-s-t-o-n, and I'm appearing on behalf of the BOLD Alliance in support of LB292. And you've heard good testimony from a lot of people on a number of different issues. BOLD Alliance basically supports this as, because we're supporters of protection of private property rights guaranteed by the Constitution of the United States and the Nebraska Constitution. And we're supporting this bill in particular because it protects private property against the use of eminent domain for private gain. And although I'm going to join in the parade of people who think that it maybe already prohibited by current law, and I am an attorney, we believe that it's important to spell it out, so there is a clear statement of policy to protect landowners and guide public entities engaged in this project. I'd be glad to respond to questions.

**BOSTELMAN:** Any questions? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you for being here, Mr. Winston. So we've heard from a few folks saying that there are people out there saying they're going to use eminent domain for this, right?

**KENNETH WINSTON:** Well, I-- yes, that's, that's what I heard testimony to that--

**J. CAVANAUGH:** You said you already heard that.

**KENNETH WINSTON:** To that, to that end. Yes.

**J. CAVANAUGH:** It's your opinion, and the opinion of a number of other people that we didn't explicitly give the lake authority the ability to use eminent domain when we passed-- I can't remember the number of the bill last year, LB1066 or something like that, or I don't know.

**MOSER:** LB1023.

**J. CAVANAUGH:** LB1023.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**MOSER:** LB1024.

**KENNETH WINSTON:** Or is it LB1024?

**MOSER:** LB1023?

**J. CAVANAUGH:** LB1024 was the canal. But anyway, this is my question. So I guess it's a-- I have a two-part question. One is, there are entities that have jurisdiction over this, like Mr. Hansen talked about, like the NRD, that could potentially be used as a vehicle, say, the county, I guess, is a potential entity that has power of eminent domain. That if they chose to get involved, could potentially exercise eminent domain. So that's one question. The other question is, isn't it good just to clarify that we're not going to use eminent domain for this so people aren't getting misinformation as they're negotiating these willing buyer, willing seller conversations?

**KENNETH WINSTON:** Yes, I would affirm what you just said. Yes, it would be good to have that clarified in statute so that people know, so that people can't be threatened with eminent domain, and so that people would understand that they-- so you would have a willing buyer, willing seller relationship. So, yes.

**J. CAVANAUGH:** What about my other question about the other entities that could potentially be-- use their eminent domain for purposes of the lake?

**KENNETH WINSTON:** Well, I don't know which entities could potentially be used. There's some language in the bill about-- in the bill that passed that says, and it's actually in this language as well, that says it can't, can't be annexed. You know, I don't know exactly what all that means, but, but I presume it means that, that, that no municipality could annex the property. So I guess the entities that come to mind would be the-- potentially the state could, could, could be an entity that, that could use it. Potentially the county, potentially the NRD. Those would be the three that I can think of. However, I question whether any of them actually have that authority.

**J. CAVANAUGH:** Thank you, Mr. Winston.

**BOSTELMAN:** Any other questions? Seeing none, thank you for your testimony.

**KENNETH WINSTON:** Thank you. And I'd be glad to follow up with you about the reasons for my theory so.

**J. CAVANAUGH:** I could have asked a follow-up question. All right.

**KENNETH WINSTON:** So thank you.

**BOSTELMAN:** Next proponent, please. Proponent for LB292, please step forward. Any other proponents? Seeing none, anyone like to testify in opposition to LB292? Anyone in opposition? Seeing none, anyone that would like to testify in a neutral capacity? Good afternoon.

**DEAN EDSON:** Afternoon, Senator Bostelman, members of the Natural Resources Committee. My name is Dean Edson, D-e-a-n E-d-s-o-n, and I'm the executive director for the Nebraska Association of Resources Districts and we're just here to testify in a neutral capacity, and I want to limit my comments. We're not taking any position on the lake project or anything else. But what caught our attention was the language in here to allow political subdivisions from using eminent domain for this project. I'm here to dispel a rumor that we tried to dismiss last year. The NRDs do not have the authority to use eminent domain for a state project, and so that rumor has been floating around last year as-- and I just want to end the discussion now and let you know that we don't have that authority. The other thing I want to point out is if there was any eminent domain authority extended to us, it would have been explicitly noted in that, in the statute and you could repeal it. And so since that land [INAUDIBLE] authority was granted to us, there's nothing to repeal. So I guess the point is, I'm not sure of the language in there in reference to political subdivisions is really necessary because it's no authority we have right now. So you're prohibiting an authority we don't have so.

**BOSTELMAN:** Anything for the testimony, any questions from committee members? Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you, Executive Director Edson. But if this were an NRD project, you have the right of eminent domain.

**DEAN EDSON:** Correct. And we have, we have the right of eminent domain for NRD projects. And those are very specifically spelled out of what those authorities are.

**BRANDT:** All right.

**DEAN EDSON:** But this is a state project.

**BRANDT:** Right.

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Natural Resources Committee February 8, 2023

**DEAN EDSON:** And so we do not have any authority to exercise any eminent domain on--

**BRANDT:** On this specific project. But, but you have the right of eminent domain, otherwise--

**DEAN EDSON:** Yes. Yes.

**BRANDT:** --in the normal course of business?

**DEAN EDSON:** Yes.

**BRANDT:** All right.

**DEAN EDSON:** For our flood control structures, like a previous testifier mentioned about structures that we build and maintain.

**BRANDT:** So just out of curiosity, so you have a multi-use structure that is maybe 10 percent flood control, 90 percent recreation. On an NRD sense, would you use the right of eminent domain in a situation like that?

**DEAN EDSON:** Well, I'm not going to go into the percentages per se, because I don't know exactly what percent-- you're getting into hypotheticals. What-- if you're doing a multipurpose structure, what you have to meet is the cost-benefit ratios. So the cost, the benefits that you're receiving out of the projects have to exceed the cost before you-- before the NRD moves forward on anything. Plus, that requirement is in state law for any state funds we may receive for a cost-share for that type of project. So the percentages, I don't know. You have to run the cost-benefit first.

**BRANDT:** All right, thank you.

**BOSTELMAN:** Senator Moser.

**MOSER:** Cost-benefit to who?

**DEAN EDSON:** The public.

**MOSER:** Well, would you think that a big recreational lake would be a benefit to the public?

**DEAN EDSON:** Well, you'd have to run an economic analysis on it. I'm not going to get into the one with this particular project. I think they're doing that now, they're trying to do some analysis on it. But that's at the state level. And again--

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Natural Resources Committee February 8, 2023

**MOSER:** But the NRD couldn't be used-- is this in your NRD area?

**DEAN EDSON:** Well, I've got the whole state. I got all 23 districts.

**MOSER:** Oh, OK. So--

**DEAN EDSON:** So like this one--

**MOSER:** But you couldn't be made the lead agency somehow, and they couldn't use you as a vehicle to get eminent domain--

**DEAN EDSON:** No.

**MOSER:** --to build that.

**DEAN EDSON:** Can't happen. OK? When it's-- well, let's follow through that just a little bit on the eminent domain, eminent domain procedures. OK? So that money would all have to run through the NRD, so the NRD would have to have that money available to purchase this land. OK. The amount of the-- size of the land you're buying here far exceeds any one individual NRD tenfold, and probably more. It's just way beyond our capacity to start with.

**MOSER:** OK. Thank you.

**BOSTELMAN:** Other questions? Seeing none, thank you for your testimony.

**DEAN EDSON:** Thank you.

**BOSTELMAN:** Anyone else like to testify in a neutral capacity on LB292? Anyone else want to testify in the neutral capacity? Seeing none, we do-- we did receive four proponent letters for the record, and this will conclude the hearing on LB292. Thank you all for coming today. Next we'll be opening in just a minute on LB636. All right, our next bill is LB636. Senator Albrecht, you're welcome to open on the bill.

**ALBRECHT:** Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. For the record, my name is Joni Albrecht, J-o-n-i, Albrecht, A-l-b-r-e-c-h-t, and I represent District 17, which includes Dakota, Thurston, Wayne and portions of Dixon Counties in northeast Nebraska. I'm here today to introduce LB36-- LB636, how about that? LB636, which provides a statewide approach to energy policy and would ensure governments do not restrict the fuel choice options of Nebraskans for their homes and businesses. LB636 lists several energy choices, but is primarily driven by what we have seen local governments do across the country. Communities coast to coast



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Natural Resources Committee February 8, 2023

and in between, in places like California, Colorado, New York, New Jersey and even Kansas are proposing ordinances that would seek to or even ban the use of natural gas equipment and connections in new buildings and construction. Banning natural gas would not only negatively impact local businesses, economic development, customers and communities, it also threatens our resiliency. In response, more than 20 states have enacted energy choice legislature legislation, with several more states considering such measures. This legislation has often received a bipartisan support. Banning natural gas in residential and commercial buildings would have a negative impact on the economy and is a costly, inefficient means to achieve desired climate goals. Nearly 540,000 Nebraskans rely on safe and reliable natural gas service. Eliminating their energy choices increases energy costs significantly and reduces discretionary spending. Bans can cost jobs in the industry that rely on affordable energy like agriculture, and can hurt a community's competitiveness and can negatively impact the economy. Enactment of this bill would ensure current and future Nebraska businesses know that they are open for business. A decision to ban natural gas in one community has impacts on many Nebraskans. Utility regulation is a matter of statewide concern. Local decisions to ban natural gas pass costs on to other customers and create a patchwork energy policy. The state has a responsibility to ensure its citizens have access to affordable, reliable and resilient energy mix. Local governments, in most cases, do not have to worry about the responsibility that comes with this authority. Limiting access to natural gas hurts economic development, job creation, and creates a barrier to solving the housing crisis. Local decisions to eliminate fuel choices have an impact on current and future citizens and residents in other jurisdictions. State policies are necessary to balance the needs and considerations of customers throughout Nebraska. I thank you for the opportunity to introduce LB636, and I urge you to send-- to send LB636 to the floor. Following me will be stakeholders who will be happy to answer questions that you may have, and I will certainly try to answer a few myself. Thank you.

**BOSTELMAN:** Thank you. Are there questions from committee members?  
Senator Brandt.

**BRANDT:** Thank you, Chairman Bostelman. Thank you, Senator Albrecht, for bringing this bill. I'm just kind of curious why we just listed just the natural gas. Because reading this, it almost appears we should have included nuclear and coal and wind power and hydro and solar and all nine or ten-- methane. Why didn't we include all of these into this? Because when you read that first part, I get the impression that it could cover those. Am I incorrect?

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Natural Resources Committee February 8, 2023

**ALBRECHT:** Well, it certainly could. And if you'd like to amend it, you'd probably have to get with the people who asked me to bring it, which were the natural gas folks.

**BRANDT:** OK.

**ALBRECHT:** I brought it last year and we ran out of time and they brought it back again this year. But I can definitely understand where you're coming from.

**BRANDT:** All right. Thank you.

**ALBRECHT:** Thanks.

**BOSTELMAN:** Other questions? Seeing none, will you stay for closing?

**ALBRECHT:** Yes, sir.

**BOSTELMAN:** Thank you.

**ALBRECHT:** Thank you.

**BOSTELMAN:** Invite anyone who would like to testify as a proponent for LB636 to please come forward. Good afternoon.

**JILL BECKER:** Good afternoon, Senator Bostelman and members of the Natural Resources Committee. My name is Jill Becker, spelled J-i-l-l B-e-c-k-e-r, and I am a registered lobbyist for Black Hills Energy. Today, I am representing not only Black Hills Energy, but also the Nebraska Chamber of Commerce, the Lincoln Chamber of Commerce, Metropolitan Utilities District, the HBAL/MOBA Coalition, and the Nebraska Economic Developers Association. And we would like to thank Senator Albrecht for introducing LB636. Black Hills Energy is a natural gas utility, proudly serving approximately 300,000 customers in 319 communities across Nebraska. In total, the Black Hills Energy family serves 1.3 million natural gas and electric customers in eight states. Preserving energy choice is critical for Nebraskans. This bill protects that choice in state law, providing certainty for Nebraskans that natural gas remains a viable option in their homes and for their businesses. In response to legislation-- or I'm sorry, in response to action taken in other states, more than more than 20 states have enacted energy choice legislation. And this is modeled after what other states have done. This legislation supports the choice of consumers and leaves it up to them to decide which type of energy they want to use. Banning natural gas in Nebraska would not only negatively impact local businesses, it would also impact economic development,

customers and communities. It threatens energy reliability and resiliency, the natural gas industry as a whole and Nebraska providers of natural gas are committed to partnering with the communities that we serve to find sensible greenhouse gas reduction strategies. And we believe that natural gas is a critical piece of making that happen. Natural gas is a clean source of energy which has and will continue to reduce our country's carbon emissions. Through the use of new technology, renewable natural gas has increased energy efficiency and will continue to shrink our carbon-- our country's carbon footprint. When one considers the affordability and efficiency of natural gas with emerging natural gas appliances and renewable natural gas, it is clear that natural gas has to be a part of the discussion around reducing emissions. As was mentioned, 59 percent of Nebraska households use natural gas as their primary heating fuel. Eliminating their energy choice could increase their energy costs significantly and reduce discretionary spending. Households that use natural gas for heating, cooking and drying clothes see an average savings of well over \$800 a year. Eliminating natural gas as a choice impacts the pocketbooks of our customers. Homeowners would face the costs of retrofitting their home, electric panel upgrades and appliance costs to replace their furnaces, hot water heaters, kitchen stoves and dryers. Commercial and industrial businesses would also face increased costs and impacts to their operations. The energy required to fuel many business processes cannot be effectively met through electricity, and in addition to being cost-prohibitive, is often not feasible through electric power. When states consider when-- communities consider bans like banning natural gas, that can cost jobs in industries that rely on affordable energy like agriculture, it can hurt a community's competitiveness and can negatively impact the economy. Enactment of this bill would ensure current and future Nebraska businesses to know that we are open for business. Finally, local decisions to ban natural gas pass costs on to other customers and would create difficulty in ensuring that all customers have the necessary amount of energy that they use. Ultimately, it should be up to the customers and their own decisions to choose which energy source they want to use. I urge you to advance LB636 to the floor, and I would be happy to answer any questions you may have.

**BOSTELMAN:** Thank you for your testimony. Are there questions from committee members?

**J. CAVANAUGH:** Thank you, Chair Bostelman. Thank you, Becker-- Ms. Becker?

**JILL BECKER:** Yes.

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Natural Resources Committee February 8, 2023

**J. CAVANAUGH:** Thank you for being here, Ms. Becker. So my reading of this is it's ban-- we're banning-- potentially banning cities or villages or whatever from imposing an ordinance that would prevent new construction that would have natural gas. Or would it ban-- would I have to pull the natural gas pipes out of my house, if Omaha did this?

**JILL BECKER:** Well, it would probably depend on what they would require. We have not typically seen that per se across the country, that you'd have to retrofit your home. But it is possible. Depends on how a city or a county would do an ordinance.

**J. CAVANAUGH:** OK.

**JILL BECKER:** So the language often times only applies to new construction, but that is not always the case. So it could be requiring you retroactively to, yeah, remove the-- your natural gas stove, remove your fireplace. Yes.

**J. CAVANAUGH:** Can you give any examples of places that have required people to remove their natural gas stove?

**JILL BECKER:** I don't want to speak off the top of my head, so I would be happy to tell you if there have been any communities that have done that. But like I said, most of the times it is prospective.

**J. CAVANAUGH:** OK.

**JILL BECKER:** So applying to new construction.

**J. CAVANAUGH:** And-- but just to-- so this is about-- the reason this bill doesn't include nuclear and that kind of stuff is because we're not piping nuclear into somebody's home, that would just be electricity that we're piping into the home, right?

**JILL BECKER:** Typically, yeah. I mean, we've-- where we have seen the attack, if you will, on the industry is natural gas. And so that's not to say there hasn't been an attack on [INAUDIBLE]. It's just I'm not involved in that attack because. So this is-- we have seen states doing this.

**J. CAVANAUGH:** Didn't mean to put you on the spot to defend nuclear, but I'm just trying to clarify--

**JILL BECKER:** Yes.

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Natural Resources Committee February 8, 2023

**J. CAVANAUGH:** --Senator Brandt's question why, why we're having this conversation about natural gas and not about--

**JILL BECKER:** Yes.

**J. CAVANAUGH:** --these other sources of generation.

**JILL BECKER:** Yes. Yes.

**BOSTELMAN:** Senator Hughes.

**HUGHES:** So it's a curiosity question. So, yeah, I have been hearing some of the states are doing that [INAUDIBLE]. Who is so for getting rid-- I mean, is it just all, oh, you're breathing fumes and because I turned on my gas stove and it's going to kill my family? Is that, like, who's against, like, who's pushing these, I guess?

**JILL BECKER:** So I feel like that's a loaded question, Senator, so I will answer you as well as I can. The, the study that she mentioned got a lot of national attention and it's wrong. There's no link. And so entities that are pushing it have an agenda to push it. It can be, like I said, reducing emissions. But we believe that that analysis is wrong and that there are benefits to using natural gas and helping communities continue to use natural gas and still meet their emissions so.

**HUGHES:** Thank you.

**BOSTELMAN:** Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Bostelman. Thank you for being here and for your testimony. So should this bill pass, this would, in theory, still, if a new developer, for example, in Omaha was putting in-- was developing a condominium, they would still have the choice to determine what their fuel source would be?

**JILL BECKER:** Absolutely. Yes.

**FREDRICKSON:** So if they were to choose natural gas, they could choose that. If they were choose to--

**JILL BECKER:** All electric.

**FREDRICKSON:** --not have natural gas, they would still get--

**JILL BECKER:** They can still choose that.

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Natural Resources Committee February 8, 2023

**FREDRICKSON:** --to choose that. So this is in no way restricting of, of private developers gas of choice or--

**JILL BECKER:** Yes.

**FREDRICKSON:** --energy source of choice, I should say.

**JILL BECKER:** Yes, that is correct, Senator. The bill applies to cities and counties and those public bodies deciding that where-- that they would not allow natural gas. That's correct.

**FREDRICKSON:** Thank you.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** I will ask another one. Thank you Chairman Bostelman. Thanks, again. OK, so it would just prevent an outright ban, it wouldn't prevent the city or county or municipality from saying we want to achieve some kind of goal. We want more energy efficiency, we want to encourage energy efficiency in our codes and our developments. They just couldn't-- they could still do that, they just couldn't explicitly say: and they can't have gas?

**JILL BECKER:** The language in the bill, Senator, would restrict and prohibit a city or county from outright banning natural gas, but it would also prohibit them from acting in a way that by the language in the bill enacts or implements any ordinance, code, resolution, rule, regulation and policy that restricts, prohibits or has the effect of restricting natural gas. And the importance of that to us is that, yes, a city may say, well, we're not going to outright ban natural gas, but perhaps the language of the ordinance makes it basically impossible for an entity to have natural gas in their home. This bill would prohibit the city from taking that action.

**J. CAVANAUGH:** What's an example of that?

**JILL BECKER:** So if we had a city that would say, for example, I'm just going to go by the language here. No-- I guess I should have had an example ready for you. If, if it's not an outright ban, but let's say that in order for an entity to have natural gas, there would be additional requirements that are so prohibitive that a homeowner couldn't meet them or a builder could not build and meet those requirements, that's effectively banning natural gas.

**J. CAVANAUGH:** So if someone like--

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Natural Resources Committee February 8, 2023

**JILL BECKER:** So it probably would be helpful for me to find some language for you because, like I said, that is what we are saying. It might not be an outright ban, but the ordinance itself has the effect of essentially banning natural gas.

**J. CAVANAUGH:** So I'm just thinking of the time we had things like Energy Star appliances or something like that with a certain rating. I mean, I don't know this or not, but is natural gas a part of that rating system?

**JILL BECKER:** We are because there are high-efficiency natural gas appliances. So the, you know, the Energy Star program itself does not preclude natural gas appliances.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** So I thought there was something on-- has been something in the news media, whatever, where there are some cities that are actually saying you cannot install new-- or I don't even know, I thought it was even existing natural gas, you had to remove it. So you're saying that's not necessarily--

**JILL BECKER:** I, I didn't want to say for certain whether they are requiring it to be pulled out. But yes, they are absolutely banning natural gas in new construction. That portion is absolutely true.

**BOSTELMAN:** OK.

**JILL BECKER:** I'm just not certain whether any of them as part of their ordinances also require homes to be retrofitted. That-- and have the natural gas portion removed. That's what I'm not certain about.

**BOSTELMAN:** All right. Seeing no other questions--

**JILL BECKER:** Thank you.

**BOSTELMAN:** --thank you for your testimony.

**JILL BECKER:** Thank you.

**BOSTELMAN:** Next proponent for LB636. Afternoon.

**BRENT SMOYER:** Good afternoon, Chair Bostelman and members of the Natural Resources Committee. My name is Brent Smoyer, B-r-e-n-t S-m-o-y-e-r, and I appear before you today as registered lobbyist on behalf of Northwestern Energy, a natural gas company serving Alda,

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Natural Resources Committee February 8, 2023

Grand Island, Kearney and North Platte. We thank you for the opportunity to provide testimony today in support of LB636, which would maintain energy choices for Nebraska consumers. As technology and innovation bring changes in the energy sector, businesses have new opportunities to lower their energy costs and reduce their carbon footprints. At the same time, we are concerned about the unintended consequences of local ordinances that would eliminate energy choice. Clean, reliable and affordable energy is of particular importance, excuse me, to all Nebraskans, as well as their businesses, their manufacturing plants, their restaurants. And it's important that we act now. I think, as has previously been stated with the last testifier and some of the questioning, it's important that we act so energy providers can continue plans for innovation and expansion in Nebraska communities without fear of those projects being rendered moot by government action. As we've seen with the federal government-- that we've seen the federal government push states and localities to voluntarily restrict the use of various energy sources. It's not difficult to imagine, especially given the last three years or so of a time when an encouraged practice might become a mandated practice, even if these practices don't result directly in mandates, we have only to look so far as a very recent dustup over gas stoves under the U.S. Safety Commission that happened just weeks ago. While a ban did not come down from that agency, it was given-- it's given local governments reasons to ponder and potentially act. Cities from coast to coast have made moves in the direction of stove bans and bans on use of gas in new construction. And to Senator Cavanaugh's question, while I don't have the exact ordinance language with me, I can certainly help Jill grab that. The articles I did read, and pardon my use of vulgarity here, but Los Angeles, New York and Seattle all had such bans on new construction or remodels. As far as removal, I could not say that for sure. I do know there was, at least in L.A., talk of a sort of carbon tax if you were to keep your gas stove. I don't know if that necessarily went anywhere per se, but again, I could find those articles and forward them on to you as well. While LB636 itself is not a gas stove bill strictly, the principle about how ideas both trickle down and expand outwards, sometimes sliding down a very, very slippery slope remains the same. This is why this bill at this time is necessary to get out in front of the problem before it gets too big to push back on and we cannot put the genie back in the bottle. We believe state-level policies are necessary to balance the energy requirements of all consumers with a desire to reduce our carbon footprint and remain competitive in growing our state's economy. Ultimately, the right to choose an energy source should remain with



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

the consumer, and we urge you to advance. LB636. And I'd be happy to take any questions.

**BOSTELMAN:** Thank you for your testimony. Any questions? Seeing none, thank you for your testimony.

**BRENT SMOYER:** Thank you, Senator.

**BOSTELMAN:** Next proponent of LB626-- LB636. Good afternoon.

**LYNNE McNALLY:** Good afternoon. I'm not used to being in-- it's usually General Affairs, so thank you for moving to 1510. I feel at home. Lynne McNally, L-y-n-n-e M-c-N-a-l-l-y, appearing on behalf of the Nebraska Propane Gas Association. We are included in this bill. This would cover us if it became law. And we really strongly feel that energy choice should be the consumer's choice in Nebraska and not the choice of others, especially government. As was stated before, this is not forcing anyone to use any particular energy, it's just allowing people to use the energy they would like to use. If a builder wants to go all electric, they are totally free to do that. They just can't be prohibited from offering propane or natural gas if that's what they choose to utilize. You know, this is part of the-- you know, we haven't been so much a part of it here because, you know, we're the only public power state in the nation. But this really has originated from private electric companies in other states. They call it "electrify everything". And trust me, I am the biggest user of electricity you're going to meet. You know, I get weird when my phone goes below 20 percent. But I also want to be able to use propane if I want to. I want to be able to use natural gas if I want to. I love my natural gas stove. I will pay the tax to keep it. So it's, it's just a matter of the government not being able to tell me that I can't use it. That's what it comes down to. So we would respectfully encourage you to advance this out of committee onto the floor.

**BOSTELMAN:** OK. Thank you for your testimony. Any questions from committee members?

**LYNNE McNALLY:** Thank you.

**BOSTELMAN:** Seeing none, thank you. Next proponent of LB636. Good afternoon.

**ANDREW DUNKLEY:** Good afternoon, Chairman Bostelman and members of the Natural Resources committee. My name is Andrew Dunkley, A-n-d-r-e-w D-u-n-k-l-e-y, I'm with the Nebraska Farm Bureau, and I'm-- today I'm testifying on behalf of Nebraska Soybean Association, Nebraska Pork

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Natural Resources Committee February 8, 2023

Producers, Nebraska Wheat growers, Nebraska State Dairy Association and Renewable Fuel-- Fuels Nebraska as well. I testified on this bill last year and, and in that testimony I brought up-- and I know that it was in front of another committee last year, but I brought up that I have been a part of this issue for-- since 2019. In my previous employment, I-- I've been following this for, for a while. In 2019, only the city of Berkeley was proposing that natural gas was banned in new built homes. Since then, seven states have either enacted bans on, on natural gas and new built homes or are considering it. That's California, Oregon, Washington, Colorado, New York, Vermont, Massachusetts are either considering or have enacted it. I believe Eugene, Oregon just recently did that. And 50 cities in California, in California have enacted, have enacted bans. And in that and since last year, again, the federal, the federal government has, has come out with, with a plan which they immediately reneged on regarding gas stoves. So I brought it up as a very dangerous issue. It's very dangerous for agriculture because our agricultural producers rely on natural gas and other forms of, of energy and whatever works best for them. But I, I used an example of being in a, in a neighbor's calving shed that was heated by a natural gas heater and the power was out. And it was, I believe it was 15 degrees. And I thought, boy, that natural gas heater is, is imperative. And, and agriculture really relies on that. And I want to impress the importance of this bill, because if things like this could happen here, I know-- I had spoken to a city councilman for the city of Lincoln who let me know that there, there are current proposals now in, in Lincoln to, to enact such a measure. Not sure where that stands or, or not, but I wanted to want to let you know. Neighboring states have, have enacted protections, the similar bills like this. In Wyoming, Kansas, Missouri and Iowa have all enacted protections. And Senator Hughes, I believe you brought up who is supporting this, what they call the electrification movement. It's a, it's a wide array of organizations. The ones that I was familiar with, this is in the state of Colorado, this was Sierra Club and 350.org which have, you know, very various organizations that they work with and other funders. But there are, there are many others as well. I'm going to stop right there and, you know, be open to any questions, but with the caveat that, that, you know, ag producers really rely on, on the reliability and, and affordability of their energy. And, and as long as it comes from diverse sources, we're open to any and everything from, from solar panels to natural gas so.

**BOSTELMAN:** So thank you for your testimony. Senator Fredrickson.

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**FREDRICKSON:** Thank you, Chair Bostelman. Thank you, Mr. Buckley, for being here today. So I'm kind of curious, so you mentioned a number of cities who have moved forward with this type of legislation or why, why might a city do that?

**ANDREW DUNKLEY:** I can't make their argument for them. I think there's-- this is my opinion at this point, but a lot of the, the types of activists, activism that I've seen around this has, has the goal to, to end oil and natural gas production in the United States.

**FREDRICKSON:** And then my other question is, because my, my only concern with this is that it seems to sort of stunt local control of it. Right. So I know you mentioned, for example, agriculture, like might rely a lot on natural gas. You know, my understanding is that this-- if that, in fact, is the case, I think it would be in the best interests of that local government to maintain access to natural gas. Would that, would it not be the case or--

**ANDREW DUNKLEY:** I believe, I believe, you know, local control and the consumer choice within, you know, within that is, is, is the effort of this bill, where you asked the question earlier of could there be a development that is, let's say a developer comes in and says we want everything is electric. Absolutely. And that's, that's go, go for it. I mean, that's, that's. A capitalist process where, where people, yeah, I think there would be a market for houses like that, that are not reliant on fossil fuels. That's probably, that's probably a call for it. And I don't believe there's anything in the bill that would prohibit that. The, the reason that we support it is because not one thing works for everybody. And so a multitude of ideas is acceptable. I believe a multitude of-- we believe multitude of, of energy sources is is needed to support agriculture in Nebraska.

**FREDRICKSON:** I think we agree on that. Yeah, thank you.

**ANDREW DUNKLEY:** Thank you.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chair Bostelman. Thank you for being here, Mr. Dunkley, and I appreciate your perspective on this. I just wanted to ask about you mentioned that whole thing about the stoves and there was a plan to, I don't know, whatever to do something with stoves. Do you know where to find that? I haven't seen if there was actually a plan that was pulled back. I just heard there was a study, I guess.

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Natural Resources Committee February 8, 2023

**ANDREW DUNKLEY:** Sure. I may have misspoke, if I said it was a, if it was a plan, it was, it was a-- I know that there are studies cited. I believe it was, it was on the federal level. And I pay attention to the state, state side. I will, I will get you an article on--

**J. CAVANAUGH:** If I misheard you, that's all right. I just wanted-- because I haven't, I haven't been able to find any plan. I've seen that there was this study that everybody is getting all hot and bothered about.

**ANDREW DUNKLEY:** It, it was, it was something that required a clear statement by the, by the agency saying, nope, nope, we're, we're not doing that. But it had been drafted.

**J. CAVANAUGH:** OK. Thank you.

**ANDREW DUNKLEY:** So yeah, I'll get that to you. Yeah.

**J. CAVANAUGH:** Thanks.

**BOSTELMAN:** Seeing no other questions, thank you for your testimony.

**ANDREW DUNKLEY:** Thank you.

**BOSTELMAN:** Next proponent for LB636. Good afternoon.

**RICH OTTO:** Good afternoon. Chairman Bostelman, members of the Natural Resources Committee, my name is Rich Otto, R-i-c-h O-t-t-o, testifying in support of LB636 on behalf of the Nebraska Hospitality Association, the Nebraska Retail Federation, and the Nebraska Grocery Industry Association. Thank you to Senator Albrecht for introducing this legislation. We see it as a commonsense approach to maintain energy choices for Nebraska consumers and businesses. I know the previous testifiers went over energy choices and all of those. I will cut basically to our main reason to support, and those are for our members that are preparing food: chefs, kitchens. Gas is the preferred method for all of those chefs. If you look at surveys, it's somewhere between 75 and 80 percent of chefs prefer cooking on gas. And we can go into those reasons. Those professionals prefer cooking on gas because it's heated up much quicker than electric cooktops. Gas offers greater control over temperature usability with all cookware, not just flat bottom cookware, which typically is all you can use on an electric range. And then they're much simpler to clean and maintain as well for our restaurant members and those with kitchens in their facilities. Our members now are cooking with gas and we want to keep cooking with gas going forward. That's the main reason for our support. But we do

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

appreciate this approach. Also, just my take on your question, Senator Brandt, is usually our restaurant members with kitchens have electric or gas piped in. Those other sources typically feed the electric grid, so it's one of those two choices. And so that's why we want to maintain that. Just one other point that mobile units or when we're at events or other things, electric can be very difficult to get to those. And we need to utilize either propane or natural gas. So with that, I'd be happy to answer any questions you may have.

**BOSTELMAN:** Thank you for your testimony. Questions from committee members? Senator Cavanaugh.

**J. CAVANAUGH:** Yes. Thank you, Chair Bostelman. Solid pun, but that's really all I wanted to say. But no, the other thing was so I know cooks love gas. Would your organization have any opposition if the bill was changed in such a way to only prohibit these ordinances that pertain to businesses and commercial development and only-- it could allow for bans in the home?

**RICH OTTO:** What we're seeing more and more units that are getting certified kitchens in their homes, so that could be problematic. We do see where there's a shift a little bit where we have a lot of mobile units and other things where they'll have-- maybe it will be a building that they built on, but they are actually getting an expected kitchen in their home and so they would still want to have that option. So that's my one concern with that.

**J. CAVANAUGH:** But thank you.

**BOSTELMAN:** Senator Fredrickson.

**FREDRICKSON:** Thank you, Chair Bostelman. Not a question, it's a comment. I love cooking on gas myself, so I was wondering when the Culinary Institute was going to weigh in on this. So I appreciate that you came here and testified, that made me smile.

**RICH OTTO:** Oh, great.

**FREDRICKSON:** Appreciate that.

**BOSTELMAN:** So the commercial stoves and, and homes kind of come back to home-based businesses, potentially? Home-based business, people that, I mean, there's people that--

**RICH OTTO:** Typically they're doing a full commercial--

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**BOSTELMAN:** We can now, we can now do, I mean, I think we passed legislation here in the last couple of years where you can-- someone can fix their food at home and then sell it.

**RICH OTTO:** Well, the cottage food-- we did make some provisions in cottage food. Typically, those are nonperishable items. So when we're-- whether or not they qualify, but there are others that are getting the licensing beyond cottage food so that they actually are inspected and all of the other as well.

**BOSTELMAN:** OK, thank you. Next testifier in proponent for LB636. Any other proponents? Seeing none, any opponents on LB636, please come forward.

**AL DAVIS:** Good afternoon again, Senator Bostelman. Al Davis, A-l D-a-v-i-s, representing the 3,000 members of the Nebraska Chapter of the Sierra Club. I'm going to kind of divert from my letter, you'll have that in your hands. But I think that, you know, the driving, the driving force behind this movement to make these restrictions is cities and towns who are very concerned about climate change and the ramifications of that. Every one of us here has experienced the ramifications of climate change, and it's on a day to-- day-by-day basis. And you've all heard that comment about the frog in the in the boiling water, starting out with room temperature and not knowing what was going on. As the water gets warmer, the frogs perishes because he is-- isn't aware of what's going on. I think that's what's one of the problems that we have with our fuel, oil and gas industry is, you know, they have a profit center. They want to maximize that profit center. And really the costs that are associated with the oil and gas industry are not reflected in the climate change. So it's everything else that's bearing the cost of that. One of the things that bothers me about this bill is I really believe in local control as much as you can possibly have that. So if you've got village, villages or cities that want to put ordinances in that restrict gas, that's a decision that they make at their local level. And they have voters who they will be responsible to for that decision. So I've seen a lot of interest in this Legislature in sort of stripping local governments of their powers and I think will-- but every one of you probably ran on the basis of local control. This is a local control issue. You did hear references to Eugene, Oregon, and they just did pass that just the other day. It's for new construction only. One other comment I was just going to make. Some of you are old enough to remember the ugly 70s. And I lived in Denver at the time, I was in college at that time. And so there was a brown cloud that circled over the city of Denver a lot of times because there were these inversions. And the city had to

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

impose something that was very controversial at the time, but it was a wood burning fireplace ban in the city on specific days. And so we had a lot of the anger and frustration that you're hearing today about cities that are trying to impose these rules. But ultimately, that was for the good of the people in Colorado. It saved lives. A lot of people were getting sick from those clouds. You might know this, maybe you don't. Methane is really the bulk of what natural gas is. We call it natural gas, but it's largely methane. So I just was sitting listening to some of the testimony, and this I did pull this up. Methane has 80 times the warming power of CO2. So we're putting methane into our air all the time from a number of different sources: when we flare a natural gas well, when we're cooking on a cook stove, which we have at our house, we have a propane stove. We all need to do as much as we can to combat global warming. It's for our interest and the children's interests and the future of the planet's interest, all the wildlife that lives here. I don't think that restrictions in an urban area by a village or a city that wants to implement that is harmful in any way. I understand it's harmful to the business, but the business isn't paying its share of what this global warming is doing to the planet. So we, we really believe strongly that this is up to the local entity. The last thing I'll say is, you know, how is this different really, than a planned urban development that says you have to paint your house gray? How is it any different? Thank you.

**BOSTELMAN:** Thank you for your testimony. Senator Hughes.

**HUGHES:** Thank you. Thank you, Chairman. Thanks for coming in, Al. You, if it's OK, you wear another hat and represent the Cattlemen, Independent Cattlemen--

**AL DAVIS:** I do.

**HUGHES:** --Association. With that hat on, how would they feel about this? Just with by nature of farming and you-- the propane needing to keep things heated and electricity you can't rely on 100 percent, all that?

**AL DAVIS:** I am sure that we've not discussed this issue, you know, I've reviewed the bills that I'm supposed to testify on with them. So we've not discussed that issue. I'm sure they would be concerned.

**HUGHES:** OK. Thank you.

**AL DAVIS:** But, you know, I would say this. We're talking about new construction. And I don't-- I can't imagine any city or any county in

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

the state of Nebraska saying, strip out your gas lines, take away your propane stove, take away your propane furnace. You have to go with electricity.

**HUGHES:** But you can build new of a--

**AL DAVIS:** If you build new, I don't think it's a problem.

**HUGHES:** --calving barn.

**AL DAVIS:** True.

**HUGHES:** OK.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chair Bostelman. Thank you for being here, Mr. Davis. I just wanted to ask you one question. So you talked, you talked a little bit about, I guess, externalities, right? That the outside costs to society as a whole of carbon-based fuels. Do you read this bill to include a prohibition that a city could require some sort of mitigation of that? Like scrubbers or carbon capture, or would they still be allowed to do something along those lines?

**AL DAVIS:** Well, you know, I think that would be an option. But how do you do that if you've got a cook stove?

**J. CAVANAUGH:** Well, I'm just asking if the bill would prevent a city from taking some sort of action to require--

**AL DAVIS:** I see. I see. I didn't understand your question.

**J. CAVANAUGH:** Yeah.

**AL DAVIS:** I don't think it does. Do you?

**J. CAVANAUGH:** It says restricts. I don't know. I guess you could, you could view any restriction including, I mean, it does-- I'm not sure if it limits it to reasonable restrictions. I guess you're technically [INAUDIBLE].

**AL DAVIS:** It's all in how you read it.

**J. CAVANAUGH:** You're not allowed to ask me questions though, Al.  
[LAUGHTER]



Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

**BOSTELMAN:** So does the Sierra Club support the complete ban of use of natural gas?

**AL DAVIS:** No, I don't believe so, but I, it's above my pay grade. I'll have to get the answer for you on that.

**BOSTELMAN:** So, yeah--

**AL DAVIS:** But they believe in--

**BOSTELMAN:** Or new production. I'm just, I'm curious.

**AL DAVIS:** I would say that the, the Sierra Club me thinks that we should move as rapidly as we possibly can without major disruptions to our economy, to a carbon-free society.

**BOSTELMAN:** So that would be-- that would include eventually moving away from natural gas, I would think.

**AL DAVIS:** Probably.

**BOSTELMAN:** Yeah. OK, appreciate that. Any other questions? Seeing none, thank you for your testimony.

**AL DAVIS:** Thank you.

**BOSTELMAN:** Any other opponents of LB636? Any other opponents? Seeing none, anyone would like to testify in a neutral capacity on LB636, please come forward. Good afternoon.

**LASH CHAFFIN:** Good afternoon. My name is Lash, L-a-s-h Chaffin, C-h-a-f-f-i-n, I'm a staff member at the League of Nebraska Municipalities. And I would like to testify in a-- make this very clear, a neutral capacity on LB636. Before I get into my testimony, I'd like to offer up my appreciation to Senator Albrecht's office, and in particular Ms. Becker, for their extreme patience and persistence in getting many, many drafts of bills under our noses over the last year and trying to satisfy some of the League's concerns in another bill, another iteration of this concept. And I guess the, the history of this is that there was a, there was a bill, a similarly concept bill written much differently in the Government Committee, I think it was last year. Might have been two years ago, but I believe it was last year. And the League vigorously and strongly opposed that bill. And, and Senator Albrecht can correct me if I'm wrong, but I think Senator Brewer actually turned off the light, and I believe I testified for close to 45 minutes in opposition to this bill. And we

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

don't want to do that today. But, but so we had we had a lot of concerns over the way-- over the concepts in this bill and the local control that we thought we would be ceding under the bill as drafted at that time. The current language, there's-- has been lawyered up rather dramatically. And, and as long as the language stays as is, the League will be neutral on LB636. If there are any deviations to the, to the language, we'd like to look at them and probably would oppose LB636. But the way it's drafted now, and, and I do appreciate the patience and persistence of the proponents in continuing to try to work with it and tell me I can't dodge them anymore. So the-- but so we would be opposed. And, and I guess just a couple of thoughts. And some of the fears in Nebraska of some of these things happening, everyone at this table has been around local governments. They're not going to happen. I mean, the, the Odell City Council and the Gresham City Council are not Berkeley. They're not in the business, they don't even view that as part of their role. An offhand remark by one city council member somewhere is not a movement. This, this is Nebraska. This is not northern California. So I just don't think this-- there's a lot of concern that cities or counties in Nebraska are going to start banning these type of things. As a matter of fact, if, if, if we had a position on natural gas, it would be to get more natural gas out there. There are large portions of Nebraska that don't have natural gas pipelines, including some very sizable cities, by Nebraska standards, city of Valentine. City of Valentine, there's no natural gas pipeline that runs to the city of Valentine. They don't have natural gas service. So if anything, the movement in Nebraska would be the opposite. It would be trying to get in more natural gas service. So I guess that said, I'll skip my 45 minutes of opposition and say that at this point, the League is neutral on this. And so if the committee does move forward with it, we would encourage you to move at least move forward with this exact language.

**BOSTELMAN:** OK, thank you for your testimony. Any questions? Seeing none, thank you for your testimony.

**LASH CHAFFIN:** Thank you.

**BOSTELMAN:** Any other who would like to testify in the neutral capacity on LB636? Any others to testify in a neutral capacity? Seeing none, Senator Albrecht, you're welcome to close.

**ALBRECHT:** Well, thank you to the committee for listening to the proponents and opponents. I will say I was not in that Government Committee with Senator Brewer. I believe I had this in front of Revenue last year is what I'm thinking. But anyway, this bill is not

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee February 8, 2023

in response to any action that a city or county has taken. And I'm sure that Black Hills Energy is who brought this bill to me and their relationships with their partners is, is very important to them. And they don't seem to truly have any major issues. And it did-- this bill did come up for a few years before I ever had it, and that was well before there was a consideration of gas stoves for indoor pollutants that could cause childhood asthma. I think that was an article that's out there. I just-- we just Googled it. But I think it's very prudent that the companies are being intentional with the curr-- the current level of reliable sources that we currently have. I certainly wouldn't want to see it go away on the farm. I'm happy to see Mr. Chapman [SIC-- Chaffin] has come to a neutral stance instead of against the bill, adamantly in the past. But I do know that the Sarpy City, there's, I think, 117,000 users in the Sarpy, the city mayors all got on board on this bill as well. So I think it is something that should move forward just to protect the interests of a company that's been in Nebraska for a long time. I do know in California, they, with their new bans that they have, if it's not, if the company could not actually or did not want to consider all electric, they do still have an option in portions of California. I don't think it's a full statewide ban. But the other thing I would say is that I just think that customers do have a right to choose and we have to be able to have those options available to them. And banning something like this or just being proactive not to do something like that. One other thing I will say is that we have wind energy very strong in northeast Nebraska, and we have it there because the Facebook people that went into Sarpy County, that's what they wanted for their energy. And so that's why we have lots of wind energy up in northeast Nebraska. So people have choices. Some companies will come in and want certain things. And I think that we have to be open to all forms. So with that, I hope you'll advance it to the floor. And any questions? I'd be happy to try to find some answers for you.

**BOSTELMAN:** Is there any other questions from committee members? There were seven proponent letters, eight opponent, opponent letters to the committee, and that will close the hearing on LB636. Thank you all for coming today. Committee members, hold on for a minute.