BRANDT: Welcome to your Natural Resources Committee. I'm Senator Tom Brandt. I represent Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. I serve as chair of this committee. The committee will take up the bills in the order posted. This public hearing is your opportunity to be 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 testi-- testifier sheets that are on the table by the door. 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 yellow sign-in sheets back on the table for each bill. 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 by anyone speaking in a neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We will be using a 5-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 will have 1 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 the importance of the bills being heard. It is just part of the process as senators may 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 up at least 12 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 state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. 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 left.

MOSER: Mike Moser. I represent Platte County and most of Stanton County.

RAYBOULD: Jane Raybould, Legislative District 28, which is central Lincoln.

JUAREZ: Margo Juarez, District 5, south Omaha.

DeKAY: Barry DeKay, representing District 40, which consists of Holt, Knox, Cedar, Antelope, northern part of Pierce, and northern part of Dixon County.

CLOUSE: Stan Clouse, District 37, it's Kearney, Shelton and Gibbon in Buffalo County.

CONRAD: Hi. Danielle Conrad, north Lincoln.

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

BRANDT: Also assisting the committee today, to my right is our legal counsel, Cyndi Lamm; and to my left is our committee clerk, Sally Schultz. Our pages for the committee today are Emma Jones, a junior at the University of Nebraska, and Kathryn, a junior majoring in environmental studies at UNL. With that, we will begin today's hearing with LB695. Senator Dover.

DOVER: Thank you. First, I just want to express my appreciation to Chairman Brandt and the committee members for rescheduling so that we were able to get representatives from Battle Creek area down here so they could just express their unique views of the situation that we find ourselves in Battle Creek. For the record, my name is Robert Dover, R-o-b-e-r-t D-o-v-e-r. I represent District 19, which is Madison and the south half of Pierce County. On the NRD state website, it says, quote, the Natural Resources Districts were created to solve flood control, soil erosion, irrigation runoff, and groundwater quantity and quality issues, end quote. What was the first thing listed? Flood control. On the Lower Elkhorn NRD website under responsibilities it states, quote, the Lower Elkhorn Natural Resources District: Protecting lives, protecting property, protecting the future, end quote. The Lower Elkhorn NRD needs to do just that, protect lives and property. It also lists, quote, prevention of damages from flood water and sediment and, quote, flood prevention and control under its responsibilities on its website. It is time for the Lower Elkhorn NRD to do its job and act to control the flooding of Battle Creek. LB695 has a simple purpose, it seeks to protect the

community of Battle Creek from flooding, as well as those downstream from Battle Creek on the Elkhorn River. Battle Creek has experienced flooding over the years, as many towns located near a river or creek do. This flooding affected homes, businesses, and infrastructure. In one major flood, key infrastructure downstream of Battle Creek was affected. Bridges were damaged, stopping any material moving to or from Norfolk Iron and Metal and Nucor. Roads transporting goods and materials to the region in the state were washed out, affecting businesses like AWG, Associated Wholehouse-- Wholesale Grocers. Over the years, engineering studies were initiated and completed by the Lower Elkhorn NRD, none of which were adopted. To date and over the decades, those studies have been ignored by the Lower Elkhorn NRD. There have been a refusal to act on engineers' recommendations. This refusal to act has led to uncertainty for the region concerning safety, reliability of infrastructure, and future development. A new study is calling for the building of a dam and a levee system to mitigate the flooding and, and protect the community and those downstream. Recently, there was a, a meeting of the Lower Elkhorn NRD on a Thursday night-- I think it was-- I believe it was on a Thursday night so I wasn't able to attend because we had-- we were in session on a Friday, but I just want to read just a couple of paragraphs of my letter I sent to them. It states: Honorable members of the Lower Elkhorn NRD, LB695 was drafted for several reasons. The main reason was to draw attention to and increase the discussion of the flooding of Battle Creek, a community in my district. Too many decades have gone past with the LENRD members refusing to take action while Battle Creek continues to flood. It is not a question of if Battle Creek will flood, but when the next flood will be. I urge the current members to take action to protect Battle Creek from flooding. The other reasons were threefold: one, the engineering work that has resulted from the study of Battle Creek Watershed for the past 5 years should be followed; two, the design should not increase risk down river; and, three, all local, state and federal funds should-- will be accessed so as not to increase the taxes of those in the Lower Elkhorn NRD district, which includes towns such as Wau-- and, I mean, if you have-- and I believe you have this handout here. This shows the Lower Elkhorn NRD district. It's all of northeast Nebraska. So anyway, we've been increasing taxes on the towns of Wausa, Plainview, Osmond, McLean, Foster, Pierce, Hadar, Randolph, Belden, Laurel. I won't read them all, but they're, obviously, a large-- this is a large area of Nebraska. With the property taxes-- with the property taxes are so high, now is not the time to raise them on all the people in northeast Nebraska when we can access federal funds and other funds. I'm willing to withdraw LB69-- I went further to say this: I am willing to

withdraw LB695 if the Lower Elkhorn NRD agrees to the following engineers-- follow the engineering resulting from the design that follows the National Watershed Handbook. Just so you know, this is, this is a handbook that describes specifically how this should be done. You know, how the watershed study is done, etcetera. It's, it's-- this is, this is really a guidebook, a rule book how to-- very professional. Since this is the First Session of, of the One Hundred Ninth Legislature, my LB695 will be kept in committee until it is needed. The decision made, made by the Lower Elkhorn NRD will either trigger the killing of the bill or its introduction to General File. I'm going to go back here to my opening statement now. As stated in my letter, I prefer not to use legislation-- use the legislation to protect Battle Creek. I am confident that the Lower Elkhorn NRD will fulfill its duties to the citizens within its district boundaries. My hope is that the conversation today will result in that outcome. Thank you much for your time and attention, I'd be glad to answer any questions you may have.

BRANDT: Great. Let's see what we've got for questions. Senator DeKay.

DeKAY: Thank you. Thank you for being here today. I'm just going to-- you talked a little bit about federal funds. Do you know what percentage of federal funds could be available for this project or not?

DOVER: I don't know, but someone probably behind me could think, but it's NR, it's NR-- you probably know more about this Chairman Brandt than I do or you might as Senator DeKay, but NRCS money, funds are available. I think they're used across the state. I know that they're doing a project out in Valentine right now and working with Senator Fischer on that. And there's a shortage of funds. I'm also concerned, the quicker you get, the quicker we get in, the quicker we'll be in the waiting line to get those funds. If we-- I mean, it's hard to say with what's happening on the federal level, what funds are going to be available and, if so, for how long and things. So I just like to get something going. It isn't-- Battle Creek has flooded for decades and something needs to be done. But I apologize, but someone may know that. And actually we have a representative from Lower Elkhorn NRD. I'm guessing Brian probably could be able to answer that question.

DeKAY: All right. Thank you.

BRANDT: Senator Raybould.

RAYBOULD: Thank you, Senator Dover. I mean, this is concerning. When was the last time that Battle Creek got flooded? Was it in 2019 or--

DOVER: Yes.

RAYBOULD: OK. That was a pretty horrific flood all around.

DOVER: Yes.

RAYBOULD: I mean, I'm in the city of Lincoln and, and it knocked out several of our well fields in 2019. So tell me who is doing the new study about building the dam?

DOVER: It's-- there's two engineering firms, one was JEO and the other one actually was-- I believe it's-- it's either-- it's Houston?

_____: Yep.

DOVER: Houston. And that-- they actually-- they specialize in exactly this, water control, watersheds, designing dams, levees, and systems to alleviate flooding and flooding problems. And that's what their firm does and specializes in.

RAYBOULD: So does Lower Elkhorn NRD have-- they have a levy authority or a property tax rate?

DOVER: Yes.

RAYBOULD: And so they, they have been paying for the civil engineering hydrological studies all this time now.

DOVER: There was-- there were-- someone can speak to this better than I can, but there's federal funds, there are federal funds available for this study. And I know-- and someone could-- but let's say it's 3 or $400,000, they'll be more specific. And they will be able to use federal funds and then they weren't moving forward. And what they found out was if, if they didn't use them, follow what the federal-- what the study that was funded by federal funds did, they would have to pay for the money in the study. So they actually filed, I believe, $80,000 to extend the study time. So then they could, they could actually complete the study. Otherwise, they'd have to repay those federal funds. But what-- if they follow the federal funds, there would be millions of dollars available.

RAYBOULD: OK. Thank you.

DOVER: Thank you.

BRANDT: Senator Clouse.

CLOUSE: Yes, thank you, Senator Brandt. So do you know where this study is at now? What, what phase?

DOVER: It's, it's, it's in the final review. And someone behind me can speak more to as far as a timeline, but I, I believe the decision will be made after we're out of session, but before we come back into session in January. And that's why I would simply leave my bill in this committee.

CLOUSE: So the first phase is what you're saying that which is-- we had the same thing happen in Kearney and we used JEO. And the first thing they did is we were told it would be a long time frame. It would be, like, 4 years just doing this watershed study, 4 to 5 years putting that together. Then you got to go out and find funding for the engineering to get it all designed based on the study and another 4 or 5 years in, in getting it built or whatever the end-- endgame was. So it would be 5, 10, 12 years out. And, obviously, we're not there yet so I just wondered what phase [INAUDIBLE].

DOVER: Oh, no, no, the study-- the, the design and study have been completed. It's in a final review now. I believe it'll come-- and someone [INAUDIBLE]-- later this year in December or something, it will come before the NRD to look at the design and decide if they want to follow through with the engineering requirement or should be suggestions.

CLOUSE: OK. And so then back to Senator Raybould's, do you know where their levee is at-- are they-- Lower Elkhorn?

DOVER: No, but Executive Director Brian Bruckner will be able to address that.

CLOUSE: Also the cost?

DOVER: I believe he might be able to give an idea on that also.

CLOUSE: OK. Thank you.

BRANDT: Senator Hughes.

HUGHES: Thank you. Thanks for bringing this bill. Are there other entities besides the NRD that would be involved with perhaps paying

for this project? I mean, does the county have to step in, the city of Battle Creek?

DOVER: Once-- I believe that the city of Battle Creek have, have volunteered that they would do a bond to help contribute to the funding of the dam. And I'm guessing-- you know, I can't speak for the county, but I'm guessing everybody-- I mean, everybody--

HUGHES: Everybody affected.

DOVER: --that is going to benefit would help participate in funding that.

HUGHES: OK. Thank you.

DOVER: Yeah. Thank you.

BRANDT: Senator DeKay.

DeKAY: Thank you. Just trying to put it in my mind where this dam would be built from the watershed and stuff, would that be-- I'm guessing it's going to be southwest of Battle Creek, and--

DOVER: Yes.

DeKAY: --the flooding, that happened in '19, did that flooding, and somebody from behind you can probably answer this, did that flooding make it up to the [INAUDIBLE], high school stuff is at?

DOVER: Yeah, someone else will be able to answer that behind me.

DeKAY: OK.

DOVER: Thank you.

DeKAY: Thank you.

BRANDT: Any other questions? I guess I just have one. It's somewhat unusual to see in the legislation itself, a, a, a city designated. I guess, usually they say a city of the, of the second class located in northeast Nebraska. You know, they, they, they, they, they make it so it's open to anybody in the state, but you still close it by that. I mean, this is kind of the first time I've ever actually seen them list Battle Creek, but that went through Bill Drafters just fine. Right?

DOVER: Right.

BRANDT: OK. That's really all I've got. No other questions? Thank you. You going to stick around to close?

DOVER: Yes, I will.

BRANDT: OK. Let's go with proponents. First proponent? Yeah, it's a little tight in here. This isn't our usual hearing room. Welcome.

ERIC KRAFT: All right. And thanks for having me. My name is Eric Kraft, E-r-i-c K-r-a-f-t, and I'm on the Battle Creek City Council.

BRANDT: You can go ahead and start.

ERIC KRAFT: Oh, OK.

BRANDT: Yeah, no that's fine.

ERIC KRAFT: I didn't know if you-- I was waiting for you guys to get your stuff handed out there, because I was going to go through this, kind of a PowerPoint thing. I think you guys all have that on email.

BRANDT: Yep.

ERIC KRAFT: If you want to just-- we could just go through it here by page or whatever if you want to. There's, there's two drainages I want to talk about. The first one is the east drainage, so State Highway 121 kind of goes through the center of Battle Creek. The east drainage is approximately 750 acres. We've tried to mitigate a lot of that water ourselves. And we'll go through that here. And I'm going to kind of go a little fast, have questions at the end. So that, that, that water kind of affected about two-thirds, the eastern two-thirds of town. So if you, if you go to the next page, it says Battle Creek Watershed drainage area. In that-- that shows the whole drainage. And then you can see the, the little, the little spot there where, where, where I'm talking about the 700 acres, but the whole drainage area is 90 square miles. It's 57,000 acres. The next-- then if you go to the next one, it says Drainage Projects Outside the City Limits. So a lot of the stuff that-- well, all of this stuff, we funded on our own. So even the stuff outside the city limits, like digging out the county ditch, cleaning out the creek-- well, they're listed here-- ditch and culvert work, the, the creek channel clean out. And then there are some street and ditch work. That was-- all that was done outside of our city limits. So we've spent our own money out of our own coffers to the tune of $145,000 almost on that. The next page is Drainage Projects Inside the City Limits. These are all like intersections. We dug a-- the, the-- there's a drainage ditch we dug. If you see where

it says Sherwood Road there, right above that, there's a green line that if you follow that green line out, that's a, that's a channel that we, that we dug and it's all grass. To drain that 750 acres that's on the east side of 121, that, that really doesn't affect the main creek part. That's kind of-- was kind of a separate flooding issue. So we-- and then these are all the-- there's 12 items there. Those are all things that we've done inside our city limits to help mitigate that 750 acres. The next page is Intersection Projects to Improve Drainage. A lot of the intersections in town were-- when they put them in or culverts or things like that, they weren't put in-- there's only-- I guess I should have said to begin with, from the nursing home, which would be on the north end of town, to the, to the-- or on the south end of town, to the northeast side of town, which is the way the water runs, there's only between 11 and 18 inches of fall. So if somebody puts a culvert in their driveway and, say, it's 5 inches high, it backs all that water up through, you know, back behind it. So we did all-- we, we did a lot of this work to try to get the water to flow through town better. We had a contractor come in with-- you know, obviously, they, they shot it with a laser or whatever. The drainage study is the next page. So you can see what we've spent on studies since 2007. I think there is even more after that. And a lot of that was cost shared with the NRD. So-- I mean, we shared 50/50 or whatever it would be, but. Summary of expenditures is the next one there, the studies, the construction, and, again, that, that construction, that all came out of our city coffer, so. And that was just to control 752 acres of water runoff. So it's almost-- you know, it's over a half of a million dollars we spent ourselves. I know the Norfolk Daily News had-- they had some comments. When, when this whole thing went into the paper, people had said, well, maybe, maybe Battle Creek should do this or do more to help themselves. Well, you know, we're a town of 1,200 people. And, and we spent-- I think we've gone above and beyond, to be honest with you, on issues. Especially for the stuff outside of our city limits, you know, when the county wouldn't help or, you know, they didn't have the money to help us. We just kind of did it ourselves, so. On the next page is 100-year flooding extent from Battle Creek. So that kind of shows-- and you were asking you about the school. You can see down here this little white dot right here, that's the high school. So you can see the water. And this is all flooding from the creek. You know, like I said, this, this part of town over here was that 750 acres. And so we've kind of, we're kind of taking care of that, but what we can't, what we can't take care of is, is, you know, 57,000 acres of water coming through our town. That's, that's all that. And then I have this map here. So this-- you were asking about where that dam is in

relationship to the watershed. So the dam would be here, and it's approximately 9 miles as the crow flies from the face of the dam to the edge of town. So this takes care of, you know, I suppose, roughly half or-- am I done? I don't need a, a red light. I just noticed the red light is on.

BRANDT: Are you about ready to wrap up?

ERIC KRAFT: Yeah, I'm about done.

BRANDT: Go ahead, go ahead and finish your thoughts.

ERIC KRAFT: OK. Yep.

BRANDT: Yep.

ERIC KRAFT: So this is in relationship to the, to, you know, the dam and all that, if you were asking about where that was at, so.

BRANDT: OK.

ERIC KRAFT: I guess if you guys have any questions or--

BRANDT: All right, let's see what we've got for questions. Senator Clouse.

CLOUSE: Thank you, Senator Brandt. So all that-- what-- this is all in the flood plain, right?

ERIC KRAFT: The, the, the flood plain would be--

CLOUSE: Is that on this blue--

ERIC KRAFT: The, the blue-- well, the blue-- is there one in the-- there was one there with it.

CLOUSE: It says Impacts of Flooding on Battle Creek, is that-- that's not defined in the flood plains, this one?

ERIC KRAFT: That one. Yep, yep, yep. Actually, I was going through an older one. I, I don't know what the heck I was doing there. I was kind of--

CLOUSE: So how much of this is newer construction?

ERIC KRAFT: There's-- Klein's Addition would be the newest construction in town, I guess not the newest, the, the East 7th

Street, A Street, 7th Street-- when Mike comes up, he, he would probably know, our city administrator, how much of that would be. But there is new construction over there. Yeah. Yeah. Yeah, this, this map here-- I was on the wrong one. I'm sorry about that. Yeah, this map here, that would be the, that would be the, the, the floodplain. If FEMA came in, that would be the troublesome part of it if they, you know, decided to designate that a floodplain. Right now, there's only one house in the town that's actually in the floodplain in Battle Creek, so.

CLOUSE: So even if you built the dam, it wouldn't take it out of the flood plain?

ERIC KRAFT: Well, this is supposed to take it out of the flood-- or this is supposed to fix the problem and, and be FEMA-- you know, we would make it right with FEMA, so.

CLOUSE: OK. Thank you.

BRANDT: Senator Moser.

MOSER: So what's the crux of the disagreement with the NRD? I mean, we've all got pictures of floods, every town along the fly, along the Loup, they all flood. So you want to build a dam, they don't want to build a dam,--

ERIC KRAFT: Well, I wouldn't--

MOSER: --what are they telling you?

ERIC KRAFT: I wouldn't say that they don't want to build a dam. I think that, that our frustration comes from-- and we worked with them very well on studies. They, they-- we've shared cost in, you know, a lot of the studies. I think our, our frustration is that it's, it's, it's kind of a, kind of a turtle [INAUDIBLE], swimming slowly, you know, or whatever. And, and I guess that's kind of our-- we just kind of would like something done, you know, whatever, sooner, or sooner than later, you know, so.

MOSER: OK. Thank you.

ERIC KRAFT: Yeah.

BRANDT: Senator DeKay.

DeKAY: Thank you. What's the proposed size of the reservoir that--

ERIC KRAFT: Oh, was that in here?

DeKAY: I didn't see it in there, but I thumbed through it pretty fast.

ERIC KRAFT: Is it on that map? I guess it doesn't give a, it doesn't give a dimension here. And I'm, I'm a little lax on that one. Brian would know. I guess we got to go back to Brian for that. It shows the-- it shows it here, but it doesn't show the acreage of it, so-- but Brian would be able to answer that question for you, so.

DeKAY: All right. Thank you.

BRANDT: Senator Raybould.

RAYBOULD: Thank you for coming. So some of the photos you provide, can you tell us, like, when were they taken? Like the flooding photos, were they from 2019?

ERIC KRAFT: '19. Yes. Yes.

RAYBOULD: OK. And then the-- obviously, the grasslands.

ERIC KRAFT: OK, so-- yep. I was in the-- I was-- I had two of these and I was on the wrong one so you guys were probably lost when I was going through it. I'm sorry about that. That, that, that is actually a drainage that was cleaned out. The, the one on the right-hand side was cleaned out. That's-- we've got a little bit of a storm sewer in the, in the, in the city. And that, that one on the right in the bigger picture that was, that was cleaned out. That's where a storm sewer goes. I think all three of those are. Yep, all three of those were at storm sewers and dumps into the Battle Creek. And the big problem is with the-- they say, well, when you put a storm sewer in town, you know, if the creek is flooded, where does the storm sewer go? I mean, that storm sewer, it all needs to go to the creek. But if the creek is flooded, you know, the storm sewer is going to be full. And, actually, the, the-- when the, when the creek backed up, we had-- the fire department had put sandbags on the inlets because it was forcing more water into town because of the pressure from the creek was pushing the water up that and then through the pipes and into town, so. I know there has been talk about putting in a culvert or culverts or, or a storm sewer, I guess, but to run that water out of town-- and that's the sheet here. I got an estimate for some pipe from a, from a company in South Dakota. And, you know, they-- when we're flooded, it's-- there's just no place for the water to go. You know, the, the storm sewer is not going to do us any good, so. But--

RAYBOULD: Another question for you. So do all the studies indicate that you should be building a dam or did they come up with other-- like option A, option B?

ERIC KRAFT: Well, it was-- the, the first-- when the first studies went through, there was, there was different options. And I think-- well, and, again, Brian, I mean, they kind of took the lead on the studies for all that. And he'll be able to answer those questions better than I. But in the beginning there was like a huge levee, there was a huge dam right down by town. It was like-- I don't know-- it was like, you know, a 1,000-acre dam or whatever there. But we couldn't-- the, the property was a problem with-- Game and Parks owned it. And it was, it was given to them and they couldn't-- that was part of it, I guess. You know, they, they couldn't-- it couldn't be used as a dam was one of the stipulations. So-- but-- I mean, there's been certain NRD boards that have, that have said-- or NRD members that have said that this is the best proposal that they've seen. You know, with the small levee around town, the dam would, would take care of approximately half of the watershed or half of the water moving towards town and then the creek and then this, this small levee would take care of the rest of it, so.

RAYBOULD: Well, I know we have two mayors. I was on the city council, too. And, you know, we would go out for a stormwater bond and then we would partner with NRD and come up with, you know, a reasonable solution. And, you know, a project. I know that we're still working on Dead Man's Run in Lincoln and that's-- and our legal counsel, Cyndi Lamm, was also on the city council. I mean, it-- it's still not underway.

ERIC KRAFT: Yeah. Yeah.

RAYBOULD: So that-- some things like this do take a number of years and it--

ERIC KRAFT: Yeah.

RAYBOULD: --truly is frustrating.

ERIC KRAFT: Yeah.

RAYBOULD: And I think we-- at the end, we decided we didn't want the federal funding from the Army Corps of Engineers. And I think we saved about $25 million--

ERIC KRAFT: Yeah.

RAYBOULD: --just saying no thanks. We got it, we're going to omit that-- your recommendation, so.

ERIC KRAFT: Yeah.

RAYBOULD: I don't-- I mean, I guess I'm trying to figure why, why isn't it working with the city of Battle Creek and the NRDs. Is there, is there a bigger problem that I'm not seeing?

ERIC KRAFT: Well, there-- I don't know, I think there's-- you know, the, the board is reluctant to move that direction, you know, and I'm not going to speak for Brian and, and, and Kurt [PHONETIC] are sitting here. They can speak more to that. But I think there's the problem with the farm ground, you know, and things like that. There's-- I'm, I'm going to be honest, there's, there's a lot of large farmers on, on there that, you know, see that as a threat, you know, or whatever. You know, I, you know, I grew up on a farm in Wisconsin, a dairy farm. So I'm, I'm from a farm background, too. And it, it would hurt to have the ground taken for that. You know, it's different up there where you're a dairy and here, you know, you're more crop farming so you have sections of ground or, you know, or, you know, whatever. So I think that's part of it, where there's a lot of, a lot of farmers on, on the board that, that really don't want to see that happen, so. And that's my opinion. I mean, I'm not, you know, so.

RAYBOULD: OK. All right. Thank you.

BRANDT: OK. Senator Clouse.

CLOUSE: Thank you, Senator Brandt. I, I-- again, what was your name and--

ERIC KRAFT: Eric Kraft, K-r-a-f-t. No relation.

CLOUSE: OK. And what's your title again?

ERIC KRAFT: I'm a, I'm a, I'm a city council member.

CLOUSE: City council.

ERIC KRAFT: Yep.

CLOUSE: OK. These pictures you have, this is from 2019?

ERIC KRAFT: Yes.

CLOUSE: These are the worst case pictures you've, you've had?

ERIC KRAFT: Yeah, I mean, they were all submitted by certain-- by, by folks that live there, you know. And the one with the fence sticking out of the, out of, out of the water, you know, that's, that's probably the main, where the main water was moving out of town. You know, there-- so that was, like, the worst part, you know, right there. And then, and then like the far eastern part or western part of town, 7th and A Street, that-- they got hit the hardest with that. And they always get hit the hardest with creeks. We've had numerous floods. I've lived there 22 years, we've had numerous floods. And sometimes just my side of town, the west side of town, or the east side of town flooded, and sometimes just, just the west side of town floods. But, you know, really we took care of the flooding on the, on the, on the east side of town by doing-- by spending up money we spent. And, like I said, that's only 750 acres. And we're talking, you know, 57,000 acres of the watershed. You know, on the watershed-- the one thing I wanted to point out, too, is-- so if, if a watershed catches a rain up here, you know, that's like the top of a funnel, all that water has got to come to that point to get through, to get out. You know-- but, you know, and Battle Creek will handle. You know, if you go this way, and say we get a 5-inch rain there just in Battle Creek, just down here at the bottom of the shed-- I mean, I'll look all you guys in the eye and tell you-- I mean, we'll handle 4 inches of rain or 5 inches of rain. Joe Barry is sitting back there, he's lived there longer than I have, and, and we'll handle that much rain in town. The streets will fill with water and they'll run out. You see the ditches, they're going to run more water than a storm sewer. You know, the open ditches are. It's just-- putting in a storm sewer to me is, is, is crazy. I mean, I just-- I don't see what that's going to do and the money we're going to spend at that, it's not, it's not going to work in our town because were too flat, so.

CLOUSE: [INAUDIBLE]

BRANDT: Go ahead.

CLOUSE: Can you tell me about your, your discharge--

ERIC KRAFT: Oh, yeah.

CLOUSE: --facility, what you've done, you've relocated, you know these pictures here, what's happened since then?

ERIC KRAFT: So nothing's really happened since then. We just hope it doesn't flood again. That-- let's see how-- when, when-- Mike, when--

_____: Put that in there?

MICHAEL FLEER: What's that?

ERIC KRAFT: Sewer plant.

MICHAEL FLEER: Wastewater treatment plant, initially?

ERIC KRAFT: Yeah.

MICHAEL FLEER: 20-- 2006, I believe.

ERIC KRAFT: '06. So it's flooded, probably-- well, it says there's, there's-- there are two major floods, but, you know, when that floods-- our, our superintendent was supposed to be here today, but he was up late last night or this morning working on wires because of the wind in town. So we've had to rebuild that a couple different times because that's like at that-- it's at the northeast part of town where the water all goes. So we have to discharge raw sewage onto fields, into the, into the creek that goes into the river. And I think the last time we had to do that, it was, I don't know, 4 or 5 days we had to pump, you know, raw waste out of the sewer plant before we could get it cleaned out. It fills with cornstalks, bean stubble, topsoil, you know, and then we have to get in there and clean all that out, so. The main, the main pit is 15 feet deep, and, and that, that was completely full, so.

CLOUSE: Thank you.

BRANDT: I don't see any other questions.

ERIC KRAFT: OK.

BRANDT: Thank you.

ERIC KRAFT: You bet. Thank you.

BRANDT: Next proponent? Welcome.

HEATH METTLER: Good afternoon. I'm Heath Mettler, Mayor of Battle Creek, H-e-a-t-h M-e-t-t-l-e-r. I'm here just to explain our side. I was elected 2 years ago, and I'm just here to support Senator Dover's bill. I'm looking at it on the economic side. We have about 50 families to 75 families that opt in to our school district, and they drive their students into our town. We have very few homes available for them in our community. And, you know, if you take 1 acre of land

and you build 4 homes on it at, let's say, $400,000, that's $1.2 million of value. If you have $1.2 million in property value on those homes, you could lower your property tax on a farm. So I believe one of you asked about how many acres the, the dam would be. I think it's 972 acres, roughly, of the proposed reservoir. We have full support for this dam from the city of Norfolk, from the mayor, from their economic side from many industries in Norfolk, they're unable to be here today. We've asked the NRD for help for the last 20 years, and they kick the can down the road with help. They've had this proposal that's on the table for the last couple of years. They had a proposal, they had to extend this proposal, I believe, two different times to get this proposal that's on the table done. One or two of their members put an amendment out there to-- which was voted on that said we will not support anything for the Battle Creek Watershed that has the word dam in it. That passed, I believe, 12-4-- 12-3 or 11-4, something to that effect. So then this whole thing got stopped. They found out after the fact that this-- they would have to pay back roughly 380-some thousand dollars to finish the study. So about a month later, they come back to the table. We got to vote. So now they voted that we got to finish the study, or they'd have to pay that 300-some thousand dollars back to the federal government to finish the study. So now we're at the process, they had to get another extension to finish the study to see if this proposal that's on the table with the, the dam and the levee will pass the NRCS test, or whatever it is, to, to meet federal guidelines. So we've been, we've been kicking the can for 20-plus years to get us some help. That's why Battle Creek is here. That's why Senator Dover is here with this proposal. He's standing up for his constituents, which are Norfork, Battle Creek, to, to try to get the NRD to do their job, which is flood control. And that's why I'm here today to talk. I look at it as trying to move the town of Battle Creek forward to try and see us grow and, and to help us economically wise. And I'm here to work with the NRD. We just want to see them help us get this resolved so we can move forward. And, and that's why I'm here to talk, and I can answer any questions you have for me.

BRANDT: All right, let's see what we got. Senator Moser.

MOSER: Rather than involve the Legislature, couldn't you just sue them?

HEATH METTLER: That would be our next step if nothing gets done on this proposal, comes out that they vote it down.

MOSER: And, generally, the Legislature doesn't get involved in one particular project. You know, we've got a state statute that says that specific legislation is not constitutional. In other words, we can't do something to benefit just one district in the, the state. We have to do something that affects all of those areas within the state that have the same problem. So I would think that, you know, trying to work with the NRD and, and get it done. I, I don't see the Legislature getting involved in this in my opinion.

BRANDT: OK. Any other questions? I see none. Thank you.

HEATH METTLER: Thank you, guys.

BRANDT: Next proponent?

JOE BARRY: Good afternoon.

BRANDT: Welcome.

JOE BARRY: My name's Joe Barry, J-o-e B-a-r-r-y. I'm actually a resident of Battle Creek or was a resident of Battle Creek. I've lived there my entire life. I was born and raised there. I'm actually here to speak for most of the homeowners of Battle Creek. I've been on the city council for-- was on the city council for 18 years. Went through all the stuff with the NRD Board, fighting at my home. That was when I was in Battle Creek. Since 1990, it was flooded three times. The last one of 2019 was the most. We actually got evacuated from our home. We ran pumps trying to pump water out and trying to keep it from coming in. My neighbor's wall collapsed. They told us-- his basement wall actually collapsed and they-- and the fire department came and said you need to evacuate. So we had to get out. And from the previous-- I would say from the previous floods that we've had, it's not like we didn't try to do anything to prevent our house from flooding. I actually went in and put a 3-foot wall around the outside or next to my house to prevent water from coming in. And the 2019 flood, I should have built it 6-foot tall because it came in. And so we got evacuated, I left, we came back the next morning, my basement had probably, I'm guessing close to 4 feet of water sitting in the bottom of it. Everything was ruined in there, which had happened several other times, but not near to that extent. I was-- I don't know, I'm just telling you what it cost me, from what it cost us to redo our basement, it was close to $40,000, and that was with family help, other people's help. And I did most of the work myself, so it would have actually cost me a lot more. And in that thing-- and the third time that's happened-- and I don't know-- if you ever been through

something three times, for some reason your wife gets a little irritated. So not that I wanted to do this, but we actually built out in the country. We sold our house in town. We built out in the country because it was taking so long. At my age, I just didn't want to go through that again. But I am here to fight for the people in Battle Creek because we do need something to happen here. I mean, and it's people-- I sold my house to a younger couple. They know about the flooding issues that happened there. But I, I don't want to see people have to go through that. Battle Creek has been a great community. I mean, they're supportive and we had all kinds of help during the floods. But I just, I just want you guys to feel like it's, it's kind of rough. My wife, I thought was going to have a nervous breakdown after the third flood, but we got through it. You know, we decided, we decided, at that point, that we were going to-- we needed to move out. And the same flood-- we own farm ground south of Battle Creek, that's where we actually moved to. And I have a cow-calf operation out there. And we also lost 15 head of cattle. The creek runs through our property, but we lost 15 head of cattle going through our property because the water was so high. So I guess what I'm asking-- I'm just here for the residents and, you know-- and thank you for listening and I hope we can get some support from you.

BRANDT: Let's see if we have any questions. Senator DeKay.

DeKAY: When the flooding happened in '19, and the Battle Creek crosses under the bridge on the north edge of Battle Creek, right?

JOE BARRY: Yes.

DeKAY: How far-- did it go all the way out to Highway 275, the flood waters?

JOE BARRY: I don't believe it went to 275, but it went across 121.

DeKAY: Did it back up, up to, say, like, Elkhorn--

JOE BARRY: Yeah.

DeKAY: --Public Power or how far south did it go?

JOE BARRY: South, it went-- jeez, it went quite a ways. I can't tell you exactly how far south it was.

DeKAY: I'm just trying to picture in my mind how, how [INAUDIBLE].

JOE BARRY: We have-- like they've said, we have a lot of-- you know, watershed that comes through that town. And, and it's like these guys said, too. I've lived in Battle Creek my whole life. My dad was mayor back in the '60s and '70s and he was also a county commissioner. And we went through the floods the same way at that time, and it was actually brought up to the NRD Board, I believe, at that, that time that something needed to be done. The only thing I can say is if we don't-- it's going to happen again. It's just when. And I really feel bad for the-- I mean, I, I, I, I feel bad for them because we need to do something. And I've been on this council or I was on this council long enough to know that, you know, we're trying to get something done with the NRD, and it's just-- and I know how long of process it takes-- process to get it done. We just need to-- you know, it, it's-- we're still 15 years out. And when we started, which was back in-- I can't remember when [INAUDIBLE] the NRD Board, but it's-- and I'm, I'm assuming that back then I thought, well, by now we would be pretty close to having it done, but we just never got anything to go through with it.

DeKAY: Thank you.

BRANDT: Senator Clouse.

CLOUSE: Yes, thanks, Senator Brandt. Can you tell me how much overgrowth is on the creek from both upstream and downstream?

JOE BARRY: South-- I mean, for farming or for farmers own it. You know, there's probably-- we actually did a creek clean out through Battle Creek.

CLOUSE: Through town, yeah.

JOE BARRY: Through, through town to make it so it would flow a lot better. When I was on the board, we did, we did do that. There is a lot of growth in-- you know, and--

CLOUSE: Is there a pretty straight shot?

JOE BARRY: [INAUDIBLE], you can clean out your creek. I'm sure, you know, what's your response is probably going to be.

CLOUSE: Is it, is it pretty winding or is it pretty straight?

JOE BARRY: It's pretty winding. Actually, it comes through our property. It winds through quite a ways.

CLOUSE: Just probably-- I'm thinking of the Wood River that goes through Gibbon and north of Kearney, it winds and there's so much overgrowth in those-- the water can't flow too hard.

JOE BARRY: Yeah. Yeah. And that's true. And, and I think it's like Eric said, I-- like I said, if we get 5 inches of rain in Battle Creek, our water is gone.

CLOUSE: It's a lot of rain.

JOE BARRY: But, you know, I mean, it doesn't take [INAUDIBLE]. It's the after effect that's coming from the watershed is where we have our biggest problem.

CLOUSE: Thank you.

JOE BARRY: Yeah.

BRANDT: Any other questions? I guess, I've got one. So where I live by DeWitt has the same issue with Turkey Creek and then the, the Big Blue, and then it backs up into town. And so I've never understood why they built the town at the bottom of the hill and put the cemetery at the top of the hill. But that's just the way it is, the cemetery has never flooded. But in DeWitt, if you built your house up like 3 feet or 4 feet, then you no longer have to buy flood insurance. Do you know what that number would be for Battle Creek? About or maybe it's different there, I don't know.

JOE BARRY: I'm not sure on that either. I mean--

BRANDT: I, I would assume, then, your entire town is in the floodplain?

JOE BARRY: It is not.

BRANDT: It isn't. Oh, OK. Just a portion?

JOE BARRY: Yeah.

BRANDT: OK. All right.

JOE BARRY: And [INAUDIBLE]. We couldn't get flood insurance. I was not in the floodplain. I lived on the west end of Battle Creek, but we were not in the floodplain.

BRANDT: Well, if you weren't in the floodplain, were you insured then when this happened to you?

JOE BARRY: No.

BRANDT: Your insurance company denied it?

JOE BARRY: You had to actually get flood insurance, too.

BRANDT: OK. All right.

JOE BARRY: And we never-- yeah, we never--

BRANDT: All right.

JOE BARRY: All three times, we never-- you know, I mean, flood insurance was very expensive and we were thinking, well, maybe this is just a once-- you know, it's-- you know, maybe it's a once-in-a-lifetime thing and then, well, since 1990, we've been flooded three times so maybe it would have been a smart idea if I did, you know.

BRANDT: OK. Well, let's-- no more questions. Thank you for your testimony.

JOE BARRY: Thank you.

BRANDT: Next proponent? Any more proponents? OK. Opponents?

CLEON SCHWEDE: [INAUDIBLE] proponent.

BRANDT: Are you--

CLEON SCHWEDE: Just a proponent.

BRANDT: Are you a proponent?

CLEON SCHWEDE: Yes.

BRANDT: OK. Come on up.

CLEON SCHWEDE: Sorry.

BRANDT: I don't speak very loudly.

CLEON SCHWEDE: I'm just kind of slow.

BRANDT: I get that way, too. Welcome.

CLEON SCHWEDE: Thank you. Thank you, committee. My name is Cleon Schwede, C-l-e-o-n S-c-h-w-e-d-e. I used to be the Fire Chief in

Battle Creek for 14 years. And I've been the Deputy Emergency Manager there for Battle Creek for the last 20 years. The-- at that time, the department has rescued many families that has been affected by the flood waters. The flood is very expensive to the city and the people and the resources used to try and protect property gets very, very costly as you all know. It would be a great help to the citizens of Battle Creek if the flood water could be slowed down, back a little bit so that it doesn't hit, hit the town so hard. We've lost many families leaving and coming into the town because of the floods. I guess people are just tired of rebuilding their houses time after time after time, so. We also take in help with sandbagging and stuff. I'm on the fire department there, that we take in sandbags and try and protect as much property as what we can and try and direct water a little bit, so. And, as everybody knows, that water has their own-- its own mind, so. But, I guess, we would just like to take and see something happen, so.

BRANDT: OK. Let's see if we have any questions. Here's my question, sort of, this DeWitt thing kind of triggered something. So when rescue comes into DeWitt, when we have these floods, somebody brings these airboats and do they use airboats for rescue up there?

CLEON SCHWEDE: No.

BRANDT: Don't do it, because the people in DeWitt were ready to hang the-- I don't know if was State Patrol or who brought these boats in, but those boats create, like, 2-feet waves from the center of the street, and then it goes up into the people's houses, because they're about a, you know, a, a couple waves from going over the top of the walls. So I didn't know if you guys experienced the same thing when you did your rescue work?

CLEON SCHWEDE: We have a 4-wheel drive-- well-- and grass rake and stuff and we use that to take and rescue people. Yes, a lot of people was mad at us because we did have waves coming off of it and stuff. But, you know, you take and go as slow as you can and you still have waves, so. But so, I guess, the biggest thing is in our eyes is taking the people's safety, so.

BRANDT: Appreciate everything you do.

CLEON SCHWEDE: So thank you.

BRANDT: You bet. Thank you.

CLEON SCHWEDE: Thank you.

BRANDT: Next proponent? I see no more proponents. We're going to opponents, if you're opposed to this. Welcome.

BRIAN BRUCKNER: Good afternoon. Good afternoon, Chairman Brandt and members of the Natural Resources Committee. My name is Brian Bruckner. That is spelled B-r-i-a-n- B-r-u-c-k-n-e-r, and I am the General Manager for the Lower Elkhorn Natural Resources District, based in Norfolk, Nebraska. I am testifying today on behalf of the Lower Elkhorn NRD and the Nebraska Association of Resources Districts in opposition to LB695. I appreciate the opportunity to share my comments with you on this proposed legislation and extend my appreciation to Senator Dover for being responsive to the concerns of his local constituents, and also seeking a solution for a flood protection measure for the community of Battle Creek, Nebraska. Though, I appear before you today in the opposition, know that the Lower Elkhorn NRD and the Nebraska Association of Resources Districts will work cooperatively with Senator Dover, Governor Pillen, and the Legislature to seek the best solutions for the residents of our state, no matter the challenge. The basis for our opposition is rooted in two concepts. The first is that LB695 circumvents the Lower Elkhorn NRD's ability to manage its resources locally and instead creates an unprecedented legislative mandate for how the Lower Elkhorn NRD should manage water. NRDs were created by the Legislature as the most efficient and cost-effective way to manage the state's natural resources. NRDs have been implementing local water management solutions since 1972, in conjunction and collaboration with local communities and entities. In fact, the Lower Elkhorn NRD is currently utilizing such local management to accomplish the goals LB695 improperly sets to achieve. The Lower Elkhorn NRD is actively engaged in a comprehensive evaluation of the Battle Creek Watershed, utilizing the Watershed Protection and Flood Prevention Operations Program administered by the Natural Resources Conservation Service. The Lower Elkhorn, Lower Elkhorn NRD entered into a cooperative agreement with NRCS on April 1, 2020, and has leveraged $540,000 of federal funds to evaluate flood prevention measures that would protect the city of Battle Creek. An additional $351,182 of local funds was approved on July 27, 2023, to facilitate additional analysis of the watershed, including a proposal for a dam and a levee system. This effort is on track to be completed this calendar year. In short, the Lower Elkhorn NRD is not ignoring the flood control needs of Battle Creek, but rather is working diligently to address them. And, in fact, we'll have a proposed solution within the calendar year. We pride ourselves on being able to find a local solution for a local challenge, as the Legislature intended when creating NRDs. And LB695 stands to jeopardize our

ability to engage in local self-governance. Moreover, this legislation clearly meets the definition of special purpose legislation, which would trigger legal challenges and additional legal expense for the state if enacted into law. The second concept that triggers our opposition is the fact that Senator Dover has not requested any funding from the state to assist the Lower Elkhorn NRD complying with this proposed legislative mandate. The language contained within the bill would suggest that we should seek or secure any available local, state, and federal funds to construct such dam, though no level of financial commitment from the state is identified. This creates yet another unfunded mandate for local government to manage. The Lower Elkhorn NRD is working diligently to do its part in lessening the property tax burden on the residents of the district. But enactment of LB695 could hamstring our ability to do so. Further, the WFPO Program, through which we are currently working, offers eligible flood protection projects the opportunity to leverage a significant amount of federal dollars that can be utilized to pay for design, engineering, and construction of a project. As you can hopefully understand from my testimony, the issue of flood prevention for the city of Battle Creek has been a paramount priority for our district. We are working diligently through a process to identify a technically and financially feasible flood protection measure for the community. We respect Senator Dover's intention to also move forward a solution, but take issue with efforts to bypass local control and ignore the governance framework that has effectively served the residents of this state since 1972. We encourage the Natural Resources Committee not to advance this bill out of committee, and allow us to work through the remaining phases of this process in the months that lie ahead. This concludes my testimony. I welcome any questions you might have.

BRANDT: You bet. Senator Moser.

MOSER: What percentage of your total NRD area is involved in the project that they would like you to build?

BRIAN BRUCKNER: I believe that the Battle Creek Watershed is approximately 94 square miles. I, I, I do not know what percentage of our total district.

MOSER: Just roughly, I mean, is this 50% or--

BRIAN BRUCKNER: No, absolutely not.

MOSER: --10%?

BRIAN BRUCKNER: Absolutely not. Senator, I really apologize, I wouldn't venture a guess because I would be wrong.

MOSER: This isn't the only problem you have to solve.

BRIAN BRUCKNER: Absolutely not. This is one of three evaluations we have going on right now in the Lower Elkhorn NRD for flood protection measures.

MOSER: Would you say you're building it diligently?

BRIAN BRUCKNER: We, we are working diligently towards finishing this evaluation that will provide us with a plan and an option to potentially leverage additional funding to potentially build a project.

MOSER: When, when do you-- best case scenario, how soon could you build a, a--

BRIAN BRUCKNER: So we are--

MOSER: --flood control project?

BRIAN BRUCKNER: This calendar year, this plan will be completed and, and, and be presented to our board for adoption. OK? Our board will then need to make a decision soon thereafter to potentially request additional federal funding to, to venture down the design and engineering phase. OK?

MOSER: But, I mean, in years, are you 5 years, 10 years?

BRIAN BRUCKNER: Realistically, if, if our board of directors at the end of this calendar year said yes to this endeavor, I don't foresee any, any dirt being turned for, let's say, 5 years. OK? And that may be wrong. But, but there would be a, a significant amount of time before a project is ever under construction. And that's simply because of, of all of the steps along the way towards actually doing a project.

MOSER: So even if we passed the bill and said, hey, you got to build this watershed, it's going to-- it's still going to take you 5 years to complete it?

BRIAN BRUCKNER: Absolutely.

MOSER: Or 5 years to really start moving dirt?

BRIAN BRUCKNER: I think by the time there was protection in place or, or, or construction, yes, I think 5 years might be a realistic time frame.

MOSER: So the difference between the bill passing or not is 8 months?

BRIAN BRUCKNER: Maybe. We're, we're working through a process regardless of whether or not there's legislation on the table that could impact us. And that's the message I want the committee to know.

MOSER: Thank you.

BRIAN BRUCKNER: We've been at that for quite a number of years.

MOSER: Yes. Thank you.

BRANDT: Senator Hughes.

HUGHES: Thank you, Chairman Brandt. So my question is, you said you have to finish this plan, which is not done till the end of the year, and then your board--

BRIAN BRUCKNER: This, this calendar year.

HUGHES: This calendar-- sometime in this calendar year.

BRIAN BRUCKNER: Yes. Correct.

HUGHES: But just because the plan is finished doesn't mean the board will adopt. And there's some sentiment, I'm, I'm guessing that the board will not adopt it or are there-- I guess my question is, is the plan just for the dam to fix this, or are there other mitigation efforts that are possibilities?

BRIAN BRUCKNER: The proposal that I talk about in my testimony is a dam-levee combo project.

HUGHES: OK.

BRIAN BRUCKNER: Not just a dam. OK? It's a dam to store water in the watershed and a levee to provide the necessary protection that the dam can't provide.

HUGHES: OK.

BRIAN BRUCKNER: Yes.

HUGHES: Then they both have to be done?

BRIAN BRUCKNER: Yes. One without--

HUGHES: That's my question. You don't have-- it's not like there's other options. Like, if you do the dam or you could do this, or you can do that. You need to do both of these together.

BRIAN BRUCKNER: There are numerous, technically, feasible options.

HUGHES: OK. Are you--

BRIAN BRUCKNER: And those--

HUGHES: --looking at that route?

BRIAN BRUCKNER: We have looked at that. We have absolutely looked at that.

HUGHES: OK.

BRIAN BRUCKNER: Other testifiers have talked about some of the work that's been done and some of the--

HUGHES: Yeah, they've done some work in the town already.

BRIAN BRUCKNER: However-- and, and those things will get to a certain point in, in the process. And a funding mechanism cannot be identified that makes it financially feasible. And that's what caused previous endeavors to stall out. Our, our levy-- our property tax levy right now is $1.82 per thousand in our district. We could max it out to $4.50. We don't want to do that. We all know what the property tax burden is in this state. Our boards, I congratulate them for always being fiscally prudent and conservative with the dollars that they've asked from the taxpayers. But--

HUGHES: Right.

BRIAN BRUCKNER: If we, if we do this project, there's still going to be a significant financial commitment from the Lower Elkhorn NRD and the community of Battle Creek.

HUGHES: Right.

BRIAN BRUCKNER: OK? Even though there would be a large percentage of federal funding that might, might come through. OK?

HUGHES: I guess here's my question. Are you guys going to approve this project at the end of the year or not?

BRIAN BRUCKNER: That'll be the staff's recommendation. I think that's--

HUGHES: The staff will recommend to [INAUDIBLE].

BRIAN BRUCKNER: That's, that's only a question that the board of directors can answer, Senator Hughes.

HUGHES: Right, they get a vote. But you guys, it sounds like that's the route you think it should go.

BRIAN BRUCKNER: We have two engineering firms working on this to identify all of these technical options. And, and, yes, that would be the staff's recommendation that this, this is technically feasible. And we've identified the funding source. This is the best option for the board of directors to consider.

HUGHES: OK.

BRANDT: Senator DeKay.

DeKAY: Thank you. Is there any involvement with the Corps of Engineers on this water project or not?

BRIAN BRUCKNER: They-- they're, they're consulted with for permitting purposes, so on and so forth, Senator DeKay. There was another project in our district where there was a community that was assisted by a Corps program. However, that, that size of-- that project was of a size that met their criteria. It was small enough that it was able to thread that needle. This, this proposed project has a price tag of approximately $58 million. That's-- that-- that's well above the thresholds for any Corps project.

DeKAY: Well, some of the projects that I've been involved with over the years and run into kind of roadblocks with the Corps when you start daming or diverting the water stream. I was just wondering if you had those same type of roadblocks with the Corps?

BRIAN BRUCKNER: The Corps, the Corps-- there's a bureaucracy in place with the Corps, don't get me wrong. However-- and, and there's permitting with any project that you consider and the Corps is the agency you have to go to for those permits. With this watershed program, the Corps is in consultation as we have been moving along.

And, theoretically, if we get to a point where the board says, yes, we want to pursue the next step in this endeavor, it should be easy to get those permits because, once again, the Corps has been at the table in consultation as we have developed this plan.

DeKAY: With-- I mean, from what I've been involved with and I'm just thinking, like, with the diversion program or something like that, the Corps has always been very hesitant on changing the channel of the water stream, and I was just wondering if they expressed any opposition to this?

BRIAN BRUCKNER: No, no, none of those questions have come to the table because, once again, the NRCS and the engineers have been consulting with the Corps as we've been developing this entire project and this plan.

DeKAY: Thank you.

BRANDT: Senator Clouse.

CLOUSE: Yes, thank you, Senator Brandt. OK, so I will-- I'll lay this out and you tell me if I'm wrong. Based on my experience with the Natural Resources Commission, is you're, you're doing the study with the JEO, an engineering firm, you lay out your options, you identify this is the best option working with the Corps to get a 401 permit issued. And then you start looking at your funding mechanism and you say it's $58 million. So then you start looking at what your ability to pay with your levy, because you're going to go to the natural or to the Water Sustainability Fund to try and get a few million. Then you look at your, your ability to pay based off of your local and then putting all these fund mechanisms together before you even start a project or-- have you already-- I don't think you've tapped into the Water Sustainability Fund yet, have you, the study?

BRIAN BRUCKNER: No, but if, if the board would be interested in moving forward, that would definitely be a resource we'd need to approach.

CLOUSE: But you're going to have to jack your levy up if you want to get there.

BRIAN BRUCKNER: In all likelihood, we will. I also want to add that the Lower Elkhorn NRD has been putting money aside in a sinking fund for the day that we eventually do a project, we have nearly $3.5 million set aside, so.

CLOUSE: Which is nothing compared to this. But then you also have to go out and buy land, and you got to negotiate that pricing, working with the Department of Natural Resources on how you process that and any valuations you get back from sale of dirt you can dig the dam or whatever. So there's a lot that goes into it. So-- but you'll know what direction you're going to go by the end of the year is my guess.

BRIAN BRUCKNER: We'll have, we'll have a path identified, once again, if the board chooses to go that route. Some of the things you've outlined, Senator Moser, are why these things take so darn long, so.

CLOUSE: And then it still will take another 5 years by the time you get engineering, all, all that stuff, construction. So, conceivably, for a project this size, you're 5 or 6 years out anyway, at best.

BRIAN BRUCKNER: And I'm throwing out a 5-year timeline as an estimate. That could be derailed and, and that could be extended and it could be out of our control. So, once again, these are estimates at best.

CLOUSE: Thank you.

BRANDT: Senator Hughes.

HUGHES: I just have one more question. If your board votes against in December or whenever, then what?

BRIAN BRUCKNER: Then they haven't adopted the plan.

HUGHES: And you're just not going to do anything, the NRD will not do anything?

BRIAN BRUCKNER: I wouldn't say that. That, again, will be a question and a conversation we have to have.

HUGHES: OK. Thanks.

BRIAN BRUCKNER: Very challenging conversations, so.

BRANDT: Senator Juarez.

JUAREZ: Thank you, Senator Brandt. OK, so fortunately for me, I've never experienced flooding issues so I really cannot relate to the frustrations that the community is enduring. I'm just listening today about what you've been facing, and I guess I can say that I'm very skeptical about your testimony, quite honestly, because, you know, these are people who are living and have been enduring these issues

for, you know, years, right? And it doesn't appear to me that good communication is going on with the community. And, honestly, with what's going on with the federal government. And, again, and I know that my colleagues have heard me say that we really don't-- can't rely on the federal government anymore, as far as what we hope is they're going to come by and help us. Right? So unpredictable there in, in my opinion, and I'm wondering how the example I see at the federal level, if our chair should be asking you to send us emails of what work you got done last week. That's what, that's what I've heard, right, trying to make someone accountable to get-- see what's going on and are you doing your job? And I just-- because even as far as this one subject comment that's been made. Well, to me, I don't know if we could just do an amendment if that's just a, a technicality that we have to change so that it's not burdened by one-- of one person or one focus. Let's just open it up so everything works out. But how often do your-- does your group get together as a board when you're making these decisions? Do you guys get together every week? Once a month? How does it work?

BRIAN BRUCKNER: So I'm going to address a couple things in your statement, Senator Juarez. Can we do better to communicate on, on issues? Absolutely so. However, I do think that we have been responsive and we have been working diligently towards a solution for Battle Creek. I know they are frustrated with us with as long as it's taking. But, hopefully, you know, there's, there's information in the testimony that, that would refute that. When it comes to how often does our board meet? Our board meets, our board meets twice monthly. We have, we have a committee meeting on the second Thursday of the month. We have regularly scheduled board meetings on the fourth Thursday of each month. I report each month in my manager's report on the status of this project, in addition to every other project, along with the other numerous things going on in our district. OK? That's made public. OK? So our board is informed. We have, we have worked hard to keep the public informed. Once again, could we do better? I absolutely think we can. I think we can always do better.

JUAREZ: OK, so, like, another question I have, based on what you said, is where am I going to go to find out about your meeting minutes? Where can I go and look and see that for myself?

BRIAN BRUCKNER: Those are posted on our website, www.lenrd.org.

JUAREZ: OK. Thank you.

BRANDT: OK. Any other questions? Senator Clouse.

CLOUSE: Let's talk a little bit of financial, that's-- you're at what, $1.82 levy? What's that generate, generally, from, from your--

BRIAN BRUCKNER: Our, our total budget this year is $13 million. I think our property tax asking is about 40% of that. We're using other sources of revenue to pay for things. And so, yeah, that's kind of where we are.

CLOUSE: So if you jacked it up to 4 cents, which would take a hit.

BRIAN BRUCKNER: We could raise a lot of money. We could raise an awful lot of money.

CLOUSE: But it would hit the ag sector.

BRIAN BRUCKNER: But it would hit everybody.

CLOUSE: Everybody. Yeah.

BRIAN BRUCKNER: Yes. Even the staff that work for the district are property owners. So it hits everybody, homeowners.

CLOUSE: And that's if we provided an unfunded state mandate. So if we provided the money for you and it was outside of the Water Sustainability Fund, it would be, it would be asking us for probably about $40 or $50 million.

BRIAN BRUCKNER: The, the proposed funding package looks like money from the federal government, money from the Water Sustainability Fund, money from the local sponsors, that being both Lower Elkhorn NRD and the community of Battle Creek, so.

CLOUSE: So it's not a small amount if we were to take that over as a--

BRIAN BRUCKNER: Right.

CLOUSE: --funded mandate. Thank you.

BRANDT: Senator Raybould.

RAYBOULD: So have you looked at what-- what is the difference between going out for a bond versus going and raising your levy?

BRIAN BRUCKNER: We as an NRD do not have bonding authority. Only the Papio NRD has the bonding authority to do projects.

RAYBOULD: But the city has bonding authority.

BRIAN BRUCKNER: The city does have bonding authority. Correct.

RAYBOULD: And that's where the partnership [INAUDIBLE]. OK.

BRANDT: Any other questions? Seeing none, thank you.

BRIAN BRUCKNER: Thank you, sir.

BRANDT: Next opponent? Welcome.

JOHN HANSEN: Mr. Chairman, members of the committee. Good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the President of Nebraska Farmers Union, and I am the recovering Lower Elkhorn NRD Board member. So from 1974 to 1990, the, the good citizens of our 15 county district elected me five times to represent them. And the subdistrict in question that we're talking about here today is one that I represented from 1974 to 1990. So big picture. We identify and associate ourselves with the testimony of the previous testifier, who represented the Lower Elkhorn NRD and also the Nebraska Association of Resources Districts. Make no mistake about it, I, I am the former chairman of the Budget and Legislative Committee of the Lower Elkhorn NRD, and I've never seen a bill in all my years that was a more direct attack or kneecapping of local control. And so we have a system in place that has worked really well, all things considered, since 1974 that includes due process, that triggers eminent domain, that does all of these other things, that manages all these different, 14 different entities that we merged together in 1972. So it is a far-flung operation on its best day. And so in my subdistrict, I had represented five communities that were all located on a creek. Battle Creek is no exception. And so it's the luck of the draw based on whoever it was that decided this is where we ought to build a town. I don't think we had Google then, and we didn't have a lot of other resources. And so, depending on the luck of the draw, every-- every one of the towns in my subdistrict had a flooding problem, and so did almost all of the other towns in the Lower Elkhorn NRD, because they were also all located on either rivers or creeks. And so the Lower Elkhorn NRD, to its credit, was, was aggressively looking at flood control issues from the very beginning, because we have the highest average annual flood damage of any basin in the state, and that is by virtue of how intense the rainfall is and the geography of the watershed. So in this particular area, if there was a silver bullet location for a good flood control dam that would take the peak off the downstream flow and help better protect the citizens of Battle Creek, we would have built it. So what happens when you don't follow feasibility studies on either cost benefit ratios or the geography of

the district? There's nothing that attracts more attention and undermines more confidence in the NRD and the private-public partnership that has to happen and has to work in order for the NRD to do its job than building a bad project. And so when you don't have a good dam site, what do you have? Well, you have a bad dam site. And so what happens then? Well, then you have an area where you don't have a good natural place for the structure, and then you end up with a flat place that's, that's way too broad. And you have this huge surface area that you have a shallow lake that's 3 or 4 foot deep, that goes up and down an elevation wildly, because it doesn't have the depth to start with for holding capacity. And so then you flood a whole bunch of prime farm ground. And this, this-- the area of the lake goes back and forth. We don't have a creek that's a stream-fed creek that runs through this. This is all runoff water in this particular creek, unfortunately. My farmers on the west end of it, I'm at the divide on the table between the Battle Creek and Shell Creek drainage. And so my water goes to Battle Creek. And so the, the folks-- if you've, if you've been in this area long enough, you can sit through these kinds of meetings, you can close your eyes and you can tell where people live in the district, whether they live upstream or whether they live in the impacted area or whether they live downstream, which is also impacted. Because anytime you increase the flow and speed it up, the downstream impacts are real. And so I remember hearing one night, it was about 1:00 in the morning, and I think it might have been Clarkson, but one of the landowners said, you're trying to tell me that you want to, you want to put my farm ground under water because somebody downstream didn't know water ran downhill. And maybe it was the time of night, but that made a lot of sense to me. And do the people in Battle Creek have a problem? Yes, they do. So do all the other folks. And I only wish, as the board of director, I had more success earlier to be able to convince more of my communities in my subdistrict to do more aggressive floodplain delineation. There's nothing that causes problems faster than building where you shouldn't have built in first place. And with that, I'll be glad to answer any questions.

BRANDT: Let's see what we've got. Senator Raybould.

RAYBOULD: So, Mr. Hansen, what's the solution?

JOHN HANSEN: Well, there's not a quick and easy one. The, the board is studying. They got two different firms. They're looking at options. You know, to me, it's always about taking the head off. And it's the, it's the peak that does the damage. It's the peak that occurs that takes out the bridges. It's the peak that spreads out, you know. And,

realistically, when you're looking at 2019 and you're looking at a 500-year flood, we found, we found farms that were 3 miles from the Lower Elkhorn NRD river proper that were in the floodplain. And so it's really hard when you are, are built in a, in a floodplain in the first place or at least, at least an area that accumulates a lot of water in, in drains to outrun a 500-year flood. But are there some things you can do? Yes, I think it's going to be a combination of things that you do. I, I like some of the stuff that they're doing. But this is, this is-- you, you need hills that come together that form really the anchors of your structure. And when you have big broad, you know, valleys in, in the-- where the creeks go, you just don't have good locations for a dam. And, you know, I've, I've flown this area. I've walked this area, I've hunted this area, we just don't have a good area. We've studied it. And so you understand the farmers' angst upstream who are saying, you know, we got to have something that works for us, too. But at the end of the day, look at the cost-benefit ratio.

RAYBOULD: Thank you.

BRANDT: OK. Any other questions? I don't see any.

JOHN HANSEN: Thank you very much and good luck.

BRANDT: Yep. Next opponent? Any more opponents? Anyone in the neutral capacity?

CHAD KORTH: Good afternoon, Senators.

BRANDT: Welcome.

CHAD KORTH: Thank you for having me. My name is Chad Korth, C-h-a-d K-o-r-t-h. I am a third-term member of the Lower Elkhorn NRD, starting my 10th year now or on 11, I guess. But I'm, I'm speaking here personally, not, not for the NRD. I've lived in the, in the watershed for 57 years now. I've owned property in Battle Creek, which-- on the east end of town, which got flooded many, many years ago in about 1988. I've also worked for the railroad for about 18.5 years and, and we lost an individual on the railroad bridge, if you all remember that in about '12 or somewhere in there. So I've, I've seen firsthand the, the, the flooding, what water can do. We, we lost the railroad bridge that day and we just about lost the south end of Battle-- of Norfolk because it was about 5 foot from going through underneath the railroad tracks. That was the only dike that was there, which would result in loss of businesses and much more. At that time, Highway 81 was also

closed because of the flooding, and they ended up having to go around Battle Creek. So I've seen it firsthand. My family and I have gone to Battle Creek. The last flood in '19 with our ATV, and I live on 838 Road and 839 is the, the road that is closer to Battle Creek. It's an asphalt road. We went in on that road and we went in just to help sandbag. I, I got a bad back so we last-- we lasted for 2 or 3 hours and helped sandbag. One of my friends was there helping sandbag and, and later on he ended up losing his house. But he was there helping the community, which I thought was pretty commendable for that young man and his family, you know. When we left to go back home, we were not able to go back on 839 because it was under water. About an eighth of a mile of, of water was over the top of that road so we ended up going to 838 Road. At that point, we could get across the road, but then that, that-- the, the structures on either side of that bridge washed out and then that road was closed for about 3 years. The-- that bridge acted as a meter. So it's a very high bridge. There's embankments on both sides so it acted like a funnel. It only allowed so much water through that bridge. At-- when they rebuilt that bridge, they widened by another 50 feet or more which, of course, we all know that makes-- lets more water go through. So what is that going to happen for the community of Battle Creek? It's going to exacerbate what's going on in that community at this-- at, you know, the next flood. I'm just speaking from personal experience, from what I've seen. And I wanted you to be aware of what goes on in the community of Battle Creek and how frustrating it is for them to hear the, hear the-- or how-- not frustrating, but how scared they are when they hear the, the, the thunder. I, I, I pucker up every time I hear it. I'm, like, I hope that that watershed, I hope there's not a lot of water or rain that, you know, that falls south of me because I know eventually that will get to the community. Any questions?

BRANDT: OK, just to clarify, you said you were testifying for yourself, not for the board. Is that correct?

CHAD KORTH: Correct.

BRANDT: OK.

CHAD KORTH: Correct. I'm, I'm taking a neutral position, of course, because of my involvement. I've, I've been on the board for-- I'm on my third term here, so.

BRANDT: OK. Let's see if we have any questions. I don't-- oh, go ahead. Senator Clouse.

CLOUSE: Thank you. I was just looking at the map here of your territory, didn't Scribner have significant flooding? Didn't I read something about that?

CHAD KORTH: Scribner has, yes.

CLOUSE: How long did it take--

CHAD KORTH: That is the lower half of our NRD. Correct.

CLOUSE: Do you know how long it took to get that rectified and what that cost was?

CHAD KORTH: You know, at that point, that was a, a structure that the, that the--

CLOUSE: The Department of Transportation probably worked with.

CHAD KORTH: Yes, that was, that was a part of the levee that the, the Corps of Engineers had built in the past. And we cost shared with the city or the county down there to help repair that structure.

CLOUSE: I, I was just looking at, again, some of the communities I'm familiar with that's also had problems. It's a challenge.

CHAD KORTH: Yeah, well, in that, in that '19 flood, we lost bridges, not only the 839 bridge but the 1st Street in Norfolk was lost. The railroad was brought-- was lost. Stanton County had a bridge. All the way down to Arlington, Arlington had a bridge across the Elkhorn River that, that was lost also. So at, at that point, we're-- you know, a perfect storm would have been when that watershed was full and the Elkhorn River shed was full. We'd have been really screwed. But, at that point, one time the Battle Creek was low and the Elkhorn. That's what caused that big flooding downstream. So it's just a matter of-- like everybody said, it's not a matter of if, but when, so.

CLOUSE: OK. Thank you.

BRANDT: Any other questions? Senator DeKay.

DeKAY: Thank you. When that hit in '19, what was the scope of the damage in Norfolk and what area of Norfolk did that cover?

CHAD KORTH: Well, it affected all of our businesses that I worked. I was the safety director for the railroad at that, at that point. And

all of our, all of our businesses at that point were affected, it affected the southwest side of, of Norfolk, affiliated--

DeKAY: Was it down by the airport?

CHAD KORTH: Well, the airport, everything back downstream from there. So when, when the river comes into, into Battle-- or into Norfolk, it comes basically from the west. And then when it hits the railroad embankment, it makes an immediate turn to the north. And then when it gets to the bridge, it makes an immediate turn back towards the east. And, and at that point, we lost the railroad bridge, we lost the center pier, was a huge center pier. I'd hate to guess how many pilings were in there, but it, it underscored that pier. We had a crew on the bridge. At that point, we were bringing equipment down. It kind of sounds weird, but we were bringing equipment down to park on top of the bridge, heavy equipment to hold the bridge down so it wouldn't wash away. That was-- and it, and it does work. But, at that point, when we were bringing the equipment down, we had to bring ballast cars from, from down south. And, at that point, we had a crew member on the bridge that when the bridge collapsed, he stayed right there. His, his, his feet got pinched between the ties. We looked for a long, long time for the gentleman that I had worked with for quite a few years prior to that, and he ended up, he was right there. So all of our businesses within Norfolk had to transload their products. We transloaded in, in Platte Center, Humphrey, Madison, out by the airport. This all with affiliated Vulcraft, Norfolk Iron and Metal, Nucor, Louis Dreyfus. I mean anything and everything that went into Norfolk or came back out was transloaded at those facility points at the cost of tens and tens of millions of dollars to not only to the businesses, but the, the whole economy, as well as the railroad. We, we worked very, very hard with our, our senator or state and our federal delegation to get permits so that we could get this bridge out of the river. We cannot only just dig the river, dig the bridge out, the sand that we had to dredge out from the bridge, we had to put on the embankment. We couldn't even be allowed to put that back into the river per the Corps of Engineers. That's how crazy some of this stuff is. But, at that point, we brought in heavy, heavy equipment and we were able to get these bridges out, and they're sitting as proud as they are today because of the work of, of Mr. Flood, Senator Fischer, and all these people that, that came to Norfolk and worked with us and worked with the city. That's the last thing we want. We, we, we don't want downstream mitigation from product-- from projects that may or may not happen within any watershed, because I've experienced that, and our, and our businesses in Norfolk have experienced that. That's

why they're so wanting to make sure that something gets done within this watershed.

BRANDT: OK. Any other questions? Senator Juarez.

JUAREZ: Thank you, Senator Brandt. So I know that you're not coming today representing the NRD.

CHAD KORTH: Yes, ma'am.

JUAREZ: I understood that. And you can decline to answer my question if you want, but I'd like to know if you have any suggestions on how you, how you feel the NRD could better function in its role? Do you see any improvements that the NRD needs to make in how it operates?

CHAD KORTH: I, I think the NRD system currently is, is a very, very good system. I think we do a very good job of everything that we do. I, I would just say that there are a lot of-- there's 15 members on, on my board. And just like you all, we may not all think alike. So you may think one way, you may like green, and I like red, and we're going to die that way. And-- but that's, that's the cost of an election. I, I would say that the, the 10 years that I've been on the board now, I, I feel gratified at, at some of the things I do that have, that have gotten accomplished. So I'm happy when I walk out of some meetings. And then when I walk out of some meetings, I got beat up, didn't get my way, and, and I feel not so happy. I, I, I am the cause of the $300,000 that we spent on the NRD to-- for the last study, because I was trying to alleviate-- this all came within a, a, a, a-- first, the great big dam, which was close to Battle Creek, well, it turned into a high-hazard dam because it was so close to Battle Creek. And then we're at two dams. OK? Took a lot of farm ground, and we had a lot of kickback and didn't-- and I didn't really personally like that, especially where the one was. So we, we, we went and, all right, let's study this again. Well, then we came up with one dam and then a levee. And then I was like, man, there's got to be a way maybe to, to do away with that dam. Right? So I, I worked hard and, and the vote-- the board voted no at first, but then they eventually voted yes to do another study of creating a retention cell towards Battle Creek, right, pretty close to Battle Creek on 839 Road and, and building a levee. Well, Battle Creek is at such a point in the watershed, our groundwater level is, is pretty close to the surface, so, at that point, we couldn't dig a retention cell deep enough without it filling up with water to actually do any good. So that eventually was kicked out because it, it just didn't work. So we're back to where we are, not from the lack of trying them. Brian and the whole board have, have

done a, a good job of listening. And, and I think we just need to do whatever the board-- how they vote. And, and, hopefully, you know, it's to the benefit of the whole, not, not just one, benefit of the whole.

JUAREZ: Thank you.

CHAD KORTH: Yes, ma'am.

BRANDT: OK. I don't see any more questions. Thank you for your testimony.

CHAD KORTH: Thank you.

BRANDT: Anyone else in the neutral capacity? Welcome.

MICHAEL FLEER: Good afternoon. Thank you, Senator Brandt and members of the Natural Resources Committee. My name is Michael, M-i-c-h-a-e-l, Fleer, F-l-e-e-r. I come here as number one, the City Administrator of Battle Creek and also a member of District 4 of the Lower Elkhorn NRD. I am wishing to speak in the neutral position because of the conflicts that I have on both sides. I hope to be able to answer many of the questions that you may have had. I have been with the city of Battle Creek for nearly 17 years, 18 years. I have been a member of the Lower Elkhorn NRD. This will-- I'm going into my third year. The main reason that I wanted to get onto the NRD was because of the fact that we have been dealing with the flooding control in-- excuse me-- in Battle Creek for a number of years. And it seemed that, to me, as a member of the city staff, that we would have a flood and people would be all up in arms about getting flood control. Then we'd have dry years and it appeared that nothing was being done. Then we'd have another flood and we have to start all over again. So I wanted to get on to the board of the NRD to make sure that we keep the ball rolling, which I believe the board is right now, the NRD, because of the fact that we have developed a plan through the engineering firms that state-- that have come up with an economically feasible plan. It's gone as far as we can go for right now. We're waiting on the decision from the national headquarters of the Natural Resources Conservation Service, NRCS. So we're waiting to hear back from them. They have sent out to us some comments that the engineering firms, with the help of the Lower Elkhorn NRD, have been addressing to answer their comments and concerns. We wholeheartedly expect that plan to come back approved, saying here's your best plan. You'll probably get some federal money to help you do it. At that time, myself and the other members of the NRD will have to vote that, yes, we-- hopefully, they will vote in

favor of proceeding with the plan or they could say thank you very much, we have the plan. We've met our requirements. We can keep the money that we receive from the federal government, but we'll just put that on the shelf and do nothing. That is the time frame that I think it would be best for LB695 to be introduced and voted upon, because right now we've done all that we can do. We're just waiting on the process. Do I want flood control in Battle Creek? Yes, I do. Earlier you had seen pictures of the floodplain, we don't have a floodplain in Battle Creek. That is a projection from JEO Consulting of what the floodplain would look like when a flood map is designed for Battle Creek. You made a comment about not seeing or being involved with flooding before. If we do have a designated flood area in Battle Creek, flood insurance does not pay unless the water gets above the first floor. If it's all damage in the basement, there is no flood insurance that will pay anything. Some of the options that were looked at earlier and rejected were a large diversion channel, widening the channel, things like that. I am opposed to those. Because all that would do is take our water in Battle Creek and push it through Norfolk or Stanton to make it go quicker, and then we're passing the problems off to you. Unfortunately, I see that I am done with my time here. I would love to answer any questions you may have.

BRANDT: OK. Senator Juarez.

JUAREZ: Thank you. I just wanted you to repeat, make sure I wrote this right on the-- this national entity. Did you say National Resources Conservation Service?

MICHAEL FLEER: The, the national level of the Natural Resources Conservation Service, NRCS.

JUAREZ: OK. Thank you.

BRANDT: I take it Senator Juarez has a bill in another committee.

JUAREZ: Yes, I do. Thank you.

BRANDT: Any other questions? Senator Raybould.

RAYBOULD: So I believe-- Mr. Fleer, you said you're a city administrator of Battle Creek?

MICHAEL FLEER: Yes, ma'am.

RAYBOULD: So have you run the numbers to see what a bond, a stormwater bond would look like and how that would impact residents?

MICHAEL FLEER: I-- I've been told by some of our bonding agencies that there is a limitation on what we can bond, and it's based upon our assessed valuation. The last number that I heard is that we could raise up to somewhere in the neighborhood of $4 million. No, I don't know what the current interest rates are or what the repay would be, but $4 million spread out over 20 years, I don't know what that would be. But we, as the community of Battle Creek, are able to bond up to $4 million for a flood control issue. That doesn't talk about any other bonding that we have. If it would-- if the community wants to put a bond out for a pool improvement, we currently have bonds for wastewater improvements and, and water, drinking water that we have dug wells and things like that. So we have bonds, but we could bond out more additional funds.

RAYBOULD: OK. Thank you.

BRANDT: Senator Clouse.

CLOUSE: Yes, thank you. Just a quick question. How much groundwater flooding do you have? Because I know some of these pictures, they talk about basements and things like that. Do you get a lot of reports of that?

MICHAEL FLEER: Only during a flood incident. You know, there's-- we, we do not have any seepage in basements that I'm aware of when there is not a high-water incident.

CLOUSE: Does it take a big rain to get that coming?

MICHAEL FLEER: That, that is-- the water is what comes out of the, the Battle Creek, spreads out through the community and then gains access. So if there is large water in town, as people were talking about earlier, a 5-inch rain in the community, it stands on the street for a little bit. And within normally an hour it's gone. For those of you who don't, don't know Battle Creek that well, I, I compare us to a frying pan. We're flat. Council Member Kraft stated earlier that over a 1.5 mile stretch, we have about 18 inches of drop, and there are, there are no hills. I grew up and graduated from Wayne. We have hills in the community of Wayne. We do not in Battle Creek.

CLOUSE: All right. Thank you.

BRANDT: Any other questions? I don't see any. Thank you.

MICHAEL FLEER: Thank you for your time.

BRANDT: Yep. Anyone else in the neutral capacity? Seeing none, Senator Dover, you're welcome to close.

DOVER: I'm not-- I didn't bring this bill because it wasn't needed. I brought this bill because there is a long, ongoing history of decades of not doing anything. And I would say that you heard earlier testimony that an earlier NRD Board made a motion that no solution would, would, would-- can contain a dam. You know what that means? That means no solution or no dam solution, right? And so this is an ongoing thing. I do want to say this, though, I do want to say that the Lower Elkhorn NRD is very lucky to have Brian Bruckner here. He does an exceptional job. He's focused on, I believe, the purpose of the NRD, and I'm, I'm hoping that everything will turn out OK. But after-- I mean, how many decades do you wait, right, until a solution is found, when a solution has been needed for decades? And so I brought this, so I brought this bill. I think you also heard we've lost a life in a flood. I mean, is it going to take another life to be lost? It was a father. I mean, does another father have to lose their life to say, no, maybe we do need to do something. This is the responsibility, I think, of all public servants and the NRD to do this. And that was the only purpose, so, you know, of my bill. I mean, I would request, obviously, that my bill sits in committee. It could be amended to this. I don't have to read the letter, but just so you know. This could be a problem. And, and as, as Senator Moser brought up about the specificity of my bill, I could amend it to say this: Would the public residents living within an NRD district believe that a local NRD is not fulfilling their statutory obligations and the, and the public presents 100 signatures in the affirmative of the statutory violation to the local NRD a special board, now referred to as the, quote, Nebraska Local Oversight Board, shall be formed. This board shall be composed of one member appointed by the governor, one member appointed by the local NRD, and one member appointed by the public group. Said group will meet and within 45 days will render a decision that will be binding on the local NRD. So I am simply saying there is a possibility of another solution. I am hoping that this bill in this committee will die in this committee over the next-- well, through this session and next session and will not to be-- need to be utilized. I am hoping that the local NRD will do what its goal is to and protect the people of Battle Creek. I just want to say thank you for the special meeting we have here today. I know everybody behind me from Battle Creek wants to say thank you very much, too, for taking your time out of the day for our hearing. Thank you.

BRANDT: Let's see if we have any questions. Senator Clouse.

CLOUSE: Thank you. Senator Dover, quick question for you. Since 2019, did the-- did Norfolk, the city of Norfolk put a lot of pressure on the, the NRD to focus on some of those issues around Norfolk that maybe pushed Battle Creek back, because that was a higher population base, and there was-- most of the focus was on Norfolk because they're downstream? Did that take a lot of the resources and things from the NRD that maybe pushed this back?

DOVER: Nucor, Nucor had, Nucor had [INAUDIBLE] come and speak and address the NRD Board. And also-- and I apologize, the senator before you, Senator DeKay?

DeKAY: Gragert.

DOVER: Senator Gragert came on and addressed the NRD Board also about this issue. And so everyone is concerned. And that's really just, you know, that's the purpose. The main purpose of this bill is really to get a conversation going. We've had articles in the paper. We've had meetings talking to Brian Bruckner. There'll be another listening session coming up this, this summer. I really believe there's been, there's been-- because it's such a large area, right, because there's 15 members strung out all over, these members can hide up here and not do anything. And it's more of an issue-- we don't-- we think-- there's some members will say this, you know what they built along the-- they built along Battle Creek, that's their problem. They should maybe move, do what Niobrara did. And you hear all these crazy things. But all I'm saying is hire the engine-- I heard one NRD who didn't get reelected, and that's probably a good thing. I met him when I was running my campaign, I said, you know, what's going on? He said, well, you know those engineers, they don't know a damn thing. Yeah. So I just-- I, I, I saw we were going nowhere and I said-- I simply said, so and so, I said, you know, I, I would just listen to the engineer, though, that's kind of what they do. So I mean-- and I heard a previous person say, well, you know, there we have this solution and that solution and this solution and they don't know this isn't good. And they didn't want it here so we moved over there. And finally they've hired a, an engineering company, Houston, who specializes in this. There's a solution on the table. They're going through the processes and, and, and I'm hoping they are going to make the right decision. But at this point in time, I developed the need to take care of my people and bring a bill that will force a decision, the right decision, hopefully, to do something instead of somebody-- it, it could be another 10 years. It could be another 20 years. Someone else could die, something else could happen. And all that time maybe-- Senator Clouse, understanding this, we have a community, and actually

every one of you, we have a community that hasn't got housing lately, and I don't know how many years because of the flooding. I mean, if we can get this resolved, we can get new, new houses going up in Battle Creek. And it's-- I mean, as, as well as you, too, it's-- Battle Creek is a very important community not only to itself, but to Norfolk as having people who work in Norfolk at Nucor, Norfolk Iron and Metal, and other things in our community, it's very important. We just need to do the-- the NRD just needs to do it. It sounds like to me, talking to Brian Bruckner, listening to his testimony, they're on the right track. They're doing what they need to do and, hopefully, they will all vote and pass this. And I won't need to be addressing you guys again.

BRANDT: OK. Did you have a question?

DeKAY: Yeah.

BRANDT: Senator DeKay.

DeKAY: Quick question. Either you can answer or I can get that answer from somebody after the hearing. We talked about Battle Creek doing a bond. How much was they asking in that bond?

DOVER: Pardon?

DeKAY: They were thinking about-- there were-- it was on the table that they might be asking for a bond. I was just going to ask how much that bond was going to be?

DOVER: Well, Mike said it sounded like a statutory limit of $4 million.

DeKAY: OK. Thank you. That answers my question.

BRANDT: Anyone else? And before we close the hearing, online comments, we had 1 proponent, 11 opponents, no one in the neutral capacity. That will close our hearing on LB695. Thank you, everybody, for coming today.

DOVER: Thank you, all.