

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Appropriations Committee March 17, 2025

**CLEMENTS:** Good afternoon. Welcome to the Appropriations Committee. My name is Rob Clements. I'm from Elmwood, and represent Legislative District 2, which is Cass County and eastern Lancaster County. I serve as chair of this committee. We will start off by having the members do self-introduction, starting with my far right.

**PROKOP:** Hi there. Jason Prokop, Legislative District 27, which is west Lincoln and Lancaster County.

**M. CAVANAUGH:** Machaela Cavanaugh, District 6; west central Omaha, Douglas County.

**LIPPINCOTT:** Loren Lippincott, District 34.

**ARMENDARIZ:** Christy Armendariz, District 18; northwest Omaha and Bennington.

**DORN:** Myron Dorn, District 30.

**CLEMENTS:** Assisting the committee today is Cori Bierbaum, our committee clerk. To my left is our fiscal analyst, Clint Verner, and our pages today are Demet Gedik and Lauren Nittler. If you're planning on testifying today, please fill out a green testifier sheet located in the back of the room and hand it to the page when you come up to testify. Online position comments must have been submitted on the Legislature website by 8 a.m. the day of the hearing to be included in the record. If you have submitted a comment online, we ask that you not testify in person today. If you will not be testifying but want to go on the record as having a position on a bill being heard today, there are yellow sign-in sheets at the entrance to my left; these sign-in sheets will become exhibits in the permanent record after today's hearing. To better facilitate today's hearing, I ask that you abide by the following procedures. Please silence your cell phones. Move to the front chairs to testify when your bill or agency is up. When hearing bills, the order of testimony will be introducer, proponents, opponents, neutral, and closing. When we hear testimony regarding agencies, we will first hear from a representative of the agency, then we will hear testimony from anyone who wishes to speak on the agency's budget request. When you come to testify, please state and spell your first and last name for the record before you testify. Be concise; we request that you limit your testimony to five minutes or less. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you will have one minute remaining, and the red light indicates you need to wrap up your final

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thought and stop. Questions from the committee may follow. Written material may be distributed to the committee members as exhibits only while testimony is being offered; hand them to the page for distribution when you come up to testify. If you have written testimony but do not have 12 copies, please let the pages know so they can make copies for you. With that, we will get-- begin today's hearing with Agency 29, Department of Natural Resources. Welcome, and good afternoon.

**Speaker 3:** Good afternoon. So good afternoon, Committee. My name is Jesse Bradley. Jesse Bradley. I am currently interim director of the Nebraska Department Natural Resources. Thank you for the opportunity to comment on the biennium budget bills. I would like to begin by expressing my full support for the governor's preliminary budget recommendations. The Department of Natural Resources has broad responsibilities in the areas of surface water administration, groundwater well registration, integrated water management, natural resources planning, floodplain management, and dam safety. These include. Duty to collect. Develop. Consolidate, maintain, disseminate natural resources data as a basis for coordinated efforts with state, local, and federal government entities as well as the general public. I'd like to highlight briefly a few items that differ from the prior biennium request. The department has requested two transfers from the Nebraska Environmental Trust Funds to funds administered by the department. The first transfers to the Water Sustainability Fund, and the second transfer is to the Soil and Water Conservation Fund. The types of projects funded by the both of these transfers closely aligned with the purposes of Net Fund itself, ensuring that these transfers will not only support the purposes of the net, but also provide continued funding for these programs aimed at important soil and water conservation efforts across the state. As I close, I would like to mention if ELB be. 317 the agency merger bill passes Final Reading before the budget bills. We would ask the committee to move. DNR is operating budget program three, three, four under the list of umbrella programs, of which is program three 513. That's 513. Again, the department fully supports the governor's budget recommendations, including reappropriation of specific unexpended appropriation balances as of June 30th, 2025. Thank you for your time today, and I am happy to respond to any questions of the committee members.

**Speaker 1:** Questions, sir. Kevin.

**Speaker 4:** Thank you. Thanks for being here. The environmental trust funds that you're talking about. Have you worked with the Environmental Trust to get a grant of those funds?

**Speaker 3:** So the current structure of our budget for the current biennium is that there is a \$7 million transfer to the Water Resources cash fund. And if you look at the transfers in the proposed budget, there's a 25% transfer to that same cash fund of the total. And then there's a bump up of about \$700,000 in the soil and water conservation. So those two transfers would actually come in, I think, a little bit less than the current request for current budget that we have. And then the new one really would be that Water Sustainability Fund piece, which is a \$5 million transfer to support the Water Sustainability Fund.

**Speaker 4:** And for how long have these transfers been going on?

**Speaker 3:** The transfers themselves is pausing here, trying to think the transfers of the net funds directly to our budget occurred at the beginning of this biennium were currently in. Prior to that, though, going back over a decade, we had been going through a grant process with sort of a preferred point system where the department would apply for that money, but with preferred points, essentially moving us to the top of the list.

**Speaker 4:** And why did you discontinue doing that process?

**Speaker 3:** That was that was that occurred in the last biennium where they made adjustments to our budget.

**Speaker 4:** OK. Because there are concerns about it being unconstitutional to do it this way, since state constitution still sets out the environmental trust fund, and they have a granting process that clearly you were utilizing prior to this last biennium. So would you be opposed to having that removed and go through that granting process again?

**Speaker 3:** To having I'm sorry, having having.

**Speaker 4:** Environmental trust transfer removed from your budget and go back to the way you did before last biennium.

**Speaker 3:** Well, I think I want to be clear. I guess in the current biennium we're in, we have not been applying for a grant that has occurred, that transfer.

**Speaker 4:** But that's the biennium that we're in. This is a new way of doing it. It's not how it was previously done.

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**Speaker 3:** No, I'm saying that the the current budget we're operating under, we did not apply for a grant, and yet those funds were.

**Speaker 4:** Directly to before the current budget. OK. We're operating under. You did apply.

**Speaker 3:** We did. We did apply for grants in prior period.

**Speaker 4:** So it's only been the most recent budget that you stopped applying for.

**Speaker 3:** Grant that that's when the change occurred.

**Speaker 4:** And I am saying that it is widely believed that it's unconstitutional for us to tell an entity that's laid out in the Constitution how they can have to spend their money. So would you be opposed to us going back to the way that it's previous done, where you apply for a grant so that we are not in violation of the Constitution of the state?

**Speaker 3:** I mean, I think, again, importantly, in the way it was done under the grant, there was a preferred point process that was given to our agency. And I think what people were seeing is with that preferred point process and the importance of the projects we were doing, we were always number one on the list. Sure. So I think it just sort of made it more efficient to make the transfer the current weights.

**Speaker 4:** But also not in compliance with the constitution. So in the name of efficiency, we're breaking the Constitution. And I am suggesting that we stop being a violation of our Constitution and that we go back to the maybe slightly less efficient way, but still constitutionally sound.

**Speaker 3:** Yes, I obviously can't comment on the constitutionality of it.

**Speaker 4:** Well. Do you do you object to us going back to that way?

**Speaker 3:** I mean, we we are happy to proceed with whatever manner the funds can be acquired. OK. I do think that there is a recognized efficiency in the way it's currently being handled, which is why it was adjusted.

**Speaker 4:** I appreciate that, I appreciate the recognize efficiency. Thank you.

**Speaker 1:** Senator Armendariz.

**Speaker 6:** Thank you. Thank you. I just wanted to go over the process. So ten years before the current biennium for recent memory, you'd always been at the top and had been funded by the trust?

**Speaker 3:** Yes. So the.

**Speaker 6:** Grant process?

**Speaker 3:** Yes. So the previous law had laid out a scenario where the department would apply for this application for three years of funding. There would be a general fund match that would have to accompany that. And then with that there would be 50 priority points provided to our grant. That was sort of the scenario, I think, going about 12 years back.

**Speaker 6:** Would you find it? Finding efficiency and not having to write that grant going forward?

**Speaker 3:** Yeah. I mean I think that's that's what that's what I was mentioning, I guess is those grants take time to develop. They take time to review by the trust. We were continuously being finding ourselves at the top of the list. So I saw it as kind of an efficiency to just make the transfer.

**Speaker 6:** And with the current biennium that we did two years ago. Have you been challenged on the constitutionality of doing it this way?

**Speaker 3:** Our agency has not.

**Speaker 6:** I appreciate that. Thank you.

**Speaker 1:** Other questions. Senator Cavanaugh.

**Speaker 4:** Thank you. A follow up to that question. Have you had any conversations with them about the unconstitutional transfer of funds?

**Speaker 3:** Them being the they're asking very well, trust. I said a member on the board of the Nebraska by email address by appointment, and there has been not there has not been discussion in any of our board.

**Speaker 2:** Meetings.

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**Speaker 4:** About this. I've heard from board members about it. So there's clearly a concern. You might want to take it up with the board.

**Speaker 1:** I'd like to ask, but then. Oh go away.

**Speaker 2:** Yeah. I just wanted to ask about.

**Speaker 3:** The agency consolidations.

**Speaker 2:** Issue. I understand there's legislation pending in the in the legislature this year, and I say it from a position of experience. I was at the Department of Transportation and Roads and Aeronautics were combined. So I know that's a that's a painful It can be a painful process.

**Speaker 3:** Did you get some tips for me?

**Speaker 2:** Yes.

**Speaker 3:** But I guess just what are you doing as far as planning for that?

**Speaker 2:** And what's reflecting your budget as far as cost, in order to be able to do that? I'll ask folks following you after this to costs that will take to to be able to move forward with that, assuming the bill goes through. And then also, what kind of cost savings would you anticipate as a result of the consolidation as you're planning for all of these things?

**Speaker 3:** Yeah. So we're you know, we're actively working. And the leadership team of both agencies to look at the merger and how we bring programs together. We did have a fiscal note on the merger bill that was for \$100,000, to essentially take care of rebranding website, those types of things that have to happen in the transition. We do certainly expect that, you know, as we've been already talking, there are certain efficiencies in terms of using technologies and looking at duties that, you know, our agencies do that we do expect over time there'll be certainly savings. We didn't reflect that in our fiscal note, just I guess primarily it don't want to sort of just put an arbitrary target out there necessarily. But certainly I think as we would look into establishing the next biennium budget, you know, we'd start to see some of the appearances get reflected in future budget request. OK. Thanks.

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**Speaker 1:** The recording will be 317. Where is it in the process of hearings.

**Speaker 3:** So it'll be 317 has gone through its Natural Resources Committee hearings. My understanding is last week it was prioritized under the committee. And so there was an amendment that was being drafted for the bill as well. This had to do with just some cleanup of sort of the cross-referencing that's necessary to change eight different agency names in the bill. So there was a final clean up amendment on that. I think that's been sent back to the committee. So I would, you know, expect there might be action on that at the committee level here relatively soon.

**Speaker 1:** OK. Thank you. And then are you still working on the Perkins Canal project?

**Speaker 3:** We are working on the Perkins County can help project diligently. There's there's a lot of work that goes into that in terms of, you know, we have a lot of parallel tracks working right now from the design standpoint, land acquisition permitting. There's a lot of effort that goes into that and continue to make progress. We continue to remain on schedule. We feel we've got a good timeframe now laid out with the federal agency that will be reviewing our permit and believe that the project can be accomplished in kind of the initial ten year timeframe we had hoped.

**Speaker 1:** And have you had reaction from the state of Colorado?

**Speaker 3:** Yeah. So in terms of the state of Colorado, we certainly, you know, we've continued to engage with folks at like my level in conversation about the project. We're certainly trying to be as least disruptive as possible, you know, with regard to things like planned acquisitions. We have put out six offers to Colorado landowners, you know, willing buyer, willing seller proposal. But of course, if we can't move through that process, the contract does allow for exercise of eminent domain, which would be kind of the next stop, next stop, that line going down the road of land acquisition. So. Yeah, I mean, I think from the state of Colorado side, you know, we're continuing to try to work with them, try to make sure that we can do this in a neighborly way, if you will, and just keep those conversation lines open.

**Speaker 1:** And so you do have engineers working now designing your plans for the canal and for the reservoir.

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**Speaker 3:** Yeah, we're we're pushing forward past sort of what we would call 30% design plans were done at the end of last year, and now we're moving towards 60% design plans. We'll be getting very deep into the federal permitting process here over the remainder of this year. So things are definitely advancing now at a fairly rapid pace. On the design and permitting side.

**Speaker 1:** Any other questions? Seeing none. Thank you for your testimony.

**Speaker 3:** Thank you.

**Speaker 1:** Now we welcome anyone who wishes to testify regarding the Department of Natural Resources. Budget. Proponent. Nope. Neutral. Seeing. None. That concludes agency 29. Next, we will open the hearing for agency 84. Department of Environment and Energy. Excuse me. Regarding natural resources, we do have comments for the record proponents to opponents three. Neutral one. That concludes eight to see 29. Next agency 84. Department of Environment and Energy. Representative, please.

**Speaker 3:** Thanks. Long time no see. Good afternoon, Chairman Clements. Members of the Appropriations Committee. My name is Jesse Bradley, spelled g c Bradley. I am interim director of the Department of Environment and Energy. I am here to testify in support of the governor's budget. The Nebraska Department of Environment and Energy is tasked with protecting and improving human health, the environment and energy resources. The department is privileged to work with many Nebraskans, is conscientious steward who are conscientiously stewards of the environment. Through this collaboration and the department's regulatory oversight. D strives to prepare air for preserve air, land, water and energy resources both now and for future generations. D supports the governor's budget recommendations. The agency is committed to being fiscally responsible and to manage our operations within the budget proposed. I appreciate the committee's work and your consideration of returning the agency budget as proposed by Governor Pillen. I'd be glad to respond to any questions from the committee.

**Speaker 1:** These are questions. Whether you come in again about the merger of the two agencies and would if it'll be 317 passes. What would be the process then?

**Speaker 3:** So the process I think, will depend a little bit on the timing of when the Appropriations Committee bill moves out of committee or not. My understanding is that if if the bill is not moved



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out of committee, then there would be a desire to see the DNR portion that that's agency 29 budget and its operating program three, three, four would move into these budget program 80. Agency 84. Program three. I'm sorry. 530 513. Three and as a mouthful.

**Speaker 1:** So there's five.

**Speaker 7:** Thank you. Chair. And thank you so much for being here today. Part of what was included in the preliminary budget was the Land Service Line fund transfer. And so I know that the department, this department and the EA has worked really hard on like the original kind of climate action plan through the federal government. And there's a specific part of that. That proposal that put forward of like, what do like these low income specific populations and geographies and how led and some of those impacts are important to address. And so I just wanted to get your perspective on this transfer, because that would again, limit some of the work that you all have started to do and recognize is important to. Sure. Just environmental safety in general. So I just wanted to get your perspective on that.

**Speaker 3:** The lead service line trade transfer. So my understanding is the current legislation is going to sunset that funding at the end of this fiscal year. So I think the transfer is just representative of what was in the balance at the time the budget was developed. My understanding, and I think it's a \$10 million overall budget. My understanding is there's a little under \$2 million that have been reimbursed so far to and, and that we're also looking to push forward. There was some educational opportunities to create sort of training opportunities for those installations, and we'll be moving forward with that as well.

**Speaker 7:** Yeah. Senator Cavanaugh, this Cavanaugh, Michela Cavanaugh does have a bill around appropriating those unused funds, because I think it was a timing issue around the amount of work available, contractors and then executing. And so just wanted to uplift and get your perspective. A lot of what we're seeing for those LED service lines are in district 11 and 13, my district and just the impact. And I know again your this department has worked really hard on kind of uplifting. What are some accessible interventions that should be worked on as a part of that plan that you submitted to the Fit. So just wanted to get your perspective. Thank you. Welcome.

**Speaker 1:** To the questions to the program. Just wanted a.

**Speaker 3:** Quick follow up on the consolidation.

**Speaker 2:** Question. The chairman asked. So in a follow up to my question I asked earlier. So the 100,000 that you noted. So that's for the cost to both agencies. Total.

**Speaker 3:** Correct. OK. Thank you.

**Speaker 1:** Senator Cavanaugh.

**Speaker 4:** Thank you. 100,000 is the cost for the merger of the two agencies. What is the savings?

**Speaker 3:** So right now, we we really are kind of going to take this biennium that will be working into to really, I think assess, you know, as we look at operations and merging functions, different administrative functions, programs. You know, I hate to put a target, I guess, on it in terms of the specific amount of savings that might be there. I certainly expect there will be savings. And I would anticipate that, you know, as we would develop our next biennium budget, that's where we would start to express those savings in terms of adjustments that would, you know, reduce overall cost.

**Speaker 4:** So how was the decision made to merge the two departments?

**Speaker 3:** So I think the primary focus on the merger is around water. And we're going to be pushing forward here hopefully early this summer with a water task force under the governor's direction and leadership. And you know, as you look at the two agencies, energy and environment, and then you look at Department of Natural Resources. There's a number of water related functions where we both are working. And part of that, but not sort of fully merged. So I think in terms of like program level work, we'd be focusing in on those water related functions that are kind of under state leadership and making sure those two groups and both agencies are working together directly. And then I think the other elements of the merger would really focus on more of the, I guess, kind of administrative functions around the IT, HR or finance management.

**Speaker 4:** And one with this, it connected one with this merger beginning.

**Speaker 3:** The bill was said to have an E clause on it of July 1st of this year. And that was really just to align budgets with the fiscal year.

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**Speaker 4:** But there currently isn't a merger plan.

**Speaker 3:** I'm maybe not. You understand your question.

**Speaker 4:** I'm sorry. I guess I if I don't, I guess I don't understand. I thought that part of merging the two departments was to have some savings. But if there's no I don't know if you can't know what the savings will be then. To me, that says that there wasn't a strategic plan developed on undoing a merger and assessing doing basically a Swot analysis. Strictly business, all those things. And so I'm questioning if we're doing this without being prepared for it. Are we are we passing a bill to force two agencies to merge together. And then there's no plan. So I know I realize now I'm talking about a bill that we're not discussing. So I thank you for answering my questions.

**Speaker 3:** Yeah. And I can assure you that there's a lot of planning going on related to the merger. We've been having conversations really since last summer as agencies, again, particularly around those program areas that we're focused on. And now, you know, we're just sort of getting into more of the detailed conversations about how we're going to integrate those programs and then also some of those administrative functions. You know, I've been in the current role as interim director at the for just about a month. And really what I've been trying to do is make sure I'm spending a lot of time listening, understanding how their operations work. You know, fully engage in that so that we can make good decisions as we move forward with merging those functions.

**Speaker 1:** Thank you for the questions. Seeing none. Thank you for your testimony and gifts.

**Speaker 5:** You're welcome.

**CLEMENTS:** Does anyone else here wishing to testify regarding Department of Environment and Energy budget? Seeing none, we have comments for the record. Proponent, 1; opponent, zero; neutral, 1. That concludes Agency 84. We will now move to bills, and we will start with LB86. Senator Dorn, welcome. Good afternoon.

**DORN:** Good afternoon. Chairman Clements and fellow members of the Appropriation(s) Committee, my name is Senator Myron Dorn, M-y-r-o-n D-o-r-n, representing District 30, here to introduce LB86. LB86 is a straightforward request for \$500,000 for essential funding aimed at some of the state's aging infrastructures of dams and watersheds. We can all remember the flooding in 2019. If the state expects to keep

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our communities and farms safe, we need to make the commitment to rehab these structures. Our natural resources districts do an amazing job of maintaining these aging dams and watershed, but patchwork can only go so far, and last for only a short time. Investing in significant repair and maintenance is a correct response to ensure the safety of Nebraskans. An investment of \$500,000 now can be rent-- prevent even steeper costs in the future. A representative of the Natural Resource District, which is the Nemaha Natural Resource District-- which I'm a part of, I live in that natural resource district-- will give you more details about the number of dams that we have in not only the state, but in our district, and the age of some of those dams, and the maintenance that's ongoing or the maintenance that is in the-- ahead of us as we look at the age of some of those dams and stuff. It's been a very, very great program. When they started the program to-- federally and statewide-- to build dams in certain areas for flood control, it's been very effective, but it also-- just like anything, if you have a car or if you have anything else, over time, they slowly age out and you have to have maintenance to keep them up to, I call it, the, the standards that you need for good a project, so. If that-- after that, I'll take questions, or otherwise, I'll let Kyle answer some other questions.

**CLEMENTS:** Senator Dover.

**DOVER:** Yeah. What's the-- what is the annual expense currently being-- I guess how much are they spending annually right now, to do what you're wanting to help do more of?

**DORN:** I, I, I-- maybe I heard him-- or, heard it right. What, what the-- you're going to have to repeat that. I'm sorry.

**DOVER:** Yeah. Yeah, I apolo-- I'm like--

**DORN:** I'm terrible.

**DOVER:** You know what? I can't repeat what I just said about-- no, just kidding, Senator, Senator Dorn. No, seriously, how much are you spending annually now to do this?

**DORN:** The, the, the state in our guess is not investing any money in this. This is up to the local ones. And, and Kyle, he's here, he'll tell you more; that'd be a good question for him. They are getting some federal fundings, but those aren't very much. When they built a lot of these projects-- there was a lot of federal funding when they built a lot of these dams. He'll give you all the, the data on the

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number of dams. Just in the Nemaha NRD, there's over 300 dams alone. And the tubes and all of that, they are what are aging out. They were all put in with steel tubes. They're, they're-- you know, steel will deteriorate. So, how do they keep those good or whatever? I did on my own farm-- we had a dam that-- I don't know when I was put in. It-- because we bought the farm in the late '70s, so it was put in before then, then, and we had a steel tube coming in that dam, and it was only probably a half-acre pond just in a pasture. That aged out, and three years ago, we put a new tube in and had the dam redone. That cost me alone \$9,000, to have that new tube put in. So, these-- a lot of these projects, they aren't cheap; they do get-- they do get to levy some levy, the NRDs do, but they're just like everybody else. They have so much things in the budget that they have to use those for. This would give them some additional funds to appropriate for some of these dam projects and stuff. So.

**DOVER:** OK, well, thank you for bringing this bill. I think it's, it's really needed.

**DORN:** Thank you.

**CLEMENTS:** Senator Spivey.

**SPIVEY:** Thank you, Chair. Thank you, Senator Dorn. To kind of follow up on that. Director Bradley talked about how a big piece of, like, the merger, and the important part is, like, the water component.

**DORN:** Mm-hmm.

**SPIVEY:** And so, is there a plan in general, just around our infrastructure, when maintenance happens, when do we defer maintenance, what can we expect for our costs? Like, are we working with those departments that are helping to manage that, and then local NRDs to make more of a plan around the money that we are need to expect to invest?

**DORN:** Our, our director of our NRD here would be able to answer those questions better. I know he's visited-- when he visited with me about this bill, he, he has visited with the state, the NRD, the funding that comes from the state. Very little funding, I call it, transfers down, even for the repair and the maintenance. So, that's most of that. Kyle Hauschild, he'll-- he will talk about-- I can't remember what year, but at one time, we had a whole bunch of different water conservation areas. We went down to 23 NRDs, I think, in the '70s or '80s. He'll give you the date or whatever. We went down to 23 NRDs.

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Many other states are envious of what Nebraska has with their 23 NRDs to help with the water and the, and the flood control, and all of that. They wish they would have done it. It's kind of hard to switch, I call it, at this stage of the game or whatever. But you-- it's like I said, it's just like anything else, though. You have maintenance on these. We have maintenance on our vehicles, we have maintenance on our house; we also have maintenance on these structures. Do we have to do it? No, but it-- then it puts at risk some of those dams and stuff in some of the, the long-term aspect of them.

**SPIVEY:** Thank you. And please try to remember what I just asked. I don't know if I will remember verbatim. Thank you.

**DORN:** Thank you.

**CLEMENTS:** All right. Now, we welcome proponents. Good afternoon.

**KYLE HAUSCHILD:** Good afternoon. How are you?

**CLEMENTS:** Good. Go ahead and start.

**KYLE HAUSCHILD:** Well, thank you, Chairman Clements and the Appropriations Committee. I'm Kyle Hauschild, K-y-l-e H-a-u-s-c-h-i-l-d. I'm the general manager of Nemaha Natural Resource District. I'm here to speak in-- as a proponent on LB86, and I'll kind of answer some of the questions as I'm going through, so. A lot of the information I-- that you actually are asking is coming on the sheet, and I'll try to catch some questions once I'm done with my testimony. Over the last 70 years, Southeast Nebraska has developed one of the biggest stormwater infrastructures in the state. Currently, there's 518 dams that were constructed in the, in the Nemaha NRD, and 380 of them-- roughly-- are operated by the NRD itself. Most of these structures were constructed prior to the inception of the NRD system in 1972. When the NRDs were formed in '72, they took these entities over that were also inherited-- the responsibilities of these structures. 154 of them were combined into 24 at that time, and then they actually got rid of one or four-- or, I guess, rolled two of them into one to make the 23 NRDs. Of those drainage districts-- and probably one of my favorite ones, I would say, is the mosquito abatement board. I don't know what that is, but I like using that one. But when these, when these structures were first put together, PL-534 and PL-566 were the federal programs that were used. PL-534 was actually a pilot project. With that pilot project, it was the first watershed that was actually developed in the United States, and that resides in Syracuse, Nebraska. So, if anybody wants a tour of that,

we'd be more than happy to, happy to give you a tour. These were created to prevent flood con-- or it was-- they were created for flood control and grade control. And the first one was started in 1953, and that's when we started construction; the planning of it was prior to 1953. The design life on these structures is 50 years, so our oldest structure, if you do the math, is roughly 73, 74 years old. So, obviously, way past the design life for these structures. So, I'm here in support of LB86 because the need for funding to fix these structures is to serve the purpose-- they have served their purpose and need to continue. Just like all infrastructure, these dams need rehabilitation to make sure they serve for another 50 years. We at the NRD are working to keep the needs of these dams to where they should be with a limited budget of only \$4 million. And if you look on my sheet, we have over \$10 million worth of work that need to be done just on the structures over 50 years old. So, this bill was actually written for a couple of the districts in the state. When I proposed this to Senator Dorn, he carried it for us. There's two districts in southeast Nebraska: us, and Lower Big Blue, based out of Beatrice, Nebraska. We have the most dams in the state per district. There's roughly 3,000 dams in the state. My district alone, again, is-- we have over 500 of them. So again, aging infrastructure, and we have a good majority of the dams that-- just in our district, and then you throw a couple hundred more on from Lower Big Blue, Lower Platte South. So, we do have quite a few dams in southeast Nebraska. Again, I asked for the help to conserve the-- or, to keep these watersheds up to par. And hopefully, if we can continue to do the work that we're doing, then they can live for another 70 years. And again, to follow along with what the NRD's motto is, is protecting lives, protecting property, and protecting for the future. And I am open to any questions. And I was given a hook at one minute, so I tried to get it done as quickly as I could.

**CLEMENTS:** Senator Dover.

**DOVER:** Well, so if this money was appropriated, how would you decide the first dam to go look at?

**KYLE HAUSCHILD:** So, over the last-- I've been the manager of the Nemaha NRD for about five years. We do have a priority list of the ones we're looking at. Obviously, we're going with the oldest to newest. To be honest with you, some of those oldest structures are constructed better than the newer ones. But we have been doing different things to do this maintenance. But what one thing we came up with is this new slipline project that we're doing. It's actually-- the best way to explain it to everybody, it's, it's basically model

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glue with fiberglass on the inside of it, and it comes through like a sausage casing. It blows up and, and it uses the old pipe as a form.

**DOVER:** Oh, wow.

**KYLE HAUSCHILD:** And once those are in place, then they bring a light through that's 2,100 degrees Fahrenheit, and it cooks them in place; they're UV-cast. That's a 75-year warranty that we have on those structure-- or on those pipe, which, hopefully, would buy us another 75 years on these structures that we have in place. And to answer your question you had for Senator Dorn while he was sitting back here, we average about \$5,500 a year per structure, is what-- the-- what we think, and that's tree removal, spraying chemical on to remove the trees, any beaver issues that we might've have on them, debris removal from the structure. And then the, the process I was telling you about that's a cast-in-place slip lining, that's about \$60,000 average. Now, obviously, that depends on the, the size of the structure; you know, we've done some for \$30,000, we've done some for \$100,000. So, \$60,000 is about right where that sweet spot is of what, what we've determined to be kind of in there on the budget. So, we use about \$60,000 when we plan on, on budgeting for these structures for maintenance.

**CLEMENTS:** Senator Spivey.

**SPIVEY:** Thank you, Chair. Thank you so much. So-- and I appreciate the handout, so you're right; it does answer a lot of questions. You mentioned that there are dam assessments, and so-- that you all are looking at kind of overall, all of the dams.

**KYLE HAUSCHILD:** Yes.

**SPIVEY:** And so, do you have a plan that says across Nebraska where these 3,000 dams are, here's when we need to expect maintenance, here is about the cost, what happens if we do deferred maintenance? Is that something that is then also-- since it's here, is that working with the NDEE around that in the water portion, or, or how, how do you imagine that?

**KYLE HAUSCHILD:** So, I can speak for the Nemaha. We have our own maintenance schedule that we set up. I can't speak for the other NRDs. Each, each district has their own issues to deal with.

**SPIVEY:** OK.

**KYLE HAUSCHILD:** We also-- we do have a schedule that we look at them. As far as DNR, Department of Natural Resources, that's who's the dam



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safety. So, they work with us quite a bit on where the structures are; they do our inspections just because it's another set of eyes looking at them; they provide back the comments of the ones that need to be main-- have maintenance done on them, or any changes that need to be made. So, those obviously become a priority for us, if they find something that's, that's not up to, up to snuff with what we're looking to do. But again, in-house, we do have a maintenance schedule that we have aligned with, along with what DNR does for inspections for us as well. And then--

**SPIVEY:** So then, they would be the entity to ask around is there, like, a statewide comprehensive plan versus individual NDRs [SIC]?

**KYLE HAUSCHILD:** That's right. Yes. Yup, and they do have-- they do have a, a, a roll of all the ones that they have, so there is, there is a database that, that has all the information. So, DNR would have everything on there. That doesn't necessarily mean that my NRD can tell another NRD how to do their work, and DNR is the same way. They make recommendations on what needs to be done. For example, in Adams, Nebraska, we're working on a structure down there, and that kind of aligns with what we're doing here where-- when they built that structure in the 1960s, the standards are much higher now than when they constructed that one. That one was developed with a leak in it, that one's been monitored for the last 40 years with a leak in it. But with the dam safety standards changing, we are now fixing that one. So, that's a \$200,000 fix that's coming out of the NRD pocket that we didn't plan on fixing two years ago. And that's, that's kind of what aligns with this bill, is that we have a lot of unforeseens, and when we have to deal with them as they come along, that-- that's the ones that we can't plan for. You know, I can plan to slip line ten structures a year, or I can budget for that; I can't budget for the unforeseens that come up, and then all of a sudden it's-- we got to get this fixed because it's, at that point, a danger or a failure downstream.

**SPIVEY:** Thank you. And then, the other piece from the handout, it said about 25% of your budget is spent on some of, like, the watershed programs,--

**KYLE HAUSCHILD:** Yup.

**SPIVEY:** --and I know it was mentioned earlier that you utilize federal funding as well as some levy from, like, kind of the current budget that you have with your NRD. Like, are you accessing federal funds to help support this, or what is that split?

**KYLE HAUSCHILD:** So, the, the federal funding part of it is accurate to the point of-- they build dams, they don't maintain them. So, there's currently, there's currently no federal funding that's set up to maintain dams; they're, they're just set up to build dams, and that's that PL-566 that I was talking about. PL-566 is set to develop the structures, not to maintain them. So, all the maintenance and operation of these structures all fall back on the, the owners of them, and we are the owners, so we, we are in charge of doing all the maintenance needs and all the operation of these structures. And that's why this bill is important. If you, if you look at this sheet, it shows you when we completed these structures-- or, or these watersheds. So, if you look at-- like, in the case of Brownell, it was completed in 1961-- that was when the last pipe was put in the ground and the dirt was filled over it-- was 1961. Again, life expectancy is 70 years-- or, 50 years on these structures; that one's over 70 years old, and that's the newer structure. So, if you look back at, at 53, obviously-- I'm sorry, 60 years old-- how old the newest one is. The oldest ones that were built were in the 1950s, which puts them at 70 years plus. And you can see that 45 structures were built in that nine years; that's, that's actually really impressive that they got them completed as quickly as they did. What's even more impressive is they built them for \$335,000. You can't even build one structure for that now, and they built 45 of them at that time. But this does give an inventory of everything we look at. And just so you know, Brownell is the oldest structure, or oldest watershed plan that was completed in the United States. So, that's kind of cool that we're, we're housing that one. But also on that list of the top ten is Ziegler and Wilson Creek are also on the top ten oldest structures or watershed plans that were completed in the United States, so. Some of the oldest structures we actually are maintaining that were NRCS-- or, at that time, the SCS completed, so. Obviously, Oklahoma has a bunch of old ones, Kansas has a bunch of old ones, but we were the first, first ones to complete that plan.

**SPIVEY:** Thank you.

**KYLE HAUSCHILD:** You bet.

**CLEMENTS:** Senator Dover.

**DOVER:** So, when you're prioritizing, do you look at size-- I'm guessing you have a minimum size.

**KYLE HAUSCHILD:** There was a standard for NRCS. A lot of them had, like, an 18-inch barrel or a 24-inch barrel, and then the riser coming

into it was like 36, so most of them are pretty standard-sized. We don't necessarily look at the size of the structures; maybe more the importance or even the age of them, because we do have some dry dams that we're doing. One of the biggest ones we're looking to do now is, like, 200 feet long with a-- like, an eight-foot riser, but it's a dry structure. But that one, actually, is a great control. If we were to let that one go, you'd have a head cut, a really sizable head cut moving upstream, and that's actually right outside of Syracuse, right below Highway 2.

**DOVER:** Mm-hmm.

**KYLE HAUSCHILD:** That would cause, obviously, issues with the infrastructure. A lot, a lot goes with all these structures. If we were to lose them, it wouldn't just be land loss, it would actually be county roads and stuff like that. So, these are actually holding grade that could potentially not only-- if they would fail, that would be the infrastructure of the stormwater portion of it, but it'd also be transportation because it'd be moving upstream towards a lot of these county roads, county bridges, houses, or anything like that. So, it would be loss to the, the farmers with, with the land loss of having a gully going through their field, but it'd also be the transportation aspect, and, and other infrastructure upstream. Not only, not only the structure going away, but it'd be additional, on top of that. And then, to-- I guess to add to that, it would be the flood control benefit as well. I mean, if we were to losing these-- Brownell was developed more as a-- again, a test plot, so instead of building multiple big structures, they built a ton of small structures. And the idea was to cut up that water in small portions on the way down. Now themore look is we built one big structure, catch a lot of water. Back then, it was we caught-- we built a lot of small structures to catch small amounts of water.

**DOVER:** OK. I'm encouraging the lower Elkhorn NRD to work with Battle Creek's flooding, and they did take a, a lot of small dams out,--

**KYLE HAUSCHILD:** Yup.

**DOVER:** --but then, this exacerbated the problem.

**KYLE HAUSCHILD:** And-- yeah, that, that could-- and, and I don't know a lot about that situation, but having that flood control loss-- because these are designs that-- usually a 25- or a 50-year structure. So, potentially, they'd handle that kind of rain event. So, if you do take out a bunch of those smaller structures, that'd obviously add to the

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issue of, of downstream and, and again, upstream, with, with the grade loss and the gullies and washouts and everything moving up the fields.

**DOVER:** Thank you.

**KYLE HAUSCHILD:** Yes.

**CLEMENTS:** Is your NRD levy at its limit?

**KYLE HAUSCHILD:** We are not. We try to keep it below. We're at, at .29999-- or, 0.02999. We max out at three-and-a-half, so we are not maxed. But again, we're trying to do with as much as we can with the-- with as a little burden on the taxpayers. Currently, this year, to go back to the discussion on, on the slip lining-- we're doing 12 this year, I believe. We did five the first year, seven last year, now we're up to 12. But again, between doing the irrigation management, water quality management, we have five rec areas and a 23-mile trail. We're stretched pretty thin, along with the staff that we have. We do complete a lot of this dam maintenance with just five employees. They're the ones that are out there day-to-day, cutting trees, spraying trees, dam-- obviously, all the dam maintenance, beaver removal, all that stuff, so.

**CLEMENTS:** OK. Other questions? Seeing none. Thank you for your testimony.

**KYLE HAUSCHILD:** Thank you.

**CLEMENTS:** Are there additional proponents for LB86? Seeing none. Anyone in opposition? Seeing none. Anyone in a neutral capacity? Seeing none. Senator Dorn.

**DORN:** I will just make a couple comments. Part, part of why we brought this bill was just, I call it, kind of to make people aware also that there-- there's a lot of things we have in the state that there's ongoing costs and ongoing need, and, and, and just because we have something out there doesn't mean that we'll survive for 50 years in no way. One of the things that many of these dams, especially the bigger dams, really do is, I call it, recreation, as far as boating, fishing, and all of that. We have-- he showed a map of-- down in our area. We have about 10 or 12 lakes down in there that are very, very popular fishing lakes. It's amazing. But they also need upkeep and stuff. Last summer I got to go on-- I don't know who does it or whatever, the-- it's through the youth-- it's not through the university; it's the state. They do a water tour. Got to go on it, a two day tour. We got to tour a couple of the lakes down in this area, but we also got to

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tour the area and see where Lincoln is proposing to build their new water area, and we got to see their wells up in-- by the Platte River, and we got to go inside of some of those. That was a-- kind of amazing. I hope they do something like that again, so. Thank you very much.

**CLEMENTS:** Are there any questions? Seeing none. Thank you. Senator Dorn, we have comments for the record: 3 proponents, zero opponents, zero neutral. That concludes LB86. Next, we will open the hearing for LB580. Senator Machaela Cavanaugh.

**M. CAVANAUGH:** Thank you, Chairman Clements, and members of the Appropriations Committee. My name is Machaela Cavanaugh. I'm not going to open, and I'm going to spell my name without looking. M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h. You weren't here yesterday, but I commented that I always look at-- when it's time to spell my name as though I don't know how to spell my name. I don't know. I do have handouts. Thank you. The bill before you today, LB580, would reappropriate any funds remaining in the Lead Service Line cash Fund to the fiscal year '24-'25 biennium budget for the purposes of addressing the public health hazard of lead service lines. The Lead Service Line cash Fund was established by this committee to assist the Metropolitan Utilities District, or MUD, to replace homeowner-- homeowner-owned lead, lead lines-- service lines-- lead-- sorry, I threw myself off because lead and lead-- lead service lines exist in older parts of Nebraska and neighborhoods in the Omaha metropolit-- metro in North and South Omaha. They are prevalent in areas deemed to be disadvantaged communities. Because Nebraska was primarily settled in the east, the Omaha metro area may very well have up to half of Nebraska's inventory of lead service lines. This is a national issue, with an unfunded federal mandate requiring all water providers replace lead service-- services over the next decade. Lead exposure in drinking water is dangerous, and leads to a damage-- damage of our brain and nervous system, especially in children and young adults. Lead in waters causes developmental delays, behavioral and learning problems, reduction in IQ, and societal consequences that often reverberates into our criminal justice system. MUD has an inventory of roughly 15,000 lead services in the metro area, and the cost to replace each one is about \$8,000. The total MUD program to replace every lead service, including inflation, is roughly \$157 million. When the federal government made funds available under the American Rescue Plan, one of the recommendation-- recommended uses of ARPA dollars, including Nebraska's \$1 billion ARPA allocation, was to help finance lead service replacements. ARPA dollars, dollars flowed to counties-- cities, counties, tribal governments, and states. Since MUD is a

standalone political subdivisions, MUD unfortunately did not receive any ARPA assistance. This is likely one of the reasons this committee chose to create the Lead Service Line cash Fund, which was created-- which created a \$10 million cash fund to help get this project off the ground. The Lead Service Line cash Fund, under last year's LB1245, provided up to \$8 million to the Nebraska Department of Environment and Energy, NDEE, via a grant to a MUD to replace lead service lines. An additional \$2 million was allocated to qualified training organizations for labor training purposes. The issue LB580 seeks to resolve is that both the labor training component and the service line removal component have a June 30, 2025 expenditure deadline. Although all \$8 million allocated to MUD for lead service line replacements are under existing contracts by MUD to local plumbers, some of these funds will not be spent before the deadline, as the end grant program operates on a reimbursement basis. MUD estimates there will be roughly \$3.5 million left in Lead Service Line cash Fund on June 30 of this year, however, these funds have been allocated by MUD under existing contracts. MUD will not be able to submit these remaining expenditures under existing contracts for a reimbursement before the deadline. MUD would-- will be able to submit for reimbursement in the next six to nine months, if not sooner. The \$2 million labor training component will let-- also likely have remaining funds, as it has the same June 30, 2025 expenditure deadline. LB580 makes certain that the precious lead, precious Lead Service Line cash funds already appropriated by this Legislature remain available for their intended use, which is to replace lead service lines. If you take a look at last year's LB1245, it specifically gives MUD the option to borrow any remaining funds left in the Lead Service Line cash Fund. MUD essentially has the option to secure all remaining funds available in the \$8 million lead service removal component via a loan before June 30, 2025. With this option comes added expenses for MUD, including an interest rate and other finance-- financing charges necessary to secure a loan. The fiscally responsible thing for this committee would be to honor the allocation, reinsert the available funds in the biennium budget, and allow MUD to avoid interest payments and additional fees in order to secure the funds remaining in the Lead Service Line cash Fund. With that, I will take any questions, though the people coming after me can probably answer better than I can. But I will try my best.

**CLEMENTS:** Are there questions? Seeing none.

**M. CAVANAUGH:** All right.

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**CLEMENTS:** Thank you, Senator. Next, we welcome proponents for LB580. Good afternoon.

**RICK KUBAT:** Good afternoon, Chairman Clements, members of the Appropriations Committee. My name is Rick Kubat, R-i-c-k K-u-b-a-t, here today on behalf of the Metropolitan Utilities District, or MUD. I want to thank Senator Cavanaugh for introducing LB580. MUD provides drinking water to roughly one-third of Nebraskans in the Omaha metro area and surrounding communities. In the Omaha metro, the city of Omaha provides sewer services, and MUD is responsible for providing drinking water. This is confusing to some, but MUD acts as the billing agent for the city of Omaha sewer, and thus, our customers pay for sewer and clean drinking water on one collective MUD billing statement. Service lines are owned by homeowners, and they are what delivers water into our homes. It is possible for lead to leach into the water supply to the home through the water service line if the service water line is comprised of lead. I want to stress that lead is not present in the district's distribution system. Affordability of water and sewer services in the Omaha metro area is a major concern. The Omaha metro is grappling with two different unfunded federal mandates at the same time. One is a roughly \$2 billion combined sewer overflow, or CSO project, by the city of Omaha; the other is the federal Lead and Copper Rule, requiring water providers remove all lead services over the next ten years. I've handed out a chart that shows the average annual residential water and sewer charges in the metro area. In 2010, the average annual residential payment for water and sewer was roughly \$400. Today, that same customer pays more than \$1,200. Anecdotally, I believe the charges for sewer in the metro area are likely close to double that of the statewide average. Sewer fees can vary significantly throughout Nebraska, but I believe the average residential sewer fee in Nebraska is likely closer to \$400 a year; in Omaha, those charges are \$800 a year. I point this out because the state of Nebraska receives a significant financial windfall due to the additional tax revenues garnered from Omaha's CSO project. In 2010, Nebraska received roughly \$2.7 million in tax revenue from Nebraska's 5.5% state sales tax on sewer; today, Nebraska receives just under \$13 million for the same sewer fees. Nebraska is a financial beneficiary from Omaha's unfunded federal sewer mandate. MUD estimates that we have the financing in place to pay for roughly one-third of the \$157 million lead replacement program over the next three to four years. It will be a substantial challenge to finance the remaining two-thirds of the program without resorting to rate hikes. LB580 will not serve the long-term funding necessary to pay for all lead services removals, however the Lead Service Line cash Fund is a critical piece to the

initial financing of the project. LB580 will allow MUD the ability to avoid paying interest rate and other fees, should we be required to use a loan to secure the remaining fund-- the remaining funds available in the Lead Service Line cash Fund component specifically for lead service line replacements. With that, I am happy to take any questions.

**CLEMENTS:** Senator Spivey?

**SPIVEY:** Thank you, Chair, and thank you so much for your testimony. You touched on it a little bit, and you said the total project is \$157 million. And then, what portion that the state allocated originally is like a-- like, what portion of that is that? And, and why is this reappropriation necessary?

**RICK KUBAT:** So, the-- we've got roughly 15,000 lead service lines at about \$8,000 apiece. And then, if you put in inflationary factor, it's \$157 million. To be blunt, we're looking for money wherever we can find it so that that curve of the collective water and sewer fees don't continue to rise. In terms of what the state's contribution was, Senator Cavanaugh mentioned we got no ARPA funding for this project, even though I believe that was one of the major intentions. So, there's really three different buckets-- as I refer to as buckets of cash for the lead service-- for the lead removal project. The state Legislature was not kind enough to appropriate \$10 million. Of that \$10 million, there's two components: \$2 (million) for labor training and an \$8 million for lead service line removals. The underlying bill would allow us to get the remainder, remainder of the lead-- of the training component should there be leftover funds, but the way the biennium budget works is both has a deadline of June 30, 2025. So, of the \$157 million, one bucket, state general funds, somewhere between \$8 and \$10 million for lead service line removals. Senator Fischer-- bucket number two-- Senator Fischer was kind enough to seek a federal appropriation, and she was able to secure \$4 million of federal funds. I would describe that, like all things going on at the federal level, to be in limbo, because even though it was appropriated under the prior administration, to be blunt, we've been having a difficult time getting information on where that stands or whether or not it's going to be frozen. I'm hopeful that those funds will be still available, so that gets you 10-- potentially, maybe \$4 million of federal funds. The long-term financing for lead service line removals throughout the state of Nebraska is a program called the drinking water state revolving fund, which is a program that the, the federal government provides money to the Nebraska Department of Environment and Energy, and then water purveyors like MUD or Lincoln Water System can go to



NDEE and secure a zero-interest long-term loan. And for simplicity's sake, for purposes of this committee, roughly, you have to pay back \$0.50 on the dollar. That's, that's an oversimplification, but it's generally correct. That pool of funds, MUD has a \$40 million loan secured, of which we've got to pay back half, so roughly \$20 million, but \$20 million will be free funds. So-- I'm-- and I'm sorry for being long-winded, but there's a lot of stuff going on here. Three buckets: \$10 million of state, maybe \$4 million of, of federal appropriation, and then bucket number three is this \$40 million loan of which we've got to pay back roughly half. That gets us to a stage where we can-- believe we can pay for roughly a third of the, the program without necessitating the rate hike. But I, myself, personally-- and I'll be short-winded on next questions, but I wanted to get that out there-- this collective water/sewer charges in the Omaha metro area is something that-- it goes to the affordability of the most basic life-essential need of folks being able to turn on their tap water, and this is a challenge.

**SPIVEY:** Can I ask a follow-up to that, Chair?

**CLEMENTS:** Yes.

**SPIVEY:** I appreciate that. And the, and the map that was shared shows where these service lines are, which does cover my district where there are folk-- District 13 and 11, where there are a concentration of lower-income folks. So, I think-- I, I appreciate your comment around that this one calls rate hikes for people that maybe are already navigating economic challenges in a way that y'all are trying to avoid. And so, in the preliminary budget, there was some money appropriated from that \$10 million reappropriated that you haven't spent, and I asked this question earlier to Director Bradley. So, can you talk about why the money hasn't been spent, and is there a plan to make sure that you're able to spend down what was originally appropriated and/or what would come over, and, like, just what that process is?

**RICK KUBAT:** Yes. So, in terms of the state line cash fund, those funds were appropriated to NDEE, and then MUD had to apply for the grant for the \$10 million. That did take some time. That agreement is now in place. We-- the last page of my handout shows the ramp-up of the lead service line replacements, and you can see that in 2024, we did 270 lead service line replacements. This next year, our goal is to get to 651, then to ten-- 1,032 per year, and then up to 1,490. The long and short of it-- and Senator Cavanaugh mentioned it-- these-- the statements-- the, the lead service line cash funds are already under

contract; we have plumbers in place, you can't get as much work done during the winter. We're now in, in the, the good season. We're, we're getting after this, and we're going to get-- we're going to get more and more done. It's just with that June 30 deadline, we're probably going to have roughly \$3.5 million left over. We need, we need literally 6 or 9 months to be able to pay our contractors out for, for that work. And then, if there are any leftover funds in the labor training component, we would certainly welcome the ability to put those funds to use to replace lead service lines. So, we're ramping it up. I, I personally believe that MUD is ahead of the national curve. We've done our inventory; you can get on our website and find out if you're in an older home. And to your point, Senator Spivey, you can look at the map, you can tell that the census tracts that these lead service lines are in, they're in disadvantaged communities. When we-- and when we talk about that, you're talking about folks that tend to be on fixed incomes, and then you turn around and-- I mean, that's, you know, just for sewer and water; not to heat your homes, but just for sewer and water. When you talk about a \$1,200 bill per year, that's expensive, and in, in, in addition to your other utilities. The other thing I want to quickly mention here, too, is once you start replacing some for free, and the federal government's put the mandate on the water providers, once we start down this road-- and we have-- you can't tell people at the back of the line like, hey, we need you to start paying for them. Our goal is to-- whether it's on the collective water bill, we've already started the program. We're essentially on the hook to get the remaining lead service lines out of the ground.

**SPIVEY:** Thank you.

**CLEMENTS:** OK, Senator "Emmerdaris" [SIC], do you have a question?

**ARMENDARIZ:** Thank you. Thank you for being here. I, I, I did live in an area where the sewer and rain sewer were not separated, so all went into one. It, it was-- definitely needed to be done. But later, living in my house in Omaha, I saw the, the amount of money put-- being put on my MUD bill for the sewer separation project. And if anybody knows me, I dug into why is it so high. And I understand MUD gives us the bill, but the money is going to the city because it is the sewer. I-- and I want to go on the record saying that there-- my husband and I live in the house, and when it's just my husband and I, that additional cost was around \$50 extra on my bill. And when my, my parents lived with us for a short-- well, several months, it was another \$90 a month on my MUD bill just for the sewer separation project. Gas, water was on top of that as well. And they measure it by

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the amount of water you use per the house on how much you're going to pay for the sewer separation project. And what I'm getting to is if we're charging people in my old house that-- on low income, that-- an additional \$100 a month on your MUD bill-- and arguably, those families are even bigger-- that's quite an expense. Are there any kind of-- is there help for the low-income for those additional charges? And would MUD, for the water project now, charge that additional cost to the homeowners as well, being as that you're way, way short of \$100 million dollars? Who's going to pay for it?

**RICK KUBAT:** So, a few questions in there. First and foremost, yes, just like our public power brethren, we have utility assistance programs. But like all thing, there's limited resources and, and limited amount of funds to be able to help all the folks in need, in terms of utility bill pay assistance. I appreciate you pointing out-- the, the red/blue chart, the red is city of Omaha sewer, and you can see the growth; the blue is MUD water. That collective growth is-- at some point in time, in all likelihood, is going to be enhanced by the fact that the blue is going to have to increase, the MUD water component, as we grapple with how we're going to solve the financial riddle of paying for the \$157 million project. And, and again, we are extremely gracious that the state Legislature appropriated up to \$10 million of state, state general reserve cash fund dollars. Those are ex-- very much needed, and it's, it's how-- you know, how do you eat the whole elephant? And that's a small component. I don't know what we're going to do in the future, but the potential of losing out on those funds would make a difficult situation even more challenging going forward.

**ARMENDARIZ:** And then just one thing, you chart-- you're-- you have this tax calculation. Are we paying a tax on our bill for the sewer?

**RICK KUBAT:** Yes.

**ARMENDARIZ:** --or, or for the water? For the--

**RICK KUBAT:** So-- and I'm going to spare this committee this right now, because I could talk about this for a half an hour on the state's unique tax policy when it relates to water. A year or two ago, there was a bill that is enacted into law that specifically exempts residential water from, from city and state sales tax, so that recently came off the books. What, what-- the state of Nebraska, those numbers you see, is the sales tax revenue on sewer, so, so the red-- the, the red component. I, I don't want to get too down into the weeds, but just so you know, I'll just-- really quick, when cities go

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out and buy inputs and materials for wastewater, those, those items are exempt. So, when the city of Omaha goes and buys pipes, cements, mains, that stuff is exempt. The only thing you pay state, state sales tax on is the sewer component on your bill. When MUD goes out and buys materials to do the build-out of the potable water system, we pay city and state sales tax, subject to a narrow exemption for manufacturing. Like, we wouldn't pay it on our chlorine, because that's an input, but we would paid on-- for cement and the, and the mains. And so, that gets incorporated into our billing statement, and the only carve-out for a sales tax exemption would be for specifically residential water use.

**ARMENDARIZ:** OK. So, we're paying a sales tax to the state on our sewer usage [INAUDIBLE]?

**RICK KUBAT:** Yes. And, and, and to that degree, you know, in 2010, it was \$2.7 million. And now, annually in the state, it's-- you know, and it's going to continue to go up-- \$13 million.

**ARMENDARIZ:** OK. Thank you.

**CLEMENTS:** Other questions? Senator Dover.

**DOVER:** So, on the water/sewer bill, you basically get billed based on the water-- your water usage in the-- per residential unit or your bill. How many houses actually use their water to water their yard?

**RICK KUBAT:** I, I would say a fair amount is for, for one's own watering of yards, yes. I mean that's definitely a component, and I can get you the exact proportionate later of what that is. I don't have it in my head, but yes, a certain amount of that is for, for, irr-- you know, irrigation, residential irrigation.

**DOVER:** That doesn't seem to be a very fair way to charge someone for water and sewer. I mean, or sewer, at least.

**RICK KUBAT:** There's a-- that, that-- that's a whole 'nother side conversation, Senator.

**DOVER:** All right.

**RICK KUBAT:** And again, the way Nebraska handles tax policy as it relates to what I would say one of the most regressive taxes for residential water and sewer services is very unique. It's hard to do an apples-and-oranges comparison, but it doesn't make any sense to me why wastewater inputs would be tax-exempt, yet when we generally go

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out and buy materials for delivering clean potable water, we impose a, a state sales tax on that. I don't believe most states do. It's a mixed bag, but there are a pyramiding or regressive nature of sales tax, generally speaking, on the potable water side. And, and the, the exemption of residential water did help some.

**DOVER:** All right. Thank you.

**CLEMENTS:** I had a question. When was the federal lead line replacement mandated?

**RICK KUBAT:** That was within the last couple of years, under the federal Lead and Copper Rule. So, there's been variations within that federal lead and copper rule--

**CLEMENTS:** Just recently, then, it was--

**RICK KUBAT:** --but, but yes, it was within the last couple of years the final rule came out where-- I believe it's starting in 2027; the current federal mandate is within the next ten years all water purveyors nationwide are to have lead services out of the ground.

**CLEMENTS:** Is there any income needs test that you're using for homeowners?

**RICK KUBAT:** Well, right now, you know, Senator, as you're aware, I mean, we're, we're, we're grabbing funds where we can, and we're not charging the homeowners to rid them of the public health hazard because they're primarily in homes built prior to 1940. So--

**CLEMENTS:** So, everybody regardless of income is getting the lines replaced?

**RICK KUBAT:** That's, that's correct. That being said, if you look at that map-- and I can provide further statistical information-- because it's in the older part of town, the vast, vast majority of these lead service line replacements are in neighborhoods where folks can ill afford to pay \$8,000 to, to, to take care of the remediation. I mean, you can kind of get a sense by just looking at the map on the handout.

**CLEMENTS:** I saw that. Other questions? Seeing none. Thank you for your testimony.

**RICK KUBAT:** I appreciate your time. Thank you very much.

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**CLEMENTS:** Next proponent for LB580. Seeing none. Anyone in opposition? Seeing none. Anyone in the neutral capacity? Seeing none. Senator Cavanaugh, you may close.

**M. CAVANAUGH:** Thank you, Chairman Clements. I really appreciate Senator Armendariz's questions. I liked learning a little bit more about our tax system as well. And thank you to Mr. Kubat for being available to answer all of those questions. So, I know we've talked about this in committee, and I just hope that we can continue to consider this as part of our, our budget moving forward. I do want to acknowledge, because I did acknowledge this on one of Senator Dover's bills, the language that-- the coded language used in Omaha of north and south Omaha, it's typically we say north and south Omaha, and what we mean is north Omaha is a predominantly black community and South Omaha is a predominantly immigrant community, and so I like to make sure that that is stated for the record. And I also want to state for the record that Mr. Kubat did Sister Marian proud in this-- his hearing. We went to the same grade school. Not at the-- well, at the same time. I'm much younger.

**CLEMENTS:** Are there questions? Senator Armendariz.

**ARMENDARIZ:** I just have one, since you brought it up again. And I, I appreciate that you appreciate my questions. But since you brought up the, the differentiator of north and south Omaha--

**M. CAVANAUGH:** Yes. I know there's exceptions to the rule.

**ARMENDARIZ:** And I, and I only want to correct the "we." So, if you want to say "I" mean--

**M. CAVANAUGH:** Oh, sure.

**ARMENDARIZ:** I appreciate that.

**M. CAVANAUGH:** Oh, sure.

**ARMENDARIZ:** Or, unless you say exactly who you're talking about, but I don't want to be included if you're including all senators, or whoever the "we" means.

**M. CAVANAUGH:** Sure.

**ARMENDARIZ:** I would prefer that you just say--

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**M. CAVANAUGH:** Absolutely. I appreciate that. What-- typically the nomenclature of north and south Omaha is understood to mean those two things. And so, when I use that language, when I describe north or south Omaha, I like to clarify for people who aren't familiar with Omaha that we are talking about a population of people in addition to a region of the city, and so-- thank you, though. Thank you for that.

**CLEMENTS:** Have you heard anything, why ARPA funds were not used for this?

**M. CAVANAUGH:** I'm-- I think that would have been a decision of both us and the county and the city. I don't, I don't really know enough about what the county and city spent their ARPA funds on, so I'd, I'd have to-- but I can, I can certainly ask our, our county board and our city council about that.

**CLEMENTS:** I think that would be helpful.

**M. CAVANAUGH:** Yeah.

**CLEMENTS:** [All right.

**M. CAVANAUGH:** Absolutely.

**CLEMENTS:** I think that looks like that's it.

**M. CAVANAUGH:** All right.

**CLEMENTS:** Thank you, Senator. We have comments for the record for LB580: proponents, 5; opponent, 1; neutral, zero. That concludes the hearing for LB580. And next, we have a hearing that-- we'll open the hearing for two bills that we're going to combine, LB673 and LB674 will be a joint hearing. Senator Raybould, welcome.

**RAYBOULD:** Good afternoon, Chairman Clements, and members of the Appropriations Committee. My name is Jane Raybould, spelled J-a-n-e R-a-y-b-o-u-l-d, and I represent Legislative District 28 in Lincoln. I am here to testify on behalf of the two bills before you, LB673 and LB674. Thank you for this opportunity to address some of the critical concerns with our budget deficit, our aging water systems, and the importance and my support for the Perkins (County) Canal project. For all those Coloradans watching this on TV, for the record, my efforts are not to derail the Perkins Canal Project, but simply to reorder the urgency of the construction components. Here are the items that I would like to review with you all today, and point out with some of the handouts that I will provide, as well as referencing some of the

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documents and a video I sent to you last week. I understand perfectly well that many of you, because of your totally packed schedules, may not have had the chance to review, but I'm happy to include brief summaries in these opening remarks. And I have five components. Number one, support of the Perkins Canal Project. Number two, urgency to build the planned reservoir component of the Perkins Canal to capture surplus water flows while simultaneously fighting the legal impediments and Army Corps of Engineers permitting process delays. Number three, urgency of dealing with the 2.3 billion-and-growing requests from communities all across our state of Nebraska for safe, clean drinking water, and all the aging water infrastructures throughout our state; I believe you've heard testimony just a few minutes ago about two big projects. Number four, urgency in dealing with our own self-inflicted budget deficit. Number five, lastly, action items going forward for your budget-- for your budgeting considerations. I'm combining items one and two for expediency. Here is why we need to continue to support the building of the Perkins Canal, but the necessity to reorder and capture as much of the increased surplus water flows that we are seeing, particularly in the last 20 years. The video I sent to you, produced by the Department of Natural Resources, outlines the almost \$580 million in economic benefit of storing and using the surplus water capacity as soon as possible that could actually pay for the rest of the project costs, including legal fees, land acquisition, siting, and construction costs. This \$580 million of economic benefit was not included in the original cost-benefit calculations, but is an add-on to the estimated detailed benefits. Why is this important? Certain flow quantities are needed for electrical generation and hydropower, and for maintaining water flows necessary to protect our wetlands and wildlife, and our environmental obligations. But most importantly, without a doubt, the Perkins Canal Compact [SIC] talks about this water is a vital source of irrigation for our agriculture community, and irrigation is essential in recharging with those return flows back to the river. The years it will take to resolve what is just starting to be a prolonged legal battle with Colorado, and combined with the onerous environmental impact statements and the Army Corps of Engineers requirements necessitates that we push forward as quickly as possible with the additional single reservoir construction that is part of the Perkins Canal Project, with a budgeted cost for two reservoirs to be approximately about \$210 million. We must also be in compliance with WOTUS-- Waters of the United States-- requirements, on top of the other environmental regulations that requires additional scrutiny. Before you is the first handout, and this is a letter dated March 7, and this is from the attorney representing the landowners in Colorado



where the state of Nebraska has sent them the letter of their intent to execute on eminent domain. And I'm just going to flip to the very last page, and I'll just read it quickly. It says-- from the attorney representing the, the Colorado landowners, it says, "Finally, it is a principle of Colorado eminent domain law that a landowner should not be needlessly dispossessed of property. Here, Nebraska appears to be years away from actually needing possession to start construction. As of today, Nebraska lacks 1041 approval from Sedgwick County, has no approved wetlands mitigation plan, has no Federal permits, has no final construction drawings, no crossing agreements for utilities, and no relocation agreements for displaced owners or tenants. There is no legitimate good faith basis for proceeding at this time." Article VI of the Perkins Canal Compact [SIC] permits diversion and storage during both the non-irrigation dates of October 15 through April 1 and the irrigation season of April 1 through October 15 only when surplus water is available, meaning any water flows above 120 cubic feet per seconds-- keep in mind two things; that a hard winter freeze restricts any flow in the Platte River, and the river has had this seasonal, unpredictable flows and flooding for centuries. Having established that, the last 20 years have demonstrated an increase in these surplus flows. I just want to review briefly some of the recent heavy water flows documented in the video. They reference 1980, 1983, 2013, 2015, and most recently, 2023. Don't worry, I'm not going to go into detail on each one of those years, but I do want to focus on 2023. All these surplus water flows increased above the 120 cubic feet per second. The requirement per Article IV of the Compact requires that there must be maintained 120 cubic feet of seconds of flow in the river. In 2023, the water flows in mid-May in Nebraska were 900 cubic feet per second because of the tremendous rainfall and weather conditions, but in late June, they rose to 9,000 cubic feet per second, exceeding what we can currently and lawfully have the capacity to store. To better understand this amount of water, it was called out to be roughly 72,500 acre-feet of water, or, envision this: 240 times the size of Memorial Stadium. Controlling and capitalizing on this stored water supply is essential to help become another funding source for the other essential costly components of the Perkins Canal Project to achieve the sustainable water supplies for Nebraska in the future. Moving on to item three, urgency for dealing with the \$2.3 billion and annually-growing financial assistance requests from communities across the state of Nebraska for clean, safe drinking water. And so, I am going to ask the page if you could do handout number two. And be ready; I'll give you this after that. Go ahead and do handout number three. Thank you. The handout that is coming around your way-- in this first handout, it shows the amount of water projects in each of your

legislative districts. This was strategic, so you could see exactly how much is going on just in your districts alone. And I just want to mention that just in your eight senators' districts, there's a request for \$1.1 billion of water projects, both on the clean water side and on the drinking water side. And, for those of you that remember that I sent you something via email, if you want details on each and every one of those projects, it's listed in the 2024 Nebraska State Revolving Funds. And I can-- just-- that has the details of the scope of the projects and the actual dollar amounts. This, however, reflects only a small portion of the requests from communities that are dealing with costly, aging water infrastructure improvements, nitrate and phosphate contamination of groundwater and wells, reverse osmosis systems that are failing and no longer have the capacity to keep up with the demand. I emailed to you the 137-page document-- I know it's too much to read, but it has plenty of information that's relevant-- last week of the complete listing of clean water and drinking water use, and the listing of all the clean water and drinking water requests in our state. That is in the next handout, and we broke it down by all the senators so that eventually, hopefully, we can have a robust discussion on the floor about this so they can actually see what's going on in each one of their districts, and that you can understand the magnitude of requests that the Nebraska State Revolving Fund and the federal capitalization grants can barely keep up with. And on handout three, it shows that there are \$2.6 billion in requests for both clean water and drinking water that are the needs in our state. Just so you understand that the state match is 20%, with 80% of that funding coming from the federal government, primarily the EPA, for these projects. And sadly to say, I think we heard from the previous testifiers that some of this funding could very well be held in limbo; with all the uncertainty with the federal funding, the 80% of federal funds may not materialize. Where does this leave our fellow Nebraskans? I commend Senator Teresa Ibach, legislative bill to "incentive" our-- incentivize our farmers to use less nitrates and phosphates, and to not over-fertilize their land. We need more creative bills like this. However smart this approach is, there is no funding to motivate farmers to see the actual savings benefit of not only using less fertilizer to achieve the same crop yields, but that you get more money on top to use less. Senator Dorn, who testified earlier, has a modest bill asking for \$500,000 to those smaller towns and villages for their needs; no funds for this, either. Each year, we get requests from different legislative districts on help with sen-- with \$30 million project for Cedar and Knox County-- that was from Senator DeKay-- or another \$20 million in requests by Senator Hansen for his community. We recently heard from Senator Dover the challenges

facing Battle Creek, near Norfolk, of an almost \$58 million to help with their chronic flooding. As you can see from the list, the costs are tremendous for Nebraska municipalities to fund, even with their bonding and sales tax authority and the NRDs' assistance. On the additional urgency, the next handout from the 2023 Planning Committee report, it rightly focuses on key issues facing Nebraskans. And so, I'm going to ask the page to, to kill some more trees on this stack. There are two handout fours. So that's-- sorry, everyone, but I think this is relevant information. So, the 2023 Planning Committing [SIC] report rightly focused on key issues facing Nebraska, such as affordable housing, affordable child care, and water quality. And on the report, I've tabbed the water quality section. It also singled out the health care crisis in Nebraska, documenting an increase in colorectal, liver, non-Hodgkin's lymphoma cancers, and Alzheimer's and Parkinson's disease, as well as the highest-- one of the highest pediatric cancer rates in the entire United States. The state of Nebraska is ranked number five in the highest pediatric cancer rates as compared to some of the other states that have greater industrial and commercialization issues going on. This is shocking. This urgency sadly hits home with me, as I have non-Hodgkin's lymphoma, splenic marginal zone, and my father had Parkinson's disease. I'm lucky; I'm in remission, but not cured. Ironically, I have been advocating for funding clean water prox-- projects since I was on the Lincoln City Council, way before my cancer diagnosis. But sadly, far too many Nebraska families are increasingly being touched by cancer caused from our environment. This is not only a moral imperative to provide safe, clean drinking water; it is our duty as state senators to address this growing crisis and provide the needed infrastructure funding to reduce the harm to our citizens. And so, the two handouts that you have, you have the tab on water quality, but also the water quality and health-- that's the colorful one-- it really shows you the sad statistics, particularly with pediatric cancer rates. And it's not just from nitrates and phosphates; it's atrazine, it's arsenic, it's a lot of other materials in our drinking water that are sadly doing this harm to so many families. I have one more handout, so-- stick with me, one more handout. I'm glad I'm keeping you busy, Lauren; thank you. It should come as no surprise to anyone on Appropriations Committee who voted in 2023 to pass the accelerated income tax rate reductions for corporations and the top two tiers of Nebraska earners that we now have a deci-- deficit. The statements provided for passing this unneeded income tax reduction show that in 2025, the loss of revenue would be close to \$396 million. So, on the first side, you have LB873; that was passed in 2022 with an income tax rate reduction for the top two tier earners in our state of Nebraska, as well as corporations.

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And if you look at the one, LB873, and you go down to fiscal year '25-'26, it shows that the loss of revenue is roughly about 299-- well, almost-- let's say \$300 million. If you flip it over on the other side, you can see in LB754 that was passed-- that's the one I referenced that was passed in 2023-- we accelerated the income tax rate. And if you look on the amount for fiscal year '25-'26, the total amount you can see now is really \$423,587,000 in, in loss of revenue for our state of Nebraska. The statements provided for passing this unneeded income tax reduction show that in 2025, the loss of revenue would be close to \$396 million, and this would only compound in future years. Oh, by the way, I have been walking and knocking doors in my district for 15 years, and can't seem to recall a single complaint of our income taxes being burdensome. I can safely say that it was about every other door when folks complained of property taxes impacting their families. And I apologize, did I have to get this dig in? Yes, I did, because I was only one of two senators that voted against this by challenging and asking the very basic, fundamental question, "Where do we grow our tax base to offset this dramatic loss of revenue?" "How many wealthy individuals or corporations are moving to our state to supplement this revenue loss?" So, here we are, facing serious budget deficit that needs to be addressed. Sadly, many of the cuts being proposed impact services provided by nonprofits, behavioral health, DHHS's ability to continue to care for the vulnerable while the administration plans to sweep funds from other departments that impacts our working Nebraska families. I certainly do not intend to dwell on all these issues, as you have literally been spending weeks in hearing rooms, hearing all these concerns already. So, I'm getting to the end. Action items for your consideration. Number one, redirection of a portion of the Perkins Canal funding to help reduce the deficit. Even though my ask was a huge one of \$250 million, we all acknowledge that it is always the committee's discretion to review and allocate and recommend funds. My big amounts were there to attract your attention. Number two, redirect a portion of the Perkins Canal funding to help with all the water infrastructure needs. Number three, keep in mind that the video produced by the department says \$580 million of benefit for storing and releasing the surplus flows. If we built just one of the two planned reservoirs as soon as possible, this can be used to help offset some of the fundings to items one and two when the actual construction costs come due. Number four, in the meantime, there is nothing holding back the state from using its bonding potential authority, assuming we can pass legislation permitting this to help create a long-term financing tool exclusively for the Perkins Canal Project in the future. And please do not think that this hasn't ever been considered; it certainly was a

part of a lengthy discussion years ago when the Legislature dedicated that quarter-cent sales tax of the existing state sales tax to help with roads and bridges versus moving forward with a bond issue. I believe the bond lost by one vote. Number five, we all know and anticipate the legal "deday"-- the legal delay, property acquisition battles, environmental permitting will stretch the Perkins Canal Project to years in the future. That is certainly what Colorado is baking-- banking on. Keep in mind that there will naturally be cost and inflation increases com-- compounding for year-- for every year of delay for all of the infrastructure requests that we have out there from communities. And I just want to read you something from the book, where it talks about the serious issues facing our rural community, and they're talking about the clean water-- drinking water state revolving funds. The program has continued to take steps to avert major economic impacts, both statewide and within communities. The state's small rural communities are financially challenged with and faced with funding major capital projects. Aging and declining population bases make it difficult to draw the amount of user fees needed to fund capital infrastructure projects to address wastewater issues. Supply chain effects on equipment and material purchases, along with inflationary pressures due to funding availability, resulted in 12- to 18-month project start delays, coupled with 5 to 90% cost overruns. And from all available information, those are still forecasted to average at least a 30% cost increase. That is why we must deal with the immediate budget and water crises in our state. Thank you for your consideration of these funding options presented to you. I am so grateful that you stayed alert for my rather lengthy opening, and I assure you that my closing will be a brief one to make it all up to you.

**CLEMENTS:** Are there questions from the committee? Senator Spivey?

**SPIVEY:** Thank you, Chair, and thank you so much for the information and context. And so, what is being proposed in this bill, as you mentioned, is not to stop the project, but to put a certain amount of the funds allocated into the water component of doing the one reservoir, and then moving the additional funds to general funds to address our deficit. Correct?

**RAYBOULD:** That is that is correct, Senator. So, the, the first bill-- and I may have them confused-- the first bill, LB673, asks for \$500 million to go directly towards all the water project needs throughout our state of Nebraska; both those with contamination, aging, aging infrastructures for sanitary sewer, lead, and-- oh, by the way, the lead service line projects were initiated by the bipartisan

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infrastructure bill, and that's-- that was included in that, and that's why it was excluded from ARPA funding.

**SPIVEY:** Oh, OK.

**RAYBOULD:** But-- and then LB674, based on a great suggestion from Senator McKinney, said, well, why don't we have it so that it reads \$250 million go towards the deficit, and then \$250 million go towards all the water projects, to help take on this backlog.

**SPIVEY:** Thank you.

**CLEMENTS:** Other quest-- Senator Strommen?

**STROMMEN:** Yeah I just-- so, the fiscal note reads-- so, there's a note in the fiscal note-- a note in the fiscal note-- thank you, Senator Clements, by the way. It says the transfer of funds will effectively end the Perkins County Canal Project as permitting agencies and other compacting states will view the project as speculative, having a low probability of being completed, and will not expend time or resources on review.

**RAYBOULD:** I would have you reference the legal attorney's letter from the representative in Colorado, saying that they fully feel that we have not, in a good faith effort, delivered on the things for them to take us even seriously. We don't have any of the permits in hand, we don't have the actual civil hydrological drawings done; we are just at the very infantile steps of starting this project. And I'm-- the question that I pose to all of you is, is there a better use of this money at this present moment in time to provide clean, safe drinking water for our family members and fellow Nebraskans all across our state of Nebraska? Until we prove or respond-- you know, I, I would love to see the letter from the Attorney General's office, or responding to Colorado and telling them to go pound sand, that we do have these permits underway, but nothing has been approved at this time. And, you know, in order to be taken seriously, the funding will stay there. We're just asking to divert 500; that still leaves plenty of money to start components of the project, to still, still fulfill some of the obligations and some of the site acquisitions. I think one of the things in the letter from the attorney said that the Zanjero report wildly underestimated some of the costs and damages that the state of Colorado would incur, meaning the Colorado property owners-- that they said it would range from \$137 million to \$250 million, something thereabouts, not what was currently budgeted for, just the land acquisition. It's the land acquisition, it's damages for the lack

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of irrigation for them, and they cited the damages as well to the Lower South Platte part of it that would be-- have the Perkins Canal that that water would be in-- I, I don't think they specified, but either a pipeline so that that water would not be used as it naturally is right now for recharging purposes.

**STROMMEN:** But you do agree that the water is owed to the state of Nebraska?

**RAYBOULD:** Oh, absolutely.

**STROMMEN:** OK.

**RAYBOULD:** I, I have-- I'm in 100% support. And then, the building the reservoir is one of, one of the two reservoirs that are planned, so let's get that done. And the-- I don't know where they came up with the \$580 million benefits. Might-- why haven't we done it before, if, if we have funding for the reservoir and two reservoirs is \$210 million? Let's get it going.

**STROMMEN:** The-- did-- do you know of the Nebraska-Kansas Compact [SIC] and the legal argument we had with Republican River in the '90s?

**RAYBOULD:** Yes.

**STROMMEN:** So, that only took two years to resolve that, that legal fight. So, I'm not sure why we think that it will take longer to resolve any legal arguments with Colorado if we had almost the exact same issue with the Nebraska com-- Kansas Compact as we're having with the Colorado--

**RAYBOULD:** Well, that would be great. I mean, that would be wonderful. And we all know that these type of compact issues goes right up to the U.S. Supreme Court, and they appoint a, a master to determine the viability of, of Colorado's resistance to our claim of eminent domain to be able to build the Perkins Canal. Can it take two years? I would-- that would be great if it took two years. But some other similar projects have taken 20, so.

**STROMMEN:** But we, we already have precedent with Nebraska-Kansas, and we know how long that took to resolve that issue. So, we can-- I, I would say that it would be-- it would be similar to assume that we would have the same legal challenge and backdrop and backup with the Nebraska-Kansas-- or, the Nebraska-Colorado.

**RAYBOULD:** I, I, I would respectfully disagree, Senator.

**STROMMEN:** OK.

**RAYBOULD:** The Perkins Canal Project is much more complicated than assuring that we deliver on our responsibility of providing the appropriate flow from the Republican River. It's, it's much different. We have to construct two reservoirs, we have to do all the property acquisition. There was no property acquisition that I can recall of for the Republican River legal challenges. And so, we're dealing with another state, and the land acquisitions that they're going to challenge us every step of the way. That's really-- if we can't get the land acquisition, then we are probably not able to go very far on this issue. And you're, you know, if, if it gets up to the U.S. Supreme Court and the master gets appointed, it still will take some time.

**STROMMEN:** I could be wrong, but I think that there was an \$80 million N-CORPE property acquisition that was part of that, Nebr-- that Republican River Compact. I could be incorrect. There might be some people that could speak better to that, but I think I'm correct in that.

**RAYBOULD:** But that's a, that's a, a small amount compared to what we have to acquire on-- not only on the Colorado side-- and they've set a-- quite a high price tag, and for damages, as well as-- it's my understanding, hearing from some of the local landowners, that they intend to fight the state of Nebraska for the properties in the state of Nebraska as well. But, you know, I absolutely would love to see it get resolved. I don't see why they don't really try, instead of acquiring the property, come up with some type of easements for this, depending if it's viable in certain locations or not, so.

**STROMMEN:** Thank you.

**CLEMENTS:** Any other questions? Senator Armendariz?

**ARMENDARIZ:** Yes, thank you. Thank you, Senator, for being here. And I'll, I'll state up front that you know way more about this than I do, so I'm going to just speak from the layperson that might be hearing about this in the news. And over time, what I've been hearing anyway is that the most valuable resource a state can have, a population can have, is going to be water. So, when, when you-- before you and I were here, they carved out the money for this canal to retrieve that water that is owed to us from Colorado-- as you say, it is rightfully owed to us-- and we finally allocated the money. Because I believe that this compact was put in place over 100 years ago.



**RAYBOULD:** 1921 [SIC].

**ARMENDARIZ:** OK. So finally, 100 years later, they carved out the money to finally draw that water into the state, maybe understanding the importance of that value of water as opposed to oil or any other natural resource. It's water, is what the public is saying. And you would like to do the reservoir, but then redirect the rest of the money somewhere else and not complete the canal. So, what would you say to a constituent that would say that that's just kicking the can down the road again that we've already kicked for 100 years?

**RAYBOULD:** I would say that I, I disagree. I am not intending to not build the Perkins Canal. I have heard from a lot of the constituents out there there's a better way to get what we want done, and to be in compliance with the Compact, and there are better methodologies of, of getting it done. You know, the reservoir is one of the components, and I think if we could get the reservoir going sooner rather than later and get that constructed, then we can take advantage of the surplus water flows and use them and release them during the irrigation season when they are needed the most. Right now, we do not have the capacity to be able to capture all the water flows that are surplus that we are entitled to and can capture. Otherwise-- I think Senator Jacobson once said, when we were voting on funding the Perkins Canal in 20-- was it last year? 2023 that, you know, all that water just keeps rolling on by down in the Missouri, and we could have put it-- stored it and put it to use for irrigation, because irrigation is one of the best use, and I think the use of our water-- 51% is used for-- 51% of our groundwater is used for irrigation, and that is what is the compact was about, for irrigation. And I do not believe we're kicking the can down the road. There are other financing tools that have been considered in the past that we can use, but I, I can't in good conscience say that there's not greater needs of providing safe, clean drinking water to all of Nebraskans versus just this one element. You know that-- you've heard that expression "whiskey's for drinking, water is for fighting;" there's no doubt we have to fight for our water rights. We will continue to fight for our water rights. We should be doing that, and we will be responding to Colorado, I'm sure, with a very forceful letter and, and proving our point that the Perkins Canal-- we are entitled to do that. I don't intend to derail the Perkins Canal, but I think we need to go about it smarter, and I think we should be capitalizing on something where they say it would generate \$580 million of benefit by storing the water itself. I don't know how they came up with that number, but if you watch the video, they do mention it quite often.

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**ARMENDARIZ:** May I follow up? And I, I apologize, I didn't watch the video, but--

**RAYBOULD:** That's OK. It's a good one. It's my favorite.

**ARMENDARIZ:** --but you, you are saying that there's a better way to do it, but I wonder where you-- where you're getting that. Is there an engineering firm that's telling you that, and they've given you a new plan? Or is this the Department of Natural resources that told you there's a better way? Or?

**RAYBOULD:** Well, the, the answer to that is no. But they already have some preliminary civil engineering drawings that show where that reservoir should be sited and built and constructed. So, the point is, if you don't build that sooner rather than later, how can you take advantage of the surplus water flows that have been increasing, it seems, in the last 20 years, and that's-- you know, that's money in the bank. Water is precious. We should be capitalizing on that if we have the resources and funding to pay for that right now, and that we can come with-- up with additional funding if we choose to be creative and go out for a bond issue. And I know that's something that the state of Nebraska typically hasn't done, but is something that they've considered in the past for roads; a great infrastructure like that that benefits Nebraskans.

**ARMENDARIZ:** And-- I just want to be clear. So, this is your plan that it can be done better, not a--

**RAYBOULD:** It is, it is my suggestion that they start with the reservoir first, which is included in part of the Perkins Canal Project.

**ARMENDARIZ:** OK. Thank you.

**RAYBOULD:** Yep.

**CLEMENTS:** Other questions? Senator Dorn.

**DORN:** Thank you, Senator Clements. Thank you for bringing here. What-- and, and maybe I missed, I, I call it, I missed-- if, if we transfer this money now to these two pr-- or, to the General Fund into the sustainability fund, and let's say five years, ten years, we-- the lawsuits are such that, yes, we get to build, where-- what was your proposal to come up with funding for that then?

**RAYBOULD:** There are two, two funding sources. Number one, we could go out for a bond for the balance of the Perkins, Perkins Canal Project because I think our estimates are widely incorrect, inaccurate, and not keeping up with inflation. You know? I think they were underestimated. So, we're going to have to-- what I want to say in a nice way is we don't have enough money right now, probably, to get the Perkins Canal constructed as proposed, because there's inflationary factors; they talked about construction costs have increased anywhere from 5 to 90%. They said, let's do a balance, call it 30%. We haven't accounted for that funding. So, two sources; we could possibly go out for a bond issue to get the balance, or pay as we go for this. That's sort of been the Nebraska way; I believe we built our capital as pay-as-you-go. We can, we can do that as well. But-- and I threw out that \$580 million. I didn't come up with that number-- they quote it often-- the \$580 million can be redirected to-- towards the Perkins Canal Projects after we start and store these surplus water flows.

**DORN:** I, I caught the second part, I think. I didn't catch the first part. And, and Senator Strommen here, he brought up, I call it, the, the Republican River Compact.

**RAYBOULD:** Mm-hmm.

**DORN:** There were many lawsuits filed over that one. Nebraska lost most of those because it was water flow. That's what it essentially comes down to.

**RAYBOULD:** Correct.

**DORN:** We also have the compact with Colorado that says you shall give us water flow. I know in '23 there was maybe high water flow out there. I don't remember the summer I went out there, there was a group of 9 or 10 senators went out there, and there was zero water flow. Zero. It didn't even reach the state line. So, there are also-- this Colorado compact, part of those things that I looked at are, yes, we have to-- we lost the Kansas-- we funded the, the Republican compact because of-- we did not provide enough water flow. And here yet, Colorado is doing the same thing we did at that time, and it says we don't need to supply it. And yet, that case-- or those cases went very high up, too, in the court system, and said "Nebraska, you shall do it." And that's when we decided to negotiate at the end, and come up with what we did. So, if we pull the funding out now, I see that we give Colorado a leg up on the negotiations and stuff. Do you have any thought on that?

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**RAYBOULD:** Yes. I think what we're looking at, that there is-- could be protracted legal battles for the state of Nebraska on this. I don't think it sends the wrong message if we pull some. You don't-- I mean, you as Appropriations Committee determine how much funding you think is the appropriate amount to do this without jeopardizing the Perkins Canal. But like I suggested before, there's other alternative methods to, to do that. There are suggestions that I'm hearing from other constituents; practical-minded farmers and ranchers say there could be these other alternative solutions with the Perkins Canal. So, I, I-- again, I don't want to derail the funding for Perkins Canal. It's at your discretion totally; 100% at your discretion about how much funding you think is appropriate. And if you're willing to help fund the deficit rather than having a greater impact on more Nebraska families with some of the suggestions and the sweeps and the cuts that I've heard about-- and certainly I think it's really critical that we start to take seriously the \$2.3, \$2.6 billion in requests for clean water and clean, safe drinking water issues facing all of Nebraska. So, if we can make a dent on that, I think that's the right step to take without jeopardizing all the funding for the Perkins Canal. You know, my ask was a big one: \$500 million, you know? That, that kept me awake. But I don't want to jeopardize the Perkins Canal. I think we need to do the right thing with this money at this point in time to take care of our budget crisis, our budget deficit, and take care of the critical needs of Nebraskans all throughout our state.

**CLEMENTS:** All right. I have one question. If we transfer money to this water sustainability fund, is Lincoln planning on applying for those funds for their second water source project?

**RAYBOULD:** Well, you know, they're already in the queue of all these people for funding requests. So, they're-- if I turned to, to Lincoln, they would have-- I'm-- I can tell you exactly how much they have for drinking water. I think I'm in drinking water, but, you know, yeah, of course. Some of the funding-- and you saw from the handout that, that Lincoln and Omaha were probably the, the biggest asks and requests for funding. I'll just tell you what Lincoln is asking for.

**CLEMENTS:** OK, well, that was--

**RAYBOULD:** It's a lot.

**CLEMENTS:** --that was the answer. I thought it was yes.

**RAYBOULD:** Yeah, they're asking \$123 million.

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**CLEMENTS:** OK.

**RAYBOULD:** And that's just, that's just, well improvements; that's not for the second water source. So.

**CLEMENTS:** All right. Thank you, Senator. Are there proponents for LB673 or LB674? Seeing none. Is anyone in opposition wishing to testify? If you're in opposition, please come to the front seats.

**MATTHEW MANNING:** Do we hand in two of these, or just one?. Because of the-- bills were combined.

**CLEMENTS:** Two. Two green sheets, please.

**MATTHEW MANNING:** I got two ready. I got to cross off one. You know I only got one testimony, but it's identical.

**CLEMENTS:** All right. Good afternoon.

**MATTHEW MANNING:** Good afternoon, Chairperson Clements, and members of the Appropriations Committee. My name is Matthew Manning, M-a-t-t-h-e-w M-a-n-n-i-n-g. I'm a senior project engineer for the Department of Natural Resources and the Perkins County Canal Project. The Department of Natural Resources offers this testimony in opposition to the proposed appropriation transfers outlined in LB673 and LB674. The Perkins County Canal Project is one of the most critical water resources projects in Nebraska's history. Without this project, Nebraska will be vulnerable to Colorado's stated intentions and active efforts to permanently cut off a majority of South Platte River flows across the state line. The department appreciates the strong support the project has received from Nebraskans, the governor, and the Legislature. However, the introduction of these bills and the tran-- potential transfer of funds undermine that support. Please understand that signals do matter. Colorado closely monitors Nebraska's actions related to the Perkins County Canal Project, and adjusts its legal and political strategies accordingly. At a recent Colorado Water Conservation Board meeting, the Colorado State Engineer noted that LB673 and LB674 call into question how dedicated Nebraska is to completing the project. Additionally, it is not uncommon for federal permitting agencies to ask whether the project is really going to happen, implying that it will not be a prop-- priority to them if completion is in doubt. Simply put, signals of non-committal do not help Nebraska's cause. I am here to assure the committee of the, of the department's commitment to this project. The project is moving forward on schedule. Our consultants continue to make progress on the

project design, which is more than 30% complete; field investigations are occurring along portions of the provisional canal route; permitting is well underway with federal agencies; land has been acquired in Colorado, and additional offers have been made on additional parcels. Public outreach continues in affected areas of the state. Finally, I would like to remind the committee of the economic and environmental losses the state will suffer if the appropriation transfers outlined in these bills are advanced and the project is not completed. At the request of the Legislature, the department conducted a cost-benefit analysis of the project, and determined the state would realize an estimated \$2 billion in economic benefit that would continue into the future, noting that the value of the same water is worth many times that amount to Colorado water users, thereby providing large incentives for them to capture it for their own use. If Nebraska fails to assert its compact rights, less water will flow across the state line, negatively affecting irrigation, hydropower, municipal supplies, endangered species, and groundwater recharge all across the state. Nebraskans should not be expected to subsidize Colorado's economic growth by relinquishing our South Platte (River) Compact water rights. If funding for the project is removed, this is precisely the outcome we face, as Colorado has made it clear that it will only recognize Nebraska's rights if the canal is constructed. To protect Nebraska's economic future and prevent the permanent loss of South Platte River water to Colorado's expanding growth, it is imperative that we move forward with this project. This can only be achieved if the original funding appropriated by the Legislature is maintained. I urge the committee to vote no on the advancement of LB673 and LB674 out of committee. Thank you for your time, and I will answer any questions the best I can.

**CLEMENTS:** Senator Dorn?

**DORN:** Thank you. You, you, you said you acquired some land in Colorado. I, I re-- I don't remember when they announced to us you'd bought the first piece of land.

**MATTHEW MANNING:** Yeah.

**DORN:** Is that going in an OK pace, or, or as, as expected, or? Talk about that.

**MATTHEW MANNING:** Kind of, kind of as expected. We, we-- as you probably heard, like, a year ago, we purchased one parcel near Julesburg, and then we-- after the first part of this year, we sent letters out to six landowners near Ovid, Colorado, kind of asking to

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negotiate price as part of the potential eminent domain action that-- if we just can't come to terms. So, that's just kind of the part of the process that we've got to go through.

**DORN:** Thank you.

**CLEMENTS:** Senator Cavanaugh.

**M. CAVANAUGH:** Thank you. Thanks for being here, and your testimony. I just was kind of struck by something you said here, that the introduction of these bills and the potential transfer of funds undermines the support, and, and what it signals in, in taking away those funds.

**MATTHEW MANNING:** Right.

**M. CAVANAUGH:** I would say that the governor's proposed budget is riddled with taking away funds that the Legislature previously had committed to projects and that haven't been spent yet, but are, are already promised. So, I just want to say that for the record. I don't expect you to necessarily respond to that in your position, but that is a common theme. And so, I think if we take that argument from yours forward, I hope that we would take that argument forward in all the other clawbacks that we're seeing this year. Thank you.

**MATTHEW MANNING:** All right, Senator. Yeah, my only response to that would be this-- this is the particular instance that I'm referring to.

**M. CAVANAUGH:** Right.

**MATTHEW MANNING:** And, and when it looks like we might not be fully supportive of the project, Colorado kind of gains a little confidence that,--

**M. CAVANAUGH:** Sure.

**MATTHEW MANNING:** --hey, maybe they're not all for it. So.

**M. CAVANAUGH:** Thank you.

**CLEMENTS:** I see the-- we were handed a, a legal letter-- it was addressed to you-- on March 7 from a Colorado attorney. Have you responded to that?

**MATTHEW MANNING:** Not yet, but we're, we're preparing a response that will probably go out this week. And I'll just say that we've got a--

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what I'll say is a very good team of people, including attorneys, working on this project, and we don't feel surprised by their letter. And you have to realize that it's coming from their side and their motives, you know?

**CLEMENTS:** Yes. Senator Prokop?

**PROKOP:** Yes. In follow-up to that, how, how much in funds does the department then have allocated to legal expenses, or are you planning on committing to, to this?

**MATTHEW MANNING:** I don't, I don't know if there's a set amount, but I think that there's an expectation that every big project has legal fees, especially ones that are this important. So, something less than-- I mean, I'm going to just say,--

**PROKOP:** Like, do you have a threshold--

**MATTHEW MANNING:** --2% or something.

**PROKOP:** OK.

**CLEMENTS:** Other quest-- Senator Dover?

**DOVER:** How do you do eminent domain in another state?

**MATTHEW MANNING:** Well, it's not very common. But one of the unique, unique things about the South Platte River Compact is that within it, it gives Nebraska the right to do eminent domain in Colorado. And another unique thing about the South Platte River Compact-- and, and river compacts in general, I guess-- is that it's Nebraska's state law, it's Colorado state law, and then it was approved by Congress. So, it's actually-- it's federal law, as well.

**DOVER:** Thank you.

**CLEMENTS:** All right. Thank you for your testimony.

**MATTHEW MANNING:** Thank you very much.

**CLEMENTS:** Next opponent. Good afternoon.

**DEVIN BRUNDAGE:** Good afternoon, Chairman Clements, and members of the Appropriations Committee. My name is Devin Brundage, D-e-v-i-n B-r-u-n-d-a-g-e. I live in Gothenburg, Nebraska, and I'm the general manager for the Central Nebraska Public Power and Irrigation District, and here today to testify on behalf of Central and the Nebraska State



Irrigation Association in opposition of LB673 and LB674. Central is the largest hydropower producer and surface water irrigation provider in Nebraska, generating on average more than 300,000 kilowatt hours of renewable, carbon-free, dispatchable hydropower each year. Central, through Lake McConaughy, provides storage water to 12 other irrigation districts and power, power districts for fossil fuel generation, aquifer recharge for the benefit of water users in at least three different water basins-- river basins, water-based recreation at more than 20 reservoirs, and enhancement to the river flows in the Central Platte and Lower Platte River valleys. The state-- Nebraska State Irrigation Association was formed in 1893 and represents nearly 75% of the surface water irrigated acres in Nebraska. Lake McConaughy, as you may know, is a very large reservoir holding over 1.7 million acre-feet of water, more than all the water in all of Nebraska's remaining reservoirs, and enough to fill Memorial Stadium more than 2,500 times. Many of our state leaders have had the opportunity to tour and hear about the incredible importance of the South Platte River plays in providing many of those benefits I just mentioned. The South Platte River provides base natural flow that Lake McConaughy releases help supplement. Unfortunately, for every drop of water that does not come to Nebraska from Colorado, that water must be made up by Lake McConaughy. The 98 billion gallons of water that Colorado deems as excess and available for development that currently flow into Nebraska is not an insignificant amount, being equivalent to filling a Lake McConaughy every five to six years. As large as it is, Lake McConaughy still needs that supplemental water from the South Platte to attempt to satisfy all of the needs Nebraska currently has. It was the wisdom and foresight that led the Legislature in '23 to dedicate funding to complete the construction of the South Platte canal and reservoir. This is a transformational investment in Nebraska's future, and really reminds me of the \$50 million investment that Central's project entailed nearly 100 years ago to create Lake McConaughy, the power and irrigation facilities in the 1930s. Today, that \$50 million is returned by the end of January every year in statewide economic development benefits. Is-- every year. And it would not have occurred if it weren't for the vision of those leaders to develop that project, and dedicating those funds solely for that project. It was just as important today in this project as it was 100 years ago. Colorado can and will deplete those South Platte flows, and I don't blame them for doing so; it is to their residents' benefit. Nebraska needs to message clearly to Colorado that this critical water infrastructure will be completed, and those flows that Nebraska's-- Nebraskans use, from irrigation to power production, from reservoir storage to recharge, from in-stream flows to municipal wellfields, will be preserved and

protected. The South Platte Compact was negotiated 100 years ago, and our predecessors had the foresight to include a provision for a canal to feed a reservoir that our legislative leaders have shown an incredible visionary foresight and modeled that same, same vision a century later. The Legislature approved this project to ensure and perfect Nebraska's right to this water for Nebraska before the continually-advancing and developing Colorado Front Range does. Nebraska's Legislature approved and allocated funding for this project to protect the annual billion dollar economic impact and infrastructure today, and to be successful in the future as our agricultural and bioeconomies flourish and, and are created right before our very eyes. Removing that funding will open the door for other allocations and other uses, jeopardizing the absolute vision that these state leaders identified in investing in preserving these benefits for our grandchildren. For those reasons, I and Central and the Nebraska State Irrigation Association respectfully encourage that LB673 and LB674 not be advanced, and those rights for Nebraska's water in the South Platte and the benefits that flow from that project will be created and sustained in perpetuity. I would be happy to answer any questions you may have.

**CLEMENTS:** Are there questions? Seeing none. Thank you for your testimony.

**STROMMEN:** I just have one quick--

**CLEMENTS:** Oh, excuse me. A question.

**STROMMEN:** What, what are the water flows today?

**DEVIN BRUNDAGE:** Great question. I-- there were two moments in time-- and I appreciate Senator Reedbould's [SIC] referring back to 2023. Today, I think there's about 80 CFS near Julesburg. And remember, the compact has two portions: the wintertime-- and the, the right to the water in winter time is 500 CFS; the 125 CFS is only in the summertime. Today-- and this is an estimate because the, the canal is not in place, and we are not calling out junior uses-- but probably likely 300 or more CFS would be flowing into the state if the canal were there and calling out the uses that are-- probably, they're augmenting pits today. That would be flowing into Nebraska, into a reservoir that would support our, our use further on in the season. And referring back to '23, those more sporadic-- and perhaps our climate has created more opportunities for these larger flows. But in general, that water coming into Nebraska continues to be diminished, and will be diminished below that 500. In '23, that extra water

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absolutely did help irrigate some crops in that spring, even in our district. What did that result in? That resulted in less flow coming out of Lake McConaughy, and that resulted in it ending up at the same 60% capacity that it started the year at; it would have been lower otherwise. So, that-- it is truly impactful; it allowed us another year. If we don't capitalize on it, that will go away as well.

**STROMMEN:** OK. Thank you.

**CLEMENTS:** Senator Armendariz?

**ARMENDARIZ:** Thank you. Thank you.

**DEVIN BRUNDAGE:** Yes.

**ARMENDARIZ:** Can-- so, I asked Senator Raybould about the plan and the, the diversion from the plan that's already in place. Do you think that there's a better alternative than what's set already in place? Do you think there's a better way to do it, like Senator Raybould does?

**DEVIN BRUNDAGE:** To--

**ARMENDARIZ:** I've just given both sides a fair chance to say there's a better, cheaper way--

**DEVIN BRUNDAGE:** Sure.

**ARMENDARIZ:** --than what we have already in process.

**DEVIN BRUNDAGE:** For funding-- I, I won't speak to funding, but when we look at what infrastructure does, I think history teaches us a great lesson. You know, we could have said in the 1930s, well, we'll just, we'll just grab some of that water that's coming down the river and we'll be fine. But again, the vision of folks to say, no, we need to be able to store this water, utilize it in this arid area, and create all of this plumbing that has allowed us to flourish, and the amount of prosperity that has come to the state. That infrastructure is key; the ability to convey that water, store it so that it can help supplement the work we have today, and maybe even provide opportunity for tomorrow, as our, our needs don't become less.

**ARMENDARIZ:** So, to be clear, you're-- you support the current plan that's in place to capture that water--

**DEVIN BRUNDAGE:** This is, this is an incredibly--

**ARMENDARIZ:** --via the canal?

**DEVIN BRUNDAGE:** Absolutely. This is the best plan.

**ARMENDARIZ:** OK, I thank you.

**DEVIN BRUNDAGE:** Thank you.

**CLEMENTS:** All right. Seeing no questions. Thank you for your testimony.

**DEVIN BRUNDAGE:** Thank you.

**CLEMENTS:** Next opponent.

**KENT MILLER:** I have two handouts.

**CLEMENTS:** Good afternoon.

**KENT MILLER:** Good afternoon. Chairman Clements and members of the Appropriations Committee, my name is Kent Miller, K-e-n-t M-i-l-l-e-r. I am general manager of the Twin Platte Natural Resource District. Our offices are in North Platte. The Twin Platte Natural Resource District opposes LB873 [SIC] and LB874 [SIC]. The Nebraska Association of Resources Districts opposes LB873-- or, LB673 and LB674. Transferring funds from the Perkins Canal Project would end the Perkins County Canal Project. I absolutely believe that. I think that's what Governor Ricketts saw, and what Governor Pillen sees today. This would tell the state of Colorado that you can use all the water in the South Platte River for your growing population of the Front Range, and forever dry up the South Platte River entering Nebraska. You know, I've been manager of the Twin Platte Natural Resource District for over 50 years. I've watched that Front Range grow, and I've watched the flows in the South Platte River decline. Now, there are sporadic flood flows in the winter, but we've reached the tipping point of where we're going to see a dry South Platte River if this project is not built. The South Platte River compact was approved by the state of Colorado, it was approved by the state of Nebraska, and it was approved by the U.S. Congress. I don't think there's much better approval than that when you talk-- talking about legal battles into the future. For the last 40 years, beginning in the 1980s, I have been promoting Nebraska utilize the provision of Article VI of the South Platte River Compact and build the Perkins County Canal. I have friends in the lower reach of the South Platte in Colorado; they have been pushing me in that entire period of time to "Why doesn't Nebraska build this?" They see that as a-- getting water into that lower South Platte. They recognize

they're much closer to the Front Range than we are, and they recognize that Colorado is going to keep all of that water in the Front Range if the South-- Perkins Canal is not built. I enthusiastically applauds Governor Ricketts for proposing the Perkins County Canal Project and the Legislature fully funding the project in 2023, and I enthusiastically "approd" and appreciate Governor Pillen in supporting the canal. Governor Ricketts and Governor Pillen have both been out on tours of the project. When we do those tours-- and I encourage each of you, if you have not been on a tour, to come on a tour. We're doing two more tours the very first of April-- the purpose of those tours is to show you where that canal would go, but it also shows you the infrastructure that central Nebraska and NPPD has developed. And, as Devin said earlier, what if folks when the 1930s and 1940s that would say, don't build those projects. Nebraska needs to build the Perkins County project now. I have heard time and time again from Colorado folks at conferences and in conversations that they are working to dry up the South Platte River, the Nebraska state line, and the only protection for Nebraska is the South Platte River Compact and the Perkins Canal Project. The Twin Platte Natural Resource District has extensive requirements in our integrated management plan required by this Legislature in 2004 for conjunctive management of groundwater and surface water for the over-appropriated Upper Platte River Basin in Nebraska. These regulatory burdens will increase, and the South Platte River flows in Nebraska from the South Platte River continues to decrease. We've, we've been working-- we've had a moratorium on new groundwater wells since 2004. This will not add increased irrigated acres in the Twin Platte Natural Resource District, but this will protect the infrastructure that's in place today. It will protect the infrastructure across the state of Nebraska, and 7% of the flows from the South Platte go over the Lincoln Wellfield. Nebraska must protect the flows we are now receiving. This is a project that will benefit the Platte River basin in Nebraska for centuries. Please do not abandon this project. And thank you for the opportunity to testify today.

**CLEMENTS:** Thank-- Senator Armendariz.

**ARMENDARIZ:** Thank you. Thank you. And I'll ask you as well. See-- seeing as that you're the general manager of an NRD, a Natural Resources District. In your professional opinion, do you approve or agree that the canal is the best path? Or do you have other ideas that might be more cost-effective to capture that water from Colorado?

**KENT MILLER:** The canal is the only option. You know, I'm, I'm, I'm a-- my background is I'm a registered professional engineer in Nebraska

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and Colorado. I have been general manager of the Twin Platte Natural Resource District for over 50 years, and I've been promoting with folks in Nebraska that this is the only option. The compact is very pacific [SIC] that for Nebraska to be guaranteed to receive this water in the winter, to receive the 500 CFS, the canal has to be built. If the canal is not built, there is no provision, there is no requirements for the State of Colorado to allow that water to go across the state line. Doesn't matter how many reservoirs we build across the state line. If we don't build this canal, we have no right to that winter provision that's provided in the compact.

**ARMENDARIZ:** I appreciate that. That educated me some, some more as well. Thank you.

**CLEMENTS:** Senator Lippincott?

**LIPPINCOTT:** I see here that the engineering firms have completed about 30% of the design. What's the timeline on that?

**KENT MILLER:** Yeah, I, I think there-- the, the original timeline, when this project was started, was ten years for it to be completed. We're probably, what, in year two now? We got to go through the permitting process, you know, and then we can move into construction. I think probably that we're looking around 2030 for this to be completed, but it is moving along. I mean, this is-- you know, I live in a district where I watch the canals from the CNPPID, from NPPD. Those are large canals. This is not a small project; this is a big project. And again, if you haven't had a chance to come on one of our tours, please look at coming on one of our tours. There is going to be one-- we, we're having two tours the first Monday-- first Friday and Monday in April. It's important for you to come out and see what this infrastructure provides.

**LIPPINCOTT:** Thank you.

**CLEMENTS:** Others? Seeing none. Thank you for your testimony.

**KENT MILLER:** Thank you.

**CLEMENTS:** Next opponent. Good afternoon.

**KYLE LIEBIG:** Good afternoon. Good afternoon, Chairman Clements, and members of the Appropriations Committee. My name is Kyle Liebig, K-y-l-e L-i-e-b-i-g, and I am the water resources manager for the-- for Nebraska Public Power District. Today, I'm testifying in opposition to LB673 and LB674 on behalf of NPPD. I'm also testifying

on behalf of the Nebraska Power Association. NPA was formed in 1980 and represents all 165 consumer-owned electric utilities across Nebraska, including municipalities, public power districts, public power and irrigation districts, rural public power districts, and cooperatives. In 1923, Nebraska and Colorado signed the South Platte River Compact to settle a case brought by Nebraska's Western Irrigation District and divide the waters of the river. The compact is a federal law, and is state law in Nebraska and Colorado. The compact can be found in Nebraska Statutes in Appendix 1-105. In 2022, the Legislature had the foresight to give Nebraska-- to give the Nebraska Department of Natural Resources the authority to construct the Perkins County Canal and the funding to make that happen. That legislation passed because the Perkins County Canal is necessary to protect Nebraska's long-term interest in the water of the South Platte River. This will help stop Colorado from their continued efforts to use up the South Platte River before it can deliver any water to Nebraska. Since the 2022 legislation, the Nebraska-- the state of Nebraska has prudently made significant investments of time and money into the design of the canal, and for property acquisition. The journey of the South Platte water is a testament to Nebraska's water heritage; it's a vital resource to western Nebraska, and the state as a whole. Water from the South Platte River is diverted into NPPD's Sutherland system near Korty [SIC], Nebraska; the water then flows into Sutherland Canal and provides for recreational opportunities to Sutherland Reservoir and Lake Maloney, cooling at Gerald Gentleman Station-- the largest power plant in Nebraska-- and hydropower at our North Platte hydropower plant, in addition to providing incidental groundwater recharge to large areas of Keith and Lincoln Counties. NPPD returns the water at North Platte, where the water is diverted by the Central Nebraska Public Power and Irrigation District before it is returned again to the Platte River to be, to be to divert-- to be diverted for irrigation at NPPD-owned Gothenburg and Dawson County canals. There, it's diverted for irrigation, and then also later on, hydropower production at the NPPD-owned Kearney Canal. Dawson and Buffalo Counties benefit from the incidental recharge of water from those irrigation canals. All the while, the South Platte water provides for flows, which provides benefits for in-river recreation, fish and wildlife, and the Platte River program, which is an important agreement among the states of Nebraska, Colorado, and Wyoming, and the federal government. If the water of this-- in the South Platte River were not available, more water would be required from Lake McConaughy and the North Platte River, which is already facing shortages in many years. In closing, I want to thank all of you who may have taken time to join NPPD and other interested entities to see the first-hand

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locations-- to see first hand the locations where the project would be built, and how the-- and how that beneficially impact Nebraska's in so many different ways. Many of these tours remarked about the vision of our predecessors. We need to build on that legacy that they have given us, and the Perkins County Canal does that. For that reason, NPPD respectfully asks the Appropriations Committee to not advance LB673 or LB674, or any other legislation defunding the Perkins County Canal. I'd be happy to answer any questions.

**CLEMENTS:** Are there questions? Senator Prokop.

**PROKOP:** I have a question for you, and it's, and it's good to see you.

**KYLE LIEBIG:** Yes, you as well.

**PROKOP:** Just talk-- because talking about some of your operations and what NPPD use-- will use the water for. Is the state the sole funder for this project, or does anybody else contribute to the project from a funding standpoint?

**KYLE LIEBIG:** To--

**PROKOP:** Since it helps with the operations, and-- I wish I would have asked that to some of the other folks, too, but--

**KYLE LIEBIG:** To my knowledge, the, the state is the only one funding us at this point.

**PROKOP:** OK. OK. Thank you.

**CLEMENTS:** Others? Thank you for your testimony.

**KYLE LIEBIG:** Thank you.

**CLEMENTS:** Next opponent. Good afternoon.

**BRUCE RIEKER:** Good afternoon. Chairman Clements, members of the Appropriations Committee, my name is Bruce Rieker, B-r-u-c-e R-i-e-k-e-r. I'm senior director of state legislative affairs for Farm Bureau, here on behalf of Farm Bureau, as well as the eight other organizations that are part of the Ag Leaders Working Group; those consist of the Nebraska Cattlemen, Corn Growers Association, Pork Producers Association, Sorghum Producers, Soybean Association, State Dairy Association, Nebraska Wheat Growers Association, and Renewable Fuels Nebraska. Time is of the essence for this project. It-- in our estimation, we may have waited longer than we should have to do this.



The overall goal, I think, that in various ways stated in-- for all of our organizations' policy goals is to optimize the use of Nebraska's water resources for the maximum benefit of our citizens. And conservative estimates, or estimates about the, the benefits of this project-- specifically, I'm speaking from agriculture's perspective. We hear a lot about how we need to grow our economy to get out of our financial situation, things like that. We're not going to create any more ag land, but we do see that the greatest opportunity is in the livestock-- grow-- growth of the livestock industry in this state. For those of you who don't know, Nebraska is the third-largest agricultural complex in the country, so we are very dependent on this. We need water. But as we talk about growing the livestock industry, the first response we get is, "Well, where are you going to get the water?" And so, we're very focused on that, working with many entities in the state as well. But not only will this benefit agriculture, it bents-- benefits cities, municipalities, industrial development, environmental flows, recreation, hydropower. Hydropower is a clean source of energy, which is attractive to a lot of the folks that weren't already here, or we're trying to attract to the state. This will also help with habitat improvements, potential water quality benefits, and flood control. So, in closing, I'll say we appreciate what you and your predecessors have done on this project. It is very important. Water is a scarce resource; it's a precious resource, and, and, and we need it. And so, for those reasons, we hope that you will keep these two bills in committee, and that we can move forward with growing our state in, in so many ways. Thank you.

**CLEMENTS:** Thank you. Are there questions? Seeing none. Thank you for your testimony.

**BRUCE RIEKER:** You're welcome. Thank you.

**CLEMENTS:** Is there any other opponent?

**DAVID GRIMES:** Thank you for allowing me to testify. I'm David Grimes, D-a-v-i-d G-r-i-m-e-s, and my remarks will be brief, as they are not prepared and not rehearsed. I am a farmer in Kearney County, so our address is Minden. I'm speaking on behalf of myself, but for full disclosure, I do serve on the state board of Nebraska Farm Bureau. On the board-- also on the board of directors of the Tri-Basin Natural Resource District, which is Gosper, Phelps and Kearney Counties-- that's south of Kearney, south of the Platte River-- and I'm also a central Nebraska water user. And I'm here today to ask you to also-- to also ask you to hold these two bills in committee and not to forward them. Just a couple of thoughts that I didn't hear talked

about, but there's-- the western part of Nebraska already, the Platte River is over-appropriated, and the central part is fully appropriated. And unfortunately-- it's unfortunate that we have to do something like the Perkins County Canal to be able to protect the flows of water through the Platte River in Nebraska, but that's probably-- from everything that I've learned and listened to, is probably what we should best do. I think it's not in our best interest to take money away from what we've already appropriated. I think it's-- would send the wrong signal to the, the folks in Colorado where the population is growing greatly, and their need for water is also growing. There's relationships between groundwater and surface water. The surface water put into canals that flows through central Nebraska helps to recharge the groundwater. The groundwater that's used also has an effect on the springs that flow into the river, and I don't think it would be good-- I don't think we can afford, looking forward, to have reduced flows in the South Platte River coming into Nebraska. This isn't about what is happening right now. It's about trying to look forward and predict the future. And probably, the, the odds are that the population is going to grow in the Front Range of Colorado. In the last decade, between the last census, I think it grew by 750,000 people. And they're, you know, they have an-- they will have an increasing appetite for water. Thank you for allowing me to speak. As I came down this morning, I enjoyed watching the cranes. There was a whole parking lot full of people south of Gibbon there to watch them. There's a lot of things to think about with the Platte River flows, because those are-- too, are some of the demands we have. And if there's not enough flows and not enough flows at the right time where we could regulate it with another reservoir, it reduces the amount of water that we need for what our uses are. Every-- and that's the whole distance of the state. Of course, the cities of Lincoln and Omaha have wells right into the-- islands in-- right in and amongst and next to the Platte River, where they rely on that water to recharge as well, so. I'm really not an expert at too much, but I'd be happy to answer any question that you might have.

**CLEMENTS:** Questions? Seeing none. Thank you for your testimony.

**DAVID GRIMES:** Thank you very much.

**CLEMENTS:** Are there other opponents? Seeing none. Anyone here in the neutral capacity? Seeing none. Senator Raybould, you're welcome to close.

**RAYBOULD:** Yes. I want to say thank you to all those who had traveled in-- to come and testify on the importance of the Perkins Canal

Project. I stand in support with you. It's not my effort to derail this, it's not my effort to defund this, but my effort from the beginning has been let's do it smart; let's be smarter about this. We can build the reservoir, and I'm so grateful that Mr. Brundage mentioned the reservoir as part of the Perkins Canal Project, so thank you. We can get that built. We can get that built on the Nebraska side. That is something that we can do. We might have an easier battle with our Nebraska landowners than we are going to have with the Colorado ones. And so, my idea from the very beginning was let's walk and chew gum at the same time, because I know Nebraskans can do both. You know, we can fight those legal battles that we will be fighting with Colorado. And we can get things done and work with our landowners here and build the reservoir first, and continue the project of Perkins Canal. What I'm asking you is to consider taking some of the funding, at your discretion, to help with our budget deficit. Senator-- I'm blanking on my name. Anyway, but the senator mentioned that we have had no problem taking funds from other departments and agencies that have been fully appropriated; this should be treated no differently. If we do it smarter, we can accomplish the Perkins Canal. And, you know, what I wanted to mention: nowhere in the letter did they mention, you know, oh, the state of Nebraska Legislatures [SIC] aren't taking this seriously because they're wanting to derail and take away the appropriated funds. It very clearly said that, you know, they don't have a permit, they have no approved mitigation plan, no final construction drawings, and-- I'm a very practical-minded person. I deal with construction, and I've been dealing with construction for 36 years. I know that you cannot go out to bid, to get a serious bid, unless you have 80 to 85% completion on your drawings; we're only at 30%. We'll get there eventually. We will get there. But if, if we're not there yet, I'm pretty sure that's what was stated in, in here, while they're not-- why they can't take us seriously. Not because I brought forward these two bills for your consideration to see if we can find helpful contributions to help defray our deficit, and also to look at helping with all the clean water drinking requests that are out there from fellow Nebraskans. You know, the Platte is a seasonal thing. It's unpredictable. And I gave you-- like 1980, 1983, 2013, 2015, 2023-- those flows have increased. I remember very clearly: 2012, we had a drought and it dried up, and as, as a person who grew up in Nebraska, I had never seen the river, that-- just dry up like that, and I was very shocked at that. The other thing is, you know, I think-- I think Kent had-- Kent-- Mr. Miller had spoke of, and Mr. "Livig" [SIC] spoke about the augmentation pits that Colorado has been doing, and if-- I want to thank NPPD for having taken senators out to view those. Basically, they look like just a big dent in the

ground that, when there's times of rainfall and other flows that would absorb that. Well, there's nothing to stop Nebraska from doing the very same thing. Storage is the key, and storage is why the reservoir is essential; storage is why we should build the reservoir. We've budgeted \$210 million. I'm encouraging everyone to really focus; redirect some attention to getting those drawings done, getting that land acquired, getting that reservoir built. Because then, we can have economic benefits from that additional storage at that point in time. And again, I just want to say thank you for your attention. You were very kind and put up with a lot of handouts, and I hope you'll consider some reappropriation towards helping with our deficit and some reappropriation towards the water needs in our state. Thank you.

**CLEMENTS:** Are there questions? Senator Spivey.

**SPIVEY:** Thank you, Chair. Thank you again for your testimony, and bringing these bills forward. This is more of a comment, and I just appreciate you bringing an innovative or creative solution of how we are going to solve this. I think we have set, set in all of these hearings and-- right? And there's priorities, and I think that's when it comes down to: what do we prioritize as a state? And I think the gentleman from Farm Bureau, actually, the last time he was here, he was, like, some things are going to hurt and it's not going to feel good, and we have to make hard decisions and figure that out. And I, and I think that's what you are proposing, is how do we find-- or just even think about critically, as a body, as a committee, addressing this deficit that's here, still prioritizing water-- which you're saying is a priority across our state-- while still trying to find a commitment to this project, maybe just in a different structure. And so, I appreciate the, the-- one, the information and just knowledge you have on this, as Senator Armendariz said. Like, you know a ton, and I appreciate the context because I do not have that information, and I just appreciate space to think critically about this in a very intentional way, about, about what's in front of us in Nebraska, so thank you.

**RAYBOULD:** Thank you.

**CLEMENTS:** Other questions? Seeing none.

**RAYBOULD:** All right.

**CLEMENTS:** Thank you, Senator Raybould.

**RAYBOULD:** All right. Thank you all.

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**CLEMENTS:** We have comments for the record. LB673 comments: proponents, 2; opponents, 2; neutral, 1. LB674 comments: proponents, 2; opponents, 3; neutral, zero. That concludes the hearing for LB673 and LB674. That concludes our business for today.