

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee February 13, 2025
Rough Draft

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BRANDT: Thank you, Senator DeKay, for the gavel. Welcome to your Natural Resources Committee. I'm Senator Tom Brandt from Plymouth. I represent the 32nd District: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. And I serve as chair of this committee. The committee will take up the bills in the order posted. This public hearing is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the table at the back of the room. Be sure to print clearly and to fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We will be using a five-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have one minute remaining. And the red light indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard. It is just part of the process, as senators may have bills to introduce in other committees. A few final items to facilitate today's hearing. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position letters will be included in

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the official hearing record, but only those testifying in person before the committee will be included on the committee statement. I will now have the committee members with us today inter-- introduce themselves, starting on my left.

CLOUSE: Yes. Stan Clouse, District 37: Kearney, Shelton, Gibbon, and Buffalo County.

CONRAD: Good afternoon. My name's Danielle Conrad. I represent north Lincoln.

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

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

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

RAYBOULD: Jane Raybould, Legislative District 28, which is the center of the city of Lincoln.

BRANDT: Also assisting the committee today to my right is our legal counsel, Cyndi Lamm. And on my far left is our committee clerk, Sally Schultz. Our page, singular, today is Kathryn, a junior and environmental studies major at the University of Nebraska-Lincoln. And-- let's see. I guess. With that will begin today's hearings by having the vice chair, Senator DeKay, assume the chair.

DeKAY: Whenever you're ready, go ahead.

BRANDT: Good afternoon, Vice Chairman DeKay and members of the Natural Resources Committee. My name is Senator Tom Brandt, T-o-m B-r-a-n-d-t. And I represent Legislative District 32, Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. I bring to you today LB317 on behalf of the governor, which seeks to merge the Department of Natural Resources with the Department of Environment and Energy and create a new Department of Water, Energy, and Environment, DWEE. This merger will enhance our focus on water management through streamlined education and improved outreach for water-related programs. By

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consolidating resources, we can address long-term challenges such as nitrogen management and soil health more effectively, benefiting both our ag producers and the sustainability of our natural ecosystems. Additionally, the merger will foster collaboration between water planning and state investments in water infrastructure projects, ensuring Nebraska remains a leader in resource management innovation. It will also reduce costs by eliminating overlapping administrative functions while improving outcomes in personnel management, financial oversight, and IT. Streamlining state permitting for water-related projects will cut red tape and enable quicker, more efficient progress on projects that matter to our communities. For agencies and employees, the merger strengthens collaboration and innovation by integrating the regulatory functions of NDEE with the planning expertise of DNR. It also creates better career opportunities for scientists, engineers, and natural resource professionals, addressing recruitment and retention challenges while fostering a cohesive agency culture. Through colocation of staff and streamlined integration, critical programs such as groundwater section management, well registrations, water planning, and revolving fund oversight will benefit from unified systems and shared expertise. From a financial perspective, while there are upfront costs such as rebranding, these expenses will be offset within the biennial budget through operational efficiencies gained by consolidating administrative functions. In the long term, this merger is both fiscally responsible and operationally effective. Jake Leaver from the Governor's Budget Office can address that more thoroughly. Also testifying will be Governor Pillen, as well as the interim director of DNR and NDEE, Jesse Bradley. And with that, I would take any questions. But there are a number of people behind me that could probably answer them more effectively.

DeKAY: Thank you. Are there any questions from the committee? Seeing none. We will have our first proponent.

JIM PILLEN: Good afternoon, Vice Chair DeKay and members of the committee. I always try to make it a practice to say thank you on behalf of Nebraskans. I had to become governor to realize how hard everybody in the Unicameral works. It's not a 90-day session or a 60-day session. It's a year-round job. And so thanks for all the hard work that everybody does. My name is Jim Pillen, J-i-m P-i-l-l-e-n. And I have the extraordinary privilege to serve as the 41st governor of Nebraska. I'm here to testify in support of LB317, brought on my

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ha-- behalf by Senator Brandt. This bill, from my perspective, is incredibly con-- significant when you consider the mission of merging two state agencies. I appreciate Senator Brandt's willingness to advocate for this move, one that I believe will result in important outcomes for our state for the next seven-plus generations. Everyone in Nebraska agrees water's our lifeblood. Nebraska, once considered-- hard to believe today in our seats-- the great American desert and was written off as a land unworthy of cultivation. Hard to believe. But the people who said that had no idea of the innovation and ingenuity of Nebraskans. Because of the unique geographical features of our state, we are one of the most productive and sustainable agricultural states in the world. How on earth does this happen? I think it's important we ask ourselves that question. I believe through the incredibly careful management of our pot of gold, the Ogallala Aquifer, for the last 60 years, Nebraska's approach to water management has served us well and allowed us to preserve our aquifer and deliver ground and surface water to thirsty crops across the state and support large industry. Irrigation of crops in the state of Nebraska has grown to just, just under 10 million acres. And because of our water, we can raise more un-- irrigation than any other states around us. I think the big thing to-- today in Nebraska is at the center of an economic boom with announcements of new hydrogen plants, advanced biofuels, bio-based products, animal processing plants, data centers looking to locate here. All of these industries require lots of water. To move forward, we need to double down on our efforts to protect and enhance this valuable resource. Believe it or not, we're once again dealing with a major water challenge in our state. It's certainly no secret that we've had elevated levels of nitrates in our water for 60 years. Water quality issues arise from two fronts: the overapplication of fertilizers and the overapplication of wa-- irrigation water that flush these nutrients through the root zone and into our aquifer. This has to stop. It cannot continue. We need to get aggressive and address these issues and have the state work in partnership with and support our natural resource districts in proactive ways in the future. And-- so these approaches can have an enhancement of our water quality and quantity. In addition to merging these agencies, I will be initiating a water quality and quantity task force. This group will be made up of water users and leaders from across the state to focus on proactive solutions and, if necessary, policy change proposals. Combining the Department of Energy and

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Environment and the Department of Natural Resources sets the foundation for water quantity and quality under the same leadership. Just yesterday, I announced the appointment of Jesse Bradley to serve as the interim director of both agencies. You're going to hear from him in just a minute. Jesse, as I say, has been interviewing every day for the last two years. Jesse-- I, I think you will find him to be someone who has the character, the belief, and the resolve to tackle not only water issues but also in working with local governments and federal regulators to solve issues on the environment energy side as well. Together, we can and will and have a transformative impact for our water and water quality for generations to come. Combining agency is simply good governance. It reduces bureaucracy and creates efficiencies in operations. This merger will allow for better communications in areas which they already share commonalities. And it will also make it more convenient for the regulated public to work with one agency instead of separate agencies. I'm incredibly excited about the opportunities of leadership that Nebraska can demonstrate in managing its water resources. Long-range planning and strategy is essential, and this merger makes the first-- marks the first step. We simply need to move forward with this legislation. I thank you for the consideration of LB317. And I'm happy to take any questions that you might have.

DeKAY: Thank you. Any questions from the committee? Senator Clouse.

CLOUSE: Thank you, Senator DeKay. Governor, welcome to--

JIM PILLEN: Hi, Senator.

CLOUSE: My question for you-- you, you just mentioned the water quantity task force. We went through with the Water Sustainability Task Force a number of years ago. How is this going to be different-- or is it just [INAUDIBLE]--

JIM PILLEN: Yeah. Great question. I think that-- I think that the-- maybe the, the-- this task force will be focused on, on a, on a little different mission, focused on recognizing the extraordinary boom about to take place in Nebraska that is going to require a lot of water. And so I would say this task force will be focused on a proactive approach when we talk about water quantity and water quality. I think the practices that have gone on in the last 60 years-- I want to be

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perfectly clear. They were, they were fantastic. But they have-- now, with the challenges ahead, I think we have tremendous opportunities to, number one, be able to come together and scale some of the best practices so that we really can have an impact on the water amount and know and then, and then stop talking about water quality and, and change it and, and, and impact it.

CLOUSE: Thank you.

DeKAY: Thank you. Any more-- Senator Raybould.

RAYBOULD: Thank you. Welcome, Governor. Thank you for your advocacy and your honesty on pushing forward to get the study done on nitrates in our state of Nebraska. And thank you for continuing to be a champion for water. Because no one can argue with you that water is the issue in our state of Nebraska and it's our most valuable resource. So I know you want to continue be-- to be a champion. I am a total advocate of consolidation and a, a more efficient use of our resources. The one thing that is out there as well, we have about \$2.3 billion in requests for clean water and drinking water, communities all across our state of Nebraska. Whereas nitrate contamination is one small part of it, is-- it is a part of it, but it's aging water infrastructure. So I'm really excited with the consolidation and having water be the lead, you know, the first one. The one concern that I've been hearing from constituents is, what about the number of inspectors, those key people that work with the [INAUDIBLE] operations to make sure they're sited properly? Are-- can you provide assurances that that number of inspectors that are so critical in giving best practices to our farmers and our, you know, hog barns, our chicken barns to make sure that they do their part in keeping our water clean and safe for drinking so--

JIM PILLEN: Yeah. Yeah. Well, thank you, Senator. No ifs, ands, or buts, one of the key reasons for bringing it together, right, is we've had quality separated, and this is an opportunity to bring everybody together and really talk about quality-- educate, as I call it, innovate, educate, and have transformative change take place. Obviously, we're not talking-- coming in and talking about having a transformative change. The-- there, there are things that take place. There's regulations that take place. They're an important part of our state in-- both at the state level and the federal level within the

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Department of Energy and Environment and all of those pieces stay in place. So this is, this is not an-- a goal to bring two agencies together and purge it. It's a goal to bring two agencies together. Lea-- we all agree leadership matters. People matter. We have great public servants. This is an opportunity to bring people together and, and enhance all the activities, not take from them.

RAYBOULD: OK. Thank you.

JIM PILLEN: Thank you.

DeKAY: Thank you. Any more questions?

CONRAD: Thank you, Vice Chair.

DeKAY: Senator Conrad.

CONRAD: Thank you so much, Vice Chair DeKay. Welcome. Good afternoon, Governor. Good to see you again. And I know that you may have mentioned this in your opening-- so I can tee it up for you or we can have other testifiers come in, but I remember really distinctly listening to this as one of your priorities during the State of the State and, and, and it being a key component of a broader mission to streamline government and right-size government, which I think you'll find a, a lot of consensus and collaboration in those efforts. But, you know, one thing that was interesting to me as I was preparing for the hearing and I was looking at the fiscal note on this measure, it actually doesn't save any money. There's actually a short-term expenditure involved in the merger, which makes some sense for the short-term logistics and rebranding and things of that nature. But do-- have you thought about this in terms of longer term taxpayer benefits or savings or if-- perhaps piggybacking on your exchange with Senator Raybould-- there's not really going to be a change in operations for both agencies. They're just going to be working more collaboratively under one banner. Can you just maybe spend a little bit of time helping us think through that?

JIM PILLEN: Yeah. As we've talked to other folks, this-- when you have this conversation, I think to be able to come and say exactly, these are how many dollars, this is exactly what's-- that's, that's not fair to any of these extraordinary public servants. So I, I think that what

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we're pledged to is having the strategic discussions. Once this becomes law and say-- OK. Here, here's what's going to be able to happen. Common sense, you know, is that, that there will-- there's dupli-- duplicative things that take place that will, will save us. But to be able to go out and say exactly what that is I just don't think is fair to the public servants or a part of those agencies to do that today.

CONRAD: OK. Very good. Thank you.

DeKAY: Senator Clouse.

CLOUSE: Thank you, Vice Chair DeKay. Governor, the, the-- I guess I'd like to have a better understanding of how this was arrived at. Was it just a group of a couple-- two or three people, or was there a lot of input from user groups or things like that? And not, not-- maybe not even a full-blown interim study, but what all went into that? And, and the second question is, do you think it'll get too big? Because we have another department that's quite large in-- and there's a lot of issues with having too large of a department, so I-- well, two questions, basically.

JIM PILLEN: Yeah. No, I appreciate the question. Maybe the question relates to being too large. One department might be too large as a state agency and, and the efforts-- I, I think that in, in the, in the size, this-- you know, we're, we're talking about a department of natural resources. It would be 110, 120 people that would become part of the Department of-- that would merge with DEE, being called Department of Water, Energy, and Environment. I think that when you can bring a group of people together that are all a part of the vision of making things better for our environment and our water quality and our water, we have more collaborative efforts. And then we will be able to find people that are in their specific area of expertise, their passion, where they can really make an enhancement. We may find that there are people that are working in one part of an-- the agency that really, really has a passion for water quantity and, and haven't had that opportunity. So I'm a believer that this'll help us be able to have more condensed leadership but then also have the opportunity of finding people's passion of where they can really make the, the-- make the greatest difference all, all for Nebraskans. So-- and then in terms of communication, yeah. We, you know, I'm, I'm, I'm not going to

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predict how everybody's going to testify. I obviously can constantly do a better job of communicating, finding in-- enough time. I've had, I think a couple of three different meetings with our natural resource districts. I'm not going to put any words in anybody's mouth, but the message that I have gotten-- I'm not sure-- I-- we're go-- we're going to work together one way or the other. This task force is going to take place whether this gets through or not. I believe we'll come together and this'll happen. But, you know, I, I can say this without a shadow of a doubt. I'm confident that anybody from our natural resource districts that'll testify today that-- as I've had meetings with the natural resource districts, they're really, really excited to be a part of proactive water management and water quality management instead of reactive. And my definition of reactive, as we've talked about openly, is on our farms. You know, I'll get a sheet from our, our district and it will show over the last 40 years what the water level of our irrigation well is at the end of each year. And I think in the 40 years, there's been a 12-foot discrepancy up and down. And so that's, that's an acceptable limit. We know where we're at today. But maybe the great big challenge that we all agree is that is reactive measurement and-- with the potential of extraordinary growth and demand on water for the state, we all agree being a part of a proactive. And, and, and just for the record-- I mean, we have, we have NRDs that are in water-restricted areas that are doing some phenomenal practices. And the other piece is how we all can work together, educate Nebraskans, help with innovation and enhancement, help everybody continue to increase yields, decrease costs. The-- those would be the long-term visionary goals of it.

DeKAY: Senator Moser.

MOSER: Welcome, Governor.

JIM PILLEN: Thank you, Senator.

MOSER: Good to see you.

JIM PILLEN: Good to see you.

MOSER: What do you think is going to drive the boom in water? What's going to require more water? What's going to be more important?

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JIM PILLEN: Yeah. Well, I think that-- I, I'm--

MOSER: About the future of it.

JIM PILLEN: Yeah. Well, I think that there's, there's extraordinary, there's extraordinary demands in our trade missions to, to South Korea, to Japan. Hydrogen power-- we have hydrogen energy. We have, we have a plant that's under way for, for clean fertilizer. We have companies that are wanting to come here and be able to do hydrogen energy. That takes extraordinary amounts of water. It's extraordinary amounts of energy. We have new, new companies that are going to be able to process ethanol and make things from carbon above the ground instead of below the ground. All of those projects are going to-- they're gigantic. And we have to have a handle on water. Just calling it the way it is. You know, if you talk about how much water is being used today in our state, we, we don't know. We know proactive-- we know reactively, but as I'm-- the question for everybody is, if we measure how much water we use today, would we use less water tomorrow or more? If you measure how much water to use every day, whatever business you're in, whether it's your house, will you use more water or less tomorrow? Most everybody says, I'll use less if I measure it. So the goal is to protect our aquifers. Goal is to help every Nebraskan make more money by pumping less water.

MOSER: Do you anticipate a change in the number of irrigated acres?

JIM PILLEN: That would be one possibility, that we would all sit down and talk about it as an incentive. As an incentive because we have restricted areas. And if, if you have 3/4 of land, two of them are irrigated and one isn't and you show how much less water you use by measuring it every day and you could be incentivized to irrigate more. Yeah, that's-- I'm a big-time believer. We use less water, irrigate more land, we create more wealth and more prosperity for Nebraska, no question.

MOSER: Yeah, I had a-- lady was telling me about her farm operation and she said she was using, like, 25 inches of water a year. That's a crazy high number, isn't it?

JIM PILLEN: Yeah. Yeah. It's--

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MOSER: It must be really, really sandy or something.

JIM PILLEN: Could have been. But, you know, as, as I've had producers in water-restricted areas say, we, we do nine. Why can't everybody do that? Obviously there's differences-- complexities with soils, but the point is really simple. If we can get real-time measurement, if we can really focus on our water quantity, we can grow our economy and keep our, keep our aquifer where it is. It's really, really critical. No other states. And, and we have some built-in, God-given privileges with our, with our-- with the Sandhills, with the Platte River coming through where we have natural regeneration of it, but making sure that we don't use too much is a critical piece of it.

MOSER: Yeah, the, the Loup is really high right now.

JIM PILLEN: Yeah.

MOSER: That's--

JIM PILLEN: And that, and that helps replenish. Yeah.

MOSER: Yeah. OK. Thank you.

JIM PILLEN: Thank you, Senator.

DeKAY: Senator Raybould.

RAYBOULD: Governor, thank you. I really appreciate your comments about bringing the stakeholders together because I think it's essential to, you know, not get it done right now, but get it done right. And-- so thank you for doing that. I love the comments about Lincoln-- or, about measuring. Because if you don't measure it, how can you manage it? You know, business 101. And I want to just give a shout-out to the city of Lincoln. Lincoln has been measuring our water usage for decades. And it's hard to believe, but it's a true statement, that because we have been measuring it for as long as we have, the water consumption of the city of Lincoln is less than it was in the 1960s. And you're saying, how can that possibly be? Senator Bostelman did not believe me until I showed him the chart of exactly that, about the trajectory. So you're absolutely right about that. So working with stakeholders is so important. But the question for you is-- tell me why there is the emergency clause on it on this bill so that it goes

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into effect July 1. Because I, I would think that there's some growing pains or consolidation pains or getting to know everybody in the department and, and really understanding the roles and how they can all work efficiently together.

JIM PILLEN: My why is really simple. Lieutenant Governor Kelly and I met with a company that wanted to come to Nebraska. And I'm going to say it was 15, 18 months ago. Time goes fast. But bottom line, this company wanted to do hydrogen in Nebraska. I said, OK. I said, why Nebraska? And their answer was because we have the cheapest electricity and free water. And I said, OK. Tell me about the free water. And they said, well, we've done an environmental study and we will only use one inch of your aquifer a year. Only one. And then I said, what are you going to do for Nebraska? And it was a construction jobs. So I'm, I'm a believer-- there are lots of people wanting to come-- lots of companies wanting to come from all over. It's an emergency because we, we, we can't have that happen. We can't give that away. We've, we've got to protect it. And it's, it's, it's just essential that we do that sooner than later.

RAYBOULD: So I guess going back-- as a follow-up, if I may. You know, is there a plan in place that talks about how these agencies will be consolidated or at least NDNR being brought in?

JIM PILLEN: Yeah. So Jesse will talk--

RAYBOULD: And the timeline.

JIM PILLEN: --will talk about it a little bit. But again, we've tried to navigate our way in a public bus-- in a public forum with the respect to all the public servants to be-- so that, you know-- one thought from this seat was really simple. We get approval and then we work with strategic partners to make sure that we're all in agreement on, on how this, how this will work and then we operationally make it happen. So-- and that working within key leadership within the departments and with the natural resource district folks.

RAYBOULD: OK. Thanks.

DeKAY: Thank you. Are there-- Senator Clouse.

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CLOUSE: Yes. Thank you, Senator DeKay. You answered all the questions because this is the first I heard about the water quan-- and water-- and quantity task force, which I'm glad to hear that. And I hope you put people who will challenge the status quo on there. I think it's a good idea, not just because it's yours. But I think it's probably time to do something. My question was going-- can we wait to do this till after we get the results of that? And you kind of answered your intent to move forward with the E clause.

JIM PILLEN: Yeah. I mean, I, I think I said before. We're going to do the task force no matter how this pol-- this proposal comes out. It's, it's absolutely essential. It's a critical part of it.

CLOUSE: Thank you.

DeKAY: Any other questions? I have one or two combined. We're talking about the task force. Can you tell me the makeup of that group? Who's going to be involved with that and the number of people that are being--

JIM PILLEN: Yeah. So I don't, I don't have that at my fingertips. But we're, we're talking about a number of maybe between 15 and 18 people starting out to have a small, strategic group talking about making sure that it's, it's, it's not going to be me making an edict here. Here are the people that we make sure we have a good, broad base. So we, we'll probably bring four or five people together, talk about where they'd be. Some would be leaders within water, some would be producers, some would be industry. So that we, we have stakeholders have been in the water gig for the last 60 years.

DeKAY: OK. Thank you. Seeing no other questions. Thank you.

JIM PILLEN: Awesome. Thank you for everything. Appreciate it.

DeKAY: Next proponent. Go-- James, go ahead.

JESSE BRADLEY: OK. Good afternoon, Vice Chairman DeKay and members of the Natural Resources Committee. My name is Jesse Bradley, J-e-s-s-e B-r-a-d-l-e-y. I am Interim Director currently of the Department of Natural Resources and Department of Environment and Energy. Thank you, Senator Brandt, for your introduction of LB7-- LB317. As Senator Brandt and Governor Pilleen men-- have mentioned, LB317 proposes to

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merge the Department of Natural Resources with the Department of Environment and Energy to become the Department of Water, Energy, and Environment. I'd like to first to start by describing the benefits that we believe the merger will create. Through the combined agency effort-- efforts, the state will improve its focus on challenging, long-term water and natural resource management issues such as nitrogen management, water utilization, and soil health. This is expected to be realized through improved coordination amongst state and local water managers that streamlines the water planning process for water quantity and water quality and allows for more focused state-level investments in water education, water management technologies, and water projects. The merging of the two departments is expected to allow customers to currently work with both DNR and DEE separately the ability to streamline their planning and permitting efforts by working with a single department. Merging administrative and IT functions is expected to reduce duplicative processes, streamline those activities, bringing together the best resources from both agencies to leverage technology, improve customer outcomes, and reduce costs. Additionally, employees in the merged agency will find enhanced career opportunities that can allow for their continued growth while maintaining the passion to serve the citizens of this state. I'd like to highlight a few specific sections of the bill for the committee, given that it's over 440 pages. First, the leadership model for the new agency creates an agency director and a new position called the chief water officer. The chief water officer position retains the authorities previously described for the administration of the duties by the DNR director. Both positions will be appointed by the governor, with the chief water officer reporting to the director of the new agency. This leadership model will maintain an accessible and accountable leadership structure with direct reporting to the governor for agency and water-specific efforts. LB317 as introduced removes the requirement the chief water officer-- former DNR director-- to be a licensed professional engineer. However, I understand the-- there is an amendment in the works that will reinstate the professional engineering requirement for this position. Since the bill has been introduced, there have been continued efforts to review and refine the bill language, largely around clarifying those specific duties and authorities around the new chief water officer position. Again, this language will be coming via an amendment for consideration by the committee. When reviewing the bill, you will

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see that the majority of the red line changes include name and title changes such as Department of Natural Resources to Department of Water, Environment, Energy and director of natural resources to chief water officer. That's most of the bill. In contrast to those simple name changes, I would also like to point out the bill language proposes to repeal and clean up several sections of law that are outdated and duplicative. The first one I'll point out is the bill proposes to repeal duplicative efforts related to the water planning and review process. The water planning and review process in current law is outdated and not in line with current water-planning practices that the state conducts for natural resource districts. The second would be that the bill specifics-- the bill specifies that agreements into-- entered into to the Water Sustainability Fund awards shall not exceed a term of ten years. This change aligns with recent rule changes made by the Natural Resources Commission looking to expedite completion of larger water projects. The third would be that the bill eliminates the requirements for NRDs to prepare and adopt annual long-range implementation plans. These planning tools are largely duplicative of other planning and budgeting efforts that are already completed by each NRD. The fourth would be that the bill proposes to repeal the Nebraska Conservation Corporation Act. The act was adopted in 1981 to allow for pooling money from NRDs to construct flood control and other conservation projects. It is my understanding that the commission created by the act has not met in the last 40 years and no projects were ever constructed under that act. The fifth is the bill proposes to transfer duties related to state game refuge boundaries to the Nebraska Game and Parks Commission. When the original-- when that original act was enacted, the department had the unique capacity to, to conduct surveying and mapping activities. However, with newer technologies and data available, it is more practical to have the Nebraska Game and Parks Commission take on this duty, since it is already-- since it already carries out all other functions related to state game refuge boundaries. The sixth is that the bill proposes to extend the sunset date for the Nebraska Litter Reduction Act. However, this effort is also being addressed via a separate bill in this session, LB167, which I believe is on Final Reading. The seventh and, and final point that I point out is that the bill proposes to eliminate the Low-Level Radioactive Waste Disposal Act, as it has been rendered obsolete based on the state's withdrawal from the Central Interstate Low-Level Radioactive Waste Compact. In

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conclusion, I support the governor's efforts to merge our agencies and believe that these efforts will further enhance Nebraska as a recognized leader and innovator in water management. I am happy to answer any questions you have. And thank you for your time.

DeKAY: Thank you. Are there any questions from the community? Senator Clouse.

CLOUSE: She-- Senator Raybould's first then me.

RAYBOULD: No, you go.

CLOUSE: OK. I will. Just a question. Do you have org charts that, you know, that could take a look at to see what that looks like. [INAUDIBLE] names, but just a general-- what that would look like.

JESSE BRADLEY: So we've been working-- Leadership at the Department of Natural Resources leadership at the Department of Energy and Environment, we've been working on that. I don't have one today to provide you. But certainly-- you know, again, as the governor said, our focus of this is on water. So a lot of our attention has been on making sure that those water-related functions that exist in both of our agencies are working more closely together. If you think about things like water planning, right now that occurs in two different agencies, source water, wellhead protection, kind of more local scale management planning is going to happen in DE, whereas the department would be doing integrated management with the NRDs in more of our state-level-- work through interstate compacts. I think one thing we're looking at in the organization is to try to bring those functions more closely together. And I think staff are actually very excited about those opportunities.

CLOUSE: Thank you.

DeKAY: Senator Raybould.

RAYBOULD: So thank you very much, Mr. Bradley, for being here. And congratulations on your new expanded role.

JESSE BRADLEY: Thank you.

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RAYBOULD: The question for you is-- I see on one of the things that the bill eliminates is the NRDs formulating and adopting their annual long-range implementation plans. You're still going to be doing a long-range implementation plan, right? Isn't that a federal requirement or--

JESSE BRADLEY: So-- yeah. I mean, NRDs have a lot of plans that they have to put together, right? And so there's plans they do with us under integrated management plannings. There's plans they do for their own budgeting and, and, you know, public hearings they hold on their own budgets. This one's sort of duplicative of all those efforts. There is still a element retained in the act, which is a master plan. So that's a ten-year plan that the NRDs would put together and provide the state a copy of that sort of lays out their blueprint for a longer term planning horizon. But I think from our perspective and the NRDs' perspective, these, these long-range implementation plans get updated each year. They're really just sort of a, a rehash oftentimes of activities because the, the, the scale at which things change just isn't that quickly under that long-range implementation plan. So again, I think the point of removing that was just seeing it as a duplicative effort with other NRD-planning activities.

RAYBOULD: But I guess my question is the-- your department will still, still do the long-range implementation plan because isn't, isn't it a federal requirement that, you know, the NRDs submit their plan to you or, you know, the ten-year plan to you. And then the state has to do that to the federal government as well or no?

JESSE BRADLEY: Under this specific one, this is not a requirement under any federal act. This is just under state law. It doesn't affect any federal funding. But rest assured that there's plenty of communication and planning that'll still be going on between the state and the NRDs.

RAYBOULD: OK. Thank you.

DeKAY: Any other questions? Senator Hughes.

HUGHES: Thank you, Senator DeKay. Thank you for coming in, Director. I, I'm going to go-- I think Senator Clouse asked this before, you know, concern on, oh, we're merging and it's going to get so big. But

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I, I heard there is 110-ish people in Natural Resources. Double that on the NDEE side?

JESSE BRADLEY: Lit-- little less than double.

HUGHES: So we're-- it's less than a 400-member department merged.

JESSE BRADLEY: Correct.

HUGHES: And do you feel any issues with that size or-- I mean, it seems like-- and we haven't seen a, a chart, but everybody's kind of staying in somewhat of the same roles, just combining efforts, which-- at HR or accounting or things like that that are duplicative and then being able to work better together because you're-- are you guys-- you're not in the same buildings now.

JESSE BRADLEY: We are actually colocated at the--

HUGHES: You are colocated [INAUDIBLE].

JESSE BRADLEY: Yeah.

HUGHES: OK. Well, then that, that helps--

JESSE BRADLEY: That, that helps a lot.

HUGHES: Yeah, it does. That makes it way easy.

JESSE BRADLEY: Yeah. I mean, I think-- just in terms, again, of, of the merged functions. I, I actually think-- you know, those areas around water, like the governor said, that's really a specific focus here. Those areas-- and I think those staff are actually very excited to be able to work, you know, across the-- get rid of that barrier that's sort of in the way and has been historically, and be able to bring those functions more closely together. You know. And then there's other things we do, like in the areas of data collection, you know, and, and inspections and, and activities like that that I think we can both learn from each other, that we can do those things better. We can use resources that are already deployed in field offices and make sure that those resources can be available to sort of both aspects of the agency.

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HUGHES: Very good. Thank you.

JESSE BRADLEY: Mm-hmm.

DeKAY: Thank you. Any other questions? Senator Clouse.

CLOUSE: This is-- thanks to Senator Hughes. On Section 81-- in, in here, the date is-- needs to be corrected on the LB167. I don't know when we'd do that, but it's just fundamental change on that.

DeKAY: Thank you. Just something to think about. If this bill becomes law, it will be fun to watch Brandon read this across for the record in one breath.

JESSE BRADLEY: Yes. Yes. I would not want that job.

DeKAY: If no other question-- one question.

RAYBOULD: One more, be-- because I know we talk about water a lot. And so one of the big things with the Natural Resource Commission is really monitoring and grading and scoring all the water, water needs throughout the entire state of Nebraska and all the, the grant applications and requests for water infrastructure improvements, the nitrate mitigation, you, you name it, to the tune of \$2.3 billion. So how, how is your attention going to-- I guess how does your role play in-- with the state revolving fund? I'm trying to get some of these really backlog of requests to help these communities in Nebraska get their water issues addressed.

JESSE BRADLEY: No, that's a, that's a very good question. And I think it's certainly been a topic we've been talking about amongst our agencies as we've been having these discussions, is-- and I think-- and I think our aim is to try to make sure that the state resources that are available, particularly around water, that we can make sure that that process is streamlined and that they're working together, which I think is really going to improve outcomes for folks. I mean, there's, there's different pots of money in both of our agencies, you know, for different aspects of water, water projects, water management. And I think having those groups working together-- and again, all pulling in the same direction I think would be a very positive outcome.

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RAYBOULD: Great. Thanks.

DeKAY: Thank-- Senator Clouse.

CLOUSE: [INAUDIBLE]on that. Thank you, Senator DeKay. So it doesn't impact the, the, the Natural Resources Commission and the Water Sustainability Fund, any of that, other than the date on extending the contract for Water Sustainability Fund projects?

JESSE BRADLEY: That's correct. We-- the commission still is retained in the bill. And then the one adjustment we made into the Water Sustainability Fund related to some recently passed rules by the commission looking to streamline the length of time long projects were taking and reducing that to a ten-year period.

CLOUSE: OK. Thank you.

DeKAY: Thank you. Any other questions? Senator Conrad.

CONRAD: Thank you so much, Vice Chair. Thank you, Director. Congratulations. Good to see you again. You know, I-- in all candor, I was actually a lot more excited about this proposal when I first heard about it. [INAUDIBLE] a chance to, to kind of dig into the details of what it exactly means. And I guess what I'm struggling with is everybody shares a laudable goal of reducing redundancies and finding efficiencies and improving collaborations. But again, we're not seeing any changes in terms of staff size. We're not seeing any cost savings to the taxpayer, at least in the short term, as reflected on the fiscal note, but rather an expenditure. Is there any sort of prohibition or restriction or burden under the current configuration that limits dynamic collaboration or cre-- cooperation? What, what really is going to change in terms of the aspects of your work moving forward? You're already colocated. You're already working collaboratively. What, what's really going to change?

JESSE BRADLEY: Yeah. It's a good question. I mean, you know, I, I've had the, the pleasure to serve in state government for 20 years. And I think-- you know, sometimes the unfortunate reality is those agency names and those silos can kind of get in the way.

CONRAD: OK.

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JESSE BRADLEY: And so I, I think what this will do is make sure that's not an issue, make sure those folks are not only working together, but actually colocated in the same section, sitting next to each other, having conversations on a daily basis about how do we solve these challenging problems. And so I think that's a very important change, making sure those folks understand from a, from a leadership perspective, we, we expect that. We're all going to be working together. We're going to be working on these challenges as a group and a team and make sure that we can bring those resources, you know, to truly be colocated together. I think, I think there will be some very significant benefits of seeing that happen.

CONRAD: OK. Appreciate it. Thank you.

DeKAY: Thank you. Senator Raybould.

RAYBOULD: I thought of another question. So I-- and you brought it up about making-- you know-- let me-- the bill specifies that agreements entered pursuant to Water Sustainability Fund awards shall not exceed a term of ten years. You know, I think of a lot of projects, they're on the books for funding for probably ten years before they get awarded. But during that time, it, it-- you know, you have to really go out and get additional grants and funding or maybe that municipality has to take out bonds. And sometimes that's a, a complicated, lengthy process. Is there-- tell me more about how that was established as ten years and, and the reason why.

JESSE BRADLEY: Yeah. I mean-- actually, in terms of that specific issue, we really just brought that into the law to make it consistent with what was now the rules that were adopted by the Natural Resources Commission. So remember, the Natural Resources Commission is a separate body that handles-- like the Water Sustainability Fund and that fund distribution. And I think what their goal was was to provide still that flexibility to, you know, work through those issues on longer term projects but also have some reasonable timeframe that sort of serves as a cap and an expectation on, we need to get these long-term projects still completed in a timely manner. So it's really just making it consistent with the rules that were adopted by the commission.

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RAYBOULD: OK. Is there a hardstop? I think of one example, like the Santee Sioux. They, they finally got a wonderful award to help them with their, you know, 20-year issue of, of contaminated water. And now they're really struggling to get additional funds to complete the project, which is a \$60 million project. And so-- I mean, they're, they're doing everything they can. But I, I think it's going to take another ten years for them to get the additional funding to complete the project itself. So I'm-- I mean, is that a hard and fast rule or do you look at it case by case or--

JESSE BRADLEY: You know, again, what we were just trying to do is align the statute with the practice of the commission. That is-- that was really the intention here, you know, in terms of that ten-year time frame. You know, Senator Clouse actually probably would have been on the commission when some of those rules were, were coming through. But, you know, that, that was the-- was just to make it in alignment, again, make sure that there's sufficient time, but also accountability to get those long-term projects done in a, in a reasonable timeframe.

RAYBOULD: OK. Thank you.

DeKAY: Thank you. I feel like I'm at a tennis match right now. Senator Hughes.

HUGHES: I don't play tennis, so. That's cool. I just thought of one more question. We were talking-- I think Senator Conrad alluded to it with, you know, we're combining-- we-- I'm all about efficiencies and gaining traction that way. Is there any-- and I-- and this is where I'm wondering. Yes, right now there's no cuts to, to people and stuff, but I'm-- is there any thought or-- will there be somebody watching for-- with attrition. As attrition happens, maybe that, that position doesn't need to be refilled because we did some duplicative things here and, and, you know, now we can-- not fill that. But, you know, someone else has kind of absorbed that duties. Is that-- I'm just questioning, is that going to be a mindset a little bit as things go forward as you get settled in on the new roles and stuff?

JESSE BRADLEY: Yeah. I mean, I, I think certainly-- I mean, I can speak at least how we've operated at DNR for, for many years now. I mean, that's something we do every time, right? And every time a

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position becomes vacant, we look at, what are our needs? Do we need to realign that, you know, based on mission changes, technologies?

HUGHES: I think that's-- yeah. That's fair.

JESSE BRADLEY: And I think that's certainly something we would continue to do going forward under the merged operations as well.

HUGHES: Perfect. Thank you.

DeKAY: Thank you. Senator Clouse.

CLOUSE: Yeah. This is more of a comment to-- for Senator Raybould. We might have about \$30 million sitting there right now that's obligated, you know-- 30 or 40 last I heard. And-- so somebody could look at that and think they need to swipe that, but it's obligated. So you got to have a time limit in there so we can make sure that it's-- it's ten years, right? I don't know. But there's a lot of money sitting there that somebody could look at and say, hey, let's swipe it, you know. I think you have to be careful of that because it's obligated. Is that correct?

JESSE BRADLEY: That, that is correct. There's a significant-- virtually all of the funding is obligated [INAUDIBLE].

DeKAY: Any other questions? Seeing none. Thank you, Mr. Bradley.

JESSE BRADLEY: Thank you.

DeKAY: Next proponent.

JACOB LEAVER: Good afternoon, Vice Chairman DeKay, members of the Natural Resources Committee. My name is Jacob Leaver, J-a-c-o-b L-e-a-v-e-r. And I'm the Deputy State Budget Administrator of the Budget Division of the Department of Administrative Services. I'm here to-- I'm here to appear as a proponent on LB317 to answer any technical budget questions you may have relating to the merger of both agencies. The timing of the merger will need to go hand in hand with the budget bill passing. The A bill on LB317 would revise appropriations included in LB261, as passed by the Legislature on Final Reading, to combine the agency's budgets for the upcoming, upcoming biennium. This will not impact the current fiscal year, FY

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2025. Senator Raybould, to answer the question you had for the E clause, the-- within the bill, this is to ensure the operative date of July 1 to coincide with the start of the biennium. So start of the biennium, July 1, 2025; effective date, July 1, 2025. This budget merge will not impact any current obligations or projects for both agencies, as passed by the Legislature. A final point: the fiscal note for LB317 states an estimated General Fund impact of \$200,000. After further review, we discovered that the agencies had coordinated their fiscal notes together, so the real impact is only \$100,000 in aggregate for one-time costs associated with the merger. Thank you. And I'd be happy to answer any questions.

DeKAY: Thank you. Senator Raybould.

RAYBOULD: Thank you, Mr. Leaver. Did I get-- let's see if I got it right. So the \$100,000 will hit in 2026?

JACOB LEAVER: Yes.

RAYBOULD: OK. Thank you.

DeKAY: Any other questions? Senator Conrad.

CONRAD: Thank you so much, Vice Chair. Thank you for being here. And thanks for the update on the fiscal notes. I know that's a dynamic process as you get more information, that they can evolve and help us get a more accurate understanding of things. I guess-- a, a couple of points. Since you're kind of looking at it primarily through the budgetary lens, were you, were you surprised that the merger didn't generate a more significant cost savings to the taxpayer? I was surprised.

JACOB LEAVER: I mean, at this time, you know, I kind of go with Director Jesse and the governor.

CONRAD: Yes.

JACOB LEAVER: It's hard to-- you know, we didn't want to show an impact. It's going to save \$1 million general funds. And then at the end of the next biennium, it only saves \$750,000.

CONRAD: Sure.

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JACOB LEAVER: So, you know, why did we not have the right amount of savings? Did something happen? So we didn't want to show a negative at this moment in time, but I do believe that in the upcoming biennium of FY '28 and 29, there would be a reduction.

CONRAD: OK. You think project-- kind of projections beyond this biennium might then result in a taxpayer saving?

JACOB LEAVER: Yes. Absolutely.

CONRAD: OK. That, that-- helpful to know. And then can you also tell me-- so the governor has issued an executive order about-- I don't know-- maybe about a year or so ago to really ask agencies to do a hard look at existing vacancies and to try and achieve some budgetary savings and better value for taxpayers in that regard. Do you happen to know what these departments are sitting at for vacancies on-- at, at either-- and if you don't, we can follow up afterwards.

JACOB LEAVER: I, I don't have those numbers off the top of my head, but we can definitely get those to you.

CONRAD: OK.

JACOB LEAVER: You know, we did provide in the governor's recommendation in the budget bill reductions of vacant positions.

CONRAD: Yes.

JACOB LEAVER: You know, we can't do that during-- throughout the year. You know, we don't control the purse. Legislature has to approve those appropriation reductions. So that would be something brought forward continuously throughout the next few fiscal years.

CONRAD: Yes, I agree with you on the separation of powers and the legislators' primary authority for appropriations. And I think-- you know, originally, that executive order indicated there'd be, like, a thousand positions and pretty significant cost savings. I think maybe it's ended up being a couple hundred here or there or something. And again, things change as you, you get deeper into things. But then-- have you been working on the budget for these agencies ov-- over the last biennium since-- or-- how long have you been in your position?

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JACOB LEAVER: So I've been, I've been the deputy for about four months now, starting in November.

CONRAD: OK.

JACOB LEAVER: But I've been with the Budget Division, overseeing both agencies for about four years.

CONRAD: OK. All right. That's helpful. Because I didn't want to catch you off guard here. So can you tell me kind of just generally, like 10,000-foot view, and-- and I'm sorry, I don't have the budget information off the top of my head or in front of me-- kind of what, what's been the general treatment in the, the governor's approach to different cash funds that belong in any of these agencies? And have they been swept up for property tax relief or other purposes over the last biennium?

JACOB LEAVER: You know, I would say-- you know, we take a look at all the cash agencies across all state agencies, all cash ones across all state agencies. I can't-- I don't have the list in front of me of-- if funds were swiped from DNR or DEE. You know, we do look at, as Senator Clouse pointed out, obligated funds within the Water Sustainability Fund, within these larger cash funds. You know, we try to keep 25%, you know, three months' cushion so that in case there is something coming up, you know, we aren't depleting these funds too much. So.

CONRAD: OK. That's fair. And then just a couple-- two more on the, the budgetary piece there. So I heard some feedback from folks, particularly in ag, over the interim period that they were kind of frustrated and upset-- and I think maybe it came through Department of Ag, maybe some through these agencies as well. But the, the Legislature had appropriated funds for different water programs or riparian management or other sort of important programs, particularly to rural Nebraska. And those, those dollars weren't flowing out to where they needed to be, that the agencies had kind of taken a position that they were impounding those funds or repurposing those funds or things of that nature. So I'm a little worried about how moving under a broader umbrella with perhaps less budgetary accountability may impact our ability to actually make clear appropriations for specific purposes and ensure they're-- those are carried out. So I don't know if you were hearing some of that same

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feedback from ag groups or-- if that's more on the ag side than these two agencies. But if you want to weigh in there, that's something I'm a little-- I want to think more about before we move forward.

JACOB LEAVER: I mean, I-- that's def-- that's directly related to Department of Agriculture. You know, we can definitely talk offline and go through it if-- we'd be more than happy to do that.

CONRAD: OK. Thanks very much. Thanks. Thanks.

DeKAY: Thank you. Any other questions? Seeing none. Thank you, sir.

JACOB LEAVER: Thank you.

DeKAY: Next proponent.

TIMOTHY McCOY: Good afternoon, Senator DeKay and members of the committee. My name's Timothy McCoy, T-i-m-o-t-h-y M-c-C-o-y. And I have the pleasure of being the Director of the Nebraska Game and Parks Commission at 2200 North 33rd Street here in Lincoln, Nebraska. I will be brief. I am here relative to Sections 57 and 58. And that would transfer the duties, I would say, back to the commission for doing the mapping relative to game refuge boundaries. That was changed in 2004. I believe at that time, our agency did not have, you know, the capacity with GIS that we have now and also the ability of GIS-capable devices to get really accurate readings out in the field has changed a lot in the last 20 years. So we definitely have existing capacity. This is something we can do through our GIS team. And I-- there was no fiscal note from us on this, and I just wanted to make sure you knew, knew that. I will say from my perspective as an agency director, we coordinate a lot with both of-- you know, both NDEE and DNR as sister agencies. I, I see that will continue, whether they're-- you know, if they're pulled together, I still see us coordinating with-- along-- a lot of the same specialist folks are in both those organizations.

DeKAY: Are there any questions? Senator Clouse.

CLOUSE: It's not really a question, but I'm glad to see you address that. Because that was one item in here that I was [INAUDIBLE], so thank you.

TIMOTHY McCOY: Yep.

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DeKAY: Any other questions? Seeing none. Thank you, sir. Next proponent. Seeing none. First opponent. You can go ahead.

JASPER FANNING: Vice Chairman DeKay and members of the Natural Resources Committee, thank you. My name is Dr. Jasper Fanning, J-a-s-p-e-r F-a-n-n-i-n-g. I'm the General Manager of the Upper Republican Natural Resources District. And I'm here today to register the opposition of the Nebraska Association of Resources Districts. Now, don't read too much into that. Obviously, the NRDs care more about water quality and quantity than anyone else in the state. And quite frankly, we work probably more collaboratively with DNR and, and, and ch-- with DEE as well on many water, water quality and water quantity, quantity efforts. In fact, other states are often interviewing us about our collaborative efforts with DNR as a model for how to manage water in other parts of the country. Our concern or concerns with this merger-- I won't read exactly what, what's on, on the sheet there, but essentially Mr. Bradley and his staff at DNR are involved in what I would characterize as Nebraska's most important water issue and project ever in the history of the state of Nebraska. And some might disagree with that, but I think the Perkins County Canal and the South Platte Compact in today's, in today's state is the most important thing in Nebraska's water future. And anything that takes Mr. Bradley's efforts and his staff's efforts away from focusing on ensuring Nebraska's water future-- which in-- has significant impacts even on Lincoln and Omaha's water supply-- it's a big deal. My district in the early '80s was actually the first district to apply to construct the Perkins County Canal, and it was de-- denied for reasons that don't matter today. But that water right we have recognized in our district-- which isn't even in the Platte Basin-- how important that is to the state of Nebraska and, and the future of Nebraska's water. So having their efforts put towards other things that are federal issues and federal priorities that EPA deals with. We have a, a very collaborative problem-solving agency at DNR that works on issues of Nebraska, and they, they find ways to work with their partners to, to benefit the people of Nebraska. I would, I would argue that DEE, while they do a little bit of that, focuses more on federal mandates, a lot of federal pass-through funding, a lot of check-the-box things, not really asking the question every day, how do we best serve Nebraskans and what can we do to help Nebraska grow? Should they be doing that? Maybe. But we just don't think taking the

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resources away from, from DNR and their current staff, given what, what they have in front of them, is, is a-- in the best interests of Nebraskans at this time. Now, do we think that there's things that you could carve out of DEE related to water and, and reorganize? Yes. But just a total merger-- particularly as, as previous testifiers have mentioned, you know, the, the idea of we're going to do this merger and we're going to figure out how it works and what it saves us later-- I think we would have appreciated the approach of sitting down with a task force, as has been suggested, let the stakeholders have input into what needs to change in, in either of these agencies moving forward. How do we address that through a merger? What pieces should or shouldn't be merged? There's a couple other agencies that have a little bit of overlap or coordination. Obviously, Game and Parks and the Department of Ag. You know, should they or should they not be part of the discussion? You know, I'm not a, I'm-- you know, I don't think we're a fan of-- we're not saying let's create another DHHS by any stretch of the imagination. Bigger isn't always better in government. The things that we like best about working with DNR probably has a lot to do with how small of an agency they are. They're nimble and they're responsive to Nebraska. Really quickly, the shortcomings in the bill. I, I think there's some intent language that the chief water officer becomes, you know, all things that the director was previously. But there's several areas in statute where those authorities aren't directly reassigned to the chief water officer. That needs to be cleaned up. Or, or some of those authorities maybe aren't clearly granted to the chief water officer. And, you know, I, I would just say that we've met with the governor and we haven't had real detailed conversations with the governor as to how that will work. I, I think we will have those meetings moving forward so that, you know, we can address some of our, our concerns and try and come up with a solution that truly does work best for Nebraskans. And that, that's different than the best for what's-- you know, what's best for the state as an entity versus what's truly best for the people of Nebraska. And that's what we, we want to work towards.

DeKAY: Any questions? Senator Hughes.

HUGHES: Thank you, Vice Chair DeKay. Thanks for coming in, Dr. Fanning.

JASPER FANNING: Yes.

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HUGHES: One of the things you said was you're-- so you're concerned about them merging, but you-- we've talked pretty much at length not-- no one's going away. So all the same people that are still in Natural Resources are there under the new umbrella. But you're concerned that services-- like, the same people won't be there to be accessed or you're limited on-- do you know what I-- that they're taking something away but-- and this was to Senator Conrad's point, we're just morphing them together, but nothing has been-- no-- at least FTEs have been removed and things like that. So I guess I'm not following that part of your concern.

JASPER FANNING: OK. So-- yes, no one's going away. You're going to have all the same people. They, they described it to us as merging the two and building silos. Well, if you want to increase efficiency, you tear down silos. You don't build new silos. And so having, you know, this merged agency but having silos, as, as they've describe it, doesn't-- you know, that doesn't sound to me like gaining efficiency. To your point, we're not, we're not necessarily losing a number of people or, or anything. But in, in this instance, you know-- I hate, hate to do it this way, but Director Bradley right now is 100% responsive and available to NRDs when we have issues and want to meet. I'm guessing that-- just since the announcement of his merger, he's probably had over a hundred emails related to DEE issues and his calendar is probably more than half full of DEE time commitments. Those things primarily are not issues that we're primarily concerned with as natural resources districts. And granted, there's a chief water officer that's going to be stepping up to take on some of that, but they're already there doing work on what we think is important, which is moving forward the Perkins County Canal. We, we just have concerns that even though those folks are still going to be available in this merged agency that a lot of their time is going to be going, you know-- even if it's 25% of their time-- is going to be going to areas that are not a priority to us.

HUGHES: OK. Thank you.

DeKAY: Senator Conrad.

CONRAD: Thank you, Vice Chair. Thank you, Jasper. Good to see you again, Dr. Fanning. [INAUDIBLE] formal. OK. I really appreciate your testimony here today. And-- I mean, I don't want to repeat what we

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already know, but-- I mean, in addition to natural blessings and hard work and good stewardship, Nebraska's approach to managing our aquifer and our water resources is, is, I think, really a gold standard compared to so many of our sister states that have really squandered the resources that they have available for a variety of different reasons. But a big part of that was Nebraska's innovation and foresight to develop the NRDs, to get ahead of some of these issues before they became crises, and have this really collaborative approach on the state level and the local level to manage our groundwater and surface water and our water resources and needs in this state over now the course of decades. So I'm really struggling to think through how a major proposal like this can work if one of the key partners-- i.e., the NRDs-- has significant reservations. So maybe this is in fact a starting point for some discussions. But I think that your testimony-- I appreciate your candor and keeping your mission centered. And I, I'm really just kind of struggling to see how a switch like this will work if, if it doesn't have the support of our key partners on the local level in the NRDs, so. I mean, I know that you'll make it work if that's the law, right, and the Legislature decides to move in that direction. But it, it is hard to think through how that's, how that's going to work well when we d-- we need our, our key teams on water issues working really, really closely and, and really, really collaboratively. And we don't want any unnecessary distraction.

JASPER FANNING: Well-- thank you. And I think that's, that's my primary message. What I intend it to be is, obviously, we will work with whatever we have to. That's, that's our role. But to the extent we can have a, a refined and thoughtful process in determining what should and shouldn't be in the same department and how it should work prior to just, you know, I-- this is probably a terrible analogy, but you don't, you don't arrange for and conduct a shotgun wedding and then, and then make the first step after that wedding, looking at what the test result is. You sit down and you think about what's the problem-- what's the problem that we're going to solve, how, how do we best solve it, and then, and then what's the next step forward?

CONRAD: Thank you for your candor yet again.

DeKAY: We're going to bypass Senator Hughes. Senator Clouse.

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CLOUSE: Yes, thank you, Vice Chair-- Senator DeKay. Yeah, I'll use that sometime. [INAUDIBLE]. No, I'm, I'm just sitting here thinking we need to talk about the hundreds of emails and-- it's more of a comment. Jesse's got a hundred emails from the water side too because it's just the, the uncertainty [INAUDIBLE] those groups on how this thing's going to play out, but. Appreciate your comments. And, and-- really thinking about the Perkins County, you know, and the amount of focus that needs to be on that. So thank you.

DeKAY: Senator Hughes.

HUGHES: Thank you, Senator DeKay. Thanks for the laugh. That was good. I guess I'm-- maybe the question should be-- and, and you maybe outlined it a little bit of what specific roles are just be-- because I see also you have two separate departments and they've got their-- the, the sheets that they have to fill out and-- I like to see that collaboration. And I think they're-- I mean-- and I-- you know, I-- my husband has a manufacturing firm in NDEEs, you know, checking water quality and things like that at Hughes Brothers manufacturing and all that. And there's that piece of it, but I-- to me, I see where these efficiencies go together and I think it, it could be better for Nebraskans in the state. So I guess the question would be, what will it take from the NRD side to feel comfortable and, and make it work so that it, it's structured the way you feel good? Because I-- I think right now there's two silos right now. And so by merging it, now we're in one and can work better together. And maybe-- and, and again-- I don't-- I haven't done the deep dive. I, I'm not there. I've got a couple inside people, but that, that would be about it, so.

JASPER FANNING: Yeah. So I, I would just say that I, I think what would make us comfortable is sitting down. You know, we, we had a couple of very high level, very just like, hey, I'm thinking about merging the departments. We're all in favor of, of more efficient government, right? Right. OK. That was like--

HUGHES: And then that--

JASPER FANNING: That was, like, the first discussion. Right? And, and I think the government-- excuse me-- the governor's intent-- like, we're totally on board with-- we, we 100% agree with-- let's do better for Nebraska and managing water quality and water quality, you know.

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Like, we're all on board with that. But he, he took those initial conversations that were just kind of at that very, you know--

HUGHES: You went from 0 to 60 in, like, five seconds.

JASPER FANNING: Yes. But as far-- as the details matter.

HUGHES: Yeah, for sure.

JASPER FANNING: Like-- because we work with these agencies on very detailed, complex issues all the time. And, and working, working through some of those roadblocks that exist with us at DEE, there's some opportunities there. But we just-- I think we need to take, take a scalpel in a very refined approach as opposed to, you know, just kind of a, a broad, sweeping approach to the discussion.

HUGHES: Thank you.

DeKAY: Senator Moser.

MOSER: Well, sitting up here and listening to the discussion, it's a little bit disconcerting that we don't know exactly how this is going to go. We don't know what savings there are going to be, but we're sure it's bad. I mean, it's kind of your example of, you know, arranging a shotgun wedding and then having the pregnancy test later. I think--

JASPER FANNING: Can I retract that at this point?

MOSER: I'm sorry?

RAYBOULD: Can you retract that? No, because it was funny.

MOSER: You're going to take it back?

RAYBOULD: No. It's funny.

MOSER: Yeah, it was a little bit. [INAUDIBLE] we're not going there. But you-- I don't think-- when you're trying to merge two different departments or two companies, you never want to go into the merger and say, oh, well, we're going to fire 50% of our people. And, you know, we're going to-- wait times are going to go up to get products or, or

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approvals or whatever. You have to go into it with the best hopes and the best attitude that we're going to make this work. I mean, you can't go into it and say, oh, this is going to be the end of the world and, and, you know, our water's all going to turn pink or whatever it's going to do. You know, I would hope that the NRDs, if this goes forward, will embrace the governor's leadership and, and try to make it work.

JASPER FANNING: Well, I-- and that's our goal. We want, we want-- no matter whether the legislation moves forward or not, we're always working to improve collaboration with both agencies. And, and that's, that's what we do on a daily basis, so we'll continue to do that.

MOSER: Thank you.

DeKAY: Senator Conrad, did you have a--

CONRAD: Yeah. I just had a, a quick follow-up there. You know, it-- and this is why committee helpful-- committee hearings are so helpful, because you think through maybe different angles that you, you weren't thinking through when you were just reading the bills or fiscal note on your own. But is there any sort of potential or inherent benefit in actually having separate agencies so that we don't get stuck in, like, groupthink? Is there any sort of check and balance that goes on between the agencies as they exist today for a second pair of eyes or a different-- maybe one person's focused on quantity, one's focused on quality or whatever it, it might be. Are, are in fact there some benefits to the existing structure?

JASPER FANNING: Yeah, I, I don't, I don't think that currently-- and, and even if there was a merger, I don't know that there's really any collaboration that occurs and-- like a checks and balances of, of thinking.

CONRAD: That's helpful. Yeah. No, that's helpful. And I haven't been on the front lines of working through their programs or processes, but I was just kind of wondering if, oh, maybe it is a good thing to have two pairs of eyes on things or people looking at it from two different angles to make sure it kind of make-- makes sense all around. And, and again, just quick reflection, I think all of these questions are so thoughtful and helpful and clearly in no-- by no means should see-- be

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seen as a negative reflection on Director Bradley or the governor's general vision here to try and do the best that we can do with our water resources and try and get good savings for the taxpayers. I think there's so much alignment on the overall goals and a lot of confidence in the public servants that are out there on the state and local level just trying to kind of hash through the, the details about what this might mean or, or, or how it could work better, maybe.

JASPER FANNING: Yeah, I--

CONRAD: Appreciate it.

JASPER FANNING: Thank you. And I certainly don't intend any of my comments to reflect poorly on Mr. Bradley. If we could clone him, we would.

CONRAD: Yeah. Thank you. Thanks.

DeKAY: Senator Hughes.

HUGHES: Thank you, Senator-- Vice Chair DeKay. Just one more comment. So Senator Bradley has run NDR-- or, the Natural Resources for how long, a couple years?

JASPER FANNING: Well, he's, he's been acting director a couple of different times at D-- at DNR.

HUGHES: And you're-- under that realm, you're very happy with how he runs that organization and how it works and-- that's the sense I'm getting.

JASPER FANNING: Abs-- absolutely.

HUGHES: OK. So right now, he's interim dir-- and I know that's interim, but I'm wondering, wouldn't-- if the way he managed that department, wouldn't that roll into this new department that's together? And wouldn't that reflect down in the, the management of that as well as an organization--

JASPER FANNING: Well, I, I would--

HUGHES: --possibly?

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JASPER FANNING: --I would certainly hope so.

HUGHES: Yeah.

JASPER FANNING: I will say, though, you know, I-- we were-- I came-- I started as an NRD manager about the time LB962 was being finalized. And as transformative as that was, DNR was not the agency when LB962 was adopted as they--

HUGHES: Are today.

JASPER FANNING: --as they are now.

HUGHES: Sure.

JASPER FANNING: And a lot of leadership changes over the course of those nearly 20 years have occurred. And we had to go through two or three different leaders before we found folks that started asking the question about, well, what's really important to Nebraskans? You know, not, not what-- how do-- you know. How do we really accomplish something that's good for Nebraska and the grow-- economic growth of Nebraska? Until we had people that were focused on that, it wasn't like it was-- it is today, so.

HUGHES: OK. Thank you.

JASPER FANNING: Yep.

DeKAY: Any other questions? I have one or maybe two. It is probably safe to say that we're-- it's not like we're trying to mix oil and water here. These are two agencies that work pretty close hand in hand. And with that, if Mr. Bradley and these departments come together, there would be different department heads that would be working together with each other to make sure that this new agency would be going the direction that is what the purposes of it, you know, as an unofficial mission statement to work for quality and quantity of water issues in the state of Nebraska. Would you agree with that?

JASPER FANNING: I, I, I would agree with that. Want-- but I would further say, you know, there's all sorts of other things in DEE that aren't related to water. Those would come along with it as well.

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DeKAY: OK. Any other questions? Seeing none. Thank you.

JASPER FANNING: Thank you.

DeKAY: Next opponent.

LEROY SIEVERS: Mr. Vice Chairman, my name is LeRoy Sievers, L-e-R-o-y S-i-e-v-e-r-s. I'm a member of the board of directors of the Nebraska State Irrigation Association, today representing them in opposition to LB317. You may not be familiar with NSIA because it's rare for it to formally take a position on proposed legislation. However, NSIA was formed in 1893-- yes, over 130 years ago-- for the purpose of supporting irrigation development in Nebraska. NSIA has a long and distinguished history of involvement in improving agriculture in Nebraska through irrigation. NSIA supports the governor and your legislative efforts to develop property tax relief and improving delivery of necessary government services. However, NSIA respectfully urges the Legislature to decline to advance LB317. As a former assistant attorney general and legal counsel of what was the Department of Water Resources and then years later the Department of Natural Resources, I have over 25 years experience working in and for government. I have witnessed the consequences and effects of state agency mergers. Mergers do not save money. Prior mergers do not save money and only created additional bureaucratic barriers. This proposed merger will do the same. It will not save money and create additional bureaucratic barriers. Currently, the employees of DEE and DNR are fully engaged. They will no-- there will not be any personnel savings. I witnessed that previously, and the hopes and expectations for savings do not materialize. That's because employees already can't get everything done despite their best efforts. Also, a merger does not save money. Improving processes used by the agencies is what will save money. If a society we want services delivered by state government, it's necessary to have sufficient people to get the job done. Also, a prior governor commissioned a study of the state workforce. It reflected that there is a significant number of employees at or near retirement age. Given the low unemployment in this state, the highly specialized job requirements in many positions, and the relatively low pay and benefits, the study indicated that the state will face significant challenges in meeting needs for qualified workers. Merging DNR and-- into DEE will only exacerbate the challenge of retaining qualified employees. Moreover, merging N-- DNR into DEE will only not

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save money but will impair the state's ability to succ-- successfully navigate current and future challenges in the area of water issues. I played a role in a variety of interstate litigation involving Kansas, Colorado, Wyoming, and the United States. I worked on issues involving every river basin in Nebraska. I played a part in U.S. Supreme Court arguments in Nebraska, Missouri, and Iowa v. the Bureau of Reclamation and the Corps of Engineers and Nebraska v. Wyoming. I could go on, but the point I want to make is Nebraska has in the past been involved in litigation and negotiation with other states and the federal government involving our water resources. Water is critical to Nebraska's agriculture economy, the environment, municipal drinking water, navigation on the Missouri River, recreation, and especially irrigation. Having a leader with the stature of department director carries weight in the area where Nebraska needs to protect its interests. I think Kansas was not well-served in our litigation when its highest water official headed one of the several departments within its Department of Agriculture. Having an agency devoted to water truly makes a difference. Finally, it's critically important that the state agency is headed by an engineer with at least five years experience, as it-- as is the current statute. A person with that education and experience is necessary for several reasons. First, understanding the complexities and hydrologic relationships of surface and groundwater is needed in the position. A civil engineer has that. Second, it is critical that a director as an engineer have the education and experience to comprehend and appreciate the relationship between positions taken in one form and how that can reverberate and have consequences elsewhere. Third, having an engineer as the director carries stature, which gives credence to that person that other designations do not. It matters when an engineer representing Nebraska is advocating for Nebraska with representatives of other states. For these reasons, NSAI respectfully requests that LB317 not be advanced. Thank you. I'll answer any questions. My answers will not be on behalf of NSAI but will be my personal answers. What I provided is what NSAI has authorized.

DeKAY: Thank you. Senator Hughes.

HUGHES: Thank you, Vice Chair DeKay. Thank you, Mr. Sievers, for coming in. I was not aware of the Nebraska State Irrigation Association. I think one thing that they mention in this bill is that they will remove the part where the chief water officer does not have

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to have an eng-- like, he will-- that person-- that position will need to be an engineering degree. Did you-- I just wanted to point that out. Did you happen to see that?

LEROY SIEVERS: I was aware of that.

HUGHES: OK. You are aware of it.

LEROY SIEVERS: I wasn't aware of it when I had this typed up.

HUGHES: No, clearly. And that's-- I just wanted to make sure that you'd heard that piece of it. Because I agree. I think that's an important part.

LEROY SIEVERS: It, it, it-- and that's great. I'm, I'm glad that that's the case. It doesn't change the reflection now I just pointed out that I think having the head of an agency be the person that's in charge of water issues really does make a difference. I've seen it make a difference in U.S. Supreme Court cases that we've been involved with and otherwise.

HUGHES: Well, and-- yeah. With the Perkins Canal, there's going to be more litigation ahead. So that is for sure.

LEROY SIEVERS: I, I have a great deal of background information that I can share with you about that.

HUGHES: Thank you. Thanks for coming in.

DeKAY: Thank you. Any other questions? Senator Conrad.

CONRAD: Thank you, Vice Chair. And thank you for being here. I appreciate it. And not to get too deep in the weeds, but when you lift up the comparison about how our existing structures were beneficial to strengthening our litigation position in the cases that you've worked on, which I think we're all generally familiar with as comparison to our sisters state and Kansas, how exactly? Because the director had specific knowledge and expertise? Because they had more capacity? What, what exactly with our current configuration gave us that leg up?

LEROY SIEVERS: Sure. Let me give just a little background. DNR is responsible for management regulation pursuant to state law of surface

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water. And the, the NRDs have been delegated the responsibility for management of groundwater. In Kansas, it's different in that the, the Department of Ag is the overall head. Mr. Pope was in charge of their water regulation. He was not the agency head. He was further down. He was basically a department head. So for him to advocate on behalf of Kansas, he had to get permission up one. And then he-- the governor-- and, and I, I think one of the things that-- you just don't have the same stature. You don't have the same ability to, to argue. When we had litigation with, with Wyoming, their head was a state agency director. So it, it was on a par. And so I think it carries weight. It carries weight as a witness in litigation. It carries weight in negotiations.

CONRAD: It's more efficient and more authoritative and-- yeah.

LEROY SIEVERS: Well, and I, and I--

CONRAD: More knowledgeable.

LEROY SIEVERS: I think, I think your last witness I think fairly eloquently pointed out that dividing time now away from very important surface water issues to have to deal with important other issues that DEE-- it deals with is, is probably not in our state's best interest, in, in my opinion.

CONRAD: OK. Thanks very much. Thank you.

DeKAY: Thank you. Senator Moser.

MOSER: I was reading your testimony here and you made some pretty declarative statements about that there aren't going to be any savings and there's going to be more-- poor efficiency and-- you don't see that there's any duplication between those two?

LEROY SIEVERS: I, I'm-- Senator, I, I don't doubt that there are going to be some back-office opportunities. I-- one of the problems at, at DNR right now, they have open positions that they can't fill. Very important positions. I, I think the overall benefit of having some combination of, of both positions-- when, when the Department of Water Resources and the Natural Resources Commission were combined a number of years ago, the hope was that there would be efficiencies because of the reduction in some of those back-office positions. The problem was

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those back-office positions were already doing more than, than they could. And so why you ended up maybe over time having one person instead of two doing a responsibility, the problem was those two people were doing a whole bunch of other things. And when you ended up with one position, stuff wasn't getting done. But I-- that's, that's where I was trying to go with that. I don't think you'll end up seeing cost savings. They're, they're just not-- there's so much to be done at this point.

MOSER: So what's the-- the irrigation association that you're representing, are they particularly-- do they lean toward the producers that use water or do you lean more toward the people who control the use of irrigation water? What's your or-- association-- I mean, is it farmer, user, members that, that make up your organization?

LEROY SIEVERS: The, the primary membership for this State Irrigation Association are the irrigation districts. In other words, there's about a million acres that are irrigated with surface water and about-- and, and so most of those irrigation districts are members of the State Irrigation Association. They are entities that are regulated by the Department of Natural Resources. They're the ones--

MOSER: So you're not-- you don't have, like, members that manufacture irrigation systems or, or members that use irrigation water? It's primarily irrigation districts?

LEROY SIEVERS: Well, the districts use the water. I mean, they, they divert the water and convey it down their canals and deliver it to the farmers. Yes. We, we, we-- our membership ranges from incredibly small irrigation districts of a couple thousand acres to irrigation districts of 100,000 acres or more.

MOSER: So you help them-- give them advice on how to manage their work?

LEROY SIEVERS: That's part of it, certainly. Yeah.

MOSER: And where do you get money to operate from? The irrigation districts give you--

LEROY SIEVERS: They pay dues, yeah.

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MOSER: They pay dues. You don't get state aid?

LEROY SIEVERS: No, we don't. We're not tax supported. We-- we're not like some other--

MOSER: Not like us up here where we get paid--

LEROY SIEVERS: Your, your gigantic salary, yes.

MOSER: Thank, thank you.

LEROY SIEVERS: What does that work out to, about \$2 an hour?

MOSER: \$5, I think.

DeKAY: Thank you. Any other questions from the committee? Seeing none. Thank you.

LEROY SIEVERS: Thank you very much. Appreciate it.

DeKAY: Next opponent.

BRUCE RIEKER: Vice Chair DeKay members of the committee. My name is Bruce Rieker, B-r-u-c-e R-i-e-k-e-r. I'm the Senior Director of State Legislative Affairs for Farm Bureau. Here testifying in opposition to LB317. It's a complicated position, but here's what I-- I'll just boil it down. After a thorough discussion with our board of directors last Friday about this issue and several others after I could not provide them enough information to make an informed decision about this because we've been trying to get the information, they voted or decided that we should oppose it until we have enough information to make an informed decision. And then we had the discussion as well. Do we show up neutral or in opposition or supportive of the intent? And consistent with what we did on another bill in the Agricultural Committee, our position is that we oppose it until we can get the information to help make an informed decision. We don't have the expertise to say how this will work or how it would work best. We want to be at the table. Water's one of the most important resources that we have. And with that, I would say that our other option was to remain silent. But then I, I told our board that the last thing I want to do is for-- face all of you and people saying, well, why didn't you show up and say something? So that's why we're here.

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DeKAY: Thank you.

CLOUSE: Yes. Thank you, Vice Chair DeKay. So when, when you talk about inform or information, what are some of maybe the specifics? I mean, we've talked a lot about the cost savings, but what other types of things are-- that you're wanting to see that you would consider an informed decision?

BRUCE RIEKER: Well, I think-- and I'll go back to-- if I heard it right and my notes are right, when the governor mentioned this in his State of the State speech, he talked about modernizing how we handle water and our resources. So how do we do that? Is it process and procedures within these departments and if they're merged into one department? You know, there's no way we, we would step into-- gee, you know, let's see the organizational chart and we'll be able to tell who works well with each other, things like that. But as we move forward, how do we modernize the way we do this? I think that that's part of the discussion that our members would definitely like to be part of to figure out how we do this going forward. So I'm not here to say here's a declaration of here's what's wrong or here's what's right. I would sum it up with, one of our board members just flat out asked me why, and I didn't have the answer for it. But I'm learning here at this hearing. And so if you want to critic-- criticize us for what position we took, we just want to make sure that we're not comfortable until we're more comfortable. How's that? We get more information and then I can advise our board.

DeKAY: Senator Clouse.

CLOUSE: Thank you. That's better than the wedding analogy.

BRUCE RIEKER: Yeah, no kidding. But that was funny. Yeah. That's my takeaway from this hearing so far.

CLOUSE: Thank you.

DeKAY: Any other questions? No, I won't go there. With that, thank you.

BRUCE RIEKER: Thank you.

DeKAY: Next opponent.

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KURT BOGNER: Good afternoon. My name is Kurt Bogner, K-u-r-t B-o-g-n-e-r. And I am a member of the Environmental Quality Council, where I serve as the Vice Chairperson and represent heavy industry. And I'm submitting public comment on LB317 as an individual and not on behalf of the Environmental Quality Council, also known as EQC. I have almost 40 years experience in environmental compliance, both as a consultant and working in industry. While I support the merger of the DNR with the NDEE, I'm opposed to the change in LB317, Section 326, paragraph 7, to eliminate the role of the Environmental Quality Council, submitting a list of candidates to the governor from which the candidate-- or, the governor shall appoint a director. The Nebraska Legislature created the Environmental Quality Council in 1971 as a public body that adopts the rules and regulations for the Department of Environment and Energy to administer. The council consists of 17 members appointed to represent food products, conservation, agricultural processing, automotive or petroleum industries, chemical industry, heavy industry, power generating, livestock indu-- industry, crop production, labor, county government, municipal government, engineers, a physician knowledgeable in the health aspects of air, water, and land pollution, minority populations, and a biologist. The council was given the role of environmental oversight by the Legislature in two key areas: one, adopting environmental rules and regulations; and two, vetting candidates for the position of director for the NDEE. The director is responsible for the administration of the department and the rules and regulations adopted by the director-- or, by the council. In the second role, the EQC submits a list of candidates to the governor from which the governor shall appoint a director. I'm opposed to eliminating the role of the EQC and submitting names for the director to the governor for several reasons. First, there's the timing of the change. The proposed-- the change proposed in this bill is being made in the middle of the process of hiring a new director of the NDEE. The NDEE has been without a permanent director since April of 2024. During both EQC meetings in 2024, members have asked about the process for the search for the new director and when the EQC will be brought in on the process. The EQC has received no information or updates and has been unable to carry out our legislated duty. Now almost a full year after the vacancy with no involvement from the EQC in identifying candidates, a bill is put forth to eliminate the EQC's role in naming a director. I will mention that eliminating the role isn't required by

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the merger. Governor Pillen, you know, went through the, the changes and didn't mention the, the EQC responsibilities at all. And Jesse Bradley, same thing. He talked about the changes, but he didn't call out the, the role of the EQC. The change proposed in Section 326, paragraph 7 does not change the responsibilities or the authority of the governor. With or without the change in LB317, the governor is, has always been, and will always have the final decision in the naming of the director. Finally, after 50 years [INAUDIBLE] the council has served an important role in the selection of the director of the Department of Environment and Energy. When the EQC was created, the legislators had the foresight to involve the subject matter experts of the 17 members, providing oversight and input into director candidates. The regulation states the director shall be experienced in air, water, and land pollution control. Who better to evaluate the potential candidate's experience in air, water, and land pollution control than a panel of 17 individuals across various industries who have that same environmental experience? So in conclusion, I'm opposed to eliminating the vital role of the council to provide vetting and oversight of potential candidates and submitting a list of the candidates to the governor from which the governor shall appoint a director. Thank you.

DeKAY: Thank you. Are there any questions from the committee? Seeing none. Thank you.

KURT BOGNER: Thank you.

DeKAY: Next opponent.

AL DAVIS: Good afternoon, Senator DeKay, members of the Natural Resources Committee. My name is Al Davis. I'm here today representing 3,300 members of the Nebraska chapter of the Sierra Club to speak in opposition to the merger of the NDEE and NDR. We suspect that Governor Pillen believes that the merger of the two departments will result in cost savings to the taxpayer, but also will expedite the work that the two agencies perform. The tax savings may materialize down the road, but the merger will produce some dysfunction as the two entities consolidate. The fiscal note does not indicate any anticipated savings, but in fact additional expenditures in the first year as the merger occurs. And if there are no savings, then the only benefit to the merger would be a more responsive department. The

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environmental catastrophe at Mead, Nebraska with the AltEn ethanol plant was exacerbated by a slow response of NDEE to complaints of Mead residents and the ongoing blatant abuses by the owners of the plant who did not cease and desist when ordered to do so. The department finally began to earnestly work on that problem after media attention was focused on the community by Mead residents and entities like the Sierra Club. And years after the plant was closed, the waste product is still being removed from the site. Contamination to the water table is still an unknown. Reservoirs several miles from the site still have pesticide evidence, and all this in-- five years after the plant was closed. The situation is but one example of why further consolidation may not be in the best interests of the residents of Nebraska. The sluggish response of NDEE to issues at Mead does not reflect well on the agency, and the Sierra Club is concerned that further consolidation of two important agencies will be detrimental to the environment. The merger of the Department of Energy with the Department of Environmental Quality took place a few years ago with great fanfare about how beneficial this merger would be for the state. But since that time, the Energy function of the department has atrophied at a time when opportunities to strengthen the grid are needed and there are significant opportunities to generate and diversify farm income through renewable development. Surely we don't want the Department of Natural Resources to succumb to the same fate. Nebraska's agricultural industry is the engine of our economy. There are numerous challenges facing our state. More and more confined to animal feeding operations are being built in the state, which brings a newer set of problems about how to dispose of the mountains of waste while still protecting the water table. Some parts of the state are still experiencing significant drops in the water table itself, well, well-- which will eventually cripple agricultural production to those locations. And while some areas in the state are seeing a decline in nitrates in the water, many parts of the state still have levels of nitrate in the water which are extremely conster-- concerning. Lastly, Nebraskans are facing more impactful weather events as the planet warms and the risk of desertification increases. We need stronger agency response, and there are no guarantees that this merger will produce that. While there may be some potential for marginal budget reductions in this consolidating agency and the potential for more responsive departments, neither are significant enough to warrant the

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merger. We urge the committee to hold the bill or indefinitely postpone it. Thank you.

DeKAY: Thank you. Are there any questions from the committee? I have one, possibly. Do you think it's possible with the merger with NDEE and Department of Nat-- Natural Resources that-- using the Mead ethanol plant as an example that we're-- DNR is-- their main concern is with water that might expedite something happening at a faster pace? By-- rather than letting one agency--

AL DAVIS: You know, I think a lot of the problem with Mead had to do with the fact that the statutory rules and regulations were not in place to really do a better job there. But the residents of Mead brought this to the attention of NDEE several times before finally action was taken. That was inappropriate. And they're still-- we still have significant issues with nitrate issues and contamination in the water table there. So I guess I'm not quite clear on what you're asking me, Senator.

DeKAY: Well, I guess-- if I-- what-- way I'd like to ask it is, DNR is-- they're-- one of their main concerns is water quality and quantity. Where-- this is brought before D-- NDEE, would that-- bringing those two agencies together, wouldn't that help possibly expedite results happening with more influence from DNR in that aspect?

AL DAVIS: It could if they have-- if they have the staffing to do that and if they make that one of their central focuses, yes. But, you know, I think we have a lot of-- well, we have a lot of-- you heard earlier we have a lot of unem-- positions that haven't been filled in those departments. So unless those positions are filled, I don't see how we're going to get over some of these long-term problems, like, you know, getting out and testing the wells that are out there. I've heard-- I don't have, you know, written evidence of this, but I've heard that even though they're required to be investigated fairly regularly and tested, that-- those-- that's not in fact happening. Because of staffing issues.

DeKAY: OK. Thank you.

AL DAVIS: Thank you.

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DeKAY: Are there any other questions? Senator Moser.

MOSE: I didn't hear your whole question, but was his question to you about the lack of speed in the state response to the Mead contamination? Because there was some question of what our authority was and what we could and couldn't do. Right? And then we had some legislation to give us more teeth to try to address future situations like that.

AL DAVIS: Yes, that's true. That is true. And I, I did say that. He asked me if he, if he thought that the merger would facilitate a more responsive approach at Mead. And I, and I answered the question about statutory problems and said I think that probably is the case, but there is unfilled-- job responsibilities of the entities that are not being taken care of today, which is a concern.

MOSE: So does some of the response to those sorts of sit-- sort of situations, does the responsibility sometimes fall to the chief executive of the state? Or is that a responsibility of the director of the agencies? How do you see that?

AL DAVIS: The job descriptions for the agency heads I would think would cover those. And if they-- I mean, the-- certainly the governor can play a role. Governor has the [INAUDIBLE]--

MOSE: If, if--

AL DAVIS: --to do that.

MOSE: If, if, if he's really engaged, he'd probably call the director--

AL DAVIS: Yeah.

MOSE: --and say, hey, what are you doing about this? I'm getting people calling my office. And I want to know that you're doing the job that you're supposed to be doing.

AL DAVIS: Yes. And-- you know, I will say this about Mr. Bradley, he's been great to work with on, on the Mead, Mead issues.

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MOSEK: Yeah. And I-- my experience with Governor Pillen over the, I don't know, 40 years I've known him, he's a hands-on kind of guy. And if he doesn't like the way something's being run, you know, he, he's going to engage the people who work with him and make sure that it works right. Thank you.

DeKAY: Thank you. Any other questions? Seeing none. Thank you.

AL DAVIS: Thank you.

DeKAY: Next opponent.

JOHN HANSEN: Mr. Vice Chairman, members of the committee, good afternoon. For the record, my name is John Hansen, J-o-h-n; Hansen, H-a-n-s-e-n. I'm the President of Nebraska Farmers Union and also representing our organization today. So I have been involved in these kinds of issues either as an elected public official or as the head of a farm organization since 1974. So I come to these issues with a, with a, a lot of institutional memory and kind of-- and-- I think at least a, a usable understanding of who's supposed to be doing what where. And so when I look at this merger, I also, by virtue of the fact that I've been doing this for a long time-- this is not my first rodeo either in government or in business when it comes to the business of mergers. And I know that there's a world of difference between what is promised before and what happens after. And to not understand that or appreciate that is, I think, to not really do the due diligence you need to look clearly at what-- where we're going here and what we're doing. So we struggled the last time we were asked this question with this department relative to the Nebraska Energy Office and the, the Nebraska Department of Environmental Quality whether or not we should merge these two. And we had a, a, a good, positive working relationship with both entities. And we had a, a, a really intimate relationship with the Nebraska Energy Office, where we worked very closely with them on a lot of different issues. And so we were, we were promised that, that the perpetual underfunding of the Nebraska Energy Office would be fixed by the fact that you're coming into a much bigger entity that have a lot more resources and that they're going to be able to help do a lot more with the Energy Office than had been done, which had always been kind of crippled by a lack of funding. So if memory serves me-- which is always a risky thing in my case-- but to my memory, we had around 16 to 20 employees in the

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Nebraska Energy Office. When-- for most of the time, we worked with them. And right now, as near as I can tell-- and I could be wrong-- but with-- within the Nebraska Department of Environment and Energy, there's about seven employees who are tasked with carrying out the responsibilities of that particular entity. And they are hardworking folks. They do their jobs as very best they can. And there's nothing-- no knock whatsoever on them. But there is an allocation of total amount of capacity based on the resources that we have available. And when you only have 1/3 of the employees that you used to have, what happened to those folks? Did they get fired? Absolutely not. But attrition takes a toll. And those positions, once they were-- folks retired and, and moved on, weren't filled. And so the, the-- all-- despite all of the promises that were made then, the actions leave us skeptical of, of the process. And so when we look at the size of the two different agencies and we look at the size of, of the Nebraska Department of Environment and Energy, 252, and DNR at 112, when you're mixing regulatory responsibilities and statutory responsibilities-- and, yes, they're all water, but they're not all the same. They do different things. They have different roles. They have different responsibilities. And when you put them all together, my fear is that-- we have a very unique system in Nebraska. We don't do it the way they do it in most of the rest of the states where you have the folks in orange pickups come out and they come out from the state and they control both groundwater and surface water in our state. We not only have two different regulatory agencies that are responsible for doing that, we have one that does groundwater, and that's the NRDs. We have another one that does surface water. But we also have different legal systems that, that guide those different regulatory agencies. First in time, first in right goes to surface water. And we basically share the shortage in the case of groundwater. The case of groundwater management I think is a more fair regulatory approach. So I am suspicious of whether or not when you mix those and, and-- here, here comes the, the punch line-- is that we're going to muddy the regulatory rules by doing what we're doing. And I think it's going to be at the expense of groundwater management, and I think it's going to be at the expense of clarity of role and mission. And so whatever other operating efficiency we're going to get is going to be offset by the fact that we have folks in the very same department now who have competing and different regulatory responsibilities. And let's

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remember that the Department of Environmental Quality was designated to be the, the EPA, a state regulatory agency.

DeKAY: Can you wrap up in a sentence or two?

JOHN HANSEN: And I would just say that that regulatory responsibility of EPA gets carried on through-- the DEQ is now carried on through the Nebraska Department of Environment and Energy. And so they have federal responsibilities and regulatory obligations that do, in fact, in my opinion, put them in conflict with our other groundwater and other management responsibilities and needs in our state. Thank you.

DeKAY: Thank you. Any questions from the committee? Seeing none. Thank you.

JOHN HANSEN: Thank you.

DeKAY: Next opponent.

***CLAUDIA STEVENSON:** The League of Women Voters of Nebraska "supports clean drinking water for all Nebraskans and believes that measures should be in place to protect water from contamination and pollution". To accomplish this, the LWVNE also supports "funding of NDHHS, NeDNR, NRDs-- natural resource districts-- and NDEE at a level that adequately allows for staffing and programming to monitor water quality, investigate complaints, thoroughly assess permitting requests and follow up on violations to protect Nebraskans from contamination of both surface and groundwater. Budget shortfalls should not reduce essential water quality monitoring programs". We are concerned that the merger of the Nebraska Department of Natural Resources with the Nebraska Department of Environment and Energy will reduce funding and staffing to adequately monitor water quality across the state. In addition to water quality, the Resilient Soils and Water Quality Act, LB925, and the Nitrogen Reduction Incentive Program, LB1364 [SIC], were approved in 2024. These two additional programs need dedicated supervision. All of these programs are targeting water quality through soil health. We are concerned that the transition to a combined, single department will create uncertainties and delays while employee duties and assignments are being sorted out, procedures and databases are combined, and interfaces with the public are redesigned and then

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communicated. For these reasons the LWVNE opposes LB317 and urges the Natural Resources Committee not to advance the bill.

DeKAY: Seeing none. Anyone in the neutral capacity?

KATIE TORPY: Good afternoon, Senator DeKay and members of the Natural Resources Committee. My name is Katie Torpy, K-a-t-i-e T-o-r-p-y. Here today representing the Nature Conservancy. Although we are coming in neutral, we echo much of the opposition testimony you've heard earlier and express our concerns on behalf of our 500, 500-- 5,500-member house-- household members. As one of the leading conservation organizations operating in all 50 states and 73 countries, TNC is invested in ensuring access to healthy food and clean water for all without sacrificing the environment. The deliverables of both the Department of Environment and Energy and the Department of Natural Resources are equally mission critical to our objectives. We are concerned that rushing a merger of these two agencies will compromise the ability of each to des-- to deliver on the respective commitments. To date, the gains have not been suffi-- sufficiently articulated and the responsi-- responsibilities unclearly defined. To take one-- but one example as proposed, LB317's requirement for the position of chief water officer is that a successful candidate have five years of irrigation management background. Our view is that a broader water management experience is more appropriate. Why limit this requirement to irrigation when there is a breadth of uses to consider in the state, ranging from wetlands to public power and beyond? That quest-- that questions remain about whether this individual should also be an engineer speaks to the fact that there's-- a broader conversation is still warranted at this time. We respectfully advocate ahead of and not in response to issues that arise from the mer-- merger that a stakeholder process be initiated, and one that is not simply inclusive of members of the water management community but that covers the full breadth of the-- and purview of the two agencies in question. As other, others have highlighted, there are, are likely are synergies and pitfalls to excavate in that process. Perhaps as was proposed in LB163, create the Office of Climate Ap-- Action, which would add capacity to the NDEE, we find that the greater opportunity is to peel off some of the authorities from the NDEE and merge with DNR on the one hand and build on the success of the One Red application by flushing out the deliverables of the NDEE on the other. What is clear at this moment in time is that there are more questions than answers

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to some of the pressing issues of this merger. Please allow the space for these to be addressed with greater stakeholder involvement. Thank you.

DeKAY: Thank you. Are there any questions? Senator Clouse.

CLOUSE: Thank you, Vice Chair DeKay. So as you address LB163, the creation of the Office of Climate Action, what you're suggesting is to add employees. What we've heard about is understaffing. You're saying this would basically add staffing?

KATIE TORPY: That was my understanding of LB163, is that it would add to the NDEE.

CLOUSE: So you don't think they could cover it with their existing staffing?

KATIE TORPY: They've done a tremendous job with the staff that they have available to them. I know that they've-- that there's been some contracting out to cover the duties and responsibilities and that it's been a, a huge lift and that that lift will continue to grow with implementation of the priorities as described in the climate pollution reduction grant.

CLOUSE: OK. Thank you.

KATIE TORPY: Mm-hmm.

DeKAY: Thank you. Any other questions? Seeing none. Thank you.

KATIE TORPY: Thank you.

DeKAY: Anyone else in the neutral capacity? Go ahead. I'm sorry.

DEVIN BRUNDAGE: Good afternoon--

DeKAY: I was reading.

DEVIN BRUNDAGE: --Vice Chair DeKay and members of the Natural Resources 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 serve as the General Manager for the Central Nebraska Public and Irrigation

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District. And I'm providing testimony today on behalf of both Central and the Nebraska Power Association in the neutral capacity on LB317 as is currently drafted. Heard a lot of testimony already today. I'll try to be brief. Appreciate the work done both in preparing the bill and hopefully fostering an understanding of the potential that the, the merger has. Our district has a strong working relationship with the current Department of Natural Resources-- the department's leadership under Jesse Bradley-- and greatly values the col-- collaborative and innovative approach that has been fostered to help manage Nebraska's water resources for our constituents and for the state. With some of the transformational opportunities that are in front of us today, like the Perkins County Canal and even our, our own district's Kingsley Dam refacing project, maintaining that superb level of function and quality leadership is more important than ever. Most of my testimony really revolves around this professional engineering piece. As currently drafted and was mentioned, LB317 does not require the proposed chief water officer position to be a registered professional engineer. That is currently mandated for the director of the Department of Natural Resources. We do believe this technical expertise is critical for making sound science-based decisions regarding Ne-- Nebraska's water resources. And if LB317 is en-- enacted, need for this expertise will be even greater in this new leadership role. Just some of the high points of that-- the role with that the, the ethics requirements of the PE bring to the position: a commitment to public welfare at the highest priority objective to impartial decision-making, transparency, and integrity in all of the professional dealings, respect for the rights and responsibilities of all stakeholders. That chief water officer will pay-- play a crucial role in mentoring and developing young engineers within the department. Those young and upcoming engineers often need four years of experience under a professional engineer to gain their own professional credentials, and those are, are incredibly important to-- that mentor-- mentorship for developing those critical responsibilities that the department has today. Dam safety is probably a, a standout and one of those incredibly important functions. It is our district's number one priority. And our engineers greatly value the work that we do together with those professionals within the Department of Natural Resources today. So we do appreciate the efforts to make our government and agencies better and the work done here in preparing this legislation to see if LB317 does that. We strongly urge

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the committee to include that professional engineering requirement as an amendment to the bill to ensure that Nebraska's water resources continue to be managed at the highest level possible. Thank you for the opportunity. And be happy to entertain any questions you might have.

DeKAY: Senator Clouse.

CLOUSE: Yes. Thank you, Vice Chair DeKay. So if you had the engineering thing taken care of, you would still be neutral?

DEVIN BRUNDAGE: Yes, that's right.

CLOUSE: OK. Thank you.

DeKAY: Any other questions? Seeing none. Thank you.

DEVIN BRUNDAGE: Thank you.

DeKAY: Anyone else in the neutral capacity?

ALDEN ZUHLKE: My name is Alden Zuhlke, A-l-d-e-n Z-u-h-l-k-e. I serve as chairman of the EQC. This time I didn't give you any written testimony. I'm here neutral. You've had some really good discussion. The fact is the council-- you've gone through some of it. You understand we, we, we don't make decisions for the NDEE. You as the legislatures do. And then we work with them on changes or we do the solid waste. You know, you mentioned about the money for the-- doing the water systems and stuff. We review all of that. I'm the livestock section. Kurt got up here as the vice chair. You know, we have the 17 divisions. So it's-- I think that-- I think that part of it's been really good and we've had a good working relationship. We're excited to get Jesse on. As been stated, we haven't had a direct-- a full-time director since April of last year. Probably the same challenges as with everybody else in the room is even our 17 members we've had a hard time keeping that group formed. I mean, I've been on for, I don't know, 20-plus years. But either attrition or-- it's, it's not a huge time commitment, but it's, it's-- we only have-- right now, we've been getting by on a couple meetings a year, but the problem is you schedule that meeting at a certain time and to get 17 people all at that spot doesn't work the best. So we've had trouble ge-- keeping quorum. And I addressed that with Cecilia [PHONETIC] here last spring.

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And, and right at this time I believe we've got the council full. But then there's so many of us that go off every year, including myself. I'll decide here in a few weeks if I stay on or not. So really, I just wanted to introduce myself. And if you had specific questions about the council and what's happened in the last 20 years, I was there when we went together with Department of Energy. I was there when ethanol came into the picture and we had to go through regulating that. Been there through pipelines. Been there through many, many changes over the years. And overall, the agency is run real well. So I've kind of got my picture of the people around the state. I get around the state quite a bit and everybody-- Senator De-- DeKay, we meet at Monowi once in a while and we, we talk to the boss up there. Elsie controls the whole town. She gets her payment from the, the-- for being the sheriff and, and on down the list. But speaking of that payment deal, yeah, I-- if you read through there, I think we're getting paid, like, \$40, and we were-- set that at-- that's for-- I don't even know what, what they consider in a day's work, you know? I mean, if you ask somebody whether I should get paid today driving down here from Brunswick, Nebraska-- you know what? They can't answer it. So I don't know. That should be written in there. If you, if you're going to change the situation, you should change it anyway if-- even if you don't combine the agencies, but. Because you're going to have to address that with people, just as you as senators. Your, your time-- I, I mean, I'm well aware of it. So. I don't know-- if you had any questions.

DeKAY: Thank you. And for the record, that is for iced tea.

ALDEN ZUHLKE: Yeah.

CLOUSE: My question will be later, Senator DeKay.

DeKAY: Are there any questions from the committee? Seeing none. Thank you.

ALDEN ZUHLKE: Yeah. Thank you. And I'm, I'm-- you actually brought out a lot of information today, so it's very good. So.

DeKAY: Thank you.

ALDEN ZUHLKE: Yeah.

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DeKAY: Any other-- anybody else in the neutral capacity? Seeing none. As Senator Brandt comes up for his closing, comments for-- of the record: there were 2 proponents, 28 opponents, ADA testimony from the League of Women Voters, Claudia Stevenson of Ogallala, Nebraska.

BRANDT: Well, everybody got a good, thorough background on why we want to do this. And it will be an interesting discussion in committee. I'd like to reiterate what the governor said. Because of the-- we've got elevated nitrate levels that keep going up for 60 years. This is, this is-- we all know this is important. It's about water quality and a quantity task force that will be focused on a proactive approach to attack that problem. And this merger will be an enhancement and not a purge. And I, I, I think that's fairly evident when the question is of who are we eliminating. Well, we don't even know who we're eliminating because that isn't the plan of, of the merger. This bill is now 460 pages long. This started at 1,200 pages. And I'd like to thank the people at DNR and NDEE. Worked on this probably for a month-- their attorneys did. There was that much archaic language in it. So when you read those sections, a lot of that is just-- and you've heard some of these things, these task forces that are 40 years old that were never used. The E clause is in there simply because our fiscal year starts on July 1. The last day of our session is June 9. And if it was in the regular bill, it would be 90 days after June 9, therefore, it wouldn't go into effect until, what, September 9, more or less. And so that's the purpose for the E clause. And I've got the numbers right now. Today, DNR has 112 employees. NDEE has 252 employees. NDEE is currently the ninth largest agency. Combining them makes them the eighth largest agency. And back about four years ago, when they combined Energy and Environment, it added 42 employees to Environment. Environment DEQ was at 200. And then the next year, the combined agency was 242. Fiscal note was incorrect. Fiscal Office incorrectly read the, the-- NDEE sent in \$100,000, DNR sent in \$100,000. They added the two together and they were duplicative. So it truly is \$100,000. And that was the cost to get the word out to the people of Nebraska to say this is the name of the new agency. It's called branding. There will be an amendment forthcoming. We held off on doing that today because this is a lot of paper. So we're going to add back in the professional requirement for the PE-- for-- either the director or the assistant director of water. And the, the reason is twofold. One, to get that professional engineering degree back in there. But

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for those of you that don't know, when you hire a new, young engineer out of the university, for him to obtain his professional engineering degree, he needs to work for a PE. And Senator Hughes is an engineer and so she's aware of that. We're going to address Senator Clouse on the litter reduction. That's going to be addressed. Cindy [PHONETIC] is aware of that. And if there's anything else that the group feels needs to be in that amendment, we'd like to get everything into one amendment. But those are, are probably the main things. I didn't hear anybody come up here that doesn't like Jesse. OK. So we don't really have a problem there. Unlike a lot of agencies, unnamed agencies in the state where we each have our problem with. That's not a problem. In this room, everybody wants better water issues tomorrow than we have today. And I think we all share that goal in this room. And with that, I would take any questions from the committee.

DeKAY: Senator Moser.

MOSER: So the elephant in the room is, how do we move forward and we balance the use of water for agriculture and the use of water by the cities and then the use of water by industry? How does this merger, you feel, affect that? Does this make us more responsive to balancing those?

BRANDT: Sure. I mean, that's-- Nebraska's a unique state. We've got 23 NRDs. As far as I know, we're the only state in the nation that has these. Our local natural resources districts already-- address these water quantity and quality issues every day. The DNR currently is the oversight over those NRDs. So I don't think that function changes at all with the merger. The NDEE-- where-- the NDE function is one of regulatory, OK? They're the ones that issue the permits for the hog lagoons. They're the ones that come out to a city and says they're high in nitrates and they have to have a plan. So what probably would happen is there will be some overlap on some of those functions when you put those two agencies together. There will be people in NDEE that have some expertise that will help on that water quantity question and the quality [INAUDIBLE].

MOSER: Well, mine's really more quantity than quality. You need to have clean drinking water. That's a given. But I'm just saying going forward, there's going to be a battle between agricultural use, industrial use, and city use.

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BRANDT: Sure.

MOSER: And how would this merger affect how that battle plays out?

BRANDT: Well, I don't think it really affects it. That's going to be your local NRD. The reason I say that is, is my NRD is the Lower Big Blue NRD. We don't-- we are not fully appropriated. OK? But we--

MOSER: But do they-- they don't regulate industrial use of water or city use of water, right? They're only-- they are only involved in ag use of water.

BRANDT: Stick around for the next bill. We're going to have a discussion on that, on, on--

MOSER: We're going to go through all this again?

BRANDT: Yes. Yes. So-- somewhat.

MOSER: OK. Thank you.

BRANDT: There, there will be people in the next bill that can answer that question.

MOSER: OK. Thank you.

DeKAY: Senator Raybould.

RAYBOULD: Thank you, Senator Brandt, for bringing this all together. You know, you state that each one of those agencies will still be maintained and deliver their high quality level of service that they currently do. So I'm still struggling with the E clause, the emergency clause. I get the urgency about water. I'm all about using our water as respectfully and as efficiently and addressing the \$2.3 billion needs of the communities all across the state of Nebraska for clean, safe drinking water. I don't, I don't get the urgency of, like, putting this together. And to go back to the shotgun wedding, I don't think this is a urgent, rushed merger of bringing these departments together. I don't see-- I don't see that in the E clause. I see it in an urgency of the stakeholders to get together with the NRD to get them the assurances that they need that their functions are essential to the operation of the department. And I, I know that Mr. Bradley is,

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is fully aware of that and is totally on board. But, you know, the E clause. Like, why? I mean--

BRANDT: Well, the, the-- it simply--

RAYBOULD: It'll happen in that-- you know, even if we vote for it, it'll still happen. It'll still be designated in the appropriate, appropriate year of-- that it should be done.

BRANDT: It's, it's simply an administrative matter. The fiscal year starts July 1. It would be a lot cleaner for this agency to start July 1. That's why the E clause is there. But you're right. If we had to wait until September 9, the same thing would happen. But I don't know what you would gain.

RAYBOULD: Well, the fiscal note is in 2026. So what's the deal here?

BRANDT: Well, it's for, for--

RAYBOULD: The agencies will still be managing--

BRANDT: --fiscal year '26, which starts July 1.

RAYBOULD: Right.

BRANDT: Yeah.

RAYBOULD: But that doesn't-- they're saying that there will be no costs incurred during this first year of 2025.

BRANDT: We can follow up on that.

RAYBOULD: OK.

BRANDT: All right.

RAYBOULD: Thank you.

DeKAY: Any other questions? Senator Moser.

MOSER: Got really just kind of a comment along the lines of Senator Raybould's quote-- comment. You know, there's nothing you-- as you said, I don't believe there's anything to be gained by waiting until

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September 9 versus, you know, immediately after it passes. I think there's going to be a land rush for water. I think the governor's right. You know, we've got industrial users that use millions of gallons of water. You know, the-- their water use-- [INAUDIBLE] put this into the record. But, you know, it, it compares-- it's-- in magnitude, it's sometimes equal to or higher than irrigation. So you blame the ag people for pumping water to irrigate plants or crops, but the industrial usage of water is pretty significant in some places.

DeKAY: Any other questions? Seeing none. Thank you, Mr. Brandt.

BRANDT: Would the committee like to take maybe a ten-minute break before the next bill?

DeKAY: In just a second. This ends the hearing on LB317. We will take a five- to ten-minute break. Reconvene here at 3:55.

[BREAK]

DeKAY: OK. We will get started with our next bill, which is LB344. Senator Brandt, you're welcome to open.

BRANDT: Good afternoon, Vice Chair DeKay, members of the Natural Resources Committee. My name is Senator Tom Brandt. T-o-m B-r-a-n-d-t. I represent Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster counties. I bring to you today LB344, the De-- for the Department of Natural Resources. The bill proposes to ban Nebraska statute 46-740, which is a section of the Nebraska Groundwater Management Protection Act pertaining to groundwater allocations for municipalities and municipal-served and self-serve commercial or industrial users in the fully and overappropriated areas of the state of Nebraska. As originally enacted in 2006, this law created an, an exemption from imposing allocations for municipalities after November 1 of 2005, which was to apply for a 20-year period ending in 2026, at which point allocations may be set based on certain criteria in the statute. This bill seeks to remove the post-January 1, 2026 allocation for municipalities and seeks to clarify the post-January 1, 2026 allocations for large, municipal-served commercial or industrial users and purposes certain-- and proposes certain reporting requirements for large water users. Interim Director Jesse Bradley with the Department of Natural

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Resources and others will be testifying on the bill and can address any technical questions that you may have. And with that, I would take any questions, but the testifiers behind me will be able to really clarify what the purpose of this bill is.

DeKAY: OK. Thank you. Are there any questions? Senator Clouse.

CLOUSE: Thank you, Senator-- Vice Chair DeKay. So this is 25 million gallons consumptive use by any exte-- expansion for new municipal customer, correct?

BRANDT: Yes. It's a little confusing. They passed this law in 2005 and it had a 20-year sunset. The sunset is January 1st of '26. My understanding is everything up to that point is grandfathered in. Everything going forward then with this bill, over 25 million gallons would require mitigation. And it makes a difference on whether it's attached to the municipality or if it's a standalone out in the country. So think a packing plant that could be attached to your city or it could be remote from the city. And they'll be able to address specific questions on, on control.

CLOUSE: And consumptive use.

BRANDT: Yeah. Yeah.

DeKAY: Thank you. Any other questions? Seeing none. Are you going to stick around--

BRANDT: Yes.

DeKAY: --for closing? Thank you. We will have our first proponent.

JESSE BRADLEY: Good afternoon again, Vice Chair DeKay and members of the Natural Resource Committee. My name is Jesse Bradley, J-e-s-s-e B-r-a-d-l-e-y. I am Interim Director of the Department of Natural Resources and Interim Director of the Department of Environment and Energy. Thank you, Senator Brandt, for your introduction on LB344 today. As Senator Brandt mentioned, LB344 pertains to groundwater allocations for municipalities and commercial or industrial uer-- users in fully and overappropriated areas of Nebraska. These areas are generally represented by the Republican River Basin, Upper Niobrara River Basin, and Platte River Basin, upstream of the confluence with

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the Loup River near Columbus. And I've handed out a map there if you want to see that fully appropriated area, that's the map with the red on it. I want to make clear that these provisions do not apply-- do not apply-- to Lincoln, MUD, or other areas of the state that have not been classified as fully or overappropriated. The bill, the bill was brought this session by the department because certain parts of Section 46-740, which were enacted in 2006, are set to change beginning in 2026. The department has coordinated the development of this bill language with the impacted NRDs in the fully appropriated and overappropriated areas, some of which I believe will be providing testimony here today. The easiest way to break this bill down is to begin with what the law says today. Currently, Section 46-740 states that municipalities cannot be allocated unless such allocation was in place prior to November 1, 2005. But this is set to change in 2026, at which time municipalities could be allocated based on certain criteria in statute. LB344 strikes this section of law, meaning that no new allocations would be placed on municipalities after such date unless such allocations were in place prior to 2005. This allows for municipal growth that will continue to be offset by the state and NRDs as it is today. In exchange for this continued commitment from the state NRDs, the bill requires that new or expanding large industrial users connected to municipal supplies provide a mitigation plan to the state and the NRD. Large users are defined by levels greater than 25 million gallons annually, consistent with current definition in the statute. These large industries will be provided-- will be required to provide a mitigation plan to local NRDs, which includes annual water use, annual volume of water returned to the municipal system or discharged in other locations, and the source of water used to mitigate the new or expanded consumptive use associated with that industry, which all will be necessary to determine the magnitude of mitigation requirements for the new or expanded use. This information is necessary to ensure that proper mitigation for these new uses will be implemented in a manner consistent with NRD rules and regulations. Importantly, existing large-use industries that are not expanding their use will require no action. In summary, this bill is being brought forward to provide clarity and water supply certainty for municipalities in fully and overappropriated areas of the state while also ensuring that new large industries in these areas cannot saddle the state and NRDs with the cost of their mitigation requirements. I

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urge you to advance LB344 to General File. And I am happy to answer your questions. Thank you for your time.

DeKAY: Are there any questions? Senator Raybould.

RAYBOULD: Thank you, Mr. Bradley. You talk about large commercial users, and I'm, I'm just a little bit curious why there isn't an additional requirement to have a water reclamation plan for some of the large commercial users. Like, I'll, I'll just give an example, the, the Costco chicken plant-- processing plant in Fremont. They use one gallon of water per bird to process one bird, and they process 2 million birds a week. So that's 2 million gallons of water. And one of the questions I've always asked is, what's your water reclamation system? How are you reusing the water rather than-- I know that they have a system where they remove the contaminants or whatever and then reintroduce it in the Elkhorn River. But isn't-- shouldn't there be a re-- requirement on how they manage the water that they do use for their commercial purposes and try to find a way to reclaim it and use it again and again and again rather than just using it once, clean, and, and dump, you know?

JESSE BRADLEY: Yes. Good question. And I think the intention of the mitigation plan is to get at that. So the information we're getting from that municipality and that industry is intended to get at how much are you actually consuming versus, you know, how much are you pumping. So they, they pump out of the ground. And then to your point, they'll consume some of that. Maybe some of that gets cleaned and returned. We need to kind of know the net of all of that to make an informed opinion on what needs to be mitigated then in terms of its effect ultimately on streamflow.

RAYBOULD: So does it apply to the existing commercial users on how they have to measure and manage or no?

JESSE BRADLEY: This bill specifically, no. That, that require-- that doesn't change sort of what's available to those existing facilities. Certainly, you know, we are looking to try to improve our measurement all the time in terms of what those facilities are using. But no, there is no specific requirement on those facilities that are in existence if they, if they do not expand.

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RAYBOULD: OK. Thank you.

DeKAY: Senator Clouse.

CLOUSE: Thank you, Vice Chair-- Senator DeKay. This map is from 2011. Has it changed much since then?

JESSE BRADLEY: Yeah. The ma-- the map was created in 2011, but yeah. The fully appropriated and overappropriated designations really have not changed since about 2004, 2005 period.

CLOUSE: And my next question-- can I-- is-- if, if-- say you're in-- and I'm just going to throw out, for example, Buffalo County and they decide they want to put in a sustainable aviation fuels that uses just so much more water, would that move that into overappropriated? And then would that impact the municipality?

JESSE BRADLEY: In, in terms of-- you know, an example like a large industry coming in there--

CLOUSE: Not, not a municipal but out in the county.

JESSE BRADLEY: Yeah. So there's, there's another provision of the statute that we did not change, and that does deal with those large industries that are going to come in and have their own self-served well. We, we did not alter those provisions, but generally that, that industry that's going to come is going to have to work with the local NRD and identify mitigation or offset for that new expanded use. So that's in another part of the statute that we didn't amend in this, in this bill.

DeKAY: Any other-- Senator Moser.

MOSER: How do you see balancing the industrial, municipal, and agricultural uses of water? How do you-- how do you balance that to make sure that you're not overusing your natural resources?

JESSE BRADLEY: Yeah. That's a, that's a fantastic question and something we think about every day. I mean, I think-- you know, generally what I would tell you is we do this really today through what we call integrated management planning with the NRDs. So, you know, NRDs and the groundwater regulatory authority, or the surface

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water authority, we work through a planning process essentially to look at, you know, how much water we are using today and what kind of development we can allow and then how we want to incrementally go through that process. That also then sets out kind of all the ways in which we intend to balance those supplies amongst the various user categories that are--

MOSER: Currently, there's no charge for pumping water to anyone, right?

JESSE BRADLEY: There's no fee on water, correct.

MOSER: OK. Thank you.

DeKAY: Any other questions? Senator Clouse.

CLOUSE: Thank you, Vice Chair DeKay. Yes, we talked earlier. Generally, in municipalities, it's usually large cooling, things like that, and not a lot of consumptive use. Is, is that kind of what you're seeing in municipal usage around the state?

JESSE BRADLEY: Yeah. I think just overall in terms of municipal usage across the state, you know, there's some communities that are growing, there's some communities that are not and maybe even declining. I think on, on the, on the whole, you know, across, like, the Platte River Basin, not a huge uptick, you know, in terms of our overall municipal usage, which is why, again, we would be committed to continuing to offset that.

CLOUSE: Thank you.

DeKAY: Any other questions? Seeing none. Next proponent.

JESSE BRADLEY: Thank you.

DeKAY: Go ahead.

BRANDI FLYR: Good afternoon, Vice Chairman DeKay and members of the Natural Resources Committee. My name is Dr. Brandi Flyr, B-r-a-n-d-i F-l-y-r. I am a hydrologist with the Central Platte Natural Resources District. And I am testifying today for the Nebraska Association of Resources Districts in support of LB344. LB344 clarifies water

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mitigation responsibilities for increases in municipal and industrial water uses within the fully appropriated and overappropriated areas of the state after January 1, 2026. This bill allows communities the flexibility to manage their water supplies as they so choose while setting no limitations on municipal or economic growth. The bill also provides that municipalities may set their own allocations if desired, as well as offer water-- or, as well as offer water offsets to attract or retain businesses that consume large quantities of water. This bill sets forth a framework for collaboration between local natural resources districts and municipalities to ensure water mitigation and offsets are met while providing water certainty to both growing municipalities and industries. In fully appropriated and overappropriated areas of the state, any new or expanded water uses must be mitigated or offset to maintain the water balance within the basin. LB344 will ensure that the costs associated with water offsets that result from large-scale industrial and commercial users that hook into a municipal system do not become a tax burden applied to the local natural resources district taxpayers and the state of Nebraska. To state another way, without LB344, any large-scale commercial or industrial water users that hook into a municipal system could do so without permitting by the local natural resources district, nor the state, but the local natural resources district and the state would become responsible for mitigating the increases in water consumption. Current statutes treat commercial and industrial users within the fully and overappropriated areas that have their own wells or water systems quite differently than those that hook into municipal water systems. Commercial and industrial users that have their own wells are responsible for their water offsets while those that hook into municipal systems have no offset responsibilities. This bill provides a level playing field for all commercial or industrial large-scale users regardless of whether they have their own well system or utilize a municipal water system. Thank you for your time. And I respectfully ask for your support of LB344.

DeKAY: Thank you. Are there any questions? Seeing none. Thank you. Next proponent. Any other proponents? Seeing none. First opponent. Any opponents? Seeing none. Neutral capacity.

LASH CHAFFIN: Good afternoon, Senator DeKay, members of the committee. My name is Lash, L-a-s-h; Chaffin, C-h-a-f-f-i-n. I'm a representative of the League of Nebraska Municipalities. The-- I, I want to put a

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little context to why-- there's actually two laws at play here that, that will be changed if LB344 moves forward. And the, the first law is, is from 2025-- or, 2005 to January 1, 2026, there was a law put in place to deal with municipal water use. And then there was a second law put in place to deal with January 1, 2026 forward. And, and the language, as-- if you've attempted to read this, this, this bill, it, the old-- it was very, very confusing. And that's because this was highly negotiated. The-- and the context is, in, in the late '90s-- and the-- context is very, very important. And I'm a little surprised how few people are around from, from that era. In the late '90s and the early 2000s, Nebraska was getting sued by multiple states on water use. We had controversies with, with everybody. Nebraska had different water use systems than other states. It was a-- it was a-- it was a hot mess. And the governor-- Governor Johanns at the time-- appointed this-- a very sizable task force. And, and that task force, it had, it had members from all aspects of water use until-- that task force worked hard. That wa-- they, they met a lot. Some of the people in this room were on that task force. They met, they monthly. They met all across the state to try to deal with, with, with, with all the water controversy that was going on. And-- I tell you. There were some leaders on that task force too. They, they would set aside their own uses to look at Nebraska as a whole. And, and they did great work. And, and, and is a product of-- is-- I'm kind of mashing a little bit of it together. I'm oversimplifying it-- came LB962. And what LB962 was it authorized-- well, two things kind of simultaneously. It authorized the Department of Water Resources at the time to, to declare basins fully or overappropriated. And-- it-- there, there was a lot more to it. I'm oversimplifying it. Then it also gave the NRDs the ability to come up with integrated management plans to try to develop compliance with the basin designations. And-- so-- now-- and this, this was new. This was all new. This was-- and it was quite controversial at the time. And, and the governor's task force continued to, to, to meet and-- you know, in the Republican river basins, boy, they were, they were into this instantly. I mean, it was pretty clear they were going to be declared either fully or overappropriated in some of the Platte basins. But, but at the time, nobody really knew if the entire state would become a fully appropriated or overappropriated basin. There was a lot of uncertainty. The-- none of the rules for the IMPs had been, had been drafted. I think it was the-- even at the time-- and-- conversation

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with Director Bradley sort of spurred my memory on some of this. There were-- it was still unclear some of the regulations on how the IMPs went into place weren't yet done. So the task force continued to meet. They were working on a lot of-- a lot of these issues. And the cities came forward, and we said, look. Municipal use, including industrial use, is literally 2%, 3%, 4%, 5% of all of the use in the state. You're not going to solve the state's problems on municipal use. And not everybody agreed with that. But-- so there was a subcommittee formed of the larger task force. Now, that subcommittee, man, they worked hard. And I will say Senator Schrock and the Department of Water Resources staff were very good about allowing that subcommittee to work on the municipal issue, get its experts to talk to us from Kansas, how they dealt with their-- that, that committee worked hard to-- and, and they, they came up with essentially this two-tiered plan, this 20-year exemption. Then, then starting in 2026, cities would be given the greatest of their prior 20-year use, which probably most cities, I think in general, the use has gone down-- probably not everywhere. So I think it probably would've-- would be a, a year-- five, ten years ago would be the use. And then everything above that would-- could be subject to the regulations of a IMP if they're in a des-- designated area. So when I first saw this bill, my reaction was, oh, no. This is undoing the carefully negotiated deal that was struck 20 years ago. We're going to have to hire a hydrologist to defend it and everything. Although I, I've read it a thousand times and I think, I think this bill is a fair approximation of what that subcommittee-- and then the subcommittee had to get the approval of the larger committee as well before Senator Schrock would introduce a bill. I think it's a fair approximation of what that committee talked about. Because committee talked about large users extensively. We had ethanol plants come in and talk about their use. And I think this probably reflects what, what the plan was and modernizes it.

DeKAY: OK. Are there any questions?

CLOUSE: Thank you, Senator DeKay.

DeKAY: Senator Clouse.

CLOUSE: Mostly just, just a comment, that I think from an economic development perspective, probably needs to be clearly explained to cities when you're going to annex an area to support a large

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industrial customer that you better know what's going on if they're a large water consumer.

LASH CHAFFIN: You-- the-- you-- they do. And I, I think the cities along, along-- particularly along the Republicans-- are pretty well aware of this. They-- the, the-- there's a-- there, there's some modernization in LB344 that, that I think clarifies that a lot. Under the old system, I think it-- under the system that's currently going to take place in a few months-- well, eight months-- the, the-- first, there's going to be a calculation of overall municipal water use. Is there growth room in that? Which there might be, there might not be. I don't know. And potentially the NRD could base that calculation on gross pumping use, gross water use. The-- LB344 as drafted I think updates that concept of industrial water use to talk about consumptive use. And that was discussed 20 years ago, but that was actually not because of the lawsuits. And that was not necessarily a concept that was universally accepted for potential regulation. I think it's a comment. But at the time, there was a lot of uncertainty how all of this was going to play out. And, you know, some-- and some of those NRD managers and some of those NRD directors, they deserve a lot of credit in the history of, of Nebraska water law for how they chose to deal with those issues. And some of those, some of those early integrated management plans, I mean, I think they will stand the, the test of time as some of the most important legal documents in Nebraska. So, so I think with the new-- LB3-- even though I'm neutral, I'm sort of advocating for it here-- it has a positive element in that it, it does recognize the concept of consumptive use. Because some of those large industrial users, as Senator Raybould pointed out, a lot of the water does come back directly into the stream. And so mitigating the net amount is a much different issue. Working with the NRD-- if the NR-- it also-- some-- the NRD may choose not to require mitigation of these uses too. That is, that is a deci-- a decision of the NRD working in concert with the city, but.

DeKAY: Thank you. Any other questions?

CLOUSE: Yeah. The NRDs generally have a good working relationship with, with the municipals and it-- and also it will have protection of all those things.

LASH CHAFFIN: Yes.

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CLOUSE: Thank you, Mr. Chair.

DeKAY: Senator Moser.

MOSER: Maybe they should make those big industrial users pump that water upstream and run back by again. Let it filter out through the river on its way, recharge the aquifer.

LASH CHAFFIN: Senator, I'm sure someone has suggested that before.

DeKAY: Any other comments or questions? Senator Clouse.

CLOUSE: You're the city of power and, and progress, so you're, you're the ones going to have to do that.

MOSER: We'll pump it back to Kearney and keep water in Platte.

DeKAY: OK. Any other questions? Seeing none. Thank you.

LASH CHAFFIN: Thank you.

DeKAY: Anyone else in the neutral capacity? Seeing none. As Senator Brandt comes up to close, comments of record are-- were 2 proponents, 0 opponent, and 1 in the neutral capacity.

BRANDT: I think we had excellent testimony from all three testifiers. They explained it much better than I could have. It's kind of complex, but I think the experts in the room seem comfortable with the way the bill is written. I'm not aware of any pending amendments on this. So, I mean, the bill as it sits is probably what we're looking at going forward. So I guess I would take any questions.

DeKAY: Are there any questions? Seeing none. Thank you. That ends the hearing on LB344 and that ends our hearings in Natural Resources for the day.