

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

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

DORN: Myron Dorn from District 30.

DOVER: Robert Dover, District 19.

McDONNELL: Mike O'Donnell, LD 5, south Omaha.

WISHART: Anna Wishart, District 27, which is west Lincoln in Lancaster County.

LIPPINCOTT: Loren Lippincott, District 34.

ERDMAN: Steve Erdman, District 47.

CLEMENTS: Assisting the committee today is Tamara Hunt, our committee clerk. To my left is our fiscal analyst, Clint Verner. And our pages today, we have Malcolm from Omaha, a UNL student; and we're going to have Logan coming in also. At each entrance you'll find green testifier sheets. If you're planning on testifying today, please fill out a green testifier sheet and hand it to the committee clerk when you come up to testify. If you will not be testifying but want to go on record as having a position on a bill being heard today, there are white sign-in sheets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record after today's hearing. To better facilitate today's proceeding, I ask that you abide by the following procedures. Please silence your cell phones, electronic devices. Move to the front chairs when you're ready to testify. The order of testimony for bills will be introducer, proponent, opponent, neutral, and closing. When we hear testimony regarding agencies, we will first hear from a representative of the agency. Then we will hear testimony from anyone who wishes to speak on the agency's budget request. When you come to testify, spell your first and last name for the record before you testify. Be concise. We request that you limit your testimony to five minutes or less. Written materials may be distributed to the committee members as exhibits only while testimony is being offered. Hand them to the page for distribution when you come up to testify. If you have written testimony but do not have 12 copies now, please raise your hand now so the page can make copies

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

for you. And now we'll begin today's hearing with Agency 29,
Department of Natural Resources budget hearing. Welcome, Director.

[AGENCY HEARINGS]

CLEMENTS: Are there other testifiers regarding the Department of Natural Resources budget? Seeing none, we have position comments for the record. We have two proponents, no opponents, and no one in the neutral. And that concludes Agency 29. We will now switch to bill hearings, starting with LB125. We need to get our other notebooks out. All right. We'll open the hearing for LB125. Senator Bostelman, welcome.

BOSTELMAN: Good afternoon, Chairman Clements and the members of the Appropriations Committee. My name is Bruce Bostelman. I spell it B-r-u-c-e B-o-s-t-e-l-m-a-n. I represent Legislative District 23. I'm here today to introduce LB125. LB125 is a cleanup bill, which would allow the Surface Water Irrigation Fund to accrue interest. Last year the Legislature created the Surface Water Irrigation Infrastructure Fund and authorized a one-time transfer of \$50 million to the fund. However, the interest accrued by this fund is being credited to the General Fund. The bill ask is that the accrued amount goes into the Surface Water Irrigation Fund. With that, I'll appreciate any questions you may have.

CLEMENTS: Any questions? Senator Dorn.

DORN: Thank you, Senator Clements. Thank you for being here. Looks like by the fiscal note, that was approximately \$829,000 last year?

BOSTELMAN: From \$50 million.

DORN: Pardon?

BOSTELMAN: Yeah, from the \$50 million it was original, yeah.

CLEMENTS: Other questions? And this is the fund that we were talking to the director about. Correct?

BOSTELMAN: Correct. So the fund got set up. Take LR117 was what we looked at. There's over \$150 million in needs out there. We set up the \$50 million transfer to set this up. It's used by really the small users out there. They're the ones that really don't have the funding. They have a 10 percent match. And this really gives them the opportunity to know-- to work on repairing the facilities they have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

It gives them encourage-- encouragement to that and gets them down the road a little further.

CLEMENTS: Do you think it looks like the fund is going to be utilized?

BOSTELMAN: It's being utilized very well right now. So, yes, it's very much appreciated.

CLEMENTS: Senator Erdman.

ERDMAN: Thank you, Senator Clements. Thank you, Senator Bostelman. My people appreciate what you did. I don't know if they thanked you for it but I will. So wouldn't it be standard language? They just missed this when they put this together last year?

BOSTELMAN: It was in the bill. Actually, when it got put into the budget, it was left off. So we did-- I did have it in the bill.

ERDMAN: OK.

BOSTELMAN: However. We caught that this year that it did get left off. So we're just asking for it to be placed in there, as we requested last year.

ERDMAN: Thank you.

CLEMENTS: Other questions? Seeing none, thank you.

BOSTELMAN: Thank you.

CLEMENTS: Are there proponents for LB125?

SCOTT SNELL: Good afternoon. How are you?

CLEMENTS: Good afternoon.

SCOTT SNELL: I've got copies of the testimony coming around. It's one page. And you can flip over and see on the back. We tried to conserve a little bit of paper. Good afternoon, committee members and guests. My name is Scott Snell and that's spelled S-c-o-t-t S-n-e-l-l. And I'm a board member of the Nebraska State Irrigation Association, whom I will be representing today in my testimony in support of LB125. The Association is a nonprofit organization representing the interests of surface water irrigators. First, the Nebraska State Irrigation Association would like to thank Senator Bostelman. Thank you for creating the Surface Water Irrigation Infrastructure Fund benefiting

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

irrigation districts. We are very grateful to the Appropriations Committee for committing to establishing this fund last year as well. Thank you. In fact, two of our board members have been assisting statewide districts with their infrastructure plans as they work alongside of the Nebraska Department of Natural Resources, who are the custodians of the Surface Water Irrigation Infrastructure Fund. This fund is enabling districts to repair and rehabilitate aging infrastructure for the safe and efficient delivery of surface water, along with matching dollars such as federal BRIC and WaterSMART Grants. This creates the leveraging of both state and federal monies. The resulting investment that the Legislature has made will continue to support the importance of maintaining the conveyance of one of Nebraska's most precious natural resources. Second, the actions to create the fund are working as intended. One example is the Sargent Irrigation District on the Milburn Diversion Dam. I know that you guys talked a little bit or had questions for other folks. I'm going to give you a very specific example of how this is actually working. I talked with Matt Lukasiewicz, who is the general manager for Sargent, and he said, and I quote, The Milburn Diversion Dam is the only way to get irrigation water to our customers of 14,635 acres. There was excessive scoring on the concrete apron discovered during inspection, which created a hole approximately 3 feet wide and 12 inches deep. For fear of losing our structure, we could not use that part of the dam for the 2022 season. We accepted a bid from a contractor for repairs in the amount of \$987,460.06 plus in-kind work of \$32,863.95 for a total project cost of \$1,020,332.01. That equals another \$69.72 per acre in addition to what farmers are already paying, which is \$42 per acre. If we were to bond for this project, it would have been even more, with interest included. A project of this cost and being that it is our only diversion dam could have been devastating for the irrigation district had we not received funding through the Surface Water Irrigation Infrastructure Fund. This example is just one of many more projects in various stages of engineering, review, approval, and completion. In conclusion, the Nebraska State Irrigation Association fully supports LB125, providing that the current corpus of the infrastructure fund be affixed to interest bearing mechanisms administered by the State Investment Officer pursuant to Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. And further, that the investment earnings derived from this interest be credited to the existing corpus. Leveraging the corpus for investment gains makes for sound financial steward-- stewardship. On behalf of the Nebraska State Irrigation Association, thank you for this opportunity to testify, and I would welcome any questions that you might have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

CLEMENTS: Are there questions? Senator Erdman.

ERDMAN: Thank you, Senator Clements. Thanks for coming.

SCOTT SNELL: Yes, sir.

ERDMAN: So on this project, did you make an application with the-- with the-- from the fund?

SCOTT SNELL: Yes. That came directly from Matt Lukasiewicz and his team did.

ERDMAN: Through the grant, how much did you get?

SCOTT SNELL: I don't know exactly how much he got in particular, but he did give me this example of what it would have been. I do believe it's a little over \$1,000,000 when I talked to him on the phone.

ERDMAN: OK. So your irrigators, what kind of allotment do they get?

SCOTT SNELL: On that particular portion, I'm not quite sure. That's a Matt question, but I'll tell you what, I will find that out from Matt. I'll call him today and I'll get back with your office.

ERDMAN: I'm just curious [INAUDIBLE].

SCOTT SNELL: Yes, sir. I will find that out. Every district is different. Their stakeholders, their board of directors, have different ways of allotting different things and assessing what they're going to charge per acre.

ERDMAN: How does your-- how does it look this year?

SCOTT SNELL: What's that?

ERDMAN: How does your water supply look this year?

SCOTT SNELL: It looks very good. You know, we have a fair amount of good snowpack in the Rockies, from what I understand. And so as that starts to melt and gets through the system, I think that we're going to be in good shape. And that will also bode well for the groundwater as well, too, because there are, in some areas, hydrologic connections between both surface and groundwater. So we're thankful for the snow that they got out, out west for sure.

ERDMAN: Is that snowpack 130 percent of normal?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

SCOTT SNELL: That I don't know for sure on that number, but I will get that to you.

ERDMAN: I read that somewhere.

SCOTT SNELL: Yeah, it's, it's high. I know it's over 100.

ERDMAN: All right.

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

SCOTT SNELL: Thank you for your time.

CLEMENTS: Are there other proponents for LB125? Seeing none, is there anyone in opposition? Seeing none, is there anyone in a neutral capacity? Seeing none, Senator, you're welcome-- the senator waives closing. And we have no position comments. That will conclude LB125. We'll open the hearing for LB401. Senator Dorn. Good afternoon.

DORN: Good afternoon, members of the Appropriations Committee. My name is Myron Dorn, M-y-r-o-n D-o-r-n, and I represent District 30, which is all of Gage County and a portion of southeastern Lancaster County. I'm here today to present a funding proposal for LB401. The bill would appropriate a little over \$1 million from the General Fund over the next two years to fund the Nebraska Mesonet System. Mesonet is a meteorological term that describes a network of automated weather stations which are close enough to each other to make hourly observations and measure and track weather data. These automated stations provide information on conditions related to drought, flood, flood risk, and wind conditions. In the 1980s, Nebraska established a weather network across the state and local weather stations and was a leader in this area. I have given you an article from the Omaha World-Herald that talks about the purpose of the system and pictures of what the system looks like. In 1994, Oklahoma was interested in establishing a Mesonet system and looked to Nebraska for guidance in setting up the system in Oklahoma. Nebraska has fallen behind and this is unacceptable. An example of how a Mesonet system can be essential is a fire chief in Oklahoma was keeping an eye on brush fires in the area. He had concerns about when or if the winds would shift and put residents in the path of the fire. With the information from their Mesonet system, he was able to notify of the wind shift and was able to evacuate employees of a nearby Starbucks and move people out in time. The Mesonet system has many partners: the university's climate office, the Department of Natural Resources, local NRDs, cattlemen and farmers. A multitude of entities support,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

support the Mesonet system. It comes down to the question of funding. After I introduced the bill, it became obvious that there were many partners who need to be at a table to develop a long-term sustainable plan for a statewide Mesonet system. I have spoken to a few of those partners and we agree that the best way forward is to hold LB401 over the summer and conduct an interim study with all the partners involved. I would close by asking that the committee to hold LB401 and know that we will be back next year with a stronger plan to make Nebraska a leader again in the Mesonet system. But I'd be happy to answer any questions anybody had about this system. We've had a lot of interense-- interest in this since we brought it in and what's going on in the state. There are some testifiers from the cattlemen behind me to-- will talk a little bit about it also. But currently right now, all the people that we've worked with and been involved with, they have decided, too, that we really need to work on this over the summer, have an interim study and go that route so.

CLEMENTS: Are there questions? Seeing none, thank you, Senator.

DORN: Thank you.

CLEMENTS: We'll now invite proponents for LB401. Good afternoon.

KEN HERZ: Good afternoon, Chair Clements, members of the Appropriations Committee. My name is Ken Herz, K-e-n H-e-r-z. I am a past president of Nebraska Cattlemen and am here today to testify on behalf of Nebraska's Agricultural Leaders Working Group comprised of Nebraska Cattlemen, Nebraska Corn Growers Association, Nebraska Farm Bureau, Nebraska State Dairy Association, Nebraska Soybean Association, Nebraska Pork Producers, and Renewable Fuels. Nebraska. The Nebraska Mesonet System was established in the 1980s. Since its establishment, agriculture producers across the state rely on critical data that federal weather monitors do not collect. The data includes soil temperatures, soil moisture at various depths, drought information, cattle comfort scoring. This information is beneficial knowing when to plant, irrigate, harvest, and provides information which helps producers keep cattle comfortable in extreme weather conditions. These stations are equipped to observe weather conditions down to the second. The Nebraska Mesonet network is utilized by many partners such as the University of Nebraska, excuse me, the Nebraska Department of Natural Resources, agricultural producers, NRDs, USDA, National Weather Service, and the Forest Service. The above organizations use information to make timely business decisions regarding current conditions. In doing research on this legislation, we found insurance companies also use this system to gather

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

information on claims after windstorms, hail and other unprecedented [SIC] weather events. Our system from-- our system from our perspective is underfunded. We used to be the premier Mesonet network but have drastically fallen behind compared to surrounding states. We lack adequate coverage of the entire state to report accurately. To catch up will take additional funding to this bill. All of our neighboring states fund their state meso-- state network in some capacity. In 2022, 7 of the 30 stations were set to close in Nebraska, and in 2023, a possibility of additional 10 are set to close. Thank you, Senator Dorn, for recognizing the importance of the Mesonet system in Nebraska. We look forward to further discussions with all interested parties to ensure that funding needed for a robust Mesonet system in Nebraska will soon be obtained. Thank you and I will be happy to answer any questions

CLEMENTS: Are there questions? Senator Vargas.

VARGAS: Thank you, Chairman. Thank you for being here. I know you mentioned to catch up, it'll take additional funding. All of our neighboring states fund the state network in some capacity. If you-- do you have any information on what the funding looks like from the other-- what, what does funding look like in Iowa or Missouri or Kansas and other states around us?

KEN HERZ: I'm sorry, I can't provide that off the top of my head.

VARGAS: It's OK.

KEN HERZ: Our staff-- our staff can get that information to you.

VARGAS: OK.

KEN HERZ: I don't know what that level is. I know Oklahoma has a premier Mesonet system. I do believe there's is well over \$1.5 million.

VARGAS: OK. That is helpful and it might be something that happens in the interim study, but I appreciate any follow-up on that.

KEN HERZ: Yeah. And other states are struggling to find additional funds to improve their stations, too. I know Nebraska isn't the only one who is looking for additional funds to make a more robust system.

VARGAS: OK. Thank you.

KEN HERZ: Yep.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

CLEMENTS: Other questions? Senator Armendariz.

ARMENDARIZ: Thank you, Senator. Thanks for being here. Have you looked at private companies that use the system to help fund that? You mentioned the insurance companies use it. Could the media companies use it as well for data and information? You said it's more robust than what they already provide.

KEN HERZ: The information out there, most of the information out there is, is free to anybody who wants to use it. There are some private companies that will provide some weather data, but again, that's private for most of the times for their own use. And also the Nebraska Mesonet System is, is very highly regarded for their equipment that they have, the accuracy that they have. Fact is, there are other states that send their equipment to Nebraska to be calibrated because we have such a good resource here in the state for calibrating the equipment. So Nebraska is highly looked at as far as calibration. Nebraska, again, was the first one to develop it. But for, for the funding purposes, it's been kind of a hodgepodge of who funds the Mesonet system because it's not everybody's top priority. When budgets get tough, a lot of the money is cut back and that's a situation that we are in right now is that the different entities that did fund this, a lot of them are pulling the funding back a little bit. And so that is a reason that there are some stations are being closed.

ARMENDARIZ: Is there an opportunity to charge for that, for the industries that do find this valuable? So I would see insurance companies--

KEN HERZ: Yes.

ARMENDARIZ: --would find that information very valuable. The media companies find that very valuable. And do you think that's an opportunity to charge them for access to that?

KEN HERZ: Yes. I have been in discussion with some different entities. I have been in discussion with University of Nebraska. And that is one of the purposes of what we're trying to do is identify the organizations and entities that would be interested in, in, in helping support this Mesonet system because of the data that is collected. But I think to Senator Dorn's point is that it has to be something that is looked at and something that we try to get our hands around and come up with a complete basic package of, of all

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

entities that would help to fund this and then to come back to the Legislature.

CLEMENTS: All right. Seeing no other questions, thank you for your testimony. Are there additional proponents for LB401? Good afternoon.

TOM HOEGEMEYER: Good afternoon, Mr. Chairman and members of the Appropriations Committee. My name is Tom Hoegemeyer, T-o-m H-o-e-g-e-m-e-y-e-r, and I came to testify in support of LB401. I was not aware that Senator Dorn had recommended it to be held over and studied, but I am in support of that as well. I was born and raised on a farm in Dodge County, Nebraska. I earned a bachelor's degree in crop science and a Ph.D. at Iowa State. I owned and managed several ag businesses near Hooper and still own some farmland up there. I served several years as a professor of practice at UNL and I am a member of the Nebraska Climate Elder Legacy group. We are a group of individuals that are working to promote awareness, knowledge, and education on workable solutions to climate challenges for individuals, for businesses, and for the faith communities. As you all have probably observed in your lives, we are living with more environmental variability than we observed several decades ago. Since 2000, my land has been impacted by two record droughts, two 100-year floods, and one 500-year flood. The probabilities of that being a random set of events are pretty small. Simultaneously, ag is getting much more complex. And many decisions from irrigation timing to application of fertilizer and pesticide is increasingly data driven. Current as well as historical and predictive environmental conditions must be integrated with the producer's own data to optima-- optimize those economic returns while minimizing the impact on soils, water, and air. Current weather and climate data also provide early warning and management to the livestock operations, as the previous gentleman spoke to. This brings me to the importance of the Nebraska Mesonet System. Research over the last couple of decades has enabled producers to conserve groundwater as well as surface water, while minimizing runoff and leaching of nitrogen and pesticides into the groundwater. While the project started with only 4 stations, it expanded to more than 65 because of the wide environmental variation. The southeast Nebraska area is more similar to the Piedmont of Virginia than it is to western Nebraska. The area around Chadron is more similar to central Washington than it is to eastern Nebraska. We sit in the middle of this huge amount of variation that has to be measured and measured locally for good decisions to be made. The Mesonet data is also useful for numerous applications for citizens other than ag producers. The Mesonet data is used by city and rural water system managers, hydrologists, emergency managers for hazard

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

mitigation, energy system managers, drought assessment, snow and rainfall runoff for flooding potential, and so on. It's accessed every day by the NOAA national weather system for weather forecasts through watches and warnings, as well as basin-wide management decisions for things like the Republican River Compact and for fire weather data and lots of other uses. Oklahoma was so impressed by the Nebraska system they invested in 120 stations for an area with smaller footprint than we have. They-- I don't know what their funding is, but it's used regularly for tornado forecasting and for fire danger warnings in Oklahoma. The problem basically is that physical equipment and electronic sensors don't last forever and technology moves on. You know, it's hard to maintain old technology stuff. Funding has been piecemeal and unstable and at least eight stations have been already closed and others are-- and a lot of others are in danger of closing due to lack of funds to maintain and replace these older stations. The data quality is in serious danger of becoming impaired, reducing the ability to provide accurate and timely information to assess the potential hazards, and also to help producers and, you know, conserve the quality of groundwater as well as the amounts.

CLEMENTS: That's your time if you would wrap it up.

TOM HOEGEMEYER: I will do that. We're at an inflection point. We're either going to invest the money to maintain this or we're going to lose it. And I submit it's in the interest of Nebraska and all Nebraskans to maintain.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony.

TOM HOEGEMEYER: Thank you.

CLEMENTS: Other proponents for LB401. Good afternoon.

MONI USASZ: Hi. Thank you for listening to us day after day after day after day. We appreciate it. I'm Moni Usasz, M-o-n-i U-s-a-s-z, and I represent Nebraska Citizens Climate Lobby. We support LB401 as a way to build more resilient and prosperous communities across the state. Nebraskans pride ourselves on making good decisions, but decisions are only as good as the data and information available. We complain about the accuracy of meteorolo-- meteorologists' predictions, but what if there was a way to improve weather forecasting by gathering weather data closer to home? More accurate, accurate data is a boon to weather forecasters as well as producers, farm extension services,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

county emergency managers, firefighters and even school superintendents. Its economic value would be undeniable. So, so sadly, Nebraska is in this situation where we have the technology, but our Mesonet is degrading because it has no stable funding source and some of the weather stations have been removed. In a state where net farm income in Nebraska topped \$8 billion in 2021 and 2022, and that's from the Farm Bureau, funding for more accurate weather prediction is crucial. A regular funding source from the Legislature would be essential to get the program up and running. And what I read was that to cover Nebraska fully, you need 130 weather stations. But in its 31 years of existence, we've never reached that full capacity; 81 was the highest number. And right now there's 55 active stations. So many of the states are un-- many parts of the state are unprotected. And Oklahoma has a Mesonet that we can aspire to. While hourly U.S. weather station reports are important, the Oklahoma Mesonet provides weather forecasters with more frequent and more localized weather information. This information is critical because what Oklahoma says is some of the most destructive or least predictable weather occurs on a scale so small that it's easy to miss with the federal stations. So better, better forecasts of excessive rainfall and real-time measurement of soil moisture conditions will help improve lead time on flood warnings. For agriculture, it provides improved insect and disease advisories, spraying recommendations, irrigation scheduling, frost protection, planting and harvesting recommendations, and prescribed burn advisories. And it also--Mesonet also provides emergency managers with a tool they can use to make life-saving decisions. Fire managers, it gives them an opportunity to assess fire danger conditions over the next several days and monitor current conditions during a wildfire. My nephew worked as a firefighter in Idaho and he says these reports were exceedingly useful and accurate and it makes fighting fires and the firefighters themselves much safer. And Mesonets are just another form of adaptation to a changing climate. And this is according to Kevin Brinson, who's the director of the Delaware Environmental Monitoring System and the chair of the climatologists association's Mesonet committee-- communi-- committee. He sees weather data as driving so many decisions in our society and our economy-- and our economy that it's an essential need to have a Mesonet. So Nebraska needs a Mesonet that's better funded. We need to protect agriculture, businesses, and our communities with the data it provides, and we can't afford to wait. So please support LB401.

CLEMENTS: Do we have any questions?

MONI USASZ: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

CLEMENTS: Seeing none, thank you for your testimony. Additional proponents for LB401? Welcome.

MELISSA LANDIS: My name is Melissa Landis, M-e-l-i-s-s-a L-a-n-d-i-s. Point of clarification, I'm offering testimony on behalf of Lorrie Benson. Lorrie is ill with COVID, and so as I read her testimony, please keep in mind that the use of the I pronoun or all of the testimony reflects her wisdom, her professional path, and her life experience. As Lorrie and I serve on the First Plymouth Climate Action Team together, as chairperson and on behalf of the Climate Action Team for First Plymouth Congregational Church in Lincoln, I support LB401. Previous testifiers have talked about the value of Mesonet to agriculture and other business sectors, to fighting wildfires, to weather forecasting and other concerns. I echo all their comments, but I would like to talk about the importance of a robust Mesonet to the University of Nebraska and the students and why it matters to Nebraskans. For several years, I was an assistant director of the University of Nebraska Water Center and worked with researchers, Extension faculty, administrators, and students. And I don't claim to be an expert, but I am not speaking for the university. I am speaking on behalf of what I observed. When potential faculty and students, especially graduate students, consider where they work-- where to work or study, they closely look at the facilities and infrastructure that will support them. We have no trouble understanding how up-to-date laboratories or field sites such as the ag facility at Clay Center are attractive to potential faculty and students. We need to think about how the Mesonet can be viewed in the same way. The Mesonet and its data are critical across a range of disciplines, especially agronomy, horticulture, earth and atmospheric sciences, and natural resources. There are also valuable data to the disciplines of biological sciences, chemistry, biological systems engineering, and civil engineering. Nebraskans benefit when we have a faculty and student body on the ground in Nebraska looking closely at how changing weather and climate will impact agriculture, transportation, flood control, and other critical concerns. There's also-- there are also specific programs for undergraduate students that use the Mesonet, such as applied climate science, that help make the university attractive. Attracting and retaining talent, educated young people, has been a constant topic for three decades that I've been in Nebraska. If we can attract students, we can improve the chances they'll stay in Nebraska. This is particularly critical, in my opinion, for master's students, because increasingly we need additional education and experience they can bring to the jobs in this state. One of the things I learned when my daughter was doing

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

her training to become a physician was that after they complete training, doctors go into practice within an average of 100 miles of where they completed residency. I looked for similar statistics to other disciplines and couldn't find them. But it's not hard to imagine that we're a lot more likely to keep graduates, especially master's program grads, if they attend school here. The promise of a lower marginal income tax rate is unlikely to attract them, but a robust Mesonet and interdisciplinary research opportunities is a much better bet. And if we want good students, we need to start by attracting and retaining quality faculty. I've been told that LB401-- this statement doesn't reflect the interim study idea. I've been told that the LB401 is unlikely to be a priority bill and probably-- and thus is probably dead. But we, we know if you want to get this funded, you can. I strongly urge you to find the small amount of money it would take to protect the Mesonet. We need to consider this as basic infrastructure that will ultimately serve all Nebraskans and our economy. Finally, you may wonder why a church group cares about this. We believe in science and using it in a changing climate to protect God's people and planet. Thank you for considering our comments.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony. Are there other proponents for LB401? Seeing none, is anyone here in opposition? Seeing none, anyone here in the neutral capacity? Seeing none, Senator, you're welcome to close. He waives closing. And regarding LB401, we have position comments for the record: 32 proponents, no opponents, no one in the neutral. That concludes LB401. We will now open the hearing for LB506. Senator Bostar. Welcome.

BOSTAR: Thank you. Good afternoon, Chairman Clements, members of the Appropriations Committee. I'm Eliot Bostar. For the record, that's E-l-i-o-t B-o-s-t-a-r, representing Legislative District 29. I'm here today to present LB 506, a bill that appropriates \$200 million from federal funds, specifically the federal Coronavirus State Fiscal Recovery Fund in fiscal year 2023-2024 to the Department of Natural Resources. Department of Natural Resources will utilize those funds to award a grant to a city of the primary class in order to provide for water treatment plants, water treatment, transmission, distribution, land acquisition, permitting, water well fields, pumping, and transportation of water for the purpose of providing potable water to the municipality. Additionally, LB506 provides \$20 million from federal funds for small and rural communities to install reverse osmosis systems in community water systems where drinking water test levels are above ten parts per million of nitrate. And, if

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

appropriate, provides funds for use to install reverse osmosis systems if test levels for nitrate in drinking water pumped from private wells are above ten parts per million. Water infrastructure projects are ideally suited for the use of federal coronavirus-- Coronavirus State Fiscal Recovery Funds provided through the American Rescue Plan Act. These projects are one-time capital investments, and the cost of ongoing operations of the project can be sustained through rate revenues. You'll hear from testifiers behind me that securing a second water source for the city of Lincoln and surrounding communities is one of the most pressing objectives for the region. The Lincoln Transportation Utilities Department currently provides water to 291,677 residents. This number is projected to grow to nearly 470,000 by 2060. The process of securing a second water source is likely to take years to decades, but it is critical that we start now. The city of Lincoln requires both an increased quantity of water to support our growing population and critical infrastructure redundancy in the event of future disruption of our Platte River wellfield due to unforeseen circumstances such as a severe drought-- such as severe drought or flooding. As recently as 2019, the city of Lincoln experienced a crisis when our Platte River wellfields were threatened during historic flooding that spring. Representatives from the city of Lincoln will outline the specifics of how the city would allocate this funding and present cost estimates for connecting to surface water resources, as well as discussing the urgency for water redundancy. Thanks to an investment this committee made last session, the city of Lincoln was able to begin the process of surveying, design, and preliminary engineering for second water sources. A task force of 27 community members, business and agriculture leaders, and technical experts was assembled. The task force met for nine months to determine possible secondary water sources for the region, and after exhaustive research and deliberation, the task force provided this official recommendation for the community. We, the Water Source Advisory Council, recommend that the city pursue a wellfield and treatment facility along the Missouri River with direct transport of treated water to Lincoln. The Advisory Council also recommends that the city explore the potential impacts and benefits of a reservoir lake as proposed by the Legislature. It's vital to appreciate this is not merely a local or regional issue, but a statewide concern. As residential demand for water grows in southeast Nebraska, we will find ourselves in conflict with Nebraska's agricultural community that uses Platte River water for their livelihoods. If we don't take action within the decade, Platte River resources from potentially as far as the Panhandle currently being used for agriculture could be diverted to meet the needs of residential water use. This legislation

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

is about preserving the good life for both urban and rural communities alike. LB506 is an opportunity to create a southeast Nebraska water infrastructure network that can support and supply the entire region. Behind me you'll hear from the city of Waverly regarding how this legislation can address issues specifically faced by their community. The League of Municipalities will also be speaking about the regional opportunities this funding can create for smaller communities. I know that the city of Lincoln has already had conversations with the cities of Hickman, Waverly, and the village of Greenwood about potentially connecting to Lincoln's water supply and expects to have more conversation soon with surrounding communities. Southeast Nebraska needs LB506 for the long-term success of our smaller villages and cities, as well as our larger communities. It's imperative that we capture this opportunity to invest in the economic, agricultural, and public health of our future. We are unlikely to see such an infusion of federal dollars again, and it's crucial that these resources be used where they can do the most good. I encourage you to advance LB506 and I thank you for your time and attention. Be happy to answer any questions you might have.

BOSTAR: Are there questions? Seeing none, thank you.

BOSTAR: Thank you.

CLEMENTS: First proponent for LB506. Welcome. Good afternoon.

ELIZABETH ELLIOTT: Good afternoon, Chairman Clements and members of the Appropriations Committee. I'm Elizabeth Elliott, E-l-i-z-a-b-e-t-h E-l-l-i-o-t-t, director of Lincoln Transportation and Utilities. I'm here to testify in support of LB506. First, I want to thank Senator Bostar for introducing the bill and for his efforts to ensure that Nebraska residents and businesses have access to sustainable water resources, both now and into the future. Second, I would thank all of you for your support, not only this year but last year, in access to sustainable water resources and the initial \$20 million to help us continue our efforts to find a second water supply. As Director Riley said earlier today, water is the backbone of our society and our economy. Sustainable water resources have always been important to Lincoln and Nebraska, but the importance was underscored in 2019 by historic flooding along the Platte River in wake of a bomb cyclone. This event jarred our community from a water reliability standpoint. Lincoln draws its water from only one source, aquifers supported by the Platte River. The damage caused by that 2019 flood highlighted the vulnerability of our wells in the Platte River. We were lucky that although the damage was extensive, we were

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

still able to provide water to Lincoln residents and businesses. If additional steps are not taken, we may not be so lucky next time. This experience led us to accelerate our efforts to secure a second source of water. In May of 2022, we established a 27-member-- member Advisory Council, which included Senator Bostar and Senator Wishart to review all of our second source options. After nine months, nearly 40 hours' worth of work and reviewing 14 alternatives, the Advisory Council recommended that the city of Lincoln pursue a wellfield and treatment facility along the Missouri River with direct transport of treated water directly to Lincoln, as well as explore the potential impacts and benefits of a reservoir lake as proposed by the Nebraska Legislature. A second source of water supply not only provides Lincoln a redundant system, it also affords an opportunity to southeast Nebraska communities to connect to a regional water supply. It'll create economic development opportunities along the corridor. It'll grow jobs, attract businesses, and increase revenue for the state. But even more importantly, a second water source protects Nebraska farmers by eliminating the risk that a call on the river would halt irrigation as far west as the Sandhills. Thousands of acres across the state need water from the Platte, Loup, and Elkhorn Rivers to irrigate their crops. Having a second source of water lessens the chance that Lincoln would be forced to exercise its water rights during a water scarcity emergency. Investing in a second water source provides assurance to farmers that they will have water for their crops. This \$200 million investment from the state ARPA funds will protect and provide for the entire state. Because of our extensive planning, we are poised to strategically invest these funds by the end of 2026. Therefore, we ask for your support of LB506. And again, thank you for the opportunity to testify here today, and I would be happy to answer any questions you may have.

CLEMENTS: Are there questions? Senator Erdman.

ERDMAN: Thank you, Senator Clements. Thanks for coming. So do you know what the date is on Lincoln's water rights? Are they senior to all others?

ELIZABETH ELLIOTT: So water rights is a little tricky when it comes to municipalities. We are senior to most of the-- the water rights across the state. However, municipalities actually have an even higher priority and it's not necessarily tied to the timing of wells. So we would have a higher priority to most of the agricultural rights.

ERDMAN: Which ones wouldn't you have authority over?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

ELIZABETH ELLIOTT: There could be a few that were before us, but because of the municipality side of it, we potentially could impact those as well. I would probably leave the exact details to a water law expert, but as part of our Advisory Council, we did consult with water experts. The water expert and law-- water law expert came in and did address the Advisory Council as well to answer those types of questions.

ERDMAN: So you're saying Lincoln water rights supersedes the date and time when someone else may apply?

ELIZABETH ELLIOTT: There-- potentially, yes, because of the fact that it provides municipal domestic water for a community.

CLEMENTS: Other questions? Senator Wishart.

WISHART: Thank you, Liz, for being here today. Can you walk this committee through when-- when did we establish our first water source as a city and how long does that last?

ELIZABETH ELLIOTT: So the first water source actually was here in Lincoln, but because the water quality is too salty, we started about 100 years ago looking for another second water source at the time, which found our way to Ashland. So 99 years ago we started the plant in Ashland and it has served us ever since. And because of that foresight to own and operate that property, we've been able to expand over time, which has allowed us to continue operations well into the future.

WISHART: And then why is the date 2048 so important for Lincolnites and the state of Nebraska?

ELIZABETH ELLIOTT: Based on all of our water modeling, looking at new technology for plumbing fixtures, looking at our water conservation, looking at our hist-- the growth that we have seen historically and what's modeled ahead, right now, our wells and our treatment facility capacity are able to handle water quantity until 2048, where we expect at that point the population and the size of our treatment facility to be maxed out at that point.

WISHART: OK. Thank you. And then the expectation is how long if we are to build, when we are to build a second water source, how long will it last for Lincoln and the surrounding communities?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

ELIZABETH ELLIOTT: Because of the strategic-- strategic planning that we've been doing and the foresight and wanting to make sure this is here for us for 100 years and beyond to serve multiple generations.

WISHART: Fantastic. And then last question, the-- Senator Bostar is here today asking for \$200 million. Can you talk about what the total cost we expect the project to be and then what the city is doing to look for other funding opportunities so that we can meet that 2048 deadline?

ELIZABETH ELLIOTT: Based on the financial analysis and the engineering that we've done so far, we expect a second water source to cost in today's dollars around \$1.39 billion. It's going to take about 15 to 20 years to build. So what we have been doing for the last number of years is we have been putting into our current rate model money to set aside for the second water source. We've also continued to leverage both state and federal funds. Obviously, the \$20 million that we received last year went directly to that. About 3 to 4 million of that 20 went to-- is going to finding the exact location of the wellfield. And then we also have about \$16 million of the last year's \$20 million to go towards adding horizontal collector well number 5, which will get us that quantity to the 2048 while we have time to build the second water source. So we'll continue to add this into our rate modeling so we're preparing and saving funds. We also will continue to leverage grants, state and federal funding from here, as well as looking to build that into our rate models.

WISHART: Thank you.

CLEMENTS: Other questions? Seeing none, thank you.

ELIZABETH ELLIOTT: Thank you.

CLEMENTS: Next proponent for LB506. Welcome.

BRUCE BOHRER: Yeah. Thank you. Good afternoon, Chairman Clements and members of the Appropriations Committee. I'm Bruce Bohrer. For the record, that is spelled B-r-u-c-e B-o-h-r-e-r. And it's my pleasure to be in front of you today on behalf of the Lincoln Chamber of Commerce, the Lincoln Independent Business Association, and the Nebraska Chamber of Commerce in support of Senator Eliot Bostar's LB506, which, as you know, directs \$200 million of federal funding for a grant program to fund actions needed to secure a secondary water source, which, as you heard, is the Missouri River groundwater wellfield for Lincoln and the southeast Nebraska region. I say our

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

region because, as you heard, Lincoln has embarked on-- as we've embarked on this analysis, we've heard from other communities, been approached by smaller communities and as you just heard from director and about the possibilities of tapping into this source. Thank you. And the Chamber views this as an opportunity for more regional partnerships for basic needs, but also growth opportunities in the future. Additionally, LB506 directs \$20 million for federal funding to provide grants for small and rural communities to install reverse osmosis systems where nitrate levels are high. As you all know and as you just heard, water resources are intertwined with our state's history and development for many aspects: agricultural, industrial, recreational, commercial, residential to name a few. I have absolutely no doubt that water will continue to play a central role in Nebraska's development into the future. I have some history here. Since 1930, Lincoln has sourced our municipal water from the Platte River near Ashland. So I'm not going to go into all of that since you already heard from Director Liz Elliott. This is obviously after the floods, it has been a more immediate conversation. I think it first showed up in our water master plan in 2014, so about 20 years ago, again in 2020, and then after-- after the floods, obviously it got to be a more immediate discussion. And you just heard about the mayor's Water resource or Water Source Advisory Council, which was chaired by Susan Seacrest, the founder and former president of Nebraska Groundwater Foundation, and also Senator Bostar. I won't go through all that too. You just heard of the-- the work of the Advisory Committee. In closing, I want to mention that the Chamber organizes what we refer to as a community collaboration, meeting with our Lincoln and Lancaster County delegation of senators and the city and county elected leaders and business community leaders. This issue and the legislation that's been brought forward to you has been a high priority discussion and been prioritized by that community group. Along with that, our board adopted as part of our policy agenda for 2023, our state policy agenda, this issue; and it's included within our Vitality Lincoln Strategic Plan, which we just released. So it's a vitally important issue for our continued growth, not only Lincoln, but, as you heard, the region. And the Lincoln Chamber appreciates and thanks Senator Bostar for introducing this legislative proposal. And I will close with that and be happy to answer any questions you might have.

CLEMENTS: Are there questions?

BRUCE BOHRER: Thank you very much.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

CLEMENTS: Thank you for your testimony. Additional proponents for LB506. Welcome.

DAVE LANDIS: Thank you. Chair Clements, members of the Appropriation Committee, my name is Dave Landis, D-a-v-e L-a-n-d-i-s. I'm here today because I'm the chair of the Lower Platte South Natural Resources District, which in the six counties that we have has a good deal of this southeast Nebraska swath between the Missouri River and the city of Lincoln, and of course a number of towns in there and rural systems of water. We're here as supporters of LB506 and we speak with the permission of the Nebraska Association of Resource Districts as their proponent as well. And let the record reflect that, if you would. First, we want to say thank you. You helped us with some planning money that allowed us to get that planning process off the ground. And you can tell how seriously we took that. And we're grateful for the assistance that we got in making that happen. Water about as an important resource as we've got. You-- between soil and water and agriculture, it's the backbone of Nebraska. The project before you is LB506 is the largest and potentially most important project for the state's second largest city and southeast Nebraska for generations to come. We're looking at multiple generations having their water problems solved with this project. Securing a second source of water is necessary to ensure economic and environmental resilience of the southeast area of Nebraska and to make it secure for, as we say, generations. Without the support for a water treatment plant, for transmission pipes, for rights of way, for wellfields and the related activities, the city of Lincoln may have to draw more water from the already limited Platte River, which could further impact endangered species and upstream users. It's true, and I think it's the source of the constitution, municipal water supplies are superior to agricultural supplies. And if there is a conflict, it's not first in time. It's the use to which the water is put in that context, which means we would be endangering our agricultural interests to the west because they're upstream and we would be moving upstream. The investment will provide assurances for Lincoln and southeast Nebraska through 2075. And we also want to say that we support the \$20 million for reverse osmosis systems, either private or public, that the last section of the bill reflects on. Reverse osmosis is a way of dealing with the very thorny problem of nitrates in the water, and nitrates in the water is poisonous. It makes the water unusable for many of the purposes for which we would use it. And it's-- it's a problem that is better solved before there ever is a problem. But that's not possible now. And we have areas with high nitrates and there are limited ways of dealing with that problem and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

reverse osmosis is one of them. So we like that part of the bill too. Thank you for your time and I was glad I didn't get to the yellow light.

CLEMENTS: Are there questions? Senator Erdman.

ERDMAN: Thank you. Thank you, Senator Clements. Thank you, Mr. Landis, for being here. So just let me be clear on this. My question is, so if-- if push came to shove, the cities would have superior or senior rights to the water?

DAVE LANDIS: I am telling you what I believe the law is without being an expert. But I've heard that on more than one occasion in hearing rooms like this.

ERDMAN: I believe it was George Washington once said, if you destroy the cities, they'll rebuild again. If you destroy the farms, weeds will grow in the streets of the cities. The farms were here long before the cities.

DAVE LANDIS: Well, let me quote its source is William Jennings Bryan--

ERDMAN: OK, well, whoever it was.

DAVE LANDIS: --a Democrat who ran three times for the presidency of the United States and never succeeded.

ERDMAN: Never succeeded.

CLEMENTS: Senator Dorn.

DORN: Thank you, Senator Clements. Thank you for being here, Senator Landis. Where this is going to be in the area or connect to the Missouri River, is the South Platte, Lower South Platte, is that part of your NRD or is this some other NRD? Or my question centers on will they need permits from you and to get into the Missouri River? Who-- will they need permits from the Corps?

DAVE LANDIS: We're probably going to have to have the latter. I'm going to turn around and see if I can see Paul.

DORN: You can send some information later.

DAVE LANDIS: I'm not sure that I know exactly where on the Missouri River.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

DORN: Yeah.

DAVE LANDIS: And we don't go all that way with that. I'm wondering if I should-- Paul, the wellfield in Missouri, I'm thinking it's not in our NRD.

_____ : It's between Nebraska City and Plattsmouth. It's likely in our unit, but it hasn't been decided.

DAVE LANDIS: OK.

DORN: But that's probably not in your NRD then.

DAVE LANDIS: I don't think so.

DORN: That area--

DAVE LANDIS: No.

DORN: --because you're more in the Lincoln area.

DAVE LANDIS: For the Lower Platte South.

DORN: Will they need permits from you or you don't know at this time yet?

DAVE LANDIS: I'm going to say that they're-- they're going to need to go to the NRD of that area. But I also heard that say we have not determined where exactly on the Missouri River it is, which leaves an uncertainty in the answer that you get.

DORN: Yeah. Thank you.

CLEMENTS: Other questions? Senator Lippincott.

LIPPINCOTT: I can tell you with certainty that it was Cowper the poet who said that God made the country; man made the towns.

DAVE LANDIS: Thank you. I have-- I wouldn't dispute that, nor would I dispute the wisdom of what's being said by it.

LIPPINCOTT: Thank you, sir.

CLEMENTS: Other questions? Thank you for your testimony.

DAVE LANDIS: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

CLEMENTS: Are there other proponents for LB506? Welcome.

STEPHANIE FISHER: Good afternoon. Chairman Clements and members of the Appropriations Committee, my name is Stephanie Fisher, S-t-e-p-h-a-n-i-e F-i-s-h-e-r, and I serve as the city administrator for the city of Waverly. I'm here to testify on behalf of Waverly in support of LB506. Our community may be facing serious obstacles to clean and plentiful drinking water as a result of the rising nitrate contamination in our current-- in our present wells. We have recently developed a drinking water protection management plan through consultation with local stakeholders and the public for the primary purpose of protecting the city's drinking water from current and future contamination, primarily from nitrates. This effort has included technical and financial assistance from the Lower Platte South Natural Resources District, the Nebraska Department of Environment and Energy, and the University of Nebraska at Lincoln. Nitrate concentrations in one of the city's eight drinking water wells have exceeded the Environmental Protection Agency's maximum contaminant level of ten milligrams per liter a few times in the last five years. Other municipal wells have also shown increasing nitrate concentrations. Thankfully, we have other wells with which we blend our water and that has been able to keep our drinking water safe for our community. But if the nitrate levels continue to rise, the city would be forced to treat drinking water for nitrates, an extremely costly endeavor. Additionally, this could also force additional regulations on to farmers in our wellhead protection area in order to help lower the nitrate levels. A nitrate reduction target has been identified by the Lower Platte South Natural Resource District. Our city and the surrounding area are currently working to reduce nitrate loading from human activity by 63 percent. In order to achieve and maintain groundwater nitrate concentrations at or below these identified levels, public education and outreach, along with stakeholder engagement and a volunteer approach of adopting best management practices for nitrate application are being implemented. This may not be enough and the city will need to develop alternate-- alternate solutions for safe drinking water. The opportunities afforded in LB506 could benefit our community in a number of ways. Waverly may be able to benefit from the funding specifically allocated for reverse osmosis nitrate treatment if our current efforts to lower nitrate concentrations are unsuccessful. Additionally, if Lincoln is able to connect to a secondary water source, Waverly may be in a position to purchase drinking water directly from Lincoln in order to meet our needs. It would provide safe drinking water both in a capacity nature and also to the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

redundancy effect for the city of Waverly. It is clear that our community needs to continue looking into the future of our water access. LB506 represents an opportunity to begin construction on the southeast Nebraska water infrastructure network that can supply the entire region. This legislation is a chance not just for Lincoln, but for the surrounding communities as well to secure long-term, safe drinking water. Southeast Nebraska needs this funding in order to protect our growing small communities as well as our urban centers. I ask for your continued support of LB506, and thank you for your time. And I would be happy to answer any questions that you may have.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony.

STEPHANIE FISHER: Thanks.

CLEMENTS: Additional proponents for LB506. Good afternoon.

LYNN REX: Good afternoon. Senator Clements, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. It's a privilege to be here today to talk to you about this very important project. I served on the mayor's task force. I was very pleased to do that with the Advisory Council and 26 other individuals from stakeholders all over this area, including ag. And I think probably one of the most important beneficiaries of this effort will be ag. One of the reasons why that's the case is just basically because of not only preferences in the fact that this really puts the city of Lincoln in a position to not have to use their water rights and impact ag rights. And I would indicate that Don Blankenau is here. He's an attorney that's an expert on water law, specifically Article XV, Section 6, if you have those questions. But what I'd really like to underscore is my testimony today is not just on behalf of the League of Nebraska Municipalities, but also the city of Hickman. They intended to be here today, but they were unable to be here because of another commitment. But not just that as well, not just that municipality, but the surrounding areas. The League is contacted on a regular basis from municipalities in this jurisdiction about what can Lincoln do to partner. And Lincoln has always partnered and been collaborative with its municipalities in Lancaster County, in the surrounding area. This is a tremendous opportunity for southeast Nebraska. And of the 14 alternatives initially presented to the committee over a period of nine months almost, during that time frame, the civic engagement was very intense. I brought my little book in case you had any questions, but to tell you that it was weighted voting. It was a very, very clear choice in terms of what

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

the best approach was in terms of Lincoln's second water source. So the first 7 alternatives of the 14 really readily eliminated just because they weren't feasible and the other seven were considered in-- diligently with expertise of the city of Lincoln. It was the most extensive civic engagement process within which I've ever been involved, and I have partnered with a number of municipalities and organizations for a number of years. So again, happy to basically support this, really appreciate Senator Bostar's leadership, Senator Wishart, your leadership in this important effort, and the city of Lincoln and the way in which they have reached out to surrounding communities to make sure that this is not just about Lincoln. It is about the surrounding communities. It is about agriculture. It is about making sure that Lincoln has a second source that will go for the next 50 years. With that, I'm happy to answer any questions that you might have.

CLEMENTS: Are there questions? Seeing none, thank you.

LYNN REX: Thank you very much.

CLEMENTS: Are there other proponents for LB506? Seeing none, is anyone here in opposition? Seeing none, is anyone here that would like to testify in the neutral capacity? Welcome.

ANDREW DUNKLEY: Thank you. Good afternoon. My name is Andrew Dunkley, A-n-d-r-e-w D-u-n-k-l-e-y, and I am with the Nebraska Farm Bureau, testifying today on LB506 in a neutral capacity, although I do try to avoid testifying in a neutral capacity in front of Senator Erdman normally. But we appreciate Senator Bostar's efforts to represent his constituents in bringing this bill. As Nebraska Farm Bureau represents more rural and agricultural members, our neutral stance in this bill stems from the funding provided for the city of Lincoln. We do not normally weigh in on urban issues, and that is where the-- the neutral stance comes into this. However, it is important for you to know that I represented the Nebraska Farm Bureau and agriculture on the Water 2.0, Securing Lincoln's Second Water Source Council that was previously mentioned. We are very appreciative of the nine-month process that thoroughly evaluated options for a second water source for Lincoln. This was invaluable to agriculture to understand the decision-making process for a project such as this. The recommendation provided to the mayor was the best option for agriculture and would even benefit rural communities between Lincoln and-- and the water source as mentioned by previous testifiers. A big concern of-- of some of the options were the up-- the upstream effects to water users. That's obviously top of mind and I'm

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

confident in where the council landed on-- on the recommendation to the mayor. Senator Bostar's-- Bostar's efforts to support not only the city of Lincoln but Nebraska agriculture were frequent and very appreciated. The contributions of Senator Wishart were also key and we thank her as well. We do support the \$20 million allocation in LB506 to private landowners using groundwater as their drinking water for reverse osmosis machines. Solving the issue of nitrates in drinking water will require short- and long-term solutions, as you've heard from me before. First and foremost, the way to address nitrate levels in drinking water is clear-cut. Reverse osmosis treatment of the water is the swiftest and most economical way to address drinking water quality. Granted, cleaning up the drinking water this way is a Band-Aid, but it is a necessary one right now. Long-term solutions are much more complicated and one size will not fit all-- fit all. It is for that reason we support Governor Pillen's \$1 million in his budget, as you heard yesterday in the NDEE testimony, to study how best to address nitrates in drinking water in a state that is as varied as Nebraska. Nebraska Farm Bureau wants clean drinking water for every person in the state, and reverse osmosis is a way to ensure that for homes with levels of nitrates more than ten parts per million. We are clear in support of the Legislature further funding for NDEE's reverse osmosis program. And thank you and I'm open for any questions that you may have.

CLEMENTS: Are there questions? Senator Erdman.

ERDMAN: Thank you, Senator Clements. So, Mr. Dunkley, tell me which part of this testimony is neutral.

ANDREW DUNKLEY: I'm-- we are in a neutral capacity as far as the funding for the-- for the city of Lincoln.

ERDMAN: OK. Here's the statement. We, Farm Bureau, do support the \$20 million allocation in LB506 for private landowners using groundwater for their drinking water, reverse osmosis machines. You go on to say you support Governor Pillen's \$1 million to study the nitrates in drinking water. There's not one part of this testimony that's neutral. It's all in support of the bill. Why didn't you come in, in support?

ANDREW DUNKLEY: Well, again, the \$20 million was in support of-- of a portion of the bill, not the large majority of the bill. The \$1 million as in the Governor's budget that is in the Governor's budget, not the large--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

ERDMAN: OK.

ANDREW DUNKLEY: --part of LB506.

ERDMAN: All right. So if we totally disregard this bill, we don't advance this bill at all, you're OK with that?

ANDREW DUNKLEY: I-- we are in a neutral capacity on this bill and I'm-- we're representing the members.

ERDMAN: What about your statement about supporting the osmosis?

ANDREW DUNKLEY: We would love support for the-- for the osmosis. There are other bills out there to support reverse osmosis as well. But-- and we wanted to-- to support and thank Senator for his efforts. Again, it's-- we are neither or nor against the-- in capacity for the large majority of the bill.

ERDMAN: I think you made my point. You're in the wrong position. You need to be in support. Thank you.

ANDREW DUNKLEY: Thank you.

CLEMENTS: Are there other questions? Seeing none, thank you--

ANDREW DUNKLEY: Thank you.

CLEMENTS: --for your testimony. Is there anyone else in the neutral capacity? Seeing none, Senator Bostar, you're welcome to close.

BOSTAR: Thank you, Chairman Clements and members of the committee. I don't know why anyone comes in here neutral.

ERDMAN: I don't either.

BOSTAR: I appreciate your time listening to this. You know, and, Senator Erdman, I was surprised as well to hear about how the water rights are actually structured. I was always sort of under the impression that it was first in time, first in right. But then in working on this project, learning that actually that's-- that's only true with like users. So if it's an ag right versus an ag right, then that would be the case. Time would mean everything. But when it's unlike users, then that really matters. And so my understanding is if it's, you know, municipal residential, essentially consumption, water is superior rights to all ag rights, regardless on time. And then interestingly, ag rights are superior to all manufacturing rights,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

regardless of type. So it's a fascinating provisions that we have. But I think that lends itself to why this is also important. And it's been said and I will, I apologize, repeat something and I will say it again, though. What we're talking about is Lincoln's water rights so are superior to all ag. But this-- the scope of this, the area of irrigators is huge. It's because it's not just if you are pulling from the Platte River. Effectively, it's if you are in the Platte River watershed, you are subject to this. You could be shut off. If we got to a point where Lincoln's water supply became imperiled. And, you know, I certainly don't have to tell really anyone on this committee this, but we must not let that happen, essentially at all costs. We can't afford as a state to have our cities shutting down irrigation agriculture from the Missouri River to the Wyoming border, because that's what could happen. This bill is about the entire state of Nebraska. The funding requested is a fraction of what will have to be spent to do this, and it will take a long time. But based on the timelines that exist, if we don't start now, I'm very concerned for the future. That's also one of the benefits of the ARPA funding, because if you'll recall, all of the money requested here is federal funds. One of the benefits of that is that that money comes with a clock, has to be spent by 2026, which means for everyone involved, we can't kick the can down the road. We'd have to start-- we'd have to start in earnest building this, getting access to a second water source so that we don't run out of time and end up doing irreparable damage to agriculture across the state. For those reasons, I implore you to consider this and support it, and I'll be happy to answer any final questions.

CLEMENTS: Senator Armendariz.

ARMENDARIZ: Thank you. Since I'm new to the whole water rights thing, give me one scenario where Lincoln would have to exercise those water rights to what does that look like for agriculture? Would it just limit them watering their crops? Or what does it do for animals? What does it do for the people living on the farm if Lincoln were to exercise those rights? How long in that scenario would that last before you lifted those restrictions on ag?

BOSTAR: Well, thank you for the question. I mean, some of the details I'm not going to necessarily be familiar with. Right? But in broad strokes, if Lincoln didn't have enough water to supply its population, which has happened before, and Lincoln has then put restrictions on water access internally--

ARMENDARIZ: Um-hum.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

BOSTAR: --when that's happened. But let's say you're talking about, you know, a serious drought with-- I want to be clear. We've gotten close to this already. It's scary. But in a scenario where, let's say some of our wells get knocked out, which has happened. It happened in 2019, or we have a drought where, frankly, the Platte River just isn't producing, you know, or the snowpack in the Rockies which supply it just wasn't there. If that goes for long enough, then Lincoln could execute a call on the river and yes, effectively shut down ag. And by ag, it's-- it's-- it's agriculture in general. So that's crops. That's animals. Not--

ARMENDARIZ: [INAUDIBLE] take all the water from the animals and the people living on the farm?

BOSTAR: Look, I think the-- not necessary people, but as far as what is available, as far as the rights, yes, they could shut down the water access for crops and irrigation, agriculture supply. Agriculture in general as a category is a lower tier right in water than municipal, you know, residential consumption. And clearly we don't want that to happen.

ARMENDARIZ: And then would you limit the water also in Lincoln when this happens?

BOSTAR: Well, for starters, it's not up to me.

ARMENDARIZ: Yeah.

BOSTAR: To be clear,--

ARMENDARIZ: Scenario [INAUDIBLE] scenario.

BOSTAR: --I don't get to make these decisions.

ARMENDARIZ: What does that look like?

BOSTAR: But-- but I think, you know, what we want to-- what we want to be careful about is ultimately the people who will be the ones to decide this, whether it's tomorrow or ten years from now, are politicians. And so if your-- and I want to be very clear, I'm speaking about a hypothetical. If you're a hypothetical mayor of a city and your city is struggling because it doesn't have access to water, you are going to try to do some things to address that internally. But if you can shut down someone else's water to make sure your constituents have it, I don't think it's unreasonable to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

imagine that happening as a hypothetical. And that's why we need to avoid getting to this place. That's why we need to do this.

CLEMENTS: Are there other questions? Senator Erdman.

ERDMAN: Thank you, Senator Clements. Thank you, Senator Bostar. So let me ask you. You may not know the answer to this.

BOSTAR: Sure.

ERDMAN: Well, let's say that Lincoln and Grand Island are both in need of water. Lincoln, having far greater population, would they have seniority over Omaha-- over Grand Island?

BOSTAR: I think that would probably come down to time of rights and when particular wells were put in. I will double-check and get back to you on that.

ERDMAN: All right. Just curious.

BOSTAR: That's my initial thought.

ERDMAN: The other-- the other thing it says in here that this would be available to primary-- cities of the primary class. If I remember correctly, I think a primary class was 100,000 to 300,000. Why didn't you just put Lincoln?

BOSTAR: Well, it's special legislation, Senator. We can't do that.

ERDMAN: I see. OK.

CLEMENTS: Further questions? Senator McDonnell.

McDONNELL: Thank you, Chairman Clements. Senator Bostar, thank you for your work on this. And I know through our discussions and all the time you've put in, you've definitely looked at solving the Lincoln water issue. But at the same time, you-- every discussion we've had, you've talked about how it improves, can help the whole state. And I'm sorry I missed some of your-- your opening, which I believe you might have touched on that. The-- the tipping point is when? 2048 this problem has to be solved. What is the time frame? Is it three years? Two years? Is it four year? I mean, what is the start dead-- dead where we have to get started?

BOSTAR: I mean, honestly, in the next couple of years. You know, 2048 is our-- is our best guess for when effectively we do not have enough

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

water. But when we're talking about not having enough water for a city, that could come 18 months sooner. And this will take up to 20 years to complete, which is why it's imperative that we do this. And there was also permits were brought up. We-- in working out-- I apologize. I'm now sort of answering a different question that was asked I just sort of recall. In making our recommendations, we did speak to water attorneys and experts on permitting. And we have every confidence that we have the ability to gain the permits necessary. I believe it would take something from the Corps, but I will also double-check that. I just didn't want to let that question go unanswered. But-- but, yes. When do we need to start? Now. Now. The sooner we start, the more confidence we can all have that we will avoid getting to a position where awful choices have to be made.

CLEMENTS: Other questions? I've got a couple. So we have a Perkins Canal project. Is Lincoln's priority above Colorado's?

BOSTAR: No.

CLEMENTS: OK.

BOSTAR: I wish it was.

CLEMENTS: That would be nice, wouldn't it?

BOSTAR: It would. That would be very convenient.

CLEMENTS: Have them release water for it. It was a study of-- \$20 million funding for a study. Was that right?

BOSTAR: Yes. Studying and different analysis and assessment. I can get you a breakdown for all of that.

CLEMENTS: Has that all been spent?

BOSTAR: I think it's all accounted for. I'm not sure all of it's gone out, but-- but effectively, yes.

CLEMENTS: Obligated.

BOSTAR: Yes, absolutely.

CLEMENTS: All right. And these water rights, are they in the Nebraska Constitution?

BOSTAR: Yes.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

CLEMENTS: Is that what you keep referring to?

BOSTAR: Yes.

CLEMENTS: All right.

BOSTAR: I believe actually--

CLEMENTS: I've heard that. I wasn't sure.

BOSTAR: I think, Article XV, Section 6.

CLEMENTS: OK.

BOSTAR: Hopefully that's correct.

CLEMENTS: Are there other questions? Seeing none--

BOSTAR: Thank you all.

CLEMENTS: --thank you. We have position comments for the record. We have on LB506 19 proponents, no opponents and 1 in the neutral capacity. That concludes LB506. We will now open the hearing for LB768. Let's just wait a second for the room to clear. We'll now open the hearing for LB768. Welcome, Senator DeKay.

DeKAY: Thank you. I know I stand between you and the end of the day, so I'm going to keep my opening remarks to 40 minutes or so, so. Good afternoon, Chairman Clements, and members of the Appropriations Committee. My name is Barry DeKay, spelled B-a-r-r-y D-e-K-a-y. I represent District 40 in northeast Nebraska, and I'm here to introduce LB768, which is also my priority bill for this session. LB768 asks for a one-time Cash Reserve transfer of \$30 million to the Critical Infrastructure Facilities Fund in the Department of Natural Resources to fund a critical and growing concern for access to safe water for residents, farmers, and tourists in my rural district in northeast Nebraska. For those of you not familiar with my district, we are fortunate to have a great mix of breathtaking natural landscapes and productive agricultural land. We are also home to the state's second largest reservoir, Lewis and Clark Lake and Niobrara State Park, both located on the Nebraska/South Dakota border. The area, according to South Dakota tourism numbers, draws over 2 million visitors a year. Hunting, fishing, biking, camping, boating and horseback riding are just a few of the activities keeping people coming back. We are also seeing an increase in new families moving into the area, in part because they can work from anywhere, but

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

mainly because they love Nebraska and want to be closer to family and recreational opportunities. It's a win-win situation for our area and the entire state. Senator Clements, McDonnell, and Wishart, as members of the Special STAR WARS Committee, I know that you have seen firsthand how beautiful the area is and understand its potential. Thank you for visiting us and for investing in us. Rural Nebraska often feels left out. I'm here to tell you we will not let you down. We thank you for your introducing this, for including us in part of your vision, and we are working hard to ensure our children and our grandchildren have the opportunities to stay in rural Nebraska. And that is why I'm here. Senator Tim Gragert had a similar request last year involving \$32 million for a rural water project. For those of you on the committee last year, you might recall it was part of the Governor's budget package. But with all the competing requests for dollars, we were grateful to receive \$7 million. As a new senator for District 40, I can tell you the water project is still the most critical issue facing my district, and that is why I am here. At the time we drafted this bill, we were told there were no additional ARPA dollars available. We are open to whatever option support packages you might determine are feasible. I did want the committee to know that I do have an amendment that is being passed out which would address the concerns raised by the Fiscal Office by clarifying rural water projects are eligible use of the Critical Infrastructures Facilities Fund. I would be happy to work with the committee and Director Riley to tighten up the language. I know there are many important water proposals in front of this committee. Whatever the path forward, I hope this rural water project can be included. In my view and as you balance all the difficult requests before you, the quality and quantity of water is the most critical issue facing Nebraska, second only to the retention and attraction of people. Both must be addressed if we are to remain viable in the future. Today you will hear about rural water project that currently serves over 7,000 users, involves over 400 miles of pipe, and spans over 40 miles. The current water treatment plant has outlived its useful life. It is costly to operate and the intake structure in the lake is facing issues due to sedimentation. Why this project? Given the other priorities in front of you, first and foremost, this ask is about providing access to safe drinking water for current users on rural water system. The current system has reached its maximum, maximum output in some location and there is a waiting list to connect to the system. If another flooding event happens, the entire system is at risk of not being able to supply all the connections. Current users are already paying some of the highest rates in the state. Water bills run almost \$90 a month for a family of five. Depending on

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

usage, those prices can be upward to \$200 a month or more. Knox County, specifically along Lewis and Clark Lake, has been designated by Nebraska Forest system-- Service as one of the highest risk areas in the state for a serious wildfire due to the density of the trees. The rural fire department in the area relies on the rural water system to supply water to their fire house and has been looking at options to put facilities by the lake to help address and prepare for this risk. Frankly, it isn't a matter of if it happens, but when; and if it-- and it would be a disaster for Knox County given the property taxes paid by owners of homes and property along the lake. Nebraska Game and Parks Commission submitted a letter in support of this request. As you are aware, their agency has some exciting development plans in the works, but right now there's not enough water hookups to serve any growth. As most of you know, my livelihood is in agriculture. Water is our lifeblood. It is critical we have safe drinking water for our residents and that our farmers and ranchers have the water they need for their crops and livestock. I can promise you I would never introduce a bill I felt would jeopardize the way of life in my district. We must work together and I ask for your help. I want to thank Senators Dover, Wishart, Slama, and Brewer for signing on to this legislation. I am open to the best path to ensure the important rural water project be included. I would be happy to try to answer any of your questions.

CLEMENTS: Senator Erdman.

ERDMAN: Thank you, Senator Clements. So, Senator DeKay, this map here, you show here, all people in that area are on, on public water?

DeKAY: All the people that are-- can be on that map. There are private wells, including in that area that aren't hooked up right now. And that is part of why we were here. We're trying to make sure that with this project going forward, that private wells aren't going to be affected. Studies are being done, but that is the outline of the map for the current Cedar-Knox Rural Water District.

ERDMAN: This is what it is today.

DeKAY: Yeah.

ERDMAN: And there are some people who have their own private wells.

DeKAY: Absolutely.

ERDMAN: Is it possible the city could drill a well?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

DeKAY: Is it possible--

ERDMAN: --the city could drill a well rather than draw water out of the river?

DeKAY: That is part of the reason for this project. There's going to be new wells put down because of sedimentation from the previous floods in 1912, [SIC] whatever. Those-- the sedimentation, those intake lines are very close to being covered up. The wellhouse has outlived its useful potential without a lot-- millions of dollars of upgrades. This would give us a source to be able to get groundwater that has less chemical impact to meet the levels of safe drinking water. And it would be groundwater over surface water.

ERDMAN: Do you know what your nitrates are in groundwater?

DeKAY: Nitrates all over the state are impacted differently. The state is a patchwork of parts per million. This would help go deep enough that nitrates are not going to be, as far as I know right now. There's still testing being done, but we're, we're going to be assured that nitrates aren't going to be a problem going forward. That's why continued testing is taking place at this time.

ERDMAN: All right. Thank you.

CLEMENTS: Further questions? Senator Wishart.

WISHART: Senator Gragert, thank you for--

CLEMENTS: You said Gragert.

DeKAY: Thank--

WISHART: I'm thinking about his legislation.

DeKAY: Thank you for the compliment.

WISHART: Senator DeKay, you're picking up this legislation from Senator Gragert last year, and I believe that you designated this your priority bill.

DeKAY: Yes.

WISHART: Can you talk about why this is such a priority for you and the constituents that you represent?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

DeKAY: It represents northeast Nebraska. It represents water, as you've heard from a lot of different entities here, water is critical. The quantity and quality of water in the state of Nebraska is critical going forward. With this project, it does help give us a chance to have safe drinking water, safe-- and we will continue to work to make sure we have safe private wells that are able to run irrigation systems to water livestock with. But it also opens up the opportunities to the STAR WARS project in conjunction with the Game and Parks to add more opportunities for tourism in the state of Nebraska, northeast Nebraska so. And it does expand, with the map that you saw, it does expand the scope of the water district. So that is why it's almost imperative to have a complete overhaul on this current system.

CLEMENTS: Other questions? Seeing none, we will welcome proponents.

DeKAY: Thank you.

CLEMENTS: First proponent for LB768. Good afternoon.

ANNETTE SUDBECK: Good afternoon. Thank you, Senator Clements and members of the Appropriations Committee. My name is Annette Sudbeck, A-n-n-e-t-t-e S-u-d-b-e-c-k, and I'm the manager of the Lewis and Clark Natural Resources District, which encompasses the eastern half of Knox County and the majority of Cedar and Dixon Counties in northeast Nebraska. I'm providing testimony on behalf of the Lewis and Clark NRD and the Nebraska Association of Resources Districts. Thank you for the opportunity to provide testimony in support of LB768 to allocate \$30 million from the Cash Reserve Fund to the Critical Infrastructure Facilities Cash Fund in support of the Cedar-Knox Rural Water Project and much needed changes to update the system, including changing the source water and completing system upgrades to allow continued service for the current and future customers. Thank you also to Senator DeKay for his dedication to District 40 and his understanding of this critical need for the project in northeast Nebraska. I also want to say thank you to the 2022 committee that provided support of the project through the generous appropriation of \$7 million in ARPA funds. Those funds are being put to use right now in getting the project rolling. Test wells are planned for the spring and summer to-- we've had nitrate tests at about 3 to 4 parts per million in our sites, and we are doing test pumping to make sure the quality and quantity are there that we need. We've done initial testing, but we want to do much more detailed testing. The engineering to change water sources will enter the final design phase once, once we are completed with that. We have been able

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

to secure additional funds for the project, including \$8.4 million in Water Sustainability Funding from the Department of Natural Resources, which requires a \$5.6 million local match. In the last year, the cost of planned project-- of the planned project has increased dramatically due to crazy price increases impacting projects across the state and country. We are anticipating the project to cost nearly double what was estimated initially, and the match for that will come directly from customer charges that will be financed through a state revolving loan fund or the fund loan. If we are able to secure an additional 20 to \$30 million to support the project, we would be able to realize completion and secure service for the long term. Thirty million would be ideal to ensure without fail that we were able to complete all planned project components. However, \$20 million would get us to the point where we could make some hard decisions, if necessary, to postpone some improvements till later. CKRWP provides drinking water in northern Cedar and Knox Counties in an area of the state where locating groundwater resources of quality and quantity suitable for drinking can be difficult. And that's the main reason why we have a rural water district there. We currently treat surface water to provide that drinking water, in part because of the difficulty in locating a groundwater source in sufficient quality and quantity. This project, or the project goal is to develop a groundwater wellfield; replace the undersized, outdated treatment plant in a more accessible area; and replace portions of the distribution system that are undersized. The wellfield will not only eliminate the concerns of sediment overtaking the intake structure, but also reduce organics and water to drastically lower disinfection byproducts and bring the project back into compliance with EPA compli-- requirements. The new treatment plant would be designed to remove hardness, total dissolved solids, manganese, and if necessary, have the ability to include nitrate removal. If the groundwater source proves not to be the right solution for the project, CKRWP or the Cedar-Knox Rural Water Project could look to Yankton, South Dakota, to provide drinking water. Connecting to Yankton has been investigated but was not selected as a preferred solution because the cost to customers over time will be more than developing a groundwater source. The NRD has been working hard to explore all options and costs, both in the short term and for the long term, for the long haul. The planning process has been very long and we are now in the process of sharing all the findings with community members and seeking input right-- so the right solution can be executed. I want you to know that there are people here that will oppose this request. The NRD understands their concerns and we are working hard to bring forth more information and gain more input to

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

ensure everyone is informed on the options that have been researched and the associated costs. Thank you for your time today. There are many important needs in the state. Water is most definitely one of them. I hope you will help us find a way to secure funding and ultimately a long-term solution for residents in northeast Nebraska.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony.

ANNETTE SUDBECK: Thank you.

CLEMENTS: Next proponent.

DON BLANKENAU: Good afternoon, Mr. Chairman, members of the committee. My name is Don Blankenau, D-o-n B-l-a-n-k-e-n-a-u, and I'm a Lincoln lawyer representing the, the Lewis and Clark Natural Resources District. I've been involved in a variety of water issues across Nebraska and the United States, and I offer support to this legislation. As you heard, like many water suppliers across Nebraska, the Cedar-Knox Rural Water Project, through its sponsor, the NRD, is exploring multiple options to meet existing and future demand for sources of potable water. Unfortunately, high-quality water in the Lewis and Clark NRD is not readily available. State and federal water quality standards limit the existing supplies that can be used without significant treatment costs. And compounding that limitation is the desire to minimize conflicts with existing users. These factors converge to require more extensive infrastructure at even higher costs. Further exacerbating these costs are supply chain constraints that have driven up costs for such projects all across the United States. And as a result, serving the essential needs of rural Nebraskans has never been more difficult nor more costly. Sensitive to the need to protect the interests of all of its constituents, the Lewis and Clark NRD has attempted to deal with these development challenges by exploring multiple options. Those options, as you heard from Ms. Sudbeck, include but aren't limited to the development of a wellfield to utilize groundwater and entering into a contract with Yankton, South Dakota, for water service. In Nebraska, groundwater has historically been the preferred option for most public water suppliers due to its wide availability and good quality. While groundwater remains plentiful in Nebraska, meeting water quality standards requires a great deal of investment. While water service provided by the city of Yankton also remains an option, it would be limited by the terms of a negotiated contract. And reliance on a contractual relationship with a city located in another state to provide an essential service always carries with it some

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

noteworthy risk and cost. Nevertheless, Lewis and Clark NRD is weighing all of those factors to find the best long-term solution for its people. But no matter which option the NRD ultimately selects, the cost to rural Nebraskans served by the project will be significant. Protecting rural Nebraska requires a commitment from this body for all water projects; and simply put, protecting and growing all parts of Nebraska requires an investment in all parts of Nebraska. For that reason, the Lewis and Clark NRD asks that you advance this legislation. That concludes my testimony, Mr. Chairman. Happy to answer any questions.

CLEMENTS: Are there questions? Senator McDonnell.

McDONNELL: Thank you for being here. I noticed you were here earlier under Senator Bostar's bill. And in your 30 years of experience across the country in water law, what is your opinion of the basically a city versus agriculture?

DON BLANKENAU: Well, what you heard in the prior bill, and I want to be a little cautious with because I heard things about water law I did not know. I will say that what that bill dealt with was surface water rights, which is under the Nebraska Constitution adopted in 1920. The organic law itself was adopted in 1895, and that's the first in time, first in right system, which applies only to surface water. So it's a very different animal than what we're seeing here in the groundwater context. All right. So the Nebraska Constitution with respect to surface water was three preferences, and those are in order: domestic uses, agricultural uses, and manufacturing. So if you have a priority date under a water right, your priority date always rules. You always get the water relative to anyone who's junior and upstream of you. However, you can exercise that preference against that upstream user, but there's a catch. You always have to pay just compensation to that individual. So for instance, the city of Lincoln, were they to exercise their surface water right, for everyone upstream who had a senior right, which is by far most of them, they would have to pay just compensation. So in their instance to exercise that right to actually get water would be enormously expensive for the city. In this instance, if we're-- if the NRD were to locate its wellfield with Yankton, which would be more of a surface water right, they would be subject to South Dakota law, which is generally the same thing. It's a first in time, first in right system as well. Groundwater is very different though. That has the same preferences, but it is not a first in time, first in right system. So if you're an individual landowner with a domestic well that is to serve your household, you would have just as much right as

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

a municipal or in this case, a rural water supplier who would be providing it for the same purpose. It's a long way of answering your question, but.

McDONNELL: Thank you.

CLEMENTS: Senator Dorn.

DORN: Thank you, Senator Clements. Thank you for being here. I guess maybe I could ask Senator DeKay, too, but currently it looks like-- are you pumping any water out of the lake or is this all going to be a wellfield or a new wellfield or? Talk about that a little bit.

DON BLANKENAU: Yeah, and I'm not the greatest person to answer that.

DORN: Oh, OK.

DON BLANKENAU: So-- but what I understand about the system is that the NRD has presently not decided on a particular system yet. It's looking at and probably prefers a groundwater option, but it is not yet done discussing it with Yankton, South Dakota, or looking at any other options that might exist.

DORN: My question being is can't we take the water out of our side of the lake? No, I'm-- [LAUGH].

CLEMENTS: OK. Other questions? Seeing none, thank you for your testimony.

DON BLANKENAU: Thank you, sir.

CLEMENTS: Other proponents for LB768. Good afternoon.

RUSSELL SCHMIDT: Good afternoon. Thank you, Mr. Chairman. Members of the Appropriation Committee, my name is Russell Schmidt, spelled R-u-s-s-e-l-l S-c-h-m-i-d-t. I would like to thank you for taking the time to listen to our proposal and thank you for allowing me to testify today in support of LB768. Knowing how this small project has kept me up at night, I'm aware of the awesome responsibilities you have for the entire state budget. I would also like to thank Senator DeKay for introducing this important legislation. Water issues are not easy, and we appreciate Senator DeKay's leadership and his willingness to be involved. I am a husband, a father, a farmer and an irrigator, so water is a major part of my summer operation. I am also a member of the Lewis and Clark NRD and the board of directors. The amount I have learned since being on the board of groundwater is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

substantial, things I never heard or thought about. If a person comes to a board with their mind made up and not willing to look at new information and change their mind, then perhaps they should reconsider the reason they're on the board. This has made me look not only at the water I use on my small farm, but also at the whole NRD and in turn, all of Nebraska. As a board, we are constantly trying to update and better understand the water situation in the NRD. With that, the Cedar-Knox water supply is in jeopardy. Having found hopefully an abundant supply of water, we are now asking for the chance to develop and bring this source of water to the users of the Cedar-Knox Rural Water Project. The next and most important step is financing. It is why we need your help. It is why we drove three hours today to attend this meeting. Some have voiced concern about the water supply and the amount we would draw. We have listened to the concerns and continue to study and research the quantity and quality of the water. We are sincere and the last thing we would want to do is affect the water usage in the area. The project will use approximately 152 million gallons of water per year. I know that sounds like a lot, but it is the equivalent of what four or five irrigation systems over the course of one year would use, or the equivalent of about 20,000 head feedlot uses in a year. The Cedar-Knox Rural Water Project's ability to provide clean drinking water within its service area have been and continues to be instrumental in the current and future development of the region. It is an important way of life. It is important to my farm and my family and it is critically important to the current future growth of northeast Nebraska. While trying to take the concerns of the neighbors and residents into account and answering the questions posed, there are a few who have made up their minds to oppose, no matter what the evidence is given to them. We want to reassure our friends and neighbors we do not want to affect anyone in a negative way. And if studies find we will, the project will take a different approach. Once again, thank you for your time. We at Lewis and Clark NRD thank you. And we greatly appreciate the time this committee puts into the job serving all of Nebraska. And maybe when this is accomplished, we can work on something really important like getting the Huskers to a bowl game. Thank you. I'd be happy to answer any questions unless it's about the bowl game.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony.

RUSSELL SCHMIDT: Thank you.

CLEMENTS: Are there additional proponents? Good afternoon.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

MATT WEINANDT: Good afternoon. Thank you, Chair Clements and the members of [INAUDIBLE] Committee-- Appropriations Committee. My name is Matt Weinandt, spelled M-a-t-t W-e-i-n-a-n-d-t. I'm a third-generation diversified farmer custom operator in northern Cedar County, near Wynot, Nebraska. I farm with my wife and my family. I'm in support of LB768 and I'm grateful to Senator Barry DeKay for bringing this to our attention and this important matter. As a background, I'm in my ninth year as a director on the Lewis and Clark NRD. And before that amount of time, I had no idea what the NRDs even did. Got tired of church and school board, board so I went to something that was a little bit more in my field. I'm currently the sitting chair. I've also been a representative for the Cedar-Knox Rural Water Project Advisory Board, which is underneath the guidance of the Lewis and Clark NRD. We own that system up there. I truly believe that we have positive progress in mind. We have invested seven years of research starting in our first Bartlett&West Engineering portfolio is in 9-- is in 2016. Seems like we've been at this forever. Anyway, we've researched several locations for groundwater and approximately 600,000 in expenses with different engineering firms and other experts so that we do not negatively affect other people or other water sources. My family's property sits within the hills of the Missouri River in the Bow Creek tributaries in northeast Nebraska. We are blessed with the different variations of aquifers that are confined or their unconfined variety of minerals and qualities. At our place on my farm, we have two water sources. One is a 520-foot well. It's called the-- it's in the Missouri River Alluvium and it is very hard water, but it's a very good source of quantity. We also have a 36-foot deep surface well water that's somewhat high in nitrates are not necessarily suitable for human consumption. Both are useful for livestock, but not so good for human consumption. As a teenager in the early '80s, my father wisely had an opportunity to hook on to a safe, reliable water source knowing that our deep well was already 40 to 50 years old. He told me that as far as the reliable and safe drinking water to our house, we would also have a backup in case we had other issues with livestock, which did happen in 2005. I had to dig another well. And so it was a fantastic source, but not to waste it, we only use it in our drinking water source in our house. It was a very healthy source and it was known as the Cedar-Knox Rural Water Project, which at that time was owned and managed by the Lewis and Clark NRD and still is. And at that time I didn't know anything about it. But as an adult with a wife, children and now grandchildren, we have been using this well-managed utility for nearly 40 years. The lifetime of this repurposed facility, which was the old Devil's Nest that was a defunct recreational area, the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

forefathers to our system thought that they could use this, and they've used it very well over the time. Now it is time to provide a safe and reliable source for my grandchildren and the whole economic future of northern Knox and Cedar Counties. And we would greatly "apprec" your-- appreciate your support for Barry DeKay's-- Senator DeKay's LB768. Thank you for your consideration and I'll be happy to answer questions if I can.

CLEMENTS: Are there questions from the committee? Senator Erdman.

ERDMAN: Thank you, Senator Clements. I don't have a question, but I have a statement. You have very good basketball teams at Wynot.

MATT WEINANDT: Yes, we do. Those young coaches have been really leaders in their community, and they're just as good off the field.

ERDMAN: Very good.

MATT WEINANDT: They've done a great job for us. Thank you.

CLEMENTS: Others? Seeing no other questions, thank you for your testimony.

MATT WEINANDT: Thank you.

CLEMENTS: Are there additional proponents on LB768? If you're planning to testify, appreciate it if you come to the front seats. Welcome.

BRAD WILKEN: Thank you. My name is Brad Wilken, B-r-a-d W-i-l-k-e-n. As concerned residents and farmers in northeast Nebraska, I'm in favor of the funding towards a Cedar-Knox water rural project as proposed by the LC NRD. But I expressed our opposition to the proposed wellfield option, the Dolphin aquifer location, for this proposed project. We have serious reservations about the preferred Dolphin aquifer plan, its potential risks and impacts on our community. We strongly believe that the Dolphin aquifer option will cost significantly more and put greater area of risk and negative impacts compared to--

CLEMENTS: May I interrupt you?

BRAD WILKEN: Yep.

CLEMENTS: Are you in opposition to the bill?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

BRAD WILKEN: I am not. I am for the funding for northeast Nebraska.

CLEMENTS: For the funding. So

BRAD WILKEN: Correct. That's what the bill is for.

CLEMENTS: All right.

BRAD WILKEN: I guess--

CLEMENTS: It sounded kind of negative.

BRAD WILKEN: Yeah. So I guess my main thing is this. There's been multiple options for water in northeast Nebraska: river or groundwater aquifer. For instance, that came up in earlier conversations to you as well, groundwater is preferred. However, the communication to the community for the farmers has not been the best. So if we hear options like this one is more expensive than this option, but really, what is that expensive? What is that rate at? Because it might be more expensive, but at the cost of what? Is it the costs of regular farmers and residents in the area? There's multigenerational farms all in the Knox County/Cedar area. There's a lot of shallow wells. People are already affected by a minimal amount of groundwater, of level change. So I guess the one thing I'd--

CLEMENTS: So you're for the funding, but the, you know, the bill probably doesn't specify how--

BRAD WILKEN: It does not.

CLEMENTS: --water is going to be delivered.

BRAD WILKEN: Correct.

CLEMENTS: OK. Continue.

BRAD WILKEN: So as far as allocation of the taxpayer dollars for a prop like this, I want to make sure that whatever project goes forth is one of the most cost effective. One of the preferred plans that was introduced from a public meeting was for a wellfield within the Dolphin aquifer. This wellfield would then pump water 20 miles up north to the river where the existing plant is, and then out to the existing channels for the community. That seems like a pretty high dollar amount for those tax dollars to go to. However, without knowing exactly what those numbers are for all five options they presented: Yankton, the Aten, the Dolphin, and then also the last two

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

were [INAUDIBLE] and then just redoing-- revamping the existing one and then also proposing a new water treatment facility on the river, too, as well. So with that being said, that 20-mile pipe would need to go across a lot of environmental aspects of it. There's going to be easements going through there, land acquisitions potentially, too, as well. And not only that for the cost, but please consider the cost of the residents in that area for mitigation of existing well service in the area. As we heard earlier, too, as well, it is priority. Ag is going to get secondary to it. So if this water does go up to having municipal-- municipal and then also recreational and the farmers do have a potential of getting shut down, that will negatively impact the entire area. So my main thing is make sure we're diligent on the-- on the studies; make sure we're looking at all the impacts, not just the impact of conducting the construction of these proposed plans, but also what the risks are factored into and what that risk would be to the residents and farmers in the location.

CLEMENTS: Very good. Are there questions? Seeing none--

BRAD WILKEN: Thank you very much.

CLEMENTS: --thank you for your testimony. Next proponent for LB768. Welcome.

RITA WILKEN: Good afternoon. I'm Rita Wilken, R-i-t-a W-i-l-k-e-n, and I am in opposition of this project. I live right in between the two wells. I have lived there for 45 years.

CLEMENTS: Excuse me. I was just ask-- is there anyone else who is a proponent? Raise your hand.

RITA WILKEN: Oh, OK.

WISHART: Who supports this bill?

CLEMENTS: Seeing none, we will open it now for opposition.

RITA WILKEN: Yes, I am opponent.

CLEMENTS: All right. You may begin then.

RITA WILKEN: OK. I have lived in between these two quality well source sites for 45 years on our family farm. As you deliberate your support for the Cedar-Knox Rural Water Project, please consider that this location for the well source is not the best location for this project. The area where this groundwater source is being proposed is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

designated as livestock friendly. The immediate area of one of the proposed groundwater wells neighbors the largest cattle feeding yard business in Knox County. As the feedyards are all within three miles of one of the proposed quality source wells; two operate in hog confinements, as well as a chicken egg laying confinement farm, are all within miles of both of the proposed well sites. Our well that lies between these two well sites was tested for nitrates, high in nitrates as you'll see in one of the letters that you got. Back in March 15, 2022, the well that tested high in nitrates is two miles north of one of the proposed groundwater sites. And the other groundwater well source is within three miles of it. The UNL chemigation test instructor, which was provided by the NRD, who has to give chemigation tests to my husband, in January in Norfolk of 2023, he stated that nitrates can travel miles and eventually contaminate clean water wells. So eventually, if they are going to dig one of these quality wells that they're going to say it's free of nitrates, eventually all the other nitrates from these neighboring wells will be pulled into this well. As, if you would look in your papers, Nebraska's nitrate problem is growing worse. You all have a copy. If you have time to read it, I would appreciate it. It talks about the communities in Nebraska who public water systems have violated that standard at least since 2010. They cannot compete. They cannot clear the nitrates out of water. That's why every time you hear that the communities have to boil their water, they cannot get the nitrates out. So eventually this is what will happen with this project. People will be paying for water that they're still going to have to boil. This area borders the Missouri River. The Missouri River is shared by Nebraska and South Dakota. Well, then let's utilize it instead of taking it out of our agricultural land. Nebraska can utilize that river. Bon Homme County in South Dakota has it figured out. Yankton, South Dakota, has it figured out. Yankton, South Dakota, can produce 24 million gallons a day. Several of us visited that water plant and they said they would gladly sell water to Nebraska. And the more water that they could sell, the more water they could flush clean. This water from these wells is going to be pumped 365 days a year, 7 days a week, 24 hours a day. Area farmers are concerned there will be in years to come farm wells going dry. Water springs and running streams that supply farm dams for livestock will dry up. Wetlands used by waterfowl and pheasants will no longer exist. We were invited to NRD meetings to come and find out what they were proposing in our area, which we did. And after we expressed our concerns, one of the NRD members said to us: Now we've all spent too much time and money on this project for you people to come here tonight. By the time you will see all the effects of this, I'll be

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

dead and gone and so will you. There has been a lack of communication with area landowners. Many area farmers don't know about these groundwater wells, including the proposed pipeline route that will be tearing up our farms, tearing up our topsoil that we have worked on for years.

CLEMENTS: Your time is up.

RITA WILKEN: When they dig pipelines to pipe the water across our farmlands. When these wells are dug, there will be pipelines that will go across our farm ground to pipe this water to their water treatment plant.

CLEMENTS: That's been mentioned and that's the end of your time. Thank you for your testimony.

RITA WILKEN: Yes. Well--

CLEMENTS: Are there any questions from the committee?

RITA WILKEN: I'm sorry, I have lots more, but you have things to read in there.

CLEMENTS: Thank you.

RITA WILKEN: Thank you for your time.

CLEMENTS: Thank you. Next opponent. Welcome.

CRAIG WILKEN: My name is Craig Wilken and thank you very much for hearing me. I-- Craig is C-r-a-i-g, Wilken is W-i-l-k-e-n. I represent the farmers and ranchers and neighbors that surround me in Dolphin Township and the neighborings on the outside. That's who I represent. I have lived in between the two well sites that are proposed. One is-- one is the two miles to the south of me and the other one is three and a half miles west. I've lived there all my life. And I've been attending the board meetings, the rural water and the NRD. But to go back to May 2022, we actually were-- I've got-- I'm close to the well site, so I had a moratorium on 2021 and 2022 of 1,000 feet of staying away from digging any wells because they put this moratorium on me because my land's too close to interfere. It's just that that's why I was notified about what this project was going to do. OK? And at this meeting when they approached us, they said any time you needed any questions and answers, OK? My, my, my strenuous opponent was this was trying to find out how much water they were going to use. I scratched that several times over and I had my

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

doubts. Why aren't they coming up with this figure? So I kept asking how many, how many millions of gallons of water are you going to do this? What's going to be the max for all these years they're going to do this? OK. I asked that at a rural water board meeting, an NRD meeting all within a week and a half of when our supervisors met in Center, Nebraska, on July 28. And upon that day, I just had asked this a week and a half ago, and then they magically come up and said a million and a half gallons of water a day. OK? And then later on of March 8, 2023, just last week, then I find out that the Bartlett West, LRE and Water, they had this information already in December of 2021. I can understand some lax of not telling me. But why wasn't I-- why when I made this simple question the day before, the week before, and they would not answer. So I have my doubts when they're not forthcoming with the information that I asked for. On the wellfield, I'm 66 years old. I seen the irrigation go in, in the early '70s in my area, seen water, a lot of while drilling. And the information that I received in the early '70s of which way the flow of water is coming out of these wellfields is completely different than what Bartlett&West came up with. OK? And that's another reason why I-- I'm opponent of this because I don't quite believe all the information they're giving me. OK? They can say it and I got different things when I-- when I asked about the direction of the water flow. The other thing is Crofton, Nebraska, four miles south of Crofton, Nebraska, there was a wellfield there that supplied Crofton, Nebraska, with water early in the '70s. And the reason why they had to stop, because the high-- the nitrates got too high. That wellfield is only four miles away from the one wellfield to the south of me. That's only four miles away. And they had to shut that site down because of the high nitrates. Yes, I'm, I'm against the, the proposed wellfield in Dolphin Township. I'm opposed to it but I got alternatives here of the Yankton uses; the NRD from the water source options. Yankton uses the Layne Ranney Collector Wells, which use "lattery" well screens to extract the water from the aquifer, which direction connects to the surface water and the river or underneath the lake. The city of Yankton has the ability to produce 24 million gallons of treated water a day. Currently, they're using 3 to 7 million gallons a day. So they're disclosing that the Lewis and Clark needs could be met quite easily. We're blessed with the Missouri River. It's a great water source. Another treatment plant was the Yankton Bon Homme Water District. They're utilizing surface water--

CLEMENTS: Sir, excuse me.

CRAIG WILKEN: --that's coming out of the dam.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

CLEMENTS: Excuse me. Your time is up. Could you wrap it up?

CRAIG WILKEN: Yeah, I'm trying to. I'm just-- I'm just saying the Bon Homme Water District has, like, ten towns on it, and they're using the surface water out of there.

CLEMENTS: All right.

CRAIG WILKEN: And thank you very much for the time you gave me. I appreciate it, you guys.

CLEMENTS: Thank you for coming.

CRAIG WILKEN: You bet.

CLEMENTS: Next opponent.

EVELYN HENNINGS: I am Evelyn Hennings. I am from Crofton, Nebraska. I have two quarters that connect to the well site. I also live in Crofton, Nebraska for about the last 10, 12 years.

CLEMENTS: Could you spell your name, please.

EVELYN HENNINGS: Evelyn, E-v-e-l-y-n, Hennings, H-e-n-n-i-n-g-s.

CLEMENTS: Thank you.

EVELYN HENNINGS: I am here. I am going to speak from my heart. I'm not a speaker. I never wrote anything down. But I am opposed to this project. We were told in NRD that Lewis and Clark Water Project is not being funded by taxpayer's money. I don't know what the Cash Reserve Fund is, where that money comes from, but if it comes from the taxpayers, then that is out of line. We were told at a meeting that if the water level went low, that irrigators may be shut off. But Lewis and Clark Water Project would continue to pump 27, sorry, 24 hours a day, 7 days a week, 365 days a year. I don't know how far that would extend as far as irrigators are concerned, if it would be all of Nebraska, be our little area right there or extend miles. To be fair, I don't know. We were in-- we were never informed that this was starting this project. We got a letter in the mail, six landowners that connect to this well site. We got a letter one day in the mail. But it was also publicized as a legal notice in the paper the same day. So we were not notified any sooner than the public was. We did ask why it was kept a secret and they said it wasn't. It wasn't their intent to be. We also, Knox County Supervisors Board did not know anything about it. Two out of the seven knew something about

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

it, but otherwise it was a secret. And that's why they presented that meeting in Center at the courthouse, which was attended about by 80, 85 concerned citizens. NRD did speak. People did also speak. We're trying to do everything we can. Their-- they have a settlement problem that could very well be in the Missouri River. Springfield doesn't seem to have it. Yankton doesn't seem to have it. Vermillion doesn't seem to have it. And Vermillion pipes water to Sioux Falls, South Dakota. So why is northeast Nebraska letting the Missouri water go down the river and letting some other states use it? But yet they're taking water from the agricultural land. Nebraska is supposed to be an agricultural state. Are we now going to be called an ag state or are we going to be called Nebraska tourism and a rest area? Because now we're going to pump water south of Crofton eight miles, seven miles to the river where right now we're getting water from the river and pumping to Crofton, etcetera. Doesn't make sense. We're going in the opposite direction. And thank you for listening to me.

CLEMENTS: Are there questions? Seeing none, thank you for your testimony. Next testifier. Good afternoon.

PATRICIA KRONBERG: My name is Patricia Kronberg, P-a-t-r-i-c-i-a K-r-o-n-b-e-r-g. I know how old the treatment plant is in the Devil's Nest because I used to run down there all the time and go swimming. And I also worked down there when the plant went in helping serve lunch so it's old. But anyway, I am totally against this. My whole family is totally against this. The NRD came to us after the helicopter went over our place and my husband said, no, you know, we wouldn't do it. We wouldn't take water away from our neighbors. No way. So-- but anyway, I am one mile from one of the well sites, proposed well sites. I'm four and a half miles from the other proposed well site. I am very close to the, going to be the big 20,000 head cattle feedlot and the hog units and stuff. So we also had gotten a letter from the NRD saying that there were high nitrates in our area. So I took it into Bloomfield and I had the NRD in Bloomfield test our water, and it tested 9.6, you know, getting pretty close to borderline drinking. So and also our renter on the other side of where this well closest to his, his tests about the same as ours does so. And we say, too, a lot of people have told us, get it through Yankton. If they can provide water for all of us for hundreds of years, why not go with something like that or go up closer to the bridge, you know, or, you know, to the dam. But I don't-- I'm trying not to repeat some of the stuff that they said so. But anyway, our, our tax money, if we-- if they run our well dries-- dry, our value of our land is going to go [POINTS DOWN] if we have no water, but I'm sure our taxes are still going to go up. The place

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

that we live on has been in my husband's family for 117 years that we can go by. My husband and I have lived on that place for 48 years. So we're thinking about our kids, our grandkids. They always come to Grandpa and Grandma's house to play on the farm. Well, we want to keep it in the family. Our one daughter from Norfolk plan-- her and her husband plan on moving there. So I ask, why would you guys, as senators, take-- put one of these wells close to you? You know, it's-- and take the water away from the farmers? One of our big area farmers-- someone comes to our house and we can't even visit with him in the summertime because his phone is constantly going off with the irrigation systems, low pressure, low pressure. This one shut off. Oh, I got to turn this one on because that one, you know, they're constantly switching. We don't have the water that they need from our area. They need to be looking somewhere else and not in that area. So-- but we want to keep this, you know, for our generation to continue our family on that farm. And that's part of their inheritance. So why take it away from our kids and our grandkids?

CLEMENTS: Very good. Thank you. Is there any questions from the committee? Seeing none, thank you for your testimony.

PATRICIA KRONBERG: Thank you.

CLEMENTS: Next testifier. Anyone else in opposition? Seeing none, is anyone here wanting to testify in the neutral capacity? Seeing none, Senator DeKay, you're welcome to close.

DeKAY: Thank you. As everybody in this room can attest to, water is critical to our state, the quantity of it and the quality of it. And that's what we are trying to work through, through every one of these water issues that come before this committee and other-- and Natural Resources. When it comes to where the wells are being dug at this time, that is still to be determined. There are going to be public meetings coming forward that will address the needs. There are still options on the table to address those needs to see what is the best source, not necessarily the cheapest source, but the best source to have sustainable water for everybody, regardless if they're using the rural water district, if they're using their private wells, or if they're irrigating. So those questions are still to be answered. That is part of the reason for the ask for this money. There is tests still being done. There-- those tests will continue into April and we will be having open house meetings after that. As a resident of Knox County and a fourth generation farmer/rancher myself, I am currently on our rural water system out of Boyd County, been a member of that system for 30 years. We use it for our-- we use it for our home. We

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

use it for some of our livestock. Out in our pastures and stuff, we still use private wells. So there isn't anything that I want to do as a senator that's going to be detrimental to the private wells. I just want to be able to ensure that there are quality and quantity sources of water coming forward. There are, as it was stated, there are system, there are economic development factors coming in as attested to, the 20,000 head feedlot being tested as an economic development tool that will be bringing dollars into northeast Nebraska. There are chicken farms, whatever else that comes in, there are tourism dollars. And to a person here and myself included, we want to show off northeast Nebraska for its beauty, not to commercialize it, but show the natural beauty of it. And our water source and our landscapes are very important to me, and I'm sure everybody has testified here today it is very important to each and every one of us or nobody would have been here. This is very important. I emphasized that from the beginning to the end of this that there are still testing to be done. There are still solutions to be made. And nothing has been signed off on for sure, but this project has been appropriated and the funds have been made available. And this is shovel ready to start to if it is approved to finish up where we started with a ending date, end use date of around 2026. As was testimony earlier, it's been studied for six years and that doesn't mean the testing is done. It's still part of the process. And I will be attending, I will be asking questions and I have asked questions to get the most information we can to make the best determination on how we source our water. When it comes to South Dakota, I do agree that right now South Dakota does have the water for us. But as earlier said, South Dakota, if we want to be reliant on our water source for several towns and several miles of people in Nebraska, if they get a grasp of this water system, they can put a stranglehold or whatever they want to to start raising water rates. That would be detrimental to everybody in the area. I applaud South Dakota for wanting to do this. I would, if I was in their shoes and had the availability, I would do that too. But at the same time, we just got to be careful and we've got to make sure we get the right source from the right wells or from the right reservoir or wherever, upstream, downstream. But that's why the testing is going on. And the-- I can assure that we will go forward with the best solution for everybody involved in this, whether it's in the Cedar-Knox Water District or private wells. Everybody's, everybody's needs and everybody's desires are going to be answered before we go forward. So if you have any questions, I'll try to answer them. Otherwise, there are other numbers that could be available going forward.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Appropriations Committee March 14, 2023

CLEMENTS: Any questions from the committee? Senator Lippincott.

LIPPINCOTT: I think this was already answered and I probably missed it. Can water be taken out of the Lewis and Clark Lake and used, treated?

DeKAY: Water currently for this is being taken out of Lewis and Clark. Sedimentation from the 2019 and from the previous floods in 2012 I think it was, sedimentation is coming down. The Lewis and Clark Reservoir is slowly grav-- gravitating. It's out. When they put Lewis and Clark and Gavins Point Dam in, it had a 50-year life cycle on it. It's already surpassed that. Where I live up in Verdel area, which is from Crofton, is 45 miles east or west, sedimentation from the Niobrara River, the backwaters of Lewis and Clark Lake has reached that far west and is gradually filling in the backside of that lake approximately one quarter of a mile a year. So there is a lot of useful life left in it. But currently where the water lines are at coming out of that, it won't be sustainable in that location.

CLEMENTS: Are there questions? Seeing none, thank you, Senator.

DeKAY: Thank you for your time today, appreciate it.

CLEMENTS: We have position comments for the record for LB768: 19 proponents, 9 opponents, none in the neutral capacity. That concludes the hearing for LB768. That concludes our hearings today.