

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Natural Resources Committee January 26, 2022

**BOSTELMAN:** Welcome to the Natural Resources Committee. I'm Senator Bruce Bostelman from Brainard and represent the 23rd Legislative District. I serve as Chair of this committee. Committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is just part of the process, as we have bills to introduce in other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please slight-- silence or turn off your cell phones. Introducers will make the initial statements followed by proponents, opponents, and then neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print and it is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to a page or to the committee clerk. This will help us make a more accurate public record. If you do not wish to testify today, but would like to, like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign for that purpose. This will be a part of the official record of the hearing. When you come up to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name to ensure we get an accurate record. We will have-- we'll be using the light system for all testifiers. I'll ask before each hear-- each hearing that we have. It will either be five or three minutes to make your initial remarks to the committee. When you see the yellow light come on, that means you have one minute remaining and the red light indicates your time has ended. Questions from the committee may follow. No displays of support or opposition to a bill vocal or otherwise is allowed at a public hearing. The committee members with us today will introduce themselves starting on my left.

**GRAGERT:** Thank you. Good afternoon. Tim Gragert, District 40, northeast Nebraska.

**AGUILAR:** Ray Aguilar, District 35, Grand Island.

**BOSTELMAN:** And on my right.

**GROENE:** Senator Groene, District 42.

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

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**MOSER:** Mike Moser, District 22, Platte County, parts of Stanton County.

**BOSTELMAN:** To my left is committee legal counsel, Cyndi Lamm, and to my far right is committee clerk, Katie Bohlmeier. Our pages of the committee are Malcolm-- is it Durfee O'Brien? Close? OK, thanks, Malcolm-- and Joseph Schafer. So first up today will be-- are we-- is it Game and Parks first or is that last? That's last, OK. First up is LB925 and before Senator Gragert opens, how many people are going to testify on LB925? OK, we'll do three minutes for testimonies. So with that, we will open the hearing on LB925 for Senator Gragert. Welcome to the Natural Resource Committee and please open.

**GRAGERT:** All right, thank you. Chairman Bostelman and members of the Natural Resources Committee, I am Senator Tim Gragert, T-i-m G-r-a-g-e-r-t, representing Legislative 40 in northeast Nebraska. I'm here today to introduce LB925. LB925 would, would create the Resilient Soils and Water Quality Act. The purposes of the act are to accelerate the use of best management practices for healthy soils; protect and improve soil and water quality; protect the public's health and enhance agricultural production and profitability; address soil health economics, resource stewardship, and environmental issues; increase awareness, education, and promotion for best management practices for healthy soils through producer-to-producer, peer-to-peer, and mentoring relationships; to provide proof of healthy soil benefits through demonstration and research farms. Under LB925, the Department of Natural Resources would provide technical and legal assistance in the formation of a producer learning committee-- community, excuse me. The producer learning community is an agricultural producer-led nonprofit, volunteer-- voluntary organization dedicated to fostering the learning and sharing of knowledge in order to carry out the purposes of the Resilient Soil and Water Quality Act. The department is directed to hire a facilitator to lead efforts in org-- to organize the producer learning community and assist it in the fundraising efforts so that the PLC can be self-sustaining within five years. The facilitator shall serve as an ex-officio member of the PLC. It may be pertinent to locate the facilitator outside of Lincoln closer to the agricultural producers. To assist with the formation of the PLC, the department is encouraged to partner with entities such as the University of Nebraska, the NRDs, and farm organizations. The department is divided-- the department is to divide the state into different regions to establish demonstration and research farms as to represent the region's agriculture diversity and may enter into lease agreements with private landowners for this such purpose. The, the department is to submit an annual report reflecting progress made in

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protecting and improving-- made in the protecting and improving soil and water quality across the state. I feel that an annual appropriations of \$250,000 over a five-year period is a small, but much-needed investment for Nebraska, considering that 90 percent of our state's land base is in cropland and rangeland agricultural production. Our agricultural sector makes a significant contribution to our state economy. Furthermore, it can be quite costly for our communities to deal with high nitrate levels. In 2019, I introduced LB243 creating a Healthy Soils Task Force. The Governor appointed the task force, which was comprised of many talented representatives from the natural resource districts, production agriculture, agribusiness, academia, and environmental organizations. The task force was to submit a comprehensive action plan to the Governor by January 1, 2021. An excellent report was submitted and I believe you were all given a copy last year. One of the goals of the report was to form a Nebraska producer learning community. LB925 would implement this goal. Thirty-seven states have formed producer learning communities and which started because their members wanted to learn and enhance their working knowledge and promote soil health practices to others. In Minnesota, for example, the Minnesota Soil Health Coalition was formed three years ago, started by a small group of farmers and a staff from the county and soil water conservation district. There are now 235 members. They host field days, do demonstrations, provide formal soil health programs, and have mentorship network. They partner with organizations such as the cattlemen and corn growers, and corn growers. Their funding comes from grants, gifts, and sponsorships. Last year, the Legislature adopted LR5 on a 39-0 vote. It acknowledged the Healthy Soils Task Force's report and offered support for a voluntary, voluntary grassroots effort to accelerate means to protect and enhance soil-- Nebraska soils. This is the focus of LB925. When I ran for the Legislature, water quality was one of my top priorities. Nebraska's soil and water are Nebraska's most critical natural resources. The quality of both is vital not just to increased agricultural production, but for economic viability, long-term food security, and our quality of life. High nitrate levels in wells across the state are of major concern to me. Healthy soils produced through best management practices not only improve the stability, but they reduce the need for chemical inputs, thereby protecting our water quality. Healthy Soil Task-- the Healthy Soil Task Force concluded that two significant barriers to the adoption of best management practices by agriculture producers are uncertainty of a positive economic return on the investment and the lack of education and information available. Greater adoption of best management practices is beneficial to both rural and urban areas of our state. A voluntary

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grassroot effort, a voluntary-- again, voluntary grassroot effort to accelerate the means to protect and enhance Nebraska's soil should be encouraged and supported. This can be accomplished through LB925. I have distributed a letter from Dan Gillespie resulting from a recent conversation with him. Dan served as a no-till specialist with the USDA NRCS for 16 years until he retired a year ago. The fact that he wanted to discuss the issue while suffering from a serious health condition shows how important it is to him. As you will note, Dan started something similar to what is proposed in LB925, but on a smaller basis. It was successful, but what made an impression on Dan was the, was the thirst for knowledge. He stressed the importance of working together to learn an enhance-- to learn and enhance knowledge of soil health and water quality, promoting healthy soil practices, and mentoring those that just getting started. I also distributed a letter from Keith Berns, who served as the chair of the Healthy Soils Task Force. He and I converse on a regular basis and, and I highly value his opinion. He notes that not only can healthy soils better withstand drought, pest, temperature extremes, and precipitation events, but so-- but soil that is protected with a cover crop or with residue from a past crop has much higher water infiltration rates and far lower rates of runoff. Current soil practices-- and again, current soil practices are making a difference, but further implementation is needed for a significant positive impact across the state. Before I conclude, I want to thank the former task force members and others who have worked on this issue for the past three years. Their dedication is truly remarkable. I urge your favorable vote on the advancement of LB925. In case you haven't already recognized, recognized this, water quality is a, is a-- issues are very important to me and I do intend to make LB925 my priority this year. If there are any questions, I'd be happy to try to answer them. Thank you.

**BOSTELMAN:** Thank you, Senator Gragert. Are there questions from the committee? Senator Hughes.

**HUGHES:** Thank you, Chairman Bostelman. Thank you, Senator Gragert. So where was the-- you mentioned a state where a group got together and started a voluntary group. Was that Minnesota?

**GRAGERT:** Minnesota.

**HUGHES:** So has that taken place in Nebraska? Has any group stepped up to repeat that?

**GRAGERT:** Not to my knowledge. There aren't, there aren't any of the learning community-- producer learning community groups that are, are

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doing this right now. What this bill is going to be is getting volunteers that want to showcase what they're doing out on the land. So to answer your question, to my knowledge, there aren't any big groups like what we're talking about.

**HUGHES:** So isn't, isn't this something the university is pushing? Aren't they-- I mean, we have Extension field days and cooperator producers. Isn't that what they're doing now is the same thing?

**GRAGERT:** Yeah, you know, you know, through my 31 years with the Natural Resource Conservation, I attended a lot of those types of meetings that the university does and, and generally, what you're going to have is probably 100 people at those meetings. And my whole deal about this-- the producer-led community, it's more of a producer on producer and peer on peer. It's, it's groups that would be maybe 10 to 15 so people aren't afraid to raise their hand and ask those questions. As I went to many of those meetings and I, I'd come out of the meeting, there would still be questions that they were afraid to ask, you know, that-- in a large crowd for one reason or another. So I feel that this concept would be much more valuable and, and not-- and it won't replace what is currently going on and, and that's again in my opening. There's a lot of good things going on, but this will bring the coordination, communication, and collaboration together throughout the state.

**HUGHES:** Yeah. Well, I guess as a farmer myself, I, you know, I have neighbors that are, that are doing all sorts of things on their, on their properties. And, you know, certainly we watch them and they-- there are field days. I guess I, I question is, is this just piling on-- to me, if, if there was a significant-- I don't want to say need because there is a need, but if there was a significant push for it in the communities, this would already be happening without another layer of government stepping in.

**GRAGERT:** First of all, we don't plan this to be another layer of government. This entity, this will be-- once they get started through the Natural Resources Committee, they'll be on their own. This facilitator, facilitator and the, and the regions they create will be then forming a producer-led organization, you know, organization. So it won't be a government organization, OK, it'll be their own, their own-- and what will happen here is with this facilitator and his administration, this will be 100 percent of their, you know, duty. It won't be part of their duty like the NRD has this to take care of, the NRCS has a number of things to take care of, but we want to

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concentrate-- this bill would want to concentrate on soil health and water quality.

**HUGHES:** So the, the \$250,000 you want per year for five years, then what happens at the end of that period?

**GRAGERT:** We, we are, are-- like in Minnesota, they're already through donations and, and grants and, and what they-- with the facilitator and that. They'll apply for grants. It'll all be self-sustained within five years or we'll look at it in five years and if it's not, the deal goes down.

**HUGHES:** So is there any kind of a, a-- any report or requirement--

**GRAGERT:** Yes.

**HUGHES:** --for this group to-- if, if they don't grow to a certain extent, do they-- do we not spend the money then or it's just--

**GRAGERT:** There will be an annual--

**HUGHES:** --there for five years regardless.

**GRAGERT:** Oh, I'm sorry. There will be an annual report to the-- you know, back as-- in my opening, a requirement of an annual report on the progress of, of the soil and water improvement.

**HUGHES:** OK, thank you very much.

**GRAGERT:** You betcha.

**BOSTELMAN:** Senator Moser.

**MOSER:** So why wouldn't we look to the NRDs or, as Senator Hughes suggested, the university to lead this effort instead of creating a new agency, a new group? I mean, it's going to cost \$250,000 a year. Their, their advice is voluntary. Isn't there enough voluntary advice out there for free?

**GRAGERT:** Well, I'll tell you, I worked with the government for 31 years in Natural Resource-- again in the Natural Resource Conservation Service and the old standby is we're from the government, we're here to help you. You know, producers today, they learn a lot more from another producer and are willing to learn a lot more from another producer than a guy from the government coming out from the NRCS or

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NRD to say, hey, we got all your answers. This, this will be field demonstrated through demonstration plots and field--

**MOSER:** But why, but why is your bill necessary? What's different? I mean, why don't you just tell the NRDs to be more energetic in their outreach? I mean, they're, they're, they're protecting the natural resources, not just water, but land and--

**GRAGERT:** Right. Once again, they're just a form of government and they're--

**MOSER:** What is, what is this you're forming? This isn't government?

**GRAGERT:** This would-- this won't be government. It'll be a facilitator to, to work with producers, peer to peer, producer to producer.

**MOSER:** OK.

**GRAGERT:** So it's not a form of government, you know, even though the government is going to, going to.

**MOSER:** Pay the bill.

**GRAGERT:** --foot the bill for five years, but--

**MOSER:** Yeah.

**GRAGERT:** --it's not a form of government eventually.

**MOSER:** Thank you, thank you.

**BOSTELMAN:** Senator Groene.

**GROENE:** So the producers will get together and say, how can we keep our water cleaner, is that it, and, and exchange ideals?

**GRAGERT:** Yeah, they're-- those-- it's not how-- that's not the question. That's, that's the re-- you know, the result, but what the producer-to-producer thing is, like, they'll showcase if they're doing no-till, if they're doing deep soil-- or if they're doing soil sampling or nutrient management, irrigation, water management. They'll showcase that and they will, and they will showcase it to their-- like as Senator Hughes said, there are, there are leaders in every community and Nebraska is very diverse with-- they would have six different regions for this. So Nebraska is very diverse and these producers will then talk with other producers where you're more like-- at-- you're more likely to go and ask a neighbor or somebody that's--

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**GROENE:** Because--

**GRAGERT:** --doing a conservation practice how that's working.

**GROENE:** Because sometimes you go to the government and you want-- questioning and then pretty soon you're suspect.

**GRAGERT:** Well, you know, and, and there's other-- there are other things that lead into, you know, regulatory things that with-- especially with NRCS or NRDs that-- we were bound to it. If we see something, we got to, we got to address it. Well, producer to producer and the, and the-- and it's just-- it's a system I really, truly believe that will work to get education and the information disseminated--

**GROENE:** So--

**GRAGERT:** --a lot better.

**GROENE:** --we heard here in another bill, I think it was the Lower, Lower Niobrara, where had high-- some of the highest birth defect rates in the country with nitr--

**GRAGERT:** Lower Elkhorn.

**GROENE:** Yeah, Lower Elkhorn, excuse me [INAUDIBLE].

**GRAGERT:** No problem.

**GROENE:** So-- but yet, they were putting more irrigated acres in. Is this the type of knowledge that they could use, those farmers there, to know if they were going to put more irrigated acres in, that there's practices that would stop the nitrates in the water that cause these birth-- stop these birth defect situation and still be able to farm at a high production rate?

**GRAGERT:** That's exactly-- I mean, that's the end result, what we want to get to, is, is clean water and, and healthy soils because a healthier soil will be more resilient soil in the time of drought and in the time of flood, you know, your high rains. It will stay in place better if you got that vegetation on it. But in a time of drought, it will hold water. So that's a resilient-- healthy soils are resilient soil. And when you have a healthy soil, you can't talk soils without talking water and you can't talk water really without talking soils. So it-- with the healthy soils, we-- the, the result is less input of

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nitrogen for one, and, and herbicides, whatever you-- and pesticides will result after years of, of a build up of healthy soils.

**GROENE:** Thank you.

**GRAGERT:** It would be very, it would be very good for that in the short answer.

**BOSTELMAN:** A couple of questions for you. On your-- on the facilitator on the fiscal note, shows it's \$92,000 to \$94,000 for that facilitator. Could-- do you-- what's, what's the qualifications for that individual or-- I guess is my question.

**GRAGERT:** Well, those will-- that will all be determined, you know, through the, through the hiring in the Natural-- you know, the Natural Resources Commission, you know, on the hiring. But I don't know if that's an estimate there, Senator Bostel-- or Chairman Bostelman, or, you know I don't--

**BOSTELMAN:** Well, I don't see this--

**GRAGERT:** --see that. If they got somebody hired for less than that, I'm sure they'll do it. But they're, they're working within \$250,000. They're not going to get any more, so.

**BOSTELMAN:** OK, that was my question and are there other questions from committee? Seeing none, thank you.

**GRAGERT:** Thank you.

**BOSTELMAN:** I ask is there anyone who would like to testify as a proponent for LB925? Please step forward. Good afternoon.

**CHARLES SHAPIRO:** My name is Charles Shapiro, C-h-a-r-l-e-s, Shapiro, S-h-a-p-i-r-o. LB925 is a well-thought-out plan to facilitate the adoption of agricultural production methods that Senator Gragert just described. I was a member of the Soil-- Healthy Soils Task Force and LB925 recognizes the goals of that task force. I worked as an extension soil fertility specialist at UNL for 34 years and so my remarks result from this experience, but I am testifying as an interested citizen. As Senator Hughes mentioned, Extension's mission is to publicize science-based best management practices. Nebraska Extension has long operated by developing knowledge and sharing that knowledge. The teaching model has expanded from an expert-based model into a cooperative learning model. Many farmers use their ingenuity and creativity to develop soil management systems on their farms that

are resilient and productive. Extension has learned much from these examples and there are many other agencies inside and outside of government working on education. What has not changed over time is that farmers still have to sift through that information and decide how to manage the land they farm. Senator Gragert described the barriers to adoption. I want to point out that what is missing in Extension and maybe in NRDs-- I only know about Extension-- are educational opportunities that address integrating these practices on a working farm. I'll focus on why producer learning communities. But first, before I do, I want to be clear that they are not a replacement for current educational infrastructure provided by UNL, NRDs, NRCS, businesses, and nonprofits. The purpose of the bill, as Senator Gragert mentioned, is to enhance the opportunity for farmers to learn about these practices from experienced farmers whose land is near theirs. Over my career, I reviewed many surveys that asked farmers how they got their information and how they preferred to get information. It is humbling to learn that most farmers chose to learn from another farmer and not an Extension specialist. Farmers will listen to what we said, but they usually look to their peers to confirm the idea. In Extension language, we call that an early adopter. I recently talked to Chris Proctor, an Extension educator, and he gave me four refereed journal articles that basically say the same thing and that's listed on your paper. To conclude, experience in other states has shown that while the learning communities are voluntary, self-led, self-managed, they do need some institutional support to be organized and to be maintained. LB925 enables the formation of these groups at the beginning. The focus on the learning communities adds value to our current research and our Extension. Producers want the opportunity to learn from their peers. The public share in this process is to partner with them by providing organizational help.

**BOSTELMAN:** Can you wrap up, please?

**CHARLES SHAPIRO:** I'm done.

**BOSTELMAN:** OK, super. Thank you, Mr. Shapiro, appreciate it. Timing's good. Are there comments or questions from the committee? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman, and thank you, Professor. So you mentioned it here, and I think the bill itself mentions that there's uncertainty about the economic return. When you say uncertainty about economic return, that is on the individual basis. Is there certainty, like, in the peer-reviewed information, that people

undertake these practices, there would-- they will in fact derive economic benefit if they do it?

**CHARLES SHAPIRO:** Well, that's a pretty big question. You know, it depends on specific location, specific practice. One of the reasons why we envisioned these learning communities is that something in northeast Nebraska may not be effective in southwest Nebraska, and it's how you put them together on an integrated basis. The best management practices that in Extension we recommend-- and many of these are, you know, in a Venn diagram, they're the similar-- we think we have a research base for. But anyone-- even nitrogen recommendation rate, I spent 30 years working on that and I couldn't stand-- sit here under oath and say that it's going to work every time in every location.

**J. CAVANAUGH:** All right. And just--

**CHARLES SHAPIRO:** But I think the one thing is that these practices take time to establish themselves on the soil. You know, you can't just do one thing one season and expect you're going to increase your organic matter or your water holding capacity. In research, we usually get three-year grants. Well, three years really isn't enough for a major change. So to answer your question, what is recommended-- and these are the things that NRCS recommends-- they, they're, they are proven on farmers' fields and you'll probably get some farmers talking about success on their fields.

**J. CAVANAUGH:** So the-- and I'm, I'm probably the least agriculturally literate person sitting behind this table, but my understanding of Senator-- what Senator Gragert was saying and, and maybe what you were saying there is the benefit is economic in the sense of the decreasing the amount of nitrogen you would need to apply to the land based on the soil health. That's-- is that--

**CHARLES SHAPIRO:** Well, the soil health is more than just nutrition. And so the first principle of, of the soil health is to reduce tillage and increase residue on the soil. So that's going to increase water infiltration. It's going to reduce erosion. And if you don't have losses, then you're-- you can get-- you can do different things with your inputs.

**J. CAVANAUGH:** And the loss is?

**CHARLES SHAPIRO:** Well, if we're talking about nitrogen, if you have nitrogen on the surface of the soil and then you get a rain and it erodes, you're going to move the nitrogen down into the groundwater.

**J. CAVANAUGH:** OK.

**CHARLES SHAPIRO:** So that-- I mean, it's a case-by-case basis, but the soil health is more than just one input at a time. It's if you have-- if you can hold two inches more water in your soil profile, that might be 25 bushels of corn if you're in dryland conditions or you may not have to irrigate as often, you know. So how much you can improve, you're not going to add that on a-- sand in Polk County, but you might add that in a silt loam, you know, in eastern Nebraska.

**J. CAVANAUGH:** So that was kind of my second question. I guess I was trying to get at the objective here is to decrease the amount of input cost, but there also is the potential benefit of an increased output with the same amount of input. Is that--

**CHARLES SHAPIRO:** I would say there's a benefit of increased efficiency.

**J. CAVANAUGH:** OK.

**CHARLES SHAPIRO:** So, you know, 100 pounds of N might-- if you reduce it to 80 and you still get 200 bushels, you are saving an input cost. Now, whether-- you'll get a yield increase-- like I said, if you can hold more water, then you might get a yield increase in a dry year.

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

**BOSTELMAN:** Other questions from committee members? Senator Hughes.

**HUGHES:** Thank you, Mr. Shapiro, for coming today. I guess, I guess I'm still a little skeptical. As a farmer, I've seen the numbers of farmers dwindle over the-- over my career in the last 40, 45 years farming. So those of us that are left have had to adapt and no-till farming, the industry-- I wouldn't say it's forced us that way, but the industry has responded with different options for planting, for, you know, seed bed preparation. The chemicals that we are allowed to use do a much better job. I guess I'm just struggling with why we need to do this after the, the task force if-- you know, we had the task force and we had the report and we had the group that was on the task force. If that didn't spring forth pockets of farmers wanting to move this forward, why do we need to do this?

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**CHARLES SHAPIRO:** Well, that's a valid question. What we're looking at is in the aggregate of-- let's say-- I'm, I'm interested in soil conservation, so--

**HUGHES:** So am I.

**CHARLES SHAPIRO:** --so we all want to reduce soil erosion. I've driven-- I used to drive to Lincoln from Concord many times a year and sometimes I would-- in the spring, I, I would be going-- you know, sometimes I'd go over country roads and I would see a fence line; one side had rye maybe as a cover crop, another didn't. And you could see, you know, the erosion in the field. Now that might only happen once in ten years and I don't know what, you know, the tons per acre was, but you would see that. But if I was going to go into that field, take a soil sample, I might not be able to show to you that there was any difference. You know, it would be hard for me, with data, to show you that there was a big difference in that field if I just walked out there then. But your eyes don't lie to you. You can see that where there was rye, the soil didn't move. And there are other things like that. I hate to be fuzzy. As a scientist, I want to have the numbers. We had a cover crop experiment up at Concord. And since I'm a fertility person, I was looking at fertility, but I [INAUDIBLE] and one of the observations was that where I had the rye growing in the spring, the mare's tail, which was an invasive weed, it might be 10 percent of where it was where I didn't have a cover crop. Now, if I sprayed the weed and we got the right rains, maybe there would be no yield difference, but it was clear that the cover crop was doing something to compete with that or to inhibit its growth. So I don't know if this is answering your question there. All these little things that add up and my point that I wanted to make here was that as a scientist in fertility, I only focus on one thing, but you have to put it all together. You're the orchestra leader. And so you have to say when the trombones come in and when the drums go on and that's what farmers can give to other farmers is balancing all those other decisions that they need to make. Whereas me, as an expert, you know, I can just say put on so much pounds of N if this is the situation, but I can't tell you when's a good time to do it necessarily or something like that. So what these communities will do is provide that integratedness. Now why they're not happening on their own, you know, back 30, 50 years, Extension helped organize the Pork Producers. I mean, they, they helped get people together and then they stepped back. Now the Pork Producers are independent group. They don't need Extension help. But in the beginning, they helped get them together once a month or whenever-- I, I wasn't part of that, but, you know,

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you need something to break the inertia. And as it-- since it's a long-time process, you know, it doesn't happen in six months.

**HUGHES:** Yeah and I, and I can appreciate your passion having spent 34 years in your profession, absolutely. But I guess my point is I think it's already happened because as the-- you know, the natural selection, I guess, is probably a good way to put it, that if a farmer has not been adapting and going to no-till, they've gone out of business because the margins have gone so-- gotten so thin. So, you know, all of these practices that-- of cover crops with, with the Internet and, you know, coffee shop talk, whatever, that, that information is available. And if you're a producer and you have not adapted, your days are numbered and that's clearly shown in the increased size of farming operations. Because margins are so thin, we have had to adapt. We've had to develop these processes and, and we certainly have the NRDs, you know, tracking the nitrates in our water. So I guess I'm-- I, I'm not going to argue the point. I just-- I think this is already happening.

**CHARLES SHAPIRO:** Yeah and, you know, there are farmers who are doing this, so we're not arguing that and there may be other people testifying to the extent of erosion or something through the state.

**HUGHES:** Thank you for coming in today.

**BOSTELMAN:** Other questions from committee members? Seeing none, thank you, Mr. Shapiro, for being here today. Next proponent, please. Good afternoon.

**CRAIG DERICKSON:** Good afternoon and thank you, Chairman Bostelman and members of the committee, for allowing me to provide comments today. My name is Craig Derickson, C-r-a-i-g, Derickson, D-e-r-i-c-k-s-o-n. I am the retired Nebraska state conservationist of the USDA Natural Resources Conservation Service and my comments today are my own. They don't reflect those of the NRCS agency, as I'll refer to them during my comments. I retired from NRCS in December of 2020 after 35 years of service working in natural resource conservation and working with partners in Nebraska and then in other, other states as well. And I'm here today to speak in support of LB925 and I have just three main points that I want to touch on in my comments today. First, I'm supportive of the proposal to establish the producer-based learning communities and the hiring of a statewide facilitator, as described in the bill. From my perspective, producer interest and activity in soil health practices has increased significantly in the last ten years and, as has been said, we have a number of other groups who are

actively working to promote cell-- soil health and participating in field days and demonstrations. I do support the approach described in LB925 to establish producer-based learning groups in specific locales and communities because of the relevance they provide in that area and I think that approach can help us accelerate the adoption of soil health and water quality practices. I believe the voluntary producer-based learning groups will be effective in coaching other producers who are considering decisions or choices that they have to make about which practices might be best for those-- them and the ones that are most likely to succeed. With the work of providing general soil health information mostly accomplished at this point, I think producers are now ready to go to the next level and try something that might be more adapted or more impactful for their farm and Dr. Shapiro talked about a lot of that, so I won't repeat that. But I think providing that kind of mentoring in these peer-to-peer learning groups has a lot of potential for adult learning. And as I watched the interest in soil health activities and events happen over the past few years, the single most noticeable need that I saw was a way to coordinate all of those various multiple and random activities. And I think the proposal for having a person who is a skilled facilitator to help do that could accomplish that. So in my opinion, the concept described in the bill to hire a statewide facilitator to lead that collaborative effort and work with partners to organize those events is much needed in Nebraska. And I think the facilitator can be helpful in helping acquire gifts and grants and other sponsors that may potentially lead to additional funding.

**BOSTELMAN:** Time is--

**CRAIG DERICKSON:** OK.

**BOSTELMAN:** --to the end. If you get--

**CRAIG DERICKSON:** OK.

**BOSTELMAN:** If you have a-- last few words is fine.

**CRAIG DERICKSON:** OK and I just wanted to give one other example. We talked about the power of teaming up a facilitator type person with other technical specialists. Another example I'd like to offer a few comments on comes from Indiana. They created what is called the Conservation Cropping Systems Initiative, or the CCCSI, as it is known. It was one of the first soil health statewide projects in the United States and it's probably known as one of the most successful. And they have had a lot of very good success that's well documented

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with the producer learning groups and the use of a facilitator to help coordinate this adult learning and these mentoring sessions. And so I just offer that as another example and I'll--

**BOSTELMAN:** Thank you.

**CRAIG DERICKSON:** --quit here and I'll be happy to answer any questions you may have.

**BOSTELMAN:** Thank you, Mr. Derickson. Appreciate your testimony. Are there any questions from committee members? Seeing none, thank you for coming in today. Next proponent, please. Good afternoon.

**ALAN MOELLER:** Good afternoon. Chairman Bostelman and members of the Natural Resources Committee, my name is Alan Moeller, A-l-a-n M-o-e-l-l-e-r. The Nebraska Elder Climate Legacy Initiative, of which I am a member, is in strong support of LB925. Soil health is a hot topic in agriculture. It's showing up everywhere, from government policy discussions to industry initiatives, from news articles and scientific journals to farm magazines to documentary films. Worldwide, there is a movement recognizing the need to protect and enhance the health of our soils for the benefit of agriculture and the environment. So considering the promotion and wealth of scientific information, why aren't more producers than there are incorporating the full set-- and I say full set-- of soil health tools into their farming and ranching management operations? Well, as you all know, making change is always complex and unfortunately many times doesn't happen until there is a crisis. Several barriers to change exist, as mentioned by Senator Gragert. As is the case so many times, educational programs are attended by those already sold on soil health practices. The benefits and how to do it need to impact a broader audience. The barriers are being addressed by voluntary, producer-led coalitions in states surrounding Nebraska, like proposed by LB925. There is the Practical Farmers of Iowa, the Kansas Soil Health Alliance, the South Dakota Soil Health Coalition, and Colorado Collaborative for Healthy Soils. In addition, Colorado just passed legislation creating a statewide initiative to encourage widespread voluntary adoption, adoption of soil health practices. The executive director of another coalition, the Minnesota Soil Health Coalition, said their members really focus on farmer-to-farmer education. He said farmers feel most comfortable talking to someone who is experiencing the same risk level they are. The director feels a big reason for success of the Minnesota organization is their mentorship network. Nebraska is behind its neighbors. The Healthy Soils Task Force recommended the establishment of the producer learning community.

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Participants in last November's university-sponsored Soil Health Summit highlighted the value of producer peer-to-peer learning and the benefits of having demonstration and research farms germane to their operation. The producer learning community offers a voluntary, grassroots, bottom-up, peer-to-peer means to increase awareness of soil health benefits and how to achieve it. As proposed by LB925, the Department of Natural Resources, Natural Resources can serve as a catalyst to establish a-- such organization for Nebraska. Having an individual dedicated full time with the responsibility to facilitate the organization's formation would be a real advantage. Legally structured outside the department, the producer learning community would need to become self-sufficient. The appropriation is a great investment in Nebraska soil and water resources and a contributor to a sustainable future. Thank you for your time.

**BOSTELMAN:** Thank you, Mr. Moeller. Are there questions from committee members? Sorry, Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman, and thank you, Mr. Moeller, for being here and for your testimony. So you listed off a whole lot of other states that are ahead of us. Are-- did all of them start their project in the same manner as we're being proposed here with kind of priming the pump by the state and then getting this grant funding afterwards or do you-- are you-- do you know the answer to that?

**ALAN MOELLER:** Yeah, I, I don't know the exact details of how, how each one of these organizations got started, but I do know they're, they're basically standalone 501(c)(3) organizations that have, you know, legal bylaws and so forth and they're producer led and they partner with other entities like their university and their equivalent to our NRDs and, and, and various organizations like that.

**J. CAVANAUGH:** And in terms of them being ahead of us, are they ahead of us in terms of having these organizations or are there actually measurably ahead of us in terms of the number of people undertaking soil health practices or practices--

**ALAN MOELLER:** In terms of the statewide participation of adopting healthy soil management practices, I don't have any statistics on that, Senator Cavanaugh, but I'd be happy to look into it for you.

**J. CAVANAUGH:** I'd be curious. I mean, we've heard that-- heard about all of these folks. We heard about Indiana. I'm sorry, I didn't ask about it on the last speaker in Minnesota. I, I would be interested to

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see, yeah, the programs that-- people who have the program we're talking about--

**ALAN MOELLER:** Right.

**J. CAVANAUGH:** --what the success rate is.

**ALAN MOELLER:** Minnesota is just in its third year. I know Kansas probably is, is within just its first year. So a lot of these are relatively new, but, you know, they are having an impact. The executive director of the Minnesota Soil Health Coalition gave me an example. He said our-- the current president of their corn board is, is a mentor in their organization. And he says he can give an example of one mentor who drove two hours one direction to help another farmer who was having a problem which the mentor was very familiar with, spent four hours with this individual, and then drove two hours back. So it's, you know, there's a lot of commitment there and, and it's, it's a different sort of learning tool.

**J. CAVANAUGH:** Yes. Well, it sounds like a great learning tool. I think Senator Hughes has, I think, sort of really honed in on the question here of-- I actually attended that conference in November that you talked about, which was great, and there was a lot of-- it was a lot of peer-to-peer producers. I mean, well, in my case, it was producers telling me, but I'm not-- but if there are a lot of folks doing that kind of thing, as what Senator Hughes was talking about, are we creating something that is already being done? Is there a-- are we adding value to this process and getting-- and actually getting more people involved? Because what you described is somebody going to extreme lengths to help another person as a volunteer.

**ALAN MOELLER:** Right. I'm aware of some small pockets, a few individuals that are, you know, working together on some of these things, but, you know, there's nothing formalized at, at this point. And, you know, it's just another tool in the toolbox. It's a tool along with the other tools we have with the university and, and other educational programs to take what already is, is well done and, and doing it better and doing it much better because as I have kind of studied this, they have shown that producers rank peer-to-peer education more highly than from visits from technicians. Farmers who are better connected to other farmers using soil health practices are more likely to adopt. So it's, it just-- it's enhancing the current situation.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Other questions from committee members? Seeing none, thank you for being here today. Next testifier, please. You're welcome-- for the record, Senator Wayne joined the committee.

**DARYL OBERMEYER:** I'm Daryl Obermeyer, D-a-r-y-l O-b-e-r-m-e-y-e-r. I'm here today to testify in support of LB925. I'm an agriculture producer in Nemaha County near Brownville. I'm a strong supporter of improving soil health and water quality. I've used rotational grazing and cover crops since the '70s, and no till since the '80s. For too many years, traditional farming methods have "deployed" the topsoil, reduced water retention, and degreased-- decreased organic matter in the soil. I recall back in the 1950s, my dad used cover crops and manure to keep the soil healthy, but salesmen from chemical companies convinced him that processed fertilizer was superior to Mother Nature. Although he continued to use some of his customary practices, he became more and more dependent on purchased inputs. Currently, we're seeing-- experiencing rapid inflation and scarcities of chemical-based farm inputs. This would be an opportune time for the development of producer learning community spelled out in LB925. Producers would have a vehicle where they can acquire information on how to reduce inputs, yet maintain profits and by showing producers how to cut input costs, the young farmer may be more able to enter the field. I personally have seen that treating the soil as a biological rather than chemical entity can improve soil health. During my time as a student at UNL campus in the early 1970s, I was told things like manure has no economic value or soil needs to be balanced chemically or why would you raise wheat in eastern Nebraska? As I began farming, I saw there was more to soil than chemicals. I began reinstating dad's practices of cover crops and manure. By treating the soil as a biological entity, I saw improvements to the soil, but didn't have the expertise to evaluate the results. As a former member of the Nebraska Soybean Board, I became familiar with the on-farm research program funded partially by our group. The research program studied producer-developed trials. In my case, with the help of the on-farm research program and the Natural Resources Conservation Service, which I invited in to look at what I was doing, I was able to see what practices I was using did to improve the soil. Keeping your soil covered, live roots, crop rotation, including wheat in that rotation and grazing of the cover crops improved water retention and fertility, but it seemed to stop there. I was one of 17 producers hosting a five-year study on different methods of experimenting with regenerative agriculture. A learning community will be a natural next step in helping us share our experiences and making our information available. As I drive around the neighborhood, I see bare soil,

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erosion, and blowing dust from area fields. We need groups like those that would be developed under LB925 that can show more of our producers that they are continuing to deplete their soil and are only gaining yield by increasing inputs, which in turn pollutes our groundwater. I believe that producers are influenced by the proof of successful farming method it would show and explained by other people-- by other producers. In this time of increasing input prices, teaching our producers how to cut costs and improve the bottom line by letting Mother Nature go back to work will help us keep in business. And if I haven't used all my time, I would like to respond to a question by Senator Moser a few speakers ago.

**BOSTELMAN:** Senator Moser can ask the question if you'd like, but we're-- need to wrap up real quick.

**DARYL OBERMEYER:** OK, so I can't make any more comments?

**MOSER:** I'll ask the question.

**BOSTELMAN:** He'll ask the question. He'll ask you the question, so.

**DARYL OBERMEYER:** OK. OK, so I'll tell you-- do you remember the question? It was why don't you tell the NRD to go out-- or the NRCS? OK--

**BOSTELMAN:** OK.

**DARYL OBERMEYER:** OK and my answer to that question is--

**BOSTELMAN:** We'll, we'll-- you need to wait.

**DARYL OBERMEYER:** OK.

**BOSTELMAN:** OK, hold on. Are there questions from committee members? Senator Moser.

**MOSER:** So why isn't this a duplicate program?

**DARYL OBERMEYER:** OK, my, my response to how you asked the question earlier of why not get the groups more active, my experience has been some of the government agencies are, are still too inside the box. When I invited groups to come and look what I was doing, I was turned down by the NRCS the first time because they said we've never done research on this before and they weren't interested. My response is why haven't you done research on this? About two weeks later, they came back to me and said, you know, we are interested in what you're

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doing. And they're the ones that set up the five-year program that I've been in. But it had to start from the producer. It doesn't start from the government. The producer is the one that comes up with these ideas. The government, the government entities is what helped me understand what I was doing. The extension through the Soybean Board and the NRCS, they had the expertise to evaluate what I was doing and tell me, but it came from producer and that's where the ideas are coming from. It's not coming from government.

**MOSER:** Well, your new group could go forward in an unenthusiastic manner and fail as badly as NRDS might or the Extension from the university or-- you know, I just-- I-- anyway, I appreciate your answer. There's no point in arguing. Thank you.

**DARYL OBERMEYER:** Yeah. OK, thank you.

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

**J. CAVANAUGH:** Thank you, Chairman Bostelman and thank you, Mr. Obermeyer. So my takeaway is that you would be-- in this structure, would be one of the mentors, is that correct or are you still--

**DARYL OBERMEYER:** I would be happy to be because I'm really the only one in my neighborhood doing anything like this. Everybody else uses vertical tillage and--

**J. CAVANAUGH:** So that's kind of--

**DARYL OBERMEYER:** Yeah.

**J. CAVANAUGH:** --my next question would be, have, have you, I don't know, put yourself out there as somebody who is willing to give advice, had trouble connecting with people who maybe need advice? So my understanding of this program would be it would connect people to you, right, as a, as a mentor?

**DARYL OBERMEYER:** Well, yeah, I would hope so. And I have been asked to give talks. I've given several talks on, on what I do. But the trouble is I was asked to come to York and speak to a group. I got out there and it was a roomful of people, but every one of them was from the NRCS. There were no producers there, but I explained to the NRCS what I was doing. But somehow this has to get to the producers that are still going out and farming like people did years ago. They aren't adapting to what we're learning about, about soil and soil health. And like I said, it-- this comes from the producer, not government.

**J. CAVANAUGH:** So it-- under this program, would it-- the, the role of this facilitator would be to proselytize to those people who are currently still tilling or would it be just to be a resource, connection, facilitator?

**DARYL OBERMEYER:** That part, I really can't answer. I'm here as a producer. I wasn't on the soil health committee. They've talked about that. They did come to my farm and look at it. One of the representatives is-- of this soil health group, that three-year group did come and, and spend a day with me. But all I can say is I would be happy to share what I do if this group develops and in-- what I like about the group, it splits the state into six. Up until recently, I look at research from Atchison County, Missouri, from a test plot because Nebraska is so variable. You get out of the four or five counties in the southeast part of the state, it's different. And so I found I had to turn to Missouri to get information on research. Something like this where it breaks the state up into six groups, hopefully, the southeast corner of the state will get some attention that we are a lot different than the rest of Nebraska.

**J. CAVANAUGH:** Thank you.

**DARYL OBERMEYER:** OK.

**BOSTELMAN:** Other questions from committee members? Seeing none--

**DARYL OBERMEYER:** Yeah.

**BOSTELMAN:** --thank you for coming in today, appreciate it.

**DARYL OBERMEYER:** Yep, thank you.

**BOSTELMAN:** Next testifier please. And I just want to remind testifiers you got three minutes, so please be mindful. We do have other bills and confirmations due today, so if you spur some questions from us, obviously, dialogue can go a little bit longer, but please be mindful of that. So thank you very much and welcome. Good afternoon.

**TOM HOEGEMEYER:** Thank you, senators. I'm Tom Hoegemeyer, T-o-m H-o-e-g-e-m-e-y-e-r. I spent most of my life working at a family ag business in Dodge County, earned a bachelor's in crop science at UNL, and a Ph.D. in plant breeding at Iowa State. I retired some years ago, but still do some consulting for a major international seed company. I believe we're at an inflection point in agriculture and food. Consumers are increasingly interested in how their food is produced and whether it is ecologically sustainable. The vast majority of

consumers are several generations away from natural food production and as incomes have improved, people are more interested in how that food is grown and where the ingredients come from. Major food and retail companies are already beginning to respond to this sea change in consumer desires. Big food retailers are putting pressure on major ag companies to figure this out and these food companies are already promising major shifts in the sustainability of food products they deliver to the market. A huge share of that shift is predicated on more sustainable, lower input agriculture that they haven't figured out actually how to execute yet. Some of our neighboring states have already started programs, as other testifiers have described, to try and figure out how to get into this whole area. And I think Nebraska needs to help our producers adopt early and adapt to this coming revolution, not via coercion, but by a demonstration of what can be done and how best economically, which is really critical, and practically to implement more sustainable approaches because that's where the market is going to go in the next 10 or 15 years. And I think LB925 provides the-- for the building of this network of learning centers, which can help that transition. I think it's going to be demanded of our producers to figure out how to be more sustainable and if we don't adapt to this new paradigm, we're going to be a residual producer rather than a, you know, first choice. That's, that's my testimony.

**BOSTELMAN:** Thank, thank you, Mr. Hoegemeyer. I appreciate that. Are there questions from committee members? Senator Cavanaugh.

**J. CAVANAUGH:** I'll just ask all the questions. Thank you, Chairman Bostelman, and thank you, Mr. Hoegemeyer. So-- well, first, what's a residual producer? Is that a term of art that I don't know or-- you were-- referred to us as we would become a residual producer or it's--

**TOM HOEGEMEYER:** It's less than first choice--

**J. CAVANAUGH:** OK.

**TOM HOEGEMEYER:** --for acquiring, you know, food products to, you know, build into the food system.

**J. CAVANAUGH:** I mean, it sounds to me like what you're talking about is the-- there's a potentiality to be a premium product--

**TOM HOEGEMEYER:** Yes.

**J. CAVANAUGH:** --by adopting these practices. I guess my-- the big question that struck me and it seems like kind of what we're all

dancing around is do you have any concept of how many people are not doing this, how many more people we could get to do it if we adopt this program?

**TOM HOEGEMEYER:** I think we have very few producers that are what Target and Target's millennial customers would call fully sustainable producers. There are some, but there's not very many. The question is, is how fast that transition to that, you know, millennial producer or that millennial consumer comes. The real problem is, is that we have a, we have an economic situation. Those producers or those consumers that are demanding it are producers with money and the retailers and big food companies, you know, want to go there. But we also have a population in the country that don't have the wherewithal to do that and so we also have to have, you know, foodstuffs and a food system that produces things very economically. And how fast this whole tradition-- this transition comes and how far the market swings, I think we-- you know, maybe my children will live long enough to, to see it, but it's going to happen. It's coming.

**J. CAVANAUGH:** But the, the question is not so much, at least in my mind, how many people are adopting this highest standard of--

**TOM HOEGEMEYER:** Yep.

**J. CAVANAUGH:** --what millennial-- whatever you call them--

**TOM HOEGEMEYER:** Yep.

**J. CAVANAUGH:** --I would call, I'd call them hipsters, I guess, but people want, right?

**TOM HOEGEMEYER:** Right.

**J. CAVANAUGH:** And but there is something in between that where there is a more sustainable practice that is not necessarily getting to advertising yourself as a wholly sustainable farmer, right?

**TOM HOEGEMEYER:** And, and I think that's where the biggest in to the market is, Senator--

**J. CAVANAUGH:** But--

**TOM HOEGEMEYER:** --that's right.

**J. CAVANAUGH:** --the question we don't know, you're-- you think it's a very small number of people that are at this very high level.

**TOM HOEGEMEYER:** Right.

**J. CAVANAUGH:** But the question is how many of them are we-- how many people-- if we adopt this bill and this program, how many people are going, going to get from where they are now to this more sustainable practice that will have a beneficial effect for our groundwater and for our soil quality?

**TOM HOEGEMEYER:** I, I think it's-- the, the current situation in my feeble mind is that we're probably 5, maybe 10 percent at, at the outside as far as adopting those practices. It's not that the rest of the producers haven't done anything. As Senator Hughes said, you know, they've, they've adopted no till and some other practices. But, you know, getting that whole package done to protect soil and water health plus, you know, drive this whole sustainability so that they can use less nitrogen and, and, and purchased inputs, purchased chemical inputs, I suspect that we're, we're not very far on that curve at all. I, I suspect 90 percent of our producers are not there yet.

**J. CAVANAUGH:** OK, thank you.

**BOSTELMAN:** Other questions from committee members? Seeing none, thank you, Mr. Hoegemeyer, for being-- today. Next testifier, please, proponent. Good afternoon.

**ANNETTE SUDBECK:** Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Annette Sudbeck, A-n-n-e-t-t-e-S-u-d-b-e-c-k, and I'm 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 am here today representing the Nebraska Association of Resources Districts, NARD, and the Lewis and Clark NRD. Thank you for the opportunity to provide testimony in support of LB925 to adopt the Resilient Soils and Water Quality Act, including the stated intent regarding appropriations. I want to say thank you to Senator Gragert for his foresight in protecting the lifeblood of the people of our state and of the agricultural economy in Nebraska: soils and water. Farmers face challenges and questions on a routine basis and have endless, though somewhat daunting, sources of information available to review when making decisions to improve yield, reduce inpoints-- inputs, grow health-- soil health, and protect water resources. Having endless sources of information is a great tool. Having the time to effectively utilize those sources in an effective manner is a whole different story. The proposal of LB925 will provide an avenue for farmers, through development of demonstration farms and learning

communities, to share or exchange information with fellow crop producers who are working in the same geographical area, facing similar problems and attempting to identify appropriate solutions for the situations they are facing on their farms, farms. The demonstration farm concept deepens the level of interaction a farmer has with neighboring farmers by creating the atmosphere of trying and sharing things that may be out of their traditional scope, thus creating a platform for back-and-forth communication and exchange of ideas that will naturally expand knowledge and help producers recognize how they can minimize the potential impact of trying new things and determining what the best options may be for them. Soils and soil health are the main line of protection for Nebraska's water resources. Growing crops while maximizing soil health is critical to improved water infiltration, minimize contamination runoff, and reduce nitrate leaching, protecting both ground and surface water resources. The Lewis and Clark NRD, at the time when Senator Gragert was working with the-- I'm forgetting the term, sorry-- the report before, the Healthy Soils Report, we started the Bow Creek Watershed Project. Part of that project includes a demonstration farm concept with a producer. We started with a very small group, four to six individuals, one of which will be testifying after me. It's been a very successful concept. It has required someone to lead the group as a facilitator who goes and works with UNL, NRCS, specialists in the field such as Tom Hoegemeyer and others. We reach out to folks we know have experience in the topics that the producers are interested in learning about, but the producers drive the topics. The producers each have a small demonstration farm and they are welcome-- they are inviting people to come to their farm to learn. They're sharing not only their successes, but their failures as well, which has created a very open, dynamic exchange. It's also grown so that when we hold meetings and invite people, the public to come in and to learn more, that they are willing to come in because they're hearing this from their neighbors. They're-- they know they're going to talk with their fellow neighbors about problems. It's been a very successful project for us.

**BOSTELMAN:** OK, thank you for your testimony, Ms. Sudbeck. Are there other-- questions from committee members? Seeing none, thanks for coming in today.

**ANNETTE SUDBECK:** Yes, thank you.

**BOSTELMAN:** Appreciate your testimony. Next proponent, please. Good afternoon.

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**JOHN HANSEN:** Good afternoon, Mr. Chairman and members of the committee. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. I've been working on soil issues for well over 45 years. I come from a Madison County conservation award-winning farm; the farm that I own, which is the Hansen family farm. Before that, put on the first terraces in Madison County. My grandfather, a shrewd negotiator, was able to buy the road grader that was used by horses to build those terraces, which is still in my family. And so I've been working with farmers and ranchers as an NRD official. I served on the Lower Elkhorn NRD board from '74 to '90, so I, I understand the importance of how it is that we go about getting adoption. And the way that you do that is you educate and you incent. And the folks that are the most effective educators in this area are the folks who are the experts, who are the folks who get their hands dirty and actually put them in the soil, grow things, and understand the particulars of their, their farm. And soils are-- there is such a world of difference in, in soils. I'm also a recovering fertilizer dealer and so in our service area of about 25 miles in any direction, you can find dozens of different kinds of particular soils and soil challenges and issues and so what worked in one area doesn't necessarily work in the other area. But if you wanted to have-- do something that caused folks to actually be interested and come together and figure it out, have them come to a producer workshop where it's producers working with producers and there's just no substitute for that. We have expertise in our state. We have natural advantages because of our natural resource district system. There's no other state in the country that spends more local and state dollars on conservation programs of one kind or another than the state of Nebraska. We are a national leader. We are viewed as a national leader. And so my organization has a lot of folks who are working on regenerative agriculture and soil and healthy soils and soil issues. And so when I asked them what do you think about this bill, every one of those folks wanted to make sure that I was going to be here today to testify in favor of this bill. And the reason is that they think that we have a lot of abilities, a lot of resources, but this can help us get more adoption. This can help us facilitate and bring more folks together, build on the NRCS expertise that we have, the NRDs support that we have. And are we better off if we have healthy soils in this state? Absolutely. That is the basis of not only our economy, but it's also the, the basis of our society is having healthy soils and healthy water. So I look at the amount of money that we spend on all different kinds of things. The amount of money that we're looking at in this is, I think, extremely well spent and I think we're going to get a lot of

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bang for our buck. Thank you very much. I'll be glad to answer any questions.

**BOSTELMAN:** Thank you, Mr. Hansen. Are there questions from committee members? Senator Cavanaugh. And I did get a note, as committee members ask their questions, please either speak closer to the mike or speak up.

**J. CAVANAUGH:** That's my--

**BOSTELMAN:** Your voices aren't carrying. Thank you.

**J. CAVANAUGH:** That's a note about me. So I just want to hit on you said the reason that there's support of this bill is this will get more adoption.

**JOHN HANSEN:** Yep.

**J. CAVANAUGH:** So you think that more people will undertake conservation practices as a result of this bill, which is, I guess, is the goal of the bill?

**JOHN HANSEN:** Yes and if I, I-- it-- for folks who don't know me well, I'm not a big fan of just, you know, adding more government agencies or more government stuff to things. I want to make sure we're getting stuff done. So I look at this and, you know, from a very practical standpoint, does this help us get more, more-- does this help us get more adoption? Does this get us more of the kind of-- and it-- we've talked about it in different kind of ways and I'm not sure what's the best way to describe it, but, but we have a lot of folks are doing a little something. We're, we're-- you know, we're doing minimum till, we're doing different things, but where the action is right now, for example, is in cover crops, it's on regenerative ag. Those are-- that's where the energy is out in the country. And so helping facilitate farmers to do farmer-to-farmer stuff where we get more adoption, yeah, I think it's a good investment. I think we're going to get it done. I, I think we're-- I think our foot is in the water, but I don't think we've waded in or come anywhere near close to reaching our potential.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Other questions from committee members? Senator Moser.

**MOSER:** So are you still president of Farmers Union?

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**JOHN HANSEN:** I was when I left the office this afternoon.

**MOSER:** You going to call up quick and see--

**JOHN HANSEN:** Call up, check-- it's liking the-- at my age, it's like checking the obits in the morning.

**MOSER:** The answer is yes.

**JOHN HANSEN:** Yes.

**MOSER:** OK, good. Just make it easy for the, the people who are trying to, to document our discussion. How many members in Farmers Union?

**JOHN HANSEN:** We've got about 4,000 families.

**MOSER:** So do you advocate for healthy soils through your organization?

**JOHN HANSEN:** We, we have policy that, that clearly speaks to that. We have a lot of not only members, but also leaders in our organization that are involved in different kinds of--

**MOSER:** Do you have like a newsletter or something that you send out a few times a year or something, right?

**JOHN HANSEN:** Yeah.

**MOSER:** And do you advertise best practices in there to try to get members to be interested in healthy soils?

**JOHN HANSEN:** So we, we have a bunch of members who are not waiting for orders from headquarters. We have, we have a member in Platte County, for example, that is getting the NRDs in his area and businesses and Farmers Union to put money in the kitty to sponsor events in Columbus, in Albion, in different parts of northeast Nebraska. And these are events where they bring in experts and have farmers, then have a lot of farmer discussion at the end. So we help--

**MOSER:** But even--

**JOHN HANSEN:** --we help with those. We do it at the state convention.

**MOSER:** But even so, you're doing some of the same things--

**JOHN HANSEN:** Yes.

**MOSER:** --this new organization is planning to do, so.

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**JOHN HANSEN:** Yes.

**MOSER:** You know, I, I would think the organizations that are out there, you know, Farm Bureau, Farmers Union, I, I would think they could take this and make a, a, a difference in how this is being implemented. I mean-- and then you sell fertilizer?

**JOHN HANSEN:** I use-- I'm a recovering fertilizer dealer. There-- it's like a ten-step program.

**MOSER:** Yeah. Well as part of this, did you sample soils to--

**JOHN HANSEN:** I--

**MOSER:** --find out what fertilizer or what nutrients were missing in the soil?

**JOHN HANSEN:** I pulled up hundreds of soil samples, yes.

**MOSER:** Yeah. So some of those things are being done. I mean--

**JOHN HANSEN:** Yes.

**MOSER:** --you look at the nitrogen in the soil, you look at what nutrients are in the soil?

**JOHN HANSEN:** You're, you're, you're doing all of those things, but you're-- you know, we're, we-- we've gone, we've gone through a lot of different kinds of phases in terms of what the, you know, the, the academic approach to-- for example, soils is, is--

**MOSER:** You're saying, you're saying your organization has wafted and waned in interests in what they were wanting to promote?

**JOHN HANSEN:** I would like to think of it as, as new things come up, we bring in new information and we change our thinking as, as things evolve. Then-- so the way that we think about soils today-- and if you look at what, if you look at what the University of Nebraska is offering today, they're doing some really neat stuff. But if you look at what they were doing 30 years ago, it would be very different.

**MOSER:** OK, thank you.

**JOHN HANSEN:** You bet, thank you.

**BOSTELMAN:** Other questions from committee? Seeing none, thank you, Mr. Hansen--

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**JOHN HANSEN:** Thank you.

**BOSTELMAN:** --for testifying. Other proponents, please step forward.  
Good afternoon.

**JEFF STEFFEN:** Good afternoon. Thank you, Senator Bottleson [SIC] and fellow senators. My name is Jeff Steffen, J-e-f-f S-t-e-f-f-e-n. I'm speaking as a proponent of LB925. I thank Senator Gragert for bringing it forth and I'm a farmer. My wife, Jolene, and I have made a living and raised our family on 500 acres of a farm and it was had-- it had to be done by increasing our margin rather than growing acres. And we've been able to do that with soil health. I've no-tilled for 30 years. The last ten years, I've, I've really gotten into the cover crops and extending rotation and it's work, it's worked and I wouldn't be here if it didn't. But it's not easy. I made a lot of mistakes along the way. I had help from mentors, sometimes states away. I use UNL for help, mainly for specific questions. NRCS, you know, I used for probably incentives, but, you know, my opinion is, is there's no really good long-term research on a complete long rotation system of soil health. The closest I could come to would probably be Paul Jasa at Rogers Memorial Farm, Dwayne Beck, Dakota Lakes Research. And I use them in, in figuring out my problems, but I can ask a farmer in my neighborhood and 90 percent of them would have never heard of them, even graduates of UNL. Soil health is rarely, rarely achieved through isolated methods. You know, it takes a suite of practices and it's almost like a chess match with Mother Nature trying to figure out, you know, the, the proper rotations and cover crops. That's why I like the idea of a farmer-led producer come-- you know, farmer-led producer research specific to the area that you farm in. And that is, you know, soil health practices work different in different parts of the state. And also, I want to, you know, bring to attention the other benefits, you know, for the good of the whole state. Aaron Hird, our state soil health specialist, he travels the state. He estimates we have half-inch infiltration rates per hour. The NRCS came out to my farm this past summer, tested a field. I had from 10 to 40 inches infiltration rate. Now let's look at that on a statewide-- let's just dream here a little bit. Seventeen million acres of crop ground, if we could hold all the, all the rain that we would get in a year, just by increasing organic matter 1 percent, we could theoretically store the same amount of water that's in Lake McConaughy. We could add a new structure to the state without a 404 permit. You know, it's just, it's just one, one little bit of data that it-- that can come with-- so I see my time is up, but I just would like to have your support on this, so.

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**BOSTELMAN:** Thank you, Mr. Steffen. Are there questions from committee members? Senator Hughes.

**JEFF STEFFEN:** Yes, Senator Hughes.

**HUGHES:** Thank you. So you indicated there is a state soil health specialist currently?

**JEFF STEFFEN:** Yes.

**HUGHES:** And who is that?

**JEFF STEFFEN:** Aaron Hird for NRCS.

**HUGHES:** For NRCS.

**JEFF STEFFEN:** Yes.

**HUGHES:** So-- OK, so what is he doing? Why is-- why don't we have these groups already formed? What is, what is his job?

**JEFF STEFFEN:** His job is to promote it, but, you know, like I said, specific to the area-- and I'll have to admit, there's very few people in my neighborhood that probably know his name. I searched him out. He came to my farm.

**HUGHES:** OK, thank you.

**JEFF STEFFEN:** Yes.

**BOSTELMAN:** Other questions from committee members? Seeing none, thank you, Mr. Steffen, for being in today. Other proponents? Anyone else like to testify as a proponent? Any opponents, please step forward. Any opponents? Seeing none, anyone that would like to testify in the neutral capacity? Good afternoon.

**STEVE EBKE:** Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Steve Ebke and that's spelled S-t-e-v-e E-b-k-e. I operate my family's farm located near Daykin. I currently serve on the Nebraska Corn Growers Association Board and I'm here today on behalf of the Ag Leaders Working Group testifying in a neutral capacity on LB925. The Ag Leaders Working Group consists of the Nebraska Cattlemen, Nebraska Corn Growers, Nebraska Farm Bureau, Nebraska Pork Producers, Nebraska Soybean Association, Nebraska State Dairy Association, and Nebraska Wheat Growers. The groups I represent today thank, thank the task force and all those that participated in

the process to meet the requirements of LB243. LB925 continues the discussion regarding healthy soils, an issue that we take very seriously as Nebraska farmers and ranchers. Our members have engaged from the beginning of the Healthy Soils Task Force discussion to completing the task force report. The central message that we communicated is that there is a plethora of healthy soils programs and education that we all can access. Nebraska Extension plays a leading role in working alongside producers to further soil health. Additionally, we relay that Nebraska farmers and ranchers have been adopting conservation practices utilizing livestock manure, cover crops, and precision technology for decades. Based on the 2017 Census of Agriculture, 73 percent of Nebraska crop land utilizes reduced tillage and no-till conservation practices. Furthermore, cover crops have more than doubled in the-- in acceptance between the 2012 and 2017 census. The Ag Leaders Working Group members believe that the adoption of conservation practices has resulted from research, demonstrations, and education through Nebraska Extension, NGOs, private businesses, and allied industries. Various agribusiness, natural resource districts and, and associations promote and incentivize farmers and ranchers to adopt conservation and cover crop practices. Additionally, with social media, farmers and ranchers have access to virtual and real peer-to-peer network, networks that are readily available. Our neutral stance is a continuation of our testimony on LR5. We communicated our concern that the task force report and now LB925 will create a new layer of salary and overhead. We believe the mission of the Nebraska Extension fits the facilitator role. Nebraska Extension should be one of the primary sources of educational and demonstration activities that will continue to promote soil health across the state. Nebraska soil and landscape are our lifeblood and as farmers and ranchers, we continuously work to improve that natural resource. Members of the Ag Leaders Working Group look forward to further improving the health of Nebraska soils and highlighting the positive soil health activities of Nebraska agricultural industry. I appreciate your consideration.

**BOSTELMAN:** Thank you, Mr. Ebke. Are there questions from the committee members? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you for being here. So in terms of cover crop, utilization has doubled. Do you know what the percentage number of that is?

**STEVE EBKE:** No, I don't have that number. I can certainly provide-- have the-- that provided to you. It would be in the census.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Other questions? Seeing none, thank you, Mr. Ebke, for testifying.

**STEVE EBKE:** Thank you.

**BOSTELMAN:** Other neutral testifiers? Anyone else like to testify in a neutral capacity? Seeing none, Senator Gragert, you are welcome to close. As Senator Gragert comes up, I will say we do have-- there are five proponent letters that we have received and there is one opponent letter. Thank you. Go ahead.

**GRAGERT:** Thank you, Chairman Bostelman. Well, in closing, I'm going to try to answer a couple of questions that was-- asked me earlier. And back to Senator Hughes and, and the question with just not, just not really getting the need for this and with all the things that are going on there. This is a whole new concept. It's not a, it's not a concept that's trying to replace any kind of things that are going on now. There's a lot of good things going on and a lot of good producers that are doing things. But just like any volunteer-- like I've been on-- I was on the volunteer fire department. Usually people come out and ask you to, to showcase what you're doing. A lot of people are too humble, if you will, to, to come out and try to explain to other producers for fear of I'm not trying to tell that producer what to do. But if, if this facilitator-- and it's just a facilitator to start these producer learning communities to where these guys then work-- it's not a government agency. It's producers with producers, peer to peer. So that's what-- that's why, why the need for this, you know? The, the current system that we have with the NRDs, the University of Nebraska, the NRCS, they're-- it's all great. It, it-- but I will start answering Senator Moser's question of why should we go into \$250,000, quarter-million dollar more, well, we can either be proactive and do that and hope they-- and, and not hope, but this will go to a self-sustaining operation where the government pays-- no longer pays or we can go ahead and hire more NRD employees, as we heard from the NRD general manager at the time and employees that they would lack, to take this to the next level, to take the, the good things that are happening and, and-- but aren't-- just are not happening at a fast enough pace to make a significant increase in soil health and, and water quality. So that's, that's the first, first two that I, that I'd like to address there. I talk about a facilitator, but I talk about the individuals that are out there doing, doing this on the land and, and are willing to showcase. But once again, somebody's got to come and ask them to-- and you just heard from the

last testifier, this Jeff Steffen. He has so much knowledge of what goes on right there in Knox County. We've, we've got that potential. And he is an exception to the rule, as far as I'm concerned. He's an individual that-- he's-- first of all, he's, he's very humble, but he is an individual that is willing to share his, his information with other producers. But there are a lot of other guys out there. We just-- this facilitator just has to beat the wheat and find those individuals to, to increase, again, the use of conservation practices such as soil testing, nutrient management, irrigation water management, cover crops, no till, contour buffers. You know, it's, it is really great that farmers are doing no till and, and we've got a lot of no till on the land, but no till isn't the end. No till builds the structure, the physical part of the soil, the soil, but then we have the chemical part in the soil and, and then the microorganisms that come into the soil. That's the true healthy soil, the result of the healthy soil. So that's what's important and that's why-- what's the need for it. And as the farmers know, technology just keeps getting better and better or there's new technology every year, that this is what this next step will be is education and, and dissemination of good information, producer to producer. As far as the nitrates in the water, one of-- not-- no, not one of-- the major concern for me is I believe in local control, but as far as I'm concerned, nitrates in our water is the state, is that we are the local control. And if we continue to ignore this issue, the federal government will enter and there won't be options. There will be mandates. And that's the thing-- and that's my opinion, of course, but that's the thing we don't want. We don't want mandates. We want to work on this ourselves. And when they-- the federal government happens to drop in, we can show them how Nebraska is, is working to produce soil health and water quality. I guess-- well, the NARD, I just got word today that they voted yesterday at their state policy conference. They pulled-- they voted in full support of LB925 on a 105-0 vote. So that's encouraging to see and, and it shows that-- the acknowledgment of, of our, our water quality, if you will. I got to tell you, I'm very disappointed in the position that Nebraska Farm Bureau and, and other ag organizations have taken on this bill. I believe-- and in my opinion, again, I believe the real fear here is, is also mandates. I have discussed time and time again, I'm not for mandates. I-- we can get so much more accomplished without mandates if, if we can just get the education out there and, and promote conservation practices. And it's-- I just feel their-- a concern with mandates and what is-- and, and not what is best for their producers or the consumers. Producers should know they have nothing to lose and a lot to gain from this bill. In 2019, a resolution was passed by the

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Nebraska Farm Bureau and now in their policy books that Nebraska agriculture needs to be proactive in addressing natural resources challenges in the state. We support initiatives, research, and education that promote soil health, water quality, and soil water-- soil and water conservation to win-- to be implemented on a voluntary basis. Once again, I don't know how many times I said voluntary and I stick to that, voluntary and nonmandates in this bill. This is exactly what LB925 proposes and it's just-- as you can probably hear, it's just mind boggling for me or "flustrating" to me that the Nebraska Farm Bureau and other ag organizations are not on, on the leading-- are not leading the way to push this legislation forward. As I was going through my, my files for what's going to come later today, LB978, it was, it was interesting to me that a letter of support that is in-- are in our files, first paragraph from Farm Bureau is protecting the water that Nebraska farmers and ranchers rely is the utmost important to our members. But yet they come in, which surprises me wholeheartedly, that they're not one of the supporting agencies, organizations for the-- for this bill and that's all I have. Thank you.

**BOSTELMAN:** Thank you, Senator Gragert. Are there any further questions from committee members? Seeing none, that will conclude our hearing on LB925. Thank you to all the testifiers who came today for that. Our next bill will be, will be LB981 by Senator Hilkemann. OK, we'll now open the hearing on LB981. Welcome, Senator Hilkemann.

**HILKEMANN:** Good afternoon, Chairman Bostelman and members of the committee. I'm Robert Hilkemann, that's R-o-b-e-r-t H-i-l-k-e-m-a-n-n, and I represent Legislative District 4. I'm introducing LB981 for the purpose of funding ongoing maintenance of designated rail trails. The bill would revive the Trail Development Assistance Act and transfer \$15 million in General Funds in fiscal year 2022-23, whereby Games and Parks [SIC] shall use \$750,000 annually beginning in the fiscal year 2022-23 for this purpose. This is a bill for Nebraska tourism and economic development. The Great American Rail Trail, and I have shown-- this is the illustration I have here-- this-- or that you have in front of you-- is the nation's first cross-country, multi-use trail, stretching more 3,700 miles between Washington, D.C. and the state of Washington. This trail is an iconic piece of American infrastructure that will connect thousands of miles of rails and trails and other multi-use trails, serving tens of millions of people living along the route, as well as those who visit the trail from around the country and the world. The Great American Rail Trail runs through Nebraska and I have provided you that map that you can review it. The 321-mile rail trail, called the Cowboy Trail, is owned by the

state of Nebraska and managed by the Nebraska Game and Parks Commission. It is developed as a limestone trail from Norfolk to Valentine, remains mostly undeveloped from Valentine to Chadron. And when completed, it will be one of the longest rail-to-trail corridors in the nation. However, as we continue to develop additional miles of trail, it's imperative that we do not neglect the upkeep of the existing trail. Game and Parks has a budget to maintain our state parks and things within them. Unfortunately, there is no dedicated funding for the maintenance of the designated rail trails that exist outside the boundaries of the state parks. LB981 would assure that Game and Parks has resources to maintain this unique asset. As some of you know, I'm an avid cyclist, and in 2015, I began a bike ride across the country that began in Washington state and ended it in Washington, D.C. Now, some of that trail was done what they call the great American bike route. Some of it was on routes not anywhere close to this, but when we got to the eastern portion of the country, particularly when we got to Virginia and Maryland, we were on rails to trails. So I've been on, I've been on those and the state of repair of difference of these is all a little different. I want to tell you, there were areas that we went through, like the Cumberland Trail and so forth, that they have developed so many small cottages, lots of bed and breakfasts, people who go for-- they're-- they can ride from one distance to another. They've got-- they have-- people-- I've told several people that you could spend a week or two weeks walking, hiking, biking, fishing, all of these things along this and stay in some of these and it would be a wonderful trip. So there's-- I've seen what can be developed in these rails and trails. And so I think that's why we need to make sure that as this is developed, that we want to make sure that our trails are kept up to date and that's why I'm bringing this. So I strongly encourage the committee to advance LB981 to General File for the economic impact it will bring to our communities across the state and for the commitment to maintain this wonderful recreation and tourism gem in our state. And I would be happy to answer any questions you might have.

**BOSTELMAN:** Thank you, Senator Hilkemann. Are the questions from committee members? Senator Moser.

**MOSER:** Looking at the fiscal note, it says expenditure, \$650,000; revenue, \$15 million. Is that really meant to be an expenditure and not revenue because you're not going to take in \$15 million on a trail.

**HILKEMANN:** No, they want to have, they want to have-- they want to set aside. This is, this is the, the pool to take care of-- to get the

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\$750,000 that would-- this would be a permanent type of-- that Game and Parks can use for--

**MOSER:** It would be like a trust, you mean?

**HILKEMANN:** Right, exactly.

**MOSER:** OK, thank you.

**HILKEMANN:** Um-hum.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Senator Hilkemann, for bringing this bill. I've, I've only been on a portion of the trail and I would like to go one more, but you mentioned the economic impact. Is there any study or any information-- I, I couldn't see, is there--

**HILKEMANN:** I'm not aware-- possibly Julie Harris, who's going to be testifying behind me, may have some more information on that.

**J. CAVANAUGH:** I'll ask her then. Thank you.

**BOSTELMAN:** Other questions from committee members? I do have a question for you. On the-- on this map--

**HILKEMANN:** Yeah, OK.

**BOSTELMAN:** So there's-- in here, "Trail Gap - Unplanned Segment," is looking to purchase land in that area or do you know what that might mean?

**HILKEMANN:** Are, are you talking about where those gaps are?

**BOSTELMAN:** The gray area, yeah, the gray box.

**HILKEMANN:** Yes. Senator, that's an area that has to be-- that is under development. In fact, I, I have another bill, which will be going through for using some of the ARPA funds. We need to find a trail that will connect those areas so that we have-- so that's areas that, yes, it's totally-- that's still in the research phase yet.

**BOSTELMAN:** That's fine. I will, I'll make a comment. It's not a-- not meant to be a, a negative to you in the sense-- in my-- where I live, there's a trail that goes by in my area. And that was a rail line and it was abandoned. And that rail line, that property was supposed to go

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back to the farmers that had it and it didn't happen. And, and I can tell you in my area, those farmers are still extremely upset about that because it cuts right through the middle of farms. Just a comment I think we need to be careful of. Do you happen to know-- the question I have is on the Cowboy Trail, do you know how many users that has annually?

**HILKEMANN:** You know, Senator, I have ridden a small portion of the Cowboy Trail. I, I understand it is, it's partly be-- it's not used nearly to the extent that they hope to develop at this point, partly because of the, of the repair of the trail itself. I understand it's very difficult to-- at some portions, you-- what's really nice is to, is to be able to take-- you can do all-terrain type bikes or you can do a road bike that you can modify the tires with and so forth. My understanding is that it's not quite to that level yet. So a lot of times, you have to ride along the highway rather than being on a highway [SIC]. But that's what this bill-- and we-- they'll be able to keep-- get that maintenance up there and that's what we're-- if we can keep people off the highways, that's what we want to do.

**BOSTELMAN:** I understand. OK.

**HILKEMANN:** One of the-- I, I, I forgot the-- I'm going to suggest to any of you, if you-- one the rails to trails that we rode on, on, on the-- on our bike ride across it, if you ever get an opportunity, go to Coeur d'Alene, Idaho. It is the most beautiful ride and, and you can ride for about 70 miles and you have about a 1 percent grade up or down. It is, it is fabulous, never ridden a place more beautiful. So I'll stop--

**BOSTELMAN:** Thank you, Senator Hilkemann. Any other questions? Seeing none, thank you, Senator Hilkemann. Will you stay for closing?

**HILKEMANN:** I will.

**BOSTELMAN:** Thank you.

**HILKEMANN:** I'll be here.

**BOSTELMAN:** Proponents and I want to remind proponents we are running a three-minute clock, so just keep that in mind as you come to testify. Thank you for being here this afternoon and welcome.

**JULIE HARRIS:** Thank you. Thank you. I'm Julie Harris, J-u-l-i-e H-a-r-r-i-s. I'm the executive director of Bike Walk Nebraska. We cultivate safe and accessible biking and walking across the state

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through partnerships, education, and advocacy. I want to thank Senator Hilkemann for introducing LB981 and especially thank his very capable legislative aide, Kate, for all of her assistance throughout this process. In short, the short version of what you need to know today is that Nebraska is leaving buckets of money on the table if we don't recognize the value of and maintain the Cowboy Trail. Every small town along Highway 20 between Norfolk and Chadron stands to benefit by improving this trail. The little coffee shops, bars, restaurants, breweries, convenience stores, bed and breakfasts, all of these are places that people on bikes either need or love to visit and they're all places where people on bikes spend money. To your example-- to your question about economic development, a study was done by UNL in 19-- in 2019 that showed that the Nacho Ride, a weekly unorganized bike event that goes from Lincoln to Eagle, Nebraska, population, 900, shows that there are-- there-- in 2019, \$63,000 was spent in Eagle from people that came in on bikes. I would bet that small business owners like the good folks at the Brush Creek Brewery in Atkinson or the Holt County Grill in O'Neill or the Long Pine Bunkhouse and the laundromat there, which, by the way, is the only one in-- within 100 miles, would appreciate the business of people coming in on bikes. Our friends in Missouri have a similar asset to the Cowboy Trails, it's the Katy Trail. It runs across the entire state of Missouri, from Kansas City to St. Louis. A study was done ten years ago on that, so it's quite-- it's an old study and even back then, it was bringing in \$18 million a year in economic development to the small towns along that route. I'm sure that your friend, Senator Brewer, would be delighted to regale you with stories of writing the Cowboy Trail on his mule or horse, I'm not sure which. I think it was mule. And certainly, Senator Hilkemann can talk to the, the benefits of-- the joys of riding those epic long distances, but this trail isn't just for those folks. It's also a great benefit for the, for the communities along the route, the citizens of Nebraska that can utilize that trail. Trails are very pandemic proof. You can get out and use them. You don't need any equipment, you don't need a team, you don't need a hoop, you don't need a dugout. You can just get out there and use the trail for free. And we've certainly learned in the last couple of years that being able to pandemic proof our recreation is good for all of us. Finally, I want to make just a note to you that the Cowboy Trail does need a lot of work and with a commitment to the long-term maintenance, that gives the state skin in the game that will help spur private investment. I can tell you from experience that funders, private funders, they want to build stuff. They don't want to maintain stuff, they want to build it and they don't want to pay for maintenance. When it comes to construction, we hear frequently from

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fundere that they don't want to be the first money in and they don't want to be the last money in. And having this maintenance plan in place gives private fundere confidence in investing in constructing more miles of trail. Lastly, I would remind you that the Cowboy Trail, the whole right of way already exists, to your point about farmers and purchasing new right of way. The entire piece exists already under the Game and Parks Commission. Happy to answer your questions.

**BOSTELMAN:** Thank you, Ms. Harris. Senator Gragert.

**GRAGERT:** Thank you, Chairman Bostelman, and thank you for your testimony.

**JULIE HARRIS:** Um-hum.

**GRAGERT:** Do-- does the federal government put any money towards this trail?

**JULIE HARRIS:** No.

**GRAGERT:** Not even after the 2019-- I, I understand some bridges went down.

**JULIE HARRIS:** There was some FEMA money, I think, that was used to, to reconstruct bridges and certainly our friends at Game and Parks can answer that a little bit better.

**GRAGERT:** OK, maybe-- my next question would be for them too. Thank you.

**JULIE HARRIS:** Um-hum.

**BOSTELMAN:** Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman, and thank you, Ms. Harris, for being here. So I'm just clarifying the \$750,000 would be for maintenance of the entire trail or the section from Norfolk to Chadron.

**JULIE HARRIS:** Um-hum.

**J. CAVANAUGH:** Is that what we're talking about?

**JULIE HARRIS:** Um-hum.

**J. CAVANAUGH:** And the-- on this map that Senator Hilkemann passed out, basically, the, the trail goes from Norfolk to Valentine currently.

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How is the part between-- looks like Valentine to Gordon, there's a planned, but not existing trail.

**JULIE HARRIS:** There are a few pieces west of Valentine that are built out thanks to private investment and local groups that have been doing that. So there's-- like Gordon to Rushville, there's a little piece built out. There's a little piece near Chadron built out, but there is a long stretch of about 90 miles there that is unbuilt and that would be a separate-- that would be a separate issue from this maintenance bill that we're talking about.

**J. CAVANAUGH:** And is there-- I mean, is that going to happen? And if it does happen, is the \$750,000 a year going to be sustainable to maintain that entire stretch from Norfolk to Chadron?

**JULIE HARRIS:** I'll let the Game and Parks folks talk about the budget issues with that. Certainly, we are actively trying to find ways to build out the rest of the trail. And as I said, private funding is always on the table. It's probably going to end up being a combination of a lot of things, but we, we need the state to have the skin in the game and to show that they're willing to maintain it and that will give the funders confidence to put in their own money.

**J. CAVANAUGH:** Thank you.

**JULIE HARRIS:** Um-hum.

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

**JULIE HARRIS:** Thank you.

**BOSTELMAN:** Thank you for coming in. Next proponent, please.

**JASON BUSS:** Hello.

**BOSTELMAN:** Good afternoon.

**JASON BUSS:** Thank you, Senator Bostelman and the committee for, for hearing our testimony today. My name is Jason Buss, J-a-s-o-n B-u-s-s. I'm the president of the Nebraska Trails Foundation. I started building trails about 15 years ago in Columbus with a few projects with Senator Moser, as well as another 8.5 miles in Central City before joining the Nebraska Trails Foundation. We're a nonprofit organization that, for 33 years, has worked to build trails in the state of Nebraska. LB981 with the Trail Development Assistance Act will help us to maintain the Cowboy Trail, which is a critical

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resource for the state of Nebraska. As you're probably aware of, the Statewide Comprehensive Outdoor Recreation Plan, people are surveyed regularly on what their main things are out of 28 different facilities, services, activities that they want in the state of Nebraska. Across the state, they're surveyed and year after year, year after year, out of those 28 things, trails are their number one thing that they value in the state of Nebraska and trails are the number one thing they want to see grown in the state of Nebraska. So we owe it to our constituents to maintain those resources. We own the Cowboy Trail. The Game and Parks maintains it and we need to support them with the funds to be able to do that. The Great American Rail Trail is a great opportunity for the state of Nebraska. It's 53 percent complete across the United States. It's 51 percent complete across the state of Nebraska and, and we have a lot of people who want to use it. Last year, we reopened the Lied Bridge after flood damage. Senator Clements and I handed out a bridge full of stickers to our pie ride. And we met a number of wounded warriors who were doing the ride from Washington, D.C. to Washington state and they continued on through the state of Nebraska and we worked ahead to try to make sure they had the best experience possible. Although a lot of the feedback we got was they couldn't stay on the trail in different places where they didn't have the funding to cover the goat heads, cockleburs, and other things that were affecting their ride, taking them off the trail. The northwest trails and Cowboy Trail's west groups work very hard to develop and maintain different areas and, and we need to support them on a state level to make sure that they have the money they need to do that. It's a strategic investment. We've done some economic development studies with the Rails-to-Trails Conservancy showing that these trails' maintenance funds are overwhelmingly, 20 to 40 times over, paid back in the economic development in those areas. When we build new miles of trail, it's less than a five-year payback for the new miles of trail. And so I guess as my time's running out, I want to make sure that we, we take care of this. We own this. Let's maintain it for the citizens of Nebraska.

**BOSTELMAN:** Thank you, Mr. Buss, for your testimony. Are there questions from committee? Senator Moser.

**MOSER:** How long would it take to ride my bike from Columbus to Lincoln?

**JASON BUSS:** It depends on how fast you go.

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**MOSER:** Well, probably 25 percent as fast as you go. There's no way to get right now from Columbus to Lincoln without going on the highways, correct?

**JASON BUSS:** We met-- yeah, yeah, we met a couple of years ago with the Rails-to-Trails Conservancy and the city engineer with a penciled-out plan of if this railroad gets abandoned, if this route, but it's not--

**MOSER:** And from Norfolk to the western border is off the, the vehicle transportation system. I mean, it's, it's a separate trail, so you don't have to worry about getting run over.

**JASON BUSS:** Right, very safe.

**MOSER:** You don't have to worry about-- well, I guess trains. Do you cross any train tracks?

**JASON BUSS:** I'm, I'm sure there's got to be some.

**MOSER:** Got to be some.

**JASON BUSS:** I'm sure Alex can-- or, or Michelle can tell you.

**MOSER:** Well, I had to ask you a question. He's from Columbus and we worked in Columbus to put in a lot of trails and he's been a big supporter of trails. I don't know if \$15 million worth, but we're--

**BOSTELMAN:** Senator Gragert.

**GRAGERT:** Thank you, Chairman Bostelman. I got a quick question and, and I think the last testifier said that the complete-- you, you've got a complete trail across Nebraska. What are these gray-- I mean, the gray boxes are unplanned segments. What-- it's a-- do you need a trail through those gray boxes?

**JASON BUSS:** In the end, we'll need to-- we have penciled-out lines for those, but there's no owned property as of yet to, to continue those versus the red lines that you see out west, those are all already owned--

**GRAGERT:** OK.

**JASON BUSS:** --properties that we're talking about for the, for this bill from Norfolk to, to Chadron mainly.

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

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**BOSTELMAN:** Senator Aguilar.

**AGUILAR:** You-- what's all involved to get a trail that's unfinished up and running so it's trail ready?

**JASON BUSS:** Well, and that's the nice thing on, on the stretch out west. It's already been partially graded. All we have to do is take the crushed limestone from Weeping Water down there and a windrow and roll over it. And the maintenance, it's spraying and making sure that it gets compacted. And I'm sure Game and Parks can tell you a little bit more or going to tell you a bit more about that. But, but in the building of them, it's relatively simple on a rail to trail. Non-rail to trail takes a lot more engineering, as we've seen in some of our projects in Columbus.

**AGUILAR:** Thank you.

**BOSTELMAN:** Other questions? A question I have is on economic development or other states. Do you have something-- the Cowboy Trail is fairly remote.

**JASON BUSS:** Yeah.

**BOSTELMAN:** And how does that compare to maybe other states that have remote areas? I don't know if I'd be in Wyoming or other that would be-- how, how does that use compare? I mean, there's-- we don't-- the population isn't near-- right adjacent to that, so how do-- do you have any comparisons?

**JASON BUSS:** I have a population-adjusted survey that's based on information from the Great Allegheny Passage that's adjusted for Nebraska populations. It was one of the items that we reviewed with the Governor ahead of this session, so I've got that information available. I worked with a Ph.D. person from the Rails-to-Trails Conservancy on that.

**BOSTELMAN:** OK, thank you. Seeing no other questions, thank you, Mr. Buss, for being here today. Other proponents, please step forward. Good afternoon.

**MICHELLE STRYKER:** Good afternoon, Chairman Bostelman, members of the committee. My name is Michelle Stryker, M-i-c-h-e-l-l-e S-t-r-y-k-e-r, and I am the planning and programming division administrator for Nebraska Game and Parks Commission, located at 2200 North 33rd Street in Lincoln, Nebraska. The planning division manages and operates the Cowboy Trail on behalf of the state of Nebraska. We'd like to thank

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Senator Hilkemann and our partners for supporting this bill, as we do as well. The Rails-to-Trails Conservancy, a national organization, obtained the Chicago Northwestern trail/railroad on behalf of converting it into a trail and it gifted it to the state of Nebraska. The gift requires the state to develop, operate, and maintain the rail line as the Cowboy Trail. The Legislature and Governor assigned the Game and Parks Commission this task. From 1996 to 2001, the general appropriation that was provided to Nebraska Game and Parks to maintain this went from anywhere from \$75,000 to \$235,000 annually. And two, that General Appropriation of a fund appropriation was removed. The trail runs 321 miles, as you've seen in your map that I've just provided, and we've developed 202 of those miles in limestone trail at a cost of \$5.6 million with the assistance of federal funding from the Federal Highway Administration and Transportation Alternatives program, Recreational Trails Program, and other funds. We also now have 28 miles slated for improvement and development, as you can see on your map, which leaves approximately 91 miles left to be developed. The trail is managed with one full-time employee and two-- operated by two seasonal employees working from April to October. Between Norfolk and Chadron, the trail passes through 29 towns and 8 counties and three Unicameral legislative districts. This trail, when it's fully developed, will provide close-to-home travel opportunities to over 50,000 Nebraskans. We've had to make hard choices in maintenance and operation due to the limited budget. We spend the majority of our budget on weed control, fencing, and minor repairs. With limited budget, we cannot be proactive in our management. Our desire is to create a trail as a destination and an economic driver for communities. When we worked with our partners regarding this bill, we thought about what would it take to sustain a trail for over 25 years? This request is a significant bump and will be used to address issues we've not been able to address. This includes addressing aging infrastructure, increasing marketing efforts, placing amenities along the trail, and partnering with our communities to grow events along a trail to bring in that tourism. This funding allows us to adequately do that. There's many benefits to having a regional trail within our boundaries. Our partners have addressed some and the only thing I would add to that is that it would provide more dollars spent in local communities for services and materials we need to have to maintain this trail. Moving LB981 forward can provide the people of Nebraska and its visitors with a beautiful snapshot of where we call home and a way to increase the economic vitality of these communities along this tray-- trail. For the Legislature to provide financial support to the Cowboy Trail, to manage the resource in a way that it will thrive into

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the future is proactive and mindful of how we provide for our future generation. I'll answer all the questions that you may have for me.

**BOSTELMAN:** Thank you, Ms. Stryker. Are there questions from committee? Senator Gragert.

**GRAGERT:** Thank you, Chairman Bostelman. I'm going to ask the same question that I already-- are there federal monies been put towards this trail as you've maintained the trail?

**MICHELLE STRYKER:** Absolutely. So for development of the trail, almost all of the money that we have received to develop the trail had been from federal funding. When it comes to maintenance and operation of that trail, we have received one small R-- Recreational Trails Program grant, which is through the Federal Highway Administration, on some maintenance. Bigger funding that we've received federally has been through our FEMA funding. When 2011 occurred and 2019 occurred, we have been decimated in this area for the Cowboy Trail with over \$11 million worth of damage to the trail. And so we have been working with FEMA to, to work very hard to try to replace all the things that we need to, to fix.

**GRAGERT:** And this increase in money, of course, would allow you the opportunity to hire more employees. Are there going to be-- do you feel there's required employees to maintain this trail after you've been doing it all these years?

**MICHELLE STRYKER:** Does it require employees? I'm sorry--

**GRAGERT:** Do you have sufficient employees to maintain the trail right now?

**MICHELLE STRYKER:** At this time, no, we do not, but what we looked at is we look to have one individual that's full time. Right now, our employee that deal-- our full-time employee that deals with the Cowboy Trail for management, he also has a different-- several other duties that he's assigned. We'd like to provide one person that deals with all of the deal-- deals with all of the things that deals with Cowboy Trail. There are so many different things and then we have two temporary employees. We'd like to add another two temporary employees because we know that the major maintenance that we have to really do is between the months of April and, and the end of October. And so having two teams of two individuals, we believe that we'd be able to work towards getting everything we need because we also have our partners and community volunteers that assist us, that we work with.

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**GRAGERT:** A lot of the traffic on the trail, I understand, is it bikes?

**MICHELLE STRYKER:** The majority of it is bike, but I would say around local communities, it is bike/hike and then there is a percentage of equestrians that use it.

**GRAGERT:** Do you get any kind of feedback on-- I call them Texas sambars or, or the--

**MICHELLE STRYKER:** Yes. Yes, we do.

**GRAGERT:** Is that a major problem in--

**MICHELLE STRYKER:** It is a major problem, and we have looked to work with our partners in our wildlife division and our parks division on how to better manage that and we've found there's a couple of ways you could do that: burning-- well, in a trail corridor right of way that is 50 feet on either side, that's a little difficult for us to do to ensure that we don't damage anybody else's property, so we can't burn. So then we go into a pesticide routine and we've started this past year to change our pesticide routine, which we're seeing some change to it. But what we've found with this problem, it's about a five-year process during-- with the pesticide that we have to put on it to see any result on it, but we have seen minimal result, hoping that in the next four years, we're going to see a significant change in where we're going.

**GRAGERT:** Thank you.

**MICHELLE STRYKER:** You bet.

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

**MICHELLE STRYKER:** You bet.

**BOSTELMAN:** Other proponents, please.

**GEORGE CUNNINGHAM:** My name is George Cunningham, G-e-o-r-g-e C-u-n-n-i-n-g-h-a-m. I don't have any written testimony. I'm here on behalf of the Sierra Club of Nebraska and the Nebraska Wildlife Federation, here to express our gratitude for this being brought up. We think this is a wise use of funds. If anything, we believe the funds should actually be increased. We believe that in the future, there will be a lot more trail systems across Nebraska that will need

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a maintenance fund to do so. So this is just an opportunity for us to establish our, our, our liking of this particular measure, so.

**BOSTELMAN:** Thank you, Mr. Cunningham. Are there questions from committee? Seeing none, thank you for your testimony. Anyone else like, as a proponent, to testify? Any other proponents? Seeing none, anyone like to testify as an opponent? Any opponents? Seeing none, anyone like to testify in the neutral capacity? Seeing none, Senator Hilkemann, you're welcome to come forward to close. I will-- for the record, we do-- we did receive 35 comments or position letters as proponents for this bill. With that, Senator Hilkemann, you may close on LB981.

**HILKEMANN:** OK, thank you. I'm going to just mention a couple of things. It's, it's my understanding that this \$15 million investment in this trust fund basically will keep it solvent for at least 20-- till 2050, at least. And so just just, just a few things. Senator Cavanaugh, I don't know if you're, if you're a cyclist, but you're, you're familiar with Wabash Trace?

**J. CAVANAUGH:** Yeah.

**HILKEMANN:** And I don't know if any of the others are-- that, that ride is between Council Bluffs and, and Blanchard. That's probably our close-- when I first got into the cycling in the mid '80s, we could ride from Council Bluffs to about Mineola, sometimes you could go to Silver City. Over the years, that trail has just contis-- I can see this happening at-- or I mean, that trail has just consistently been developed. Private people have come across. In fact, if you take the, the Wabash Trace far enough, you'll find a bridge there that has my name on it. That was-- we dedicated-- is-- we donated that. So that's how these trails will develop as long as they're being taken care of and people want to keep coming back. As you well know, that, that trail, during the, during the good days, is well used by lots and lots of people. I can see this happening all over-- across. And I forget a really important thing and my, my dear wife would really been disappointed, you know, the future of biking is called e-bikes. And Senator Moser, there could be some point that if you wanted to ride an e-bike from Columbus to Lincoln, you could do that. And, and they, they have that kind of a range that you can-- in fact, when I rode across America, we had a couple that were a little bit younger than myself, but they did-- they both had e-bikes that they took across there. And so that is-- there's the future and, and the e-bikes will be a fact-- certainly a factor that's coming up here. So when you're in these-- when they're well done, there's the-- lots of places have

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the taco run that-- right, they run the Mineola on those. Large groups love to ride on these. And so if these-- if the trail is well maintained, you'll have lots of groups coming across these and there are off of the main-- the big thing is you're off the main road. It's safety and there's nothing that we didn't like as much when we, when we were on that ride when we were on that nice trail. It's very-- it's, it's a, a graduated ascent or descent on these things and when we had, we had a portion where we had to go back onto the main road again. That's what-- that's always-- then you have to fight the traffic again. So I would appreciate your consideration. I'm on the Appropriations Committee and it's been brought there because of this reestablishment with, with the-- so if we can work together to, to get-- to make sure that this happens.

**BOSTELMAN:** Thank you.

**HILKEMANN:** And I'll answer any final questions you may have.

**BOSTELMAN:** Any other questions? Seeing none, that will close the hearing on LB981. Thank you, Senator Hilkemann.

**HILKEMANN:** Thank you very much.

**BOSTELMAN:** The next bill will be LB978, Senator Hughes. We will now open the hearing on LB978. Senator Hughes, you're welcome to open.

**HUGHES:** Good afternoon, Chairman Bostelman, members of the Natural Resources Committee. For the record, my name is Dan Hughes, D-a-n H-u-g-h-e-s, and I represent the 44th Legislative District. I am here today to introduce LB978. This bill is the culmination of several years of work by both the Legislature and the Nebraska Department of, of Environment and Energy. In 2019, I introduced LB302 in partnership with NDEE to allow the department to begin the process of investigating the possibility of assuming the Clean Water Act Section 404 program. As assumed, 404 program allows the state to administer the federal dredge and fill permit program for activities that impact waters of the U.S. In plain words, allowing the state to assume this process could save valuable time and money for many construction projects occurring all over the state. The department took these last couple of years to investigate an assumption process, including what potential changes they would need to administer as part of the application. LB978 contains the statutory changes they need to make for full application to the federal government. Specifically, the bill lays out the ability to promulgate rules and regulations for the program, a hiring process, hire staff, establish a fee structure, and

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establish a cash fund. Director of the Department of Environmental-- Environment and Energy, Jim Macy, is here today and will be able to fully walk you through the specific changes as he sees the depart-- as how he sees the department implementing these changes. I'd be happy to try and answer any questions.

**BOSTELMAN:** Thank you, Senator Hughes. Are there questions from committee? So this is the intent. The bill will be taken-- complete over the 404 from the corps?

**HUGHES:** I believe so, but Director Macy should--

**BOSTELMAN:** Thank you.

**HUGHES:** --has more information.

**BOSTELMAN:** I understand. Proponents, please, please step forward. Good afternoon, Director.

**JIM MACY:** Good afternoon, Senator. Good afternoon, Senator Bostelman and members of the Natural Resources Committee. My name is Jim Macy, spelled J-i-m M-a-c-y. I am the Director of the Department of Environment and Energy and I am here today to testify, to testify in support of LB978, as introduced by Senator Hughes. Section 404 of the Clean Water Act is a federal permit program administrated jointly by the United States Army Corps of Engineers and the United States Environmental Protection Agency for dredging and filling activities that could impact waters of the United States. The department reviews federal Section 404 permits at this present time and we review that for compliance with our state water quality standards through the 401 water quality certification program, so we already have a good understanding of the 404 program. This bill allows the department to develop a state dredge and fill program that would meet the requirements of assumption under Section 404, the Clean Water Act. The department has determined the assumable workload, staffing levels, administration costs, sustainable funding options that should be based on approximately 875 annual permit actions from data that we collected from the Army Corps of Engineers on current issued permits and workload evaluation. LB978 provides the Department of Environmental-- the department and Environmental Quality Council with additional authorities needed to assume the required functions of the federal Clean Water Act Section 404 dredge and fill program. LB978 amends and add new sections to the Environmental Protection Act necessary to allow the Environmental Quality Council to establish regulation and fees to be collected by the department that are sufficient to pay for

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the direct and indirect costs of administrating a state dredge and fill permitting program. The state assumption of the Clean Water Act Section 404 permit program would reduce the overlap and duplication of the effort between the corps and the state, as the state would no longer separately review 404 permits for compliance with state water quality standards. The department would use process improvements and technology to streamline the environmental reviews and reduce permit issuance time while maintaining permit quality and protection of water quality. We anticipate at least two years to complete the development of the state's assume program. We're ready for that challenge. This concludes my testimony and I'd be happy to answer any questions the committee might have.

**BOSTELMAN:** Thank you, Director Macy. Senator Moser.

**MOSER:** So would this eliminate the need-- the need to go to the Corps of Engineers or the federal government to get permits to build roads and that sorts of things--

**JIM MACY:** No, they--

**MOSER:** --those sorts of things or just when it happens to be crossing a stream or a lake or something on the way?

**JIM MACY:** No, so the assumable portion of the 404 program as defined as we would anticipate assumption, we would-- the State Department of Environment and Energy would assume that full authority outside of Section 10 waters. And Section 10 waters are basically the Missouri River, so anything west of the Missouri River that would be within the boundaries of the state of Nebraska. We have a defined delineation that would show what, what we would review.

**MOSER:** But if, if the state is building a road or if a county-- city, even, is building a road and they needed a 404 permit, you would be able to issue that permit?

**JIM MACY:** Eventually, yes.

**MOSER:** So it would save time?

**JIM MACY:** It would save time.

**MOSER:** Save money?

**JIM MACY:** It would save money.

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**MOSER:** Because don't the 404 permits now take like two or three years sometimes to get?

**JIM MACY:** I, I anticipate that you're going to hear a lot of testimony on that later and I'll let those permit applicants speak for themselves, but yes, that's, that's my understanding.

**MOSER:** Thank you.

**BOSTELMAN:** Senator Gragert.

**GRAGERT:** Thank you, Chairman Bostelman. Thank you for your testimony. Eight hundred seventy-five permits is what you, you anticipate?

**JIM MACY:** A year.

**GRAGERT:** A year, so the personnel I see on the-- at five the first year and ten, ten the next year, the increase is to-- so how long are you going to be-- is there going to be a time limit that you're going to have when you get an application to when you complete it? Like was referred to, sometimes 404 permits, depending on the complication-- how complicated they are, what-- is there any kind of deadline that you're going to have to return that application with the yea or nay?

**JIM MACY:** OK, so are you asking a question of is there a timeline for the assumption prog-- process or a timeline for reviewing a permit?

**GRAGERT:** For you to make the call, the wetland call of what they can and can't do. And, and I guess it was asked earlier, so this would be the calls for all the state work and down to private work on, on farms and stuff like that?

**JIM MACY:** Whatever the final determination of the waters of the United States rule sets out as the definition of waters of the use-- U.S., then we would have to abide by whatever that, that decision is. And yes, Senator, we, we would have to be held by a timeline on either a nationwide permit or a individual permit. So I don't want to get into-- the individual permits are very site specific and, and very individual. I did some consulting work in between my career in Missouri and my new career up here in Nebraska, did, did a lot of review over 30 states in the United States. And to, to really get quick to the point, each core district had a different timeline that they operated under. This particular district that we're in had a pretty lengthy timeline on getting back to people, on answers, and, and on the permit process. So typically on a nationwide permit that, that's more of a general permit, those ought to operate within a

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defined-by-rules mechanism and, and not take a whole lot of time. Where an individual permit, depending on the aquatic resources, the value of the wetlands or what area that we would be reviewing, that, that might take a little bit longer time. And that's part of that two-year process to figure out with a lot of stakeholders how we're going to operate that program.

**GRAGERT:** And then the final one, just clarify for myself, the state will be able to do the 404 permits so the federal government won't even review your calls or anything. You'll be the final say.

**JIM MACY:** Short answer, yes, but with any delegated program that the United States Environmental Protection Agency delegates to any state, we, we go through an annual review and then every five years, we go through a very specific state review framework process on how we conduct our enforcement programs, how we conduct our permitting programs. So we have compliance reviews and if we don't maintain the standards that the federal government decides through our memorandum agreement, if we don't live up to our potential in that, then they'll take the program away.

**GRAGERT:** Thank you.

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

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Director Macy, for being here. So I'm just looking at the fiscal note. So we have these two bienniums of upfront costs, but after that, once the program is up and running, it'll be fee run entirely?

**JIM MACY:** Yes.

**J. CAVANAUGH:** Is there-- maybe somebody else later-- that's coming after-- was there-- the set fee now, you said it's going to save money. Is it going to cost those individuals or the people getting the permit, going to cost them more or?

**JIM MACY:** Well, I think the permittees that will be here and testifying answer that question. We do have a calculation on what we assumed would-- it would cost to run the program eventually and that's a part of that fiscal note. Again, we're, we're going to take a couple of years and go through an extensive stakeholder process and, and make sure that the fees associated with each level, permit, or jurisdictional determination align with consistent program guidance, evaluation, and execution.

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**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Senator Moser.

**MOSER:** So in other words, the fees are going to vary based on the complexity of what it takes to answer the, the environmental questions?

**JIM MACY:** Absolutely.

**MOSER:** So there's your answer.

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

**JIM MACY:** Further answer on that, so the, the individual permit fees are going to be much more substantial and costly than the nationwide general permit fee structure and then below that, the jurisdictional determination. So yes is the answer. There, there are different levels of fees for different levels--

**MOSER:** But the--

**JIM MACY:** --of permits.

**MOSER:** But I think Senator Cavanaugh's question is, is this going to save the citizens of Nebraska money?

**JIM MACY:** Yes, we, we anticipate it will because we anticipate that while maintaining quality--

**MOSER:** And time.

**JIM MACY:** --and time, that's going to save the citizens who apply for these permits that time that, that they're losing and workload goes up, costs go up on construction projects, so-- but I can't attest to that directly, they can.

**BOSTELMAN:** All right. Any other questions? Seeing none, thank you, Director--

**JIM MACY:** Thank you, Senator.

**BOSTELMAN:** --for your testimony. Next proponent, please. Good afternoon.

**JOSEPH CITTA:** Good afternoon, sir. Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Joseph

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Citta, spelled J-o-s-e-p-h C-i-t-t-a. I am the director of corporate, environmental, and water resources for the Nebraska Public Power District. I've been employed at the district for over 45 years, working primarily in the environmental area and operations area. I also served as chairman of the Nebraska Environmental Quality Council, I'm a member of the Natural Resources Commission, and I am also chairman of the board of a Lower Loup NRD. I am testifying today as-- in favor of LB978 and I'm testifying on behalf of Nebraska Public Power District and the Nebraska Power Association, which represents all of the public utilities within the state of Nebraska. I'd like to start out just by saying NPPD, as part of its normal, normal operations, has the opportunity to apply for various number of dredge and fill permits, commonly called Section 404 permits under Section 404 of the Clean Water Act. These permits are administered and issued by the Army Corps of Engineers. On many projects, these Section 404 permits for various reasons which we have heard, which include budget reductions, staff reductions, workloads, or many other reasons can take several months or even over a year to be issued by the U.S. Army Corps of Engineers. These permit issuance delays can cost serious project delays and, in some cases, many undue additional costs. We support the Nebraska Department of Environmental Energy, the NDEE, to be authorized to issue these Section 404 permits. We believe the NDEE has the ability to provide both quality and timely permitting. We support the ability for the NDEE as a state authority to be better prepared to address state projects and issues on the state level in lieu of having to undergo a federal action. I'd be willing to answer any questions.

**BOSTELMAN:** Thank you, Mr. Citta. Are there other questions? Any questions from the committee members? Seeing none, thank you for your testimony.

**JOSEPH CITTA:** All right, sir.

**BOSTELMAN:** Thank you.

**JOSEPH CITTA:** Thank you.

**BOSTELMAN:** Next proponent, please. Good afternoon.

**BRIAN OSBORN:** Good afternoon. My name is Brian Osborn, B-r-i-a-n O-s-b-o-r-n. I'm representing the environment and energy committee for the American Council of Engineering Companies of Nebraska, also called ACEC Nebraska. I'm here today to speak in support of LB978 on behalf of our organization. Our organization is comprised of firms that aid

federal, state, and local entities, as well as private companies in obtaining authorization for numerous projects under Section 404 of the Clean Water Act, which regulates the discharge of fill material into rivers, strakes-- rivers, lakes, streams, and wetlands. Our firms are engaged in the design, permitting, and construction support for projects across the state and this process can be highly complex or relatively straightforward, but almost always involves reviewing available, available data, completing wetlands delineations, and supporting our clients in obtaining the required permits. Currently, the regulatory branch of the Omaha district administers that program on behalf of the Army Corps of Engineers and the U.S. EPA. Based on the complexity of projects, our firms have experienced highly variable permitting time frames, some of which can take a year or more. This inconsistency in schedule does not always adhere to the review timeframes that are actually published in the permit conditions and guidance documents. So in this regard, the unpredictable timing of the permitting process can have a substantial impact on the cost and feasibility of a project, often leading to unnecessary delays. These delays have direct impacts on projects across the state and in almost all instances, lead to increased cost as materials and labor increase over time. LB978 would allow the NDEE to assume responsibility for Section 404, similar to how the department administers the Clean Air Act and other portions of the Clean Water Act already. The NDEE has a proven record of overseeing these programs and we believe will utilize that experience to create a straightforward and efficient permitting program. This model of states administering this program was authorized by Congress when it passed 33 US Code Section 1342(b) and is successfully utilized in other states including Michigan, New Jersey, and Florida. We believe that consolidating the permitting actions for wetlands and waterways under one agency will allow for streamlining of that process. Protection of our nation's waterways is something that all of the ACEC Nebraska member firms are passionate about. Our organization believes that LB978 would continue to provide protection for Nebraska's greatest natural resource, which is our water, while providing consistent oversight and scheduling for implementing the Clean Water Act. Our organization is here to support and request that you advance LB978, as this allows our state to take a lead in protecting our wetlands, streams, and rivers. Thank you for your consideration. I'm happy to answer your questions.

**BOSTELMAN:** Thank you, Mr. Osborn. Are there questions from committee? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman. Thank you, Mr. Osborn, for being here. So you might be the person to ask this question. It

sounds like even if there was a higher cost to the actual permit itself, the saving in terms of efficiency and certainty, it would be a worthwhile trade.

**BRIAN OSBORN:** Yeah, a lot of our member firms, we've had a lot of these conversations and we all believe that our clients would, by and large, be willing to pay for a permit. Right now, you don't have to pay for an Army Corps of Engineers permit. If it's a nationwide permit, it's a free permit from them and it's \$100 if you have an individual permit. We, we believe that we-- people would pay for that permit if there was a consistency and timeframe that they could plan on.

**J. CAVANAUGH:** Thank you.

**BOSTELMAN:** Do you know-- and you may not know. Say on a road project, probably depends on where it is and probably depends on if you're crossing any streams, rivers, whatever-- time-saving potential?

**BRIAN OSBORN:** I actually-- you know, it's, it's variable all across the country, as Director Macy had said. One thing that I did pull in kind of preparation for this is some nationwide averages. So there was a Supreme Court case, *Hawkes v. the Corps of Engineers* in 2016. And Justin-- Justice Roberts, in his Opinion, he said that the nationwide averages for individual permits are 788 days and about \$271,000 of fees. And nationwide averages for general permits, which are the nationwide permits, are 313 days and about \$24,000. There was another study in 2014 that had it pretty similar where nationwide permits averaged \$2,000 to \$140,000 with an average of \$28,000; and individual permits, \$7,000 to \$1.5 million, average about \$271,000, so pretty consistent data. Michigan has the state permit program right now and they have a statutory regulation that a complex permit has to be done in 90 days and their average on their website when they were--when they had their statistics on there is their average nationwide permit, general permit, is 14 days of issuance and 65 days, I think, for the other one, for their longer, more complicated ones. And most of their, most of their program is also covered by fees. It's, it's-- or some of it's covered by fees and some of it's covered by their general fund.

**BOSTELMAN:** I'm sure I've heard a lot of complaints, I know, on the timeline, 404 permits on the-- if you ever going to see it come back again in the sense of-- I'd say years, in some cases, that it takes so long to get them back, so I can-- efficiency just in that alone and trying to get projects done, whether it be any project on road or otherwise, is significant. How does this tie in with-- I think we

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changed here a couple of years ago on environmental studies, especially on bridges and that. How does that-- does that tie in here at all?

**BRIAN OSBORN:** It's different. It's a similar program in that you take over assumption. And I don't know if, if Mr. Jabar-- Jaber there is going to speak or not, but when the NDOT took over assumption for part of the NEPA program, it's a similar in that you take over the federal program, but it's-- they're two unrelated programs--

**BOSTELMAN:** OK.

**BRIAN OSBORN:** --two unrelated laws.

**BOSTELMAN:** Sure. OK. Other questions from committee? Seeing none, thank you, Mr. Osborn.

**BRIAN OSBORN:** Thank you.

**BRIAN OSBORN:** Other proponents for LB978?

**KATE WILSON:** Excuse me, all right.

**BOSTELMAN:** Good afternoon.

**KATE WILSON:** All right, good afternoon, everyone. My name is Katie Wilson, K-a-t-i-e W-i-l-s-o-n, and I'm the executive director of the Associated General Contractors Nebraska Chapter, also known as the Highway Chapter, testifying in support of LB978. AGC is a construction trade association representing contractors who perform highway, bridge, and municipal utility infrastructure work across the state. My members don't build Nebraska alone, but depend on the 47,000-plus construction workers who are out daily improving Nebraska's infrastructure. We are supporting LB978 because we see the benefit in the state assuming the 404 permitting process for our industry, which in turn helps all taxpayers and drivers. State assumption of the 404 permitting process will still require that we abide by all federal laws, but it is possible that wait times will be reduced, redundant reviews eliminated, and permits may be issued more quickly. That will allow my members to deliver to the public sooner the highway construction projects we all want. While we don't necessarily get involved in the development and design of the projects, we wanted to show our support today for this important bill and to thank Senator Hughes for introducing it. I look forward to working with our partners at the Department of Transportation and Department of Environment and

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Energy on future projects and I'll answer any questions if you have any.

**BOSTELMAN:** Thank you, Ms. Wilson. Are there any questions? Seeing none, thank you for your testimony.

**KATE WILSON:** You bet.

**BOSTELMAN:** Other proponents for LB978, please step forward.

**CHRIS HAWKINS:** Good afternoon, Chairman Bostelman, members of the Natural Resources Committee. My name is Chris Hawkins, C-h-r-i-s H-a-w-k-i-n-s. You can get whatever you need done first.

**BOSTELMAN:** Sorry.

**CHRIS HAWKINS:** OK.

**BOSTELMAN:** Your light is on, you're fine.

**CHRIS HAWKINS:** OK. I'm the president and the CEO of Hawkins Construction Company. We're an infrastructure contractor based in Omaha, Nebraska, and I'm here today in support of LB978. From my perspective, this bill is largely about timeliness and speed in construction, which of course is an issue near and dear to us. The current wetland permitting process is long and it is cumbersome and with the type of work we do, as complicated as it is, there's always multiple variables that can cause a delay in commencement of a project. I would argue that wetland permitting is one of, if not the most significant cause today of delays in getting the projects that we build off the ground. And in the interest of time, I'll avoid talking about specific projects, but for context, 80 percent of the projects that Hawkins built last year were subject to wetlands analysis or a 404 permit of some fashion or another. And I stress that point to highlight that this is very important and it's a big deal. I understand that things like dredged and filled materials in waters of the United States seem a little boring and maybe a little nuanced, but from the work we do-- we do a few hundred million dollars in construction-- this is one of the most significant issues that we see for our industry and for this business. As you know, every year of delay of a project causes a loss of potential user benefits. There are plenty of road projects that we track, we follow, we're interested in building that we see take longer and longer than they should. And some of those are, are projects with significant safety issues, road geometrics or whatever, and during that time that those projects are not being built for want of environmental permit, we see accidents, if

not road fatalities. That's a-- obviously safety is paramount here and that's a significant issue, but the cost issue is also extremely significant. We had questions about that. For insight, we went internally and we reviewed projects that we built in 2020 and repriced those with 2021 prices. The numbers increased 16 percent. Obviously, inflation is astronomical right now, but for the last ten years, construction prices have far "outseated" CPI. I believe that ignoring the cost of the additional staff, those numbers are peanuts compared to the costs that we see in inflationary pressure and we'd much rather see that money spent on concrete and good, high-paying jobs. I should also note from a personal perspective that we do not view this bill as a means for lower burdens of environmental compliance, just the opposite. I mean personally, I'm a hunter and an outdoorsman and care very much about conservation and protecting the environment, as do we as a company. We employ two full-time environmental compliance officers. We care about it. And of course, this bill still would require the process for NDEE to seek authority. They cannot do so without complying with the strict rules of the EPA. If I- can I make one more comment here and pass it? I would also like to share our experience working with NDEE. As a contractor, we've sought permits in a number of divisions. We own a landfill. We have dams and we seek air quality permits. We've also assisted clients with a number of 404 processes. We have found NDEE to be extremely responsive, professional, but strict in compliance. And so we have plenty of faith that this is a process they can handle quite well. With that, I'm happy to take any questions.

**BOSTELMAN:** Thank you, Mr. Hawkins. Are there questions from committee? Seeing none, thank you for being here today and thank you for your testimony. Other proponents? Good afternoon, Director.

**TIM MCCOY:** Good afternoon, Chairman Bostelman. My name is Timothy McCoy, T-i-m-o-- T-i-m-o-t-h-y M-c-C-o-y, and I'm the Director of the Nebraska and Parks Commission. I just wanted to come up and, and identify our support. We're fully in support of the current and future efforts by NDEE to seek the Section 404 reassignment. These discussions have, have been had with our agency because we will continue to be involved in this process, as we are under any state permitting process for the en-- for the environmental reviews that we do and consultations on complex projects under the Nebraska Nongame and Endangered Species Conservation Act on species permitted projects. We see the reasons that NDEE is pursuing this alignment really meets our mission also in terms of being the best stewards we can of Nebraska's natural resources and the best long-term interests of our people and the resources which includes our fish, our wildlife, and

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our other natural resources. So our, our existing work with them, we believe, has helped protect our state waters and wetland resources, but we also look forward to a unified approach because we see opportunities. We have worked with NDOT previously on programmatic approaches that can be used to streamline coordination and process and we think that those will have a great value for, for Nebraskans and, and agencies and anyone that's doing construction.

**BOSTELMAN:** Thank you, Director. Are there questions from the committee? Senator Gragert.

**GRAGERT:** Thank you, Chairman Bos-- I'm just interested in taking over the responsibility of the 404 permit, is part of that endangered species involved or is that a completely different ball game?

**TIM McCOY:** Well, we, we would still have review under that. I would, I would presume that that coordination still has to happen on federal species. The corps actually consults with the U.S. Fish and Wildlife Service on those projects, as do we. So that, that's a question that I think will happen, but I don't know that for sure.

**GRAGERT:** Has there any-- been any lawsuits of overlooking an endangered species to the federal government by different organizations and would we take on that liability?

**TIM McCOY:** There is-- when it comes to endangered species, I think there is always-- there always-- there is always a, a liability in terms of whether somebody does something that, that is either overlooked or doesn't follow process. I think that's part of the EP-- the assumption that NDEE has had to evaluate in terms of the risks of this and the benefit.

**GRAGERT:** OK, thank you.

**BOSTELMAN:** Other questions from committee? Seeing none, thank you, Director. Other proponents for LB978? Are there any other proponents? Anyone wishing to testify in-- as an opponent to LB978? Good afternoon.

**GEORGE CUNNINGHAM:** Good afternoon. My name is George Cunningham, G-e-o-r-g-e C-u-n-n-i-n-g-h-a-m. I'm here today representing the Nebraska Chapter of the Sierra Club and the Nebraska Wildlife Federation. I serve as a volunteer conservation leader for these organizations, which together includes about 3,500 members. Our respective organizations are in opposition of LB978 since the bill as written only applies to regulatory framework for state assumption of

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404 permitting that addresses waters of the U.S. There's no specific language directing this assumption authority to cover waters of the state. Without language specifically granting NDEE authority to permit dredge and fill materials involving waters of the state, most of the aquatic resources in the state will fall outside of regulatory authority. As you are well aware of, the regulatory definitions of waters of the U.S. are constantly, excuse me, constantly challenged in the courts and the EPA administrative rules seem to change with every new federal administration. Much of the aquatic resources in Nebraska are isolated intrastate wetlands and intermittent and ephemeral stream systems that are either not covered under the regulatory framework of the waters of the U.S., or have great potential not to be covered under federal Clean Water Act rules, depending upon the outcome of a couple of cases in front of the Supreme Court that will be decided over the next couple of years. From a conservation standpoint, regulated activities in all of the state's waters is critically important to maintaining ecosystem function. These functions extend beyond just habitat for species, but for water quality and quantity issues, flood risk reduction, and outdoor recreational benefits to the people of Nebraska that they derive from these aquatic resources. I can provide any of you, if you wish, expansive studies looking at the function and values of headwater streams and isolated wetlands so-- that give you some background on the importance of these systems. We view without a regulatory framework that covers a complete suite of waters of the state in LB-- excuse me, in LB987, we risk a tremendous degradation of our state's aquatic resources. And another reason that we oppose this bill is to date, the transparency of what's been going on with NDEE with this process of assuming assumption hasn't been very transparent to the public. It has been difficult, if almost impossible, to find out what has been going on in these meetings and these hearings. And so we would like to see language changed in this bill that puts in specifically that this would also include regulation of fill and dredge materials within state waters and some language about a stakeholder engagement process that would be required as part of this. Thank you.

**BOSTELMAN:** Thank you, Mr. Cunningham. Senator Moser.

**MOSER:** So I get the impression that you feel that some waters in Nebraska would not be protected by the federal regulations?

**GEORGE CUNNINGHAM:** There are a number of waters that currently are not protected, yes.

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**MOSER:** You know, in my experience with 404 permits, they found that irrigation ditches were navigable waters of the U.S. and we had to-- we had hoops to jump through for, like I say, drainage. You could tile a field and the water would run into a drainage ditch and then it ran into, I think it was Shell Creek, but that, that fell within the requirement and we waited for months and months to get that permit. And while we were waiting, the cost of our arterial that we put around the north side of Columbus went-- you know, it started at \$6 million and when we got done, it was \$20 million. And so I, I don't know everything about what your concerns are, but I would say it hasn't been my experience that the federal government was defining waters in the U.S. so narrowly that we would miss protecting some waters in the state. I don't-- I guess we could let the department, you know, testify more, but I hope your concerns are already addressed, but we'll find out.

**GEORGE CUNNINGHAM:** Just, just as background, I spent more than 25 years in the wetland regulatory business, so-- though I, I understand how this system works.

**MOSER:** OK, great. Thank you.

**BOSTELMAN:** Other questions from the committee members? Seeing none, thank you, Mr. Cunningham, for being here today. Other opponents to LB978, please step forward. Are there any other opponents to LB978? Seeing none, anyone wish to testify in the neutral capacity? Any neutral testifiers? Seeing none, Senator Hughes, you're welcome to close. We do have four proponent letters that's been submitted to the committee. With that--

**HUGHES:** Thank you, Mr. Chairman. I'll be brief in my closing and then I'll be happy to answer any questions. Direct-- Director Macy did indicate to me that they do have jurisdiction over the state's waters and they meet full compliance. So if it is not covered by the waters of the U.S., it is covered as-- his state's-- the agency, state agency has jurisdiction over those waters to be protected. Any questions?

**BOSTELMAN:** Thank you, Senator Hughes. Any questions? That will close our hearing on LB978. Thank you all for being here. Next, we will have two confirmation hearings. The first confirmation hearing will be with Mr. Patrick Berggren. The door is shut, now we can hear better, so welcome. Good afternoon for being here with us, Mr. Berggren, and what we'd like to know is introduce yourself, tell us a little bit more about your experience, a little bit about you, and one-- why you want to be reappointed to the-- member of the Game and Parks Commission.

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**PATRICK BERGGREN:** Sure. Thank you, Senator Bostelman, members of the Natural Resources Committee. My name is Patrick Berggren, P-a-t-r-i-c-k B-e-r-g-g-r-e-n. I am the current vice chairman of the Nebraska Game and Parks Commission, District 6. I reside in Broken Bow, Nebraska. I do cover 20 counties in the best part of the state. I am a married man of 21 years with a freshman in high school and in eighth-grade-- or sixth-grade boy. He's the size of an eighth grader, but I really, really do enjoy being part of the commission. It's been a, it's been an interesting challenge the last five years. We have a lot of things to work on and we're getting better at it, but every time we go to a meeting, I learn more and more about the commission. I do feel fortunate that I had a pretty good background on the commission when I started, being that my father was previously a commissioner and so I had a fair bit of knowledge before I even started and took his role. With that being said, we are looking forward to the future. We have a new director who is very engaged and is very willing to share information, take criticism, and provide us with whatever we ask for. So with that, I'll take any questions you guys may have. I do enjoy it. It is the role of a lifetime. It is a wonderful break from my day job, which I am a general contractor in Broken Bone, Nebraska. I serve about 120-mile radius, so.

**BOSTELMAN:** Thank you, Mr. Berggren. Are there questions from the committee? Are questions from the committee? Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Chairman Bostelman, and thank you, Mr. Berggren, for being here and for your willingness to serve. You kind of answered a lot of the questions I normally ask right off the bat, but one of them jumped out in your letter here. The reason you want to get back on the board is projects that are still left to be done, phase two of the Berggren pheasant plan. Is there any relation between you and the title of that?

**PATRICK BERGGREN:** Sure, so that is named after my father.

**J. CAVANAUGH:** OK, that was my guess.

**PATRICK BERGGREN:** So he was a large pusher of our previous pheasant plan. He passed away before we implemented that plan. It's, it's a good start. Of course, with-- we have had a lot of CRP acres declined in Nebraska. Our pheasant numbers aren't what they want it to be, but there have been some successes through the plan. Our open fields and waters program is in an all-time high for producing public access for our hunters and fishermen, but we do have things to work on yet to get our bird numbers where we want it to be.

**J. CAVANAUGH:** Gotcha, thank you.

**BOSTELMAN:** We have a, a bill in the Transportation and Telecommunications Committee that deals with electric bicycles. So there's three different classifications for it, but one of the things testified during that hearing was that they're not allowed on any trails-- Game and Parks trails. Can you speak to that?

**PATRICK BERGGREN:** I was not aware of that, but I'm sure we could figure out a way to make sure that they could be on those trails. I would-- it has-- probably has to do with no charging stations in some of those remote areas.

**BOSTELMAN:** I, you know, I think where they were at was maybe on the eastern side of the state--

**PATRICK BERGGREN:** OK.

**BOSTELMAN:** --maybe Indian Cave or somewhere, but-- or maybe up on Ponca, but they said that there's a sign that says no motorized vehicles. So they were-- said you can't, you can't take electric bike on that trail, so.

**PATRICK BERGGREN:** And it could be that I don't believe we allow any motorized vehicles on any of our trails, but Director McCoy may--

**BOSTELMAN:** That might be something-- that's what our thought--

**PATRICK BERGGREN:** --chime in.

**BOSTELMAN:** --was, it might do something that--

**PATRICK BERGGREN:** Sure.

**BOSTELMAN:** --something that's new, a type of-- something that people are using more now, so it might be something that could be addressed.

**PATRICK BERGGREN:** We're more than willing to listen than we have been in the past, so I bet we can get it handled.

**BOSTELMAN:** How did your-- how do you feel that your meetings you had on big game-- on deer hunting, I think it was. How did those go?

**PATRICK BERGGREN:** They went pretty well. Probably not as well attended as I would have liked, like our Valentine meeting only had seven attendees, which to me, is disappointing. I think part of that may be because we've had some more personal meetings with some landowners

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that have had some issues up in that area. But we do have some areas of the state where our deer numbers are lower than what our deer hunters want, which they probably want them at our 2012 levels, which as an owner of a construction company with a lot of vehicles out on the road, we had a lot of deer collisions and that's way too many. But I think our deer numbers are getting better in a lot of areas, but we did have a lot of EHD, probably from Broken Bow area up towards Ponca State Park, not near the levels of 2013-2014, but there are some areas that our deer numbers are down, which in some cases, that's a blessing.

**BOSTELMAN:** But do you have a very good-- much of a response on there virtual?

**PATRICK BERGGREN:** Boy, there was 260 people online, I believe--

**BOSTELMAN:** OK.

**PATRICK BERGGREN:** Also had four commissioners online as well and staff. So we did-- we had about four pages worth of public comment, so we'll take it all.

**BOSTELMAN:** Senator Gragert.

**GRAGERT:** Just real quick. Thank you, Chairman Bostelman. Do you guys move your board meetings around the state?

**PATRICK BERGGREN:** Yes, we do.

**GRAGERT:** How often?

**PATRICK BERGGREN:** We have-- the only one that is set in stone is our January meeting is always in Lincoln--

**GRAGERT:** So there are--

**PATRICK BERGGREN:** --and then we try to hit every-- almost every district.

**GRAGERT:** OK.

**PATRICK BERGGREN:** So we were-- this year we'll go to Nebraska City, Broken Bow, up by Niobrara State Park-- trying to remember the last couple-- Fort Robinson is usually-- Commissioner Brandt always wants one in Fort Rob. Last year, we were at Chadron State Park.

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

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**PATRICK BERGGREN:** We try to make the rounds. We try to also make those meetings maybe where the issues are as well.

**BOSTELMAN:** Senator Hughes, would you have a question?

**HUGHES:** Yes, I do. Thank you, Mr. Berggren, for being in. I do appreciate your comments. There is a much better working relationship, in my opinion, and I do want to compliment all of the directors on your-- or the commissioners on their choice for a new director. I think that is changing the divis-- or the commission in a better direction. Just a couple of questions, I know there were some changes in the number of units for elk hunting. How did that turn out? You, you created some smaller units and issued some additional permits. Did-- have you gotten the numbers back on that yet?

**PATRICK BERGGREN:** Correct, I believe-- we had just gotten an update the other day. In our problem areas west of Valentine, the North Platte unit and the Box Elder unit, we had shot more elk than we had the previous years and it's made a difference. I've talked to two landowners, one south of North Platte who has definitely noticed that his elk have dispersed. Now he still has more than what he wants, but we're making progress and he's still willing to put up with the number of hunters that are asking for permission to be on his place. We did-- we had a bunch more tags this year and we were nervous about what our landowners would think about more people asking for permission because those elk are-- they're not spread out all over. They're really bunched up in some areas. But another landowner I talked to yesterday, I believe they did kill ten cows on his place, so he will qualify for an earnable permit as well and he did make the comment that the increased pressure, he's seeing a few less elk. He did make the comment he had about 300 on his place the other day.

**HUGHES:** So are, are the, the numbers of elk taken-- have you gotten those numbers back and, and that is up?

**PATRICK BERGGREN:** Yes.

**HUGHES:** About what percentage?

**PATRICK BERGGREN:** It is up statewide. I would say we're probably up a solid 15 percent--

**HUGHES:** OK.

**PATRICK BERGGREN:** --at least. Am I good on that?

**HUGHES:** That's close enough.

**PATRICK BERGGREN:** 21.

**HUGHES:** And then my last question, the special landowners permit we kind of rolled out this year, I just curious what your, your impressions of that are.

**PATRICK BERGGREN:** Everything I've seen so far has been very positive. I talked to eight different landowners in my area that didn't take advantage of it, as well as I had about a 45-minute conversation with Mr. [INAUDIBLE] about the week afterwards, just asking what I thought. And it was very pleasant and he was just looking for feedback as well. Everyone I talked to, I think it did what it was intended to do. They had a chance at their trophy buck before somebody else did. And if they harvested what they wanted, they were more than willing to give permission.

**HUGHES:** I'm glad to hear your positive-- most of the people that I talked to about it, it wasn't about trophy hunting. It was about being able to hunt with their kids.

**PATRICK BERGGREN:** Sure.

**HUGHES:** And, and be able to spend some time with them and not be looking over their shoulder and not be worrying about, you know, if you see a pickup on the road, that, you know, there's going to be shots fired, so that, that was the feedback that I got, but I'm glad yours was positive as well.

**PATRICK BERGGREN:** And the--

**HUGHES:** Thank you for coming in today.

**PATRICK BERGGREN:** One comment they made about that, that nine-deer-- nine-day rifle deer season, there was a lot of babysitting involved and they were able to enjoy themselves for those three days that they had to themselves, so.

**HUGHES:** Yeah, very good.

**PATRICK BERGGREN:** It was very positive.

**BOSTELMAN:** Any other questions? If not, thank you, Mr. Berggren, for being here. Anyone like to testify as a proponent? Thank you very much.

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**PATRICK BERGGREN:** Thank you for your time.

**BOSTELMAN:** Anyone like to testify as a-- you can sit back. Anyone like to testify as a proponent? Anyone testify as an opponent? Seeing none, anyone testify in neutral capacity? Seeing none, that will close the confirmation hear-- the, the confirmation hearing for the reappointment of Mr. Patrick Berggren to the Nebraska Park-- Game and Parks Commission. We'll now open the hearing for the conf-- let me get to it. It's not here-- to the confirmation hearing for the reappointment, I believe it is, of Douglas Zingula--

**DOUG ZINGULA:** Zingula, yes.

**BOSTELMAN:** --to the Nebraska Game and Parks Commission. Please-- good afternoon and as we get started, say your name, spell it, and then, again, tell us a little bit about yourself, a little bit about your experience on Game and Parks, just some information you think would be helpful for us to understand where you're at, what you've done, and, and maybe some expectations.

**DOUG ZINGULA:** Sure. Well, good afternoon and grateful to be here today, so thank you. Again, my name is Doug Zingula, D-o-u-g Z-i-n-g-u-l-a, and I reside-- permanent addresses in Sidney and then also have another home up in Crawford that I spend time with up there as well. So I am currently the commissioner for District 7, which is I would lovingly call the big-game capital of Nebraska in the Panhandle out there. So we have-- everything that you can think of in terms of big game, we have it, so. Been on the commission for the last four years and have truly enjoyed it. I've been involved in the outdoor-- outdoors all my life, both wildlife and the outdoors, personally and professionally, spent 32 years with Cabela's. And so it's something when I left and retired in-- ten years ago, you know, I was looking for something to kind of fill that void and I'm not sure whether this position found me or I found it, but it's, it's been very rewarding. And at times, it's somewhat like drinking out of a fire hose and as Commissioner Berggren said, I mean, it's been a big learning curve, but appreciate all the opportunities that have been afforded and, and working. And yes, we've had some challenges, some big challenges over the last four years, but I think we're in a much better position here now today to move forward. And, and I think we've had a fair amount of successes and particularly in the last 18, 24 months and I would really look forward to moving the, moving the ball down the field, as they say, I guess, in another four years, so thank you.

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**BOSTELMAN:** Thank you, Mr. Zingula. Are there any questions from the committee? Senator Hughes.

**HUGHES:** Thank you, Chairman Bostelman. Thank you, Doug, for your service to the state of Nebraska.

**DOUG ZINGULA:** You bet.

**HUGHES:** I've always appreciated your professionalism during our difficult times. I do want to compliment you on your choice for administration-- change in administration and I do look forward to the change in the culture at Game and Parks and I think-- I, I'm, I'm looking very much forward to that. I will ask you the same questions that I asked the other gentleman. Elk numbers, you're in that area, just kind of your impression of how the, how the landowners are adjusting to the changes that you've made and is it working better?

**DOUG ZINGULA:** Yeah, I think as Commissioner Berggren indicated, I mean, we've done a lot of background work over the last year with ranchers and private meetings and, you know, so we had a better feel. I mean, I think we were no doubt guilty in, in the last few years and the numbers of-- I think in particular in certain areas got away from, get away from us and, and so definitely had some problems. But I think some of the things that in listening with landowners, ranchers, farmers out there and some of the things that we've enacted, we were in a better position this year to, to do something about it or had the tools in the toolbox to, to be able to specifically handle individual problems. So in direct answer to your question, I think the season went well. I would tell you, I mean, I wish, you know, full moons and 90-degree weather, you know, isn't always the most conducive, you know, to hunting. I mean, I had a lot of folks call me and-- you know, cattle season just, you know, how do I, how do I find where-- how do I get a cow? And, you know, it's hard; it's 95 degrees. But I think overall, we had a successful, successful season and we'll continue to build on that going forward. And I know the agency is dedicated to addressing, you know, individual hotspots and we'll continue to keep moving forward.

**HUGHES:** OK. I'd also be interested in your perception of the special landowner deer hunt.

**DOUG ZINGULA:** Yeah, I mean, I-- to be real honest with you, I mean, I, I didn't hear much either way out there. I mean, a lot of the landowners that I'm, you know, familiar with and friends with, a lot of them didn't hunt so-- and really had no input one way or the other.

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So as far as rest of the constituents in the areas, hunters, I heard very little. So in my book, I mean, it was a success. I mean, those that wanted to take advantage of it were able to and I heard very little negative comment.

**HUGHES:** Most of the, you know, the, the discussion of it being trophy hunting, I, I did not see that at all, especially according to the photos in the paper of regular rifle deer season. There were some monster bucks taken, so--

**DOUG ZINGULA:** Sure.

**HUGHES:** --landowners certainly didn't get them all.

**DOUG ZINGULA:** No, no, no.

**HUGHES:** Thank you for your service.

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

**GRAGERT:** Yeah, thank you. Chairman Bostelman. I just want to follow up on the deer-- the special deer season. Do you have to spin up-- how, how did you check those deer in and, and did, did it take any more?

**DOUG ZINGULA:** No, those were telecheck, so online.

**GRAGERT:** Online.

**DOUG ZINGULA:** Is that what you're asking?

**GRAGERT:** Yeah.

**DOUG ZINGULA:** Yes, online.

**GRAGERT:** So you just online check them in?

**DOUG ZINGULA:** Yep, so normal rifle season is, is really the only time where we have people in the field checking at specific locations.

**GRAGERT:** And another issue or-- has there been any talk with the decrease in habitat as far as pheasants to-- we-- way back when, we used to have a FFA or forage raise pheasants and release them. Is that a program that would-- you talk about all that public land to walk in, but I can walk across acres and acres-- hundred of acres and not see a bird.

**DOUG ZINGULA:** So you're, you're asking the question that kind of goes to the heart of the Berggren plan, in which, you know, Commissioner Berggren has been directly involved with for four or five years and I've been more recently involved in the last couple. And there's just a lot of different things that kind of go into some of the problems with pheasants that we face here in, in not just in Nebraska, but across the whole Midwest. And, you know, there was a lot of talk of, you know, in the previous bill in terms of farming practices and those small-- those things. And, you know, we've gone from kind of a small-grain farming to larger-grain corn and, you know, CRP programs have gone away. So there's just a whole host of, of issues. I think we're, we're doing-- we're gaining more knowledge and I think-- I won't say that there's total light at the end of the tunnel, but I think there's some things that we can do as a commission in terms of additional releasing of, of pheasants, making it easier, maybe, for some more controlled-shooting access points. But it's, it-- pheasants are a large pasture, grasslands type of, type of bird and we just don't have that like we did in the '70s and-- '60s and '70s when I grew up, you know, for a lot of us, so it's a challenge.

**GRAGERT:** Well, yeah, I, I agree with everything you said, but we also had a lot more fence lines and we have plum thickets that seem to be--

**DOUG ZINGULA:** 100 percent, 100 percent.

**GRAGERT:** --but with the CRP grounds we have in those patches, I-- you don't think that planting pheasants would increase hunting and tourism and, and coming to our, to our state?

**DOUG ZINGULA:** Well, you know, we-- everything has got a cost benefit analysis, right?

**GRAGERT:** Sure.

**DOUG ZINGULA:** So if you look at it, I mean, you have less than 5 percent survival rate on those birds for any period of time. So we can continue to put them out in, in public areas and I think, you know, as I said-- mentioned earlier, I think we're committed to, to trying to do that, but if we're talking about-- we're less than, what, 3 percent public areas here in the state of Nebraska. So 90 percent-- 97 percent of that is, is private. So I don't know that we'll ever quite get to the point that maybe we would all like to see clouds of pheasants reminiscence of the '70s, but, but again, we'll continue to push along what, what we think we can in those public walk-in access points and,

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and I'm hopeful we will continue to push to stock more birds to allow more opportunity.

**GRAGERT:** Yeah, you know, I guess you're totally right about getting back to the '70s. I don't know if we can ever make it there, but I drive hundreds of miles of back roads now. I might see a pheasant every two miles, not-- you know, that's, that's a wide gap.

**DOUG ZINGULA:** I totally agree. I mean, we've had three years of drought and I'll speak just for, for my area. I mean, I've got places where, you know, three, four, five years ago, I mean, ten, ten buddies and I, we could walk a group and walk a field and shoot-- you know, see quite a few birds and there's not a one. I think I've seen two pheasants this, this fall driving-- put on a lot of miles, seen two.

**GRAGERT:** Thank you.

**BOSTELMAN:** Other questions? I attended the Congressional Sportsmen's Caucus here a couple of months ago and there was a company there, it was a new-- they talked about some new-- on the internet. They're coming to Nebraska, but they have a contract with Game and Parks to redo your website, to bring new information in, to showcase different areas in the state. Can you talk to me a little bit about that?

**DOUG ZINGULA:** I know just enough to not say a whole lot. So I don't mean to be evasive with that, but yes, I'm aware that there, there is some work going on with that, but it has not been anything that has been-- what do I want to say-- presented to the commission yet. I don't know that staff is ready for that.

**BOSTELMAN:** When I was there, I talked to one of the programmer-- there was two companies there, there and there was a programmer that did some work on, on digital imaging specifically. And a comment I-- it's more of a comment, just to take with you and-- because I don't know if they'll bring it to you or not, but one challenge we had-- as a, as a centerfire deer hunter, I, I have to take my deer and I have to go check it in--

**DOUG ZINGULA:** Yes.

**BOSTELMAN:** --right? So my comment to him was why can't we take and do that digitally? So why can't we take-- and we asked them to develop-- see if they can develop it. Take my phone-- I harvest an animal, take my phone, take a couple of pictures, upload it, send it in and do it that way because we're spending a lot of time-- I mean, it's not that we have a shortage of deer, so-- or whichever it might be, instead of

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taking [INAUDIBLE] maybe some areas, you want to, you want to sample, see if EHD or some-- so you want to buy all this stuff [INAUDIBLE]. OK, well, that's, that's maybe something different. But I think at some point in time, we need to transition away from, from having to take our hunt-- especially on centerfire, taking a, taking an animal in and having it checked, getting the band on it. Yeah, you get some statistics on it, but that was one thing that they did that I talked with them about is why can't we do this digitally? Archery, black powder, we do that online. So centerfire, I think that's something we might want to do in the future.

**DOUG ZINGULA:** Yeah. No, I think you bring up a great point. A lot of it is, you know, disease work, you know, to be able to take samples. CWD is a big concern for the state, all the states, actually, you know? And, and so we do try to take as, as many samples as we can to, to try to gauge where we're at across the state for CWD. The other issue-- and, and I had a phone call from a, from a hunter from Grand Island and he and his family had been hunting, you know, out in the Pine Ridge for 20-some years. And one of the things he was grateful for when it-- concerns as well-- in terms of just the amount of people on public lands. And so when he got to the check station or knowing that there was a check station, that there were Game and Parks officials in and around the area, whether it be wardens, conservation officers, or just park staff, he felt very strongly that that sent a signal that, that we had a presence out in the field during those nine days, which I mean those nine days, I mean, there was, there was a lot of folks in the field out there hunting more so than, you know, typical archery weekend or black powder weekend. So he was-- that was another side of, of his thoughts was just having a certain amount of presence out there for any illegal activity that may be going on that, you know, that may help stymie. But I certainly hear your point.

**BOSTELMAN:** Thank you. Any other questions? Have none, thank you for coming in today and thank you for staying this afternoon.

**DOUG ZINGULA:** Thank you.

**BOSTELMAN:** Appreciate it. Is there anyone like to testify as a proponent for the, the reappointment of Mr. Douglas Zingula? Any proponents testify? Seeing none, anyone like to testify as opponent? Seeing none, anyone like to testify in neutral capacity? Seeing none, that will close our hearing of the reappointment for Douglas Zingula to the Nebraska Game and Parks Commission. Thank you all for being here today and staying through the afternoon. That will end our hearings. Thank you.