

BRANDT: Welcome to your Natural Resources Committee. I'm Senator Tom Brandt from Plymouth. I represent the 32nd district and I serve as chair of the committee. The committee will take up the bills in the order posted. This public hearing is your opportunity to be part of the legislative process and to express your position on the proposed legislation before us. If you're planning to testify today, please fill out one of the green testifier sheets that are on the table at the back of the room. Be sure to print clearly and to fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone, tell us your name and spell your first and last name to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by proponents of the bill, then opponents, and finally by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer if they wish to give one. We will be using a 5-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have 1 minute remaining, and the red line indicates you need to wrap up your final thought and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing, this has nothing to do with the importance of the bills being heard, it is just part of the process as senators may have bills to introduce in other committees. A few final items to facilitate today's hearing. If you have handouts or copies of your testimony, please bring up at least 12 copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees state that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. I will now have the committee members with us today introduce themselves starting on my right.

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Natural Resources Committee January 21, 2026

Rough Draft

JUAREZ: Yes, I do know my directions. I was on it. Senator Margo Juarez, south Omaha, District 5.

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

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

MOSER: Mike Moser, District 22, which includes Platte County and most of Stanton County.

CONRAD: Hi, I'm Danielle Conrad, I represent north Lincoln.

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

BRANDT: Also assisting the committee today to my right is our legal counsel, Cyndi Lamm. And to my far left is our committee clerk, Sally Schultz. And we'll have our pages stand, introduce themselves, and tell us where they're from.

MADDIE BANKS: Hi, my name is Maddie, I'm a sophomore at the University of Nebraska-Lincoln. I'm studying political science on the pre-law track and I'm from Rochester, Minnesota.

TERESA WILSON: My name is Teresa Wilson. I'm a junior, advertising and public relations major at UNL and I'm from Lincoln, Nebraska.

BRANDT: OK. With that, we'll begin with today's hearings. We have a appointment for Mr. Douglas-- how do you say your last name? Zingula?

DOUG ZINGULA: Zingula.

BRANDT: Zingula. Please.

DOUG ZINGULA: Good afternoon, Chairman Brandt, Senators. My name is Doug Zingula, D-o-u-g Z-i-n-g-u-l-a, and I currently reside in Sidney, Nebraska. I've been the commissioner now for 8 years and hopefully will be starting my third term here coming up shortly, so. I don't have a-- somebody asked me if I had an elevator speech. I guess I don't really, so. Any questions, I guess, fire away at me.

BRANDT: OK. There will be questions. Senator Raybould.

RAYBOULD: Thank you, Mr. Zingula, for being here and for serving. Tell us what you like most about being a commissioner.

DOUG ZINGULA: Wow. You know, I spent 30-plus years in the outdoors. Worked for Cabela's my whole entire career. And to be able to give back, and I know that maybe sounds a little corny, but it's been a, it's been a really great run over the last 8 years, and be able to see parts of the state that never would have seen or understood, you know, different park systems, different landscapes, and to be part of a group of-- with Game and Parks, I mean, we've gone through a lot in the last 8 years. There were some things when I first came on that I think we had some challenges. In the last couple of years, I think, we've, we've really turned the corner and been able to do some, some real positive things. And more so than that, I think, you know, we have an eye for the future here now. We, we have some things that we really want to look at the 5-, 10-year growth of Game and Parks and what that does and what that means to the constituents of the state and people that want and live in the outdoors. And so I'm very excited about that and look forward to being able to be part of that process.

BRANDT: Other questions? Senator Conrad.

CONRAD: Thank you so much for being here, Commissioner, and for your past dedication and willingness to serve into the future. Just to follow up more from a general perspective, I, I love the Game and Parks facilities and opportunities that our state offers. My family and I have always utilized that from childhood, and now I'm happy to share those experiences with my kids. I think our system is really a, a treasure in Nebraska and so important to environmental stewardship and healthy lifestyles and then, of course, has a role for recreation and revenue generation as well. One thing that I have worried about over the years as the level of state support for Game and Parks has diminished is it puts more pressure on user fees, particularly hunting license, fishing license, park entry, all of those kinds of things. And I get really worried about pricing out access to those wonderful opportunities for Nebraskans living on fixed incomes. And I know that the commissioners think about those issues a lot when you're setting fees. The Legislature has given you more latitude in recent years to take up those issues which I sometimes have concerns about because then I think sometimes at the administrative level, maybe they don't get the public attention they deserve in the legislative arena otherwise. But could you just share a little bit more about your thinking as a commissioner when you approach fee increases that are presented?

DOUG ZINGULA: Yeah. I mean, you touch on something that we spend a lot of time talking and thinking about. There's no doubt we're very conscious of, of our fee structures and making it affordable for families of all income levels to be able to enjoy the resources that the state provides. At the same time, to, to the point that you're making, I mean, we, we still have an operation to run and so we, we have to look at it from an economic standpoint and try to, try to find that balance. I mean, at times it feels like riding a picket fence on a bike, but I think, you know, going forward, you know, part of it isn't just necessarily the price of a single entry within a park system. A lot of it also has to do with if we can get more people to come in and how do we encourage more users within our park systems and in, and in our outdoors. So, I mean, we're very focused on, on marketing efforts. One of the big pillars that, that we've looked at and, and identified is fishing. Fishing and camping is kind of the gateway to the outdoors for, for many people. It's, it's affordable. It's accessible. So, you know, one of the things we're doing is the, the hatchery systems within the state. And so we're putting a lot of money and effort towards improving those systems to create more fishing opportunities, more fish, more fishing opportunities. And, hopefully, we'll also in turn bring, bring more folks into the, into the park system. So no single silver bullet to answer your question. It's very much on our radar. And we will continue to, to monitor that. I mean, we know what other states charge. We kind of look at that, try to find a balance. But, still, we want to be very mindful of just making sure that we're inclusive with, with everyone here in the state.

CONRAD: No, I, I appreciate that. Thank you very much. And then I don't know, Commissioner, if you've had a chance yet to look at the Governor's proposals in his most recent budget package that would touch upon the work of Game and Parks or if related thereto. Have you had a chance to have a dialogue with the director or your fellow commissioners or the Governor even about those issues?

DOUG ZINGULA: So that will be the next 2 days, not to answer that.

CONRAD: Can we, can we table this for 2 days from now?

DOUG ZINGULA: I'm sure he's wanting to have that conversation.

CONRAD: OK. Very good, thank you.

DOUG ZINGULA: Yeah.

CONRAD: Thanks.

BRANDT: Senator DeKay.

DeKAY: Thank you. Earlier today we had some discussions and we were talking about either a lottery system on out-of-state fees to specifically turkey hunting and stuff. My question earlier this morning is how will they apply for those and could they to get hunters from further away say Pennsylvania or wherever to come to Nebraska, are you going to allow multiple bird permits or are they going to be limited to one permit and, and how do you think that will play out if that will hinder more people from coming in because they can only get one or do you think give more opportunities for more people from out of state to come in?

DOUG ZINGULA: Yeah, good question. You know, this has been a topic that's been discussed in the background within the commission and the director. The short answer is, is we haven't made that decision. Don't, don't have all the facts put together yet. Certainly, this last week with the turkey permits, 10,000 nonresident tags going in less than 2 hours was kind of an eye-opener. It just seems like every year-- well, I'll back myself up. So several years ago with just giving weather conditions and so on and so forth, we've had a real drop in turkey populations across the state. And I would say that in some areas, and I live in the western part, and we've, we've been fortunate and we're seeing some increases in, in those populations coming back, but it's not universal across the state. So, you know, I think nonresidents, when we started to limit 10,000, it hasn't taken them very long to figure out that they go fast, and Nebraska is one of those places that it's a, it's a destination for turkey hunters. It's not a good situation to have them sold out in, in, you know, less than 2 hours. But at the same time I guess also there'll be some discussion as to what does the future look like for turkey population? Will we be allowed or will we be able to offer more tags in the next year or 2 years? So we don't want to get too far out in front of our skis here and changing rules and regulations around to, to have to go back and, and, and pull those back or do we want to put in a lottery system? Do we want it to reduce it from two birds to one bird? I mean, those are all things that I think here in the next several months we're going to have to figure out.

DeKAY: One more question.

BRANDT: Yes.

DeKAY: Follow up on that a little bit, you, you sold out of 10,000 permits in 2 hours. How many of them were multiple bird applications and-- or do you have that information yet?

DOUG ZINGULA: I've-- I, I don't really want to say. I've heard some rumors, but I don't have-- I've not seen that in front of me.

DeKAY: OK. I appreciate that. Thank you.

BRANDT: Other questions? OK, I guess, I've just got one. You've been on this commission for 8 years, what one thing would you like to change at Game of Parks the most?

DOUG ZINGULA: I come from private industry, working with the government sometimes is a little-- is a change for me. I came from more of a better ask forgiveness than permission. I don't know if that's the right answer to give to you, but it's-- sometimes it would be nice to be able to move a little quicker, a little faster. That was my Christmas wish list.

BRANDT: OK. I see no other questions. Thank you.

DOUG ZINGULA: Thank you very much.

BRANDT: You can go ahead and, and sit down. Are there any proponents that would like to testify on this? Proponents? Any opponents? Opponents? Anyone in the neutral capacity? No one? Did we have any online comments? No comments online. That will close our hearing on Mr. Zingula. And you will need to change that card, please. And now we will go to the appointment of Garfield Coleman. He is running for a position on the Nebraska Environmental Trust Board. Mr. Coleman is an engineer and is currently employed as a risk manager with Pottawattamie County, Iowa. Previously, he worked for Omaha Public Power. He is currently the committee chair for the Grants Committee on the Environmental Trust. The Nebraska Environmental Trust is established to conserve, enhance, and restore the natural environments of Nebraska. The Nebraska environmental trust grants are funded through the proceeds of the Nebraska lottery. Welcome.

GARFIELD COLEMAN: Thank you.

BRANDT: Go ahead.

GARFIELD COLEMAN: Chairman Brandt, members of the committee, thank you for the opportunity to appear before you today. My name is Garfield

Coleman, and I currently live in Omaha, Nebraska. I was born in Ocala, Florida. I am married with three kids, and I have a bachelor's degree from the University of Louisville.

BRANDT: Mr., Mr. Coleman, can you spell your name for us, please, for the record?

GARFIELD COLEMAN: Sorry about that.

BRANDT: Yep.

GARFIELD COLEMAN: Garfield, G-a-r-f-i-e-l-d, last name Coleman, C-o-l-e-m-a-n.

BRANDT: OK.

GARFIELD COLEMAN: Just to tell you a little bit more about myself. I have a, a bachelor's degree from University of Louisville in concentration in education and training and development. I have an associate degree in applying science and technology from Central Texas. Thank you. I've served 22 years of active duty in the United States Army as an engineer. I retired from the military in 2008. My wife is from this area, so I moved here to Omaha area, and I love it. Upon my departure from the military, I started working for the Omaha Public Power District as a supervisor of training services and Corrective Action Program Coordinator. Of course, they decided to deactivate that plant, and so that moved me over to a director of Safety and Risk Management at Pottawattamie County. I am honored to be considered for the service of the Nebraska Environmental Trust Board. Throughout my public service, I have understood that stewardship of public resources carries a responsibility to be thoughtful, transparent, and accountable to the people we serve. The Environmental Trust Board embodies those principles by protecting Nebraska natural resources while ensuring the public's funds are invested wisely and effectively. I have been selected by the Nebraska Environmental Trust Board members to be the Grant Chairman for this year. As Grant Chairman, I will ensure we use a competitive process that will conserve, enhance, and restore the natural environments of Nebraska. I strongly believe the trust mission to improve water, conserve land, protect wildlife habitat, and expand outdoor recreation opportunities for current and future generations of Nebraskans. These priorities directly affect the quality of life, economic volatility, and environmental resilience in communities across our state. I confirm that I would approach this role with a commitment to fairness and

judgment and collaboration. I respect the diversity of the Nebraska communities and stakeholders and believe good public service requires listening carefully, weighing evidence responsibly, and making decisions in public interest. Thank you for the time and consideration. I welcome any questions you may have.

BRANDT: Thank you, Mr. Coleman. Senator DeKay.

DeKAY: Thank you. First of all, thank you for your 23 years of service in the military. Appreciate that.

GARFIELD COLEMAN: 22, sir.

DeKAY: Second, I missed it when you were talking, you said you, when Fort Calhoun was decommissioned, you switched over to part of that procedure. What was your job description there then at that time?

GARFIELD COLEMAN: I was supervisor of training services and the Corrective Action Program Coordinator of-- in the nuclear plant. So, basically, I overseen all the training programs that came in for is the, the engineers, the, the science, the, the operators, the mechanics, and so overseen all the training that, that came through that plant.

DeKAY: OK. Appreciate it. Thank you.

GARFIELD COLEMAN: You're welcome.

BRANDT: Other questions? Senator Conrad.

CONRAD: Thank you, Chair. Thank you, Mr. Coleman. Good to see you and thank you for your service to our country and to our state in, in this role. I just wanted to have a chance to note for the record, there's been a great deal of controversy and conversation in the state about whether or not the environmental trust has lost its way from its original purpose as ordained by Nebraska voters when they saw fit to amend our constitution to allow for gaming opportunities and then to direct the revenue to specific purposes. And there's been litigation, there's been legislative debates, there has been advocacy at the trust level and in these halls and a fair amount of public attention about what the appropriate role for the trust is in carrying out the will of the people versus supplanting or being pilfered to cover up budgetary holes from fiscal mismanagement. So since you're in the hot seat and right in the center of a lot of those discussions, I just wanted to have an opportunity for you to weigh in and share kind of your

thinking about these matters with the committee because I, I know that you take your role seriously and think deeply about these issues as well.

GARFIELD COLEMAN: That's correct, Senator. I think the main thing is to look at the mission of what the Nebraska Environmental Trust Board is, is, is conducting and making sure that it's in line with what the citizens of Nebraska is, is asking, asking for. When we're talking about improving our water, our land, and when we're talking about the wildlife and habitat and making that we align to that, that purpose.

CONRAD: Yeah. Do you generally feel like the trust fund should be dedicated for community projects or do you believe that it's appropriate to divert trust funds to, again, fill budgetary holes in other aspects of state government?

GARFIELD COLEMAN: I think community projects has a, a big play into it.

CONRAD: Yeah, I think that's probably the original purpose. OK, very good. Thank you. Thank you, thank you, Chair.

BRANDT: Other questions? Seeing, seeing none, thank you, Mr. Coleman.

GARFIELD COLEMAN: Thank you as well, Senators.

BRANDT: Yep. So you can go ahead and, and sit back down. Any proponents for this appointment? Proponents? Any opponents? Opponents on the appointment? Anyone to testify in the neutral capacity? Seeing no one, online, we had no comments. That will close our hearing on Garfield Coleman for the Nebraska Environmental Trust. And at this time, I would ask Senator Moser to run the committee, because I've got to introduce the next three bills.

MOSER: All right. Senator Brandt.

BRANDT: Good afternoon, Chairman Moser and members of the Natural Resources Committee. I'm Senator Tom Brandt, T-o-m B-r-a-n-d-t, and I represent District 32, which consists of Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. I am here today to introduce LB759 on behalf of the Department of Water, Energy, and Environment. LB759 is primarily an agency cleanup bill that updates and harmonizes Nebraska statutes to reflect the 2025 merger and name change that created the Department of Water, Energy, and Environment. The bill aligns multiple statutory references with the new department

structure to ensure consistency and clarity in statute. In addition, LB759 grants department personnel the authority to enter land for the purpose of investigating, examining, and studying sites necessary to determine the location of the Perkins County Canal Project. The department is also authorized to acquire land, permits, and construction materials necessary to carry out that project. Finally, the bill updates the procedure for allocating and distributing funds from the Nebraska Litter Reduction and Recycling Fund by removing the requirement for an annual public hearing before the Environmental Quality Council to determine the percentage of funds to be distributed under the act. DWEE Director Jesse Bradley is here to go into more details and help answer any questions. Thank you for your time and I would answer any questions.

MOSER: OK. Questions? Yes.

RAYBOULD: Thank you, Senator Brandt. I happened to notice and did converse with Director Bradley on this about getting proper authorization to go and take soil sampling on land in areas that they are under evaluation for the Perkins Canal. So I didn't see one little thing that I think would be helpful. It's on page 3 of your bill, line 30 and 31. I would just say, would you be open to adding: The department shall have the necessary authority with proper notification. Just add "with proper notification" to enter upon any property to make surveys. I think-- we talked about it and it is understood that the owners of the land would be notified but it's not clearly stated in the bill.

BRANDT: Right, and, and I'm going to let Director Bradley address that and what their experiences have been. I don't know if you're aware or not, there's a very similar bill to this for county assessors to go onto property in the state of Nebraska. I know there, there-- it's becoming more and more of an issue of landowners not wanting any government people on their ground. But there is a function of government that has to, to go on there for, in this case, it's the canal and that other bill it's, it's assessors to do their job. So I guess I'm going to defer to him on, on answering that question.

RAYBOULD: OK, I just want to say I'm certainly supportive of it, but I think when we discussed it, it would be with proper notification so that they're not caught off guard and see this person on their land and not knowing why they're there, what they're doing, and things like that. And then with, let's see, the recycling, can you tell us a

little bit about the funding on that. Is it-- there's going-- there's really no change to the funding and how they distribute it.

BRANDT: Here, again, I'm going to, I'm going to defer to him on the funding on that.

RAYBOULD: OK.

BRANDT: Some of these funds, they do, particularly as we go down the road to the other two bills. When they perform services, some of those receipts that they get are dumped into these funds. And then these funds are used to cover those services. And I'm not sure specifically what gets dumped into that fund.

MOSER: OK, other questions from committee members? OK, seeing none, thank you, Senator.

BRANDT: You bet.

MOSER: Anybody else to testify in support of LB759? Greetings. Welcome.

JESSE BRADLEY: Thank you. I'll let testimony get circulated there. Good afternoon, Senator Moser and members of Natural Resources Committee. My name is Jesse Bradley, J-e-s-s-e B-r-a-d-l-e-y. I'm Director of the Department of Water, Energy, and Environment. Thank you, Senator Brandt, for introducing LB759. As noted, LB759 is a cleanup bill following the passage of LB317 last session, which merged the Department of Environment and Energy and the Department of Natural Resources into the Department of Water, Energy, and Environment. The majority of the bill consists of changes that address technical corrections to ensure statutes accurately reflect the new department name and are consistent with the original intent of the merger bill. In addition, the bill amends authorities in Chapter 61 related to the Perkins County Canal Project by granting the department limited authority to enter land in Nebraska for the narrow purposes of conducting surveys and performing related geotechnical work necessary for the project. Through project implementation, it has become clear that these authorities will provide more efficient development of necessary data for project design while minimizing the cost and disruption that may otherwise be created through unnecessary land acquisition. This authority is modeled directly after existing statutes that grant similar access to the Department of Transportation. Granting this authority to the department will enable

timely data collection necessary to advance design work more efficiently and is expected to result in cost savings for the state by reducing the need for condemnation proceedings for temporary access or to negotiate costly access agreements. The proposed statutory language expressly provides that landowners remain protected from any actual damages resulting from these investigations as the department would be held responsible for any such cost. The bill also includes two additional changes that are intended to streamline agency operations. First, Section 1 of the bill addresses the composition of the water well standards and contractors licensing board. The proposed language restores a 10th member to the board that was inadvertently removed by LB317. Reinstating this member is important to ensure balanced representation, specifically maintaining expertise in both drinking water and water well registration matters. Second, Section 5 of the bill provides the department efficiency for allocating funds from the Nebraska Litter Reduction and Recycling Fund and eliminates an additional step in the approval process currently carried out by the Environmental Quality Council. This change aligns with fund-- fund administration with the department's existing statutory responsibilities for solid waste management and recycling programs and promotes a more efficient and consistent administration following the merger. In summary, LB759 primarily addresses technical cleanup items following passage of LB317 and makes a small number of targeted adjustments that are consistent with the intent of the merger bill. The bill has no fiscal impact shown-- as shown in the fiscal note. Thank you for your time and I'm happy to answer any questions.

MOSER: All right. Questions from the committee?

CONRAD: Thank you, Senator. Thank you, Director. Good to see you. I just wanted to ask a few technical questions in regards to creating, I guess, maybe I'll call it a statutory right of access for some of your agents or employees to do some survey or other kind of work in regards to the Perkins County Canal. So Nebraska, I mean, just want to kind of reaffirm the obvious, of course, private property rights are critical and sacrosanct in American society. And so we need to guard those very, very vigilantly and should look skeptically upon any effort to encroach therein. Now, there are narrow exceptions where it does make sense in the law. I'm not convinced this is one of them, so I'm trying to figure it out. We have a statutory right of access for state surveyors and their deputies in conducting their official duties. We also have some statutory, a statutory framework for professional land surveyors that exist. Why are those existing provisions not sufficient

to cover out this work that's happening in regards to the development of the Perkins County Canal.

JESSE BRADLEY: Yeah, I mean, I, I think there are certain provisions for surveyors. I think beyond survey, there's other work that needs to go into the work in designing the canal project, similar to what Department of Roads would be doing, right, you have a, a long linear project with the canal. Which is kind of unique in regards to project types and, and does align similarly with what DOT's type of projects would be. I think what we're looking for here is, you know, there's certain geotechnical work beyond just, beyond just a true survey that is part of the access that we want to make sure is clear. But even beyond that, there is oftentimes need to do things like soil borings for geotechnical purposes. And I think we want to make sure we have clear authority to be able to do those things. Today, we've done that through access agreements with a number of landowners. And many of those have been just fine. But there have been challenges with some landowners, and I think-- I guess I would say trying to hold us over the barrel a little bit, you know, in terms of that fee they were trying to get out of us to be able to get that access. And so that sets us up in a position where, you know, if we need that geotechnical information to proceed, we're faced with then having to go through a condemnation process to try to acquire that land, which really just seems unnecessary given the fact that we may or may not ultimately need that land acquisition.

CONRAD: OK. That was another question that I had was if you could help us to understand kind of the extent of tension that may exist between your department's work on this project and local private landowners. A handful of problems, a dozen problems, one problem?

JESSE BRADLEY: A couple. Yeah, it's been, like I said, we've had broad support from most folks in the area. We've held some public meetings, had broad support. I think it was just-- I think I would say it was opportunistic perhaps that those landowners were thinking they had an opportunity to get a pretty sizable check from us, which we said we wouldn't do at this point in time and, and, you know, kind of moved on with the work that we could. And I think rather than, you know, take folks through a formal condemnation or land acquisition process, if we need that information, we just think a process like this would be more efficient. Again, it's modeled off of the type of program that DOT uses, which, again, I think is, is there because with a long linear project, you often need to investigate, you know, a lot of area, but

ultimately you don't make a lot of land acquisition, you know, that the corridor ends up being pretty narrow.

CONRAD: OK. So at these preliminary stages, some private landowners have been resistant to at least the process that precedes development on their private property for the Perkins County Canal Project. So if we're already seeing resistance from private landowners for basic surveying and soil samples, what does that mean in terms of the utilization of their land for actually constructing the project? I mean, are we forecasting some pretty significant eminent domain battles with private landowners in the canal's wake?

JESSE BRADLEY: I mean, again, I, I wouldn't say there's been significant resistance in the project thus far. There's one or two landowners and I think what it's been thus far is just in seeing that there might be an opportunity to get a more sizable check for access, which we have not gone into that process with them. Again, I think overall there's been broad support across the county for the effort we're doing across the NRD, so we're not seeing resistance in that sense, it's just I think from an efficiency standpoint of continuing to move the design of the project forward, we thought it'd be appropriate to get an authority like this, you know, so that we can move more efficiently.

CONRAD: Do you pay any fees or any sort of compensation for even temporary access to conduct these kinds of surveys or samples?

JESSE BRADLEY: We, we did pay some smaller fees, you know, with some of those landowners depending on the type of access we needed. Again, if we were, you know, drilling a borehole on somebody's property, we did provide some small access fee. You know, and I, and I know Senator Raybould had asked the question about notification.

CONRAD: Yeah.

JESSE BRADLEY: Certainly, we would absolutely notify people before we're going onto their property. That's been our practice and would continue to be our practice.

CONRAD: OK. Would perhaps a better remedy short of providing a more unlimited right of access to private property be establishing a therapy schedule for access?

JESSE BRADLEY: Again, we were just modeling our approach off of what DOT has in statute, you know, thinking that it was probably

appropriate to follow a model that was already there, especially for projects that are really very comparable. I mean, building a canal, building a road, the kind of corridor investigation you're doing is very similar in terms of its extent. So that was really the model we thought was most appropriate to, to pursue.

CONRAD: OK. And then I just have one more question about this. We've heard since the initial appropriation and investment by the Legislature to provide resources for the development and construction of Perkins County. Since that original appropriation, we've heard many times in legislative debate and otherwise that that appropriation cannot be touched. Every single penny is needed for the project. Even though there's been competing proposals out there to say you can accomplish the same goals for far less money, the Legislature's been resistant to a diversion of even a small amount from that appropriation for any other purpose. Yet, in the Governor's budget proposal before us, there's a significant diversion away from Perkins County. What is the shift in thinking from your department and the Governor in that regard?

JESSE BRADLEY: I, I don't think there's a shift in thinking there in terms of commitment.

CONRAD: But there's a shift of millions of dollars.

JESSE BRADLEY: Yeah, I'd have to look at maybe that part of the budget bill, again more closely, I, I may be not familiar with the specific reference you're looking at, but I, I don't think there's a-- there's not a lack of commitment or a shift of focus in terms of the project moving forward. I think we all understand the importance of the project, you know, and, and we're continuing to move forward on, on schedule.

CONRAD: Was the diversion of those resources discussed with you prior to the Governor promulgating and putting forth his budget proposal?

JESSE BRADLEY: Again, I might have to just defer without maybe specific knowledge of what section of the budget bill we're looking at. I'd have to go back and, and look at that. I'm sorry.

CONRAD: Thank you.

MOSER: Senator Clouse, would you introduce yourself also?

CLOUSE: Oh, yeah. Senator Stan Clouse from Buffalo County, Kearney, Shelton and Gibbon. And I have a question a little different from hers, but I was looking at page 6 dealing with the recycling, litter reduction and recycling, and there's two things in there that we're striking. One of them is the percentage amounts going to just in any amount, but the other piece has public hearing. So we're getting rid of two things there. So which is more problematic, the percentage or the public hearing, and why are we-- tell me how the public hearing process worked.

JESSE BRADLEY: Sure. So there's two grants and they're very similar here. One is the, the one we're proposing the change to. So that, that is your Litter Reduction Recycling Fund. And then there's a second fund that is the Solid Waste Management Recycling Fund. OK, so those, those two funds, they kind of get allocated at the same time. One has this statutory requirement associated with it, and one doesn't. And I think just--

CLOUSE: Of, of the public hearing?

JESSE BRADLEY: Yes. And, and, and so what happens, in essence, in that process is it gets kind of cumbersome because there can be overlap between the entities that are applying to these funds. And all, all that's really happening there is the Environmental Quality Council is setting a percentage that would be allocated to each kind of the categories, those typically don't change and are dependent oftentimes on just the nature of the applications we get in. And even when they set the percentage, it ultimately ends up giving us discretion to adjust them by up to 20%. So it's really just a process element. I know Senator Raybould had a question about this too. We're not really trying to change the interaction we have with the EQC, we're not trying to change the interactions we have with the public around how the money gets allocated. It's just from a procedural step, we have one fund that doesn't follow this process and we have this one that does. And so it becomes kind of cumbersome to administer the two funds as monies are essentially going out around the same time.

CLOUSE: OK, so would it work to do it the other way add public hearing or, or the public hearings are not attended or they're just--

JESSE BRADLEY: I mean, yeah, I mean, that's, that's another element that weighed into our decision, I mean, nobody attended last year's public hearing, there's no comments during the public hearing process. Again, the, the discretion we're provided as a result of the action is

so substantial that it kind of makes you wonder, it made me wonder, you know, why, why go through a process that, that really isn't adding value, but that's, that's where the proposal was coming from. It was, it was to align the two programs to have similar requirements.

CLOUSE: OK. Thank you.

MOSER: Senator Raybould.

RAYBOULD: Yes, thank you. So, Director Bradley, this was the question. Would you be open-- currently, on page 3, line 30, it reads: The department shall have the necessary authority to enter upon any property to make surveys, examinations, investigations. So would you be willing to add: The department shall have the necessary authority with proper notification to landowner? Because I know you had mentioned that that's the intention, but I didn't see the language.

JESSE BRADLEY: Yeah, I mean, I think we, we can be open to some notification and maybe get concerned about words like proper because then people wonder what proper means and stuff, but, but I think--

RAYBOULD: Strike proper.

JESSE BRADLEY: --we could definitely--

RAYBOULD: Yes. Yeah.

JESSE BRADLEY: --but I think, you know, we would definitely intend to do notification.

RAYBOULD: OK.

JESSE BRADLEY: I'm, I'm sure DOT does the same process to notify. I mean, nobody wants to be surprised when you're going out onto their land. So that would be our practice, is, is notification before access.

RAYBOULD: OK.

MOSER: OK.

RAYBOULD: Maybe strike proper, but with notification to landowner, that just gives clar-- OK. The other question I have is, in the Governor's budget there was \$5.71 million from the Perkins Canal budget going, I think, to the General Fund. I'm not quite sure because

I didn't spend a lot of time on it, it just caught my eye. And so I don't know if you have any more information, was-- is that just the interest is now going to be going to the General Fund from Perkins Canal?

JESSE BRADLEY: Again, if I could just defer for the moment?

RAYBOULD: Sure.

JESSE BRADLEY: I, I need to look at that a little more closely. There's a lot of-- we've gone through all the bills that come out and I haven't had a lot of time to spend on all of them. I will, I will definitely follow up with you, though, as I get kind of clarity on that provision.

RAYBOULD: OK. It, it was in the--

JESSE BRADLEY: And, and Senator Conrad's.

RAYBOULD: --what the Governor had handed out to us on his State of the Union.

JESSE BRADLEY: OK. Yeah.

RAYBOULD: OK.

JESSE BRADLEY: I will get back to you on that.

RAYBOULD: State of the State. Sorry. That's it. Thanks.

MOSER: OK. Other questions? Yes, Senator Juarez.

JUAREZ: Thank you very much for coming in today. I wanted to get clarification, what I'm reading here on this regarding the Litter Reduction and Recycling Fund. Who was the annual public hearing before?

JESSE BRADLEY: Who was it before?

JUAREZ: Yes.

JESSE BRADLEY: So the Environmental Quality Council is a, you know, a group we work with in the agency to adopt and promulgate rules for a lot of the functions of our agency. So the hearing is before that entity, the Environmental Quality Council.

JUAREZ: OK, so how many people serve on that council? What would you estimate?

JESSE BRADLEY: I think it's, I think it's 16, but I don't want to be quoted on that. I should know the number off the top of my head [INAUDIBLE].

JUAREZ: OK, so with this proposal here if you're no longer going to be required to go before them, is the council still going to exist? Will it still be going on?

JESSE BRADLEY: Yes. Yes. This doesn't do anything to change the function of the council. And, honestly, we would still always present the work we're doing in these funds. We'd still report out to the group. I think it's just the formality of holding a public hearing to set these-- again, they're setting the percent distribution at the public hearing. When we go through that process, we're always asking for discretion because the timing of-- it's really just a procedural element because if we don't always know the details of all the grants that are in so we need discretion to adjust the percentages further. So we hold a public hearing, they-- we suggest percentages, but then we ask for a 20% discretion to adjust those. So from a process standpoint, it seems complicated and, and not necessarily adding value to our distribution process, plus the other grants that align similarly in this area we don't have this same process. So I think we're just looking to make the process more efficient.

JUAREZ: OK. And then my last, I guess, statement based on what Senator Conrad was asking you questions on the Perkins Canal budget and with the Governor possibly diverting funds for that project. I mean, I don't-- I'll just make the statement that I would be very cautious on how you guys proceed if the money's not there. I'm very, I'm very concerned about what's going to be happening in the future should the Governor take funds and, and use them in another spot, you know, because he needs the money due to the deficit. I don't agree that things continue to proceed, assuming that the money is going to be returned, you know, I just think-- I'm just saying you should be very cautious on how you proceed if the same amount of money is not there. I just want that to be on the record of my concern on that issue.

JESSE BRADLEY: Yeah, I mean, again, we visited with the Governor about the project. There's a full commitment there. We're confident in the, the budget we have and continue to make progress on the project, so.

JUAREZ: Well, having the commitment is different than having the money, and that's what my point is. Thank you.

MOSER: OK. Other questions? Director, the budget suggested by the Governor is a suggestion from the Governor. It still goes to Appropriations and it has to be approved by the Legislature. So if we as senators have reservations about any of the movement of money that was suggested in the, the executive budget, we'll have a chance to address that, I think. Anything else? You got everything pretty much handled that you wanted to talk about? OK. Thank you very much. Appreciate your testimony.

JESSE BRADLEY: Thank you.

MOSER: Anybody else to speak in support of LB759? OK. Anyone to speak in opposition to LB759? Seeing none, is there anyone to speak in the neutral capacity on LB759? Senator Brandt, it looks like you're recognized to close.

BRANDT: Well, I think the director did a nice job of clarifying some of these issues. I know it certainly helps me over they're-- initially, they broke this into three separate bills, and that's what we're presenting today. And they're all kind of based on different aspects of this. And that one was pretty much what we call the cleanup bill. And I do think they will add the notification. I don't think that, that poses any problems. And I think he clarified the, the trust funds. So if there aren't any questions, we can go to the next one.

MOSER: Any other questions for Senator Brandt? Just as a matter of the record, we received two proponent letters on LB759, one opponent on LB759, no neutral or ADA testimony. So that leads us to-- that'd be LB761.

BRANDT: That's right.

MOSER: OK. Senator Brandt.

BRANDT: Good afternoon, Chairman Moser and members of the Natural Resources Committee. I'm Senator Tom Brandt. I represent District 32, which consists of Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. I am here today to introduce LB761 on behalf of the Department of Water, Energy, and Environment. LB761 updates and adjusts fee structures across several programs administered by the Department of Water, Energy, and Environment to better align revenues with the cost of administering those programs. This bill makes changes

to fees related to water well registrations, livestock facility permitting, hazardous waste generation under the Resource Conservation and Recovery Act, and permitted activities under the National Pollutant Discharge Elimination System. It updates fees-- updates fee amounts, adjusts fund transfers, and ensures that fees more accurately cover the costs incurred by the department. LB761 also creates the Water Quality and Quantity Cash Fund to support the administration of Clean Water Act programs including permitting and regulatory oversight under the National Pollution [SIC] Discharge Elimination System beginning July 1, 2027. The bill establishes application and annual permit fees tied to the actual cost of services provided, while exempting certain construction and operator permits. Finally, the bill redirects hazardous waste fee revenues to the Integrated Solid Waste Management Cash Fund rather than the General Fund and authorizes the department to establish rules necessary to assess fees for administrating federal Clean Water Act programs. Director Bradley is here to help answer any questions and thank you for your time.

MOSER: OK. Questions from the committee? Senator Raybould.

RAYBOULD: Thank you. Thank you, Senator Brandt. I'm looking at the fiscal note. Could you talk a little bit about the increase in the cash funds that are listed?

BRANDT: It will be from the increase in fees proposed by the bill.

RAYBOULD: OK. And I, I can see some of the fees are increasing substantially. Did you want to address that or--

BRANDT: I'm going to let the director address how they're going to do that. I don't know if they're going to slide or if it's just going to be an impact. There are four or five different things in here where they are adjusting. Some have not been adjusted for decades. So I think what they're trying to do, and he can explain this, is to more closely correlate the fees to the actual cost of the services provided.

RAYBOULD: OK. And, I guess, the question I have is I see this fiscal year an increase of \$790,000 and then next year and the following year about \$1.8 million.

BRANDT: Right.

RAYBOULD: So are, are these all General Fund fees or are they segregated to the specific--

BRANDT: I am going to let him answer specifically where they're, where they're going or coming from.

RAYBOULD: OK, sounds fair. Thank you.

MOSER: Senator Conrad.

CONRAD: Thank you, Senator. Thank you, Senator Brandt, and perhaps this is better directed to the, to the agency head, but I, I did just want to at least get your general perspective on what I think is at the heart of this measure. Is-- I'm, I'm skeptical of the timing in regards to bringing this forward. And this is a discussion that we had last year and we'll have this year and probably going forward, but trying to assess when a fee becomes a tax, when a fee is hiked just to fill budget holes versus actually, thoughtfully covering the cost of service when and if appropriate versus-- for specific users of government service versus to advance the public interest. And while some of these fees may not have been increased over the years, why do we need to increase them significantly now? And I know that you're the chair and they asked you to carry the bill.

BRANDT: Well, sure, but, you know, at some point, all of our agencies are asking for revisions. I mean, tomorrow we'll be bringing a bill for Game and Parks. And I think they've been a little more religious about continually every year doing little, little fee adjustments. And I think with the big bill we had last year on the consolidation of the two agencies, they've had a year to digest this and come back and probably fine-tune some areas. You know, I think it's, it's good management to come in and make adjustments. Now, how you see, is it a fee or is it tax? I know my personal opinion is, a, a tax is something that affects all Nebraskans. You know, you've got a sales tax or an income tax or a property tax. These listed in here, if I'm drilling a water well, I've got to pay the fee. If I'm putting in a lagoon system for a feedlot, I've got to pay the fee. If I'm not doing those things, it doesn't affect me. So I, I guess, I view this as a fee, and these are-- this is an area that heavily involves agriculture, as it does other areas. But I don't know if that'll answer your question.

CONRAD: No, I, I think it's, it's helpful and I appreciate your responsiveness on a, a, a broader challenging policy tension that exists as we're trying to fill budget gaps and ensure good governance. But, yeah, I mean, I have deep concerns about nickel and diming our citizens when they're already struggling in an affordability crisis and we've increased fees at Game and Parks, we've increased fees for

garbage, we've increased fees for tuition. And now we've got, you know, really not just in this bill and across this committee's jurisdiction, but there's a host of pretty significant fee increases across state government that the Governor has in his budget proposal to fill budget gaps for fiscal recklessness.

BRANDT: And I, and I guess I don't disagree. When we look at, like, sales tax on a bottle of pop, everybody pays that. When you're looking at paying a well registration fee on an irrigation well that's going to cost \$40,000 to drill, very insignificant amount here to get your permit. When you're looking at a waste lagoon system for a feedlot that can be anywhere from \$10,000 to \$100,000, this is a very, very small part of that. You're doing that to make sure that you're legal, that you don't have an illegal well, that you don't have an illegal runoff system for point source pollution. So I kind of, I kind of look at these as maybe a, a little bit different, possibly than, than, yeah, a tax. You know, the guy that's got to try and buy a park permit, and, you know, one person's got plenty of cash to do it, and the next family maybe doesn't have. And that's something, you know, we need to maybe look at and, and be more fair about. So I guess I kind of, and the director can answer this, I see this as a fee structure if, if you're doing any of these things. And the fee structure has been there, we're just increasing,--

CONRAD: Right.

BRANDT: --increasing the fee structure and he can tell you how long it's been since we've increased it.

CONRAD: Thank you. Thank you, Senator. Thank you.

BRANDT: You bet.

MOSER: OK. Other questions? Senator Raybould.

RAYBOULD: Senator Brandt, you know, I do appreciate the fiscal note, but I'm hoping-- I could see the homework on it, the backside. Like, how do they get-- it seems like it's a, a consolidation of the numbers, and I can't quite tell which, which fee actually increased? What was last year's dollar amount in that line-item category? It just sort of gets all lumped in together in, like, \$790,000. So I'm hoping that we could have more of a, a detail just not that deep but just wanted to see what were the fees last year, then they're going to

this, this is a-- you know, this plus this or this minus this equals the additional revenue.

BRANDT: And I'm not going to, I'm not going to speak for the agency, but I'm sure they will be happy to provide that.

RAYBOULD: I, I take it by the big smile that means yes. OK, thank you.

MOSER: OK, further questions for--

RAYBOULD: Oh, just one more before you get up. I guess also--

MOSER: [INAUDIBLE]

RAYBOULD: Oh, sure.

MOSER: No, go ahead.

RAYBOULD: So also, for me, it's just a little bit confusing because some of the things I think the local jurisdiction already does and some things the state has traditionally been doing. I didn't know if there's a shifting of that going on in this or--

BRANDT: I think when we get into our next--

RAYBOULD: Oh, that's the next bill. OK.

BRANDT: When we get into the next bill, that probably applies more so than, than what this one does.

RAYBOULD: OK. Thank you.

BRANDT: OK.

MOSER: Other questions? Thank you, Senator Brandt. Are there others to speak in support of LB761? We received no proponent comments, we received three opponent comments, no neutral or ADA testimony on LB761. Director Bradley, welcome back.

JESSE BRADLEY: Thank you. Good afternoon, Senator Moser and members of the Natural Resources Committee. My name is Jesse Bradley, J-e-s-s-e B-r-a-d-l-e-y, Director of the Department of Water, Energy, and Environment. Thank you, Senator Brandt, for your introduction of LB761 and for bringing this bill on behalf of the department. As Senator Brandt mentioned, LB761 is a bill to implement fees related to four programs within the department, including well registrations,

livestock facility permitting, hazardous waste generation under the Resource Conservation and Recovery Act, or RCRA, and permitting activities under the National Pollutant Discharge Elimination System, or NPDES. For each, each of the parts of this bill, I will give a brief overview of the program and the proposed changes. The first two items require statutory changes as the fees are set directly in the statute. The other two require statutory authority to enable the department to establish each fee through a subsequent rulemaking process. I'll start with well registrations. In Nebraska, all new water wells must be registered with the department. The bill before you today proposes to amend the fee set in statute, which has remained unchanged for over 20 years as it was last increased in 2003. Specifically, the department recommends updating the fee from \$40 to \$200. This adjustment keeps Nebraska in line with the registration and permitting fees charged by neighboring states. The fee increase is expected to generate an additional \$415,000 annually, which will be used to support program funding and allow those current general funds to be returned from the agency. Moving on to the livestock facility permitting piece. The next-- this part of the bill proposes to adjust fees for the department's livestock permitting program, which has not changed in almost 20 years. Currently, the department annually reviews and adjusts this fee structure to ensure that fees are adequate to meet 20% of program costs from previous fiscal year. This bill proposes to increase the fee structure in order for the department to meet 40% of programs costs. With this fee adjustment, Nebraska would still be in the middle of the pack amongst surrounding states for its level of fee collection. This fee increase is expected to generate an additional \$300,000 annually, which will be used to support program funding and allow for those current general funds to be returned from the agency. The third program fee is for hazardous waste generators. Related to hazardous waste generation under the Resource Conservation Recovery Act, the bill makes two changes. First, it authorizes the department to collect fees from hazardous waste generators. The specific fee structure, whether a flat fee or one based on weight or volume of hazardous waste generated, will be established through regulation and will go through a rulemaking process. As reflected in the supplemental table that I handed out, many surrounding states already assess hazardous waste generator fees. Nebraska does not. Second, the bill redirects fees currently collected by the department from facilities that process or dispose of hazardous waste, so those revenues are retained by the department rather than deposited in the General Fund. Together, these changes will eliminate the department's need to draw approximately \$325,000 annually from the General Fund to

meet the state matching requirements necessary to qualify for the EPA grant supporting Nebraska's RCRA program. The final fee would be for NPDES fees. This part of the bill would propose fees for permitting activities under the National Pollution [SIC] Discharge Elimination System, NPDES. The state has a delegated federal Clean Water Act program that includes the NPDES, industrial pretreatment, water planning, 319 nonpoint source, and surface water monitoring. These programs are funded through the EPA and matching general funds currently. This bill grants the department the authority to assess fees for administering these programs, which will reduce or replace the current use of general funds as matched to the federal grant. Currently, most states assess fees to cover some or all costs of administering the NPDES program from flat rates to formula, which you can see in the table that I provided. These changes to the law will provide the department fee authority to assess sufficient fees for state matching funds and ensure all federal funds remain available to the state. The actual fees will be set through the formal rulemaking process for the NPDES. In closing, the department has brought these four fee proposals forward to provide an opportunity to review the outdated and previously uncollected fees and reduce reliance on general funds. With these fee updates, the department will ensure that sufficient state funds are available to secure matching federal funds while returning approximately \$1.7 million annually to the General Fund. Thank you for your time and I'm happy to answer any questions.

MOSER: Senator Hughes.

HUGHES: Thank you, Vice Chair Moser. Thanks for this, Director Bradley. So I'm always-- just on a practical sense, you know, we haven't touched these fees for 20-plus years. It-- you know, then we wait 20 years and then it's this big jump. Do you guys just have by standard practice in your department, do you, I don't know, every 5 years we kind of relook at things? I mean, to me it would make sense to come back a little bit more regularly so it's not just this huge swing because if I, you know, oh, I got lucky, I did my well and I did it for 20 bucks and my neighbor comes in a year later and they have to pay, or 40 bucks, sorry, \$200. You know, every 5 years it went from 20, and then it was 80, then it was 100, I don't know. Is that-- like, do you-- for example, schools every 7 years relook at curriculum. Do you have any schedule that you relook at these or-- and you're not the only one, this has happened with many things come in 20 years later or whatever.

JESSE BRADLEY: No, great question. And I think-- you know, yeah, I think the merger of the agencies really provided this opportunity.

HUGHES: OK.

JESSE BRADLEY: You know, we've merged functions, we looked at everything across the agency, the fee level we were collecting relative to the resources we expend doing those activities.

HUGHES: And I think that's a very wise thing to do.

JESSE BRADLEY: Yeah, and, and is that something we should do every year and all the time? Yes, I, I would say that is something that we should continually be doing.

HUGHES: Well, yeah, and it may not even be every year, but just a little bit more.

JESSE BRADLEY: Yeah.

HUGHES: Yeah, right.

JESSE BRADLEY: And then, and then I think-- I just also want to share the other element we looked at as we were looking at these fees is what are surrounding states doing in these areas? Are they collecting fees or not? Are they running these programs? Are they not? And then what fee level have they set? Because we didn't want to price Nebraska out of this with uncompetitive fees. So that, that's the approach we took overall to looking at all of these programs and, and, thus, led to the four fee proposals in front of you.

HUGHES: And I, I appreciate the information you gave us because it's very clear to look at comparing with other states. So I really appreciate that. And, yeah, likewise, yeah, hope that this is something that can continue more on a regular basis to stay current, if you will. Thank you.

MOSER: OK. Other questions? Senator Conrad.

CONRAD: Thank you, Senator. Director, I just wanted to, perhaps, put a finer point on it since you're a member of the Governor's cabinet. Yes, is that right?

JESSE BRADLEY: Yes.

CONRAD: Yes. OK, did you have a chance to listen to his State of the State address?

JESSE BRADLEY: I, I listened to a portion of it, at least.

CONRAD: You might have been busy with some other things. You might not have been in the Chamber with us. But the-- and I'm quoting directly from the Governor's speech here and a key component of his message and guiding his thinking for actions this legislative cycle and, particularly, in regards to his budget was that he believes that there is only a made-up, make-believe budget crisis, that Nebraska's fiscal position is stronger than ever, and we have billions of dollars in the bank that belies the actual green seat that governs our, our budget process from a nonpartisan perspective and even statements from the Speaker of the Legislature which notes the fiscal crisis we're in. But if we take the Governor at his word and you serve at his pleasure and are a key part of his team, why are we creating cuts and increasing fees if we have no budget crisis and billions in the bank?

JESSE BRADLEY: You know, again, I would just reiterate what I mentioned to Senator Hughes. I think with the merger of our agencies, it was an opportunity to look at all functions of our agency and how they're performing, fees we collect, are fees in line with the services we provide? We didn't, we didn't do this to cut services. We didn't do this to modify that. We were just trying to go through the process of understanding what are the current levels of effort put into those? Is that where we should be? And then if we are, what's the fee level that'd be commensurate with, you know, those level of services. And so that was, that was the process we went through. And then like I said, we further filtered that with, you know, what are surrounding states doing? Are we remaining competitive if we start to think about fees that we, essentially, capture the functions of those duties. And so that's just something we thought was wise given the merger to kind of reassess across the two agencies that were now merged.

CONRAD: Well, in addition to these fee measures or the technical cleanup bills that you've been working on to bring forward to this committee, you've also been working on a budgetary proposal for many months that we'll take up in this legislative session. So what was the direction from the Governor's Office? Was it to increase fees? Was it cut general funds? With it to cut costs? Beyond what you've talked about in terms of the merger providing an opportunity for reflection to look at fees more broadly, what were the directions to you as a

director in preparing for your budget and associated legislation from the Governor?

JESSE BRADLEY: I mean, I think the directive is always, you know, think about running your agency like you'd run a business, you know, and, and take that tact. And I think that's what we were trying to do as we were looking at these fees is-- you know, I don't think as a business you would provide a level of service that you aren't able to capture the cost on. And that's simply what we were trying to do as we were looking at the fee level and where we thought it would be appropriate to set. These aren't-- to be clear, these aren't fees that we're setting so that they're beyond the scope of what would be needed to support the people that do this work. These are simply just to pay for the level of services we provide. We're not expanding that level of service. I think we have great people in the agency that do really good work in these areas. We just wanted to make sure that there was adequate funding to support the level of service we provide.

CONRAD: Thank you.

MOSER: Senator Raybould.

RAYBOULD: Thank you. I see the homework right here, but--

JESSE BRADLEY: Yes, yes.

RAYBOULD: --should have looked sooner. But I'm hoping you could provide a couple of fiscal years beforehand so we can get a baseline of what it was before some of the fee increases like fiscal year '25-26, and then fiscal year '24-25, so we can kind of get an idea of, of the changes that are happening going forward.

JESSE BRADLEY: Sure. So, so there's a breakdown in the fiscal note of the four fees. You know, the well registrations, again, you're, you're essentially-- you know, that fee level at \$415,000 would collect five times what the current-- the \$200 proposed fee would collect five times what the current \$40 fee collects. So that, that would be one-- it'd be one-fifth of this amount is what would be the current collection. If you're looking at the livestock facility permitting, that's just a simple doubling. We're, we're suggesting going from a 20% recovery to a 40% recovery. So that \$300,000 would be what we would be collecting, typically, right now with the 20%. So that would double. And then the other two fees, so the, the RCRA fees, there's really only one, it's the Clean Harbors facility out in Kimball.

There's only one hazardous generator that pays a fee. Currently, those funds go to the General Fund. And then on all other hazardous waste generators, there's no fee. So there, there is no other fees out there. And, then, on the NPDES, again, there are no fees currently collected in that program.

RAYBOULD: OK, thank you for explaining that.

JESSE BRADLEY: Yep.

RAYBOULD: I did notice some of the opponent comments, although there weren't many, but they were all kind of screaming ouch on the, the fee increases, increases of 500%. You know, our taxes are already strained and you want, you want more tax money, find ways to lower taxes. So I think these are coming from, you know, folks representing different organizations that deal with ag that might be impacted by these.

JESSE BRADLEY: Again, what I can say is just, you know, we did a comparative analysis of fee levels and service levels that are provided in surrounding states. Well registrations, there's an example there that shows you, you know, what the total cost of a well is in a surrounding state like Missouri, Kansas, Iowa, South Dakota, and where, you know, with the fee adjustment, where that would place Nebraska. You know, similarly for the other fees as well, there's, there's some information in that supplemental handout that kind of shows that information.

RAYBOULD: So just for clarification, all the existing fees currently go to the general funds or they-- do they go to your department and then you disburse them back to the General Fund?

JESSE BRADLEY: So, currently, the well registration fee and the livestock facility fees are the two we would be collecting. Those two fees go into a cash fund and are used to support program functions, but they're inadequate to cover the cost associated with those functions.

RAYBOULD: So will these new fees supplant and then do away with the contributions from the General Fund to maintain these programs?

JESSE BRADLEY: We will, we will maintain the programs. I think the well registrations, we believe that fee gets us, you know, really to the level we need to be to support that program. The livestock facility fee, again, that's going to recover 40% of the costs under

our proposal. So there would still be 60% of those costs being covered by the General Fund.

RAYBOULD: OK. Thank you.

DeKAY: Any other questions? Senator Moser.

MOSER: Senator DeKay is back and is going to run the meeting, so. The people who pay these fees are, would you say, a fairly narrow section of the population? I mean, there's not a lot of them.

JESSE BRADLEY: Yeah, I mean, so each, each one's a little different, right? I mean well registrations, it's going to be those people that are drilling a new well. Livestock facilities, it's going to those folks that--

MOSER: A new well or what if they have one and they're replacing it or putting in [INAUDIBLE], do they have to get a permit for that?

JESSE BRADLEY: Yes, you would register every time you're putting a new hole in the ground.

MOSER: Well, that, that could be every acreage owner in the state.

JESSE BRADLEY: Anyone drilling a new-- yeah, a new hole in the ground, that's, that's what needs to be registered.

MOSER: But you think that it's a good idea to put the cost where the expense is rather than putting the money in the General Fund and then your agency getting money back from the General Fund to support your agency?

JESSE BRADLEY: That was our proposal. You know, again, we looked at this all across the agency, you know, what's the fee level collection we're having in some areas and is it adequate for the service level we provide? These are the ones we identified as, you know, needing adjustments.

MOSER: Regulations aren't changing in this bill at all what's required or the difficulty to get a permit is not more difficult or--

JESSE BRADLEY: No, nothing's changing on the regulatory side or, or sort of the process side. It really is just about having adequate fee collection for the level of service we're providing-- we're currently providing.

MOSER: Yeah, I, I would applaud that. I think most businesses like to put the, the costs where they're generated. You know, if you have multi stores you want each store to support itself, you don't want to have one that loses money and you have three or four other ones that pay those expenses. So this way you can tell whether you're covering the costs. I, I applaud that. Thank you, Senator.

DeKAY: Thank you. Senator Juarez.

JUAREZ: Thank you. Thank you very much for the analysis that you provided to us and I do appreciate the fees being increased to especially those that haven't been done for a long time, like the one you mentioned since 2003 on the well registration. So I'm, I'm definitely supportive of getting things up to date. But now I have a question for you. Being the urban girl I am, I know that I have a neighbor who has chickens, and somebody also has a rooster, because it wakes me up sometimes in the morning. Sorry, I hope I don't get a lot of negative emails about that. And I don't-- I really don't appreciate it, to be honest with you. And then my next thing I want to tell you is that I have about a dozen peacocks that roam my neighborhood. So I'm wondering, could we get the peacock owner to pay a fee for having them on their property, which they happen to like my property? And I want to know for the chickens, I mean, they're not a big operation, but could we get them to pay a fee? What do you think about that idea?

JESSE BRADLEY: I, I would think those are things probably best handled under a local ordinance, as, as they probably are currently.

JUAREZ: Well, maybe you could write a letter and suggest it. I'm done.

DeKAY: Any other questions, any other questions for Mr. Bradley? Seeing none, thank you.

JESSE BRADLEY: Thank you.

DeKAY: Any other people want to testify as a proponent? Any opponents? Go ahead.

LASH CHAFFIN: Good afternoon, Senator DeKay, members of the committee. My name is Lash, L-a-s-h, Chaffin, C-h-a-f-f-i-n, and I represent the League of Nebraska Municipalities, and I appreciate the opportunity to talk a little bit about the fees in LB761. And I'll say up front, except for the live-- except for the feedlot fees and the hazardous waste, the Clean Harbors' fee, every fee in this bill, probably a municipality has one of those permits if not multiples. However, the,

the section that I think has garnered the most discussion among municipalities is Section 5. The, the fees related to the National Pollutant Discharge Elimination System, which I'm not going to say again. So the NPDES permit fees. And at least, there's at least two permits that cities regularly get under that program, possibly a third, and, and I would say, interestingly, the, the agency staff, they've been pretty transparent to municipalities about, about this-- of this bill in the last few weeks, and some of the staff spoke at a meeting, and, I don't know, we probably had 80 to 100 city staff there, and, and they talked about the fees. And there was a long discussion after the staff left about the fees and it was sort of unprompted. I will say there's, there's a lot of-- my opposition is a little, little nuanced. There, there is a lot of sympathy to, to the, the need for fees in this, in this program. And the two programs that generate the most discussion were the cities getting-- they have to get a permit for their wastewater treatment plant, their lagoon or their waste water treatment plant. Most cities have one, some cities have a couple. Omaha's got a couple, Lincoln's got a couple. So they, they-- and then also the, the most-- the larger cities have to get storm water permit fees. So those are the two, two issues and those are both under the NPDES program. And I will say there was a lot of sympathy to the department charging some fees for this, this program. And, interestingly, the director mentioned that they're-- this, this fee has never been charged and, and that, that is a little inconsistent. I hadn't thought about it, but his distinction of the prior agencies charging differently, they, they do have a fee, they have to pay for their clean water system, but they've never had to pay a fee for their, their,--

CLOUSE: Discharge system.

LASH CHAFFIN: --their discharge system. Correct. Yes, so there, there has been an inconsistency there for, well, since the '80s, when the Clean Water Act really became a, a thing in Nebraska. So-- but the discussion amongst the cities, primarily, was they were a little worried Section 5 is written very open-ended. And I, I think the cities would have a lot of comfort if there were some guardrails on this fee, at least initially, some-- possibly some sort of grandfathered cap on, on the fees along those lines. You know, if, if the senator and the agency were willing to work on that, I would be happy to commit all our resources to try to turn something around quickly, that type of language. But I guess with, with that-- so my, my opposition is primarily to Section 5, and I would be open to, to

guardrails on, on that type of, type of fee, but. Does anybody have any questions?

DeKAY: Are there any questions? Senator Clouse.

CLOUSE: Thank you, Vice Chair DeKay. So, Lash, thank you for being here. So you would say the, the catch word is an unfunded mandate?

LASH CHAFFIN: Oh, oh, yes. We don't have enough time for that discussion, Senator, but yes. Yeah, any, any fee is an unfunded mandate. And, you know, and specifically with regard to--

CLOUSE: A new fee, though.

LASH CHAFFIN: A, a new fee. Yeah, and a wastewater treatment plant, this is a doubled unfunded mandate. I get that other states do it, so there, there's-- sometimes the real world gets in the way. The Clean Water Act itself is an unfunded mandate. It, it dictates how cities treat wastewater. You know, before that-- and it's not that-- that law has not been around that long, long, it dates back to the 1980s. I mean, cities treated wastewater, but they did it for their own quality. You know, quality of life. They didn't do it because it was a federal mandate. So, so, so adding a fee to it is, in fact, a, a double, a double. It's a mandate on top of a mandate, yes. So it, it-- yeah, the discussion is, is entirely appropriate, yes.

CLOUSE: Thank you.

DeKAY: Any other questions? Senator Moser.

MOSER: So the fee-- well, there currently is no discharge fee?

LASH CHAFFIN: There, there, there is not. Correct.

MOSER: And how much is the fee going to be?

LASH CHAFFIN: I, I don't know, it's the-- the bill is, is open-ended. Apparently, the plan-- as the bill's written, it would go to the Environmental Quality Council. So that's, that's why I'm asking for some sort of guardrail.

MOSER: So you don't know if it's going to be \$500 or \$1,000 or whatever?

LASH CHAFFIN: Right. And I would, I would say--

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MOSER: And when you're thinking about an unfunded mandate, you charge sewer fees, right?

LASH CHAFFIN: Yes.

MOSER: I mean, not you, but the city.

LASH CHAFFIN: Yeah, sure.

MOSER: And so if you've got 11,000 customers at 30 bucks in fees-- I mean, you're taking in a lot of money and if they charge you \$500 to inspect your discharge-- I mean, you're not objecting to that ratio, are you?

LASH CHAFFIN: I, I, I really am not. You know, in theory I should be, but I'm, I'm not. It doesn't, it doesn't seem like-- you know, probably the, the-- you know, I trust that the department's probably going to make it fairly low, but I'd like to have some sort of guardrail in, in that.

MOSER: OK. Thank you.

LASH CHAFFIN: Yes.

MOSER: Thank you, Senator.

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

LASH CHAFFIN: Thank you.

DeKAY: Any other opponents? Anyone testifying in a neutral position?

SAM DRINNIN: Good afternoon, Chairman DeKay and members of the Natural Resources Committee. My name is Sam Drinnin, S-a-m D-r-i-n-n-i-n, and I serve as the chair of Nebraska Cattleman Natural Resources and Environment Committee. In addition to my leadership role with Nebraska Cattlemen, I am also a feedlot operator in Palmer, Nebraska. Our members recognize that inflation and increasing operational expenses have raised the cost of providing essential regulatory and environmental services through the Department of Water, Energy, and Environment. We appreciate the need for adequate agency resources to effectively safeguard Nebraska's natural resources and uphold our shared commitment to responsible agricultural production. However, our members have concerns about increasing the share program of costs funded by industry fees and the potential magnitude of these fee

adjustments, especially as our producers continue to operate in a competitive national and global marketplace. We want to ensure that Nebraska's fee structure remains fair and does not put our producers at a disadvantage compared to other beef producers across the country. I would also note the recent agency restructuring under LB317, which merged the Department of Environment and Energy and the Department Natural Resources into the Department of Water, Energy, and Environment. One goal of that merger was greater administrative efficiency. As the new department requests a fee increase, we respectfully request attention and transparency and accountability regarding realized efficiencies since that consolidation, and how any cost savings are reflected in today's proposal. Nebraska Cattlemen appreciate the need to update and periodically review program funding. We support a reasonable, equitable, and transparent fee system based on our policy, and we are open to constructive negotiation to find common ground that supports both agency effectiveness and Nebraska's producers. We are willing to work with the Legislature and with the department to determine what percentage of program costs should appropriately be covered by fees and to review the structure and equity of any proposed adjustments. Thank you for your consideration of our perspective. Happy to answer any questions and looking forward to finding a compromise on the fee schedule.

DeKAY: Thank you. Senator Hughes.

HUGHES: Thank you-- actually, you're the Vice Chair DeKay. Sorry, Senator Moser.

DeKAY: I like the other title better.

HUGHES: I gave him that title for a second. OK. So you're talking specifically about the livestock facility permitting going up to 40% of the cost, right?

SAM DRINNIN: I would say it would be a little bit of both, Senator, just on the-- like the wells from, you know, \$40 to \$200, the livestock as well.

HUGHES: OK, did you-- so when you look-- like, let's talk about the well one, when you look compared to states it puts us-- I mean, we're not ahead, whatever. So if that's the case you're fine with that I'm guessing?

SAM DRINNIN: For--

HUGHES: Like the well one fits with what other states around us do.

SAM DRINNIN: We understand that there's, obviously, going to be, like, increases over time we get that, but, you know, \$40 to \$200 seems a little excessive.

HUGHES: See, that's where you're making my argument. They need to be doing this, like, every 5 years instead of this big jump. But as far as the livestock facility permitting they're going up to 40% coverage of cost. Do you, do you have that informa-- like, is that-- have you done the research to see what Iowa, what Kansas, what Texas, what nearby do at all?

SAM DRINNIN: I have not, Senator, but I could try to find that answer and get back to you.

HUGHES: OK. Just curious. Thank you.

SAM DRINNIN: Yeah.

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

SAM DRINNIN: Thank you.

DeKAY: Anybody else testifying in a neutral capacity?

SETH MITCHELL: Good afternoon, Vice Chairman DeKay, and members of the Natural Resources Committee. My name is Seth Mitchell, S-e-t-h M-i-t-c-h-e-l-l, and I serve as executive director of the Nebraska Pork Producers Association. I'm here today on behalf of the Nebraska Pork Producers Association, Nebraska Farm Bureau, Nebraska State Dairy Association, Nebraska Corn Growers Association, Nebraska Soybean Association, and Nebraska Sorghum Producers Association. To stay within the time limit, limit, I've condensed my oral testimony from the written testimony provided to the committee. Nebraska's livestock producers take environmental stewardship seriously and recognize that soil, air, and water are shared resources that must be protected today and for future generations, values reflected in the pork industry's We Care principles and in the purpose of CAFO permitting programs. Nebraska's CAFO permitting program operates under delegated authority from the federal Clean Water Act and maintaining that authority at the state level rather than defaulting to EPA oversight is critically important to our members. Local administration provides greater responsiveness, regulatory certainty, and practical understanding of Nebraska agriculture. And we recognize that permitting fees must be

periodically adjusted to maintain a functional and credible system. Our concern with LB761 is not that fees would increase, but rather that the proposal would double the share of program costs covered by industry fees from 20% to 40% in a single step. For producers operating in a commodity-based business with limited ability to pass on costs, this represents a significant and unexpected increase at a time when many pork producers have experienced some of the worst, most challenging economic conditions in recent history. Additionally, because the Department of Water, Energy, and Environment has authority to evaluate and adjust fees annually, increasing the percentage of program costs borne by producers introduces uncertainty around future permitting costs. That uncertainty makes it more difficult for producers to plan, invest, and remain in compliance, particularly if future cost increases compound more rapidly under a higher cost recovery threshold. We are also concerned that language allowing fees to cover undefined indirect costs introduces uncertainty and respectfully requests the inclusion of a clear definition consistent with generally accepted accounting principles to provide predictability from year to year. To be clear, our groups support these essential programs in the goal of ensuring that they are adequately funded and effectively administered. We support a fee structure that is reasonable, equitable, transparent, predictable, and competitive with other states. We believe there is room for constructive discussion around the appropriate percentage of program costs covered by fees and the structure of those adjustments. We remain neutral on LB761 and are committed to working with the Legislature and the department to explore alternatives that maintain state-level control of the program while avoiding undue disruption for Nebraska producers. Thank you for the opportunity to testify, and I'd be happy to answer any questions.

DeKAY: Any questions? Real quick, I missed out on the first part of this, and I apologize for not being here, but last time we had a fee increase was in 2003. And we're-- if we're going to increase by percentages, if we would add incremental steps from 2003 to today, do you think we would still be arriving at the same fee number, not percentagewise, but by dollarwise as we are-- what the ask is today?

SETH MITCHELL: Sure. I mean, that would be dependent upon what the percent increment would have been over that period of time, so I can't say for certain.

DeKAY: OK. Thank you. Senator Moser.

MOSER: So the percentage of the cost is attributed to the fees is going to go from 20% to 40%. And you're complaining about that increase. So general funds are paid by citizens all across the state. So why would 60% of the costs be paid by people in Omaha or Lincoln or wherever when the expenses are where cattle are raised or hogs are raised, or whatever. I think you could flip that argument. If I was you, I'd be happy. Of course, you are testifying so I give you the bonus points for that.

SETH MITCHELL: Well-- and I think the premise there, right, and the reason for us testifying neutral is that, as I stated, we certainly recognize the importance that our industry and our producers play in contributing to the funding of these programs, since they are supporting our industry. I think in this instance, it's just a little bit of sticker shock, I would say, to go from 20% to 40% in one year. You know, our, our producers are practical people. They, they think about these fees in terms of numbers, not necessarily percentages, but they look at that fee doubling, you know, in one year.

MOSER: But it's not a fee per hog or per cow or steer or whatever. I mean, it's one fee, and you might have 10,000 hogs.

SETH MITCHELL: The fee is variable depending on the number of animal units.

MOSER: Well, it can be scaled to the size of the operation you own.

SETH MITCHELL: That's correct.

MOSER: Yeah. Thank you. That's all I had.

DEKAY: All right, thank you. Any other questions? Seeing none, thank you.

SETH MITCHELL: Thank you.

DEKAY: Any other person testifying in a neutral capacity? Seeing none, Senator Brandt, you're welcome to close.

BRANDT: So in regard to these fees, what they are trying to do is reduce the need for General Fund dollars by increasing the user fees on the people that use them. Mr. Chaffin with the League of Municipalities talked about the discharge permits. To get a discharge permit here, it has to go to a public hearing over at DWEE. So it isn't like they can just do that. There will have to be a public

hearing before they impose any fees on that. And I guess the last thing as a cattleman, we've never seen better prices than what we've got right now so I'm not going to complain about a little increase in permits. I know those guys probably don't like me saying that, but times are very good in the cattle industry in Nebraska, people, not so much in the [INAUDIBLE]. So any questions?

DeKAY: Any questions? Senator Raybould.

RAYBOULD: I'm not sure this is a question, but I'm going to see if I can turn it into one. What do you think agencies should be doing or practicing to make sure that the fees that they put out, even though I recognize there are adjustments from 2003, but can't they-- how do you think they best could present it in a graduated fee increase? That's a question and then I just want to give a comment. I know as a city council member, we started that practice working with a lot of the department directors. And it's, it's so less painful if you have the foresight to, in legislation, if you put it in that way that it's a graduated fee increase, ultimately you'll get there. This is really pulling off a bandaid and it really hurts. And, and the opponents' online comments stated that. And it's much more tolerable-- it's-- I think it's like the science experiment with the frog in the water. You gradually heat it up, and they don't seem to mind too much about it until it's too late. But the point is, when we've instituted gradual fee-- known gradual fee increases anticipated, you can project it. It just-- you don't get as much pushback or negativity about that. And the question-- back to the question, what do you think agencies should be doing? Because that's, that's how businesses are operated, and we always talk about, well, government should be more like-- operate more like a business, so.

BRANDT: I guess how I see it is we, the Legislature, are a separate branch of government. Somebody needs to introduce a statute that requires the executive branch of government to review fees every, pick a number, 2 years, 3 years, 5 years, and then you would have consistency across agencies. I think this agency has stepped up and done what should have been done 10 years ago, 15 years ago. And who knows how many other agencies in the state are in the same predicament right now. I mean, there's probably agencies out there that haven't increased fees for a longer time than what this one has been. So in answer to your question, that's how I would view it. So maybe those of you that will be here next year, because I'm gone in 50 days and so is Moser.

RAYBOULD: Well, I think, I think your, your comments are well taken, but the, the last fee on the discharge, that's a brand new fee. And that has, like, a, a stiff increase in something that was not anticipated or expected.

BRANDT: So then I guess the question is, should all the people in Nebraska pay for that discharge permit or should the people that are using the discharge permits like Senator Moser is pointing out pay for that fee? Because it's going to be radically different between a village of 300 people in a city of Lincoln that's got 300,000 people in it. You can divide those numbers out. It's a cost of doing business if you want to look at it that way.

RAYBOULD: And, you know, I couldn't, I couldn't agree with you more on that. I know as a county commissioner, there was a philosophy back with the Nebraska state government, any fee increase, that's an increase to our taxpayer, and that was the line that they towed for so many years, for, you know, 15, 15 years. And new administration come in and come and go, and, you know, so far that philosophy is, like, more appropriate for the fee users, and I currently agree if you're the one who's going to be utilizing the service, yes, you should be paying a fee. But it would be nice if there's a graduated increase rather than just this sharp increase that, that people can't anticipate and budget for. That was my comment. Sorry.

DeKAY: Any other questions? Seeing none, thank you. That closes the hearing on LB761. Senator Brandt, we are now welcoming you to open on LB760.

JUAREZ: Excuse me, are you going to tell us about the online or did you already?

DeKAY: Did we?

MOSER: We did on the previous one.

JUAREZ: On LB761?

DeKAY: Yeah, as was previously announced, but I will read it again.

JUAREZ: Thank you.

DeKAY: There were zero proponents, two [SIC] opponents, and zero in the neutral capacity.

JUAREZ: Thank you.

DeKAY: You're welcome. Senator Brandt, you're now welcome to open on LB760.

BRANDT: Good afternoon, Vice Chair DeKay and members of the Natural Resources Committee. I am Senator Tom Brandt, T-o-m B-r-a-n-d-t. I represent the 32nd District, which consists of Fillmore Thayer, Jefferson, Saline, and southwestern Lancaster Counties. I am here today to introduce LB760 on behalf of the Department of Water, Energy, and Environment. LB760 transfers authority for monitoring, inspections, permit requests, rulemaking, and enforcement related to swimming pools, mobile home parks, and recreation camps from the Department of Water, Energy, and Environment to local governments. LB760 also authorizes the State Fire Marshal who is responsible for setting fees and fire safety assessments to delegate inspection authority as appropriate. Finally, the bill eliminates the Environmental Safety Cash Fund which was created to cover departmental expenses related to licenses, permits, and annual inspections. Because these standards and inspections would now be set and carried out by local governments, the bill shifts the authority to set, collect, and enforce associated fees from the department to local government entities. Once again, Director Bradley is here to help answer any questions. Thank you for your consideration, and I will try to answer any questions.

DeKAY: Thank you. Are there any questions for Senator Brandt? Senator Moser.

MOSER: So are there people with the right authority to manage this? I mean, what if the water park is in the country, then the county has to come up with a plan to inspect it?

BRANDT: And I'm going to let Senator [SIC] Bradley address specifics on this. I think the public-- things that are public swimming pools in your town, the local motel, if it's a public water park out there, need-- are required to have inspections. I don't know, I can't answer on private swimming pools what the requirement is.

MOSER: And a lot of those would not be in a city, necessarily.

BRANDT: Yeah, and, and I think there was an assumption that we are getting rid of pool inspection. My understanding is it's just moving

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and our existing pool inspectors will still be in the department and they will have some other duties as required added to their plate.

MOSER: OK. Thank you.

DeKAY: Thank you. Senator Clouse.

CLOUSE: Thank you, Vice Chair DeKay. The question is do you know if there are standards set for, say, it's a so many gallon pool, that this is what an inspection fee is? Is there an index, kind of like when we look at different code books, here is this?

BRANDT: Sure.

CLOUSE: Has that been established or can they charge one fee in Columbus and another one in Grand Island, another one in Kearney, do you know if there's a standard set of fees?

BRANDT: I'm going to let the department answer that.

CLOUSE: OK.

BRANDT: Yeah.

DeKAY: Any other questions? Senator Brandt, one quick question. How many pools and stuff? I think I heard some place around 1,500 or so that might be affected by this. Do you know that number?

BRANDT: I do not know that number, but I'm anxious to hear that number.

DeKAY: OK. Thank you. Anybody testifying as a proponent?

CLOUSE: Senator DeKay, why he's getting here, I just want to say cattle tanks don't count.

DeKAY: That takes the moss off of it.

CLOUSE: Yeah.

DeKAY: Mr. Bradley, go ahead.

JESSE BRADLEY: Good afternoon, Vice Chairman DeKay and members of the Natural Resources Committee. My name is Jesse Bradley, J-e-s-s-e B-r-a-d-l-e-y, and I am the Director of the Department of Water, Energy, and Environment. Thank you, Senator Brandt, for your

introduction of LB760 and for bringing this bill on behalf of the department. As Senator Brandt mentioned, LB760 proposes amendments to the Environmental Safety Act. The bill proposes to transfer-- the transfer of certain regulatory authorities related to swimming pools, recreation camps, and mobile home parks from the department to local governments that have jurisdiction over the facility. You should have a, you should have a copy of a table outlining which authorities would remain with the department and which authorities would be transferred to the local government under this proposal. As shown in the table, I want to emphasize that the department will continue to retain authority, regulatory authority over key public safety roles such as drinking water and wastewater regulations, design and construction plan permitting for public swimming pools and certain other duties associated with these facilities such as minimum floodplain management standards that apply to recreation camps and mobile home parks. The local government with jurisdiction over a given facility may adopt minimum sanitary and safety requirements through local regulations or ordinances, may perform annual inspections, issue annual operating permits, and continue to exercise their existing nuisance abatement and enforcement authorities. With this bill, local governments may incorporate permitting for public swimming pool operations, mobile home parks, and recreational camps into their existing codes for consistency and to avoid duplicative state and local approvals and inspections for these facilities. Additionally, those same local governments may establish annual operating permit requirements, collect annual fees, and conduct inspections of these facilities. It is believed that administration of these functions by local governments can be accomplished more efficiently and responsibly-- responsively with many local governments already fulfilling these roles. Finally, the bill addresses the department's Well and Septic Loan Evaluation Program. Through this program, department staff can be requested to conduct evaluations of domestic water supplies and on-site wastewater treatment systems at the request of homeowners, purchasers or loan-- mortgage loan institutions, many of which require an inspection of such systems prior to closing. Under this bill, the department would no longer provide this service for lenders. However, these evaluations would continue to be available through private inspection services. In the fiscal note, you will see a reduction in cash, cash fund revenues as the department will no longer collect fees for issuing or renewing licenses or conducting annual inspections for these facilities. While the agency will no longer have access to such revenues we have already taken steps to reduce one FTE in this category and do not expect further staff reductions as a result of

this bill. As such, these personnel currently supporting these important functions will now be able to prioritize other historically under-resourced inspections such as food safety inspections required for public schools, daycares, and senior centers across the state. Again, I want to reiterate that the department will maintain all existing regulatory authorities related to drinking water, wastewater, as well as those authorities related to floodplain management. Thank you for your time, and I'm happy to take any questions.

DeKAY: Thank you. Senator Clouse.

CLOUSE: Thank you, Senator DeKay. Director, on your second page, we're talking about the department is no longer going to provide those services for evaluations. And you say available through private, that's private engineering firms, separate engineering firms, is that who you think that would fall under? Would it be like engineering firms or things like that, that--

JESSE BRADLEY: Correct.

CLOUSE: --they would have to contract with them?

JESSE BRADLEY: I just want to make sure I'm following the section you're--

CLOUSE: The second page on your, on your handout you just gave us, your notes.

JESSE BRADLEY: On the handout-- on the testimony. Sorry. I just wanted to make sure if you were looking at the bill or the testimony. That's correct. Yes. I mean, there would be the local governments, you know, some of these. I think you had asked a question about how many swimming pools there are in the program with someone.

CLOUSE: [INAUDIBLE]

JESSE BRADLEY: So, you know, just as an example, using swimming pools, there's a little over 1,500 swimming pools, but these are public swimming pools, and about 950 of those are currently inspected by local governments and so it would be those pools that are not currently inspected that would be--

CLOUSE: But this was talking about the evaluations of, of quality and treatment-- quality treatment centers, domestic water supply, things like that, that not, you know, further, at the request [INAUDIBLE].

JESSE BRADLEY: Oh, I'm sorry, I apologize. You're talking about the septic and, and drinking water assessment.

CLOUSE: Yeah.

JESSE BRADLEY: Yeah. So under that, you know, you're probably familiar, a lot of mortgage loan providers are going to have a requirement to do an inspection of a well or a septic before a closing, so they can request that of us. The fee that we get paid to do that assessment is far too low to cover our costs for those inspections. There often is, you know, providers out there, public-- I'm sorry, private providers that can provide that service. And so we're, we're looking at this as, you know, that's just a service. Rather than raise the fee on it extensively, you know it probably makes more sense to do from a private [INAUDIBLE].

CLOUSE: So talking about that, and I guess that's a good example when you're talking about septic. So is there, like, a list of criteria that they use when they go and check that out or can you have Acme Septic Services on which are 50 bucks and you're going to get, you're going to get your note qualified?

JESSE BRADLEY: I mean, you know, I, I don't know if that would vary by mortgage lender, but, yes, I mean, we would have standard things we're assessing when we would go out and do our inspections.

CLOUSE: OK. Thank you.

DeKAY: Thank you. Any other questions?

JUAREZ: I have one.

DeKAY: Senator Juarez.

JUAREZ: So I don't know if this person is here today, but I wanted to address in regards to the Fire Marshal. And it's really just, I guess, a statement because you might not be aware of this. But in a bed and breakfast that I stay in, in Lincoln, this facility does not provide hot food because of the fire safety regulations. Do you know anything about that?

JESSE BRADLEY: I don't know anything specific about that instance.

JUAREZ: Well, I would like you to discuss it with the Fire Marshal if you can, because it's very annoying to me as a customer going into a

facility like that and not being able to get a hot breakfast because of your-- of the regulations. Now, maybe it's a city thing, I don't know, but if you have interactions with the Fire Marshal I would appreciate you having a discussion about that. Thank you.

DeKAY: Thank you. Any other questions? Mr. Bradley, one quick question. If there's more of this authority delegated to local governments, I'm assuming there's required reporting back to you on, on a periodic basis, or not?

JESSE BRADLEY: So it wouldn't be a requirement under the structure of the bill as drafted. You know, we're, we're essentially allowing those local governments to adopt their ordinances, fee structure, inspection schedule, consistent with how they want to set that up. So, though, there's no required reporting, I, I would say, you know, if the bill-- as the bill would advance, if it gets ultimately passed, we would plan to work with those local government agencies we already do, make sure there's a, a transition there that we can make sure work is workable in terms of handoffs of information sharing, you know, our model rules and things of that nature.

DeKAY: I mean, there is an outline so that everybody stays in compliance and how, how it's structured.

JESSE BRADLEY: Yeah, we, we have a set of rules that, that drive kind of, you know, what's, what's required for pools and things we look at. You know, standard forms we use for inspections, those would all be resources we'd want to make available to local governments.

DeKAY: All right. Thank you. Any other questions?

JESSE BRADLEY: Could I maybe just ask-- add one more thing, Senator DeKay? I, I know there was a question in a, in a prior hearing about Perkins County Canal transfer funds. I did get clarity on that. That is really just consistent with the prior language to transfer interest off of the Perkins County Canal to the General Fund. So it's not an additional transfer. I just wanted to provide some clarity back to the committee on that.

DeKAY: OK. Thank you. Any other proponents? Anybody testifying as an opponent? Anyone here testifying in a neutral capacity?

JEREMY ESCHLIMAN: Good afternoon, Senators and Vice Chair DeKay and members of the Natural Resources Committee. My name is Jeremy Eschliman, spelled J-e-r-e-m-y E-s-c-h-l-i-m-a-n. I serve as the

Health Director of Two Rivers Public Health Department with our office located in Kearney. I'm here today on behalf of the Nebraska Association of Local Health Directors. Thank you for the opportunity to testify in a neutral capacity. And shout out to Senator Clouse, and sorry for making you late today. He took a moment to talk with me right before the session started this afternoon, so. Two Rivers Public Health Department serves seven counties in south central Nebraska: Buffalo, Dawson, Franklin, Gosper, Harlan, Kearney and Phelps Counties. That's a mouthful. We cover approximately 4,600 square miles. Like other local health departments across the state, we serve a mix of very small rural communities and larger population centers with a widely varying local capacity. I want to begin by saying that we fully support municipalities' inherent authority to govern within their own geography. Nothing I share today is intended to diminish local control. And as a side note, we enjoy great relationships with a lot of our local municipalities, so we always appreciate those partnerships. My comments today focus on public health and safety and specifically on implementation and several of the questions that were just asked, I mean, if I have time try to answer those if I can. LB760 makes significant structural changes to the regulation of swimming pools, recreation camps, and mobile home parks by shifting authority from the state to local governments. As currently drafted, the bill defines local government as cities, counties, and villages, but does not clearly recognize local health departments as entities authorized to carry out these responsibilities across their jurisdiction. As Senator Clouse and I were talking beforehand, in our seven-county area, we have approximately 45 municipalities. So as you can imagine, if we went to each of those, that's a huge burden on us to work-- pulling up programs, so. That, that admission, as far as in the definition, in practice matters. We're in the process of just finishing up our inaugural year in partnership with the Department of Water, Energy, and Environment and really enjoy a great relationship with them in that regard. Local health departments are the mechanism Nebraska has long relied upon to coordinate environmental services across city and county lines. For example, as I mentioned, we currently operate under an MOU that delegates authority and this bill effectively strips the authority out, and so then we're starting legally all the way over, so. This model works with having state-level authority and delegation because it allows the state to retain standards and oversight while trained local staff carry out inspections consistently and efficiently. And to, Senator Moser, to your, your question about trained staff, we are those trained staff at least in our area. So we have the expertise and we make sure

individuals are credentialed through a process called registered environmental specialist. Credentialed means you have to have 30 hours of [INAUDIBLE] science, biology, geology, sciences because a lot of what we do in public health and safety involves the sciences. So under LB760, as written, authority could become fragmented requiring city-by-city authorization or leaving gaps where no entity is clearly empowered to act. Most local health departments serve multi-county regions, as I mentioned. Without a clear pathway for local health departments to operate across their districts, implementation could default to dozens of separate jurisdictions interpreting and enforcing requirements that are public health and safety independently. This creates inconsistency for regulated entities, increasing administrative burden, and ultimately makes it harder to maintain uniform public health and safety protections. From a capacity standpoint, many small municipalities, 45 I mentioned, lack that capability for technical expertise to do. And I had a recent conversation with the city of Kearney, for example, and they don't have staff that currently goes up in this space. Now I'm not saying they couldn't train up, they definitely could. My understanding is I'm not sure it's something they would want to do either, so. From a public health safety standpoint, environmental risks do not stop at jurisdictional bounds. To be clear, this is not a request to make a local health department solely responsible for this program statewide. Rather, we're asking local health departments be granted a clear statutory authority to implement these programs within their multi-county districts. This approach preserves the local authority while avoiding the inefficiency and fragmentation that would result from requiring individual approvals from dozens or more, in, in our case, municipalities in a single health district. If an agreement mechanism is necessary, we encourage the committee to allow for a single health district-wide agreement rather than requiring separate agreements for every county and municipality. Nebraska statute already ensures local oversight through county representation on local governing boards of health. In my particular board, I have seven county commissioners and also seven appointed individuals by the counties. So clear authority in that regard, so. As the committee considers LB760, we ask that you consider amendments that would prioritize three things: one, clearly recognize local health departments as authorized implementers within our jurisdictions; two, allow coordination through a district-wide framework rather than multiple local agreements; and three, to ensure local health departments may establish reasonable cost-based fees. I think the committee's been hearing this all, all day, that truly affect the

costs providing these services. And as we work to implement this model in our district, we've talked with our local constituents, our pool operators, our hotel owners, and we said, hey, this is a fee for a pool, I'll take on this as an example, was \$40. That barely covers paper, printing, staff time to do that. And so we raise our fees up to respectively \$300 for private-- private-land pools, which would be hotel motels, things like that, or nongovernmental pools; municipal, \$200. And then if they have another, a regular pool like a hot tub or another pool at the facility, \$150, then that's all inclusive on an annual basis. And talking to our local partners, that was quite reasonable. We didn't get a lot of pushback about that, so. Just in closing, we respectfully ask for the opportunity to work with Senator Brandt and the Department of Water, Energy, and Environment on revisions that meet LB760's intent while maintaining strong and consistent public health protections. And if I could, just as I close here, just a few questions that I think the different senators have. I think, Senator Moser, I got your-- hopefully answer your question about capacity, like who's doing this locally, and I think that's an opportunity for local public health. You know, in a lot of ways been doing that. And, Senator Clouse, you mentioned about standards. So Title 178 is on the books for, I'm sorry, for pools. Title 124 is for septic systems. And so there's various state standards that are-- that the department currently uses, you know, when you get into the weeds in that regard. How many pools, Senator DeKay. We have 77, 78, something, sorry, something like that in our seven-county area, so. And as far as I heard Director Bradley say, but we've really found it to be as we locally have done this versus the department, efficiency and responsibilities will have been true. I mean, we were in our communities, we know our communities exceptionally well, as far as the local public health, and so we're going to have a great solution for that. So stop there, and happy to answer any of your questions.

DeKAY: Thank you. Are there any additional questions for--

JUAREZ: I have one.

DeKAY: Senator Juarez.

JUAREZ: Thank you. Mine is just more clarification or technical. On your second point that you make here, allow coordination through a district-wide framework rather than multiple local agreements. Can you give me an idea of what you mean by district-wide? I mean, meaning to cover multiple counties or what exactly do you mean by that phrase?

JEREMY ESCHLIMAN: Yes. So thank you for the question, Senator Juarez. So district-wide, I, I think what-- as far as my colleagues, I think what, what they would suggest, I say is, if it's brought before the District Board of Health, for example, for a decision on how to set maybe fee structure, we currently do that already, that's in regulation, that's already done, versus the way the, the bill is currently written, is it's done at the local level as defined as municipality, county, etcetera. So rather than going to all, in our district, all seven of our counties, which are already part of the Board of Health, in addition to municipalities, which, as I mentioned, quite a few, it just helps reduce some of that regulatory burden.

JUAREZ: So, like, where I'm from in Omaha, then, like, do you mean that that would refer to, like, Douglas County then? Is that what you would mean?

JEREMY ESCHLIMAN: Yeah, yeah, quite possibly, Senator Juarez. And I just wanted to mention that there's a subtle difference as far as when we talk about local public health across Nebraska. In Douglas County, it's at the county structure level. In Lincoln here, it's at the, at the city-county level. And you get more rural parts of Nebraska, it's multi-county, typically. So there is a little bit of a structural difference there.

JUAREZ: OK. Thank you.

JEREMY ESCHLIMAN: Yep.

DeKAY: Thank you. Any other-- Senator Clouse.

CLOUSE: Yes, thank you, Senator DeKay. Jeremy, thank you for being here. We talked about the standards, that's the standard for inspections, but with the health district, I was more concerned about the fee schedules. So that-- and I'm sure to inspect a pool of a certain size in Omaha and Grant or Imperial would probably cost the same, but then you'd have to add mileage and those type of things, but does the health districts, will they put a fee schedule for a standard?

JEREMY ESCHLIMAN: Yeah, so that, that currently already exists.

CLOUSE: It does.

JEREMY ESCHLIMAN: And so like, for example, in the Two Rivers district, our Board of Health sets a fee schedule, like I mentioned

already. And if you go to Grand Island, it's a little bit different. If you go to Lincoln, it's a little bit different, Douglas County, just subtle differences there. I can tell you we looked at establishing our fee schedule, we looked at all those and we said, hey, we're, we're not Omaha. We can do things a little more efficiently. And nothing against Omaha, you know, just the traffic and things like that, so.

CLOUSE: And then when you talk about granting clear statutory authority, I guess, I'm trying to figure out what type of wording you would put that in that statute. So, I guess, if you have something that you could present that would-- I'm trying to figure what that would look like because of, you know, the statutory authority looks like it's going to government entities so they could choose where they wanted to go with it. So if you wanted to have a designee, what would that look like? Because I would think that you would have statutory authority through a local entity, and you'd be working with, like, the League and the NACO and those, and say here's what we'd do with that. If you have something along those lines, I'll leave it up to Senator Brandt, but [INAUDIBLE].

JEREMY ESCHLIMAN: Yeah, we'd be happy, happy to work with Senator Brandt on that, so.

CLOUSE: Thank you.

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

JEREMY ESCHLIMAN: Thank you.

DeKAY: Anyone else testifying in a neutral capacity?

BROCK HANISCH: Good afternoon, Vice Chair DeKay and members of the Natural Resources Committee. My name is Brock Hanisch, spelled B-r-o-c-k H-a-n-i-s-c-h. I'm testifying today in a neutral capacity on behalf of the Nebraska Environmental Health Association, NEHA. NEHA represents environmental health professionals across the state of Nebraska who are responsible for, for protecting public health through inspection, education, and disease prevention. I'm a registered environmental health specialist working in a local health department where I lead teams across multiple environmental public health programs including public swimming pool and spa oversight, regulatory inspections, nuisance complaints, and investigation of illness outbreaks and environmental health hazards. LB760 proposes changes to

the Environmental Safety Act that would shift regulatory and inspection authority for public swimming pools and spas from the state to local governments. As written, the bill replaces uniform statewide requirements with a discretionary local approach, meaning these public health protections may no longer be applied consistently or at all across Nebraska. Public swimming pools and spas are regulated environments because they pose well-documented public health risks, particularly for children. Each year across the United States, dozens of outbreaks result in hundreds of illnesses, and Nebraska has experienced these events as well. Local incidents include Legionella outbreaks associated with public spas resulting in hospitalizations, Cryptosporidium outbreaks causing severe gastrointestinal illness, and chemical exposure events leading to emergency medical response. Nebraska's statewide pool and spa standards, together with operator training, routine inspections, and public health response, provide a structured system for identifying and correcting hazards before they result in illness or injury. This preventative framework supports consistent expectations for operators and a timely response when problems arise. Experience in environmental public health shows that poor-related illnesses and injuries are most often associated with operational failures, such as improper disinfectant levels, inadequate safety equipment, or poor maintenance. Routine inspections commonly identify these types of issues and allow them to be corrected promptly, including temporary closure when necessary. This preventative approach reduces risk and helps protect swimmers before harm occurs. LB760 raises concerns about consistency and public health protections across Nebraska. When statewide standards become optional, requirements may vary by jurisdictions, creating uncertainty for operators and reducing the effectiveness of preventive oversight. Maintaining statewide minimum standards for swimming pools and spas provides a consistent baseline of protection for all Nebraskans, supports local implementation, and helps ensure the public health safeguards remain in place regardless of where a facility is located. The Nebraska Environmental Health Association believes there is an opportunity to preserve these protections by retaining statewide standards and a defined level of state oversight while allowing local governments to administer programs where capacity exists. Thank you for your consideration. I'll be happy to answer any questions you might have.

DeKAY: Senator Clouse.

CLOUSE: Yes, thank you, Vice Chair DeKay. When I look at this and you're concerns or something, I think, have been expressed, and I've

heard that there are state standards, I hear there's standard pricing and, and standards from the health department, so in hearing all those previous testimonies, do you still think there's an issue or does that give you a little bit of comfort in what we were told?

BROCK HANISCH: I still believe there's an issue. There needs to be a, a set standard across the state. I'm not necessarily concerned about the pricing scheme. It's the safety and the set standards and the capacity that the local jurisdictions would have.

CLOUSE: OK. Thank you.

DeKAY: Any other questions? Senator Juarez.

JUAREZ: Thank you very much for coming today. I think that that's really an excellent point about thinking about the statewide standards, because you really wouldn't want there to be-- once it gets into the local hands, I guess I would be concerned about the consistency too, you know, like just being able to travel miles away and encountering one situation versus how the state might try to keep everybody on track. So thank you for coming and providing the feedback.

BROCK HANISCH: Yeah.

DeKAY: Any other questions? Senator Conrad.

CONRAD: Thank you, Senator. Thank you for being here today and sharing your expertise. I, I just wanted to get your expertise from kind of what additional public policy consideration in this measure. I understand when there's an opportunity to reduce redundancy on the state and the local level that that can be beneficial for everybody involved. Is there a present issue of redundancy amongst the state and local aspects of government in conducting these kinds of health inspections?

BROCK HANISCH: So right now, with Title 178, which is that set standard for pools and, pools and spas across the entire state, there are jurisdictions who have MOUs in place with NDWEE or DHHS prior, that they can then, if they have the capacity, environmental health specialists, in their jurisdiction, can perform these duties and they adopt and utilize Title 178.

CONRAD: OK. And then my last question would be, and maybe you teased this out, or another testifier did, I understand what would happen

through the department's chart and otherwise when there is a clear entity of local government that may have capacity and expertise to take on this task. I'm also thinking about perhaps what happens outside of the city jurisdiction like in the more rural aspects of the county, then is the general thinking in that just switches-- if this measure is adopted and it moves from a state level responsibility to a local level either city or county, are there any gaps apparent in the, the new approach?

BROCK HANISCH: If, if I understand what you're asking, what-- the gap--

CONRAD: Sorry.

BROCK HANISCH: No, no, you're fine. The gap-- what, what I'm gathering from that, the gaps would be the villages and any jurisdiction that have, in their ETJ, that has a pool or a spa, if I'm specifically speaking to the pools and spas that had been previously regulated by the state by a 178, Title 178, they would then be required to perform those duties on their own. Did that answer your question?

CONRAD: Yes. Thank you.

BROCK HANISCH: OK.

CONRAD: Thank you, Senator DeKay.

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

BROCK HANISCH: Thank you.

DeKAY: Any other people testifying in a neutral capacity?

SCOTT HOLMES: Good afternoon, Honorable Vice Chair DeKay and members of the Natural Resources Committee. My name is Scott Holmes, S-c-o-t-t H-o-l-m-e-s. I am a registered environmental health specialist in the state of Nebraska, and I served as Lincoln-Lancaster County Health Department's environmental health manager for 32 years. I retired in 2023. I'm testifying today, on my own behalf, out of concern that LB760 would eliminate uniform statewide protection for Nebraska's families. Many of us have fond memories of playing as a kid or with our kids at a local pool in our hometown or a nearby community or traveling across the state and staying at a hotel with a pool. But what you probably don't remember is that in 1970, the Nebraska Legislature adopted regulations for pool construction and operations

to protect your health, or that in 2009, the Legislature enhanced public health protection by adopting a law that pool operators had to be trained and certified. Behind the scenes for over 50 years, environmental public health specialists have been inspecting pools to make sure they were following these regulations and training pool operators on how to keep their pools safe. And usually if the regulations are followed, public swimming pools were safe. However, in my public health career, I was also involved with investigating pool-related outbreaks. Typically, illnesses were caused by not maintaining critical pool operating requirements, such as disinfectant level. Outbreaks included multiple outbreaks of Legionella disease, which resulted in people being hospitalized, mainly from spas, and Cryptosporidium, one example of that involved hundreds of children that became ill because of a diarrhea problem in a pool. And that also affected childcares throughout the community. I share these stories with you because pool regulations are important in protecting the health of Nebraskans. If the pools have been operated according to the regulations, these outbreaks probably would not have occurred. There's little, little doubt that statewide standards and inspections have safeguarded against and reduced how often these events have occurred. If pool operating standards and pool operator certification were eliminated, and there were no more inspections, outbreaks would almost surely increase. If you choose to advance this bill, I respectfully ask you to modify the definition of local government, as was mentioned previously, to include local health departments. There's a very specific statute that defines local health departments as county, city, county, or district health departments, and that would be the language you'd probably choose. Health departments have the statutory responsibility to protect the health of the people in the state of Nebraska. In addition, I encourage you to please consider retaining the statewide operating standards so that there is a uniform standard across the state. Keep pool operator certification so that all pools have to have a certified pool operator. Ensure the state fulfills an oversight role to help guide local health departments in the implementation of these regulations across the state. Thank you for your consideration and for your service to the state of Nebraska. I would be happy to answer any questions you have.

DeKAY: Any questions? Senator Clouse.

CLOUSE: Thank you, Senator DeKay. Yeah, the question I have is where you talk about the importance of having the definition of including local health organizations or departments in that statute. And, I guess, I was curious to why you think that's important to have that

specifically mentioned? Because when I talked with the city of Kearney about it, that's the first thing that came to our mind, is will the health department work with us on this? So why, why do you think it's important? And I know Mr. Eschliman said that, too, but why do you think it is important to have it specifically outlined in statute?

SCOTT HOLMES: The way the language of the bill is written, and I'm not an attorney, but I have written and reviewed regulations for over 30 years as part of my job. If it's not specifically in there, that will probably be interpreted to mean a city or a village or a county, the way it's written. And it does not say for a political subdivision, for example, that would be another option, a little broader option, not one that I would favor. But in the state statute there is a specific definition for health departments and I think giving health departments the authority to move forward and act in this area would be very helpful so that they can actually do that work across their jurisdiction. In my history and experience, we have, typically, regulations in the city of Lincoln, for example, food safety for pools. That regulation includes a 3-mile jurisdiction. It did not include Hickman. It did not include Waverly. It did not include the other nine villages in the, in the county. So what did we have to do then? We applied the state regulations to those specific facilities. And so we would-- if we were going to have a food code, and that was the same food code across the entire jurisdiction, other than adopting the state food code, which is what we did, we would have to take action in every single village because a county can't adopt a code that then applies to that village on health issues.

CLOUSE: OK. Thank you.

DeKAY: Any other questions? I have one out of curiosity.

SCOTT HOLMES: Yeah.

DeKAY: You said an outbreak that caused, caused by carbon monoxide,--

SCOTT HOLMES: Yes.

DeKAY: --was that because of an HVAC system failure or what caused that?

SCOTT HOLMES: So most pools, and this was an indoor pool, and I was involved in this investigation, it was quite scary because it actually affected quite a few people. One child was transported by the emergency response to the hospital because of severe breathing

difficulty. But it was because the pool has a heater, and that heater was not venting properly. Had there been a recent inspection, I mean, in Lincoln we do inspections, or did inspections, I don't do them anymore, a couple of times a year at least. And so there have been some changes to that system and it was not properly vented and so it was back gassing CO back into the pool area. And, yeah, so.

DeKAY: Thank you. Seeing none, thank you for being here today.

SCOTT HOLMES: Thank you so much. Happy to work with the senator to modify any of [INAUDIBLE].

DeKAY: Appreciate it. Thank you. Anybody else testifying in a neutral position? Seeing none, Senator Brandt, you're welcome to close on LB760.

BRANDT: Well, I'd like to thank everybody that testified today. I know it's been kind of a long afternoon, but we have learned a lot. In regards to swimming pools, my understanding is the state standards would be the minimum standards and a local entity or health department could modify those as appropriate. And if the health departments would like to see some changes on the bill, we are definitely open to that. And with that, I would take any questions the committee may have.

DeKAY: Any questions for Senator Brandt? Seeing none--

BRANDT: And, and I would also ask the committee to stick around for a minute here after everybody leaves. It, it won't take more than a minute or two. So thank you.

DeKAY: That concludes our hearing on LB760.

BRANDT: Did you read in, did you read in [INAUDIBLE]?

DeKAY: Oh, real quick. LB760 had two letters that were proponent-- or two proponents, one opponent, and two in a neutral capacity. That concludes our hearings for today.