

Transcript Prepared By the Clerk of the Legislature
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Natural Resources Committee
January 22, 2015

[LB174]

The Committee on Natural Resources met at 1:30 p.m. on Thursday, January 22, 2015, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB174. Senators present: Ken Schilz, Chairperson; Curt Friesen, Vice Chairperson; Dan Hughes; Jerry Johnson; Rick Kolowski; Brett Lindstrom; John McCollister; and David Schnoor. Senators absent: None.

SENATOR SCHILZ: Well, thank you everyone, and good afternoon and welcome to today's Natural Resources hearing. Today we will be handling LB174. And just a few notes and a few things before we get started, and we're actually waiting for...oh, here's Laurie. Okay. I'd like to tell you welcome. My name is Ken Schilz. I'm the Chairman of the committee. We have the committee present here with us today. I'd like to just allow them the opportunity to introduce themselves and we'll start right over here with Senator Hughes.

SENATOR HUGHES: Dan Hughes, 44th District, ten counties, southwest Nebraska.

SENATOR JOHNSON: Jerry Johnson, District 23, Saunders, Butler, and Colfax Counties.

SENATOR FRIESEN: Curt Friesen, District 34, Hamilton, Merrick, Nance, part of Hall.

SENATOR LINDSTROM: Brett Lindstrom, District 18, northwest Omaha.

SENATOR SCHNOOR: Dave Schnoor, District 15, which encompasses all of Dodge County.

SENATOR McCOLLISTER: John McCollister of the resource rich, natural resource rich area of central Omaha, District 20. (Laughter)

SENATOR KOLOWSKI: And Rick Kolowski, southwest Omaha, the Millard, Elkhorn area, District 31. Thank you.

SENATOR SCHILZ: Okay. Thanks. And then over here to my far right is Barb Koehlmoos; she's the committee clerk for the committee. And to my left is Laurie Lage; she is the legal counsel for the committee. We have two pages today. Jake Kawamoto from Omaha, Nebraska. He's a sophomore at UNL studying political science; and J. T. Beck from Centreville, Virginia, who is a senior at UNL, also studying political science. So we thank those two for being here and for helping us out with the committee. If you are planning on testifying, please pick up a green sign-in sheet that's on the table at the back of the room. And if you do not wish to testify but would like your name entered into the official record as being present at the hearing, there's a form on the table that you

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can sign as well. This will then become a part of the official record of the hearing. We would like you to please fill out the sign-in sheet before you testify. Please print and it's important to complete the form in its entirety. When you turn to testify, give the sign-in sheet to the committee clerk, Barb, and she will help make sure that it's a more accurate public record. And if you do not choose to testify, you may submit comments in writing and have them read into the official record. If you have handouts, please make sure you have 12 copies for the pages to hand out to the committee, and if you don't, we'll go ahead and take care of that so that everybody can get them. But try to make sure if anytime in the future that you can have those copies. And then when you come up to testify, please speak clearly into the microphone and tell us your name and spell your first and last name, even if it's an easy name. The transcribers need that to make sure that it gets properly placed in the record. Please turn off cell phones, other electronic devices, and please keep your conversations to a minimum, or please take them into the hallway. We have no displays of support or opposition on bills, vocal or otherwise. We don't allow that in the public hearings. We want to make sure that the testifiers and the senators have the ability to hear and so that every testifier is respected and so forth. We do use the light system here in the Natural Resources Committee. Everyone will get a total of five minutes to make your point to the committee. The light will start out green and when you have spoken four minutes it will turn to yellow or orange. At that point, please conclude your remarks. And when the five minutes is up, the light will change to red and if you're not done, we'll have the Red Coats just haul you out, so. (Laughter) No, I'm just kidding. Well, try to finish it up as soon as you can after that. And if you do forget to spell your name, I may stop you and remind you that it needs to be done. Just a little bit more housekeeping here today. We've got several visitors, members of the fifth class of the Nebraska Water Leaders Academy are here. They met with me just a little bit ago in the office. These folks are from all across the state and have committed their time to learn about water over the next year. Nebraska Water Leaders Academy is a one-year program that educates participants about water issues and leadership development. The program prepares participants to take active, cooperative approaches to decision making about natural resource issues. I'd ask them to stand right now and so the committee can recognize you. Thanks for coming in today, guys. Go ahead and stand up. Thank you. Senator Friesen was like, wow, that's a lot of people in the hearing today, so we thank you for coming. You make us feel important. (Laughter)

SENATOR SCHNOOR: Yeah, but there's only one person left to testify.

SENATOR SCHILZ: Yeah, that's right. (Laughter) My kind of bill. Okay, with that, what I will do is I will ask Laurie, Ms. Lage, to go up and introduce LB174 for the committee.

LAURIE LAGE: Thank you, Senator. Members of the committee, I'm Laurie Lage, L-a-u-r-i-e L-a-g-e. I'm committee counsel here to introduce LB174. LB174 was brought with the intent of giving natural resources districts another tool to help complete

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important projects and save taxpayer dollars. By expanding the definition of nonpoint sources, it allows NRDs greater flexibility in accessing the State Revolving Fund for important flood erosion, pollution, and invasive species prevention and mitigation. Prime examples of projects that would be newly affected by the passage of this bill would be planting of trees to prevent wind erosion and aquatic habitat restoration, both of which are not currently covered under this current statute due to the deficiency of the current nonpoint source definition. In expanding the definition, NRDs can ultimately end up saving money by engaging in these preventive measures that are much more cost efficient than having to remedy situations after they've resulted to damage to the habitat. There are...we've had conversations with members of DEQ and we are working with them to make sure that the definition in the bill reaches the exact kinds of projects that we're talking about. So we do have a little work to do on the bill and we will be doing that. Ultimately, it's about being able to save money. The terms of the loans that are available under this fund are very favorable and can help save taxpayer money in the long run. So that is the bill and I'd be happy to answer any questions. [LB174]

SENATOR SCHILZ: Is there any questions for Ms. Lage? Seeing none, thank you for the introduction. [LB174]

SENATOR McCOLLISTER: I'm sorry. [LB174]

SENATOR SCHILZ: I'm sorry. Real quick. [LB174]

SENATOR McCOLLISTER: In your statement you...thank you, Mr. Chairman. John McCollister, member of the committee. You mentioned wastewater treatment facilities and then you used the trees. Are you saying a tree is a wastewater treatment facility? [LB174]

LAURIE LAGE: There...under the federal law, this is federal money that comes in and the statute that was created was for a host of projects that could be defined as wastewater. And the EPA allows in that flexibility to allow projects that would have certain results. So it can be any number of different kinds of projects. [LB174]

SENATOR McCOLLISTER: Seems a little vacuous to me. [LB174]

LAURIE LAGE: It's something I think that has been discussed with EPA under their federal rules and something that they've indicated is allowable. [LB174]

SENATOR McCOLLISTER: I've dealt with the EPA in a former life and it would include the whole world in a definition. And a wastewater source could be anything. It could be off of a parking lot. [LB174]

SENATOR SCHILZ: Senator McCollister, we can go into this into our Exec Session a

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little bit. [LB174]

SENATOR McCOLLISTER: I understand. [LB174]

SENATOR SCHILZ: You're fine. You're fine. Your questions are valid. [LB174]

LAURIE LAGE: And those are questions that we intend... [LB174]

SENATOR SCHILZ: And let's let the next testifier come up. He may be better able to answer those. [LB174]

SENATOR McCOLLISTER: Thank you, Mr. Chairman. [LB174]

SENATOR SCHILZ: No problem. Thank you, Laurie. Do we have any proponents for the bill? No proponents. Any opponents for the bill? Okay. Any neutral testifiers? Thank you. Sure we get that in place. [LB174]

DEAN EDSON: (Exhibits 1 and 2) Senator Schilz and members of the Natural Resources Committee, my name is Dean Edson, D-e-a-n E-d-s-o-n. I'm the executive director of the Nebraska Association of Resources, presenting neutral testimony today on LB174. I want to point out the reason for the neutral testimony today is that our delegates won't meet until next week, next Tuesday, to provide formal recommendations for positions on bills. So I can't really come out and support or oppose a bill right now until they take that final action. Once they do that on Tuesday, I will forward their recommendations to you. As Laurie pointed out, the existing law for Wastewater Treatment Facilities Construction Loan Fund limits the scope of the projects that can receive funding under the program to those that control pollution of surface and ground waters. The bill would broaden that field of projects to include those that would remediate or enhance water or habitats that are impacted by pollution. In other words, the funding can be used in a more proactive manner and to address the actual impacts of pollution on habitats. Several NRDs have had discussions over the years with the Nebraska Department of Environmental Quality about different ways to utilize and enhance water quality under this program, which LB174 would do. One of the issues we discussed is that they have not been able to make full use of the money available to them because of a lack of qualified applications. I would also point out that broadening the scope under the bill is not limited to natural resources districts. Rather, it applies to all candidates. From the NRD perspective, affordable loan money can be made available for projects like creation of wetlands to filter nitrates and other pollutions; funding the planning and construction of sediment control structures and also may be used at enhanced streamflow habitat and funding any programs to acquire leases to enhance flows to mitigate pollution. These are just some general examples that NRDs and others could initiate in a more cost effective manner using this program, a program that uses, again, federal dollars. As I noted before, the department has relayed to us in

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the past that they've not been able to make full use of the money available to them because of a lack of qualified application. This seems like missed opportunities. Again, I will forward the official NARD position to you after next Tuesday. Thanks for the opportunity to testify. I did provide one other handout for you today that I just picked up off the newswire this morning and I just wanted to hand it out and bring it to your attention, the problems that Iowa is having right now. And they have three counties around Des Moines that are going to be...the water suppliers for Des Moines, Des Moines Water Works is threatening to sue the three counties because the counties have not proactively addressed nitrate problems. Fortunately, we're not in that situation here in Nebraska because we have a different structure through the NRDs to help control and mitigate pollution that gets into our streams. I bring this to your attention because this is a billion dollar issue here. We're fortunate in Nebraska that we don't have that type of problem, but what we're trying to do is make sure that we don't ever have that type of problem. If we can utilize some of these federal dollars to address water quality issues across the state, everybody wins. So with that, I will be happy to close and answer any questions you may have. [LB174]

SENATOR SCHILZ: Thank you. Senator McCollister. [LB174]

SENATOR McCOLLISTER: Yes, sir, thank you, Mr. Chairman. Dean, can you help me define a term in the handout called "underground tilling." That's in the handout that you just gave to us. [LB174]

DEAN EDSON: Oh, well, in the article? [LB174]

SENATOR McCOLLISTER: Underground tiling. Okay, I need to read it. I understand what that is. [LB174]

DEAN EDSON: Tiling. Okay. Okay. You understand what the tiling is? Okay. [LB174]

SENATOR McCOLLISTER: I do. [LB174]

DEAN EDSON: I may want to address the question with the trees. [LB174]

SENATOR SCHILZ: Yes, go ahead. [LB174]

DEAN EDSON: That might help you out a little bit. Trees are often utilized to help filter nitrates and sediments and other pollutants that might be in there, so trees can be used as buffer strips, similar to grass. You go along a stream and you plant a strip of grass, but then you also come in and plant the trees in there too. And they act as filter strips to take up the nutrients and prevent them from getting into the streams. [LB174]

SENATOR SCHILZ: Thank you. Any other questions for Dean? No. Seeing none, thank

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you, sir. I appreciate your time today. [LB174]

DEAN EDSON: Yep, thank you. [LB174]

SENATOR SCHILZ: Your neutral testimony, thank you. [LB174]

DEAN EDSON: Favorable neutral. [LB174]

SENATOR SCHILZ: That's right. Appreciate it. Is there anyone else here today that would like to testify in a neutral capacity? Okay. And with that we will end our hearing on LB174 and we appreciate everybody coming in today, and at this point we will take a little break...or take a time to go into Exec Session. [LB174]