

Transcript Prepared by Clerk of the Legislature Transcribers Office
Natural Resources Committee July 30, 2024

BOSTELMAN: Welcome to the Natural Resources Committee. I'm Senator Bruce Bostelman from Brainard, representing the 23rd Legislative District, and I serve as Chair of the committee. Today, the committee will be taking up several gubernatorial appointments, as well as LB17. We will take the items in the order posted. If you are testifying today, please fill out one of the green testifier sheets that are on the table in the back of the room. Be sure to print clearly and fill out completely. When it is your turn to come forward to testify, give the testifier sheet to the page, or to the committee clerk. 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. First, we'll begin each hearing with a appointee or introducer's opening statement, followed by a proponent, opponent, or neutral testifiers. We'll be using a three minute light system for testifiers. When you begin your testimony, the light on the table will be green, when the yellow light comes on, you have one minute remaining, and the red light indicates you need to wrap it up for, for your final thoughts and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing. This is just part of the process, as senators may have other meetings or hearings to attend to. Just a reminder to please silence or turn off your cell phones, and that 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. The committee members with us today will introduce themselves starting on my left.

FREDRICKSON: Good morning, I'm John Fredrickson, I represent District 20, which is in central West Omaha.

SLAMA: Good morning, Julie Slama, District 1, southeast Nebraska, Otoe, Johnson, Nemaha, Pawnee and Richardson Counties.

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

BOSTELMAN: And on my right.

BRANDT: Senator Tom Brandt, District 32. Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster counties.

JACOBSON: I'm Senator Mike Jacobson. I represent District 42, Lincoln, Perkins, Hooker, Thomas, Logan, and Thurston County.

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

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MOSER: Mike Moser. I represent Platte county and most of Stanton County.

BOSTELMAN: Senator Moser also serves as Vice Chair of this committee. Also to my left is committee clerk Laurie Vollertsen, and to my right is legal counsel Cyndi Lamm. Our page for today for the committee is Delanie. Thank you very much for being here and serving with us today. Our first point of business will be the reappointment of Mr. John Shad-- Shad-lee [PHONETIC]?

JOHN SHADLE: Shay-del [PHONETIC].

BOSTELMAN: Shadle? Shadle. Please step forward.

MOSER: I just told you.

BOSTELMAN: Mr. Shadle, just tell us a little bit about yourself. I think we've seen you just a few months ago, actually.

JOHN SHADLE: Exactly in April, so it's kind of like Groundhog Day here, so. Anyway, good morning, Senator Bostelman and members of the Natural Resources Committee. My name is John Shadle. It's spelled J-o-h-n S-h-a-d-l-e. I appear, appear before you today in consideration for my reappointment to the Natural Resources Commission. I hold a bachelor's degree from the College of Agriculture and a master's degree from the College of Natural Resources, both from the University of Nebraska. I'm currently employed by Nebraska Public Power District, and have been for over four decades of employment with NPPD. I've gained experience in natural resources, endangered species, water, hydrology, and, and been involved in numerous projects that have allowed me to be active-- an active participant in managing Nebraska's natural resources. I've served on the board of the Lower Loop Natural Resources District, also the Columbus Park Board, and recently, I've had the pleasure to serve on the scoring and review committee, for Water Sustainability Fund grant applications. As a lifelong Nebraskan, I remain dedicated to the mission of protecting our natural resources, and would appreciate your support in my reappointment to the Nebraska Natural Resources Commission. This concludes my testimony this morning.

BOSTELMAN: Thank you, Mr. Shadle. Is there questions from committee members? So, since your appointment that we had last time, until now, have you had meetings on the commission? And what, what was the meetings--

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JOHN SHADLE: We, we did. I was-- I was told that when you're a newbie on the commission, you get appointed to look at the stack of papers, all the grant applications for the water sustainability. So, I contacted a couple of folks that have been on the commission for a while. They kind of told me the lay of the land. And it was a very interesting two days in Kearney last week as a matter of fact. So, lots of really, really good applications and as you might suspect, more asked than we had money for. So it was-- it was a difficult choice, and we've made our recommendation. I think that goes to the full committee for our meeting in August 14th, I believe. So then they'll either say yay or nay to our recommendation. So. Yeah.

BOSTELMAN: Are there any other questions from committee members, Senator Brandt?

BRANDT: Thank you, Mr. Chairman. Thank you, Mr. Shadle for being willing to do this. It's, it's another form of public service. On this-- on the applications, for the water, what percent do you think will get approved, and what percent were not?

JOHN SHADLE: You know, there was-- the ra-- the range, Senator, was very f-- as I recall, \$35,000 to almost \$9 million. And so it's, it's highly dependent. But this would just be a guess on my part, but I think we were able to fund, probably, about 80% of the ask.

BRANDT: OK.

JOHN SHADLE: So, and again, a number sticks in my head, we had close to, I believe, \$10 million this cycle to distribute to-- or to make a choice for, so.

BRANDT: And the ones could come back that were not approved next year and, and reapply?

JOHN SHADLE: Yes, sir.

BRANDT: All right.

JOHN SHADLE: Absolutely. Yes.

BRANDT: All right.

JOHN SHADLE: Yes.

BRANDT: Thank you for that clarification.

JOHN SHADLE: Sure.

BOSTELMAN: Other questions? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thanks for being here. And thanks for willingness to continue to serve after finding out what it's really like. So the Water Sustainability Fund, what is the-- do you know the source of that revenue, where the money comes from for that?

JOHN SHADLE: I wish I were more informed about that, but I, I believe it comes from the General Fund. But I-- you know, I should-- I should know, but I'm not going to speak like I'm an expert there. I'm sorry.

J. CAVANAUGH: No, that's right. I'm just curious, because we've had we had some debate in the budget last time about taking some money out of the Environmental Trust and putting it into one of the, it might have been the Water Resources Cash Fund, not the Waters Sustainability--

JOHN SHADLE: OK.

J. CAVANAUGH: --Cash Fund, but I don't recall.

JOHN SHADLE: OK. But-- yeah, again, there were, were several very good applications, and, and, and would really forward the, the natural resources effort in the state. Again, not surprising, more apps than there were money.

J. CAVANAUGH: Thank you.

JOHN SHADLE: Sure.

J. CAVANAUGH: A lot of need out there.

BOSTELMAN: Senator Moser.

MOSER: When I drove across the Platte this morning, I could see sandbars. Is it going to go dry this fall, you think?

JOHN SHADLE: Looking at the forecast, Mike, I think there's a pretty good chance of that. You know, we're, we're, we're almost into August, so I don't-- hopefully it won't go completely dry. But, you're right, it has fallen quite a lot.

MOSER: I always hate that driving over there when it's all weeds and sandbars.

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JOHN SHADLE: Yes.

MOSER: Anyway.

JOHN SHADLE: Yes.

MOSER: Thank you.

JOHN SHADLE: Certainly.

BOSTELMAN: Seeing no other questions, thank you for your willingness to serve.

JOHN SHADLE: Thank you.

BOSTELMAN: Yes. We did not receive any positions letters for the reappointment of Mr. Shay-del [PHONETIC]?

MOSER: Shadle. You're catching on.

BOSTELMAN: Is there anyone like to testify in a proponent for this appointment, reappointment? Anyone testify as a proponent? Anyone want to testify as opponent? Anyone in opposition? Anyone in the neutral capacity? Seeing none, this will close our hearing for the reappointment of Mr. Shadle to the Nebraska Natural Resources Commission, right. Next we'll have the appointment for Kennon Meyer to the Natural Resource Commission. Please step forward and welcome to the committee, and please just tell us a little bit about yourself.

KENNON MEYER: Sure. Good morning, Senator Bostelman and members of the Natural Resources Committee. My name is Kennon Meyer, K-e-n-n-o-n M-e-y-e-r. And I am here this morning for my appointment to the Natural Resources Commission. A little bit about myself. I am an attorney here in Lincoln. I have been practicing for seven years now, and my area of practice has been primarily, and almost exclusively, both water and environmental. And I have enjoyed my practice quite a bit over the past seven years. I have learned a lot and gained a lot of valuable experience in the clients I represent. And the different projects I've been able to be a part of. About two years ago, I was asked to serve on an advisory committee for the city of Lincoln in their search for a secondary source of water. And in that role on that committee, or advisory council, we met for a full year, about once a month. Members from the Lincoln community came together to assess and analyze the secondary source options available to the city, worked collaboratively with that group to come up with,

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ultimately, our recommendation to the mayor. And I really, really enjoyed that process, working with those individuals, analyzing that data as a group. So after that process wrapped up, I kind of thought what my other options might be to develop my career further in natural resources, and the commission came to mind from my years of practice. So that is what I am here before you this morning, hoping to be appointed to the commission.

BOSTELMAN: Thank you. Questions from committee members? I do have one. The firm that you belong to is Blankenau, Wilmoth, and is it Jer-ek [PHONETIC]?

KENNON MEYER: Jer-et-ski [PHONETIC]. That's a tough one, yep.

BOSTELMAN: So, and is Don Blankenau primary in that, is he a-- And so, Don-- Mr. Blankenau does represent water issues from time to time. And we've had him testify at different hearings before. Do you see any conflicts between this potential appointed position, and serving in that-- being a part of that law firm?

KENNON MEYER: Sure. That's a great question. Don Blankenau, Tom Wilmoth and David Jarecke are the named partners at that firm. And we do represent quite a few natural resource districts. In that capacity, as general counsel, I've made a disclosure to the director of the department, letting him know of that general counsel role, and my intentions to recuse myself from any action that would directly be a conflict with any of those districts. I made that disclosure to Tom Riley, and plan on making those disclosures to the Accountability Commission in the future as well. So, when those do arise, I anticipate that I would recuse myself from those situations.

BOSTELMAN: Any questions from committee members? Senator Cavanaugh?

J. CAVANAUGH: Thank you, Chairman. Thank you for your willingness to serve, thanks for being here. First off, are you a DePaul Blue Demon?

KENNON MEYER: I sure am, yes.

J. CAVANAUGH: I've got--

KENNON MEYER: Undergrad.

J. CAVANAUGH: --several siblings who are also DePaul Blue Demons.

KENNON MEYER: Great. Yes.

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J. CAVANAUGH: Anyway, that just jumped out at me.

KENNON MEYER: That's OK.

J. CAVANAUGH: So the position is municipal user? Does that just mean person who consumes water from a municipal water source?

KENNON MEYER: From cities of the primary class.

J. CAVANAUGH: Primary class. So, Lincoln?

KENNON MEYER: So, Lincoln. City of Lincoln.

J. CAVANAUGH: So, so it's not that-- you're not in your official capa-- your capacity as a person who represents water resource districts or anything like that. You're just as a citizen member from a--

KENNON MEYER: Correct. Correct. My area of practice has been primarily with natural resource districts and some more rural areas, but this would give me a municipal user representation.

J. CAVANAUGH: OK. Thank you.

KENNON MEYER: Yes.

BOSTELMAN: Senator Brandt.

BRANDT: Thank you, Chairman Bostelman. Thank you for your willingness to serve. So you're kind of a rare expert for the committee today, and I don't know if you can answer this question or not, but in your dealings with our natural resource districts, what is-- what is the number one and two things that you see happening today that they are having problems with, that they need your advice on?

KENNON MEYER: That's an interesting question. Like I said, we are general counsel to a lot of those districts. And one of the things I spend a lot of time doing is helping them with their rules and regulations, updating those, making sure that those are current and are serving their district's particular needs is something I spend a lot of time doing in my practice.

BRANDT: All right. Thank you.

KENNON MEYER: Yeah.

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BOSTELMAN: Other questions from committee members? Seeing none, thank you for your willingness to serve. This-- we did not receive any-- That's all we need from you right now.

KENNON MEYER: Thank you.

BOSTELMAN: Thank you very much for your willingness to serve on the Natural Resource Commission. We did not receive any position letters on this appointment. Is there anyone who would like to testify in-- as a proponent for the appointment of Ms. Meyer to the Natural Resource Commission? Any proponents? Anyone like to testify as opponent, in opposition to this appointment? Anyone like to testify in a neutral capacity? Seeing none, this will close our hearing for the appointment of Kennon Meyer to the Natural Resource Commission. Our next hearing will be for the reappointment of Rick Kubat to the Natural Resource Commission. Good morning, and thanks for coming in, and please give us some information about yourself, and--

RICK KUBAT: Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Rick Kubat, R-i-c-k K-u-b-a-t. I am a lifelong Nebraskan. I did move out of state for four years. I obtained my undergraduate degree during those four years at Miami of Ohio. I'm currently employed at the Metropolitan Utilities District in Omaha. We supply water and natural gas to roughly a third of our state's residents. I've been fortunate enough to serve as past president of the Nebraska Water Resources Association. This would be a reappointment. Specifically in statute, there's an-- there's a seat for somebody from the Metropolitan Utilities District. I've served on the Natural Resource Commission since December of 2000, and I have obtained a law degree from the University of Nebraska College of Law in 2002. I've worked for Douglas County for the first half of my career, and for the last 12ish years I've worked in government affairs for the Metropolitan Utilities District. And as part of those job duties, I get to follow the State Legislature on a regular basis, which has been quite entertaining for me. So with, with that, I'd be happy to answer any questions that you might have.

BOSTELMAN: Thank you for your willingness to continue to serve. Are there questions from committee members? Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thank you for your willingness to serve, Mr. Kubat. Good to see you. I didn't know you went to Miami of Ohio. Was Ben Roethlisberger there when you--

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RICK KUBAT: He-- I believe he was a freshman right after I graduated. Good, good quarterback, though.

J. CAVANAUGH: I've heard. So you are being appointed, or reappointed, how, how many terms have you served on the Natural Resources Commission?

RICK KUBAT: So we had a retirement at MUD, and I fulfilled, I believe the last, would be four years or the, the remainder of that term. So it was December of 2000 that I was appointed.

J. CAVANAUGH: Of 2000?

RICK KUBAT: Yes. He-- so the person--

J. CAVANAUGH: Are you sure? You said you graduated from col-- law school in 2002

RICK KUBAT: I, I'm sorry. 2020.

J. CAVANAUGH: OK.

RICK KUBAT: 2020.

J. CAVANAUGH: So that's four years, so, yes. This is your first--

RICK KUBAT: Four years.

J. CAVANAUGH: --full term.

RICK KUBAT: Just four years.

J. CAVANAUGH: And you're being appointed for-- specifically for the municipal water utility.

RICK KUBAT: So there's this-- when-- I've been around long enough where Senator Car-- I followed Senator Carlson as he formed the Natural Resource Commission and the allocation of state resources for those purposes. And during those negotiations on the floor of the Legislature, the-- you, the Legislature, have a specific seat ors-- for us, someone from a metropolitan utilities district, of which there's only one. So in this case, the Governor's choices are limited.

J. CAVANAUGH: Well, he made the best with what he's got. Thank you.

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BOSTELMAN: Other questions from committee members? So recently-- we talked about you reviewed grants recently, applications and that. How had that process gone cons-- in compared to previous years?

RICK KUBAT: So, Mr. Shadle spoke about it. We were in Kearney last week going over the grant applications. What I would say is we have pretty robust, detailed conversations. We go through each grant in all the scoring criteria and discuss big picture items. From my perspective, it's, it's gone well. The allocation of our state's precious resources, I think, have gone to a lot of very important water projects statewide.

BOSTELMAN: Are there any things that you would like to see change in that process from, from years of experience like you have today?

RICK KUBAT: That's a great question. And what I would say is, it is evolved. We have recently-- this is the first year where the Natural Resource Commission has made some recommended changes in terms of how we score the grant applications. And so we have made some changes, and I do think that it's important as time goes on that you evolve and you improve the process in the grant application. We've improved our, what I would say our scoring criteria. We've also placed a greater emphasis on water quality in terms of the amount of points that one can give when they're advocating for expenditures specifically directed towards a water quality concern.

BOSTELMAN: Are there-- I guess, on the applications and not knowing what those are, they're more directed in certain areas as far as water quality is it and were-- as far as facility wise, or is it stream bed stuff? You know, riverbank, stream bed, water flow. What, what is it do you see as a-- as a-- was probably the main focus for more grants this the last time you received on water quality, what would be that?

RICK KUBAT: So what, what I would say is every single year that I've been on the commission in terms of the kinds of grants and the requests for allocations, they're significantly different from year to year. You know, it runs the whole gamut, Senator, in terms of water quantity issues, water quality issues, assistance for natural resource districts in terms of getting a better understanding of their specific water basins in, in terms of what's, what's going on with the groundwater table, both in terms of depth and water quality, all the way over to assistance for municipal water suppliers and their ability to provide the public with their potable water needs. And then, I mean, it, it, it does run the whole gamut. And then

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there's, you know, other applications for dam safety or reservoir improvement. So it's really all over the board.

BOSTELMAN: OK. Thank you. Are there any other questions from committee members? Seeing none, thanks for your willingness to continue to serve on the Natural Resource Commission. Thank you.

RICK KUBAT: Thank you.

BOSTELMAN: We did not receive any position letters for the reappointment of Mr. Kubat. Is there anyone would like to testify as a proponent? Anyone like to testify in favor of the reappointment? Anyone like to testify as an opponent? Anyone in opposition? Anyone like to testify in the neutral capacity? Seeing none, that will close our hearing on the reappointment of Rick Kubat to Natural Resource Commission. I would like to thank all three individuals coming in this morning for the hearings for the appointments of Natural Resource Commission. With that, we will open our hearing on LB17. Senator John Cavanaugh, you're welcome to open when you're ready.

J. CAVANAUGH: It's such a thrill to be here in this room in July.

HUGHES: Hey, it's cool.

J. CAVANAUGH: It's cool. You know, I would-- would have preferred a different day.

BOSTELMAN: We're cozy.

J. CAVANAUGH: Yes. Good morning, Chairman Bostelman and members of the Natural Resources Committee. I am Senator John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h, and I represent the 9th Legislative District in midtown Omaha. I'm here to introduce LB17, which would repeal the Perkins County Canal, Canal Project Act, and redirect the funds to property tax relief. At a time when the Nebraska Legislature is considering large permanent cuts to state government funding-- government spending and tax increases on hardworking Nebraskans and small businesses in our state, I offer LB17 as a potential alternative, maybe a way out, a solution, a compromise that if agreed to, I believe could get broad support from all sides. To put it simply, if we are in a situation now where we are proposing the sort of tax increases and spending cuts that the Governor's currently proposing, then it's clear to me that we cannot possibly afford the \$571 million in spending that LB17 is proposing to cut from our budget and also provide property tax relief. But removing this significant item from the state's budget would give the Legislature

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the opportunity to provide direct property tax relief to Nebraskans, such as frontloading 11-- LB1107 tax credits immediately without any increase in other taxes to offset. LB17, as introduced, would terminate the fund on January 1st, 2025 and transfer amounts to the Economic Recovery Contingency Fund, the Museum Construction and Maintenance Fund, and the Inland Port Authority Fund, to hold those funds that we're drawing out of the Perkins Fund interest revenue neutral. The remaining funding, estimated in the fiscal note to be about \$571 million, would be transferred to the Property Tax Credit Fund. That fund is a placeholder in the bill. If another fund during the session is a better way to provide direct relief, I would be open to an amendment. I recognize that for a number of you, this is an important project, but particularly when many of my constituents are being asked to shoulder the burden of new tax increases under the Governor's plan, I cannot simply ignore this large amount of spending which would be-- could be put to a better use for all Nebraskans. I want to thank the committee for your time and consideration, and I'd be happy to take any questions.

BOSTELMAN: Thank you, Mr. Cavanaugh, Senator Cavanaugh. Is there any questions? Senator Jacobson.

JACOBSON: Thank you, Chair Bostelman. Well, needless to say, I would be adamantly opposed to this bill for a huge number of reasons. But just to be clear. So to begin with, obviously, Senator Wayne had brought-- this, this bill was brought and actually passed in, in the 107th Legislature, so it raises questions about germaneness for this special session. But to look at the bill itself, they-- Senator Wayne brought a bill that would carve out the income or the, the earnings off the fund to go to these three pet projects in Omaha. Correct?

J. CAVANAUGH: Yes. The interest-- the interest funds go to those [INAUDIBLE].

JACOBSON: Right, the earnings, earning the investments off of that fund. And you're suggesting we'd use those to frontload the LB1107 credits, where the LB1107 credits right now, a large portion of those credits are going unclaimed, and most of those are in the metro area. Correct?

J. CAVANAUGH: I, I guess I don't know where most of the unclaimed credits are. I'm told by the Governor's office in particular that about 60% in Douglas County are unclaimed.

JACOBSON: Right.

J. CAVANAUGH: But I, I don't know what the rest of the state is.

JACOBSON: Right. I would suggest that for the rest of the state, it's, it's fairly high in terms of what's being claimed. So the net effect of this would be, besides the fact of killing a critical project, that we have really the opportunity to either claim our water or forever foreclose our ability to to take that water, which seems incredibly foolish to avoid that opportunity. In the 107th Legislature, we had dollars that could be allocated. The Governor made this a priority to allocate these funds. I know there'll be testifiers to testify in support that will talk about how critical these funds are to a power plant in Sutherland, how important these, these waters are to re-- recharging the, the, the, the, the water table, and that some of these dollars, these funds actually would make it to the eastern part of the state. I think earlier we had some discussion with regard to the fact the Platte River near Columbus now is, is probably going to dry up. And as you move on across to the west, you're going to see more of that. Water-- I think when we had this discussion before, we talked about how critical water was and will continue to be. And all you've got to do is go to Colorado and look at how valuable water is to them. I would just ask you, as you look at, and I know you've read, the compact, would you not agree that if we move forward with the project and, and, and continue to move down the road, which we've already started, that there's a point when Colorado will want to sit down and negotiate some kind of an agreement that, in my mind, would mean bringing in a lot of dollars to the table to try to reach some kind of compromise to keep some of that water. Do you see that as a realistic possibility?

J. CAVANAUGH: Well, I guess I can't speak for Colorado, but I would hope that they will come to their senses and not want us taking their land, to capture our water. But I guess to go back, I, I don't follow the germaneness argument. The Governor has made a call about the session, and that includes appropriations of funds, or prior appropriations. So this bill, I think, pretty clearly falls within the germaneness of the call of the session. And as to the wisdom of changing or not building the project, you know, I, I think that there is value in the project. Of course I do. I do think that the problem we've had is we built this project-- we funded the project in the 107th Legislature, as you said. And the reason we did it at that point was we had money and we said, well, we have the money, we're never going to have the money again, so let's build this big, ambitious project. That was more of the driving force, I think, at that time than actually the merits of 100 year old project that we hadn't yet, up to that point, built. And so what I'm saying is we

don't have the money. We're clearly having a conversation about how we don't have the money. And so we need to reevaluate that proposition and say, well, we thought we had the money, now we don't. So now we need to reconsider how we allocate the money. And whether you think the LB1107 fund is the right place to go, as I said in my opening, I think I put that as a placeholder because this is a property tax meeting. But there may be other, better ways to do it. Senator Brandt, Senator Hughes's bill that LB9 could take some of this money, perhaps. And they probably don't want me throwing them under the bus in this particular conversation, but just saying this is a large pot of money that we have appropriated and is sitting in an account for an ambitious project. But one of the defining features of that conversation was, let's spend the money because we have it. And this conversation we're having, this whole special session is about we don't have the money, so let's find other sources of money. And whether that's raising taxes on everything across the state, or that's slashing funding in other departments, this needs to be part of that conversation, because it's the largest single pot of money that we have sitting out there. So I, I take-- your point is well-taken. I think there's a lot of positive parts to this project, but it needs to be part of the whole conversation.

JACOBSON: But to the point of germaneness, it's my understanding that the special session calls for actions based upon passage of laws in the 108th Legislature. So that would suggest that this does not fit because this was passed in 107th Legislature.

J. CAVANAUGH: I think you have to read the call as not exclusive, but-- so it's includes bills that pass the 108th Legislature, but it also includes appropriations and expenditures.

JACOBSON: And I would also just suggest that these dollars were earmarked for this project. The dollars were used for specific funding. So if we're going to open up funding, we probably need to go back to maybe the entire Inland Port project in Omaha, probably the economic development project in Omaha. Stop that project and use that for funding LB1107, so those dollars can be redistributed in Omaha, where the LB1107 credits aren't being collected. Would you support that as well?

J. CAVANAUGH: I don't-- well, I'm not saying I would support that, but I think it's-- your point is correct that that would be a valid part of a conversation if somebody had brought a bill to do that. I brought this bill.

JACOBSON: Thank you.

BOSTELMAN: Senator Moser.

MOSER: Thank you, Senator Bostelman. Well, when you look at the big picture, property taxes-- I'm sorry. Yes. Property taxes are about \$5 billion. So \$500 million would-- while that's a lot of money, even in terms of whoever that was, Adlai Stevenson or somebody who said a million here, a million there, pretty soon you got a lot of money. It's only 10% of the property taxes and only for one year, so if we spend that money on lowering property taxes once, then the next year you're going to have to raise them again, or you're going to have to find funds to replace what that \$500 million funded. And I think that would be shortsighted to spend that in one fell swoop when the Perkins Canal could affect water quality and quantity supplied to Nebraska for hundreds of years. I mean, the original compact, was it 100 years ago?

J. CAVANAUGH: About.

MOSER: Yeah. So some of the things we do last a while, and I think we need to look at it in a long term picture, that it's way wiser to have this money available to try to build a project to protect our water rights than it is to, you know, have a one time bump in property taxes. And as far as the germaneness of, you know, what we're talking about, I'm sure there will be laws and bills passed, ten years ago, 20 years ago, that will be affected by what we're considering in this special session. So I think it-- I think your bill is a bad idea based on the timing and, and what it does to water quality. I don't care about-- so much about the germaneness, that's a question for the legal mind to argue, but. And I-- you know, I don't-- I don't begrudge your enthusiasm for opposing it. Now, if you were taking up-- talking about taking the money from the Ashland Lake, I'd vote for that. But nobody brought that bill.

J. CAVANAUGH: I think that most of that money is already gone.

HUGHES: There is no money, so.

MOSER: Well, let's dig it back up.

J. CAVANAUGH: But, but I, I appreciate-- I appreciate your candidness about your perspective, Senator Moser.

MOSER: Thank you.

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BOSTELMAN: Do you have anything to-- other comments to-- Senator Cavanaugh?

J. CAVANAUGH: I appreciate Senator Moser's perspective.

BOSTELMAN: OK. Senator Brandt.

BRANDT: Thank you, Chairman Bostelman. Thank you for bringing the bill so that the committee has a hearing. I agree with my colleagues, as that's probably no surprise to you. I was astounded two years ago, three years ago, we had a press conference with the Governor on STARWARS. And I thought it was on STARWARS, and it's just like-- I think Riley was there, and he stood up and said, well, we've got this compact from 1923 that Colorado owes us this water, and we have the right of eminent domain, and my imagination was fire then. I mean, I, I couldn't imagine that a state would have eminent domain in another state. And the more you learned about this, this is kind of an ironclad gift for the state of Nebraska, this compact is, because if Colorado were to open this compact that they don't like, it would make them vulnerable on the Colorado River Compact, is what I have heard. So we have an opportunity as a state to get so many cubic feet per second from Colorado, but only if we build the canal. And I think Senator Jacobson is right, and you as an attorney probably see this, if we could leverage Colorado into giving us our cubic feet per second without building the, the canal and make that ironclad, I would maybe be open-minded to looking at reallocation of this money. But until that time-- I mean, I don't-- I don't see how we-- can you tell me how we would have leverage if we-- if we take this money out?

J. CAVANAUGH: How do we have leverage?

BRANDT: With Colorado.

J. CAVANAUGH: Well, I mean, I'm not going to speculate on what the state's going to do in terms of its relationship to Colorado. But, you're probably right that the threat itself gives us more leverage than not the threat. But I think you're also right that it would be better to get the water without taking land in Colorado, without spending a quarter or half \$1 billion.

BRANDT: And then the, the second point, I guess, is, this reads to me like it's going into Tier I with the Property Tax Credit Cash Fund. That's Tier I, isn't it, the PTCRF, not Tier II? OK.

J. CAVANAUGH: I'm double checking it.

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BRANDT: And so if you-- if you dump \$500 million into Tier I, that would get allocated the first year and that would be the end of it, right?

J. CAVANAUGH: I think you're right. I-- well, and I guess to go back to my opening, I'd say my point is more where the money is being directed is probably a placeholder. I think if we just-- the question really presented is, should we move the money? And then once we have \$571 million, that's the question, we're still having a question about what's the mechanism to provide property tax relief. Is it LB1, which I assume has just started its hearing? Is it LB9, which just started yesterday? Is it LB22, which will have a hearing tomorrow, I think? There's lots of proposals. I don't know how many bills ended up being proposed about property tax relief, but the one consistent thing about all that is it will take a large amount of money to do it. And we have money sitting in an account. And we're talking about raising taxes on Nebraskans. And my point is that we spent this money, and it did fire your imagination, but the reason that it started doing that was we went down this path because we had the money. And that is kind of my whole point in all this is, maybe this is a meritorious project. There's a lot of meritorious projects out there. But we shouldn't just do projects because we had the money when, when we thought of them. We should-- we should have an evaluation about the value of the project overall in conflict with other projects. And right now we have a very large expenditure being asked of us, and we're being asked to fund it by increasing taxes on all Nebraskans. And I'm saying, why are we doing that if we spent a bunch of money just because, not just because, but because we had it at the time?

BRANDT: So one final question. We have 113 sales tax exemptions. And everything else in the state is sales taxed. Is eliminating a sales tax exemption a tax increase?

J. CAVANAUGH: Yes.

BRANDT: All right. Thank you.

J. CAVANAUGH: Someone will have to pay more money when you eliminate it.

BOSTELMAN: Senator Jacobson.

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JACOBSON: I just have one, one last question, comment, I guess is, OK, you, you mentioned that we decided to do this because we had the money, but, but if I'm not--

J. CAVANAUGH: Not exclusively, but yeah.

JACOBSON: Well, I want to go back when Governor Ricketts really came up with this idea to begin with, it happened much sooner than we had the funding available to do the big funding. So Governor Ricketts, who had this idea for some time, we came up, as I understand it, a quarter of 1 million, or \$250 million to, to, begin doing the feasibility study when-- and or-- and allocated dollars for a feasibility study. Then we came back with the budget surplus, and then ended up with Governor Pillen making that a priority to fund and really push the project. So I come back again to my colleague, Senator Brandt, that, that this becomes a leverage issue. We have-- we have an opportunity with an ironclad compact with Colorado to bring them to the table. At this point, they've not come to the table. I believe as we move through the process, there will be discussions once they know we're serious. Even talking about removing that funding in my mind, puts Nebraska in a weaker position. So I, I just want to clarify the fact that this project didn't just come up because there was dollars in the budget to be able to allocate it. This has been a project this Governor-- then Governor Ricketts, for several years before that.

BOSTELMAN: OK. Question for clarification on your bill. It is to terminate the fund, and to totally repeal the project?

J. CAVANAUGH: I'm sorry?

BOSTELMAN: Is, is your intent of LB17 to terminate the fund, the funding, the fund, and totally repeal the project?

J. CAVANAUGH: Well, I suppose my intention is to repeal the funding, which I think would effectively terminate the project. But I don't have anything against the projects, I have-- I'm interested in where the money is.

BOSTELMAN: Yeah. Because part of my question, my question is I understand where you're at, where your position is on the funding portion of it. If it's not completed, if, if the project is repealed, if the project would not have the funding for it, what does that do to us as far as our water rights into the future? Does that-- does that completely-- does that call us-- I don't know if the right

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terminology would be null and void for any call for water in the future? Does this basically, once we-- if we would repeal this, if we would not do this, would that say that we no longer have-- can, exercise our rights to the water from Colorado? What's your thoughts on that?

J. CAVANAUGH: Well, I'm sure somebody here who is going to be testifying against the bill could probably do a better job of explaining, but I'll do my best. So my interpretation, my understanding, is the canal is about specific water rights, not all of our water rights. So it has to do with the water in, in the non irrigation season, is that the right--

BOSTELMAN: The flow of water through the year at the time.

J. CAVANAUGH: What's that?

BRANDT: Both in and out of season.

J. CAVANAUGH: But it's specific to the water in the canal is a dif-- is not all of our water rights as it pertains to Colorado. And the position, I think, of the Ricketts administration and Pilleen administration would be that we need to build this to perfect our claim on that particular water. So we have a right to it, we are not currently actually exercising it. So without the canal, we would not have the ability to call out that water. We still have the ability to call out other water that we would have a r-- an existing right to. And I think by not building the canal, I don't think it puts us in a worse position than we were before, meaning that we started building this canal 100 years ago when the pri- you know, the, the compact was still-- was originally drafted, and it was abandoned. And so our position now is that we can again start building the canal and per-- and now perfect that right. And so I think if we were to again say, well, we're not going to build it right now, I think that still leaves open in the possibility in the future to that, that time, perfect that right. But it would remain unachieved at this point if we didn't build the canal. I think that's right. Does that make sense to answer that right? Somebody here will correct me, gleefully, I'm sure.

BOSTELMAN: OK. All right. So you really your intention is the funding portion of it is what you're looking at.

J. CAVANAUGH: Exactly.

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BOSTELMAN: OK. All right. Other questions? Seeing none, I assume you will stay for closing?

J. CAVANAUGH: Yep.

BOSTELMAN: Thank you very much. Anyone who would like to testify in support of LB17, please step forward. Proponents for LB17, please step forward. Seeing none, would anyone like to testify as opponent to LB17? Anyone testify in opposition. Good morning. Please state and spell your name.

DEVIN BRUNDAGE: Good morning, Chairman Bostelman and members of the Natural Resources Committee. My name is Devin Brundage, D-e-v-i-n B-r-u-n-d-a-g-e. I live in Gothenburg, Nebraska, and am the general manager for the Central Nebraska Public Power and Irrigation District, and I'm here today to testify on behalf of Central and the Nebraska State Irrigation Association in opposition of LB17. I passed out some testimony, you can read it at your leisure. I'm just going to speak from the heart for a few minutes. Testimony so far today and discussion leads me to believe you guys are-- have read this, have lived this for the last number of years. You guys are experts in this. You guys have the, the issues down, down very pat and first, I want to thank this committee and the Legislature for, for authorizing and funding this project, it is an incredibly important project. The budget is important. Property tax relief is important. We understand all of that, and it is-- we are very thankful that the Legislature is dedicated to helping the citizens reduce property taxes. I think it's also important to differentiate between spending cuts and investment cuts. There's a difference. This is an investment, and I'm going to talk about Lake McConaughy for just a moment. Our, our district-- you-- many of you have been on the tour, and if you haven't been, I think you're well aware of our district. We have Lake McConaughy, 1.7 million acre feet. We generate over 300 million kilowatt hours of hydro generation, we supply water to other irrigation districts, we serve over 100,000 acres on our own of surface water, provide cooling water to Gerald Gentleman for generation. An incredible array of, of, benefits to the state of Nebraska. They built the project for \$50 million in the 1930s. \$50 million, and I'm sure they probably didn't have the money then either. Today that \$50 million investment is returned by the end of January annually in economic benefit to the state. Could we afford to have deleted it and not had it present? I don't think so. This is the same-- this is the same story. And I'll even go a little further than leverage. Building the canal, and especially the reservoir, the ability to store that water for the benefit of the people of the state has paid off for the last 100

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years of-- from the vision of our forefathers, and this committee and this Legislature has started us down the same path of vision for the next hundred years with this project. The, the economic impact, is, is incredible. One year, last year, 2023, the amount of water was \$13 million of benefit to the state. If you price it on that Colorado transfer from the basin on the other side, more like \$580 million of value in one event in the spring that we could have stored. It, it is incredibly important to the people in the state of Nebraska. And, those visionaries from 80 years ago couldn't have imagined the opportunities their project would hold for us today. Reversing course now will begin the erosion of that existing benefit and the untold promise for our grandchildren, for tomorrow. So with that, I'll close and, answer any questions you may have.

BOSTELMAN: Thank you for your testimony. Senator Jacobson?

JACOBSON: Thank you, Chairman Bostelman. Mr. Brundage, thank you for your testimony today. And thank you for the work you do every day for all of us in the western part of the state. I, I want to focus a little bit on having gone on the, the tour. Can you speak a little bit to the issues that we're currently having? And if not-- if not, you, maybe others can bring-- a couple of years ago, on the tour, we had, we'd watched the year before, a very dry year. The Western Canal did not get the allocation of water that it was supposed to get. My understanding is we're continuing to have problems right now with Colorado delivering even the base amount of water. Is, is that true?

DEVIN BRUNDAGE: I can't speak to the delivery across the state line, but again, another dry year. Lake McConaughy sets at the mid 40s. Having the ability to have had that water in the previous year, stored up and ready to deliver, would have taken that-- the runoff that allowed that-- the value of the storage water in Lake McConaughy to be multiplied again and serving, serving in those dry years.

JACOBSON: And, and my understanding is, with the Perkins County Canal, and to be clear for those who don't understand what the canal is, it's not just a canal. It's a canal with a couple of reservoirs that will store the water. So we're bringing the water, south of the-- of the Platte River, it actually in Perk-- in Keith County, where there would be a large reservoir, probably similar to Calamus, that would-- and then there'd be another overflow pond next to it. The hope would be that we'd be able to collect enough water there in a normal winter, to where we can perhaps replace the outflow of water from, from McConaughy for the irrigators that are needed-- that need those, those-- that water for surface rights, and still have that

water in McConaughy to really deliver on that would make it all the way to the western end, or to the eastern end state. Is that your understanding?

DEVIN BRUNDAGE: That's correct, Senator Jacobson. The value of that, what I hear is maybe a 130,000 acre foot reservoir. That's about enough capacity for us to serve our entire district for a year. That's, that's an incredible amount of benefit, especially when you hit those dry times, and we aren't able to store enough water in McConaughy to meet all the demands downstream. That, that would be an incredible benefit. And through the plumbing, and if you've been on the tour you've seen the plumbing, the ability to divert that water, even to go past Gerald Gentlemen and provide energy generation on its way to the final destination to irrigate our, our farmlands.

JACOBSON: And, and I know you probably can't speak totally to this, but I would also note that if we can keep more water in McConaughy, I'm-- I hear the estimate is about 2 million people from Colorado come here annually to-- for recreation on Lake McConaughy. That's a significant tourism benefit to Nebraska. When that lake is down low, those people aren't coming.

DEVIN BRUNDAGE: Well, we've, we've endeavored to help people understand that there's a lot of beach, regardless of where the water level is. And to be honest, I think that message has gotten out there. We see-- we see a good-- a good number of visitors and, and Game and Parks, I think in 2019, nearly 2 million visitor days. But yeah, it is-- it is important to balance all of the needs, and by having additional resources and storage available, it allows us to better manage those surface water supplies so that everybody's needs are met every year. In the 2000s, there was not enough even for our irrigators. We had to allocate our irrigators' allotment of, of irrigation water. This, this would help go a long ways to, to making sure that never happens again.

JACOBSON: Thank you.

BOSTELMAN: Senator Brandt.

BRANDT: Thank you, Chairman Bostelman. So, if this gets built, is this a Central project, Central Irrigation?

DEVIN BRUNDAGE: No, this is a project for the, the state of Nebraska, so.

BRANDT: So Central really would have no jurisdiction over, over this?

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DEVIN BRUNDAGE: It is-- DNR, Department of Natural Resources would be-- the state of Nebraska would own it, and whether or not there's some opportunity for us to help, you know, them, we've, we've made sure that that, that offer is there to help them operate it, if need be. But, the water is the state's, to, to use as the compact allows.

BRANDT: So, because McConaughy was built in the 1930s, and this water compact was 1923 on the South Platte, was there a water compact on the North Platte that feeds McConaughy before McConaughy was built?

DEVIN BRUNDAGE: There is, and I don't know the history well enough, a, a agreement of some sort with Wyoming. But, you know, Central built their project, and that's actually a great point. Today we have all these benefits from the project that our forefathers built in the 1930s with only the, the dream of capturing these water flows that would come out of the mountains. There was already development, the, the dams in Wyoming had already been developed. Today, not only is that benefit part of the Perkins County Canal and Reservoir, but also this, this perfection of the water right. That is kind of the second prong of, of this, this project that-- So there's actually two benefits to this that--

BRANDT: So.

DEVIN BRUNDAGE: --are there.

BRANDT: OK, I'm going to switch gears a little bit. You're, you're close to Colorado. Obviously we don't have a Colorado expert here. What do you see happening on the Front Range? I mean, are they going to totally dry up the South Platte forever?

DEVIN BRUNDAGE: I, I think it makes sense if they-- whatever opportunity they have to bring water to the Front Range, they're going to do it. I mentioned the \$8,000 an acre foot value. That, that's what-- how they value the water that they bring from the Colorado Basin back across. At that value, you know, that one event, that one 72,000 acre foot event last spring is \$580 million in value. I think they will do what it takes to make sure that that water is utilized in the state of Colorado.

BRANDT: All right. Thank you.

BOSTELMAN: Other questions? You have one [INAUDIBLE] one or two specific areas of interest with irrigation, and with the lake itself. However, part of the, I think, another part of this that we're not talking about is just the stream flow down-- the stream flow further

downstream to our cities and that, especially if you're getting into, as Senator Moser mentioned earlier, in one of the appointments that the Platte is it going to dry up-- surface water going to dry up. We know the water is still moving, you know, underground below the sands [INAUDIBLE] the surface water. But this is also an important part of the canal we're talking about is that, that flow to continue to be able to augment when those times happen. So that's important to all the cities, all the way down through to Omaha, Lincoln, Omaha, would draw water, Columbus, north, all the-- all those cities along there also draw water out of the Platte, that this is important for them as well, to ensure we have that stream flow to them, to be able to augment-- to meet those needs in the future in those dry years, so is that accurate?

DEVIN BRUNDAGE: That's, that's absolutely right, Senator Bostelman. And, and even the canal reservoir itself will recharge the, the aquifer out there in western Nebraska. Some of that water will return back to the river all year long, just like we see today. And though if we talk about the river being dry here in August, I think that was more of a regular occurrence prior to development of these projects, those return flows and that, that build up of the aquifer around these projects provides return flows back to the river year round, that benefit, and bring alive the river, that maybe when it wouldn't have been previously.

BOSTELMAN: Right, and especially as we-- as we continue to hear about Lincoln looking for more water, more water, as they expand and grow, you know, the importance of the wells they have, and the Platte itself are very important in ensure that stream flows are there, so.

DEVIN BRUNDAGE: I think the department's report was like 7% of the-- of their municipal water supply comes from the South Platte, that would be lost.

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

DEVIN BRUNDAGE: Thank you.

BOSTELMAN: Anyone else like to testify in opposition to LB17? Good morning, welcome, state your name and spell, please.

KENT MILLER: Good morning. I kind of like this room, it feels like I'm talking to people closer. Senator Bostelman, members of the Natural Resources Committee, my name is Kent Miller, K-e-n-t

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M-i-l-l-e-r. I am general manager of the Twin Platte Natural Resource District, with our offices are in North Platte. I am testifying today for the Twin Platte Natural Resource District, and for the Nebraska Association of Resources Districts. The Twin Platte Natural Resource District opposes LB17, and the Nebraska Association of Resource Districts also opposes LB17. For the last 40 years, beginning in the 1980s, I have been promoting that Nebraska utilize the provisions of Article 6 of the South Platte River Compact and build the Perkins Canal, and probably the first 30 years of that, people just laughed at me. Now people begin to take it serious because of what's happening on the Front Range and the need of water. The majority of the South Platte River is within the Twin Platte Natural Resource District. I have been observing for over 50 years the development that is occurring on the Front Range of Colorado and their desperate need for water. You know, I'm kind of on a side, folks that are building a home in Parker, Colorado, they have to get a water right up for a tap for that house. They're building multimillion-dollar homes, and they're getting a tap that's good for only 20 years, and they're paying probably \$100,000 for that tap. That shows how desperate those cities are today, and are going to be in the future for needing water along the Front Range of Colorado. And, you know, for a lot of years, the Front Range of Colorado has relied upon water from the Western Slope, bringing water over from Dillon Reservoir, the different tunnels to the Front Range. That is no longer available. There are shortages in the Colorado River. I enthusiastically applaud Governor Ricketts for proposing the Perkins County Canal in 2022, and I'm thankful the Legislature in 2023 did appropriate funding. And then fortunately, Governor Pillen has continued to support it. This is the right time, and Nebraska cannot wait any longer. This is essential for the economic health and welfare and environmental needs of the Platte River throughout Nebraska. Nebraska needs to build this project now. This is a project that will benefit Nebraska for centuries. And that's been talked about, it's been so critical that-- what if this Legislature, what if folks in Nebraska in the 1930s would have said, we don't have the money that particular year to build a Central project, to build an NPPD project? Now is the time. This project needs to be built now. Please don't abandon the work you have put in place. Thank you for the opportunity to testify today.

BOSTELMAN: Thank you for your testimony. Questions from committee members. Senator Jacobsen.

JACOBSON: Thank you. Chairman Bostelman. Mr. Miller, thank you for coming and testifying today. And thank you also for what you and your

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colleagues do for water and water conservation across the state, and for management of our-- of our water. We're fortunate to have the Ogallala Aquifer here, and certainly in North Platte we're fortunate to be-- to have it right under us where it really abundant water, although it too is being allocated. I, I really want to get back again to this idea that it's almost laughable that we think about \$500 million to be able to go in and perfect our interest in something that, I'm not even sure what kind of a number, in terms of dollar value, you could put on guaranteeing that flow from Colorado. Where, where would you look at that in terms of economic value of this water?

KENT MILLER: Well, as one of the earlier testifiers said, one event, the benefit from one event, is what the cost is to build this project. But in the Twin Platte Natural Resource District, since 2004, when this Legislature initiated integrated management of groundwater and surface water, the Twin Platte NRD has not been able to allow any new irrigated acreage in the Twin Platte NRD. That's for the last 15 years. That means about 11 or 12% of our district is irrigated. Our entire district could be irrigated. We have-- we're sitting over an aquifer, a 500 thick-- feet thick Ogallala Aquifer. And yet we're having to tell our landowners they can't develop any new land. We are doing that, that's important because we want that aquifer to be available forever. I mean, we're here for a very short period of time, but folks are going to be using that land for a long time. By building the Perkins project, that brings water into the Twin Platte NRD, it puts water in reservoirs, it helps with the groundwater recharge. It's not going to create any new irrigated acres in the Twin Platte NRD, but it's going to protect the irrigated acres we have today. You know, our, our farmers, our growers, they understand there's going to be no irrigated acres. What they want, and they are desperate, that we protect what they're using today. I mean, the, the economy of the state of Nebraska is agriculture. It's, it's, it's not trading of services that happens in many municipalities. That is the economy. That's what this project does, is it protects agriculture, protects the economy, and not in just the Twin Platte NRD, throughout the state.

BOSTELMAN: Other questions? As Senator Cavanaugh, we've talked before, is the funding portion is, I think, is his main objective or concern with what we're talking about with the bill, not so much that he's opposed to water flow, stream flows coming into the state and ensuring we have that. What effect do you think, if any, as he mentioned that, you know, we started building a canal 100 years ago, 90 years ago, whatever it was. We started building this now, taking

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the project back up again now. If we had stopped now, what effect, if any, do you feel may have on future water rights that Nebraska has from Colorado the South Platte?

KENT MILLER: Well, you know, folks that I know in Colorado and, you know, and I work with counterparts in Colorado frequently, they've assumed-- they've assumed probably for the last 30, 40 years, Nebraska is not going to build this project. They've developed plans of augmentation, where they take water in the winter and put them in recharge ponds so then they can then drill additional wells in the lower reach of the South Platte River. They're taking that water so they can irrigate additional acres, and they're more reach-- irrigating those additional acres, if it's not exactly meshed, then that's hurting the Western Irrigation District, and their water right in the summer. Western Irrigation District is the other proponent-- component of South Platte River Compact. They have a right for 120 cfs, but only if it's in the lower reach. I mean, there's many years they're lucky if they get 20 cfs during the summer. By building the Perkins Canal. Not only are you benefiting-- protecting those flows, but you're also putting Colorado on notice that those plans of augmentation, if they are not going to be able to use them, that is in turn impacting the summer flows in the Western Irrigation District. I'm-- Colorado has used every, every trick in the book, if you will, to use the water in South Platte. And they're going to continue to use them till the river's dried up. I mean, we're at the tipping point now.

BOSTELMAN: So do you feel that-- and if I under-- do you feel that this would negate or cause Nebraska to say, we no longer want to-- will exercise our water rights?

KENT MILLER: I'm, I'm sorry.

BOSTELMAN: Well, do you-- do you feel that if we stop this pro-- funding for the project, projects not stopped, if you will, the funding for the project would be potentially stopped. Do you feel that that would basically forfeit Nebraska's rights to future requests, water rights to continue to build a canal in the future, anything for us to ask for any fund-- for any-- to exercise our water rights in the future?

KENT MILLER: Well, for Nebraska to use that portion of the compact, it has to build a canal. Otherwise you cannot ask for water from Colorado. But on the flip side, I, I, I've observed, I mean, I've been doing this job for over 50 years. This is the first opportunity

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we had that we had the money to be able to build this canal. If you use the money now to convert it to some other use, I would find it very difficult that Nebraska would be able to generate \$571 million in the future to build this project. So I think not only-- if you-- I think if you take the funding away, you're killing the project. And I'm concerned you're killing it forever.

BOSTELMAN: Senator Hughes?

HUGHES: Thank you. Thank you, Chair Bostelman. Thanks for coming in. Yeah, I, I went on the tour of the Perkin's canal project. I think it's very important. I don't think we have any idea what, 20, 30 years down the road, what this is going to mean. But my next question is, so we got the money there, the project is going, what is the status? Are, are we digging? Are we doing something?

KENT MILLER: We're, we're not digging.

HUGHES: Are we looking for a new director? I don't know what we're doing.

KENT MILLER: Yeah, I, I, I-- as you get older, you want things to happen quicker.

HUGHES: Right.

KENT MILLER: I mean, this is a big project. When, when you look at a canal that's going to be built, this is very similar to the canal that, that flows the water from Lake McConaughy to Sutherland Reservoir and Maloney Reservoir. This is-- the, the timeline for the design was estimated to be 5 to 7 years.

HUGHES: So we're in design, right?

KENT MILLER: So we're in the design phase now. The Department of Natural Resources, they hired a consortium of engineering firms. It's led by HDR. I mean, that's the largest engineering firm in the world. Olsson is part of it. JEO is part of it. Miller Associates, which is a--

HUGHES: So that's--

KENT MILLER: --small engineering firm in Kearney--

HUGHES: --happening.

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KENT MILLER: --is part of it. The design is in process. The last I heard, they're about 30%.

HUGHES: OK. Thank you.

KENT MILLER: Yeah.

HUGHES: Perfect.

BOSTELMAN: Senator Brandt.

BRANDT: Thank you, Chairman Bostelman. Thank you for testifying today. Point of clarification. So we're-- if everything's working right, we're guaranteed so many cubic feet per second from Colorado. And eventually, if that water's in the Platte, it goes all the way through the state and it goes into the Missouri River. Do we guarantee the Missouri River so many cubic feet per second from Nebraska? Do you know?

KENT MILLER: I don't know. I, I, I have enough to do to keep track of the Platte River.

BRANDT: OK.

KENT MILLER: But no, I don't know the answer to that. But I do know that the benefits of the water in the South Platte benefits entirely across the state. I mean, I mentioned earlier, 7% of Lincoln's well field originated out of South Platte River.

BRANDT: Today.

KENT MILLER: Today.

BRANDT: Yeah.

KENT MILLER: Today.

BRANDT: Do you know what that would increase with the canal? Because we should be getting more--

KENT MILLER: That's going to protect that.

BRANDT: That 7%.

KENT MILLER: You know, I-- as, as I've watched over the years, I've watched the flows of the South Platte dwindle, and I've used the term we're at the tipping point. If Nebraska doesn't do something now,

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we're going to see that dry South Platte River. Up until now, between flood flows and runoff, you know, it's, it's, it's basically balanced out. But I've seen those flows drop over the years, which is a tipping point that in my lifetime, I'm going to see a dry South Platte River, and in the winter, if this project's not built.

BRANDT: So, I don't know if you can answer this, but wouldn't our Attorney General have recourse today, even before the canal is built? Because there are specifications in the-- in the existing compact.

KENT MILLER: Not for winter flows.

BRANDT: All right.

KENT MILLER: Winter flows are-- it's very specific in the compact. You only-- you only have access to that 500 cfs if you build the canal.

BRANDT: Right.

KENT MILLER: Otherwise, the only provision in the compact is what Western Irrigation District receives in the summer. And that's-- it's a very simple compact. I mean, today, it probably would-- it probably would take an attorney 50 pages to write it. It's seven pages.

BRANDT: All right. Thank you.

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

KENT MILLER: Thank you for the opportunity. Good to see you guys.

BOSTELMAN: Anyone else like to testify in opposition to LB17, please step forward. Good afternoon. State and spell your name, please. Or morning, I guess.

JOHN McNALLY: Good morning, Chairman Bostelman and members of the Natural Resources Committee. My name is John McNally, J-o-h-n M-c-N-a-l-l-y. I am government affairs manager and registered lobbyist for the Nebraska Public Power District, and I am here to testify in opposition to LB17. In 1923, the Nebraska and Colorado signed the South Platte River compact to settle a case brought by Nebraska's Western Irrigation District and divide the waters of the river. In 2022, the Legislature had the foresight to give the Nebraska Department of Natural Resources the authority to construct the Perkins County Canal, with appropriation to make that happen.

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That legislation passed because the Perkins County Canal is necessary to protect Nebraska's long term interest in the water of the South Platte River. This will help stop Colorado from their continued efforts to use up the South Platte River before it can deliver any water to Nebraska. Since the 2022 legislation, the state of Nebraska has prudently made significant investments of time and money into the design of the canal and property acquisition. South Platte River flows benefit a significant portion of Nebraska and a majority of the state's population, positively impacting irrigation, hydropower production, power plant cooling, recreation, fish and wildlife, and the municipal water supplies as it combines with North Platte River flows to form the Platte River. More specifically, water from the South Platte River is diverted into NPPD's Sutherland system near Corti. The water flows into the Sutherland Canal system and provides for recreation opportunities at Sutherland Reservoir and Lake Maloney. It provides cooling at Gerald Gentleman Station, the largest power plant in Nebraska, and hydropower at the North Platte Hydropower Plant, in addition to providing incidental groundwater recharge to large areas of Keith and Lincoln counties. NPPD returns the water to North Platte, where the water is diverted by Central Nebraska Public Power and Irrigation District before it is returned to the Platte River to be diverted for irrigation at NPPD's Gothenburg and Dawson County Canals. It is also diverted for irrigation and hydropower production at the NPPD owned Kearney Canal. Dawson and Buffalo counties benefit from the incidental recharge of water from these irrigation canals. All the while, the South Platte River water provides for flows which provide benefits for river recreation, fish and wildlife, and the Platte River program, which is an important agreement amongst the states of Nebraska, Colorado, and Wyoming and the federal government. If the water in the South Platte River were not available, more water would be required from Lake McConaughy and the North Platte River, which has faced shortages in previous years. While NPPD's surface water interest in the Platte River system end at Kearney, the local benefits for municipal water supply, groundwater recharge, fish and wildlife and recreation continues across the state, and includes benefits for the state's four largest cities. In closing, I want to thank all of you who have taken time to join NPPD and other interested Nebraska entities to see firsthand the locations where the project would be built, and how that beneficially impacts Nebraskans in so many different ways. Many of you on these tours have remarked about the vision of our predecessors. We need to build on the legacy that they have given us. The Perkins County Canal does just that. Finally, Nebraska, mostly in football, does not like to lose to Colorado. This bill waves the

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white flag to Colorado, allowing that state to continue to deplete the water for the South Platte River. And for that reason, NPPD respectfully asks that the Natural Resources Committee does not advance LB17 or any other legislation defunding the Perkins County Canal. That concludes my testimony. I will now take any questions.

BOSTELMAN: Thank you for your testimony. Questions from committee members? Seeing none, thank you for your testimony.

JOHN McNALLY: Thank you.

BOSTELMAN: Other testifiers in opposition to LB17, please step forward. Anyone else like to testify in opposition to LB17? Seeing none, would anyone like to testify in the neutral capacity? Anyone testify in the neutral capacity? Seeing none, Senator John Cavanaugh, you're welcome to close.

J. CAVANAUGH: Thank you, Mr. Chairman. Thank you, Natural Resources Committee. It was a fun conversation, and I just want to first start out by saying, we all know that Central has the greatest logo of any resource district or power company in the state. But I think that we should-- it should not go unmentioned that Twin Platte has a very nice logo as well. I would suggest taking a look at that. So the conversation obvious-- I think we all know, I think everybody here has been on the tour, everybody's had-- we've had a lot of these conversations about the value that this project brings to the state of Nebraska. And my point in bringing this bill is not to say there isn't great value in this, and I probably will ask afterwards, talk to Mr. Brundage about whether, and I don't know if he's right person, but whether we're talking about putting hydro into these reservoirs. I think I'd be interested just to know the answer to that question. But yes, of course, all of-- there's a lot of value here. But one of the things when we're talking about tying up a whole lot of money like this, I know we, we are saying-- Mr. Miller said if we don't spend it now, we'll never spend it. But we're talk-- there was a lot of conversation here about this project going to last for generations. It's going to bring value for generations. That's the type of thing that you spread out the cost over a long period of time. And we've put aside this money because we thought we had it. And now it's become clear that we don't, and we're looking for other sources of money. So the conversation here is not, in my mind, it's not whether this is a valuable project or whether we should do it. It's more about how we're financing the project. We're tying up a bunch of money that we could use to front load LB1107, which Senator Jacobson pointed out some very good points about, but we're talking

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about raising taxes on folks to make that front loading work, when we could take the money out of this account and then, over time, put money back in as it's necessary. This project is not going to be built next year. I think Mr. Miller said it's 30% done with the engineering. After that, you know, it's still 70% of engineering done, land acquisition, putting shovels in the ground, all that's going to take time. We don't have to tie up this money and then go and find other sources of revenue. We can use this money for some of the things we're talking about right now and continuing this commitment. If this really is bringing the value that we all think that it probably does, we can put the money in year over year and fund the project as we go. And, you know, heaven forbid I know the state doesn't borrow money, but this is the type of thing you borrow money for, big, ambitious projects that pay off over time, as opposed to front loading all of that money. So that's the point of this conversation. In terms of other possible things, aside from what we're talking about here, the compact, you know, allows us for the 500 cfs in the winter months, we're building a canal that has a 1,000 cfs capacity. I brought that up when we allocated this money, which was in the 108th Legislature. Senator Dickerson [SIC] looked it up. We've-- we allocated the funding for the 1,000 cfs canal in 2023 when the compact calls for 500. If we're scraping the couch cushions looking for money right now, maybe we should just build the canal that allows us to get the the water that we're entitled to and not that, you know, hopeful amount of money and water that, by the way, if there's extra water to go into the canal, that water will come in the Platte River. We don't need the thousand cfs canal to capture that. And sorry, I didn't bring it up earlier, you guys would have mentioned that it won't go into the reservoir, so I'll do that for you. The 1,000 cfs canal allows us to put the water in the reservoir, but we're, we're spending more money for that potential when that wa-- when, when we would capture that water either way. So that's why I brought the bill to have that conversation, to put it in the context of when we're talking about raising taxes on Nebraskans, we have a bunch of money here that we could divert for the time being, and backfill at a later date rather than raise the taxes currently. So, I'd be happy to take any other questions. I think I covered everything I wanted to mention, so. Thank you.

BOSTELMAN: Senator Brandt

BRANDT: Thank you, Chairman Bostelman. I applaud your sense of fiscal responsibility and looking for money. Some of my suggestions would be if you can't eliminate this, maybe we could eliminate TIF, or the Good Life Districts. There's some easy money. Or the Nebraska

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Advantage Act. And if this would have been any one of those, I would have been very, very interested. So, I don't know, maybe you've got some ideas.

J. CAVANAUGH: I mean, I have other ideas, but this is the only one that I thought would get all of us together here so we can see each other one last time. Make Bruce, Chairman Bostelman come back from Africa, just to listen to me one more time before we ride off into the sunset. Thank you.

BOSTELMAN: And to have this bill the first one that we hear on top of it all. So I, I appreciate your thoughts on, on, on, you know, the \$500 million, you know, use what you can now. But the challenge that the Legislature has, the state has is, and I believe the right term is, we can't encumber. We cannot-- we cannot project out, we cannot tie up future funds. So we have a project to build, and we expect it to bill, project to bill, X amount of dollars, if we don't have the funds today, and secure those funds today, we cannot secure a quarter or a half today, expecting future Legislatures to then come up with the remainder of those funds. So if we don't do that now, there's no guarantee that those funds will be available in the future because of whatever reasons may be with those Legislatures. So with that importance of a project like this, I guess, I-- you know, knowing that, or seeing that, I'd like you to respond to that. I mean, we don't know that we'd ever be able to have the funds in the future, because we cannot cause future Legislatures to fund it.

J. CAVANAUGH: No, that's a good point. I would say that the opponents of this bill, proponents of the project, make a compelling case. And I think if you're going to ask somebody to to spend that kind of money, I don't-- I don't think it's too much to ask that you continually demonstrate that value to each successive Legislature. And, I think that it's not a terrible method to say, if it's going to be something this large, if we're going to-- we could come back every year, every biennium, and ask for \$100 million and have to repropose that to that Legislature. It you're right that it would be uncertain at that point, you'd have to actually get the buy in of each successive Legislature. But that's-- that it would be a question, yeah.

BOSTELMAN: Senator Jacobson.

JACOBSON: Well, just not to get nit picky here, but as I read this, Section 4 would suggest that we would outright repeal section 61-301, 61-302, 61-303 and 61-304, which consists of the Perkins County Canal

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Project Act passed on April 12th, 2022 by the Legislature, 42-0-3, and signed by the Governor April 20th of 2022, 107th Legislature.

J. CAVANAUGH: Excellent reading and eagle eyes. That was the act itself was passed, and I guess two points. One, obviously open to amendment if folks want to just take away the fund, but leave the act in place. I'm open to that. But yeah, that was the enacting of the act, the act, the appropriation was done in the last year, in 2023.

JACOBSON: I would agree with that.

J. CAVANAUGH: So that, that's kind of I think what we're talking about there. But yes, to your point, I think, your other point about repealing the act entirely, that's in the bill currently. I think if we moved it forward, we could have a conversation about how exactly to structure LB17 and it's reappropriation of that fund, if we decided to leave the act in place and leave some of the funds intact and only take out, say, \$400 million. I think that that would be a, a valid compromise that we-- I-- you know, I feel like I would be giving up some things Senator Jacobson would be giving up something, and we'd all probably be upset. But, you know, I feel OK about that result. I'm not gonna speak for Senator Jacobson. Thank you.

JACOBSON: A lot of things upset me.

BOSTELMAN: Any other questions from committee members? Seeing none, thank you very much. That will close our hearing on LB17. There were five proponent of position comments, and eight opponents on the LB17 that the committee received. Thank you all. Have a nice day.