So You've Inherited a Farm, Now What?

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A special thanks to Peoples Company for sponsoring today's meeting.

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Items to be discussed:

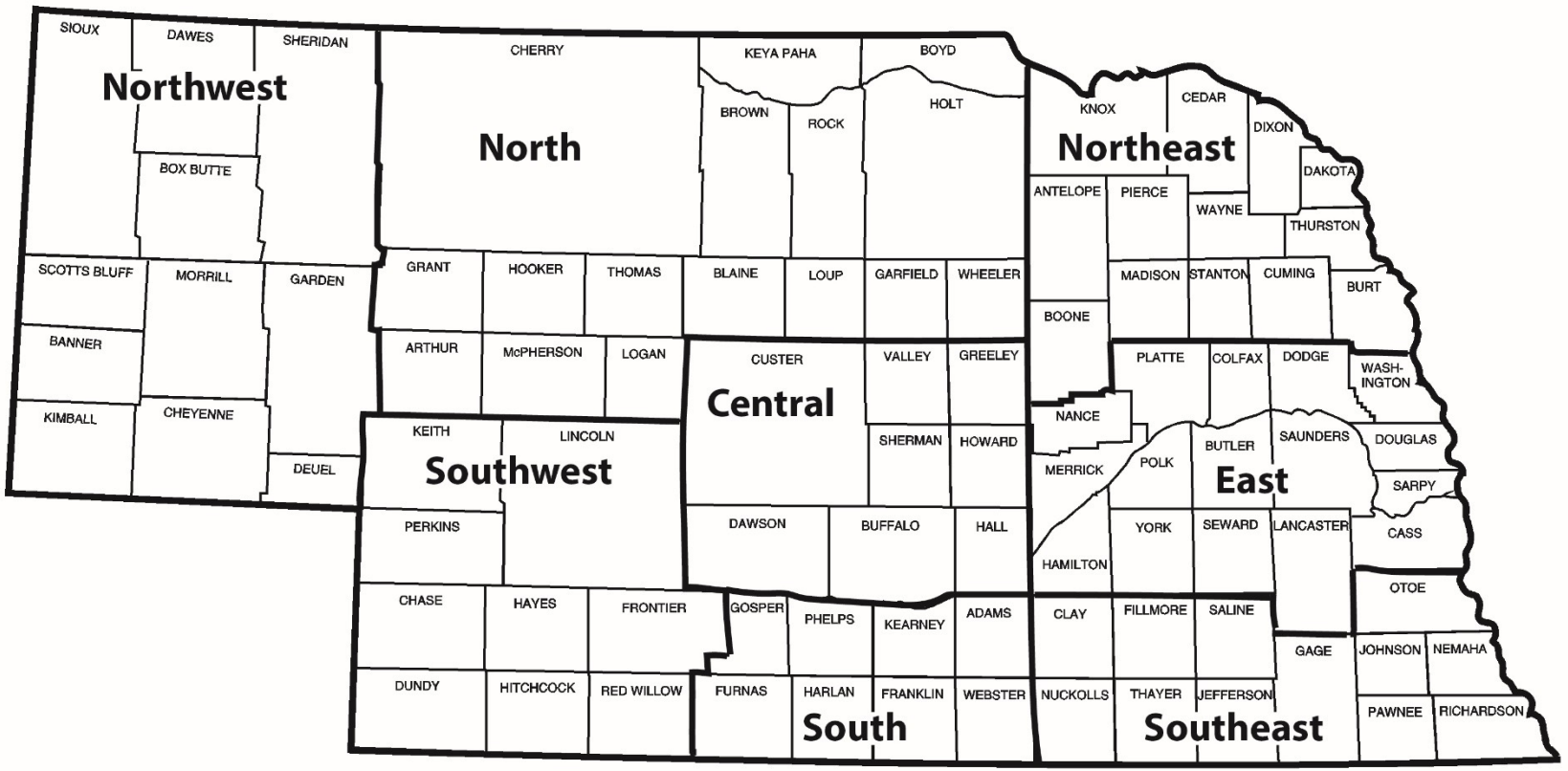
- What is your land worth? – A look at Nebraska land values
- How do you appraise your land, and how do you find an appraiser?
- How you own land determines what you can do with it
- Communicating with family and what to do when things don't go as planned
- What to do if you choose to sell or keep the ground
- Cash rent, trends, and setting a starting rental rate
- How will your farm be managed?
- Written lease provisions you should consider
- What does your estate plan look like?

WHAT IS YOUR LAND WORTH?

Nebraska Farm Real Estate Survey

- Annual survey conducted since 1978 of Nebraska agricultural appraisers, professional farm managers, and bankers engaged in the land industry.
  - Preliminary results for land values and rental rates published the second week of March.
  - Full report published the following June.
- Nebraska Farm Real Estate website full access to these resources: http://cap.unl.edu/realestate

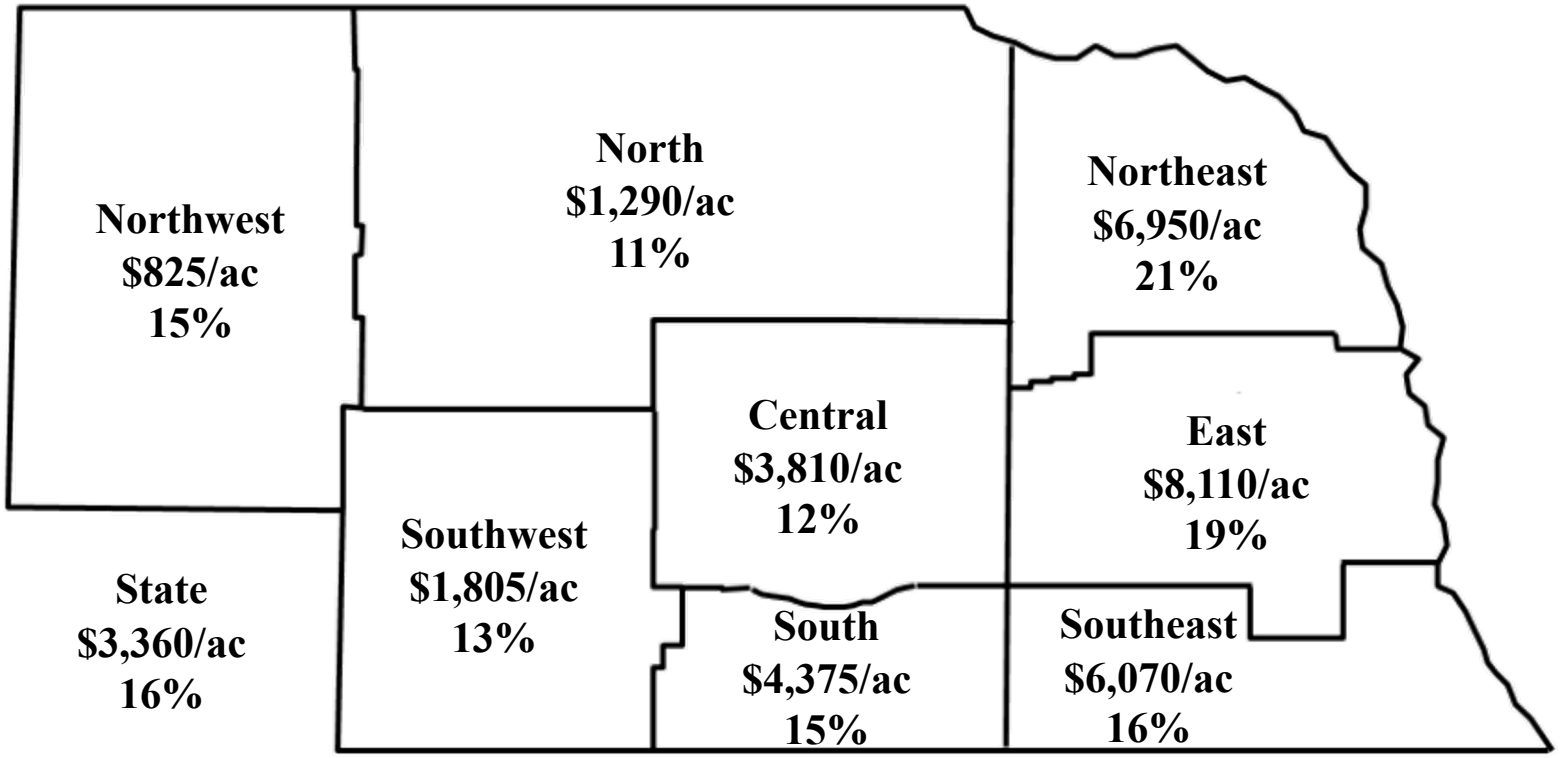
Nebraska Agricultural Statistics Districts



Nebraska Land Values

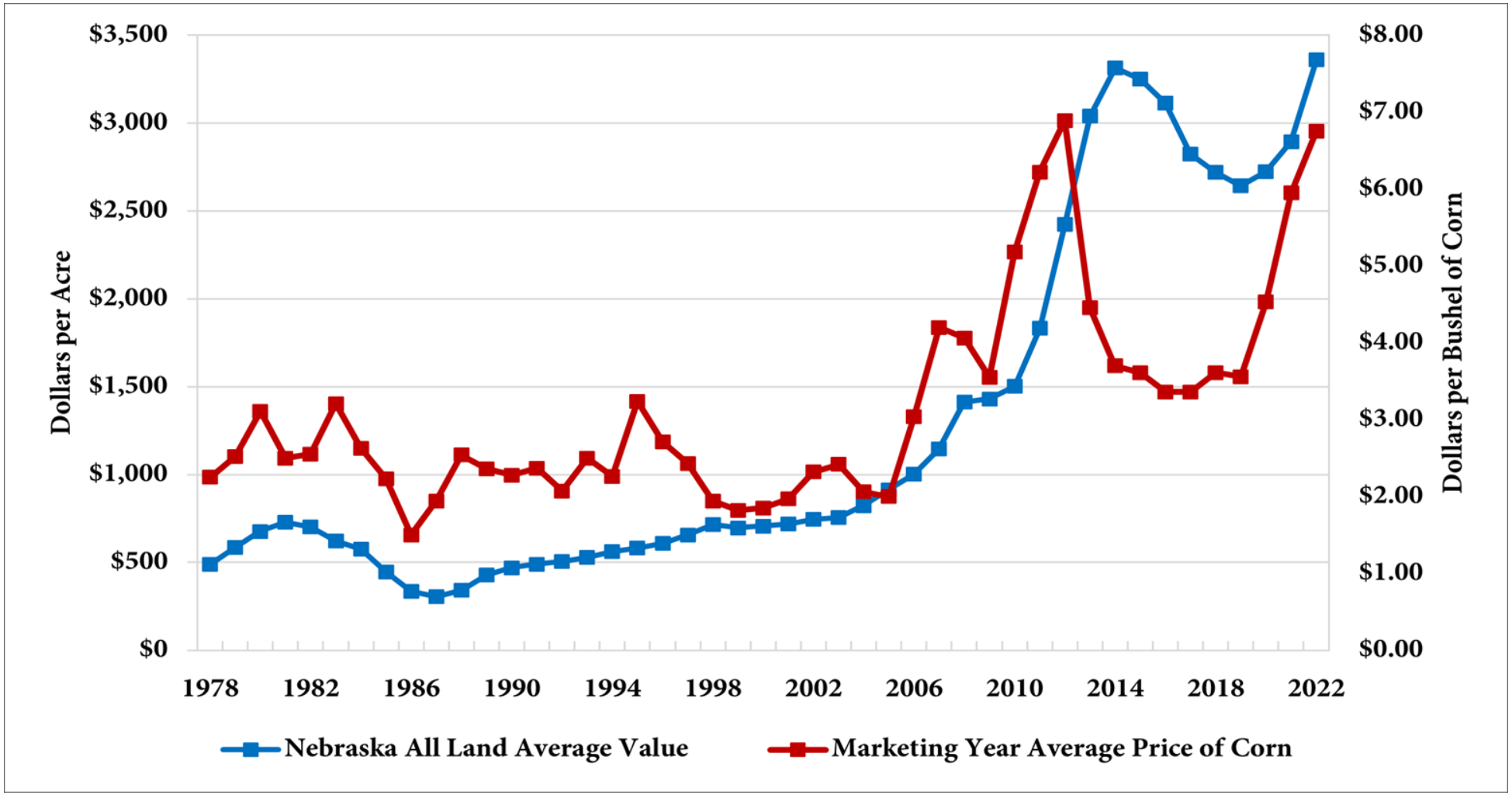
Land Averages and Annual Percent Changes

Nebraska Agricultural Average All Land Values – Feb. 1, 2022

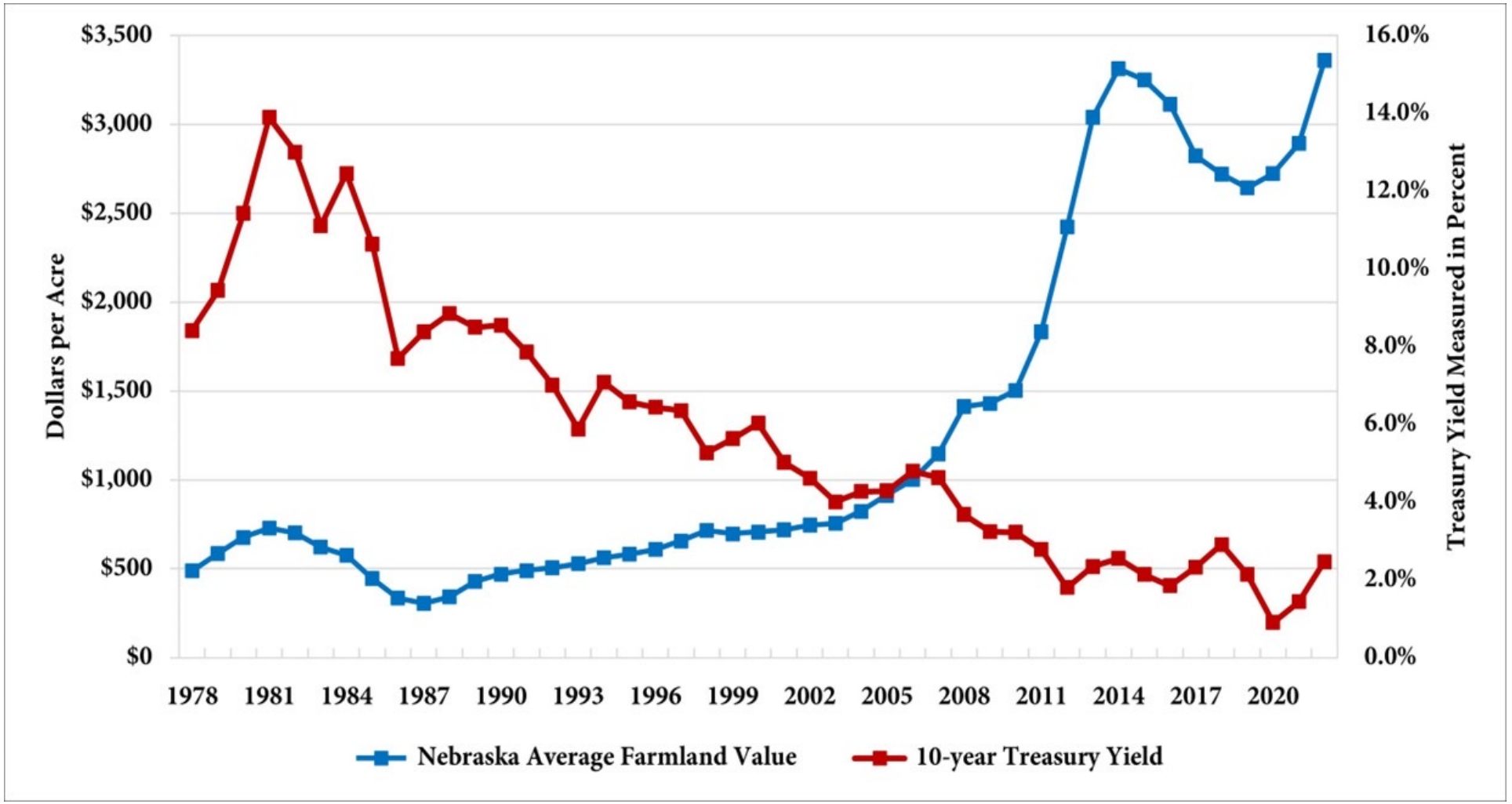


Source: UNL Nebraska Farm Real Estate Market Surveys, 2021 and 2022.

Historical Nebraska Average Land Value & Corn Price 1978-2022



Nebraska Avg. Land Value & 10-year Treasury Bond Rate, 1978-2022



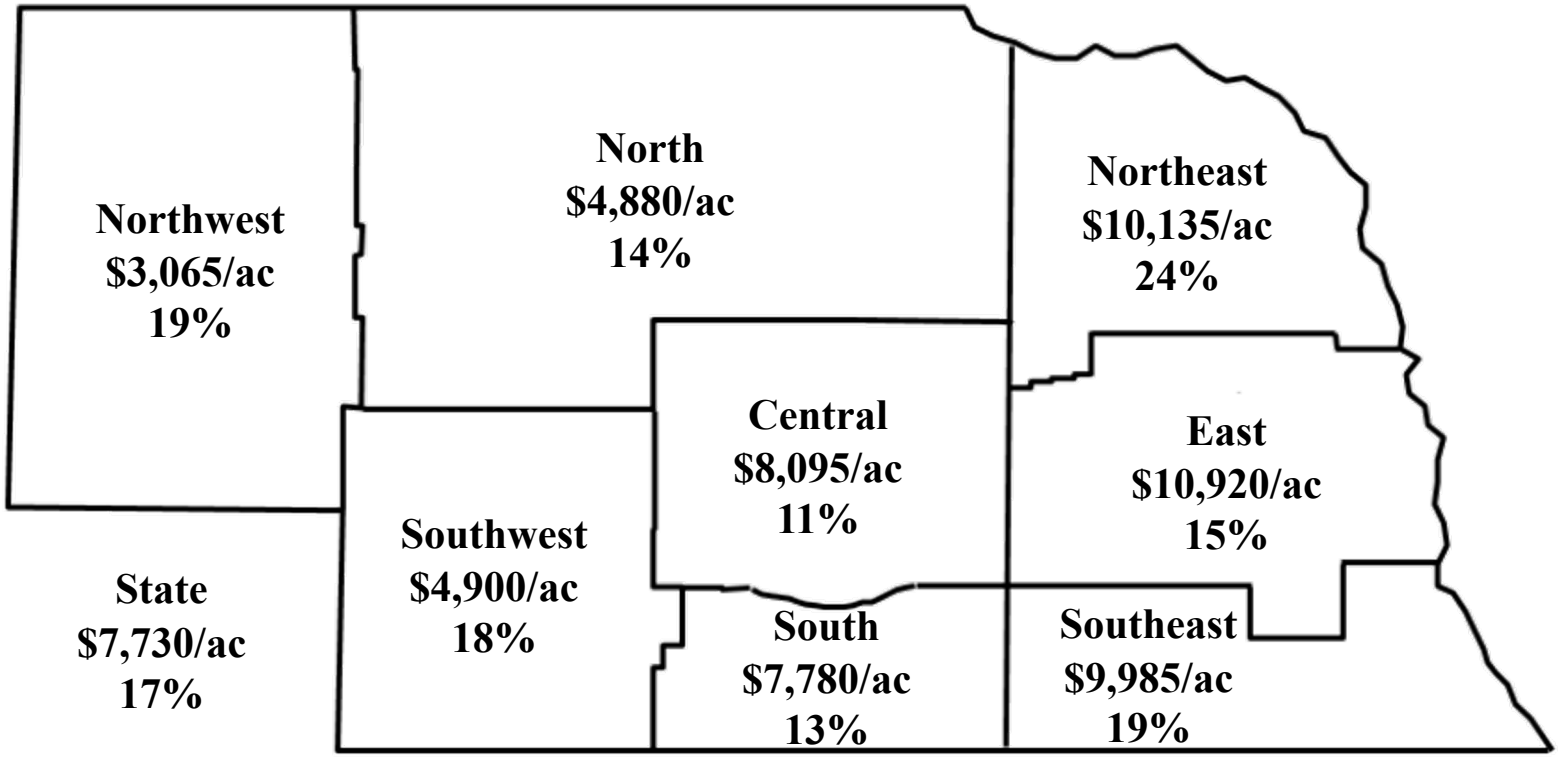
Refundable Nebraska Income Tax Credit for Property Taxes Paid to Schools

Source: NE Farm Bureau: https://www.nefb.org/

- Taxpayers who pay property taxes to schools and file Nebraska income taxes are eligible to claim a refundable income tax credit on the amount of property taxes paid to schools.
- For tax year 2021, the credit equals 25.3 percent of property taxes paid to schools and applies to taxes paid between Jan. 1 and Dec. 31, 2021.
- The credit applies to property taxes paid on real property (land, buildings, residences) excluding taxes levied for bond repayments and taxes levied as a result of voter-approved overrides of levy limits.

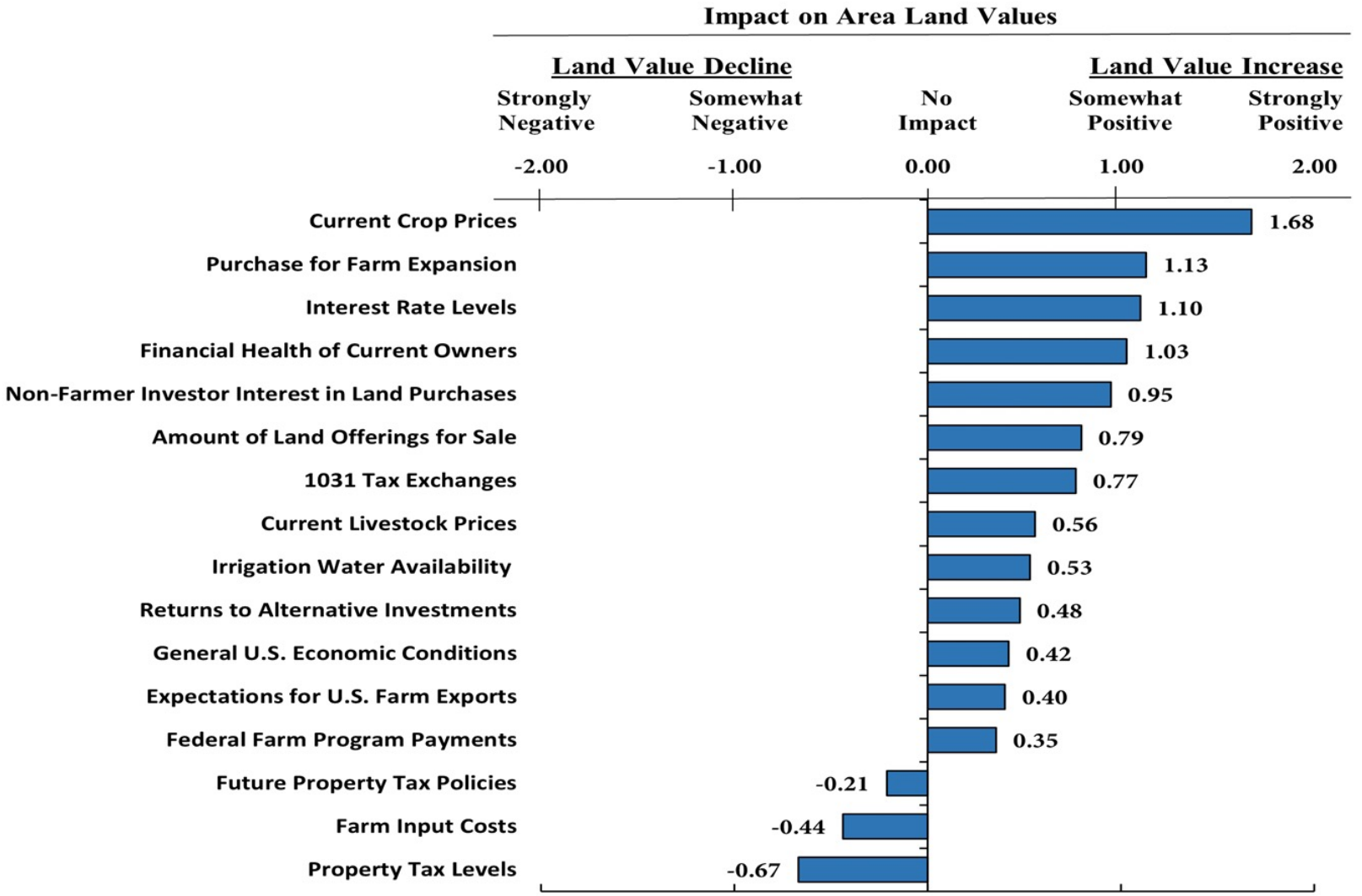
For information purposes only. Seek guidance from a tax professional or the Department of Revenue for specific questions on the tax credit. – NE Farm Bureau

Center Pivot Irrigated Cropland Average Value – Feb. 1, 2022



Source: UNL Nebraska Farm Real Estate Market Surveys, 2021 and 2022.

Rating of Factors Influencing Agricultural Land Values in 2022



Source: UNL Nebraska Farm Real Estate Market Surveys, 2021 and 2022.

HOW DO YOU APPRAISE YOUR LAND?

Appraising land

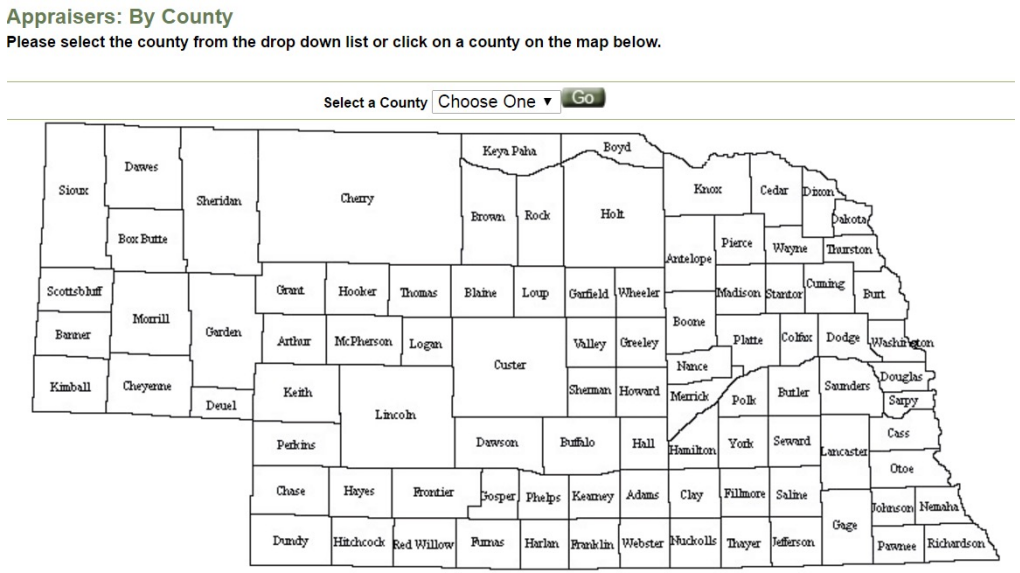
- What is an appraisal?
  - An appraisal is a professional appraiser's opinion of market value on a property such as land, buildings, or a farm.
- Why get an appraisal?
  - To determine the current market value of the inherited farm and understand how local economic and market forces influence real estate in an area.
  - Gain perspective on the type of land and value associated with different improvements.
  - Understand the value associated with improvements such as barns, machine sheds, or irrigation equipment may be physically depreciated or functionally obsolete.

How much does an appraisal cost?

- What factors influence the cost of appraisal?
  - Availability of certified general agricultural appraisers serving a region.
  - Size and geographical location of land.
  - Kind of improvements made to the farm such as buildings or livestock facilities.
- What does an appraisal typically cost?
  - An 80 to 160 acre parcel appraisal may cost between $1,500 to $2,500 or more depending upon number of improvements.
  - Mid-sized ranch appraisals can cost $5,000 or more depending upon the configuration of the ground (grazing paddocks, livestock watering systems, or livestock working facilities).

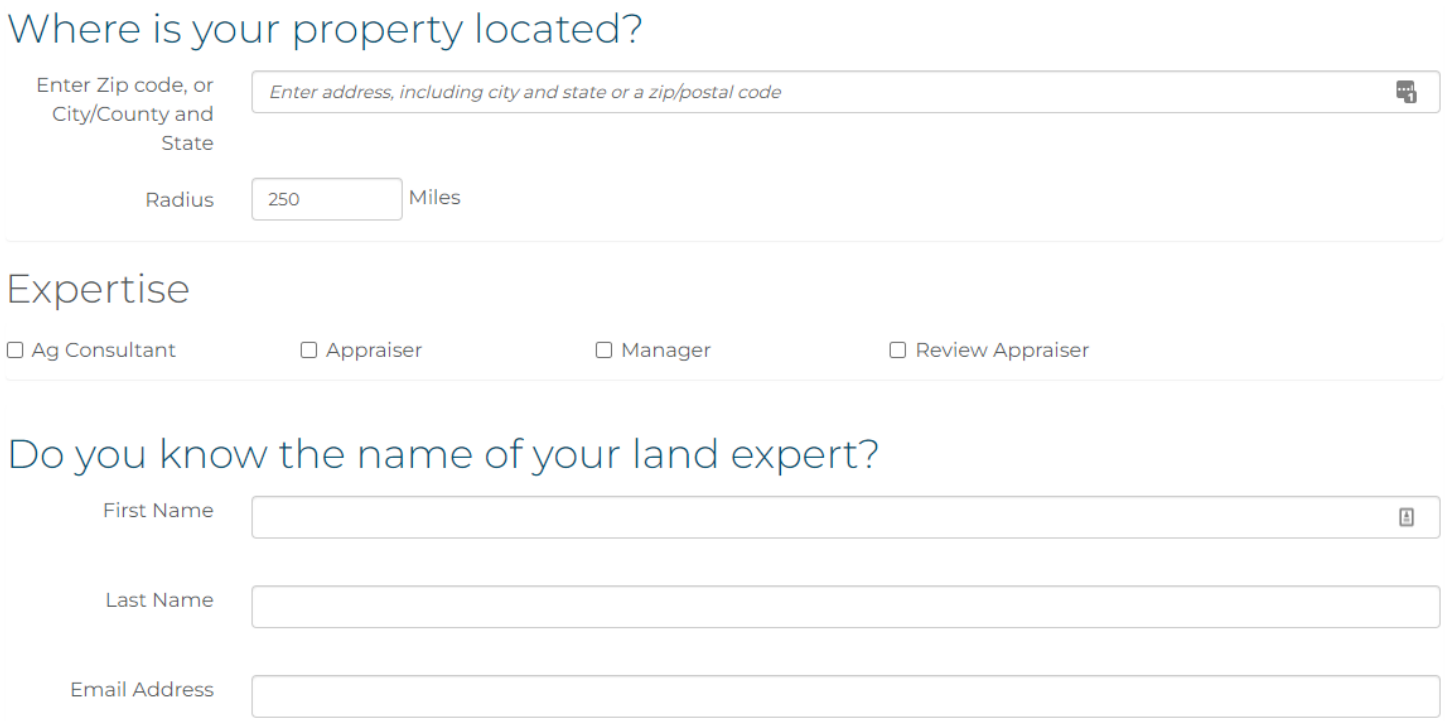
How to find an appraiser

- Appraisers are licensed to perform appraisals in Nebraska.
  - Public listing of appraisers can be found at: http://www.appraiser.ne.gov/
  - Select *Appraiser Listing* on the website and then click *Appraiser Listing/Nebraska County Map* to display interactive map to locate an appraisal professional.



How to find an appraiser or land professional

- The American Society of Farm Managers and Rural Appraisers (ASFMRA) is an association of professionals specializing in farm & ranch management and land appraisals.
  - Members can be found at http://www.asfmra.org/
  - Select *Find a Land Expert* on the website to display a searchable database of members .



Qualities of a professional agricultural appraiser

- To perform an agricultural land appraisal the appraiser needs to be licensed in Nebraska:
  - A certified general appraiser license is required to perform land and farm appraisals.
  - Define out the scope of work (legal description of the property, number of acres, types of improvements) prior to contacting a professional.
  - Visit with several appraisers to get a feel on his or her professional competency in performing an agricultural appraisal, cost of service, and geographical knowledge.
  - Seek out recommendations from prior clients or industry professionals.

HOW IS YOUR LAND OWNED?

Know how you own the land

- Joint Tenancy (WROS) - common for couples

- Tenants in Common – very common for children to receive assets from their parents this way

Joint Tenancy

- Joint tenancy – separate titling
  - "Rights of Survivorship" Survivor takes it all – interest passes to other owners of property
    - No probate is needed
    - Have immediate access upon death
    - How do you know?
    - Title must say joint tenancy with ROS, otherwise it defaults to TIC
  - Joint tenancy assumes equal ownership
    - For example, joint tenants cannot own 70% and 30% respectively, they each own 50%

Tenancy in Common

- Tenancy in common – family members
  - May have issues with creditor claims
  - Upon death, *interest* passes to owner's heirs
  - Have distinct and separate interest
  - Right of possession is undivided
  - Absolute right of partition for sale
  - Separate interest means you could have 40% interest, another sister has 30% and a brother has 30%

Communications, family relationships, and having a plan for the land

Choices, Choices, Choices

- Sell!
- Keep in family?
  - Keep and farm it?
  - Keep and rent it?
  - Use land manager?
- The parties involved need to agree on that future

Communication - Important

- When done with the process – are you still going to have a family?
- Most peoples' goal is to hold the family together(?)
  - Don't make that assumption – get that commitment
- Best way is to be open and clear with communications
- Who participates in that discussion?
- Put all options on the table

Communication - continued

Consider using some sort of family meeting process

- Schedule meeting – not at major Holiday (if possible)
  - Not at Grandma's kitchen table (family dinners)
- Will probably take more than one meeting
- Take notes, record the conversation
- Be sure to include off farm family

Communication - continued

Be aware of the sweetheart deals

- Surprises cause problems
- Get both sides of every story!

Communication - continued

- Listening is the Key!
- (Practice) Make partner repeat what they thought you said – to be sure that they heard you, or that you said what you wanted intended
- Make sure that you understand the other person's point of view
  (seek first to understand, then to be understood)
- *Spend plenty of time establishing the 'goal' or vision*
  - *Suggested up to 80% of the time with the vision – or what this will look like*
  - *Envision the Future!* *(Mark and Nancy story)*

Communication

1. Allow all to have input

   * Know that there will be different expectations based on personality, age and participation

2. Then follow Golden Rule – 'ye who has the gold makes the rule'

Choosing to Keep the Farm in the Family

Option 1 – Farm the Property

- If farming the property with a family member, what will the rental arrangements be?
  - Discounted? How much?
  - Crop share or Cash rent?
  - Other considerations – like use of the farmstead/house/out buildings
  - Expectations for upkeep of farmstead/buildings?

Option 2 – Professional Farm Manager

- Consider use if Custom Farming or Renting
- Take care of managing the asset – especially valuable for absentee owners
- Managers charge between 6-12% of the rental rate as their fee for management (less on straight cash rent, more on crop share rent agreements or custom farming)
  - Depends on what you are asking them to do
- In some cases, the service is very worth while

Option 3 – Custom Farming the Property

- Hire a producer to complete all field operations
  - Custom operators are paid on a per acre basis, or
  - Percent of crop basis
- You pay for all inputs/expenses
- You receive 100% of the crop

Option 4 – Renting the Ground Out

Options:

1. Crop share
2. Flexible cash lease
3. Cash lease

Crop Share Lease Agreements

- *Landlords engaged in crop share lease arrangements typically receive a percentage of the actual crop yield as payment for leasing the property to the tenant*

- *Landowner usually shares input and production costs of raising the crop.*

Crop Shares = Fair (Equitable?)

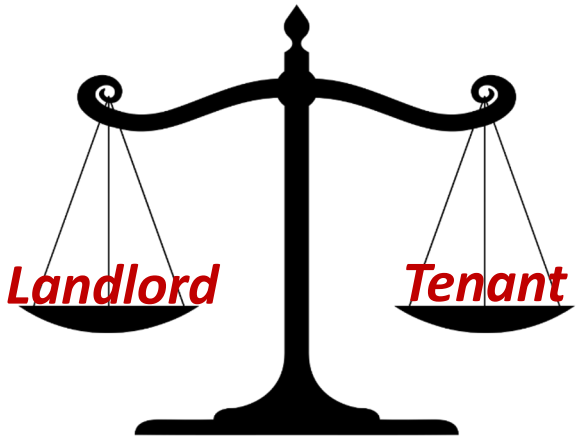
- A fair way to rent, if the expenses are split properly
- Usually requires both parties to market grain
- Share in the risk and the reward

What are Typical Shares?

- Most common 40:60, 50:50, 33:67
  - Smaller amount going to the landowner
    - Irrigated crop/Eastern and Central Nebraska – 50:50
    - Non irrigated in SE, SC, SW – 40:60
    - Panhandle – 33:67
  - Depends on the crop, neighborhood and expenses

Share of Crop Income

- Both parties receive their share of:
  - Revenue from crop sales
  - Crop Insurance payments – if purchased by either party
  - Government disaster payments (when paid)



Share of Crop Expenses

Landlord (Landowner)

- **ALL Expenses**
  - Land taxes
  - Irrigation operation and maintenance fees
  - Irrigation ownership costs – depreciation, insurance, major repairs, taxes, interest
- **Their share of:**
  - Crop Insurance
  - Fertilizer, insecticide, fungicide, and herbicide
  - Energy for irrigation
  - Seed
- **Markets their share of the crop**

Tenant

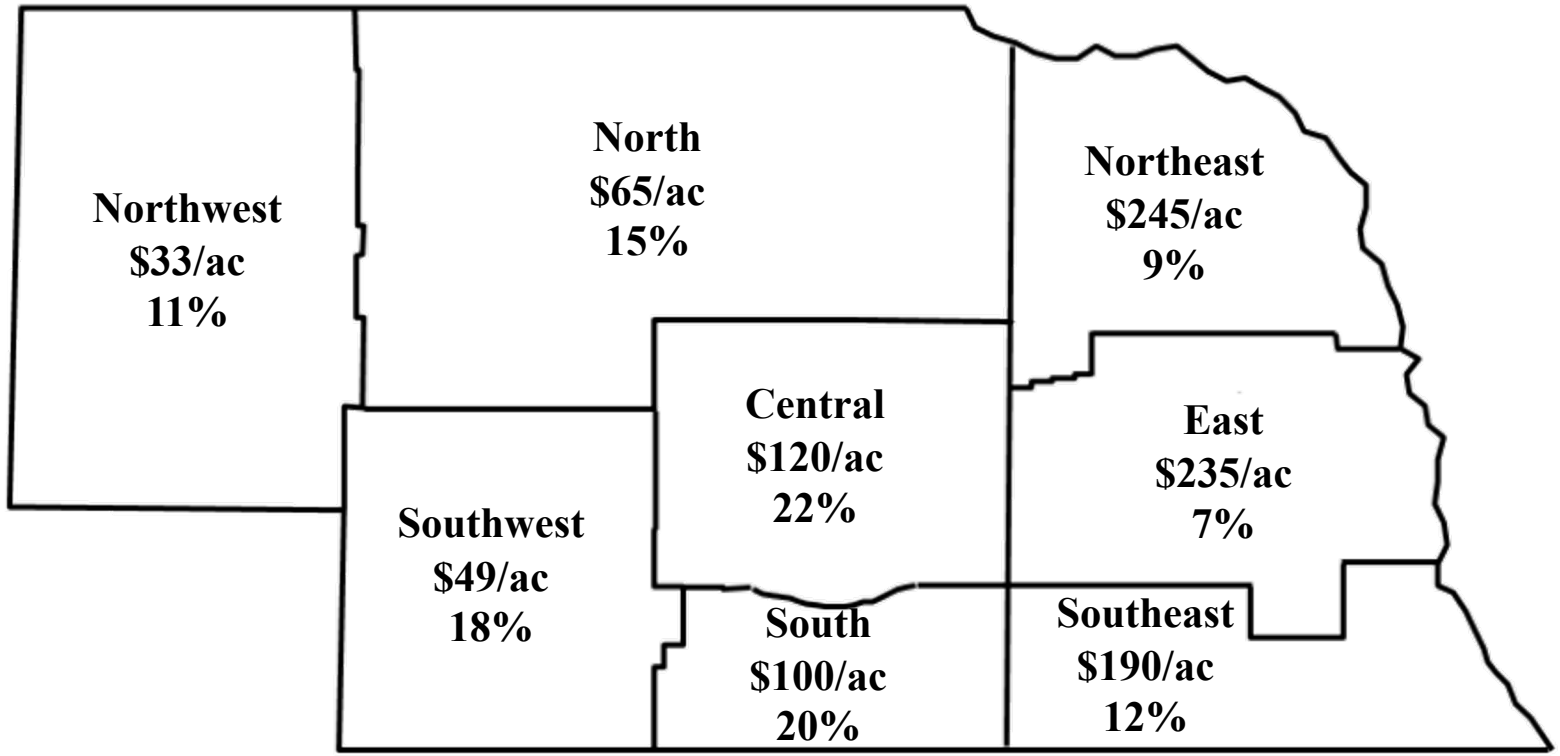
- **ALL Expenses**
  - Labor
  - Minor irrigation equipment repairs & maintenance
  - All field operations
  - Cost of transporting landlord's share of crop to designated location (negotiable)
- **Their share of:**
  - Crop Insurance
  - Fertilizer, insecticide, fungicide, and herbicide
  - Energy for irrigation
  - Seed
- **Markets their share of the crop**

Nebraska Cash Rental Rates

Dryland Cropland

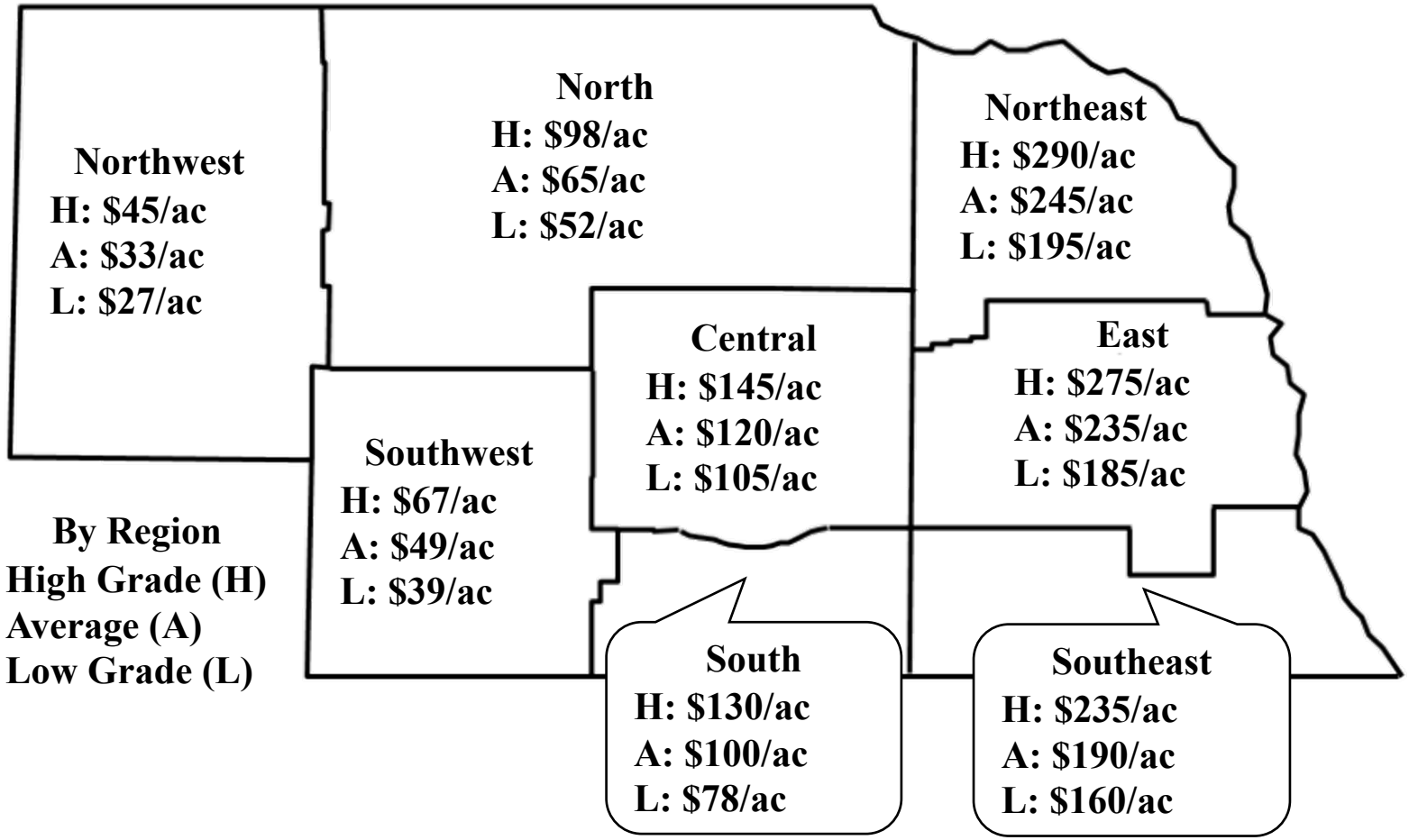
Rental Rates

Dryland Cropland
Average Rental Rates – 2022 Season

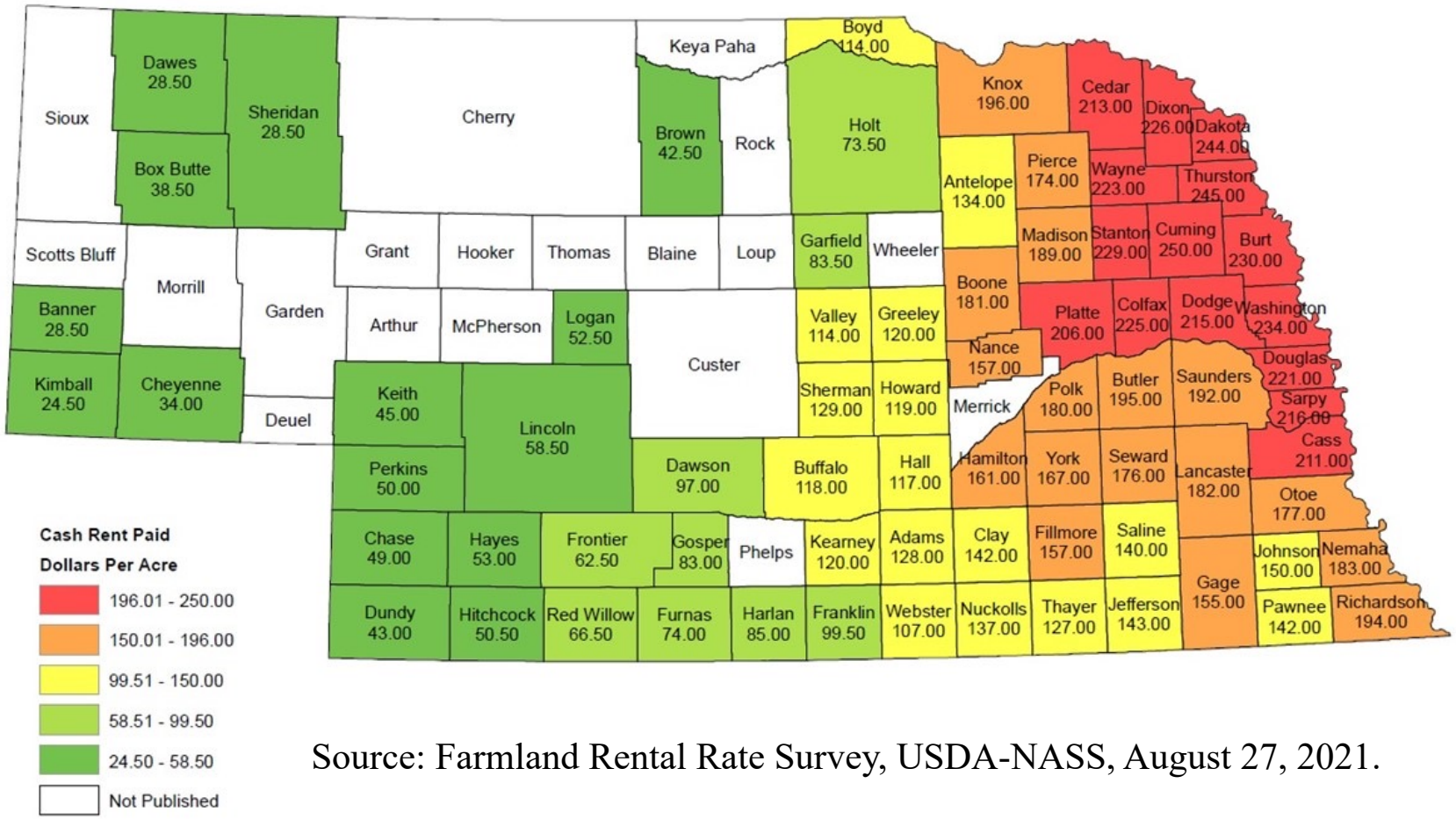


Source: UNL Nebraska Farm Real Estate Market Surveys, 2021 and 2022.

Dryland Cropland
Rental Rate Ranges – 2022 Season
(Nebraska Farm Real Estate Survey)



Dryland Cropland
Rental Rates – 2021 Season



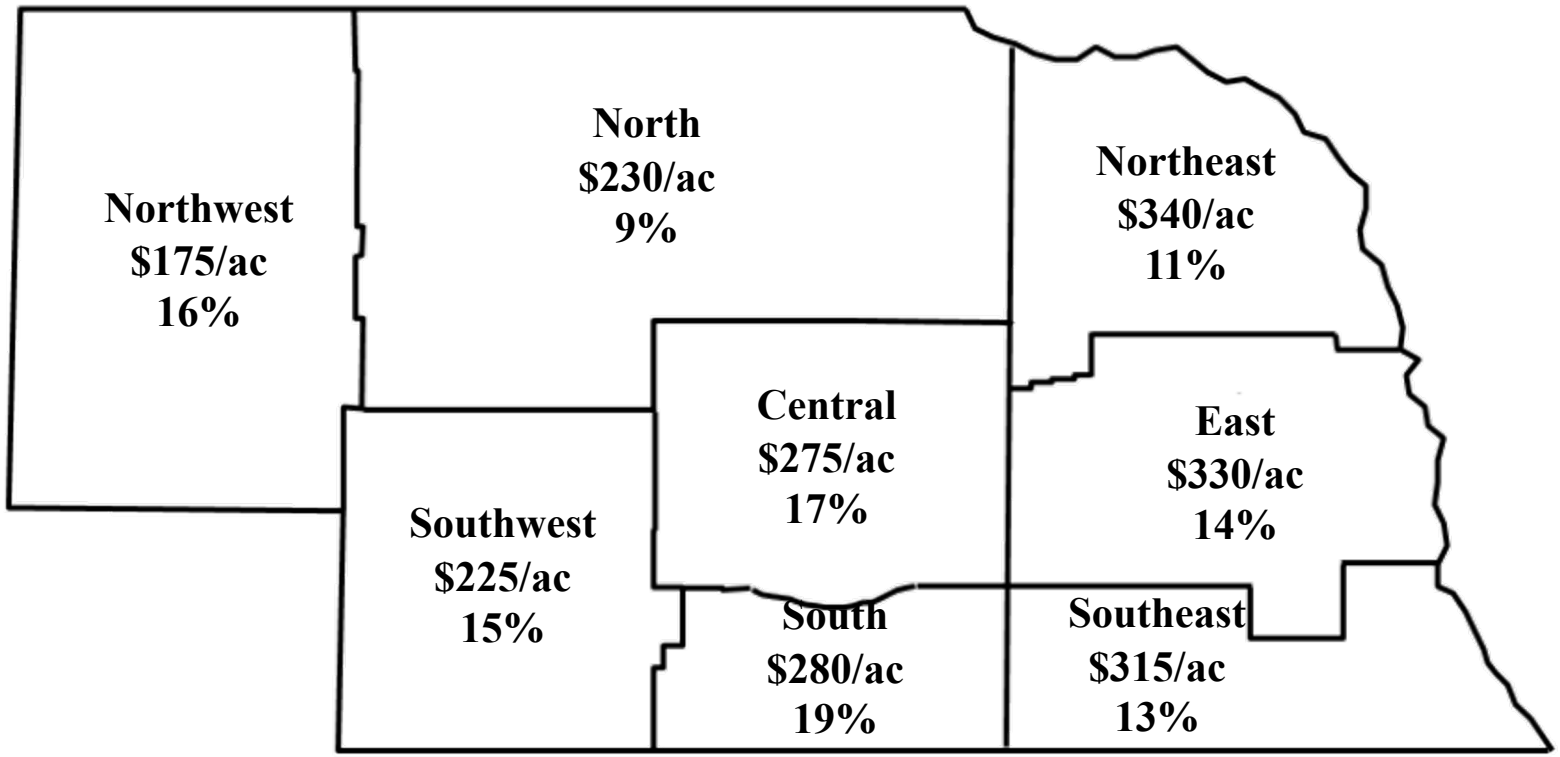
Source: Farmland Rental Rate Survey, USDA-NASS, August 27, 2021.

Nebraska Cash Rental Rates

Irrigated Cropland

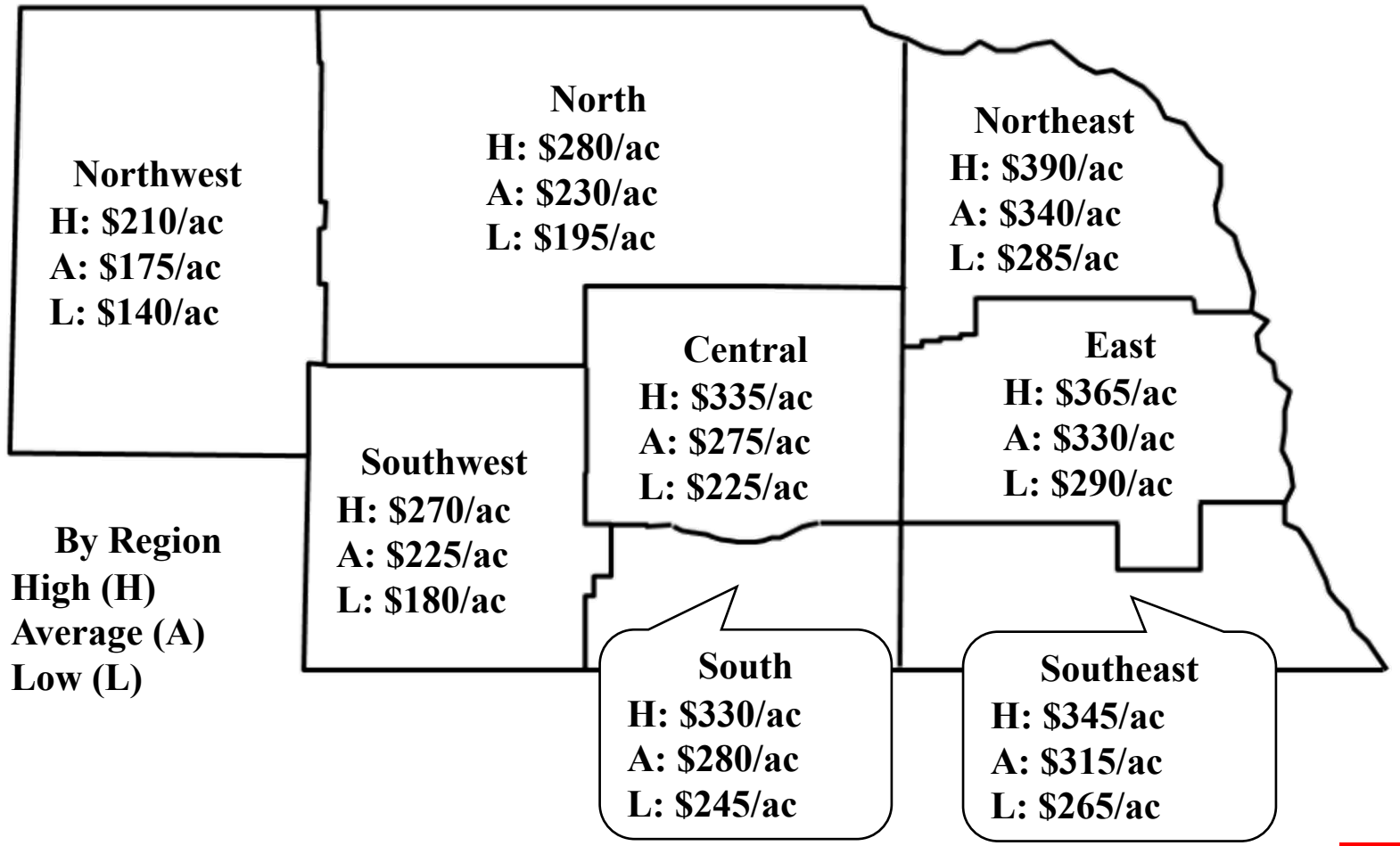
Rental Rates

Center Pivot Irrigated Cropland Average Rental Rates – 2022 Season

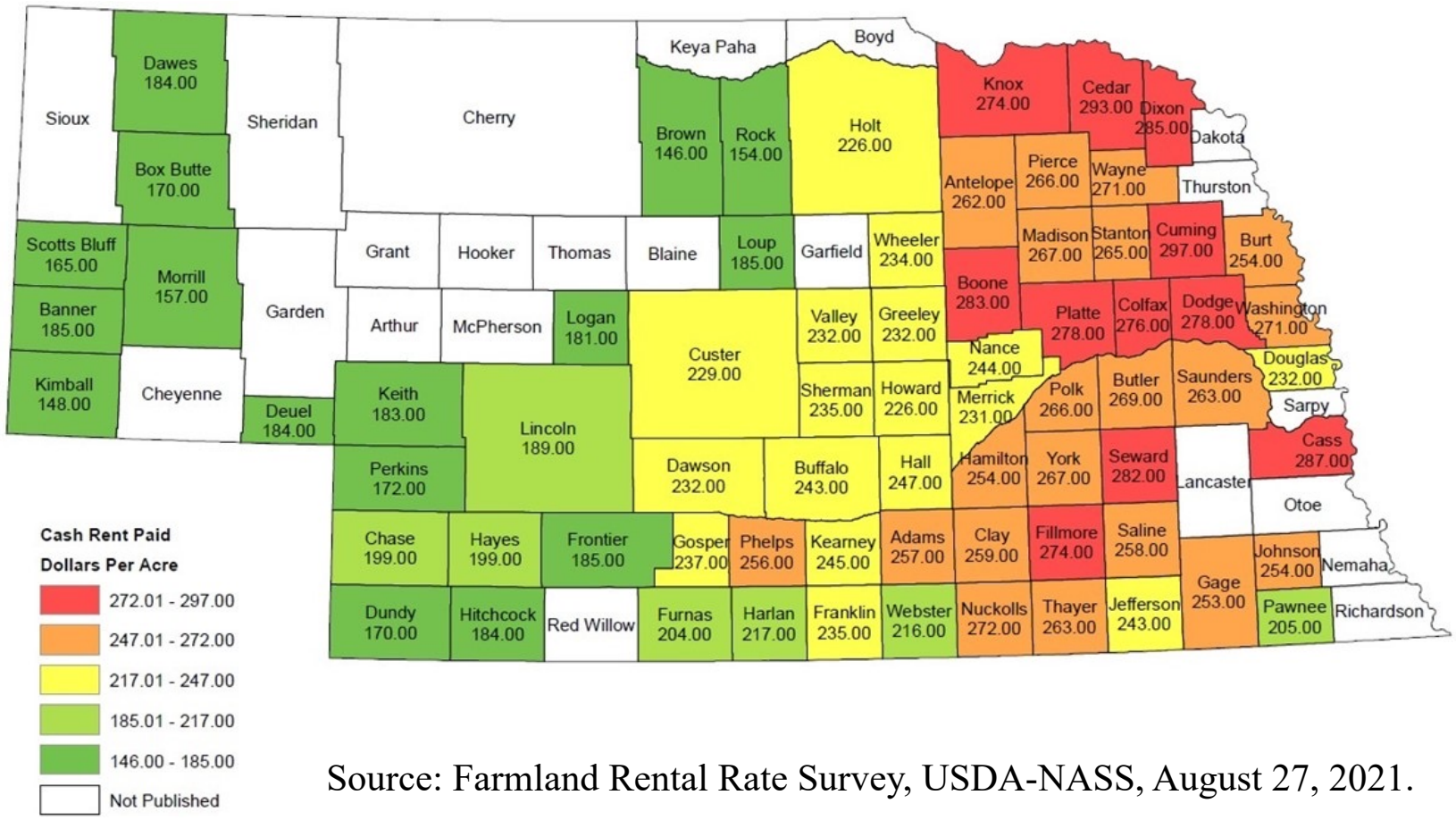


Source: UNL Nebraska Farm Real Estate Market Surveys, 2021 and 2022.

Center Pivot Irrigated Cropland Rental Rate Ranges – 2022 Season (Nebraska Farm Real Estate Survey)



Irrigated Cropland Rental Rates – 2022 Season



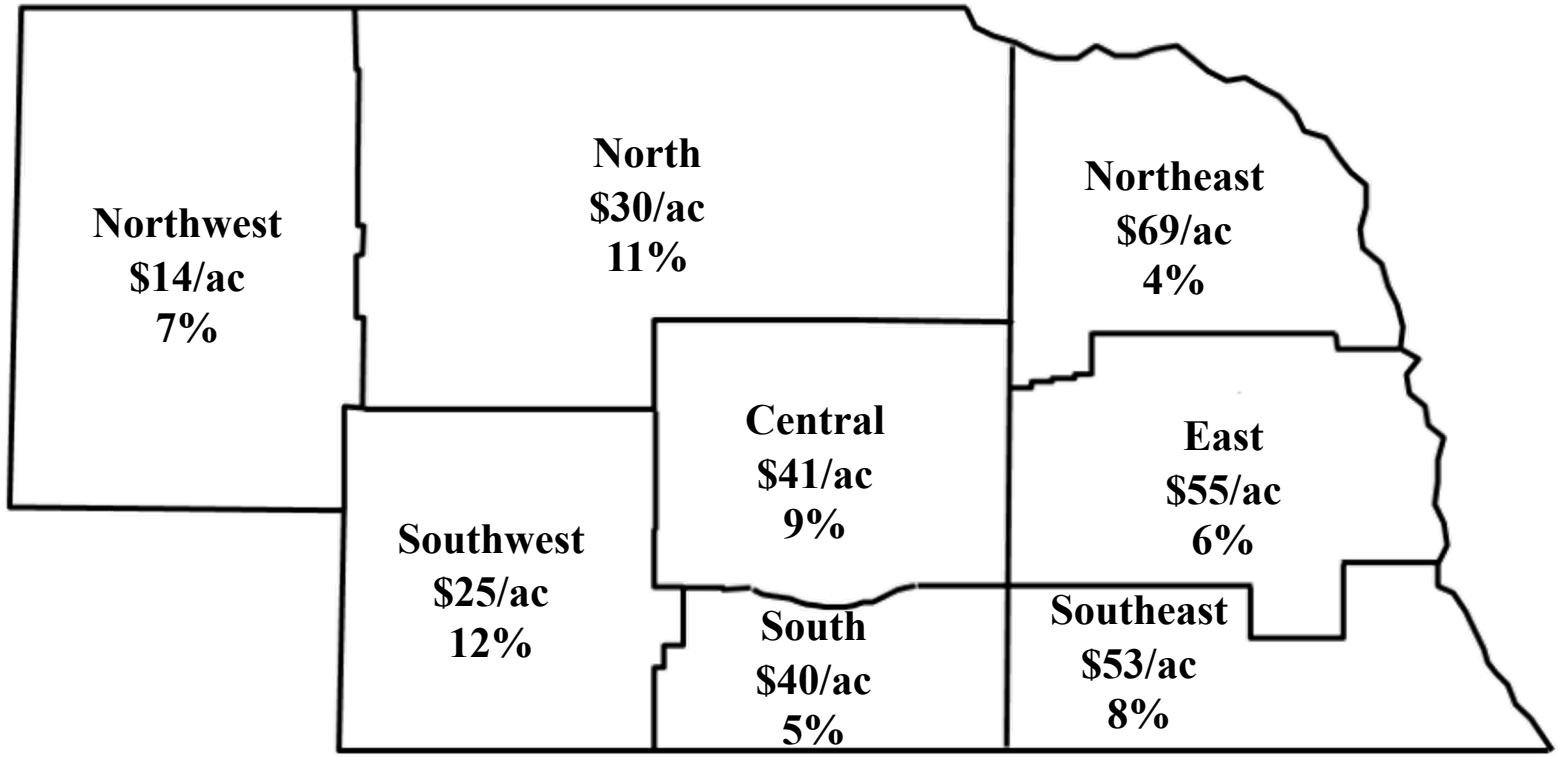
Source: Farmland Rental Rate Survey, USDA-NASS, August 27, 2021.

Nebraska Cash Rental Rates

Pasture and Cow-Calf Pairs

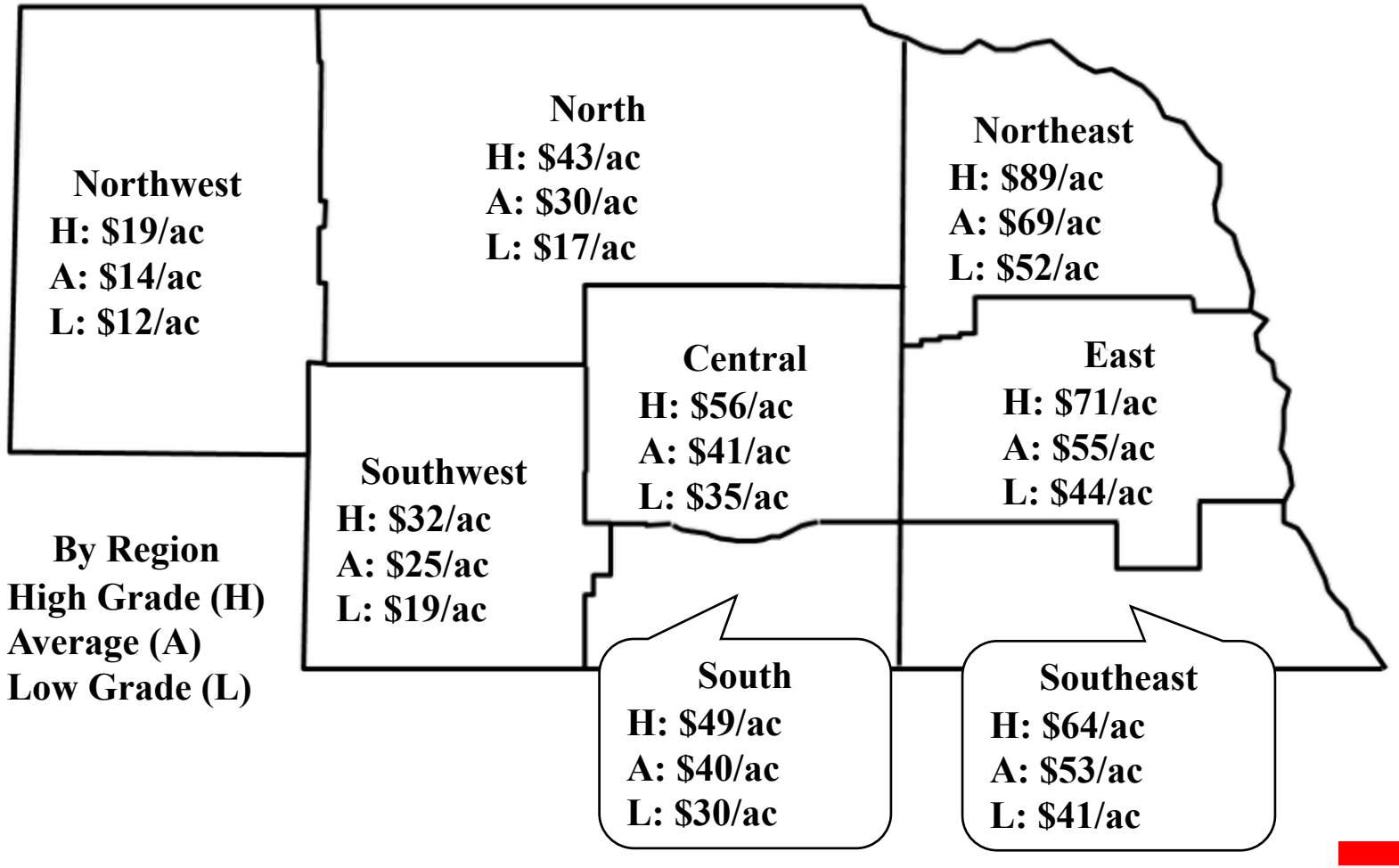
Rental Rates

Pasture per Acre
Average Rental Rates – 2022 Season

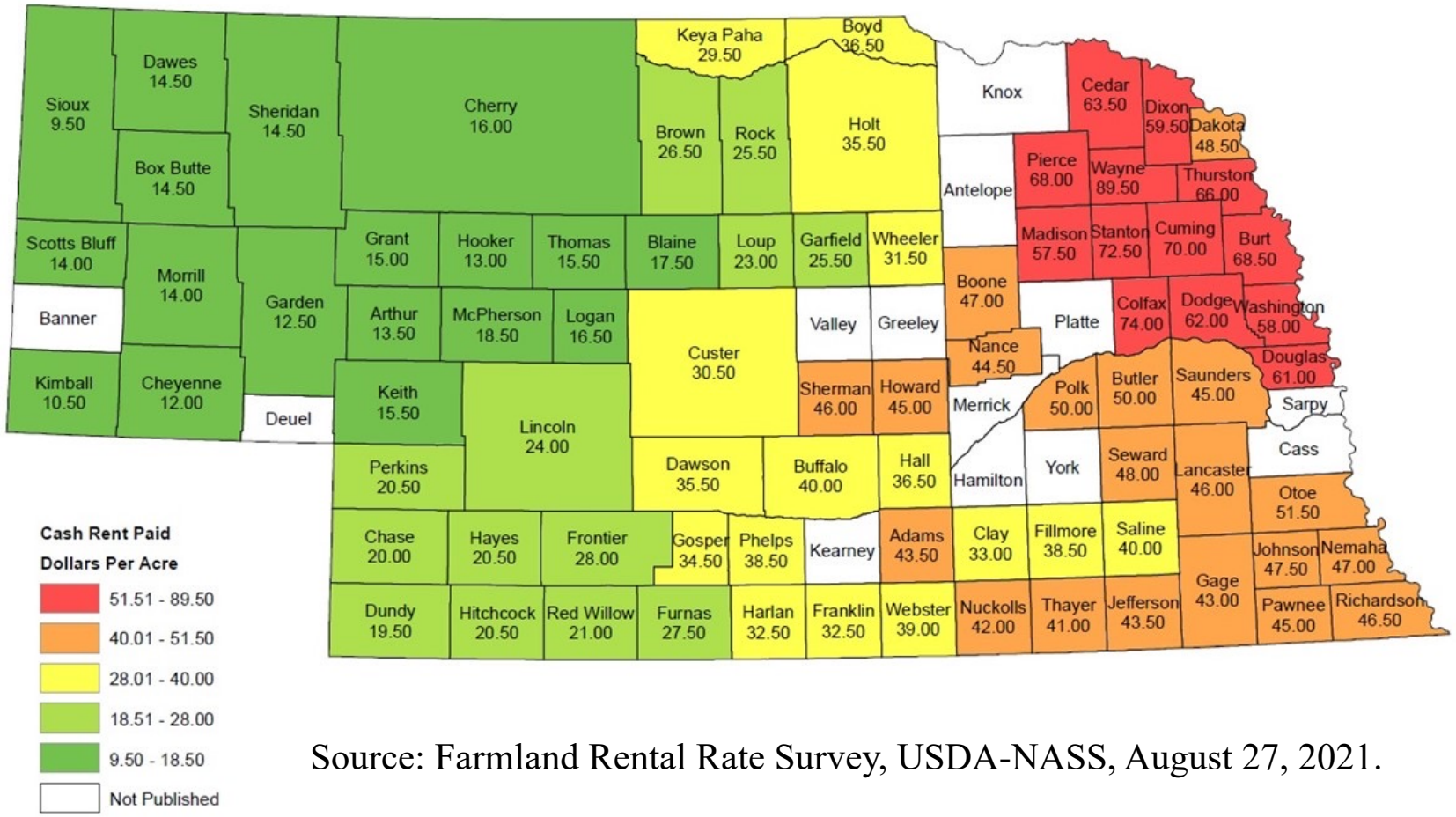


Source: UNL Nebraska Farm Real Estate Market Surveys, 2021 and 2022.

Pasture per Acre
Rental Rate Ranges – 2022 Season
(Nebraska Farm Real Estate Survey)

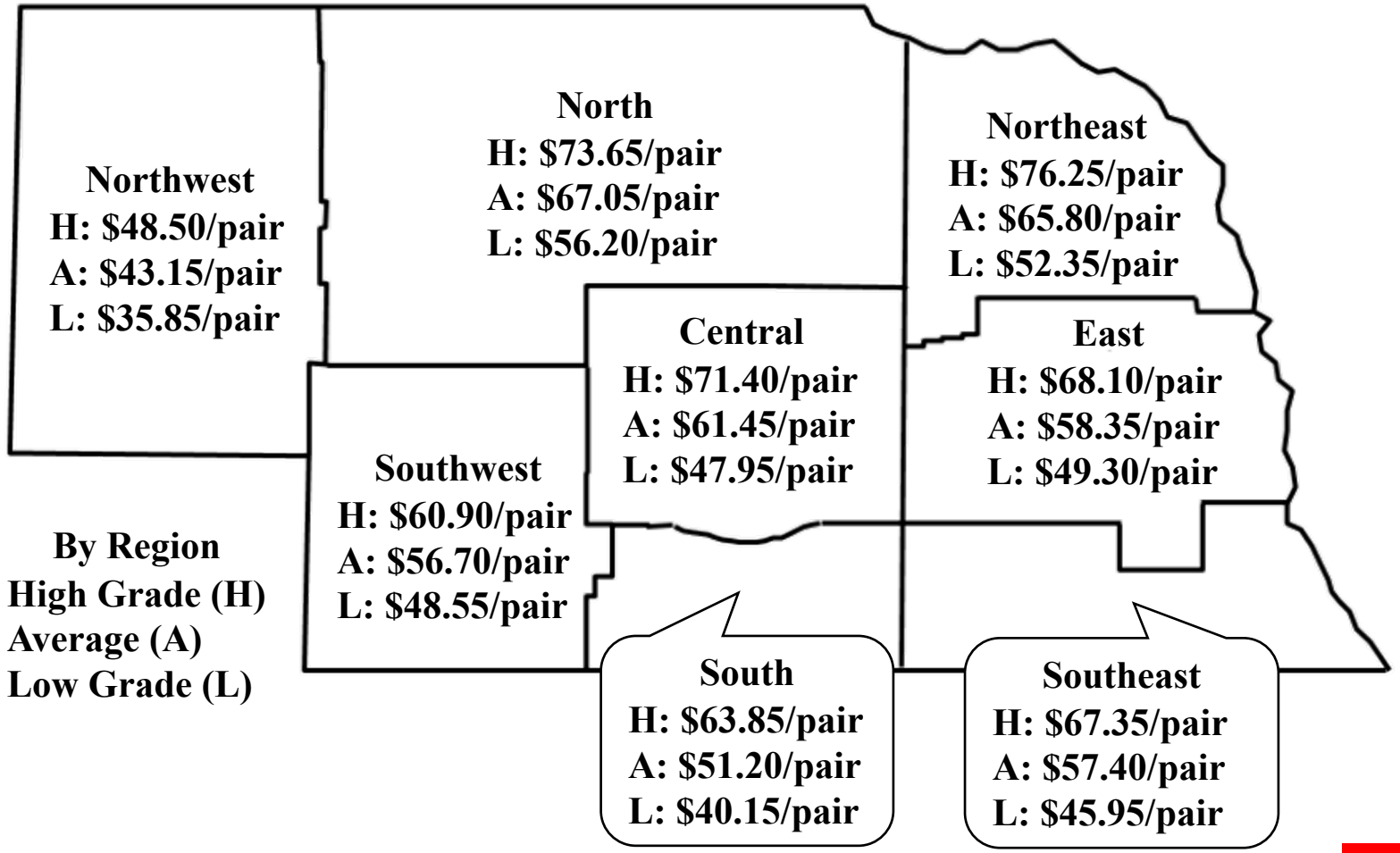


Pasture per Acre
Rental Rates – 2021 Season



Source: Farmland Rental Rate Survey, USDA-NASS, August 27, 2021.

Cow-Calf Pairs
Rental Rate Ranges – 2022 Monthly
(Nebraska Farm Real Estate Survey)



Agricultural Farmland Leases

Setting Cash Rental Rates

Setting Cash Rental Rates

- Setting a cash rental rate needs to be viable given the needs of the landlord and tenant.
- Rates may be set according to:
  - Fixed amount per acre for all acres on the farm.
  - Fixed amount per cropland acre.
- Different methods may be used to calculate a rental rate, but all methods must arrive at a viable rate.

Methods for Setting Cash Rental Rates

- Basic methods for estimating a cash rental rate:
  - Adjusting survey data.
  - Cash equivalent from crop share.
  - Return on investment.

Estimating Cash Rental Rates by Adjusting Survey Data

- Land rental rate survey data:
  - Evaluate available cash rental survey data to establish a baseline in the landlord and tenant negotiation process.
- Average yields:

County	Value	Farm	Value
County Rental Rate	$190/ac.	County Rent/Bushel	$1.42/bu.
Corn Yield	134 bu./ac.	APH Yield	x 119 bu./ac.
County Rent/Bushel	$1.42/bu.	**Farm Level Rent**	**$168.73/ac.**

Cash Equivalent From Crop Share

- Rent paid to landlord by tenant based off owner's share of net returns per acre.
  - Example 50/50 split:

Value	Corn - March 2022	Corn - July 2022	Corn - Nov. 2022
Yield (50% share)	70 bu./ac.	70 bu./ac.	70 bu./ac.
Price/bushel	x $5.90/bu.	x $6.28/bu.	x $5.71/bu.
Income	$413.00/ac.	$439.60/ac.	$399.70/ac.
Owner Expenses*	-$185.00/ac.	-$185.00/ac.	-$185.00/ac.
Net Return to Owner (Effective Rent)	**$228.00/ac.**	**$254.60/ac.**	**$214.70/ac.**

Cash Equivalent From Hay Share

- Rent paid to landlord by tenant based off owner's share of net returns per acre.
  - Example 33/67 & 50/50 split:

Value	33:67 Hayland Share	50:50 Hayland Share
Yield (share)	0.83 ton/ac.	1.25 tons/ac.
Price/ton	x $120/ton	x $120/ton
Income	$99/ac.	$150/ac.
Owner Expenses*	-$0/ac.	-$25.00/ac.
Net Return to Owner (Effective Rent)	**$99.00/ac.**	**$125.00/ac.**

*In this example, the owner does not pay any expenses for the 33/67 hay share. Also, the owner pays $25 per acre in fertilizer expense for the 50/50 hay share.

Return on Investment

- Multiply the estimated current market value by the expected rate of return to determine the rental rate per acre.

Farm	Dryland Cropland	Irrigated Cropland
Land Value	$6,500/ac.	$9,950/ac.
Rate of Return	x 2.8-3.2%	x 3.1-3.5%
Rental Rate per Acre	**$182-$208/ac.**	**$308-$348/ac.**

*Estimated net rates of return by land type are available in Table 5 of the Nebraska Farm Real Estate Market Highlights Report 2021-2022.

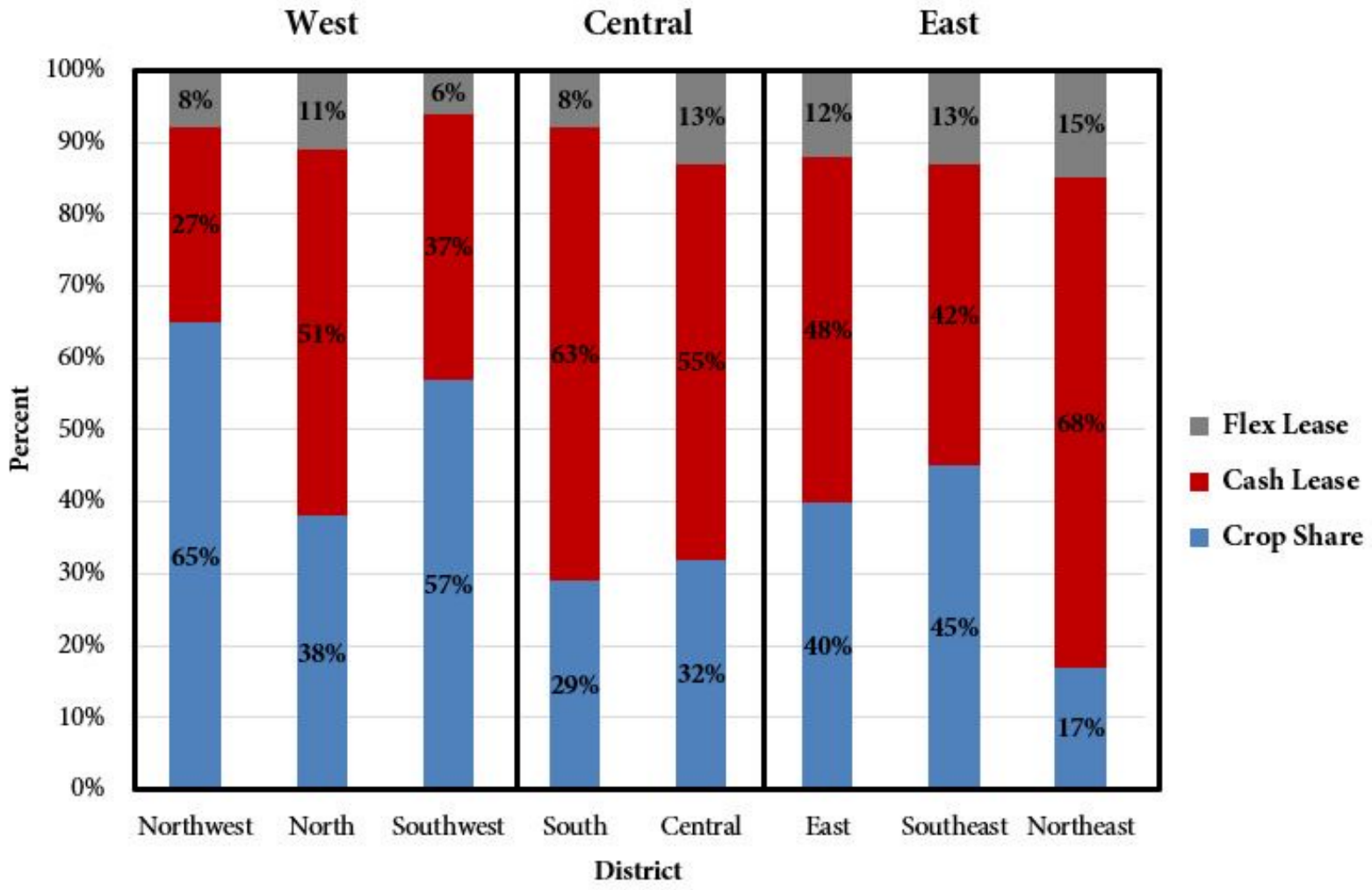
Return on Investment (continued)

- Selecting an appropriate market value and rate of return are key to estimating reasonable rental rates.
- Nebraska Farm Real Estate Survey provides estimated annual net rates of return (returns after landownership expenses – i.e. land taxes).
- Summaries provided in the land report estimate net rates of return for irrigated cropland, dryland cropland, and grazing land.

Agricultural Farmland Leases

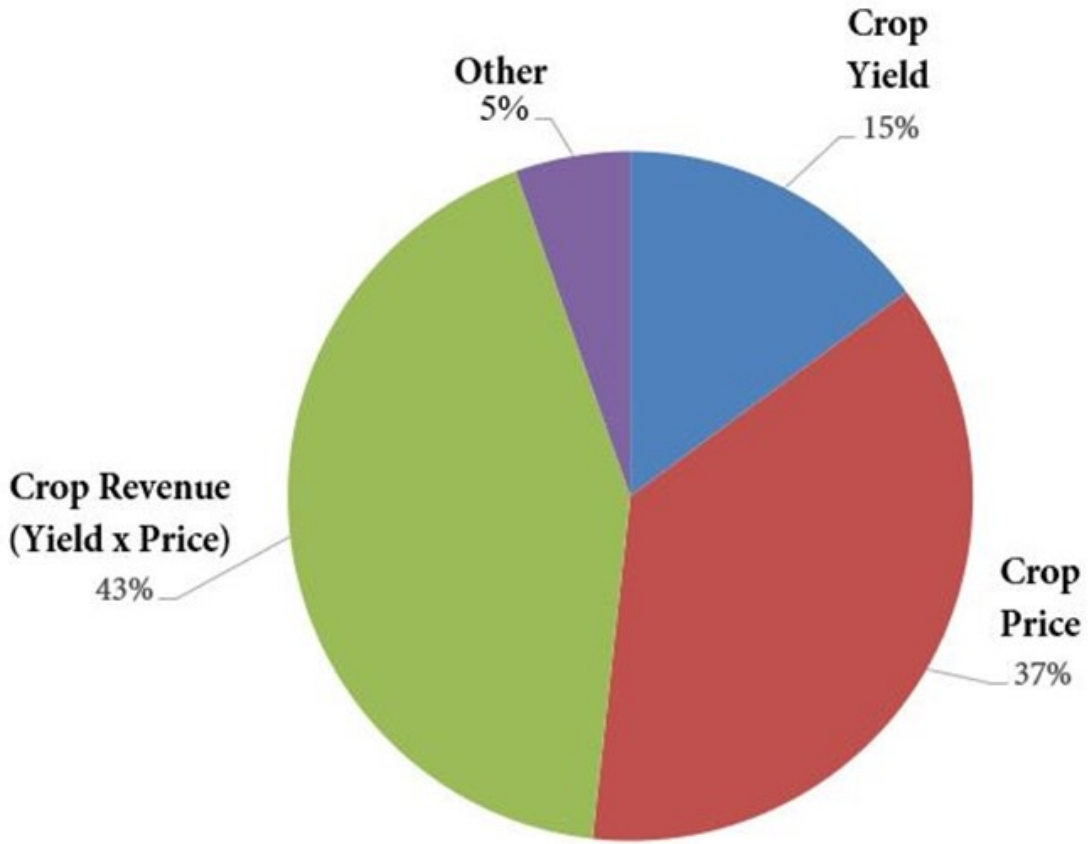
Lease Arrangement Trends

Cropland Lease Arrangements in Nebraska by District



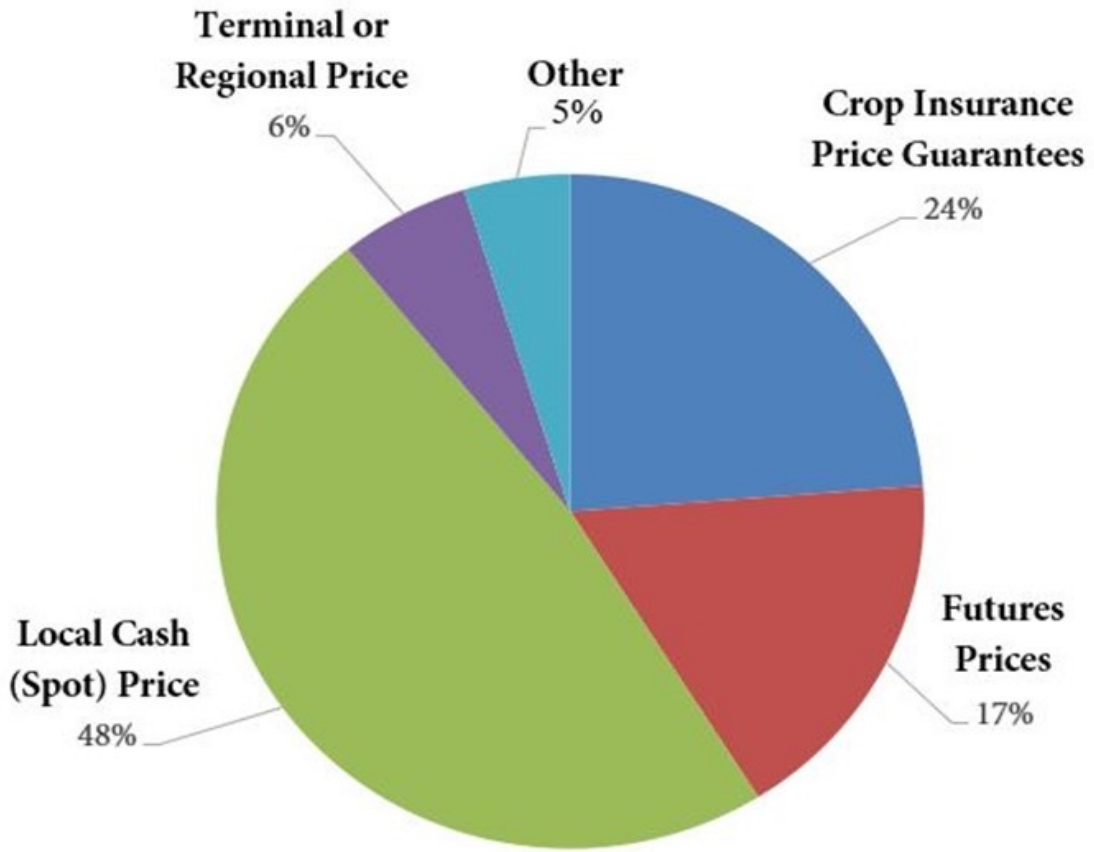
Source: UNL Nebraska Farm Real Estate Survey, 2022

Reported Factors for Flexing Cash Lease Payments



Source: UNL Nebraska Farm Real Estate Survey, 2022

Reported Crop Price for Flexing Cash Leases



Source: UNL Nebraska Farm Real Estate Survey, 2022

Good lease provisions (for any lease)

Lease Provision - Fertility

- Phosphorus
  - Minimum to be left in soil at end of lease
  - Maximum that can be in soil (manure application)
  - Protect tenant with clause if large amount applied

- Mining of soil
  - Consider soil test at end of lease
  - Minimum nutrients left must be followed

- Lime
  - Typically a Landlord Expense
  - If tenant is applying – then protect with clause in lease

Lease Provisions – Soil Health & Environmental Concerns

- Fixing excessive erosion
  - Typically, a landlord's expense
- Non-crop acres
  - Who controls cedar trees and noxious weeds?
- Tillage vs. No-till considerations
- Organic vs. Non-organic production

Lease Provisions – Other Items

- If there is a pasture, who is taking care of the fencing?

- For pasture – know what happens for the Big 3 Disasters!
  - Fire, Hail, or Drought

- Hunting rights
  - Crop ground vs. pasture
  - Nebraska recreational use law

Lease Provision – Other Items

- Corn stalks use
  - Grazing vs. harvesting as bedding
  - Removing all material (not preferable)

- Manure application
  - How often
  - Limits on P application

For the Tenant - What to Communicate

- Force yourself to share information with the landlord
- Yes – even for cash leases!
- Timely crop updates
  - Include moisture conditions
  - Weed, disease, or insect pressures
- Consider sending as text or emails with pictures

For the Landlord - What to Communicate

- Overall management of the farm (do you have vision or goals?)
- Specifically:
  - Weed control
  - Erosion control
  - Non-crop acre management expectations
- If using farmstead, what is the expectation for managing that asset?

Leasing Considerations

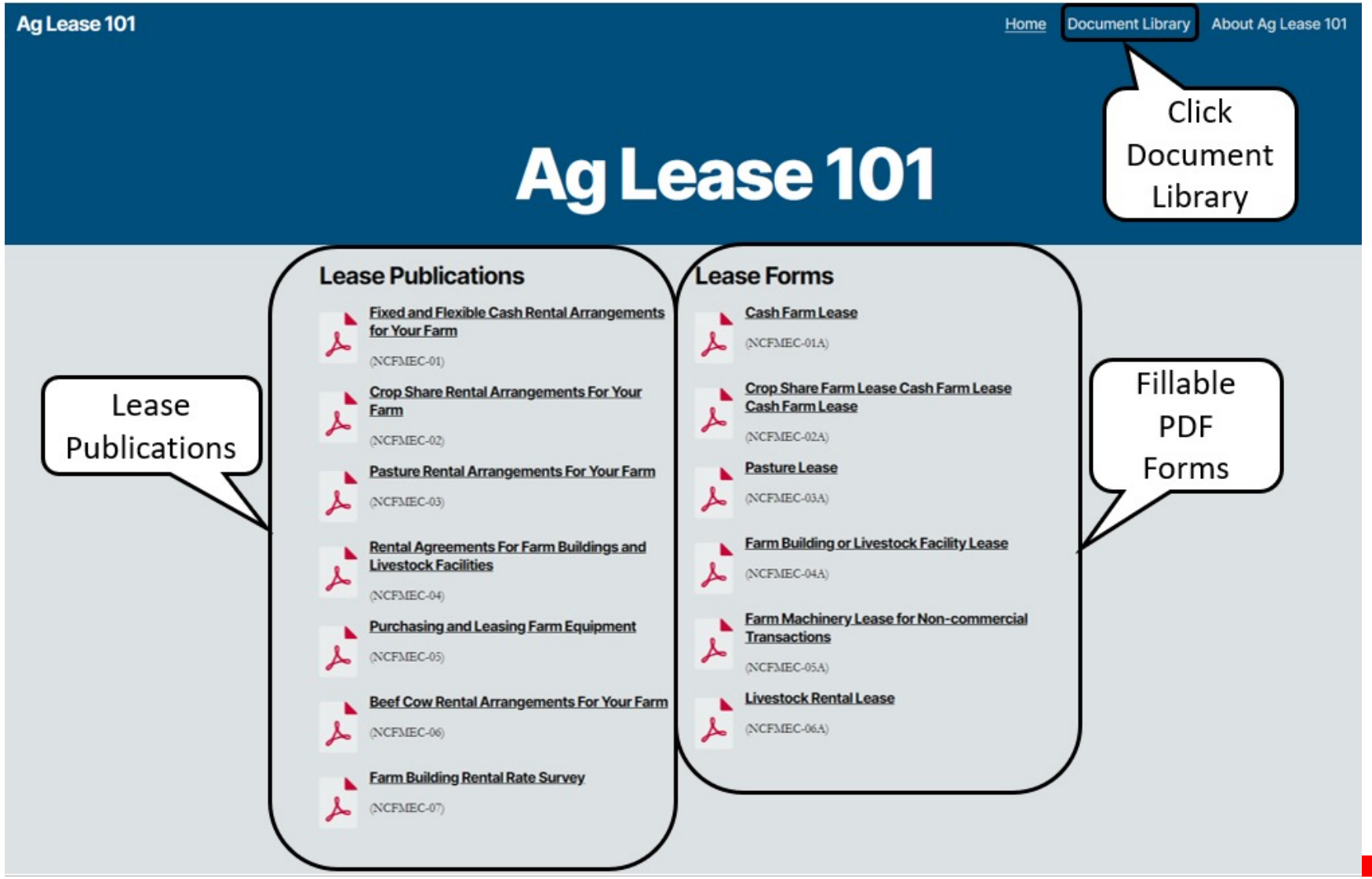
- How is the tenant helping you?
  - Maintaining terraces and waterways
  - Controlling noxious weeds
  - Maintaining fences
  - Maintaining the irrigation system
- If the tenant is helping with these landlord expenses – the rent (especially cash rent) should be adjusted

Written Leases and Lease Provisions

Lease Provision - General

- Have all leases in writing
  - If verbal – end that – get it in writing!
  - In Nebraska – verbal leases for farmland end BY September 1
  - Not the same for pasture
- Start and ending date of lease (length of lease)
- Timing of lease termination – how much notice?
- Holdover clauses?
- When will lease be negotiated? (for the next term)

Fillable PDF Leases – AgLease101.org

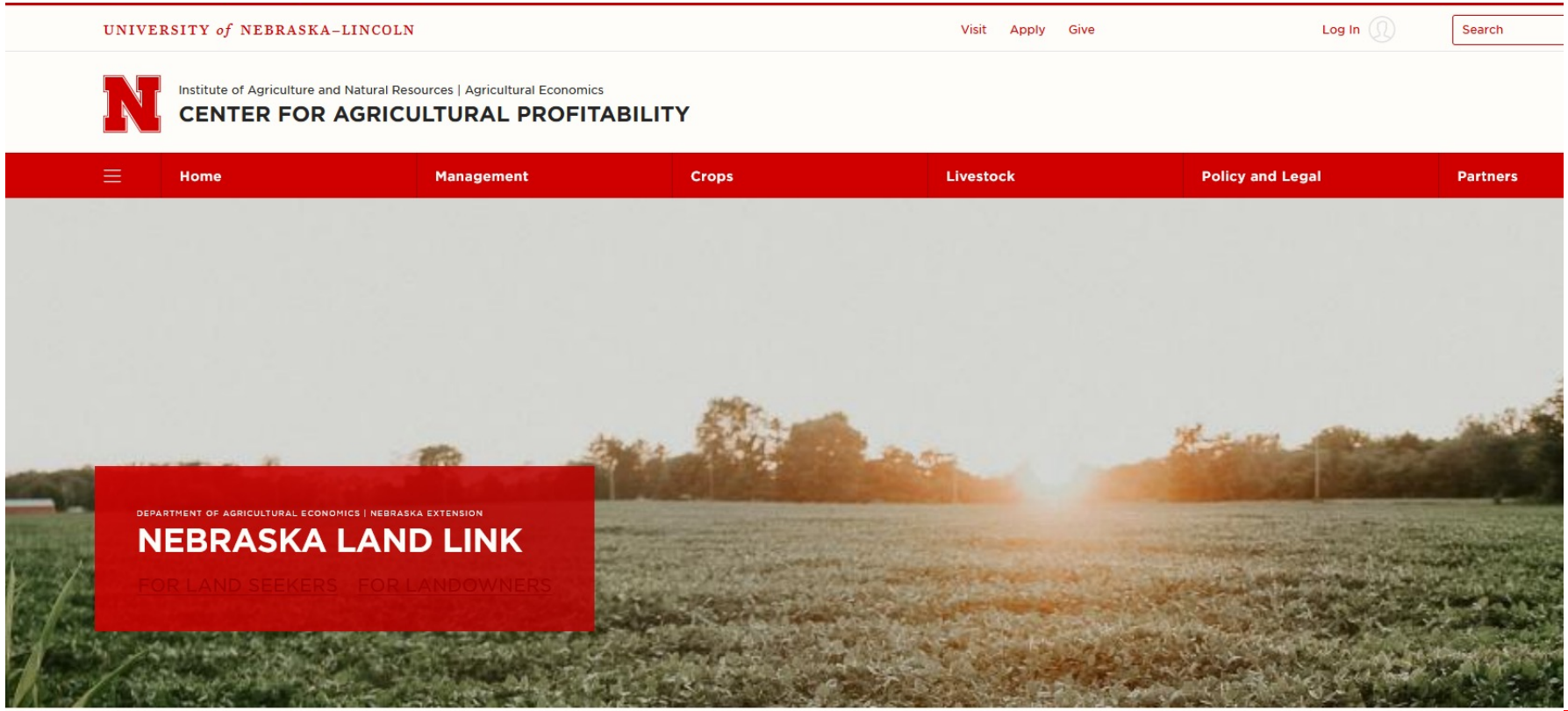


LAND LINK

- Started February 1, 2021
- Problem – two-fold
  - Land seekers don't have access to land so they can farm/ranch
  - Older generation does not have succession path (their children are not farming/ranching)
- Matches Land Seekers with Landowners
- Applications will be used with both groups
- All applications will be reviewed – follow-up phone interviews will be completed
  - Possible land seeker matches will be shared with landowners to decide who they want to interview

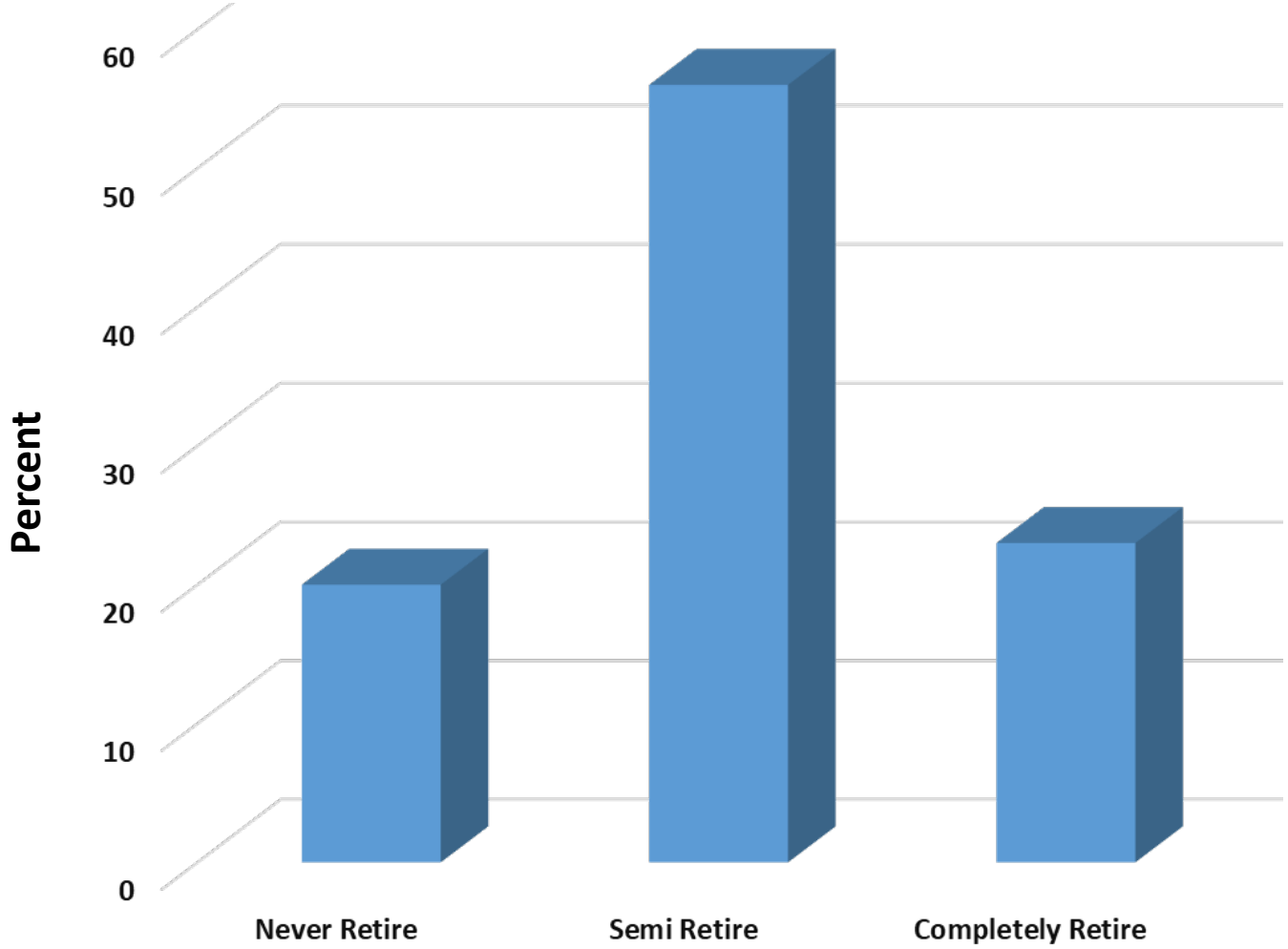
LAND LINK (web: https://cap.unl.edu/landlink)

- Online information and application is at this website
- Questions – contact Allan



Comments on Farm & Ranch Succession

Retirement Plans for Iowa Farmers (2019)



Procrastinating on Farm or Ranch Succession

- About 50% of operations do not have succession plans or they are out of date!
- Farmers really do not ever plan to retire
- Producers may have a hard time giving up control and do not have a lot of other plans for retirement
- Newer equipment makes farming easier to continue in older age

Procrastinating on Farm or Ranch Succession

- Producers may NOT be planning to retire.

- However, the lesson must center on the ideas:
  - No one avoids the pine box.
  - What happens to material possessions when you are gone?

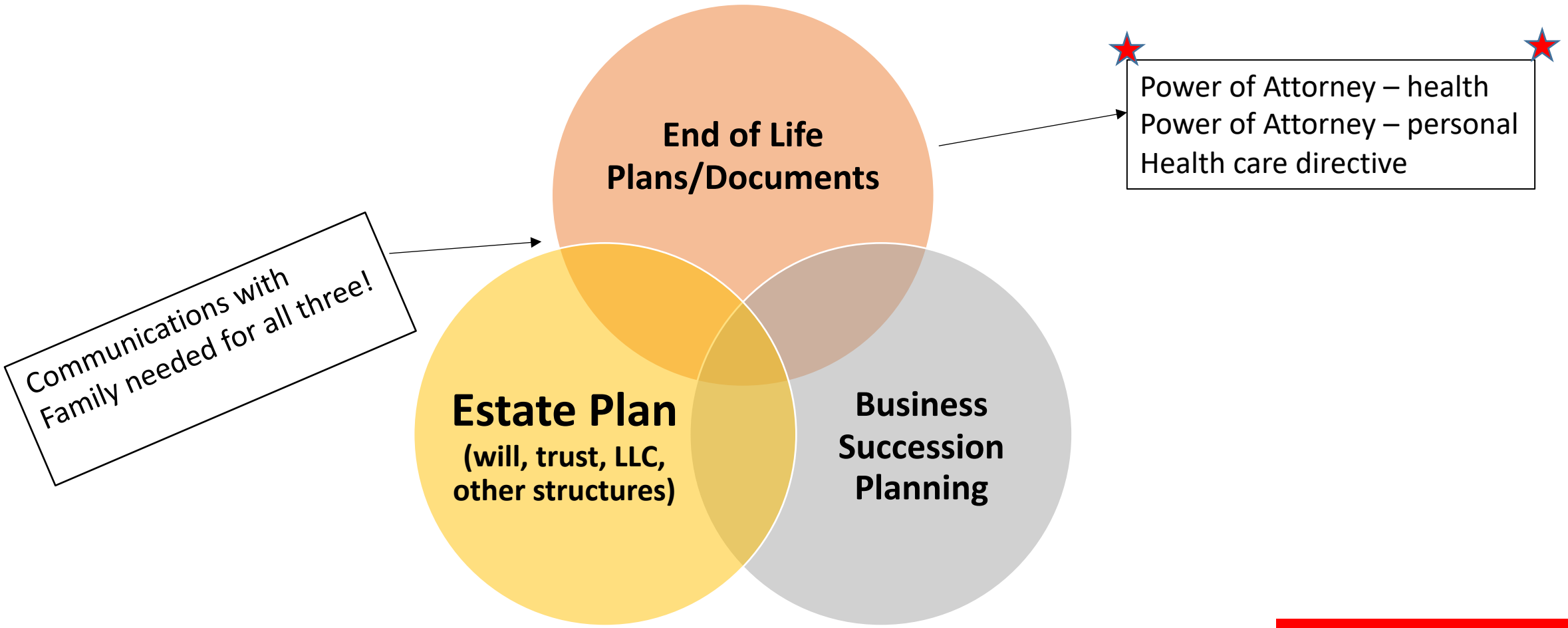
Estate Planning

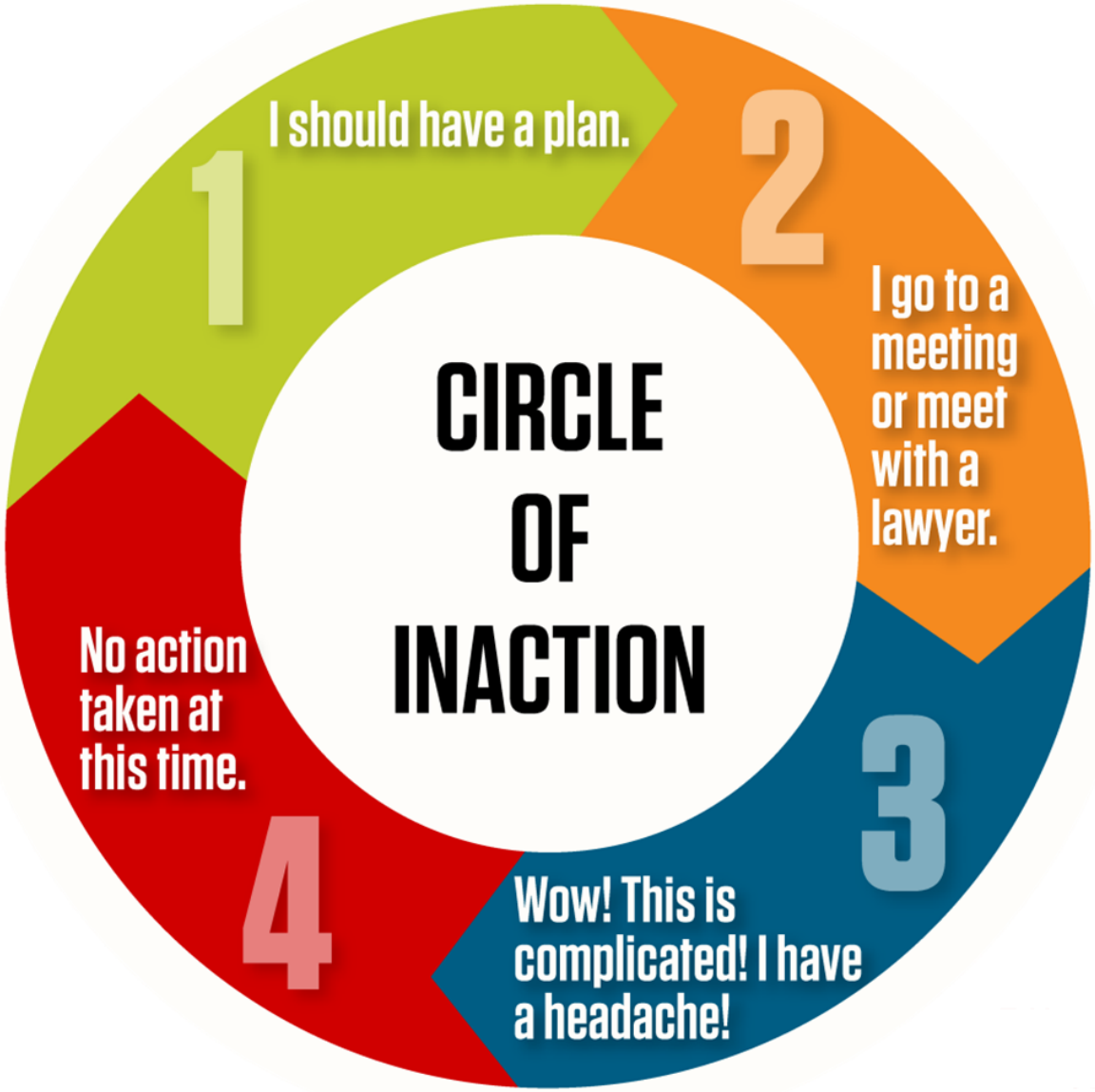
"..many farm families experience significant difficulty in discussing the future of the family farm. More often than not, planning... tends to be deferred until some critical life event occurs which forces the family to address the matter." Kaine, et al, *Succession and Inheritance on Australian Family Farms*, TRDC Pub. #198, The Rural Development Centre, U. of New England, Armidale, NSW

Why do we not plan?

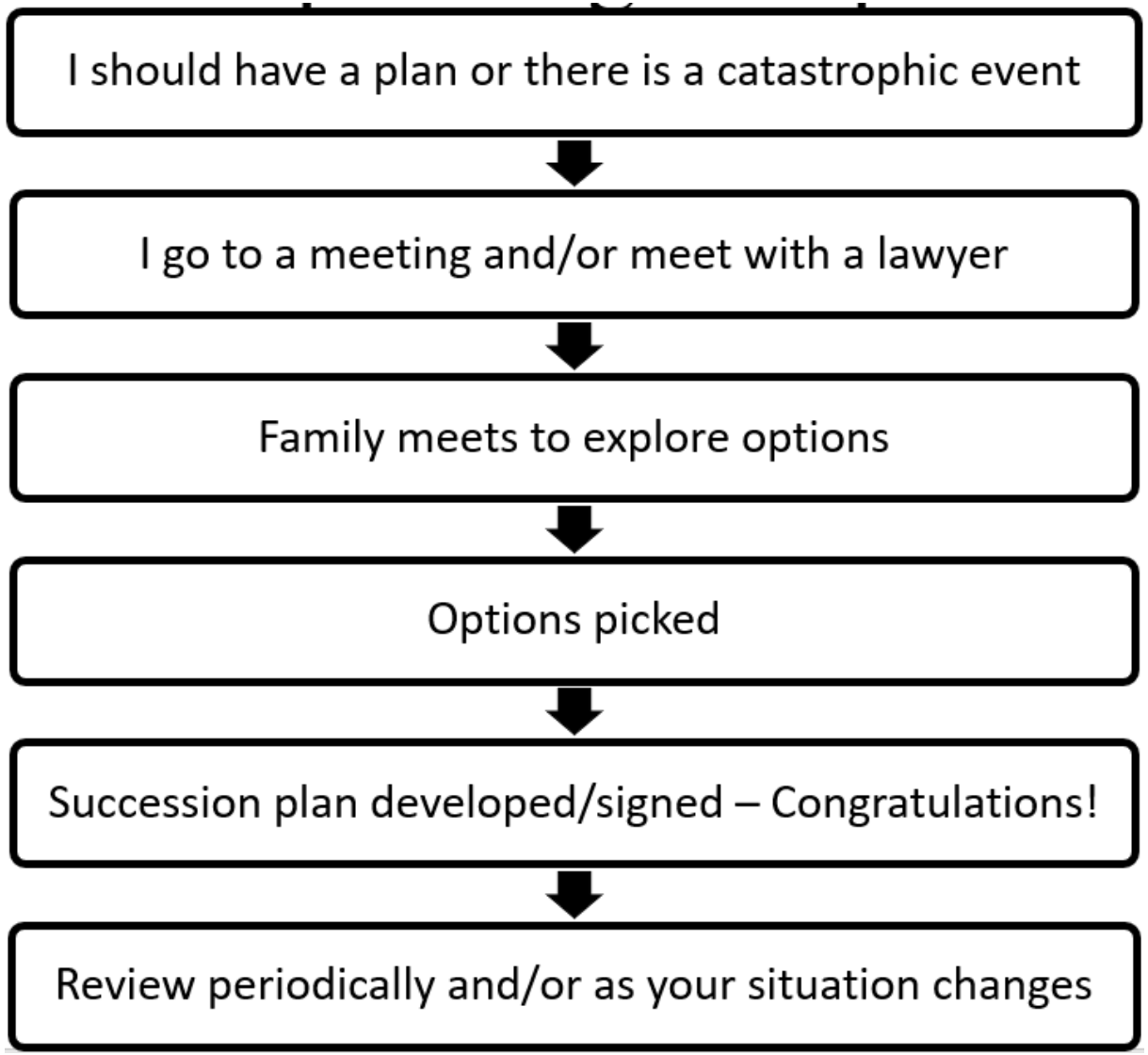
- Too Complicated (we assume)
- Don't like to Plan
  - It is mental 'work'
- Facing our own Mortality
  - Some just don't want to think about death
- **We are afraid that if we do something, it will be wrong (in the future)**

NEAR THE END OF ANY CAREER THREE TYPES OF PLANNING




CIRCLE OF INACTION
1
I should have a plan.
2
I go to a meeting or meet with a lawyer.
3
Wow! This is complicated! I have a headache!
4
No action taken at this time.

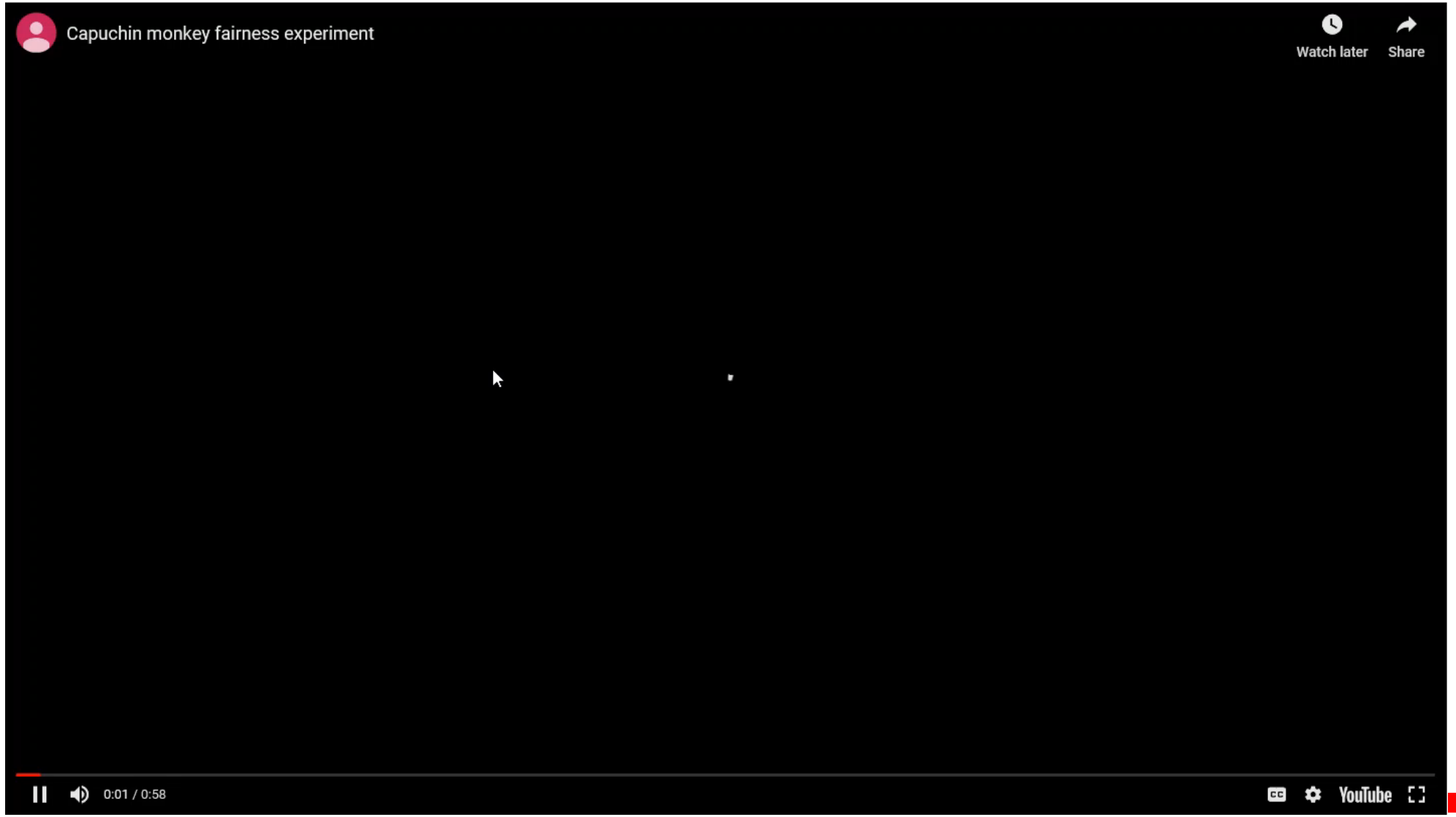
Ideal Steps for Estate Planning



So – the Lesson is Please Have a plan!

- No plan leads to chaos in many situations
- Causes greed among family members
- Splits families
- See the next video – monkeys!

Test of Fairness - Emotions



Returning to the Farm workshop

- For families that have a successor identified
  - Goal is to start plans for positive succession
- December 9-10 in person workshop in York
- Follow-up webinars in January and February '23
- Registration fee to cover expenses in York
- For more information if interested, contact Allan
  - Email or phone

Upcoming Webinar: Ag Land Mgt. Quarterly
November 14, 2022 at 12:00 PM CDT

- **Topics**
  - USDA Land Management Highlights
    - 2022 county-level cash rental rate estimates
    - ARC & PLC Farm Program Payments
  - Landlord & Tenant Communication
    - Harvest season reports and closing out the lease
    - Considerations for leases in 2023
  - Ask an Expert
    - Review of submitted questions and from meeting participants
    - Upcoming land management workshops and publications

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A special thanks to Peoples Company for sponsoring today's meeting.

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Nebraska Agriculture Land Studies Fund

- **Interested in helping support the Nebraska Farm Real Estate Survey & Report?**
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https://go.unl.edu/landfund

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So You've Inherited a Farm, Now What?

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