

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Agriculture Committee February 7, 2023

**HALLORAN:** Welcome to the Agriculture Committee. I'm Senator Steve Halloran. I'm from Hastings, Nebraska, and represent the 33rd Legislative District. I serve as Chair of this committee. The committee will take up the bills and, and confirmations that we have in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing if they show up at all. I was ad-libbing on that. This is just part of the process when they come and go because they may have committee hearings that they have to testify in front of. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserved chairs when you are ready to testify. These are the first two chairs on either side of the first row. Introducers will make initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print. It is important to complete the form and in its entirety. When it is your turn to testify, give the sign-in sheet to the page or to the committee clerk. This will help us make a more accurate public record. If you do not wish to testify today but would like to record your name as being present at the hearing, there is a separate white sheet on the table that you can sign for that purpose. This will be a part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify and they will distribute those to the committee. If you do not have enough copies, a page will make sufficient copies for you. When you come up to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name to ensure we get an accurate record. We will begin using the light system for all testifiers. You will have five minutes to make your initial remarks to the committee. When you see the yellow light come on that means you have one minute remaining and the red light indicates that your time has ended. Questions from the committee may follow. No displays of support or opposition to a bill vocal or otherwise are allowed at a public hearing. Committee members with us today will introduce themselves, starting on my left.

**RAYBOULD:** Good morning, everyone. I'm Jane Raybould, Legislative District 28, which is in Lincoln.

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**BREWER:** Tom Brewer, Legislative District 43, which is 11 counties in western Nebraska.

**IBACH:** Teresa Ibach, Legislative District 44, which is eight counties in southwest Nebraska.

**HALLORAN:** And Senator Ibach is the Vice Chair of this committee. To my far right.

**HOLDCROFT:** Rick Holdcroft, District 36, west and south Sarpy County.

**RIEPE:** I got here just in time. Merv Riepe, Legislative District 12, which is southwest Omaha and the residents of Ralston. I see some FFA guys. Good for you.

**HANSEN:** Ben Hansen, District 16: Washington, Burt, and Cuming County.

**HALLORAN:** And to my right, committee research analyst Rick Leonard. And to my far left is committee clerk Andrew Ojeda. Our pages for the committee are John Vannes, he's political science at UNL, and Ken Bartling, he's also studying political science at UNL. And thank you, Senator Riepe, for acknowledging some very special guests we have here in the second row, the FFA members. I had a nice chat with them and I told them there's many things I admire about them, but two of those is the way they dress, very dignified. And the other one is, is that they make amazing eye contact when they're talking to you, which is very important. So thanks for being here. We will start off with LB116. Senator Brandt.

**BRANDT:** Good morning, Chairman Halloran, and members of the Ag Committee. As a former FFA member myself, this is where you end up sometimes, so. I am Senator Tom Brandt, T-o-m B-r-a-n-d-t. I represent Legislative District 32: Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster Counties. Today, I'm introducing LB116, which updates Nebraska NextGen program to assist beginning farmers and ranchers by modernizing the requirements to qualify for the program for the purpose of encouraging more beginning farmers and ranchers. LB116 does three things: one, it increases the maximum net worth for beginning farmers from \$200,000 to \$1 million; two, it removes pensions and other retirement funds from the network calculation; and three, it removes the ten-acre minimum acreage requirement in the definition of a farm. The reason I am reintroducing this bill is to allow more beginning farmers to be qualified for the NextGen program. Last session, I introduced LB1103, which is the same as this bill, along with LR400, which was an interim study on the NextGen program.

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The Agriculture Committee worked with my staff over the interim to study the program. A meeting was held with the Ag Committee, the Department of Agriculture, NextGen program staff, producers and stakeholders, including the Nebraska Farm Bureau and other ag leaders. There was a lively discussion of the program and at the meeting, and it was reaffirmed that the language that was introduced in last year's LB1103 was what was needed to improve the program. Nebraska's NextGen program, the beginning farmer and rancher program, began 22 years ago in 2001. Since that time, the program has helped 565 beginning farmers and ranchers and granted \$16.2 million in tax credits. Over the last five years, the average number of applications per year have been 75, with an annual total tax credit of \$1.3 million, which averages \$5,200 in tax credits per year for each owner who leases to a beginning farmer. To qualify for the program, the beginning farmer or rancher must be a resident of Nebraska, have farmed or ranched for less than 10 of the last 15 years, provided the majority of the day-to-day physical labor and management, plans to farm or ranch full time, has farming or ranching experience or education, and has participated in an approved financial management course. Beginning farmers and ranchers who qualify for the program must sign a three-year land rental lease rather than an annual lease. They are eligible for a \$500 tax credit reimbursement for an approved financial management course, and they can apply for personal property tax exemptions. In 2021, the Legislature passed LB432, which in part extended the sunset date of the Nebraska NextGen program to December 31, 2025. At the hearing, there was discussion on ways the program could be improved to benefit more beginning farmers and ranchers. But no decisions were made. LB116 is a way to improve it. If you look at the fiscal note, it states there could be an additional \$10 or \$11 million in tax credits, but on average there have only been \$1.3 million in tax credits, and that's pretty standard-- and you'll hear some testimony after me-- annually from the program. The fiscal note states there are minimal costs to implementing this bill. And I would just like to explain that basically what they did is they used the, the FSA method of, of calculation. This isn't a real number. I don't even think they believe that that is a real number, because you would have to have ten times the amount of beginning farmers apply for this program. And I don't even think we have that many beginning farmers in the state of Nebraska and the board would have to approve all of those applications to come anywhere close to that. But there is no cap on this program when this program was passed. And my understanding from, from the meeting that we had this summer, this \$1.3 million has, has always been pretty steady. Iowa, I think, is, is more than that or double that, if I remember correctly. And then we passed an amendment out

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this morning. It's a one-word strike. Yep, that's it. And NIFA, Nebraska Investment Finance Authority, asked for that so that we can synchronize their language with our bill, because in, in, in their language they still had \$200,000, so it's simply an adjustment to the NIFA. And with that, I'd be happy to answer any questions that you may have.

**HALLORAN:** OK. Thank you, Senator Brandt. Questions from the committee? Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. This program is active in Iowa. Do we know any other states using a program like this?

**BRANDT:** There will be several members of the NextGen board that will come up and, and I don't know, is Carla going to testify? And she runs the program. They can answer more of those questions than what I can. But remembering correctly from our, our meeting last summer, yeah, a lot of the states around us have a similar program.

**BREWER:** OK. Thank you.

**HALLORAN:** Thanks, Senator Brewer. Senator Raybould.

**RAYBOULD:** Thank you, Senator Brandt. So to help clear up my confusion, the, the fiscal note is going to still stay at \$1.3 million or is it jumping to--

**BRANDT:** There is no-- the fiscal note, because it is refundable state income tax credits, it, it is calculated different than if it was actual allocation of General Fund dollars. OK.

**RAYBOULD:** OK.

**BRANDT:** And, and so like Senator Linehan is fond of saying, this isn't really tax money, which we know we can have that debate. But it does take, it does take the potential income tax out of the equation because these are tax credits. How this program works is that if you were a beginning farmer and you came to me if this is a carrot and I could lease my land to anybody in here, you're in the worst situation because you don't have a lot of, of equity and you're, you're just getting started and you tell the, the landlord, hey, I can get you another 10 to 15 percent more if you'll rent to me, but you've got to sign a three-year lease and the board has to approve it, obviously. But if I was going to cash rent, I get 10 percent refundable state income tax credit, or if I'm willing to crop share, which in agriculture is a big deal, I can get 15 percent. And it's been very

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successful. Initially when the program came out, you could not rent to a relative. They had very low usage because in agriculture everybody's related and when they opened it up so that grandpa could rent to the grandson or the uncle could rent to the nephew or niece, we have a lot of young ladies in agriculture today, it really picked up.

**RAYBOULD:** So basically the, the tax credit loss of revenue could go up to \$10 million.

**BRANDT:** Based on, on their calculations.

**RAYBOULD:** On their calculations.

**BRANDT:** Yeah, we would be shocked if that would happen. I mean, you look at the ag states around us and they, they might have double what we have.

**RAYBOULD:** OK. And then you mentioned the sunset, it sunsets in 2025. Does that change the sunset?

**BRANDT:** No, it doesn't.

**RAYBOULD:** OK.

**BRANDT:** Yeah, that was in a different bill. Yeah. My understanding it's still there. So that will be an opportunity for somebody to change that down the road, too.

**RAYBOULD:** OK. Terrific. Thank you.

**HALLORAN:** Thank you, Senator Raybould. Any other questions? Senator Riepe.

**RIEPE:** Thank you, Chairman. Thank you for being here. The question that I have in last session, I think you filed LB1103.

**BRANDT:** Right.

**RIEPE:** Has this just run out of time? Was this part of the--

**BRANDT:** Yes. Yeah, we had a lot of bills just left on the table last session. We just didn't-- anything on General File did not get heard last session. It was a priority bill or nothing. And so a lot of these bills that were middle of the road just are coming back this year. I see Senator Hansen nodding his head on that.

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**RIEPE:** Is there any chance that this bill will be your priority bill or have you made that decision?

**BRANDT:** I don't, I don't know at this point. I have another bill targeted in the Education Community-- Committee as my priority. If that one doesn't come out, we'll see. But, you know, hopefully this is of importance enough to the Ag Committee that maybe it could be one of theirs, but we'll see.

**RIEPE:** OK. I have a couple more. May I?

**HALLORAN:** Please. Yes.

**RIEPE:** How extensive is the [INAUDIBLE]?

**BRANDT:** I think the people behind me that actually serve on this committee can probably address the scope in Nebraska and, and like I stated, we averaged 75 applicants for the last five years.

**RIEPE:** Not to be unkind, but from where I come from, I think you talked something here about ten acres or something like--

**BRANDT:** Yeah, it, it--

**RIEPE:** Ten acres is a garden.

**BRANDT:** OK. Yeah. But in the original bill, it had to be a minimum of ten acres. And the reason we removed that was for the livestock people. Most of our pivot corners are six acres. And what you see as you see a lot of hog houses and chicken houses. Contract production out there. I know when my son went to SCC, there was a group that would have come around and if we had a pivot corner, they would have put up two, two 1,000-head hog houses. And he could have earned income doing that. And that's pretty common in agriculture. There really was no reason to have that ten-acre minimum in there. I don't know what the original intent was, so we just-- we took that out.

**RIEPE:** The other question I had, does this fundamentally pick winners and losers?

**BRANDT:** I don't think so.

**RIEPE:** OK. The other one I have, the question is, is this affirmative action for farmers? I mean--

**BRANDT:** Define--

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**RIEPE:** Affirmative action is usually more at the university levels or, or urban.

**BRANDT:** You know, I think of, of all the industries in Nebraska, agriculture is the most colorblind. We are so--

**RIEPE:** No, I'm not talking about race here. I'm just talking about, you know, preferential treatment to a select group.

**BRANDT:** If a beginning farmer or a rancher is a select group, it, it is a program to help them get started.

**RIEPE:** OK. Thank you, Mr. Chairman. Thank you.

**HALLORAN:** Thank you, Senator Riepe. Any further questions from the committee? Seeing none, you'll stick around for close.

**BRANDT:** Maybe.

**HALLORAN:** OK.

**BRANDT:** For a while.

**HALLORAN:** All right. We'll move into proponents for LB116. And if you'll move forward to the front chairs that will help us. Proponents for LB116? No proponents? Any proponents, we'll take any proponents for LB116? Good morning.

**ERIC GERRARD:** Good morning, Chair Halloran. I didn't expect to be the, the first proponent. My name is Eric Gerrard, E-r-i-c, last name is G-e-r-r-a-r-d, and I'm here on behalf of the Nebraska Investment Finance Authority, otherwise known as NIFA. We are here simply on the amendment, hopefully the simple amendment that Senator Brandt introduced. NIFA-- and I should note, our executive director had a conflict this morning so you're, you're stuck with me. I'm the registered lobbyist for NIFA. So I'm trying to get up to speed quickly on what the beginning farmer, ranch loan entails. Currently, in the NIFA statutes, it's set at actually \$500,000 is the, the maximum income that a beginning farmer can have. We are asking this committee to increase that to, to \$1 million just so there's parity with LB116, which is the tax credit portion. I'm sure you'll hear other good arguments why this change is necessary, but the NIFA staff provided me information that the last time this was changed in the NIFA statute was 2005 by the Legislature. At that time, it was \$300,000 was the max. It was increased to \$500,000 at that time. Since that time, as I'm sure many of you know, land prices has-- have over doubled. And so

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the, the need is, is there, I think, to make the change. I did want to just briefly mention that you're looking at the amendment, that's Chapter 58. Typically, NIFA's committee of jurisdiction is the Banking, Commerce and Insurance Committee. Although, I'll admit we've been in about four or five different committees this year, so we're, we're all over the place. But I did want to acknowledge I sent an email to Senator Slama or Chairwoman Slama just so she was aware that we were seeking this amendment in a different committee. I didn't want to get crosswise with the, with the Banking Committee. The last thing I'll note is the, the usage of the loan. You know, I mentioned 2005 was the last, last time there was a change. We received more applications or administered more loans during that time, I think when the, the price of land and, and the income level was probably at a, a more proper level. The, the requests and the, the applications we have, we have granted have gone down in the last few years. And I think a part of that is because that \$500,000 cap has become problematic or burdensome, especially for first-time, first-time farmers or ranchers. So with that, I will close my comments and I'm sure there will be more behind me who can explain LB116 better than I can.

**HALLORAN:** OK, Mr. Gerrard, thank you. I think you gave us your name, and maybe you spelled it, but for the sake of the transcribers would you spell your name, please?

**ERIC GERRARD:** Sure. E-r-i-c, last name G-e-r-r-a-r-d.

**HALLORAN:** OK. Any questions from the committee. Senator Riepe.

**RIEPE:** You sound like a finance guy so I have this question. Does LB116 subsidize interest banks won't touch?

**ERIC GERRARD:** And are you-- can I just ask, are you asking specifically the, the NIFA amendment or the entirety of LB116?

**RIEPE:** It's the entire bill, that if it's changed by the amendment, then so be it. I mean, is it that risky that banks reject it?

**ERIC GERRARD:** Well, I'm not a finance guy. I should, I should preface my statement with that. But I do think these, these are, you know, some of these loans they probably wouldn't touch unless there was a partnership. And so NIFA is a state instrumentality, so we're a quasi-governmental group who can partner with the private sector. And so I think LB116 and specifically this amendment would allow us to, to



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partner potentially in, in areas that private, private banks maybe would not take on.

**RIEPE:** OK. Thank you.

**HALLORAN:** Senator-- thank you, Senator Riepe. Any further questions from the committee? Yes, Senator Hansen.

**HANSEN:** Again, you say you're not a finance guy, but so, so with the increase to \$1 million is-- and you're talking about the land as being a reason for that, right, land costs going up.

**ERIC GERRARD:** Yep.

**HANSEN:** Is that a part of the net worth or is that-- with land is up, is that a part of the net worth or is that, that gross?

**ERIC GERRARD:** I think it is a part of the, the net worth. I should probably defer to-- I'm looking over at--

**HANSEN:** I didn't know for sure, like, what, what, what portion of it was or all of it was or--

**ERIC GERRARD:** I think that is included. I, I should note in LB116, I think Senator Brandt was smart to include some exclusions as to what wouldn't be included. In the NIFA statutes, we don't have those, those same exclusions. And to be honest, we want to just keep it as simple of an amendment as possible. But-- sorry, to answer your question directly, yes, I think it is.

**HANSEN:** OK. And then do you know how many more applicants this opens the door for increasing it to \$1 million?

**ERIC GERRARD:** I don't know. Let me see if I can get you an answer on that. I will, I will tell you the most recent years, so 2022, NIFA granted out seven, seven different loans like this. So we aren't talking about a astronomical number. In the, the highest year, I think it was at 17. You know, when I go back about 20 years, 17 was the highest number.

**HANSEN:** That's kind of what I was curious about. If it goes from, like, 7 to, like, 50, you know, [INAUDIBLE].

**ERIC GERRARD:** It's a [INAUDIBLE].

**HANSEN:** Well, just curious.

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**ERIC GERRARD:** OK.

**HANSEN:** Yeah. Thank you.

**HALLORAN:** Thank you, Senator Hansen. Further questions from the committee? Seeing none, thank you, Mr. Gerrard.

**ERIC GERRARD:** Thank you.

**HALLORAN:** Next proponent for LB116. Good morning.

**ANDREW DUNKLEY:** Good morning, Chair-- Chairman Halloran and members of the Agriculture Committee. My name is Andrew Dunkley, A-n-d-r-e-w D-u-n-k-l-e-y. I'm with, with Nebraska Farm Bureau and I'm testifying today on behalf of the Ag Leaders Working Group, which includes Nebraska Farm Bureau, Nebraska Cattlemen, Nebraska Corn Growers, Nebraska Soybean Association, Nebraska Wheat Growers, Nebraska State Dairy Association, Renewable Fuels Nebraska. I don't think I forgot any in there, but-- and Nebraska Pork Producers. I always forget one. We're, we are very much in support of, of LB116 and we thank Senator Brandt for bringing, bringing this again. This is a, this is a priority bill for, for us. We have seen great success from, from the beginning farmer program. And we've been in, in close contact with, with, with, with Carla and, and the team and the, the, the NextGen committee. Nebraska was the first state to implement this, this type of program. And I believe that there was a, a question about other states and, and how other states have implemented this. I get-- I'm, I'm-- on, on average, I, I got about three calls from various states, from other state Farm Bureaus wondering about how they should implement this program. Ohio comes to mind. I know that, that Iowa and, and other states have, have implemented these types of programs within their state. And each time I, I tell them, here's the main thing that, that I need, I need to tell you. You need to make sure that the net worth cap is at the right level. This-- the, the main thing and the, the, the main priority in this bill is the increase from \$200,000 to \$1 million in the net cap. And, and Senator Hansen, in answer to your question, that, that does include as part of the net worth cap, that, that land is included in that. So I just did a quick search at about \$12,000 average price of, of quality ag land, that's about 16 acres. So if you are a beginning farmer and you have more than 16 acres, then you're already capped out. That's, that's not necessarily a, a, a great place to start. And, and, and Senator Brandt also talked about the, the 10, 10-acre-- addressing the ten acres about pivot corners. But also there are many different forms of ag that don't necessarily need ten acres, whether it's aquaponics or, or

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what have you. But between, between the, the, the increase in that cap, the, the ten-acre minimum and removing the retirement funds, the, the, the fact that retirement funds are included in net worth is, is always a little bit of, of a-- we, we never understood why that was included in, in net worth when those are-- heck, if, if someone were to declare bankruptcy, 401(k) funds are, are not able to be touched. So that, that's a, that's, that's just makes sense to us. So with that, I, I, I did want to address those things and say thank you very much for your consideration. It, it is a priority. It's-- we, we definitely use it, our members use it and are, are very much involved in, in, in working this. And, and we'll continue working with the committee. So with that, I'll, I'll open up for questions.

**HALLORAN:** OK. Thank you, Mr. Dunkley. Any questions from the committee? Senator Riepe.

**RIEPE:** Oh, I'm sorry. Thank you. Mr. Chair. You said how important it was. How many individuals would be impacted by this?

**ANDREW DUNKLEY:** I, I am not, I'm not sure how many.

**RIEPE:** Is there a lot of pent-up demand?

**ANDREW DUNKLEY:** Well-- so in conversation with, with our members, we, we, we have heard that, well, we're not eligible because of the net cap, the net worth cap. We would love to, we would love to use it. But yeah, you know, we're not eligible for one reason or the other. So whether it's, you know, we have a livestock producer on a pivot corner or, you know, well, I-- I'm-- I have, I have a couple of tractors and ten acres so I'm, I'm net worthed out. In, in a, in-- when you're-- our, our producers are, are-- liquidity is, is a, a, a different thing in, in agriculture so, yeah, we, we have a whole lot of, of folks that say, yeah, we would love to take part in this but-- so I don't have an exact number for you, Senator.

**RIEPE:** It seems to me then the board is going to have to come down to pick winners and losers, if you will, for the existing money because the money is not going to be a bottomless amount of money.

**ANDREW DUNKLEY:** No, it's, it's not going to be a bottomless pit. But I've, I've seen the board be very judicious. I've, I've attended several of their, their meetings and say, all right, let's, let's think about this. We, we have been meeting on how they, on how they calculate payments and, and based on what the market rate is they calculate payments. And they were extremely judicious where we had one

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of our members say, hey, you should be using this, this particular rate. And they, they said, all right, let's, let's bring-- let's create a, a special session. And they came back and met the next month and they looked at that and, and they, they addressed that. So I've, I've seen the board be judicious in that. So I, I don't have a problem with, with the, the, the board existing for that purpose.

**RIEPE:** Thank you. Thank you, Mr. Chairman.

**HALLORAN:** Senator Hansen.

**HANSEN:** Thank you. Just to be clear, this is devoted for commercial production of farm products. I think that's what the qualification is for this program. Can somebody, like, grow hemp, like, like hemp farmers?

**ANDREW DUNKLEY:** I, I don't see why--

**HANSEN:** As long as they meet the qualifications, right?

**ANDREW DUNKLEY:** As, as long as it's, as it's a legal farming practice with, with-- within the state of Nebraska.

**HANSEN:** Just curious. I was wondering if there was any restrictions on what determines what constitutes commercial production of farming.

**ANDREW DUNKLEY:** I believe it's Schedule F farm, but I, I-- that might be a question--

**HANSEN:** Just off the top of your head.

**ANDREW DUNKLEY:** --for the committee. Yeah.

**HANSEN:** Thank you.

**HALLORAN:** All right. Thank you, Senator Hansen. Any further questions from the committee? Thank you, Mr. Dunkley. Appreciate it.

**ANDREW DUNKLEY:** Thank you.

**HALLORAN:** Additional proponents for LB116? Additional proponents? You know, you all are very bashful. I'm glad we got the State Patrol here because this is a very rowdy group. Good morning.

**AL DAVIS:** Good morning, Senator Halloran, members of the Agriculture Committee. My name is Al Davis, A-l D-a-v-i-s, and I am here as the registered lobbyist for the Independent Cattlemen of Nebraska and I'm

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also representing the Nebraska Farmers Union as a member of the board of directors today because Mr. Hansen has other conflicts elsewhere. I want to thank Senator Brandt for introducing LB116, which makes changes to the Beginning Farmer Tax Credit Act. The average age of a Nebraska farmer or rancher has been a concern for decades in the state, and many efforts have been made to stem the loss of our young producers. The root cause of this problem is not the desire or the lack of desire on the part of young producers, but the consistently low prices for the commodity produced coupled with high input costs, and it is nearly impossible for any young Nebraskan to establish himself in the industry unless he has significant backing from lenders, deep pockets of his own or his family, and sometimes a willing landlord or seller who will lower the price of rent to help someone get started. And that's partly what we're doing here with this bill. I want everybody to know that. In reading statutes on the bill, I note that the \$250,000 asset cap was set decades ago when land was much cheaper in Nebraska. In today's world, land is selling for many multiples of its price when the bill was passed, which is a very good reason why this cap needs to be raised and attaching the cap to a formula based on the Producer Price Index means that it will rise along with prices, which will keep it available for many beginning farmers in the future. Both ICON and Nebraska Farmers Union do have concern about striking the ten-acre minimum on the bill, and the committee needs to sort out how this feature might be used. Ten acres of land is already an insignificant amount when considering a conventional farm. Striking the acreage from the bill could produce a couple of outcomes. First, small cottage farms might develop on bits and pieces of farm ground which are not normally farmed. That could destroy habitat needed for wildlife, which is already stressed in Nebraska. Secondly, and more concerning to us, these small parcels could become prime ground for industrial agricultural production, again, destroying the habitat and contributing to a host of other problems. The committee should consider these options and possibly amend the bill after discussion. Again, thank you to Senator Brandt for recognizing that there was a problem associated with the Beginning Farmer Tax Credit Act and moving forward with it. And I'll take any questions, although I don't have a lot of knowledge about this particular program.

**HALLORAN:** All right. Thank you, Mr. Davis. Any questions from the committee? Seeing none, appreciate your testimony.

**AL DAVIS:** Thank you.

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**HALLORAN:** Additional proponents for LB116? Additional proponents? Seeing none, we'll go to those in opposition to LB116. Seeing none, anyone in the neutral capacity for LB116? Good morning.

**BRADLEY LUBBEN:** Good morning.

**HALLORAN:** Please state and spell your name for us, please.

**BRADLEY LUBBEN:** Chairman Halloran, members of the committee, good morning. I'm Bradley Lubben, B-r-a-d-l-e-y L-u-b-b-e-n. I'm here as the chair and the academic representative on the Nebraska Beginning Farmer Board. I'm an extension associate professor in agriculture economics at the University of Nebraska-Lincoln. But I am here before you today, not as a representative of the university, but as chair of the board to testify in a neutral capacity on LB116. I have additional documentation that is being distributed now and I ask it to be placed in the record for the bill. The board is responsible for administering the Beginning Farmer Tax Credit Act. We approve or deny applications based upon applicants meeting criteria set forth in the act. Relevant to this proposal, the board would deny applications for beginning farmers and ranchers whose net worth currently exceeds \$250,000. This was recently adjusted from \$200,000 due to inflation as is currently prescribed by statute. There are three other states with similar programs that have a net worth requirement that is adjusted for inflation. Their current net worth requirement in Iowa, the current net worth requirement is \$833,000, Minnesota \$903,000, and Ohio recently set at \$800,000. To date, the program has assisted 590 beginning farmers and ranchers. Raising the net worth requirement as proposed in LB116 would broaden the pool of potential applicants and assist in securing the next generation of Nebraska ag producers, the initial intent of the program. It is difficult to determine how many potential applicants have not applied to the program due to the current net worth requirement level. It is equally difficult to determine how many would qualify with the passage of LB116 and how many of those qualified would apply. According to the 2017 United States Census of Agriculture, there were 16,740 new and beginning producers in Nebraska operating on 11,718 farms, of which more than 5,500 of those operations have lease arrangements. Per the agricultural census, a new and beginning farmer is defined as producers operating on any operation for ten years or less. While not all beginning farmers and ranchers are likely candidates for the program, several thousand could be potential applicants. Given that several hundred have already utilized the program under the current eligibility restrictions, passage of LB116 would expand eligibility and would be expected to increase beginning farmer and rancher

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opportunities and enrollment. Higher enrollment would place greater demands on administering the program and could potentially require additional staff and financial resources. The board, housed within the Nebraska Department of Agriculture for administrative and budgetary purposes, will continue to administer the program to the best of our ability and will be prepared to adjust as appropriate. And I welcome any questions.

**HALLORAN:** All right. Thank you, Mr. Lubben. Any questions from the committee? Senator Riepe.

**RIEPE:** Thank you, Chairman. I'm briefly, quickly trying to read in your comment here. And so it says the board would deny applications of beginning farmers and ranchers whose net worth exceeds \$250,000. Is that because you have such a high demand?

**BRADLEY LUBBEN:** We deny applications because \$250,000 is the limit on eligibility at the present time. So if they submit an application that shows a net worth about 250, they're denied based on the-- on that.

**RIEPE:** Does the legislation propose that that be changed, though, from up to \$1 million?

**BRADLEY LUBBEN:** The legislation proposes that the, that the cap be raised to \$1 million.

**RIEPE:** But by saying you wouldn't approve anything over 250, that's fundamentally saying we can't support the clause in there or the statement that says \$1 million. Is that correct?

**BRADLEY LUBBEN:** No, no. What it's saying is we apply the program as prescribed in statute. And as prescribed in statute, the current limit is \$250,000.

**RIEPE:** OK.

**BRADLEY LUBBEN:** So if it's raised to \$1 million, we would, we would apply the programs as accordingly.

**RIEPE:** It's always dangerous to get something and then make some assumption out of it real quickly.

**BRADLEY LUBBEN:** You bet.

**RIEPE:** But thank you.

**BRADLEY LUBBEN:** Yeah.

**RIEPE:** Thank you for being here.

**BRADLEY LUBBEN:** Um-hum.

**HALLORAN:** Thank you, Senator Riepe. Any further questions from the committee? Senator Hansen.

**HANSEN:** Thank you. I'm still trying to wrap my head around what happens when they do increase this. How many more people do you think are going to apply and be eligible for this?

**BRADLEY LUBBEN:** Right.

**HANSEN:** Like, you said we had seven last year. Like, in your opinion, how many do you think we're going to have?

**BRADLEY LUBBEN:** Well, Senator, you raise an important question. As, as noted, it's difficult to define who didn't apply and why they didn't apply. If we accept the census of agricultural numbers as sort of the total population that could apply, there's more than 5,000.

**HANSEN:** Yeah.

**BRADLEY LUBBEN:** If we recognize we've assisted nearly 600 to date, that means we could see a severalfold increase in potential applicants. Now, some of those 5,000 already exceed the, the proposed million-dollar net worth limit. Some of those 5,000 may be in operations where land is not the primary asset base, and, and thus the, the rental benefits of, of this program might not be as applicable. So it's difficult to determine how many of that potential population could apply, but we would expect a substantial, maybe severalfold increase.

**HANSEN:** OK. Which is good. Right?

**BRADLEY LUBBEN:** It's, it's good. It's an opportunity to assist additional producers in accessing land. Every sort of query of producers, it's-- there's always concerns about access to land, access to capital. This is exactly what this program really targets is potentially finding that land and finding those assets for producers to work with.

**HANSEN:** And I like the idea of the program because we tend to incentivize all kinds of businesses in the state of Nebraska. Right?



**BRADLEY LUBBEN:** Um-hum.

**HANSEN:** So I'm always under the impression if we're going incentivize one group, we should try to incentivize as many as we possibly can to be as fair as we can so we reduce what Senator Riepe is talking about picking winners and losers because I don't think that's kind of our job as a government. So I appreciate at least we're trying to target this industry because we always target all kinds of other industries that come here. And so one more quick question. Do you think a lot of people knew about this? Because I know stuff like we just did the Property Tax Credit Relief Fund, right, and I think 40 percent of the people in state of Nebraska didn't apply for it because they didn't know about it.

**BRADLEY LUBBEN:** Yeah.

**HANSEN:** Do you think a lot of beginning farmers know about this?

**BRADLEY LUBBEN:** I, I think a lot of beginning farmers know about it. We would note some statistics on the additional documentation actually shows applications went down in 2022. You could argue that or speculate that in the midst of COVID, it wasn't as, there wasn't as much of an opportunity to market the program. The staff-- Karla Bahm, our director is here, the staff do a substantial job of marketing the program across the state at various meetings and events. Those were slowed down, obviously, for the last couple of years. It's also possible that with the current prices in agriculture that the revenues and incomes have gone up and, and maybe a, a, you know, certain segment of the population jumped above that current net worth with, with one or two good years. And so, so we actually saw a little bit smaller numbers this past year. But, but I think definitely there's an opportunity to continue educating producers about the availability of the program and an opportunity to, to see and, and encourage additional enrollment.

**HANSEN:** OK. Can I ask, can I ask one more quick--

**HALLORAN:** No.

**HANSEN:** All right. Thank you. [LAUGHTER]

**HALLORAN:** Yes, certainly, Senator Hansen, please.

**HANSEN:** Big platform. I should do this one more time.

**HALLORAN:** Please ask another question.

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**HANSEN:** Would-- just out of curiosity, would you be opposed to a cap on this--

**BRADLEY LUBBEN:** I think that's--

**HANSEN:** --of like \$10 million?

**BRADLEY LUBBEN:** Yeah, I, I think that's, that's a worthy discussion for the committee. The, the, the board will be prepared to work with whatever legislation is approved.

**HANSEN:** OK.

**BRADLEY LUBBEN:** And, and if a cap is a reasonable approach to address the fiscal question, that's your discretion. We would have to do some work to determine how we might implement a cap. Some states, the cap is effectively first come, first served. Some states it might be prorated. I should clarify, I don't know what all of the states do. I believe Iowa is a first come, first serve administration. We could imagine some mechanism of, of allocating resources up to the cap on an annual basis.

**HANSEN:** OK. We have something called Microenterprise Tax Credit, too, in the state of Nebraska, which is for other businesses. And I think that's capped as well, maybe, like, \$10 million, or like, not sure, so. OK. Thank you.

**BRADLEY LUBBEN:** Thank you.

**HALLORAN:** Thank you, Senator Hansen. Any further questions from the committee?

**IBACH:** I've just have one.

**HALLORAN:** Yes, Senator Ibach.

**IBACH:** I wasn't going to ask this, but I will, because you stole my question on marketing. Do you know of any other programs available, either federally or state, that would be similar in scope that might assist young farmers and ranchers?

**BRADLEY LUBBEN:** Senator, thank you for the question. There are certainly a number of programs targeted to beginning farmers and ranchers. There are federal programs through USDA's Farm Service Agency and, and the credit programs they offer that include lending opportunities for beginning farmers and ranchers. There are various

research and education and grant programs that particularly target beginning farmers and ranchers. Conservation programs in the, in the farm bill have particular carve outs for qualified beginning farmers. So there are different programs that in different ways help support beginning farmers and ranchers. This tax credit program and, and the other states that have one like it are the only ones that I'm aware of that offer a direct tax credit for the purpose of securing assets, operation of assets between a, a landlord and the tenant. Some states do have a tax credit on sales to qualified beginning farmers and ranchers. This legis-- this legislation does not consider that. But, but it is, it is fairly-- the program is fairly unique of its kind.

**IBACH:** And so any of the other-- any of those federal or state or federal grant programs that they might qualify for wouldn't adversely affect their ability to qualify for this program.

**BRADLEY LUBBEN:** No, participation in, in any of those other programs is not contingent on eligibility for this program.

**IBACH:** OK. Thank you. Thank you, Mr. Chair.

**HALLORAN:** OK. Thank you, Senator Ibach. And thank you. Any further questions? Seeing none, that was very helpful.

**BRADLEY LUBBEN:** Senator, thank you very much.

**HALLORAN:** Is there anyone else in neutral capacity for LB116? Good morning. Please--

**DAVE NIELSEN:** Good morning, Chairman Halloran, members of the Agriculture Committee. I am Dave Nielsen, D-a-v-e N-i-e-l-s-e-n, and I'm the vice chair of the Nebraska Beginning Farmer Board and, and Congressional District 1 representative on the board. I'm a fourth-generation Nebraska farmer. I farm here in northern Lancaster County, and I am here today to testify in a neutral capacity on behalf of the board on LB116. I didn't plan on testifying, but I just wanted to come up here and give you one example that I have since I've been on the board of how the program works. Farmer in our area died suddenly of a heart attack and a, a neighbor boy who wanted to come back from the farm-- the military and wanted to come back and farm with his father, but really didn't have the opportunity. In Lancaster County, there's no real way to get into livestock production. There's just nothing available. And with regulations in Lancaster County, you can't go out and put up a hog barn or a chicken barn because there's too many acreages and all the neighbors come in and yell at you. So

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about the only way to expand in our area is through land, crop farming, corn and soybean production mainly. And so he approached the widowed lady that owned a significant amount of farm ground and asked if he could rent it and showed her the tax benefits that she would receive. So instead of her renting it to an established farmer who might already farm 2,000, 3000 acres, he was able to come back into the community, be an asset as a young farmer, and his wife and children that attend Waverly Public Schools, an asset in the community, and have a chance to come back and farm. So I just wanted to come up here today and give you an example of how the program works. That was just one instance. Also on the amendment on the NIFA deal, you're looking at a young farmer that got started because of NIFA. In '82, I graduated from high school, went to UNL in college. And in 1983, a chunk of ground came up right next to us. I had a chance to get a lower interest loan through NIFA, 10 percent at that time, which is pretty good compared to the-- or a little high compared to 3.5 percent I'm paying today. But it was significantly lower than the 14 percent at that time. So that's kind of how that works. So I just wanted to add that. Any questions, I'd be happy to answer.

**HALLORAN:** All right. Any questions from the committee? Seeing none, thanks for the examples. That was helpful.

**DAVE NIELSEN:** You bet. Thank you.

**HALLORAN:** Any further in the neutral capacity for LB116? Seeing none, Senator Brandt. Before Senator Brandt closes, we had three online comments: one from Robert Hallstrom, representing Nebraska Bankers Association as a proponent; Emily Rischling from Chadron, representing herself as a proponent; and Rocky Weber representing Nebraska Cooperative Council as a proponent. Senator Brandt.

**BRANDT:** Thank you. If you want to see what the future of agriculture looks like, they're in blue coats right here. Just in response and listening to some of the questions that the few senators had, the price of land has skyrocketed in agriculture. I mean, we had the record for about a month down there in Richardson County at \$27,300 an acre. I can tell you as a beginning farmer, \$3,000 an acre is, is tough. And in addition to that, in the last three years, in my own experience here, the price of my chemicals have doubled. The price of my fertilizer has gone up about 60 percent. My seed has gone up 25 percent. My diesel fuel-- we live and die on diesel fuel-- has more than doubled. And the only thing saving the ag economy right now is the fact that we've got about \$7 corn and about \$15 soybeans. And if that vanishes overnight, if, if-- I think a lot of people in the state

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don't realize that every other row of soybeans in the United States goes to China. If something would happen with relations with China and they would shut that off, it would have a devastating effect not only on farmers but on the Nebraska economy. And so these are the challenges we face as a mature farmer. And my son, who's 27 years old, is working with me to work his way into the farm. There are a lot of programs at FSA, NRCS, a lot of them through the government already that they can qualify for. This is very helpful in the state of Nebraska. One aspect we did not talk about was personal property taxes. A lot of people that aren't from a farm don't even realize what personal property taxes are. I think maybe businesses do. But if you have a tractor, if you bought a used tractor for \$100,000, that the new price on that tractor is \$250,000, but whatever you bought that piece of equipment for, we do not pay sales tax on that. I wish we did. We pay personal property tax. So over a course of seven years, I have to go to the county courthouse every year-- and you're smiling, you understand this-- and tell them what I all bought and sold. And so we've got hundreds of thousands of dollars of equipment that we pay this personal property tax on. This program does help those individuals that, that maybe weren't leasing land, you know, because it's very difficult to find somebody that will lease to you, they can go in and get some relief on their equipment. I know that's one program that my son qualified for because he has a lot of equipment, because he custom farms and that's his angle in agriculture is, is you call him up and he will drill or he will do anhydrous or he'll pack silage, bale hay, and swath. And so he's got hundreds of thousands of dollars of equipment. At least there's a, a small portion in here where up to \$100,000 of value, they will help you with the personal property tax, which annualizes about \$1,500 maybe a year. But it's a little bit, but it all helps. Every little bit helps. So I wanted to point that out. You asked about is land part of the net worth? Yes. Critical thing being net worth. That's the difference, you know, that's the difference between what you owe and what it's worth. OK? Just because the land-- you paid \$10,000 for the land, it doesn't go on the books as \$10,000, it goes on the difference between what you owe. 401(k)s, most of our young people coming into agriculture have worked somewhere. Maybe they were in the military. Maybe they worked for Monsanto or a seed corn company, or in my case, I worked in meatpacking for eight years and I accumulated a significant 401(k). Today, that counts against that 200-- 250 now with the escalator net worth that that individual has. In our hearing, hearing-- in our meeting we had this summer, Senator Jacobson, who used to be on the Ag Committee and, and is a banker with a lot of knowledge, said if the loan goes south, we cannot foreclose on 401(k)s anyway. He saw no

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reason for those to-- they should have never been included because that's not something that they can attach. So-- and I would, I would-- I'm just venturing a guess here, but I would suggest a lot of these young people coming back maybe have \$40,000 or \$50,000 already in some kind of a retirement program. OK. That's about all I've got, unless anybody has got any questions for me.

**HALLORAN:** OK. Any closing questions? Senator Riepe.

**RIEPE:** I have two quick questions, both of them administratively. Would the funds come from General File [SIC]?

**BRANDT:** Yeah-- well, no, they come from refundable state income tax credits.

**RIEPE:** Oh, OK.

**BRANDT:** Yes.

**RIEPE:** OK. I got that.

**BRANDT:** Yeah.

**RIEPE:** It also said, I believe, in the fiscal note that it talked about two full-time equivalents.

**BRANDT:** I missed that.

**RIEPE:** There's something at the top of-- hopefully, I'm on the right bill. It doesn't have a page number.

**BRANDT:** They, they were suggesting they may need an FTE to run the program.

**RIEPE:** It's behind-- it's the second page of Rick's memo. His email, his memo to us.

**BRANDT:** I didn't, I didn't have access to that, I guess.

**RIEPE:** OK.

**BRANDT:** I was, I was unaware of that.

**RIEPE:** It was at the top, very top line on that second page.

**BRANDT:** Yeah, on the, on the information that I've got from the Fiscal Office, it does not show that.

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**RIEPE:** OK.

**BRANDT:** Yeah, the only number, the only number they show on the fiscal note is the potential use of the refundable state income tax credits.

**RIEPE:** OK. So the board does not have any--

**BRANDT:** No, they do not have--

**RIEPE:** --don't have any executive or administrative staff to help sort through this?

**BRANDT:** No, not at the moment. They use NDA, Nebraska Department of Ag personnel existing.

**RIEPE:** OK. So but they don't absorb the cost of that, the department assumes that?

**BRANDT:** I would assume so.

**RIEPE:** OK.

**BRANDT:** Yeah.

**RIEPE:** OK. Thank you.

**HALLORAN:** Thank you, Senator Riepe. Any further questions from the committee? Seeing none, that is-- that concludes our hearing for LB116.

**BRANDT:** All right.

**HALLORAN:** Thank you, Senator Brandt.

**BRANDT:** Thank you.

**HALLORAN:** We will move on to LB442.

**RIEPE:** Thank you, again.

**HALLORAN:** Welcome, Senator Albrecht.

**ALBRECHT:** Good morning, Chairman Halloran, committee members. For the record, my name is Senator Joni Albrecht, J-o-n-i, Albrecht, A-l-b-r-e-c-h-t, and I represent District 17 in northeast Nebraska, which includes Wayne, Thurston, Dakota, and a portion of Dixon Counties. Today, I'm introducing LB442 to allocate \$2 million to the

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Livestock Growth Act. Beyond allocating funds to the Livestock Growth Act, this bill helps the Department of Agriculture bring more excitement and legitimacy to the Livestock Friendly County program. I'd like to thank the Ag Leaders Working Group for bringing this bill, especially the Nebraska State Dairy Association and our state's dairy farmers. The Livestock Friendly County program, at its conception, was a great asset to the counties who wanted to go through the exercise of evaluating and modernizing their zoning regulations to facilitate growth of the livestock sector. When it was enacted, the intent was to reward counties with small grants that they can utilize to continue improving their resources and infrastructure to support livestock growth and development. Unfortunately, funds were never available to the participating counties. Since then, the Department of Agriculture has done an exceptional job administering the program. Fifty-one of our 93 counties participate in the Livestock Friendly program. Today, participating counties are proud of the fact that they are livestock friendly. But beyond a sign at the county's border, that's just about all the recognition or value that they've received. By funding this act, we will be able to reward counties for their commitment to rural revitalization through livestock production by distributing performance-based grants that they can use to improve their information technology capabilities and hire a consultant to help them evaluate zoning regulations, improve utility infrastructure, and more. One of the problems some counties face is that the zoning regulations are often very difficult to find. They're not available online or on the GIS website due to the cost associated with developing the website and maintaining it. This problem slows down business and creates confusion with potential economic developers. In a lot of cases, you can only find an example of the zoning map on the zoning administrator's wall or in their desk. These funds will significantly improve communication and will help these counties modernize their services and information for their citizens. I also want to be clear that they are going to earn these funds. The Department of Agriculture has the authority to establish by the Livestock Growth Act to develop parameters and, and meet metrics required for these counties to meet. The Ag Leaders Working Group has been in discussion with the Department of Agriculture to develop these parameters and to ensure the integrity to the grant program. This is not a free handout. This is a bill supported by Ag Leaders Working Group, which consist of the Nebraska State Dairy Association, Nebraska Farm Bureau, Nebraska Corn Growers, Nebraska Cattlemen, Nebraska Soybean Association, Nebraska Wheat Growers Association, Nebraska Pork Producers, and the Nebraska Poultry Association, and Renewable Fuels Nebraska. It also is supported by the Nebraska Association of County Officials. There will



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be a number of witnesses to follow me who should be able to address any of the technical questions that you may have regarding this bill. And I thank you for listening.

**HALLORAN:** Thank you, Senator Albrecht. Questions from the committee? Senator Raybould.

**RAYBOULD:** Thank you, Senator Albrecht. The Livestock Growth Act Cash Fund, how much is currently in that fund?

**ALBRECHT:** I couldn't tell you exactly how much is in it. I just know that we've never taken anything out of it. And it has been-- and they'll be people that follow, will be able to tell you even how long we've been trying to get ag friendly counties signed up so that they could start working on a, a process. But, yes. So I'm not sure exactly what's in the fund.

**RAYBOULD:** All right. Thank you very much.

**ALBRECHT:** But I'll find out and get back to you.

**HALLORAN:** Senator Hughes.

**HUGHES:** I think I can help that. Thank you, Senator Halloran. And thanks-- thank you, Senator Albrecht. We asked the Legislative Research Office, and this fund has never received any funds of any kind.

**ALBRECHT:** Correct.

**HUGHES:** So do you have any idea why it was not funded when it was created in 2017?

**ALBRECHT:** Well, I think the whole idea is you're going to help producers if they want to expand their, you know, their-- like, whether it's livestock or if it's dairy or whatever the case may be. But, but it's just like any program, unless it's promoted and people know that it's out there and have a reason to go ask for the money, you know, there's going to have to be, you know, a grant type situation that they'd be in to-- and that would be between the Ag Department would have to help them along with whether they would qualify or not, or if a county needs it to help with technology and, and getting things out there. So I just don't think it just probably didn't get off to a good start. And so now they have a need out there and that's why they brought the bill to me. So I'm thinking that

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they're trying to fund it so that they can have an opportunity to work with producers to help them expand their operations.

**HUGHES:** OK. Thank you.

**ALBRECHT:** You bet.

**HALLORAN:** Thank you, Senator Hughes. Senator Hansen and then, and then Senator Riepe.

**HANSEN:** Wasn't 2017 when we didn't have any money?

**ALBRECHT:** Well, yeah, you're exactly right.

**HANSEN:** And then we-- so, so we created a lot of--

**ALBRECHT:** Yeah, say no to everything. We couldn't fund anything. You're right.

**HANSEN:** Yeah, so, so one way we did, we did it was we created good programs like this, but we just-- with the intent of maybe funding them later when there was a need just like you said. So I think if I remember right,--

**ALBRECHT:** Thank you.

**HANSEN:** --in 2017.

**ALBRECHT:** Thanks for the help.

**HANSEN:** Thank you.

**HALLORAN:** Very helpful, Senator Hansen. Senator Riepe.

**RIEPE:** Thank you. I lived through some of that, those were bleak and dark years. Senator, the question I have, and I think it's partially answered, the, the transfer of \$2 million from the General Fund--

**ALBRECHT:** General Fund.

**RIEPE:** --and the fiscal note says only in-- so I, I read that as a pledge not to come back [INAUDIBLE]. Is that fair?

**ALBRECHT:** Well, I-- a lot of us have pledges for that, but it seems like it comes back every year, so.

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**RIEPE:** OK. The other one that I have a question about is I'm struggling to find out why it would be an emergency clause.

**ALBRECHT:** There probably is somebody out there needing to expand their operation rather quickly and, and are needing some funds to be able to do that. That's what I would expect and suspect.

**RIEPE:** So we've gone all these years and all of a sudden it's an emergency.

**ALBRECHT:** Well, before they've probably got everything lined up and probably need some help.

**RIEPE:** OK.

**ALBRECHT:** That's what I would think. Yeah.

**RIEPE:** Thank you.

**HALLORAN:** Thank you, Senator Riepe. Senator Raybould.

**RAYBOULD:** I just have one more question, Senator. So I'm not familiar with the grant program itself. Will someone else come and testify about who can qualify for this grant? How many [INAUDIBLE] they can take?

**ALBRECHT:** I would, I would certainly hope there would be somebody behind me to do that for you. And if they don't, I'll certainly investigate it and get you the information. How's that?

**RAYBOULD:** Thank you. Thank you very much.

**ALBRECHT:** You bet.

**RAYBOULD:** Thank you, Chair.

**HALLORAN:** OK. Thank you, Senator Raybould. Any further questions from the committee? Seeing none, Senator, thank you. You're going to stay around for the close.

**ALBRECHT:** I will stay around for the close. And I just want to do a shout out to those in blue behind me. Lexi Boldlak is actually from Pender and she is the president of Nebraska State FFA this year, so just wanted to--

**HALLORAN:** Thank you, Senator Albrecht.

\_\_\_\_\_ : Put a plug in.

**ALBRECHT:** Thanks.

**HALLORAN:** All right. We will begin with proponents for LB442. Good morning. Welcome.

**KRIS BOUSQUET:** Morning, Chairman Halloran, members of the Ag Committee. My name is Kris Bousquet, K-r-i-s B-o-u-s-q-u-e-t. I serve as the executive director of the Nebraska State Dairy Association, and I'm testifying in support of Senator Albrecht's LB442 on behalf of the Ag Leaders Working Group. I'll save you the names because you already heard them once before in Senator Albrecht's testimony, but they are all in support of this bill. The Livestock Friendly County program has been a great tool for counties to understand and evaluate their welcoming posture towards livestock growth and development. This program does not mandate a county use specific zoning regulations or parameters. Instead, it helps those in leadership evaluate what's best for themselves and empowers them to make their own decisions and incorporate scientific tools such as the odor footprint tool and the livestock sighting matrix. Once a county goes through this exercise of self-reflection, they are awarded with the sign at their border signifying that they're livestock friendly. Outside of this exercise and the sign at the county line, that's basically all they see as a benefit. Six years after the program was created, a fund was passed into law to help reward counties in support of their livestock growth and development and to help them with costs associated with future growth. These dollars would be earned and distributed to qualifying counties based off parameters established by the Department of Agriculture but the allocation never happened. Over the interim, the Ag Leaders Working Working Group held multiple meetings focused on how to improve Livestock Friendly County program and we feel LB442 does a lot to improve the program. First, the \$2 million allocation will bring more legitimacy to the program by requiring livestock friendly counties to abide by the parameters of the program if they want to be eligible for the funding. This will significantly help the Department of Agriculture by encouraging counties to submit their annual reports completely and on time. Second, it will help underfunded, underfunded counties modernize their infrastructure to streamline communication. Senator Albrecht mentioned that a lot of times you can only find zoning regulations and a map in the administrator's office. I can attest to that. I have a dual role and the other part of my job is livestock growth and development and it is very difficult at times to find out what zoning regulations are and the, the maps, in general, find out where those are as well. So these funds can be utilized

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towards helping that infrastructure and incorporate those, those documents with GIS, which geographic information systems. And so anybody can access that information. Third, it will help counties become more marketable and welcoming towards livestock growth and development by assisting the county with costs associated with that growth. Nebraska's livestock sector is in growth mode, with projects like Lincoln Premium Poultry, Sustainable Beef, Blackshirt Feeders, and Milk Specialties expansion, hog finishing growth, and also additional dairy processing expansion. Counties will benefit greatly by-- with these funds and be rewarded for their support of rural revitalization. Nebraska has a lot of significant opportunities for livestock growth and LB442 will help communities bring economic vitality back to Nebraska. And we urge the committee to move the bill forward. And I'll be happy to answer any of the questions that you have regarding the bill.

**HALLORAN:** All right. Thank you, Mr. Bousquet. Questions? Senator Raybould.

**RAYBOULD:** Thank you, Mr. Bousquet, for clarifying that the applicants for the fund are the counties.

**KRIS BOUSQUET:** Correct.

**RAYBOULD:** So I guess part of the program is who will be marketing or alerting the counties once-- if we approve the funding that this is something that they can access?

**KRIS BOUSQUET:** The Department of Agriculture. So they have-- Allissa Troyer is actually the individual that works at NDA and administers the program and she is in contact with basically all of the counties that have designated themselves or gone through the process of being designated livestock friendly.

**RAYBOULD:** Thank you. And then so the, the qualifications or the, the grant applications for the counties are in--

**KRIS BOUSQUET:** Yeah, so--

**RAYBOULD:** --LB175 or--

**KRIS BOUSQUET:** LB175 lays out what the funds can be spent on.

**RAYBOULD:** OK.

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**KRIS BOUSQUET:** So there's specific infrastructure laid out in the statute. It can be spent on-- I believe there's a \$15,000 limit on, you know, like strategic planning or hiring a consultant to go over your zoning regulations and then under subcategory B, so there's A and B categories of what the funds can be spent on. Category B would be like the hard infrastructure, and the parameters around that would be, I believe, the spending cap is at \$200,000 or half of the project or half of the sum that is in the fund. So let's-- one or the other. So you're capped at \$200,000 or less.

**RAYBOULD:** OK. Thank you very much.

**KRIS BOUSQUET:** You're welcome.

**HALLORAN:** Any additional questions? Senator Riepe.

**RIEPE:** Thank you. Thank you for being here. You're a dairy man, so--

**KRIS BOUSQUET:** Yeah.

**RIEPE:** --I'm, I'm intrigued on this about the probability of dairy producers being, if you will, developed or relocated to the state of Nebraska.

**KRIS BOUSQUET:** Yeah.

**RIEPE:** A number of years ago, a number of dairy operations were moving out of California. But I think if my memory serves me well, they were going to Wisconsin.

**KRIS BOUSQUET:** Yeah, so we have--

**RIEPE:** It's, it's been a number of years ago.

**KRIS BOUSQUET:** Yeah, the, the, the exodus from the largest dairy state in the country being California is currently happening and has been happening for a long time. In Nebraska, we are-- our Grow Nebraska Dairy Team is positioning themselves and working with dairy processors to move them to Nebraska. And that's a, that's a really big issue specifically because you can't bring milk cows here if you don't have a place to process the milk. And so it's a chicken or the egg scenario. This is-- this bill-- this program is kind of a piece to the puzzle of growing the dairy sector in general. When you look at dairy specifically, it has a significant economic impact back to the state and its communities. We actually did a, a economic impact study on growing the, the dairy sector specifically. And when you look at, at

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landing a large dairy processor, the annual economic return that the state will experience is about \$1.7 billion and that's pre-inflationary numbers. So the, the probability or, I guess, the benefit from growing the dairy sector is definitely there and the large reason for that is because right now we have 60,000 dairy cows in the state. And if we're going to bring in a large dairy processor, you know, that more than likely is going to look like a six- to eight-million-pound plant per day. That's about 150,000 to 200,000 dairy cows that we would need to fill that plant. And to kind of backtrack a little bit, when you're building a dairy farm, you have to be-- the community has to be all in. I mean, the county that it goes to, everybody has to be in support because of the potential impact of that facility. To build a new dairy, it's going to cost roughly \$10,000-- \$8,000 to \$10,000 per cow to build that dairy. So a \$10,000 cow dairy, you're looking at \$100 million investment. So if you try to find \$100 million investment to put in rural Nebraska, where we, where we really need the investments to happen, it'd be really difficult to find something better in my mind, especially when you look at, you know, the jobs created not just from the dairy processing facility but the on-farm labor. You're looking at about 4,400 jobs created. So if, if you have 150,000 cows that you're recruiting, that's 10-- that, that's 15 \$10,000 cow dairies at \$100 million a pop, that's a big investment in rural Nebraska.

**RIEPE:** In the future, could you see an XL pipeline between Nebraska and Los Angeles?

**KRIS BOUSQUET:** Of farmers?

**HUGHES:** A milk pipeline.

**KRIS BOUSQUET:** You know, those dairy farmers in the western half of the United States are all looking for more welcoming states to milk cows in, and we're actually actively talking to them about moving to the state and working with communities about locating them there. And it's-- it-- will it be a big lift? Absolutely. But it's a-- it's an awesome challenge for us and a great opportunity for the state in general.

**RIEPE:** Thank you.

**KRIS BOUSQUET:** You're welcome.

**RIEPE:** Thank you, Mr. Chairman.

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**HALLORAN:** OK. Thank you, Senator Riepe. Any further questions from the committee? Seeing none, appreciate your testimony. Thank you.

**KRIS BOUSQUET:** Thank you.

**HALLORAN:** Additional proponents for LB442? Good morning.

**ELAINE MENZEL:** Good morning, Senator Halloran and members of the-- think of what committee I'm in, I'm sorry-- Agriculture Committee. For the record, my name is Elaine Menzel. It's E-l-a-i-n-e M-e-n-z-e-l, here today on behalf of the Nebraska Association of County Officials in support of LB442. The prior testifier and Senator Albrecht have done a good job going through the history of the Livestock Growth Act and the grant program. The provisions for the grant program-- excuse me, the legislation was referenced, I believe, LB175, but that it's codified in 54-2801 and the series of sections. For those of you who are interested in seeing a map of those counties-- and I was pleased to hear Senator Albrecht say 51 because that's what I counted it to be as, as well-- the Department of Agriculture has a good map showing those counties that are designated as livestock friendly as well as a great deal of-- a nice handout on the information about the program and the background. The prior testifier testified about some of the rationale as to why we would be supportive of these efforts with respect to strategic planning and reviewing zoning and land use regulations. It's been perhaps since the '70s since there's been grants available to counties to be able to get it for purposes of planning for zoning and those types of measures. Importantly, through the years when this was developed several years ago, as you have been notified, we did work with, meaning NACO, worked with the Department of Agriculture and had them available at our conferences and district meetings and those types of things so that they could make counties aware of the, the Livestock Friendly Act and provisions and make it available, too. And I suspect that a lot of them became interested in it because of those training sessions. I'm not the one responsible for developing the educational pieces for our association. However, I'm sure that if something of this nature were to move forward, we would likely incorporate it into our continuing education and that type of thing. Senator Riepe, I believe the reason that the emergency clause is provided in the legislation is because of the appropriations process and because it would be incorporated in the 2023-2024 budget. I'm not the best person to ask because I don't generally deal with appropriations, but that would be my expectation, so.

**RIEPE:** OK. Thank you.



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**ELAINE MENZEL:** With that stated, if there's any questions, I would be glad to attempt to answer them.

**HALLORAN:** Well, thank you for your willingness to take questions.

**ELAINE MENZEL:** Thank you.

**HALLORAN:** Senator Ibach.

**IBACH:** Thank you very much. So do you think that this-- since only 51 of the 93 counties currently participate, do you think that this would encourage more participation or is there another reason why those other 40-some counties don't participate?

**ELAINE MENZEL:** I, I should have stated also at this time there's 83 of the 93 counties, so there's ten-- well, with that said, there is one of the counties I noted that is unzoned that is still shown on the map as being livestock friendly. But with that said, I don't know-- I, I believe that something that would add as an incentive like this program that's being proposed in LB442 would add an additional incentive that, therefore, they would take another look at it being an opportunity. And perhaps that's the rationale for why some of them have not done so, thinking that why is that we would go ahead and do it when we're not getting that additional benefit because it's perceived as perhaps just the sign that the county is saying we're livestock friendly. But I mean, I don't know their ulterior motives entirely, but that would be my thought.

**IBACH:** Thank you very much. Thank you.

**HALLORAN:** Thank you, Senator Ibach. Any further questions from the committee? Seeing none, thank you so much.

**ELAINE MENZEL:** Thank you.

**HALLORAN:** Additional proponents of LB442? Additional proponents for LB442? Seeing none, move to those in opposition of LB442? Thank you for being here today. Opposition to LB442? Seeing none, anyone in neutral capacity for LB442? Seeing none, Senator Albrecht. Senator, if you give me just a minute--

**ALBRECHT:** Yep.

**HALLORAN:** --before you start. We had online comments: proponent Rocky Weber representing Nebraska Cooperative Council.

**ALBRECHT:** Thank you.

**HALLORAN:** Please proceed.

**ALBRECHT:** Thank you for listening. Thank you for the questions. I did not introduce the Livestock Friendly Act. So I did have it, my staff had it, a portion of it, so I know that Thurston County, where I live, we were one of the last to, to participate. But, but knowing that a lot of these small counties don't have the funding to put zoning together, like when the wind energy came in, a lot of them weren't zoned for-- they, they had no zoning at all. So anybody could just come in and do whatever they wanted to. So this would certainly help in that respect that if the counties need help, that's what it would be for. But it is an economic tool is the way I look at it, because if we didn't have this, just like we have the Department of Economic Development, that when they come into the big cities and they get to go before all these different boards and decide if that would be a good fit for the state or not, this is what I liken to what they do for the cities. This is what we would be doing to help the counties out. So again, it's just a tool. I think that if the counties can lean on it-- when this bill was brought to me, it was brought by the gentleman that spoke earlier, Mr. Bousquet, and they do have a dairy in my district in Dakota County. So I'm quite certain that their county is asking that, hey, what can we do to help bring some more participants to our county and can't get it done unless we do that. And forgive me, I did not have the fiscal note in my book either. So there's a lot of new folks around that probably don't know that you kind of need that in here before we get started so it will come from the General Fund. But I do believe it's a great tool to help our counties. And if we have some money in the kitty so that they can actually go to the Department of Ag and get the money, then we're in better business to help them out. So with that, any questions? I'll be happy to try to answer.

**HALLORAN:** OK. Questions from the the committee? Yes, Senator Hansen.

**HANSEN:** I always like it when Kris comes in to testify. He's such a good advocate.

**ALBRECHT:** He's good isn't he.

**HANSEN:** I learned a lot. He, he said we're like the Saudi Arabia dairy processing and--

**ALBRECHT:** Well, they do an excellent job in my county, so.

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**HANSEN:** Is, is there any way like or is it even feasible or does it make any sense to designate this only for dairy cattle?

**ALBRECHT:** No, because we have beef cattle, too, that might need it.

**HANSEN:** Try to open it up for everything.

**ALBRECHT:** And we have other animals that are listed in here that would be-- would, would help. OK, so you have cow-calf pairs, you have dairy, you have swine, you have probably the, the horses, chickens, what-- whatever, so--

**HANSEN:** All right. Just curious.

**ALBRECHT:** --probably not.

**HANSEN:** Yeah.

**ALBRECHT:** Now, he might want to just-- the \$2 million just for them. But, but again, like when you talk about caps and other things, it's probably not wise to just shut it off to certain folks.

**HALLORAN:** OK.

**ALBRECHT:** I don't think that was the intent.

**HALLORAN:** Senator Hansen clearly likes his ice cream. I, I understand.

**HANSEN:** I love ice cream.

**HALLORAN:** Any additional questions from the committee? Seeing none,--

**ALBRECHT:** Thank you.

**HALLORAN:** --thank you so much.

**ALBRECHT:** Appreciate it.

**HALLORAN:** That concludes our hearing for LB442. We'll have a brief, hopefully brief, Exec meeting after this, so we'll get you out of here for lunch, as soon as the room clears.

[BREAK]

**HALLORAN:** Welcome to the Agriculture Committee. I'm Senator Steve Halloran. I'm from Hastings, Nebraska, and represent the 33rd

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Legislative District. I serve as Chair of this committee. The committee will take up the bills and confirmations in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members might come and go during the hearing. This is just part of the process, as we have bills to introduce and other committees. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Please move to the reserved chairs when you are ready to testify. These are the first two chairs on either side, on the first row. For some reason, there's a lot of bashfulness on the part of people testifying and they hesitate to come up to the first row when they know they're going to testify, either for or against or neutral on a bill. But it is helpful if you come up to the first row on either side of the aisle so that we can keep things, keep things flowing. Introducers will make initial statements followed by proponents, opponents and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print and it is important to complete the form in its entirety. When it is your turn to testify, get the sign-in sheet to the page or to the committee clerk. This will help us make a more accurate public record. If you do not wish to testify today but would like to record your name as being present at the hearing, there's a separate white sheet on the tables that you can sign for that purpose. This will be part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify and they will distribute those to the committee. If you do not have enough copies, a page will make sufficient copies for you. When you come up to the-- to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name to ensure we can get an accurate record. We will be using the light system for all testifiers. How many people? Well, it's going to be hard to judge. How many people are going to testify here today, on one of the bills or the other? OK. We will, we will have 5 minutes to make your initial remarks to the committee, but when you see the yellow light come on, that means you have one minute remaining and the red light indicates your time has ended. Questions from the committee may follow. No displays of support or opposition to a bill, vocal or otherwise are allowed in the hearing. Committee members with us today will introduce themselves starting on my left.

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**RAYBOULD:** Good afternoon, everyone, I'm Jane Raybould, Legislative District 28, which is in Lincoln.

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

**BREWER:** Tom Brewer, District 43, 11 counties in western Nebraska.

**IBACH:** Theresa Ibach, District 44, 8 counties in southwest Nebraska.

**HALLORAN:** And Senator Ibach is our Vice Chair of the Committee. On my far right.

**HOLDCROFT:** Rick Holdcroft, District 36, west and south Sarpy County.

**RIEPE:** Merv Riepe, Legislative District 12, which is southwest Omaha and the residents of Ralston.

**HALLORAN:** OK, thank you. To my right is committee research analyst Rick Leonard. And to my far left is committee clerk Andrew Ojeda. Our pages for the committee today are Landon Sunde. That's close enough?

**LANDON SUNDE:** Yeah.

**HALLORAN:** OK. You're studying history and political science at the University of Nebraska-Lincoln. And we also have Amelia Stoner from Juniata. She is studying political science at the University of Nebraska-Lincoln. So with that, we will begin with appointments, confirmation hearing for the, for the Brand Committee. And the first to be heard from today will be Marie Farr. Good afternoon.

**MARIE FARR:** Good afternoon.

**HALLORAN:** Whenever you're ready.

**MARIE FARR:** OK. Thank you. So, good afternoon, Chairman Halloran, and members of the Agriculture Committee. My name is Marie Farr, M-a-r-i-e F-a-r-r, from Moorefield, Nebraska, and I'm here today for confirmation to the Nebraska Brand Committee. A little bit of info about me is I actually grew up down by Red Cloud on a cow-calf farm operation. After high school graduation, I attended college at the Nebraska College of Technical, Technical Agriculture in Curtis, and that's where I met my husband. We, we-- I actually worked off the place for a little over 21 years and that was my paying job. My nonpaying job was helping my husband on our cow-calf farm operation. That was my night job, weekend job. We have one son, Levi, who helps

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us on our own operation. We now have a commercial cow-calf operation. And then I also have a registered operation and then we farm. And then besides cow-calf, we also background our calves, too. We have a small feedlot where we background calves. When I was Chair of the Nebraska Cattlemen Brand and Property Rights, I attended as many of the Nebraska Brand Committee meetings that I could. In working with our local brand inspectors at our place, I knew some of the things that they did. But until I started attending their quarterly meetings, I did not realize how much they really do. It's not just the regular inspectors, but the investigators and the office staff. I found it very interesting and had a new appreciation for everything that they do for us. I'm very excited about being on the Nebraska Brand Committee and look forward to working with them. Any questions?

**HALLORAN:** OK. Very good.

**MARIE FARR:** I tried to make it short for you guys.

**HALLORAN:** Very good. No, I appreciate that. Thank you, Ms. Farr. Any, any comments or questions from the committee? So you're inspired to be on this committee?

**MARIE FARR:** Yeah, I'm, I'm very passionate about the livestock industry and I was-- when I was told there was an opening, they asked me if I would be interested in applying for it and I said yes. And they said, do you want to talk to your husband about it? I said, no. [LAUGHTER]. He'll be fine. So-- but yeah, it's always, you know, when-- I like to learn things and it's been very interesting on everything that they, they do. It's just been a very-- I don't-- I'm trying to think of the words, but it's just been very interesting and I'm just looking forward to being on it and working with them.

**HALLORAN:** OK, Senator Ibach.

**IBACH:** Thank you, Mr. Chairman. So what do you see as possibly one of the biggest challenges that the Brand Commission will face?

**MARIE FARR:** Right now where they're trying to-- I'm trying to think of the technical-- get, get more up to date maybe? You know, with the technical, there's, there's so many more steps that they're trying to achieve to help everybody, just working on a lot of, a lot of that. You know, it's not, it's not just anymore, you know, the brand inspector going out to your place and look at cattle. There's a lot more. Technology is, is facing every, every organization and business to change and so that's, that's one of them.

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**IBACH:** Very good. Thank you. Thank you, Mr. Chair.

**HALLORAN:** Senator Hansen.

**HANSEN:** Thank you. I hope you like controversy--

**MARIE FARR:** Yes, I do.

**HANSEN:** --because you're joining the right committee.

**MARIE FARR:** [INAUDIBLE]

**HANSEN:** It seems like there's always-- so embroiled in the Brand Committee.

**MARIE FARR:** Did I, did I, did I mention that I am married to a farmer?

**HANSEN:** Yeah. OK. That's-- your qualifications are met then.

**MARIE FARR:** Yes.

**HANSEN:** And I'm a little familiar-- you do a lot of Hereford cattle, don't you?

**MARIE FARR:** Yes, I do. Yep, Yep.

**HANSEN:** I got the, I got the Petersons in Hermon.

**MARIE FARR:** Oh, there you go. Yep.

**HANSEN:** [INAUDIBLE] know some of them very well.

**MARIE FARR:** Yep.

**HANSEN:** So what is your opinion about moving like, with the technology? You've kind of brought that up a little bit, with the technology--

**MARIE FARR:** Right.

**HANSEN:** --maybe being used more in branding with less inspectors and more local law enforcement. [INAUDIBLE] got opinions on any of that kind of stuff at all?

**MARIE FARR:** I don't know about the less brand inspectors because I think there'll always be a place for them, but I think it'll, it'll help like at the livestock market, the livestock auctions. And

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there's, there's going to be a lot of different places where the more technology will really help out there.

**HANSEN:** OK. I'm just curious to see if you're open to it, at least. It sounds like you are.

**MARIE FARR:** I mean, I'm, I'm-- yeah.

**HANSEN:** At least it kind of-- seen how things can go.

**MARIE FARR:** I've only just kind of sat in on-- I don't know that much on that part.

**HANSEN:** Sure. OK.

**MARIE FARR:** I'll just be honest with you there.

**HANSEN:** Thank you. Appreciate it. Nice shoes, too, by the way.

**MARIE FARR:** Thank you.

**HALLORAN:** Senator Riepe.

**RIEPE:** Thank you, Chairman. My question is this. I understand there's a divide somewhere that runs from the top of Nebraska to south. And on the one side, is the non-branding and on the other side is the branding.

**MARIE FARR:** Not necessarily a divide. So Furnas County, which is in your area, Furnas County, is actually a non-brand inspected area. The other counties around it are brand inspected area. I grew up in Webster County and they're a non-brand inspected area. It's just kind of weird little zigzag marks on where--

**RIEPE:** Is this as much a cultural divide as it is anything, sort of hanging on to the values of the real west?

**MARIE FARR:** For-- you mean, you mean the brand versus non brand. Is that what you mean--

**RIEPE:** Yes.

**MARIE FARR:** --on that part? I don't know, necessarily, culture. It's poor, you know, more ownership, but a lot of the things is, on the eastern part of the state, some of the cow herds may not be quite as big, maybe, as what the western part is. Whether that's part of it, but like you said, a lot of it could be culture, though, though, too.



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I mean, a lot of those, it's a tradition. It's pride when you see that brand on your, on your animal.

**RIEPE:** OK. Thanks.

**MARIE FARR:** Heritage.

**HALLORAN:** So Ms. Farr, tell me what your, your thoughts are, what your disposition is on EID. And that's, that's technology entering the--

**MARIE FARR:** Correct.

**HALLORAN:** --arena for identifying ownership of animals versus the brand. Will EID, in your estimation, will it or should it overtake the hot brand as a means of identification?

**MARIE FARR:** So an EID tag is not necessarily permanent. And the way-- and I'm, I'm going to explain this. So where we live, we have a lot of cedar trees. We, here a couple of years ago, one of my hereford bulls, he had an EID tag in his ear. I was out checking him and it got ripped out. A brand is permanent. So can they replace them, an EID always replace it? I don't think so, because unless there's some way to make it so they cannot-- they can never get ripped out in the-- you know, I don't, I don't think that will-- that that could happen on not ripping out because, I mean, once it, once it loses it, you can always replace it. But it can still get ripped out.

**HALLORAN:** OK, so your goal isn't to necessarily have tech-- technology overtake the, the hot brand as a means of identifying animals?

**MARIE FARR:** No, but I think people should have that option if it'll work for them.

**HALLORAN:** OK. Any further questions? Seeing none, thank you so much.

**MARIE FARR:** Thank you.

**HALLORAN:** All right. Steve Stroup, am I pronouncing that-- oh, I'm sorry.

**RICK LEONARD:** Proponent.

**HALLORAN:** Oh, excuse me. I got ahead of myself. That's my fault. We'll, we'll have proponents or opponents. Are there proponents for the confirmation of Marie Farr?

**ROB STAR:** Yes.

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**HALLORAN:** OK. Good afternoon.

**ROB STAR:** Good afternoon, Chair Halloran and, and members of the Agriculture Committee. I'm Rob Star, Rob, R-o-b, Star, S-t-a-r. I'm vice chair of the Nebraska Cattlemen's Branded Property Rights Committee and a cattle producer from near the Hershey area. I am testifying on behalf of the members of Nebraska Cattlemen today in support of the confirmation for Marie Farr to be appointed to the Nebraska Brand Committee. Marie, alongside her, her family, owns and operates a cattle enterprise near Moorefield, which is comprised of a registered hereford herd and a commercial cow-calf business. Over the past few years, Marie has served as the chair-elect and the chair of the Nebraska Cattlemen's Brand and Property Rights Committee. In that role, she has proven to, to do extensive research on the issues facing the industry to help formulate an informed opinion. In addition, she has attended several Nebraska Brand Committee meetings as a stakeholder and stays informed on the issues the committee is tackling at any given moment. We believe this prior knowledge will serve her well as a new member of the committee. We believe Marie's industry knowledge, paired with her experience of knowing brand statute, will give her the experience needed to hit the ground running as a committee member. She will-- she is well versed in how the brand affects producers inside and outside of the inspection area. Therefore, we urge you to confirm her to appoint, appoint to the Nebraska Brand, Brand Committee. Thank you for allowing us to show our support and would be happy to answer any questions that you may have.

**HALLORAN:** OK. Thank you, Mr. Star. Questions from the committee? Seeing none, appreciate your testimony.

**ROB STAR:** Thank you.

**HALLORAN:** Next proponent for Marie Farr confirmation. Next proponent. Is there opposition to her confirmation? Anyone neutral? OK. Very good. Thank you. Now we'll move on to Steve Stroup.

**STEVEN STROUP:** Stroup.

**HALLORAN:** Stroup? OK. Forgive me for that. Steve Stroup. Good afternoon.

**STEVEN STROUP:** Good afternoon, Chairman Halloran and Ag Committee members. I appreciate your time and consideration. I'm here for an appointment to the Nebraska Brand Committee. My name is Steven Stroup, S-t-e-v-e-n S-t-r-o-u-p. I live at Benkelman, Nebraska. I'm a fifth

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generation farmer and rancher in Dundy County. I've been married to the same gal for 43 years and we have four sons, nine grandchildren and one about six weeks out. We own and operate a dry land and irrigated farm, we maintain a cow herd and we operate a feedlot where most of the cattle are commercially fed. We still farm our tree claim quarter that took place in 1892. Ten years ago, our youngest son, Jordan [PHONETIC], came back and we began a retail meat business, where we take some of our Angus cows and we'll breed them to a Wagyu bull. Then we will ship meat across the United States and sell farmers markets, so on and so forth. I've served on various commun-- various committees in Dundy County, local committees. As far as boards within the state, I serve on the Nebraska Lutheran Outdoor Ministries Advisory Council, I've served on the Nebraska Board of Directors for Nebraska Cattlemen for two terms, I've served on the Farm Bureau Board SLPC Committee for two terms. I was on the Farm Bureau Nebraska Cattlemen Market Task Force and I'm a graduate of Nebraska LEAD Program 32. I look forward to learning about the workings of the Nebraska Brand Committee, protecting livestock owners' rights, as well as evaluating future needs and changes. I'll always listen and hear both sides of the story before ever making a decision. Thank you for your consideration.

**HALLORAN:** OK. Thank you, Mr. Stroup. Any questions from the committee?

**IBACH:** I feel like we have to ask him [INAUDIBLE].

**HALLORAN:** We have to ask you-- so I'm going to ask several of the same questions I asked previously. So you, you seem to be and sound to be and I'm sure you are, inspired to become a member of this committee.

**STEVEN STROUP:** Absolutely. One of the things, when you belong to some of these state organizations or are members of, you, you get the opportunity to learn so much because you, you can kind of live in a small world and, and you don't really get the big picture a lot of times. Yes, I've had the brand man come to my place numerous times over the last several years, but you really don't understand how all that works until you're part of it. And so, yes, to be inspired, to be able to speak logically and educationally about what they do, I think that's important just because of some of the misinformation that can be there with this or anything else.

**HALLORAN:** Very good. Do you have a question, Senator Ibach?

**IBACH:** I would. I would. Thank you, Mr. Chairman. I would pose you the same question, in that do you foresee any challenges that you know of

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or are kind of on your radar, as far as the Brand Committee is, is concerned?

**STEVEN STROUP:** I think, I think the challenges that we're going to deal with are those of differences of what we should do. Should we EID? Should we just strictly stick to brand? And, and from a 30,000 foot view, I think some of those are going to be driven by consumer interests and demand. You know, you take the Proposition 12 that California is going through now and we're trying to hopefully, get a favorable Supreme Court decision. I think some of that's going to play a part in that, that regardless of what maybe our committee does or what maybe our views and what we want to do, I think some of that could have a bigger part than just, than just maybe a smaller challenge, if that makes sense.

**IBACH:** Thank you. And I'm always proud to have somebody from District 44 in a leadership position, so--

**STEVEN STROUP:** It's good to have one on the board.

**IBACH:** --thank you for running. Thank you, Mr. Chair.

**HALLORAN:** Thank you, Senator Ibach. So, again, a similar question I had asked previously. Your disposition on the EID versus-- not to put it versus, but versus the hot brand for a means of identifying animals, do you ever see a time when you think that EID would become mandatory and be the only means?

**STEVEN STROUP:** I don't think EID will become mandatory for ownership, if you want it that way. I think EID might become mandatory at some point down the road, 20-25 years, before you can sell your animal, because we, as livestock producers, are going to be held accountable for what we've done to that animal. The vaccinations-- and people are going to want to be able to pick that up and take a look at it and say, here's what's taken place. For ownership, it, it should be optional if you want to do that if we get the technology right. The brand, as restated, is permanent. And personally, I like it. However, I also like the EID for other things, but at some point it can be a form of ownership. But I don't think it'll ever be mandatory, unless we get into a situation where they say branding is no longer allowed or you, you can't sell your beef in this spot. I think that being driven by that could be greater potential.

**HALLORAN:** So you kind of see it as a marketing tool then?

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**STEVEN STROUP:** So the EID is a marketing tool if you use it that way. We currently, this fall, went through an audit process where we are cleared to feed beef for China and for the European Union and it starts with an EID tag that traces that animal from its birth point to the finish point. So that's where the EID is playing a, a big part. Now, that's away from brand. That's-- that has nothing to do with brand for that purpose. But I personally like the hot brand.

**HALLORAN:** OK. Any further questions, Senator Hansen.

**HANSEN:** I think you hit the nail on the head and so did Ms. Farr, when you talk about having the option to do it, I think. And that's one of my only concerns is to see how open certain committee members are about IEDs [SIC]. And my concern is also we're like one outbreak away from the federal government mandating that we do stuff like this. And that's one of my biggest concerns. And the more technologically savvy IEDs [SIC] become, I think, the easier they will be for people to maybe use them. And so, it sounds like you're, you're there but not there, but at least you like the idea of having an option, so I appreciate that.

**STEVEN STROUP:** Senator Hansen, there's two countries in the United States that don't have electronic EID, us and India. And that's more for health purposes. If I was to say we needed mandatory EID, it has nothing to do with brand but have everything to do with disease traceability.

**HANSEN:** And Benkelman, is that-- that's about as far southwest as you can get?

**STEVEN STROUP:** About, just about.

**HANSEN:** I thought so. Yeah. OK. Well, thanks.

**HALLORAN:** All right. Thank you, Senator Hansen. Seeing no further questions, thank you so much.

**STEVEN STROUP:** Thank you for your consideration.

**HALLORAN:** Now we'll move to proponents for this confirmation. Good afternoon.

**ANDREW DUNKLEY:** Good afternoon, Chair Halloran, and members of the Ag Committee. My name is Andrew Dunkley, A-n-d-r-e-w D-u-n-k-l-e-y, and I'm with the Nebraska Farm Bureau. And I apologize. I brought the wrong testimony, so you're not going to get a copy today. But I am

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here in support of the appointment of Steve Stroup to the Nebraska Brand Committee. We couldn't be happier for, for, for Steve and, and, and are, are so happy to testify on his behalf. Steve has an abundance of wealth, as I'm sure you, you just heard firsthand, in this, in this area. He's a, he's a true cattleman and, and is a-- has, has been great in this industry. He has been a resource to me in, in this job on brand issues and, and cattle management issues in the short time that I've been here at Nebraska Farm Bureau. And, and since he's joined our board, in, in-- well since a little over, I believe, two months now, he has upped our game when it comes to brand issues in particular, but especially the livestock issues. So we very much support his appointment. I'm also testifying today on behalf of Nebraska Cattlemen and Nebraska, and Nebraska State Dairy Association, Nebraska Soybean Association, Nebraska, Wheat, Wheat Growers and yeah, Nebraska Pork Producers. I-- with that I, I'm, I'm open for any questions.

**HALLORAN:** All right. Thank you, Mr. Dunkley. Any questions from the committee? OK. Seeing none, thanks for your testimony.

**ANDREW DUNKLEY:** Thank you.

**HALLORAN:** Additional proponents for Steven Stroup? Good afternoon, again.

**ROB STAR:** Good afternoon. Chairman Halloran and members of the Agriculture Committee, I'm Rob Star, R-o-b S-t-a-r. I'm vice chair of Nebraska Cattlemen's Brand and Property Rights Committee and a cattle producer from the Hershey area. I'm testifying on behalf of the Nebraska Cattlemen today in support of the confirmation of Steve Stroup to be appointed to the Nebraska Brand Committee. Mr. Stroup has a diversified cattle enterprise near Benkelman, Nebraska, and his family has a cow-calf operation, beef cattle and their own branded beef product. Steve has served the industry through his service to Nebraska Cattlemen Board of Directors and is currently on the Nebraska Farm Bureau Board. Steve is an individual who will measure all sides of an issue before giving his input. We believe this is an asset for any committee member to exhibit when making decisions that will progress the industry forward. His broad experience and location in Nebraska will, will bring a new level of diversity to the committee. Nebraska Cattlemen urges the committee to swiftly confirm Steve Stroup as a member of the Nebraska Brand Committee. Thank you for allowing us to give this input today and I'd be happy to answer any questions.

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**HALLORAN:** Thank you, Mr. Star. Any questions from the committee? Seeing none-- once again, thank you.

**ROB STAR:** Thank you.

**HALLORAN:** Additional proponents for Steve Stroup. Proponents. Is there any opposition to this confirmation appointment? Any in the neutral? Seeing none, that concludes our hearings for appointments to the Brand Committee and we thank you all for being here. We'll move on to LB229. Welcome, Senator Erdman.

**ERDMAN:** Thank you, Senator Halloran. It's good to be in front of the Ag Committee again. My name is Steve Erdman. I represent District 47. And how you spell my name is S-t-e-v-e E-r-d-m-a-n. I'm here today to bring you LB429 [SIC - LB229] and I would call it a cleanup bill. Senator Hansen had made a comment earlier about it seems to be kind of controversial with some of the brand issues. Been working on branding things for the better part of six years, had several bills that tried to bring some common-sense approach to what we do in branding. There has been an issue that has been, what shall I say, it brought to the forefront in the recent past, one of the feedlot organizations have had an opportunity to do things, had opportunity to transfer cattle from grow yards or wherever they may have had them housed to a RFL without having them inspected. And last summer, the district court in Alliance ruled that, that that was appropriate. And so the Brand Committee has changed their, their, their requirements and allowed everyone else to do the same things that one organization had an opportunity to do and no one else did. I visited with some of the Brand Committee people and to my surprise, after they changed their ruling, to change their policy to let other people do what this committee-- this organization was doing, nobody accepted the opportunity and were still doing inspections. And so we're trying to clarify this. It's in the court system now, but we're trying to clarify what happens. And so, if you look at the bill on, on the green copy, I've had the amendment or the changes stricken-- or to the statute is there. And I'll, I'll just read what we're trying to do there and then I'll make a small explanation. It says, any cattle originating from states or portions of states not having brand inspection and which are accompanied by satisfactory evidence of ownership, may be moved directly from the point of origin into a registered feedlot. And then number 3, except as provided in subsections (1) and (2) of this section, the Nebraska Brand Committee shall subject any cattle moved into a registered feedlot to a physical inspect-- to a physically inspect the brands or, if applicable, to electronically inspection within a reasonable time after they arrive

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at the registered feedlot. So that was what we're trying to do. What's happening is these cattle are moved from the origination point and they're taken to a grow yard or maybe to a pasture or wherever they are and then they are transferred to the registered feedlot and these cattle have never been inspected. And so basically, what we're doing here is we're circumventing the brand law to have those cattle at least inspected once. We're not changing the fact that they can have these cattle originate in a non-brand area or a state without branding if they have proof of ownership and then delivered directly to the RFL, that is still acceptable. But if they go to a grow yard and then they have been gathered up there and taken to an RFL, then that's when they need to be inspected, inspected. And so, that's the opportunity that I present to you today, to fix the language so that it's very clear and concise so that any judge or anyone else reading it understands that cattle need to be inspected at least once. And you've probably all seen the fiscal note. I visited with the director of the Brand Committee about the fiscal note and his assumption is they're going to inspect another 192,000 head of cattle that aren't currently inspected at \$0.85 a head. That equates to about \$163,000 in revenue. And his estimate is they're going-- to take it's going to take three more people plus to do that. Well, if you look at it in this regard, each brand inspector today in the state of Nebraska inspects about 63,000 head. And so, it will depend largely where these cattle are, whether they're all in one place, where there's not inspectors already in place, so it could take up to three and they're not exactly sure how many it'll take. So I appreciate his, his fiscal note saying this could happen. But I think the most significant part of this is once they changed their requirements, that they did not have to be inspected from a grow yard to an R-- to an RFL, the other groups did not do that. They still are inspecting and the purpose is to determine ownership. And I believe if I owned a grow yard, I would want to be interested in having those inspected to make sure that I'm delivering the cattle that they owned. And so you will hear today that-- from, from those in, in opposition to this, that it's a cost prohibitive thing to do that. And, and I would contend that in this day and age, that when a fat calf is loaded on the truck is probably worth \$1,600 dollars and if \$0.85 is making a difference in your \$1,600 dollar animal's profit, you need to get doing something else. And so what we need to understand-- and I've seen this happen because I went, I attended some of those hearings that Senator Halloran had a couple summers ago. And it appears to me that we have a disconnect between the feedlots and the cattle producer. And they don't understand that we're in this all together. We're all in the cattle business and what's good for one should be good for the other. And so if we didn't



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have feedlots, we wouldn't need cattle to be produced. And if we didn't have, have cattle producers, we wouldn't need feedlots, so it's a combination of us working together to accomplish what we need to accomplish in the beef industry. At some point in time, we need to sit down and figure out how to do all this and how we can do it in cooperation rather than being against each other. And so if this brings about something to that regard, I would appreciate that. But until we do, we need to make sure that everybody is treated the same. The Supreme Court may rule and may make this completely null and void. We'll see what happens. They're, they're going to have a hearing sometime last of March, first of April, and the Supreme Court will rule on the district court's decision. So we'll see what, what becomes of that. But right now, I think it's important that everybody is on the same page and we clarify the statute so they understand what we're doing. So it's kind of a complicated issue and I'll try to answer any questions that you may have. I don't have all the answers and if, if I have something I haven't been able to answer, I'll get the answer and get back to you.

**HALLORAN:** OK. Thank you, Senator Erdman. Committee, questions? That was-- this is, for some of the new members, it's kind of like drinking from the fire hose. We use that expression a lot around here. But if there's not questions now, there may be by the close. Senator Hansen.

**HANSEN:** Thank you, Chairman. I've learned a lot more about the Branding Committee than I ever thought I would being a chiropractor from Blair, so I could-- at least got some idea of how this works now. But will this affect-- will this change anything like, from those who are not in the branding area for the ones who are? That shouldn't affect any of that.

**ERDMAN:** It won't affect those people.

**HANSEN:** Just making sure. Thank you.

**HALLORAN:** That-- any questions Senator-- oh, excuse me. Senator, Senator Riepe.

**RIEPE:** Thank you, Chairman. Will-- when the Supreme Court hears this, will this resolve the issue for once and for all?

**ERDMAN:** You know, Senator, I don't know what their decision is going to be, but it very well could resolve it, because what they say will be the law. But I, I think that-- the issue that I seen in the court decision in Box Butte County, the judge seemed to consider what a

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small portion of the industry was doing and ruled in that favor. And so it was kind of peculiar to see that the rest of the, rest of the community is doing something else and the judge made a decision differently than I thought he would make. And so I think that's why-- and I, I don't believe the Brand Committee can probably come here and testify because of the court date coming up, but I think that's, that's probably what happened there. And so going forward, once the decision was made in district court, the Brand Committee had no choice but to adhere to the decision, so that's why they did what they did. But it's not what they've been doing in the past. This was a, this was a thing put in place in 2008 and I'm not familiar with why it was put in place that one organization would have an opportunity different than others.

**RIEPE:** From my-- hear you saying is the Supreme Court has agreed to hear it?

**ERDMAN:** They have. My understanding is it's going to be the last part of March or the first of April.

**HALLORAN:** OK.

**RIEPE:** Thank you.

**HALLORAN:** Thank you, Senator Riepe. Any further questions from the committee?

**IBACH:** I'll ask one.

**HALLORAN:** Senator Ibach.

**IBACH:** Thank you. So when cattle move and I should know this but I don't, when cattle move from a non-brand inspection area, for instance, eastern Nebraska, do they pay any fees to the branding commission when their cattle move into a brand inspection area?

**ERDMAN:** The people from the non-branding area?

**IBACH:** Yeah.

**ERDMAN:** The-- I don't believe they do, but they will have to have accompanied-- something has to accompany those cattle to prove ownership and we're not restricting those people coming from a non-brand area or into an RFL. And once they get to an RFL-registered feedlot, they can deliver those cattle to a terminal, which is a slaughter plant without having them be inspected again. Because what

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they do is, in the RFL, the Brand Committee will come in and inspect their books to see if the same number of cattle they shipped in, they shipped out, minus the death loss or whatever it is besides that. And they pay a one-time \$0.85-- currently, they pay \$0.85 on the head capacity for their feedlot on an annual basis. And if they [INAUDIBLE] a feedlot twice, that winds up being 42 and a half cents per head. So it's kind of a reasonable cost. Everybody else pays \$0.85. But as I said, it's a partnership between not only the feedlot, but those who produce the cattle.

**IBACH:** I have one more question. Can I ask it?

**HALLORAN:** Yes, Senator Ibach.

**IBACH:** I should know this, too. Do you know how many brand inspectors there are, currently? Do you know how many?

**ERDMAN:** In, in the state?

**IBACH:** Yeah.

**ERDMAN:** I, I, I used to know that.

**IBACH:** I should know that, too.

**ERDMAN:** I knew that last year.

**IBACH:** I'm sorry.

**ERDMAN:** Eighty. 80 sounds right. Maybe the analyst would have a better opinion, but I can't tell you exactly what it is.

**IBACH:** And so the fiscal note is just for three additional?

**ERDMAN:** Yes. Yes, it is. I do know that the average head inspected is about 63,000 on an annual basis. And so that's how they, that's how they arrived at the fact they needed three, three-plus people.

**IBACH:** Thank you. Thank you, Mr. Chair.

**HALLORAN:** Thank you, Senator Ibach. Any further questions from the committee? Seeing none, thank you, Senator Erdman. Stay around for close?

**ERDMAN:** I would. Thank you.

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**HALLORAN:** Thank you. We will move to proponents of LB229. Proponents. Good afternoon.

**AL DAVIS:** Good afternoon, Senator Halloran, and welcome back, I guess, to all of us. My name is Al Davis. I am the registered lobbyist for the Independent Cattlemen of Nebraska. I'm also speaking here today for the Nebraska Farmers Union, since Mr. Hanson has other commitments and couldn't be here to address you. The Independent Cattlemen of Nebraska and Nebraska's Farmers Union are both supportive of Senator Erdman LB229 because it corrects issues associated with the brand inspection program, which are long standing. NFU and ICON both feel the work of the Nebraska Brand Committee is vital to the safety and security of the livestock industry in western Nebraska. We also feel that fair and equitable treatment should ascribe to every individual or entity located within the brand inspection area and that the rules and regulations must apply to all producers large and small. You will note that the bill deals with registered feedlots, which have a unique relationship with the Brand Committee and pay a significantly different fee and in return, are exempt from many of the rules which apply to cattle in open pastures or in non-registered feedlots. The registered feedlots pay a one-time capacity charge on cattle in their care, which reduces their per head fee by about 50 percent, as Senator Erdman just said. Nevertheless, the feedlots feel that the costs are too high and they have forgotten that they were given special benefits initially and that they opted into the program. They are not required to enter it. In this specific issue, some feedlots are using areas, not a part of the feedlot, as a grow lot and they have claimed exemption from inspection when cattle are placed in these facilities. LB229 intends to remedy this situation by clearly stating that all cattle entering a registered feedlot need to have some documentation and inspection. This bill contains a fiscal note which is detached from reality, in my opinion. It calls for 3.5 inspectors to be available to inspect the cattle coming from this grow lot and into the registered feedlots. That amounts to 140 hours of work per week or 20 hours per day. This flies in the face of common sense and is an indicator of the common phrase, death by fiscal note, in my opinion. Clearly, it is important that all business entities operating within the confines of the Nebraska brand area should be governed by the same rules, regulations and customs. Carving out special benefits for specific entities or individuals destroys the integrity of the entire system. Again, we want to thank Senator Erdman for introducing the bill. It is important and we encourage you to move it to the floor where it can be discussed by the entire body. Thank you.

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**HALLORAN:** Thank you, Mr. Davis. Any questions from the committee? You must have been pretty thorough.

**AL DAVIS:** All right. Thank you.

\_\_\_\_\_ : Thank you, sir.

**HALLORAN:** Are there additional proponents for LB229? Seeing none, we'll move to opposition. Is there any one in opposition to LB229? Good afternoon.

**ABRAM BABCOCK:** Good afternoon, Chairman Halloran, members of the Ag Committee. My name is Abram Babcock, spelled A-b-r-a-m B-a-b-c-o-c-k. I am president of Adams Land and Cattle and here I am today testifying in opposition of LB229, and I thank you for the opportunity to come before you today. Senator Brewer, I'd like to thank you for your service to our district and our country and we're proud to you-- have you represent Custer County and look forward to your visit later this month. As background, Adams Land and Cattle in Broken Bow, Custer County. We're a family-owned business and our success is due to no small part of our 150 employees, from skilled welders and mechanics to animal and data scientists with master's and doctorates. Adams Land and Cattle was started in 1950 with the purchase of 320 acres of farm ground and some milk cows. Today, Adams Land and Cattle has three finishing lots to-- that hold 125,000 head and have another 125,000 head in backgrounding lots in 85 locations across the country. Not only do we purchase a substantial amount of distillers' grains, we also purchase over 25 million bushels of corn each year and we're proud to be a significant economic driver in our home county and across Nebraska. Our owners, Jerry and Bill Adams, are focused on innovation and sustainability. We conduct large pen research trials on a, on a regular basis, assessing the impacts of management, feed ingredients and farmer products on cattle performance and health. And we're committed to helping ensure the next generation of ag leaders can carry on the important work here in Nebraska. LB229 as written, would have a substantial and very negative impact on Adams Land and Cattle and other registered feedlots that use backgrounding lots. To walk you through a little history, the registered feedlot program became part of the Brand Act in 1999 and ALCC became a registered feed-- feedlot shortly thereafter. Ten years later, in September of 2009, the Brand Committee adopted a program to allow any registered feedlot to ship cattle from a backgrounding lot to a registered feedlot without physical inspection. Naturally, ALCC entered into a written agreement with the Brand Committee to qualify for this program. It was accepted and we set up a production system of buying

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cattle, placing them into backgrounding lots and then transferring them to our registered feedlot with no physical inspection. For over 13 years, ALCC has implemented this program with no estrays, which are lost animals or cattle owned by others that happened to stray into our yards. To be a registered feedlot, we already pay \$125,000 a year and receive no benefit from the brand inspection program. To adopt LB229, the estimated additional cost to ALCC would be over \$3 million. We would incur \$250,000 in additional inspection fees. And we estimate, from our research, it would cost an excess of \$2.8 million because of loss of weight from poor management practices we'd have to adopt and the man hours that would be involved in these inspections. ALCC is respectfully requesting that LB229 not be voted out of committee. Not only would it have a negative impact on Adams Land and Cattle and other registered feedlots, but it makes little sense, given how cattle are handled and moved through our industry today. Thank you for the time and I'd be happy to try to answer any questions that you may have. Thank you.

**HALLORAN:** OK. Thank you. Any questions from the committee? Yes, Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. All right. Since there's probably not many on the committee that have been to see exactly the interaction between the brand inspection folks and the feedlot, kind of draw us a picture. What does it look like? What are the actual contact that the brand inspectors have with the cattle that you're paying the fee to have them inspect?

**ABRAM BABCOCK:** Yes. So, so today they would come to the, to the office and they would do a desk inspection of, you know, proof of ownership, whether that be health papers, brand papers, bill of sales, those type of things.

**BREWER:** And as far as actually walking the cattle and walking the, the pens, do they physically inspect X number of cattle each trip?

**ABRAM BABCOCK:** They, they do not on our lots. And part of that, the majority of cattle that would move through our production system actually don't have a physical brand on them anyway. So there's really nothing to physically inspect on, on a lot of these cattle. Now, some of them do have brands, but some do not.

**BREWER:** What about the number of them that are actually electronic tagged?

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**ABRAM BABCOCK:** Yes. So, so when we purchase cattle, they would go to one of our backgrounding lots. We put EIDs in 100 percent of our cattle. Our backgrounders are also required to use our data system. So every day, they're tying information as far as movement, you know, health, feeding, all of that information to, to that EID on a daily basis using our, our management system.

**BREWER:** And it would be through the EID tag, like we were talking earlier, that if there was some type of disease or sickness--

**ABRAM BABCOCK:** You bet.

**BREWER:** --they would track it back.

**ABRAM BABCOCK:** Yeah. And then, when, when they come to the, the yard, then we verify that the right cattle are, are arriving at the right time. But yes, from a disease traceability standpoint, we could, we could do that very quickly in a timely manner, as well.

**BREWER:** And the cattle that you have in the feedlot come from how far away?

**ABRAM BABCOCK:** We would buy cattle from Canada to Florida, from Virginia to California.

**BREWER:** Well. All right. Thank you.

**ABRAM BABCOCK:** Yep.

**HALLORAN:** OK. Thank you, Senator Brewer. Senator Hughes.

**HUGHES:** New person. OK. So on your estimate, you said it would cost you guys over \$3 million.

**ABRAM BABCOCK:** Yeah.

**HUGHES:** The \$250,000 is just clearly that: additional inspection fees.

**ABRAM BABCOCK:** Yeah.

**HUGHES:** But you think it'll cost an additional \$2.8, \$2.8 million because of the loss of weight from poor management practices but--

**ABRAM BABCOCK:** Yeah.

**HUGHES:** --but you're saying the inspectors don't go out and mess with the cattle.

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**ABRAM BABCOCK:** But, but in this case, what, what this is saying is that with, with the change in LB229, you would have to.

**HUGHES:** OK. That's where--

**ABRAM BABCOCK:** Yes.

**HUGHES:** --that's what I needed to know.

**ABRAM BABCOCK:** That would-- they would have to. So they would.

**HUGHES:** So today, they come in, look at paperwork?

**ABRAM BABCOCK:** Yes. They would have to physically inspect.

**HUGHES:** If, if this goes in today-- then walk through that. What would happen?

**ABRAM BABCOCK:** Yeah. So, so if, if, if they would-- if, if this would go through, they would have to physically inspect, I assume either leaving the backgrounding lot or at arrival to one of our registered feedlots. They would have to, they would have to inspect every head that moved on to those lots on an annual basis. So, you know, that would be, you know, plus or minus 300,000 head a year we would move.

**HUGHES:** Thank you.

**ABRAM BABCOCK:** You bet.

**HALLORAN:** Thank you, Senator Hughes. Additional questions? Senator Ibach.

**IBACH:** Thank you for coming in today. First of all, I would congratulate the Adams Land and Cattle Company, because Jerry was inducted into the National Cattle Feeders Hall of Fame last week. And so congratulations on that and I think that's a really big deal. Your efforts in sustainability are, are amazing, to say the least. Anyway, you talked a little bit about estrays and I wouldn't think that you guys would have a lot, but do you have any that?

**ABRAM BABCOCK:** To my knowledge, there has been none.

**IBACH:** OK.

**ABRAM BABCOCK:** There's been absolutely none that have been identified.



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**IBACH:** So we wouldn't have to worry about that. OK. All right. Thank you. Congratulations again.

**ABRAM BABCOCK:** Thank you.

**HALLORAN:** Thank you, Senator Ibach. I'm just, I'm just curious here. You're saying it would cost an additional \$3 million. Now, that would be additional costs incurred from inspecting, from the grow lots, backgrunder lots?

**ABRAM BABCOCK:** Yeah, we'd have to change the production system pretty significantly as far as-- I mean, so today, we would schedule everything out of our backgrounders, arrival to finish. And keep in mind, we're, we're feeding cattle in 85 locations from Kansas, all of Nebraska, South Dakota, Iowa. So, so basically, as those cattle move, we would have to schedule a brand inspector to be on site that would have to physically inspect all of those cattle. And then on arrival to the feedlot, if they hadn't been inspected, would have to be inspected there. Our, our concern is the time that it would take, right, to, to do that. Right. We try to ship cattle, we process them timely, we want to get them back to their home pen. And anything that impacts the timing of that has significant performance impacts on those cattle.

**HALLORAN:** So that would be 125,000 head that you'd be talking?

**ABRAM BABCOCK:** No. So we, we would move about 300,000 head on an annual basis from backgrounding to our finish lots.

**HALLORAN:** OK. So that'd be about \$10 a head that you would--

**ABRAM BABCOCK:** Yeah, you bet. Yep.

**HALLORAN:** OK.

**ABRAM BABCOCK:** Yeah.

**HALLORAN:** Well. OK. Additional questions? All right. Thank you, sir. Additional opposition to LB229? Good afternoon.

**BRAD FOOTE:** Afternoon. [INAUDIBLE] you guys. Chairman Halloran and members of the Ag Committee, my name is Brad Foote, spelled B-r-a-d F-o-o-t-e, and I'm a resident of Imperial, Nebraska. And my family, along with myself, own and operate Imperial Beef, LLC. I felt my need-- I felt I needed to state my opinion on this subject because of how important the cattle industry is to myself, my family and to so many people in our state. While I'm opposed to LB229, I do hope that

continuing conversations with the stakeholders can result in a proposal that addresses all the concerns of all the cattle operators, ranchers, backgrounders and feedlot operators alike. I grew up in a town south of Kansas City, in eastern Kansas, where we had a small livestock operation. As time went on, our business, Foote Cattle Company, grew and my brother Scott and I moved west to run feedyards, which we had purchased. Since then, we have increased our operation to five feedyards, four of them in Kansas and one in Nebraska. Imperial Beef has a one-time capacity of 62,000 head and over the course of a year, we move approximately 135,000 head of choice cattle through it, many of them purchased locally from ranchers and backgrounders right here in the state of Nebraska. We also purchase over 8 million bushels of corn, 100,000 tons of silage, 100,000 tons of distillers grains and 15,000 tons of hay, all from local farmers and ethanol plants. We employ 65 hardworking people in the area to help make the economy of southwest Nebraska thrive. I love the livestock industry. It runs deep in my family and to say cattle feeding is a passion of ours would be an understatement. I feel I have a unique point of view when it comes to the brand laws in Nebraska, with my firsthand experience owning feedlots in both states, only one of which has a mandatory brand inspection. Because of this, I hope that I can portray to you why the current brand laws are outdated, unfair to the western Nebraska feedyards and a great example of overregulation and government overreach. Since I moved to Imperial in January of 2007, we have spent approximately \$675,000 on brand inspection-related costs. Those are just the hard costs. The soft costs associated with this will be an additional \$150,000 to \$175,000, which would include locating brand papers, health papers, bills of sale, sale barn recaps and other items brand law requires of us on each herd, each head of cattle we own. We have spent countless hours acquiring those things that feedlots outside of the brand area, including eastern Nebraska, do not deal with. The second issue I want to address is the current brand laws are simply-- are not needed at the feedlot level. Over the past 16 years in Imperial Beef, we have moved approximately 1.9 million head of cattle through our yard in Imperial. And with that number, we have had zero stolen, misplaced or lost cattle recovered. I want to point out that we have also had zero stolen, misplaced or lost cattle at our Kansas feedyards where there is no mandatory brand inspection. In summary, I'm not requesting that the brand system be abolished. If it is the choice of the rancher to continue the brand inspections when the cattle leave the ranch or go to the sale barn, then so be it. But let's do it on a voluntary system. The voluntary system in place in Kansas has six full-time brand inspectors and they are available to all livestock owners across the state and the system works smoothly

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for all of Kansas and its feedyards. I also know that many feedlot operators in eastern Kansas and the system that they are currently doing works smoothly, as well. It's a completely unnecessary cost and a waste of valuable time to put this burden on feedyards in the brand inspection area. I'd rather give the money to our hardworking employees so that they can continue to better themselves and their families. Senator Ibach, as our new Senator, welcome and thank you for your service. We would love to have you and your colleagues visit our operations in Kansas or Nebraska. I would also be more than happy to show you firsthand the differences between the two states and how they handle brand inspections. Finally, all of you should have received a letter from Lee Borck, who has previously testified before this committee on the subject of brand inspection. Lee also has cattle feeding operations in Nebraska, located in Lexington, Holdridge and Kearney, as well as Kansas. Unfortunately, Lee cannot be here today, but I encourage you to read his comments. He sums it up well, and I quote, this issue makes Nebraska producers less competitive and divides an industry I love. Nebraska Cattlemen, the Farm Bureau, the Dairy Association, ICON, Farmers Union, all these groups, they all represent Nebraska agriculture producers. They play a vital role but are being tore apart because no one is willing to listen and modernize the current system. Senators, I appreciate your time and service. I am convinced there's a win-win here for all Nebraska producers across the entire state. LB229 is not a solution and I respectfully request that you not advance the bill. Thank you for this opportunity to share my views and I'd be happy to answer any questions you may have.

**HALLORAN:** Right on the money, time-wise. Any questions from the committee? So Senator Erdman made a comment about, about the feed-- feedyards need the cow-calf operators and the cow-calf operators need the feedyards. Right?

**BRAD FOOTE:** Agreed.

**HALLORAN:** I went into this several years ago being rather naive, in that I thought that the cattle industry was one industry. OK. And it should be. It should be. But I've, I've heard this time and time again where there's this angst about identifying animals and the cost of identifying animals and it's important to the cow-calf operator. It's very important. And I understand sometimes people don't like to share in the cost of having an industry and satisfying the need to-- of ownership, in, in, in governing ownership. I understand that. But I don't know how you all can get along without each other. And this isn't meant to be a lecture, but it's a question. Well, maybe it's not

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a question-- rhetorical question. How can you guys ever start getting along? It's one industry.

**BRAD FOOTE:** There's no doubt we have to have each other. It doesn't work otherwise. So, you know, there's lots of issues in the livestock industry, this being one of them. And there is a solution here. We just have to-- we just got to get together and figure out a way to peacefully talk it out. It's there. We just have to make it happen and I think this is a start. We just got to get here and make it happen. So yes, it, it is unfortunate.

**HALLORAN:** Further questions? Senator Raybould.

**RAYBOULD:** Mr. Foote, thank you for being here. And I have a question. So for all the cattle that come through your feedlot, do they all have EID tags on them?

**BRAD FOOTE:** No, ma'am, they do not.

**RAYBOULD:** They do not. And it's the same in Kansas, they don't have EID tags.

**BRAD FOOTE:** That is correct.

**RAYBOULD:** And so what type of records then, do you have?

**BRAD FOOTE:** We would put what we call dangle tags in them.

**RAYBOULD:** OK.

**BRAD FOOTE:** So, like, if you-- are you familiar with-- OK. There's a tag. We'll put a--

**RAYBOULD:** A number?

**BRAD FOOTE:** -- so say cattle show up from a sale barn. We buy numbers of cattle from sale barn, which most feedyards do. We'll have like a full-- we'll put a four-digit tag in there or four-digit number tag, I apologize. And with that number we'll trace back where they came from, if, if any of them were sick we had to give them shots, their feed records, all that kind of stuff, in weights, out weights.

**RAYBOULD:** OK, terrific. Thank you.

**BRAD FOOTE:** Yes.

**HALLORAN:** OK. Thank you, Senator Raybould. Senator Ibach.

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**IBACH:** I have a curious question.

**BRAD FOOTE:** OK.

**IBACH:** Actually, I should welcome you first, from District 44.

**BRAD FOOTE:** Happy to be here.

**IBACH:** Thank you for traveling this far. So in Kansas, there is-- let me back up just a second. If you-- do you request a brand inspection, then, in Kansas?

**BRAD FOOTE:** No, we do not.

**IBACH:** OK. If you did, would, would there be an occasion that you would?

**BRAD FOOTE:** In all the years we fed cattle in Kansas, which has been my entire life. I do not recall a time we've ever requested or needed a brand inspection in the state of Kansas.

**IBACH:** OK. So you mentioned that some people do request a brand inspection in Kansas.

**BRAD FOOTE:** Yes.

**IBACH:** So is there a fee for that in Kansas?

**BRAD FOOTE:** Yes, I believe there is. I believe it's \$1 a head.

**IBACH:** And does that go to like a brand inspection?

**BRAD FOOTE:** Get a budget of some sort?

**IBACH:** OK. But it's not required. So you would have no reason to really request it at the feedlot level.

**BRAD FOOTE:** That's correct.

**IBACH:** OK. Thank you. Thank you, Mr. Chairman.

**HALLORAN:** Thank you, Senator Ibach. Any additional questions? OK. Thank you for your testimony.

**BRAD FOOTE:** Thank you.

**HALLORAN:** Next opposition to LB229. Good afternoon.

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**CASSIE LAPASEOTES:** Good afternoon. Good afternoon, Chairman Halloran and members of the Agriculture Committee. My name is Cassie Lapaseotes, C-a-s-s-i-e L-a-p-a-s-e-o-t-e-s. I want to take the opportunity to thank Senator Steve Erdman for his years of service to the state in his capacity as my state senator. However, I appear, I appear before you today in opposition of LB229 introduced by Senator Erdman. And here, let me explain why. I am a fourth generation member of my family's operation in Bridgeport. We run-- we farm, run a cow-calf herd, run yearlings on grass and have two registered feedlots. Myself and my cousin Nicholas are both very active in the day-to-day management of our operation alongside both of our fathers. I grew up working with my mom on her ranch and feedlot, which today my sister, her husband and their three children own and operate. Being part of the future of Nebraska's biggest economic driver, I recognize, recognize it is my duty to step up and mold that future. Registered feedlots are areas where the least, if any, estrays are discovered, yet they hold the fine-- the highest financial obligation for the Brand Committee. Instead of trying to find solutions to help ease commerce, LB229 adds more barriers for us cattlemen and cattlemen to compete on a global level. When the Brand Committee was formed in 1941, yes, it was necessary to begin implementing a brand law. And yes, there was a reason to have two-thirds of the state in the brand area where the eastern part of the state was not. But it is not 1941 and we must consider the future of our industry and the state. We need to bring our industry together the best we can to create a sustainable future. I ask you, why are we spending time and resources trying to Band-Aid an outdated law? Why are we trying to incur more of a financial burden on registered feedlots? And why are we not exploring solutions that are already available to help make Nebraska more competitive in the global marketplace? I want to thank you all for your service to Nebraska and would like to any-- answer any questions that you all may have.

**HALLORAN:** OK. Thank you, Cassie. Any questions from the committee? Senator Raybould.

**RAYBOULD:** Thank you so much for coming today. Can you tell me with your cattle, do you have the EID tags or just the simple hang tag with the number?

**CASSIE LAPASEOTES:** So on our cow-calf herd, we don't put them in at the-- when they're born, baby calves. But as they come into the feedlot, we are now implementing an EID alongside the dangle tag for a cross-reference system.

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**RAYBOULD:** OK, terrific. Thank you.

**CASSIE LAPASEOTES:** Thank you.

**HALLORAN:** Senator Brewer.

**BREWER:** Thank you, Mr. Chairman. I think when we, we started looking at some of the brand inspection issues some years ago, the thing that become very obvious is to do away with the Brand Commission would correlate to some public hangings somewhere in western Nebraska. So when we had hearings on it, we, we couldn't use a regular room like this. We had to use the other chamber of the house. So we all have very vivid memories of that. So if, if we go to your question, why do we sell the brand commission? Well, there are those that just feel such an ownership to that brand and especially if it's a brand that has been there for so many generations. The idea of wiping that system out and, and not being able to look out in the pasture and see cattle with your brand, the cattle with the brand on it, just something I don't know that the ones that have it now will ever accept that, you know. So what we're trying to do is thread the needle and figure out what's right, what's fair and, and how should that shape.

**CASSIE LAPASEOTES:** Absolutely. And I think the answer goes along to the last testimony is I don't-- I personally, don't think anybody wants to rid of a brand or a registered brand. I think the opportunity is still there to keep the registered brands, but on a, on a voluntary system, if you choose to have the inspection or not. There's, there's a big disconnect on getting rid of brands and eliminating mandatory brand inspection. And I think it's a big point to know that just like in the last testimony, we really can come together as an industry. And I think it's, it's good to note that we now, instead of operating with our neighboring states, we're now operating in a global economy. And it's, it's countries like the Netherlands; they're now the second biggest ag exporter. They exported \$1,000,000,000 worth of beef in the last year, which is, which is very-- on the same playing field of what Nebraska alone is exporting, with a third of the land that Nebraska has itself. So the big picture is, is how do we make ourselves on a level playing field globally and do global business instead of trying to focus on nit-picking a law that there is a solution for, where the cow-calf and the feedlots and the sale barns, we can all come together on having it be voluntary. And if you choose to have it, you pay for it.

**BREWER:** For one, that was very informative. It seems like I drove through the Netherlands and it was about like driving through Cherry

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County, so I can't hardly believe that they're number three, so that's good information. All right. Thank you.

**CASSIE LAPASEOTES:** Thank you.

**HALLORAN:** Any other questions from the committee? So this may not be a fair analogy, right, but, but it's an attempt at one. So I look at identifying ownership of animals much the way I do ownership of vehicles. We have, we have a reason for registering vehicles, licensing vehicles and it isn't just to accumulate funds for the county, although it may seem like that's one of the primary reasons, but it's to identify ownership of a vehicle.

**CASSIE LAPASEOTES:** Um-hum.

**HALLORAN:** And in spite of that, we still have stolen vehicles. I get that. But there's, there's a way, there's a way to trace a vehicle if it's, if it's lost or stolen. And to me, it's, it's very similar to what the brand law is supposed to do and that's to identify animals as we identify stolen vehicles, by means of having identification of those animals.

**CASSIE LAPASEOTES:** Um-hum.

**HALLORAN:** You know, with cattle, it's hot brand off, off, you know, off of pasture and maybe EIDs and feedyards. And there's a cost to that, but it's a cost of the whole industry to do that. Now, you know, if, if the registered feedyards didn't have a fee to pay, then someone has to pick up the slack for that fee and it would be the cow-calf operator. Right. And I guess at some level it's, it's, it's, it's a-- you know, it's, it's almost a matter of conscience that, you know, as an industry, out of respect for those that bring the feeder cattle to you. And I understand you feed your own animal or you have your own feeders but-- out of respect to those that bring the cattle to the feedyards to fatten, they need a little bit of that subsidy, if you will.

**CASSIE LAPASEOTES:** Absolutely. I understand. And so, a few things to note there. On, on our cow-calf side, the calves we raise, which we bring into our own feedlots, we do not put a hot iron on those animals. They never change ownership. Yet, we still pay that inspection fee on our own animals that, that we raise ourselves. And I think it's, it's showing that the registered feedlots, they're-- that is not where this and this issue is lying, is lying. So the registered feedlots are paying for a portion of this, but it's, it's in the



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cow-calf sector. If you choose to have-- if you have an issue, like, we wouldn't, as a cow-calf producer, I would choose to not have my animals brand inspected coming into my own yard. Now, my neighbor, they might choose to and if that's the case, they pay their portion of it. The other thing is is if we went to voluntary inspection, the amount of inspectors that you would have would be similar to that in Kansas. So the financial burden, not the burden, the financial aspect of it is eliminated down to possibly, what, did we say 80 earlier, down to possibly six on a voluntary system. So it, it, it takes all the financial-- it eliminates that at a, at a different level.

**HALLORAN:** OK. So why would someone in a voluntary situation, why would be-- why would someone be compelled to call-- I mean, if it was as in Kansas and it was voluntary, right, why would they be compelled to call an inspector? What would the circumstances be?

**CASSIE LAPASEOTES:** Well, the way I see it is, you know, maybe I don't-- some, the bigger ranchers up in the Sandhills, I think there's some neighbors-- some issues with their neighbors and say they have an issue with a neighboring-- just-- and they go to gather their calves, if I don't trust the fact that my neighbors are going to be honest, I could say, I would like to have a brand inspector when you gather your animals, but I will pay for it. The other way I can see it is if I was a sale barn owner, I would continue to have inspection at every sale that goes on and anybody that brings animals to their sale-- that sale barn would pay a fee as they do today, to sell their animals through that barn and that takes some of the liability off of, off of the cow-calf guy to-- that's where any estrays would be picked up is through a sale barn. And to know-- if, if I was a producer that had it voluntary, I'm not saying I would never use brand inspection ever again or I would never brand my animals ever again, it's to say that if I need the inspection, I would pay for it.

**HALLORAN:** OK. Any additional questions from the committee? Seeing none, thank you.

**CASSIE LAPASEOTES:** Thank you.

**HALLORAN:** All right. Additional opposition to LB229? Good afternoon.

**JAMES OLSEN:** Good afternoon, Senators. My name is James Olsen, J-a-m-e-s O-l-s-e-n. I manage a feedyard in Elba, Nebraska and, you know, my testimony is in opposed to LB229. I am not a registered feedyard because I'm a grow yard. And I guess what I like to explain about-- you know, we've talked a lot about EID tags and in the handout

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that I'm handing you is exactly what we do. The people that own the feedyard are from Wisconsin and we're dairy crosses, so we have ownership of these cattle at day five. So from day five, they are moved from, you know, where they're picked up to Amish barns in Indiana, Indiana and Michigan and from that location then they're moved to some step-up yards in Wisconsin and in Missouri. And then from there, they're brought to our facility. And as you can see, there's a-- on them EID tags, it shows that it comes from Cecil, Wisconsin to Windmill feedyard [SIC]. And basically at that time, the registered-- or the certified-- or the vet basically has to send us that copy of that same EID that you're seeing there has to go to the state veterinarian, just for the reason that basically, the state wanted to make sure that they would, if there was any type of an outbreak with TB, that they'd be able to come to the location that was associated with those EID tags. And basically, the state right now requires that they come once a year to make sure that none of our, none of our pens are a joint-- adjacent to a pasture pen, so that there's no possible transfer of TB into the breeding stock. So anyway, so the, the cattle then, as they're moved out of our facility-- they're they're at our facility for 100 days and they're moved out of our facility. And you can see on the next location they'll go to different locations in Kansas down where they're, where they're being harvest at. And also at that time, our veterinarian will basically do the same thing. He'll send all those EID tags that are-- the animals that are being transferred from our facility to the Kansas yard. And the state then basically puts out in their library of the cattle being moved back and forth. And right now, there's a fee from the-- from our vet. They charge us \$45 per week when he does this. And as you can see on there, they are-- what the inspection fee is for the brand guy to come out to my place. What he charges, that 85 cents, basically-- I hate to say this, but the gentleman comes to my yard, he sits in his car. I tell him what cattle are going to which location. I hand him a check, He prints me off those tickets. I go back into the place. He leaves the yard. There is absolutely no inspection, there's nothing for him to look at. There's no brands on these animals, they're slick-hided, there's nothing to look at. I guess, you know, like it shows the difference in cost of, you know, that-- the cost is four hundred-- \$436. You know, I've been associated with this yard for 23 years and never have we asked the Brand Committee to come in and look for an animal that we've lost or have we asked-- or has the Brand Committee come to us and asked us, you know, looking for an animal that they've lost. And I guess in the spring of 2000 or 2020, I went to the board meeting at Brewster to discuss the same thing that I'm discussing with you here today, that I just felt this was, was not a

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correct charge for how they were charging, that I should have to pay more than a registered feedyard would be at \$0.50 and they told me at that time they would take it upon the senators to-- because they had no, they had no ability to change the rate of what it would cost me to have the animals in and out of our yard.

**HALLORAN:** Mr. Olsen, your, your time's up, but I'm-- there may be questions from the committee that--

**JAMES OLSEN:** OK.

**HALLORAN:** --OK. Do we have questions from the committee? Senator.

**BREWER:** Thank you, Mr. Chairman. Finish what you're saying. You know, I'm tracking with you and you kind of left me hanging, so I [INAUDIBLE] run out of time, but.

**JAMES OLSEN:** So basically, I never heard anything back from the, the committee that I went to in Brewster on the, on-- in the year 2020. So in 2022, I was at the Cattlemen's meeting in Valentine and the, and the Brand Committee was presenting some stuff about the brand laws and stuff like that. And when they got done, they sat down next to me and Dr. Kip Lukasiewicz and we asked them if they had ever heard anything back from the senators about what our presentation was up in Brewster. And they told me that, that if they-- if I could come to the brand meeting in Valentine in July and present my case, they would have a better answer for me. I went to the Brand Committee in July, presented my case and as of today, I have never heard nothing back. So, you know, you talk about the EIDs and about what they can do for you. You know, our EIDs, we can follow them all the way through the packer. We get a-- we get our-- you know, on the carcass data, it's got the EID right to the, to the carcass data. It tells us a lot. So there's a lot of, a lot of good information with what we're doing with this. I just-- I guess I just don't see any reason why there's-- why I have to pay these fees with the brand inspection.

**BREWER:** When was the meeting in Brewster?

**JAMES OLSEN:** Brewster was in 2020. It was, it was in the spring. I don't remember if it was March or April.

**BREWER:** Actually, I went by there. It was at Uncle Bucks, had a parking lot full of new trucks--

**JAMES OLSEN:** Yeah.

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**BREWER:** --with light bars on them. OK. All right. So you've asked to justify the fee through this process of asking and going back and forth. You've never really got a straight answer on why the \$0.85 is there. The, the \$10 surcharge, that's just for them showing up. Is that kind of what that is or-- while I look at the receipt here. It's got a surcharge of \$10 and then the \$0.85 per head fee.

**JAMES OLSEN:** Yeah.

**BREWER:** The surcharge is just-- that's for showing up to--

**JAMES OLSEN:** You know, there's--

**BREWER:** --collect \$0.85?

**JAMES OLSEN:** --the way I understand it, there's supposed to be a \$60 charge for them coming out and they're waiving that part of it for me. But if I don't notify them within 48 hours, basically, they can charge me another 60 bucks for not notifying them within the time frame.

**BREWER:** All right. Thank you.

**HALLORAN:** Any further questions from the committee? Seeing none, appreciate it.

**JAMES OLSEN:** OK. Thank you.

**HALLORAN:** OK. Additional opposition for LB229? Good afternoon.

**JOHN SENNETT:** Good afternoon. Senator Halloran, Senators, thank you for the opportunity to have this hearing and, and this discussion. My name is John Sennett, J-o-h-n S-e-n-n-e-t-t. I'm a lawyer, so you can pick on me all you want. I won't be offended. The, the-- I do-- I practice law in Broken Bow, Nebraska, and have for-- since 1976. We represent Adams Land and Cattle Company, is one of our clients. The-- most of what-- everything that I'm talking about today is in this handout that is being distributed. But basically, to make the deal clear, there's always been an intimation that somehow Adams Land and Cattle Company had a, quote, sweetheart deal. If I had \$0.10 for every time I've heard that, I wanted to bite my lip. In 2009, the Brand Committee took on a project of seeing if they could come up with a new way of marketing livestock and still be safe with regard to its ownership. The-- in the September meeting of 2009, the Brand Committee basically, tentatively adopted a plan whereby if you bought cattle and moved them to the feedyard, to a backgrounding lot and then took them from a backgrounding lot to a registered feedlot, you did not have to

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pay a brand inspection fee when they went into the registered feedlot as long as four things happened. Number one, there was no change in ownership. Number two, there was satisfactory proof of ownership that accompanied the cattle. Number three, that there would not be any change in the integrity of those cattle. And those were the, and, and those were the parameters that you had to qualify for. The Brand Committee tentatively approved it based upon-- conditioned upon the attorney-- the Special Attorney General who was residing in Ainsworth-- or Alliance, excuse me, to approve the program. He approved the program and Adams Land and Cattle Company, being aware of the opportunity, entered into an addendum to their RFL agreement that provided that they would do all these things that, that they had listed and we would not have to pay that fee. There was another meeting of it, of the Brand Committee open to the public, notice given as to the agenda that was going to be on the, on the ticket. There were representatives of Farm Bureau and of the Nebraska Cattlemen that were in those minutes. Those minutes are part of what we've handed out. At that point in time, they announced that Adams Land and Cattle had entered into the addendum and the Brand Committee voted to adopt it and to approve it. This was all in public meetings. There was no quote, sweetheart deal. The deal then-- the-- when ALC [SIC] exercised this option, then they moved to-- and it-- they started doing the process. From 2009 on, ALCC abided by the agreement and have proceeded there right through today. That's been the process that they've adopted. Whether other, other feedlots want to or have had the opportunity to-- in the program, all they had to do was read the minutes and the vote that was taken by the Brand Committee at that time. In 2016, the Attorney General of Nebraska interpreted 54-1,122 to provide that audits would be used at registered feedlots as opposed to physical inspections. In two-- in June 14, 2018, the Brand Committee sent a letter to Adams Land and Cattle Company saying, we're unilaterally canceling your agreement and your addendum. There was no meeting, there was no committee meeting, There was no-- there's nothing in the minutes of the, of the Brand Committee to indicate that there was ever any decision made collectively by the Brand Committee to change their mind. At that point in time, faced with what they were facing, which was to change the entirety of the operation that had all been built upon the Brand Committee's initial deal in 2009. Adams Land and Cattle brought suit in Alliance. About two weeks or three weeks later, the Brand Committee came to Adams Land and Cattle and says, tell you what. We'll withdraw our letter telling you you can't do this anymore if you will dismiss the lawsuit. Fine. That, that's what the deal was, we'll dismiss and we did. We went another two years and we get another letter. It was exactly the same as the first one, saying

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we're unilaterally terminating the addendum. We sued them again. It went to court. It was tried June 8, 2022, and the district court of Box Butte County, Nebraska, ruled that what we were doing was proper and legal as long as we had integrity, no change of ownership, we kept the cattle together and they were confined, they weren't intermixed with any other cattle, that we could move them then from wherever we purchased them to a backgrounding lot to a feedlot-- to, to the feedlot with satisfactory evidence of ownership that could be confirmed by an audit, which they were doing every quarter since 2009. It was a paper audit and they count the cattle and they see what's in the, in the lot. During that entire time, there were never any cattle that were found missing. I'm out of time. I apologize. I'm more than happy to take questions.

**HALLORAN:** You don't have to apologize because you're, you're an attorney and we expect you to go over time. [LAUGHTER]

**JOHN SENNETT:** Give us a microphone and we're good for 3 hours.

**HALLORAN:** Are there questions from the committee? Senator Brewer.

**BREWER:** All right, John. If we were to go back and look at when you started actually working with the Brand Committee, how far back would that go?

**JOHN SENNETT:** Me personally?

**BREWER:** Yes.

**JOHN SENNETT:** I suppose it would have been three years ago, whenever the first-- when Senator Stinner introduced a bill to not terminate brands, but to terminate brand inspection. When that bill was submitted would have been when I would have first been involved in this matter.

**BREWER:** And from what we can tell, because the, the issue of brand inspection go back a long ways. There's been, you know, peaks and valleys. And, and--

**JOHN SENNETT:** They do in my family, too, Senator.

**BREWER:** --and what's-- what's that now?

**JOHN SENNETT:** My family's in the agricultural business and we've had brands forever.

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**BREWER:** Right. But of late, we had more challenges because of how the brand inspection works, staffing, expenditures, you know, number of inspectors that are available versus, you know, how available they are when people need to have cattle inspected. I mean, there's, there's a ton of issues that come with it and, and the last six years has been fairly busy with trying to figure out what right looks like when it comes to, to brand inspection. And I guess my concern is that we're trying to sort through this and I kind of wish there was a representative for the Brand Committee here. Our understanding, because of the court case that they can't be here, but it just seems like there's a lot of questions that we need to ask that are very specific to them on understanding the bigger picture about why things are the way they are, But we'll, we'll save those for another day, but thanks for explaining. This is a lot of information. When you were wrapping up here at the end, I was trying to follow you on your testimony. Is there anything that you didn't explain on this so we have the full picture there?

**HALLORAN:** He's leaving you open for 20 more minutes [LAUGHTER].

**BREWER:** [INAUDIBLE], but I also don't want you to not be able to complete what you were trying to get across.

**JOHN SENNETT:** Senator, Senator, the thrust is, is that the, the attempt in LB229 is to take the position that the Brand Committee took and to leave out the third leg of the way you can move cattle. In other words, the, the LB229 is, is represented to interpret 54-1,122. It doesn't interpret it, it just regurgitates what the committee wanted it to say and that the, the, the, the previous committee didn't agree with, the previous executive director didn't agree with, the the the-- Box Butte County district judge didn't agree with. And this is just one more way or one more time to try and cut off that third method, which is safe. There's never been any stray cattle found in, in Adams Land and Cattle's lots. None. Zero. And so it's just simply, we want you to define it this way, not clarifying it. And I have no-- it's not-- between you and I Rick. But it's, it's just a regurgitation of what the committee has, has tried to convince everybody to do.

**BREWER:** OK. Thank you.

**HALLORAN:** Yes, Senator Raybould.

**RAYBOULD:** Thank you, Mr. Sennett, for coming. So we've heard a lot of testimony and there have been some solutions thrown out there. So

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would you support only doing voluntary brand inspections, as some have suggested?

**JOHN SENNETT:** I think that's the--

**RAYBOULD:** Rather than [INAUDIBLE]?

**JOHN SENNETT:** I think that's the-- ultimately, if we don't do that, what people are going to have happen to them is that it's such an antiquated system that the system will fall apart. OK. We, we move cattle and we, we, we trade cattle and we sell cattle and buy cattle entirely different in 2023 than we did in 1941 when they created the Brand Act. I mean, I remember my father with a, with a pickup and a set of stock racks, would go to the sale barn and buy two or three head of cattle. That's, that's how many cattle you moved back in the old days. You didn't move pots full. You didn't move about six pots worth of cattle in, into southern Arizona-- Missouri, ship them to Broken Bow. That didn't happen. There, there was a lot of cattle theft when people would go out and grab two or three and put them in a pickup. You're not going to grab a pot load of cattle and they're not going to show up at the, at the sale barn. Texas has a, has a plan and it's, it's more intricate than, than I'm going to be able to go into. But basically, they decided years ago, in Texas, that almost all stolen cattle go through a sale barn, eventually. And it makes sense, you know, twos, threes, four-- they're going to go through there, eventually. So they put all of their inspectors at the, at the sale barns, with the idea if they could stop 97 percent of the cattle theft, they'd be doing a heck of a job. But, you know, if you buy cattle in the country in Texas, there's no brand inspection. They just load them on a truck, give you the, give you the health paper and, and bill of sale maybe, and ship them to wherever you want to ship them. So would I be in favor of it? I think it's-- absolutely I would be in favor of it. And I think a lot of people don't realize that if we don't do something like that, the, the alternative is going to be something a lot worse.

**RAYBOULD:** OK. Thank you very much.

**HALLORAN:** Thank you, Senator Raybould. Any additional questions? All right. Thank you, Mr. Sennett. Appreciate it.

**JOHN SENNETT:** Thank you.

**HALLORAN:** OK. Additional opposition to LB229? Seeing none, is there anyone in a neutral position on LB229? Seeing none, Senator Erdman,



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would you like to close? Before you close, we've had two online comments, opponents: Lee Borck, representing himself and Kip Lukasiewicz--

\_\_\_\_\_ : Lukasiewicz.

**HALLORAN:** --Lukasiewicz-- I'll just call him Kip-- representing himself in opposition.

**ERDMAN:** OK. Thank you. I appreciate Ms. Lapaseotes driving all the way from Bridgeport. It's a long ways. I know how far that is. I appreciate that. You know, one of the things that's kind of interesting as we listen to the testimony, if branding is such a problem for the RFLs-- they're building a huge feedlot in western Nebraska. And guess what? It's in the brand area. So if it is such a huge area-- such a huge problem, why would you build in that location? Why wouldn't you go in the non-branded area? That seemed kind of peculiar to me. So they had an advantage. They have had an advantage of what they testified was \$10 a head. That's a significant advantage. And so we listened to all the testimony today about what exactly we need to do and it boils down to this: they would really like to eliminate branding, brand inspection. That's what they'd like to do. And so, Senator Halloran said it well when he said, are you ever going to start getting along? Are you ever going to start cooperating? That's the question. OK. So sometimes, some of these things we do, maybe it's not the answer, but maybe it's what provokes getting to the answer. And until we get to that place or we decide we're going to work together as an industry, a livestock industry, we're never going to solve this problem. And what's going to happen is, when people like myself and others who maybe, have an understanding of branding-- now Senator Ibach's here, she understands it-- are gone, we will have things happen that are not conducive to the industry as a whole. So it's time to fix that. It's time to fix that. And so, we've been talking about this for a long time. Senator Brewer, Halloran and I have been here six years. We have been discussing branding at least every year we've been there. Would you agree? So it's time to get that fixed. And so, whatever we need to do to do that, we need to start working on it quickly. This is an industry that we can't afford to continue to have discussions about. This is the largest industry in the state, agriculture industry. So we need to fix it. So how do we do that? We've got to get on the same page and we've got to understand that we're all in this together. And so we might have came in a different ship, we're all in the same boat now. We're livestock and so we need to get together to fix that. So it's kind of peculiar to me that they're so concerned about the economic drag on doing one little

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thing and have an inspection. And the issue boils down to we need each other and we haven't gotten to that, to that point yet. And so I don't know what it takes to get us to that point. So I looked it up. You know, there's that wonderful thing called the Internet. So I looked up how many inspectors the Brand Committee has, they have 65 inspectors and they have people in management. They have about 80 staff total. That's what they have today. And so, I would ask you to move this forward so that we can have a discussion about what the real answer is. And so I will try to answer any questions you may have. Thank you.

**HALLORAN:** Thank you, Senator Erdman. Any questions from the committee? OK. Seeing none, thank you, Senator Erdman.

**ERDMAN:** Thank you for your time. Appreciate it.

**HALLORAN:** Thank you, everyone, for coming on this issue. That concludes the hearing on LB229. We'll let the room clear out a little bit before we start our next.

**Speaker 9:** In the Senate, speed, inclusion and.

**Speaker 3:** All will be on time. We should.

**Speaker 2:** Ventilation, oxygen.

**HALLORAN:** All right. We will move on to LB-- hearing for LB562. Calling for Senator Dorn, calling once, calling twice. Good afternoon, Senator Dorn.

**DORN:** Good afternoon.

**HALLORAN:** Proceed at will.

**DORN:** Proceed away. Good deal. Good afternoon, Chairman Halloran, members of the Agriculture Committee. My name is Myron Dorn, M-y-r-o-n D-o-r-n, and I represent Legislative, Legislative District 30. I am pleased to introduce to LB562, the E-15 Access Standard Act, that will increase consumer options for E-15, beginning January 1, 2024. I strongly support the transition to E-15 because of the benefits extended throughout our economy. Less than a month ago, ABF Economics, a national, agricultural and biofuels consulting firm, released findings of an economic study regarding the impact of LB562 and a new E-15 standard in Nebraska. The result supports the advancement of LB562. For instance, in 2022, the average price of E-15 sold in Nebraska was \$0.17 per gallon lower than E-10. Consumers would save nearly \$50 million with less expensive E-15 prices, which translates

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to \$50 million increase in all their household income. Petroleum retailers will actually net 3 percent more revenue from the consumption of all ethanol blended fuel cells. Ethanol plants would produce an additional 40 million gallons of ethanol and consume the equivalent of an additional 14 million bushels of corn. The bill requires that beginning January 1, 2024, fuel retailers who install, replace or convert motor fuel storage tanks shall offer E-15 from at least 50 percent of their dispensers. LB562 requires that on January 1, 2027, retail motor fuel dealers shall advertise and sell E-15 from at least 50 percent of all qualifying fuel dispensaries. Retailers with only one dispenser or any motor fuel site that sells 300,000 gallons or less annually over a three-year period are exempt. Additionally, the Department of Agriculture director has the authority to waive the E-15 access standard if the motor fuel storage and dispensing infrastructure are incompatible with E-15 gasoline. While we understand that the majority of the underground tanks are compatible with E-15, other infrastructure upgrades may be, may be necessary. For this purpose, LB562 would appropriate \$10 million per year in 2024, '25 and '26 into the Renewable Fuel Infrastructure Program administered by the Nebraska Department of Environment and Energy. The program would approve grants to retailers for upgrading to compatible infrastructure. According to the ABF Economic Study, only 112 in Nebraska, approximately 1,127 fueling stations, sell E-15 today. It further says that the infrastructure cost, based on stations that have upgraded to E-15 report a median cost of about \$10,000 per station. That's where part of that or quite a bit of that \$10,000-- \$10 million a year will be used for. Petroleum retailers will later testify that LB562 is a mandate and they should not be required to comply. I contend that for too long, the petroleum industry in Nebraska has resisted higher ethanol blends, virtually eliminating customers' options to select and purchase renewable E-15. This is a de facto petroleum mandate and Nebraska's consumers are footing the bill. Thank you. I ask you to advance LB562 to the floor and I am happy to answer any questions. The handout that we did give out, there are two amendments, I believe, on the back page that have since been brought to me that we would also be-- we'll be introducing those. And one of those, the top one there, is brought to us by the, the co-ops of the Nebraska-- of Nebraska, the Co-op Council, so that when they have multiple stations, they're factored in on that part of the equation instead of having each one of them separately and stuff so. Otherwise I sure would be happy to answer any questions. I know there's several people here going to testify today on all sides.

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**HALLORAN:** All right. Thank you, Senator Dorn. Questions from the committee? Senator Brewer.

**BREWER:** I think it's German. All right, Myron, if you go to the front page, the bottom line here says LB560 [SIC - LB562] requires that on January 1, 2027, retail motor fuels dealers shall advertise. So that is [INAUDIBLE] shall rather than may. So.

**DORN:** They shall do that.

**BREWER:** Is that where they're, they're coming up with the mandate part of this or what part of this causes everybody to go haywire with mandates?

**DORN:** Part of why they are thinking this is a mandate is just, that line there a little bit, they're going to need to be able to dispense E-- up to E-15 at those stations, at a certain amount of those pump-- dispensers at those stations. And that's where they think it's a mandate that now they will have to do that. Part of this bill has some exceptions in there that if you're older one or your tanks does-- doesn't qualify, there's funding and those types of things to help you. That's where you're correct. They're coming up with the mandate. It says they shall have 50 percent of their pumps available to use E-15.

**BREWER:** OK. The separate sheet that you gave us--

**DORN:** Yes.

**BREWER:** --that's got the-- a state letterhead here. So down below here, you've got the LB562--

**DORN:** Two. Yep.

**BREWER:** --does not require that every pump at every station sell E-15. And you got about a half a dozen--

**DORN:** Yep.

**BREWER:** --more there. So all that's-- we're going to track correctly, that's, that's what your bill does?

**DORN:** Yes.

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**BREWER:** OK. Well, then there's a lot of rumors going around, because I stopped fill my car up at the co-op and they're all freaking out. So just try to make sure that we're on the same sheet of music, here.

**DORN:** Those, those five things listed down there are the reasons why this bill is not a mandate, because it does not require you that every pump at every station will be E-15 compatible. There are options there that are available that still will be able to be used by those retailers.

**BREWER:** And we have a quite a few pumps now that are E-15, don't we?

**DORN:** We, we-- there's about a hundred and-- I don't know. There's a hundred and some stations out of the-- or I don't know. I don't have the right number, but there are a lot of E-15 pumps out there. Our local station down at Adams, they have the blender pumps, which you can go up to E-85. You can go E-10, E-15, E-30 and E-85. So those are available. The Corn Board has been helping different ones that want to put them in, put them in. Part of what there is, it, it will create a business disruption as you put those in. This bill has some funding in there for when you put those in and there's a business disruption, but many of the E-10 facilities today are ready, are qualified and they can pump any E-15.

**BREWER:** And if I'm not excited about E-15, I just go over to the one that doesn't have E anything and fill it up with that.

**DORN:** Yes. And there are people today that don't use any ethanol, also, so they have that option, generally. Now, sometimes you have to look for a station to find that too, or whatever, but yeah. And that's why many people drive diesel pickups, too. They want to have that diesel and, you know.

**BREWER:** All right. Thank you.

**DORN:** Yeah.

**HALLORAN:** Senator Riepe.

**RIEPE:** Thank you, Senator Dorn, for being here. My question is and I don't know [INAUDIBLE] but is, is the ethanol industry still being subsidized by the state?

**DORN:** Nationally? I don't have a good answer for you. There will be people later that will give you that answer. I don't have that answer for you off the top of my head, though. If they are-- I know at one

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time they were. There are people behind me that will have to give you that answer. I can't tell you for sure.

**RIEPE:** My peace on that is corn is \$7 a bushel, you know. I mean--

**DORN:** Well, I--

**RIEPE:** --because there are higher and better uses, they say in the economic world. And, you know, this seems like, this seems like a big gift to the ethanol industry.

**DORN:** There are-- I do know that in the state of Nebraska right now, you can apply for a \$0.05 a gallon refund or not refund, kind of rebate, for the use of the ethanol blends or whatever and stuff. So I do know that.

**RIEPE:** I guess my next and final question is going to be, do you anticipate this, this group, maybe not necessarily the Ag Committee, will be looking for subsidy support for electronic vehicles?

**DORN:** I think, I think as we go forward, the federal government is subsidizing electronic vehicles today or electric. And I think that will continue. We are not at the same rate subsidizing near the fossil fuels or the gas or the ethanol vehicles as we are with the electric ones. I think right now today you can get \$7,500 or you could, \$7,500 a car, for purchasing electric car in certain situations. That has driven that market where someday, we will have more and more electric cars.

**RIEPE:** I was hoping you were going to tell me I get \$7,500 for using E-15.

**DORN:** Do what?

**RIEPE:** I was hoping you'd tell me I'd get \$7,500 if I'd use E-15 for a year.

**DORN:** No, right now you can't. But, you know, this is something that for Nebraska, for the corn growers in Nebraska, for the economy in Nebraska, this is a very, very solid, sound and good, strong bill. As you know, Senator Deb Fischer's trying to do something along these lines right now in the U.S. Senate. And she has been having a bill there she's been carrying for the better part of a year to two years, so that E-15 can be used around the nation for the full year, not just part of the year or whatever. So Senator Fischer's been working on some of these type of proposals, too, for our state of Nebraska, for

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the farmers, for the corn growers, for the ethanol companies and for the consumers, because they're going to be probably saving roughly \$50 million a year. This is a very good bill.

**RIEPE:** OK. Thanks for being here.

**HALLORAN:** Senator Hansen.

**HANSEN:** Thank you. OK. So last year we passed LB1261. That was for tax credits, I believe, for ethanol.

**DORN:** Yes. They could apply for it. Yes.

**HANSEN:** And then we passed this in 2019-- what LB562-- which created the program but it wasn't funded. But I-- me, I'm confused. But-- it said we're changing a \$1 million grant to a \$10 million grant. So we were already doing something similar to this already or?

**DORN:** Part, part of that million dollar grant is they've been able to use that to upgrade equipment to get to the E-15, not only equipment but also signage and those types of things. If this bill is passed, now there will be a greater need to help with the funding of that equipment, those dispensers, the signage and all of those things.

**HANSEN:** OK.

**DORN:** And that's why it's going from \$1 million to \$10 million.

**HANSEN:** And-- but it wasn't mandatory before. This is just something people could apply for.

**DORN:** It was not mandatory. That was something they could apply for.

**HANSEN:** Do you know how that went? Like so when we did, did it work really well? Were people using it? Did they not use it? Because if it worked really well, I would think we would just keep it or just put more money into it and not make it mandatory.

**DORN:** And I'm sure the people behind you, it depends on who you ask. It, it-- some of them, it hasn't gone so good and some of it's gone real good. The retailers have not wanted to go to the E-15 because we're geared up and set up for the E-10.

**HANSEN:** OK.

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**DORN:** So it takes a retailer-- and I know there are some retailers that have-- they put in new stations. They put in the E-15 and now some of that funding helped with some of those.

**HANSEN:** OK.

**DORN:** So but with this here bill here, because of the, the need, I think they estimated \$2.4 million for some signage around the state as they're using this, because now they have to also have it up on their signs. They can't just-- service stations can't just advertise one price on one pump. They have to, you know, they have to have more or whatever. They have to be more open to what the, the-- is out there or whatever.

**HANSEN:** OK.

**DORN:** And this will require additional signage and stuff like that.

**HANSEN:** OK. And I'm sure somebody can maybe expound on that later.

**DORN:** Yeah.

**HANSEN:** Two things real quick, if that's OK, Chairman.

**HALLORAN:** Yes,

**HANSEN:** All right. You mentioned in your statement, I contend that for too long, the petroleum industry in Nebraska has resisted higher ethanol blends. Why do you think that is?

**DORN:** Part of that comes from where we are nationally. Also, the petroleum companies in the, in the nation have a very strong, I call it hold, on what kind of fuels we use. Ethanol has had a hard time over the years getting more usage and they limit or have limited the amount of ethanol that will now be used. That's why, because if we had an open and freer market or an open-- not an open and freer market, but if we didn't have, I call it the bigger entities holding down the usage of it, I believe that we would have more sales in the, in the United States, more sales in Nebraska and we would have a more viable ethanol market.

**HANSEN:** OK. And then can you just briefly touch on like your-- you have, you have mentioned a couple of amendments that you--

**DORN:** Yes.



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**HANSEN:** --that are possible? I think-- I get the one that you're, you're appropriating \$10 million from the general funds, but what's the, the first one?

**DORN:** OK. The second one, they want, they're, they're-- this bill is asking for \$10 million a year.

**HANSEN:** Yeah.

**DORN:** OK. In the original bill, it looks like it's just for the two-- \$10 million each of the two years. But what this amendment here will do then, it will put it on out into that third year, which is another budget year, which we can't-- in the bill, we can't appropriate for, but then it will be the intent now.

**HANSEN:** OK.

**DORN:** This is more the intent language that will be out there that in the-- this two-year budget cycle, we can't appropriate that. But the next year of the first year of the budget cycle, we can have the intent in here that the Legislature shall appropriate it. And that's what this amendment then puts in there.

**HANSEN:** And then the other one is just-- is that more of an exemption to like, for--

**DORN:** That is--

**HANSEN:** --retailers to use so they don't have to do this?

**DORN:** This was brought by the, the co-op groups so that now if they have five stations, they don't have to fill out a form for every one of those stations. They can fill that out as a company and list all of those on there and stuff. So it's not that-- it's not for them getting around it. They still have to do all the paperwork. But now, instead of filling out the forms every so often and filling out and filing five separate ones, now they can group those together and file all five on that form.

**HANSEN:** OK. Thank you for answering the questions. Appreciate it.

**HALLORAN:** Thank you. Senator Hansen. Yes, Senator Hughes.

**HUGHES:** Thank you, Chairman. Thank you, Senator Dorn. So from what Senator Hansen was saying, and I'm, you know, new to trying to get all

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the information, there was a tax credit given last-- that went into effect last year. Is that the \$0.05 off that, that a retailer can get.

**DORN:** The, the exact dates and people behind will give you the-- yes there is a--

**HUGHES:** But it just went into-- it's new.

**DORN:** It, it's, it was \$1 million. It's, it's fairly new and they, they have to, they have to apply for that based on their gallons of usage.

**HUGHES:** Right. Do you feel like that's been enough time to see if that works?

**DORN:** No. Well. Oh, excuse me. Do you feel if that's been enough time?

**HUGHES:** I'm just saying that sounds like a carrot to me.

**DORN:** That sounds like a carrot, but it's--

**HUGHES:** Like hey, let's, let's try to do this.

**DORN:** But it--

**HUGHES:** Here's a tax credit that you can get if you make the changes. We have money to help make the change. Has that-- have we given that? Because I'm assuming there was a good reason, reason we passed it last year. Have we given it it's due diligence before-- and I will argue it's a little bit of a mandate. It says-- say-- half your pumps have to say this.

**DORN:** That was an incentive and I, I don't know. You have to ask some of the--

**HUGHES:** OK.

**DORN:** --people behind me how much that was used or how much not or whatever. Part of this bill is really, it, it-- we have been E-10 for a long time. If you remember when the state came to using E-10, that was a challenge. We didn't have people just right away have those stations in all of those different amounts.

**HUGHES:** Right.

**DORN:** But that-- it wasn't a mandate then. But it was a kind of, here, this is going to be it.

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**HUGHES:** But we didn't do E-10 this way. I don't-- I think that's-- I've asked that question before. Like we didn't tell all the retailers you have-- half your pumps have to have E-10, like it didn't roll out that way. And maybe, maybe I'll save this for other folks.

**DORN:** OK, save that for--

**HUGHES:** I will. Yep.

**DORN:** --some other people. I'm not up to date on some of that stuff. My personal feeling, as I farm and as I do this and the corn usage that we'll have, the ethanol business that we'll have, the-- for the economy of the state of Nebraska and the savings on the fuel price, this is a tremendous bill.

**HUGHES:** Fair enough.

**HALLORAN:** Senator Raybould.

**RAYBOULD:** Thank you, Senator Dorn. And I don't mean to beat a dead horse, but I did want to follow up. How did you all land on, shall advertise and sell E-15 from at least 50 percent? Why is it not 25 percent or 30? But why is it half of all the qualifying fuel dispensers?

**DORN:** Part of what they found out and back to answer her question a little bit. When that E-15 has been available and out there, the people have not been using it at the amount or the rate or what was projected to be used. They're still using the E-10. They're comfortable with that. That's what they're used to having in their vehicles and such. So they're not going out there and now using it unless they have a couple of things in mind. One is the price. And at \$0.17, that's a very good reason why you would use it. But not every station will have that kind of difference in price or whatever. The other thing is it, it's something new again, as we drive vehicles, as we drive electric cars. Senator Riepe asked about that. Not everybody's going to buy electric car because they don't feel comfortable with it. So it's taking the time to learn this. All the studies, all the data that we have show that E-15 is safe. It's very useful in your vehicles. Any car-- the EPA says any car after 2001, it is approved to use E-15 in.

**RAYBOULD:** But I guess my question is, why are you mandating 50 percent? How did you land on 50 percent of all the qualifying fuel dispensers? Shall.

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**DORN:** Shall. No, that's a good question to ask someone behind me that brought me the bill.

**RAYBOULD:** OK. That's--

**DORN:** I don't know.

**RAYBOULD:** OK.

**DORN:** We had discussions as we went through this. We've had probably eight or ten discussions. I cannot tell you for sure why that, though. But there will be people testifying later that hopefully, they will answer your question.

**RAYBOULD:** Thank you.

**HALLORAN:** Thank you. Senator Raybould. Any further questions? And just for the record, I like to add a little humor to the show a little bit. And Senator Raybould said she didn't want to continue being an old horse. She was not referring to you [LAUGHTER].

**RAYBOULD:** Oh, yes. Ouch.

**HALLORAN:** OK.

**RAYBOULD:** Thank you, Senator Halloran, for clarifying. I appreciate that.

**HALLORAN:** All right. Thank you, Senator Dorn. I will--

**DORN:** We'll be around for the closing.

**HALLORAN:** --OK. Thank you very much. All right. Let's start with proponents, first proponent.

**ANDREW JOHANSEN:** Good afternoon.

**HALLORAN:** I'm going to try an option here for testifiers. I know no one will take me up on it. But if you agree after about five testifiers, if you agree with everything that's been said, instead of repeating everything that's been said, it's just an option. You can just say [RECORDER MALFUNCTION] Good afternoon.

**ANDREW JOHANSEN:** Good afternoon. Chairman Halloran, members of the Agricultural Committee, my name is Andrew Johansen, spelled A-n-d-r-e-w J-o-h-a-n-s-e-n. I'm here today on behalf of Renewable Fuels Nebraska, Nebraska State Dairy Association, Nebraska Soybean

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Association, Nebraska Wheat Growers Association and Nebraska Pork Producers Association to testify in support of LB562. I'm a lifelong resident of Nebraska and have been involved in feeding and the fueling the world my entire life. I am the Chief Risk Officer for E Energy Adams LLC. Our ethanol plant is located in Adams, Nebraska. We are a Fagen/ICM plant that ensures that we are one of the most efficient plants in the world. I have been in my role at the Energy Adams since January 2007, when the plant was only 20 percent built. I am part of the senior leadership team that has driven the doubling of our plant over the last 14 years. In 16 years, our 800 or so investors have invested nearly \$200 million in our industrial complex. I am responsible for the marketing of our annual production of 100 million gallons of low-carbon ethanol, the 450,000 tons of distillers grain that is fed to cattle, chicken and hogs and the 26 million pounds of distillers corn oil used for renewable diesel production. I am also responsible for the purchasing of the 37 million bushels of corn used at the plant and all of our natural gas needs. My wife, Debbie and I are among the 800 owners of the Energy Adams. We are also part owners of a cow/calf ranch located in Wheeler County, Nebraska. Energy Adams is a member of the Renewable Fuels Nebraska, the statewide trade organization for the ethanol industry, and a resource to encourage public policy that encourages the growth and expansion of the renewable fuels industry in our state. We believe the packet distributed to you will be helpful as you consider the passage of this legislation. We support LB562 as the legislation to give Nebraska consumers greater access to a healthier, environmentally-friendly fuel, and E15 will save them money that will be reinvested elsewhere. Additionally, the higher ethanol demand will encourage more ethanol production in our state. More ethanol production means a better corn basis and more livestock looking for a home in Nebraska. The rising tide lifts all boats. At EEA, we have been involved in adding E15 in flex fuel pumps at two locations in Nebraska and one in Kansas. One location has been wildly successful. One location has done okay. One location was a failure. Let's look at the results of the successful station. Our company is involved in a retail station in Adams, Nebraska, with Frontier Cooperative. We have been selling higher level ethanol blends in Adams since December 2017. The growth in E15 sales in higher level blends has been phenomenal. Total fuel sales have increased nearly 70 percent since 2017, with E15 sales accounting for nearly 50 percent of that growth. Total ethanol demand at this station has increased over 340 percent over the last five years, and that's despite declining gasoline demand nationwide. Our biggest challenge in Adams, we don't have enough pumps. We have proven over the last five years in Nebraska consumers will choose ethanol if they have the

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choice. LB562 eliminates artificial barriers to entry to ethanol, and these barriers to entry are very real. There is little to no freedom of choice in the fuel market for anything other than the more current typical E10 gasoline. We have felt this failure. We have been in discussions with at least other, eight other retail stations in Lincoln. Six of those eight refused to offer higher ethanol blended product denying consumers access to the choice of lower cost, cleaner burning ethanol. We failed in the other two newbuilds because of artificial barriers to entry created through branding agreements. Ethanol plants contribute to the viability of rural Nebraska. We offer good jobs, create value for corn in the region, and ultimately spark economic development by generating co-products that can be used across a variety of industries. It's impressive that Nebraska's economic activity from soil and seedbed to a new packing plant under construction in North Platte. Without ethanol in the middle of the value chain, our economic value chain would certainly break. That concludes my testimony. Thank you for your time. Please, does anybody have any questions?

**HALLORAN:** Timed that perfectly well. Does the committee have any questions? Senator Hughes.

**HUGHES:** I'm going to ask everybody this. The ethanol blending tax credit, which went into effect last year, has that been given enough time?

**ANDREW JOHANSEN:** I'm not involved in it.

**HUGHES:** OK.

**ANDREW JOHANSEN:** So I can't answer that question.

**HUGHES:** Fair enough. I'll save it for someone else. Yep.

**HALLORAN:** Additional question? I have one. You said one location you shouldn't have put this in.

**ANDREW JOHANSEN:** Pardon?

**HALLORAN:** May, maybe you should have, but you said one location was a failure.

**ANDREW JOHANSEN:** Yes.

**HALLORAN:** Why?

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**ANDREW JOHANSEN:** Because the retailer chose to keep all the extra benefits of higher ethanol blends for himself instead of, you know, we sell ethanol today really cheap relative to gasoline for a lot of reasons. So instead of passing that on to the consumer, the retailer put it in his pocket and didn't sell anything.

**HALLORAN:** So it was a price issue?

**ANDREW JOHANSEN:** Yes.

**HALLORAN:** All right. Additional questions? All right. Thanks for your testimony. Additional proponents to LB562? We're going to get our first ditto here and then. (LAUGHTER) No? OK.

**ANDREW DUNKLEY:** Almost, almost. Good afternoon, Chairman Halloran and members of the Ag Committee. My name is Andrew Dunkley, A-n-d-r-e-w D-u-n-k-l-e-y. You are probably tired of seeing me today. It's not the last time you're going to see me today. I'm in support of this bill, and so is Nebraska Farm Bureau. I will keep it very short. We are supportive. Our members are supportive of this bill because 40 percent of Nebraska's corn goes to ethanol. That is huge. It's a huge part of our industry. We need to support that industry and do what we can to, to make sure that it, that it continues to prosper. So, so we support that. Senator Hughes, to, as far as my perspective on, if we've given the tax credits enough time, we supported the tax credits last year. I don't think it's a matter of, of how we given those tax credits enough time to work or not, I believe that this is, there are essentially two different options of, of, you know, we gave folks an option to have a, have a tax credit. But, you know, this is, this is a way to support the industry. That's, that's, it's a, it's a way to support the industry with that, that, you know, well, the best corn in the, in the state is in, because you're my senator in our district, so.

**HUGHES:** Say Luebbe farms both grain to the ethanol plant.

**ANDREW DUNKLEY:** Exactly.

**HUGHES:** For the record, so.

**ANDREW DUNKLEY:** There you go. With that, I'm open for questions.

**HALLORAN:** OK. Thank you for your testimony. Any questions from the committee? Senator Hansen.

**HANSEN:** Thanks for bringing that up. Do we have any data if those tax credits work?

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**ANDREW DUNKLEY:** I haven't, I haven't seen any.

**HANSEN:** So we don't know for sure yet.

**ANDREW DUNKLEY:** I, I haven't seen that.

**HANSEN:** I was just curious. I didn't know if anybody had any information. That, I trust that maybe somebody behind you might be able to answer that too, so I was just kind of curious. Thank you.

**HALLORAN:** OK. Thank you, Senator Hansen. Any additional questions? All right. Thank you.

**ANDREW DUNKLEY:** Thank you.

**HALLORAN:** All right. Next proponent.

**MICHAEL DIBBERN:** OK. Well, there's many things we can agree on. It's my first time testifying. I can't just say ditto, give me the spotlight. (LAUGHTER)

**HALLORAN:** You can.

**MICHAEL DIBBERN:** Well, good afternoon, Chairman Halloran, and members of the Agriculture Committee. My name is Michael Dibbern, spelled M-i-c-h-a-e-l D-i-b-b-e-r-n, and I'm a sixth-generation farmer in the Wood River, Cairo area of Hall County. And I'm here today testifying in support of LB562 as the vice president of the Nebraska Corn Growers Association. We appreciate Senator Dorn in introducing LB562 and would ask for your support. LB562 would expand options of E15 across Nebraska for consumers, along with supporting a grant program for retailers should they need to update infrastructure. The Nebraska Corn Growers Association has had a long history in support of Nebraska's ethanol industry. Many of our early leadership took part in developing and lobbying for incentives that assisted in the buildout of Nebraska's ethanol industry, that now number 24 operating plants that consumes over 600 million bushels of Nebraska corn. This demand has allowed young, has allowed many young farmers like myself to return to the operation full-time. For reference, according to a University of Nebraska-Lincoln study, basis improved an average of 21 cents per bushel, leading to margins that allowed another generation of producers to return to the farm. As a proponent, LB562 continues our support of the ethanol industry in developing markets for higher level, higher level ethanol blends. E15 or blend of 15 percent ethanol was approved by EPA in 2011 for what is estimated to be 90 percent of the light-duty vehicles on the road today. LB562 appropriates funding



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for retailers to expand offerings of high, higher level blends such as E15. The grant program was approved by the Legislature in 2019 to be directed by the Nebraska Department of Environment and Energy. One of the goals of the grant program in 2019 and of LB562 today is consumer options. Today in my area, E15 is limited and retailers offering it, but the economics to consumers speak for themselves. When I do find E15, it is currently 10 to 15 cents cheaper per gallon than E10. For economic reasons to Nebraska consumers through higher ethanol blend options, and the continual support of Nebraska's ethanol industry, the Nebraska Corn Growers Association supports LB562 and would ask for your support also. And I'd be happy to take any questions.

**HALLORAN:** OK, thank you, Mr. Dibbern. Any questions from the committee? OK. Seeing none, appreciate your testimony.

**MICHAEL DIBBERN:** Thank you.

**HALLORAN:** First-timer did good. Next proponent, LB562. Good afternoon.

**GARY BRANDT:** Good afternoon. How are you today?

**HALLORAN:** Well, thank you. Start at will.

**GARY BRANDT:** Good afternoon, Chairman Halloran and members of the Agricultural Committee. I'm Gary Brandt, G-a-r-y B-r-a-n-d-t, and I serve as CEO of Cooperative Producers, Inc., CPI, a full service grain, agronomy and energy farmer-owned cooperative in central Nebraska. Based in Hastings, Nebraska, CPI has over 2,800 voting members and approximately 10,000 equity holders serving 20 counties in Nebraska and northern Kansas. I'm here today to testify in support of LB562. CPI is in a unique position to see both the beginning and the end of ethanol production in Nebraska. As a grain dealer and warehouse in Nebraska, CPI supplies approximately 18 to 25 million bushels of corn to ethanol plants in Nebraska throughout the year. Other bushels leave our state on rail or truck arriving in ethanol plants in other states. These bushels represent 25 percent of the total received by CPI. These end users are traditionally the most generous bidders for corn during and after harvest. CPI uses our storage to buy and hold corn so that we can ration it to ethanol plants throughout the year and provide a destination for our farmer owners that represents a higher selling price. As a retailer of fuels, CPI sells 24 million gallons of gasoline and diesel fuel to the residents and farmers of Nebraska. Beginning in 2016, CPI had its first blender pump selling E15 as a flex fuel for vehicles. Now that E15 has been approved as a standard fuel, CPI has expanded its E15 offerings to stations

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throughout our territory. Currently, 44 percent of our gasoline dispensers can deliver E15 to our customers. We have plans to increase that offering to 72 percent of our gasoline dispensers. The remaining 28 percent of our dispensers will require an investment in infrastructure to meet the Fire Marshal's requirement for approval. The addition of a grant process and LB562 will help CPI defray the cost estimated to be one-half a million dollars or more at each location. CPI's customers have embraced E15 at our station. Currently, E15 is the second largest fuel blend we sell at our stations, trailing only E10. Fully 88 percent of gasoline sold through our dispensers contains ethanol. Of the 88 percent, 52 percent is E10 and 30 percent is E15. We anticipate the volume of E15 we sell to meet and then exceed the volume of E10 as soon as we roll out the product to our remaining stations. The consumers in rural Nebraska understand the economic benefit that E15 provides, both at the pump, at lower prices per gallon and on Main Street as a community CPI serves and they live in, benefit, benefit from higher corn demand, that leads to higher farm income. LB562 provides a path to the citizens of Nebraska with the fuel that best supports both their personal economics and the economics of their farms and communities. Cooperative Producers, Inc. and its board of farmer- owner directors supports LB562 and we would appreciate the committee's support also, and I am happy to answer any questions you may have.

**HALLORAN:** OK. Thank you. Mr. Brandt. Any questions from the committee? Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman. So if I followed you correctly here, you had, you had E10 and E15 at the same stations.

**GARY BRANDT:** Yes, sir.

**HOLDCROFT:** And, and we heard earlier, E15 is cheaper than E10. Is that correct?

**GARY BRANDT:** It depends on the economics. But yes, normally it is. Right now it's approximately 10 cents a gallon cheaper.

**HOLDCROFT:** So why would someone want E10 over E15?

**GARY BRANDT:** I would argue that for the majority of our consumers at the stations where we offer both, they buy E15, they don't buy E10. So the consumer wants E15.

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**HOLDCROFT:** OK, I didn't follow that in your, in your testimony. It sounded to me like E10 outsold E15 at the same stations. But that's not--

**GARY BRANDT:** No, I was talking in aggregate of all of our stations. E10 currently outsells E15 because a few of our bigger stations require infrastructure upgrades and a few of our other stations we haven't made the change yet. We fully believe that when E15 is offered alongside E10 at our facilities, E15 will outsell E10.

**HOLDCROFT:** OK. Thank you.

**GARY BRANDT:** You're welcome.

**HALLORAN:** Thank you, Senator Holdcroft. Senator Raybould.

**RAYBOULD:** Yes, and thank you, Mr. Brandt, for being here today. I'm really curious about the infrastructure costs. And could you tell us a little bit about when you converted from E10 to E15. Were you able to use the same tanks or did you have to flush out those tanks that had been selling E10? Could you easily convert it then and put E15 in those tanks?

**GARY BRANDT:** Yes, for us in the stations that had steel tanks or very modern fiberglass tanks, it was simply a function of using up the E10, dumping in the E15, making sure that the piping in the dispensers were UL listed for E15, changing the labels and selling the product. We do have two locations, two of our bigger locations that have fiberglass tanks that are old enough that we are not allowed to put E15 in them. So we have to excavate those tanks and put in newer tanks so we can put any higher ethanol in.

**RAYBOULD:** So, you know, as a retailer, I can say that I think most of our tanks are double walled, fiberglass tanks. And I know at one point in time we had E85 and it had to have a special tank, so would retailers like us get an exemption for not putting in and/or converting to an E15?

**GARY BRANDT:** I would not speak for the Fire Marshal. However, we have in-ground, double walled, fiberglass tanks that were new in the late eighties, and we have been denied the ability to put E15 in those tanks because they tell us they are not compatible and eventually could, could leak. So our goal would be to use the grant monies that are in LB562 or the tax credits that have been mentioned to help us defray that cost so we could offer that to our consumers in all of our rural communities, not just a few rural communities.

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**RAYBOULD:** So I'm curious, why do you think that the mandate is for 50 percent? Half of the dispensers have to offer E15.

**GARY BRANDT:** But it, so the petroleum industry has been around a very, very long time and I can only speak for ourselves. I certainly would never try to speak for anyone else, however, I was not part of crafting the bill. But, you know, consumers get in habits and they like to buy what they like to buy. And traditionally, a lot of fuel retailers are convinced that they need to have a premium, a regular E10, and now they're putting in an E15 or perhaps they want to add a diesel. By only doing 50 percent of the dispensers, perhaps their argument is, I can continue to offer the full slate of products, but just at certain dispensers instead of at all dispensers. That would be my guess to that answer.

**RAYBOULD:** OK. Thank you very much.

**GARY BRANDT:** You're welcome.

**HALLORAN:** OK. Thank you, Senator Raybould. Any further questions from the committee? Seeing none. Appreciate your testimony, Mr. Brandt.

**GARY BRANDT:** Thank you. Have a great day.

**HALLORAN:** Next proponent to LB562. Good afternoon.

**TAYLOR NELSON:** Good afternoon, Chairman Halloran and members of the Agriculture Committee. My name is Taylor Nelson, spelled T-a-y-l-o-r N-e-l-s-o-n, and I'm here today to testify in support of LB562. As a farmer, Nebraska Ethanol Board member and former fuel retailer, I want to first give you a little background of who I am and how this background gives me a new perspective on LB562. I currently farm with my father near Jackson, Nebraska, transitioning in as a fifth generation to raise corn and soybeans on our land in Dakota, Dixon and Thurston Counties. We rely on the strength of the ethanol industry as all the corn we raise goes to Siouxland Ethanol in Jackson, Nebraska. Siouxland has about 680 members, including myself. Most are from our area. The economic impact of having a local ethanol plant has been tremendous for our operation and the operation of other farmers, livestock producers and investors in our area. During our fuel retail and C-store days from 2012 to 2020, I enjoyed being able to complete the value chain loop for our ethanol. I dumped a load of my own corn at Siouxland Ethanol and followed the ethanol truck back to our station and minutes later it was in a customer's tank. We took pride in providing our customers with the highest quality and lowest cost

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fuels on the market. As we transitioned to E15 in 2018, we realized that in addition to increasing the value to our customers, it was creating a lift in inside sales, fuel margins and overall success of the business. Making the switch was simpler for me because my fuel was unbranded and I did not have a large petroleum brand dictating what I could offer my customers, customers under my canopy. I offer E15 at a 5 to 15 cent discount to E10, which still allowed for higher margins on the E15. This caused my E15 and E10, this caused my E15 and total gallons to grow substantially and my customers noted no reduction in mileage. The recently completed impact study by ABF Economics concluded that this amounts to \$50 million in annual statewide fuel savings and nearly \$100 million in additional income for Nebraskans. My experience in the C-store business has taught me that when customers save money at the pump, the first place they like to go and spend it is inside the store. This is a competitive advantage and not a burden. There's a reason that many of large C-store chains started to make this transition on their own. And when I made the transition to E15, I had to change the overlays and it cost me a \$100 per dispenser. This transition would lead to 41 million gallons of new ethanol demand and 14 and a half million bushels of corn demand, but to me, more importantly, it sends the right message, where as a state we're going to support our own industries. I'm embarrassed to learn in the recent DTN article that Nebraska ranks 45th nationally in ethanol blend rate while being the second largest ethanol producer. What message does that send? Additionally, we only have a third as half as many stations offering E15 as other top ethanol producing states. Nebraska is a leader in the U.S. beef production. Consumers can walk up to a meat counter and buy any grade of any cut in any quantity that they desire. Not offering that would be bad for the consumer, the retailer and the beef industry. We do not have rules for 90-10 hamburger only or no 85-15 hamburger, June 1st to September 15th. If there's anything restricting Nebraska consumer access to Nebraska beef at the retail level, I'd like to think that our state's leadership would work to address that. In closing, I'm asking that we lock arms with Iowa and hopefully other states in the future to support our state's industries, consumer choice and access to E15 at the pump through LB562 and I'd be happy to answer any questions.

**HALLORAN:** OK. Thank you, Mr. Nelson. Questions from the committee?  
Senator Raybould.

**RAYBOULD:** Mr. Nelson, thank you. It's, it's great to hear that you were able to add that to some of your fuel stations. Could you tell me a little bit more about some of the infrastructure costs? Are these new C-stores that were built or new stations that were built that you,

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you know, installed the appropriate tanks that would be compatible or did you do conversions?

**TAYLOR NELSON:** My store was, tanks were installed new in 2012, so they weren't very old when I made the conversion. And my tanks or my dispensers were ethanol blenders. So they just require me to reprogram the blending configuration so that the blend ratio is correct for ethanol fuel and I was good to go. I changed my overlays and advertised the sign on the price to correspond.

**RAYBOULD:** So they were already compatible with all ethanol blend types, is that correct?

**TAYLOR NELSON:** In my particular case, yes.

**RAYBOULD:** OK. Thank you.

**TAYLOR NELSON:** Yep.

**HALLORAN:** Thank you, Senator Raybould. Additional questions? Seeing none, thank you very much. Additional proponents to LB562. Good afternoon.

**DANIELLE SCHEELE:** Hello. Hello, Senator Halloran and the Ag Committee members. My name is Danielle Scheele, spelled D-a-n-i-e-l-l-e S-c-h-e-e-l-e. I have devoted my 20-year career to agriculture. I believe God has led me here today to tell my story. I'm a mom of four, a business owner, and I volunteer as an EMT firefighter and softball coach. I'm here today to testify in support of LB562. I hope my story helps you understand what this would mean to my family and many others in our state. As a mom of four, we are constantly on the go. Like many families, we are involved in sports, FFA, equine and, of course, church. Additionally, I own an agronomy business and I put on even more miles consulting farmers who are my customers. None of that is different for many Nebraska families. Our state is full of great people. The realization of how great people come together in a time of need was never more true, but on September 23, 2022. Our family's lives were changed forever. Since that day, when our daughter was involved in a horrific head-on collision on her way to morning softball practice, we have driven thousands of miles to be by her side, to take her to therapy and trips back to see her doctors. The Lord was with her. He restored her soul. He led her in paths of righteousness, for his namesake, Even though she walked through the valley of the shadow of death, she feared no evil for He was with her. His rod and my staff and his staff, they comfort us. By the grace of

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God, our daughter is making a miraculous recovery, to God be the glory. Since that day, I estimate we have driven over 8,000 miles back and forth to UNMC and Madonna, where myself and my husband took turns staying with our daughter and having three other children to take care of at home. I live northeast of York, Nebraska, just into Butler County, just a few miles away from the four corner's counties of Butler, Polk, Seward and York. And there is no option of E15 that I have come across at any of the stations in our area. The volume of extra miles that our family have driven outside of our everyday miles in the past four months has driven my thoughts toward E15 and the fact that right now with our medical bills, every penny counts. Along with those extra miles we send four vehicles out of our driveway every morning, driving over 200 miles per day. We live 13 miles away from our school. We love to support our local rural businesses and restaurants, and saving at the pump would allow us to engage in family nights out supporting rural Nebraska by putting that savings back into our local economy. It would help in paying for school lunches as having four kids is over \$12 per day to feed them just one meal a day at school. These are just a few examples that most Nebraskans would be aware of. The York ethanol plant being shut down has made it somewhat challenging for the farmers in the area as they know they are supportive of this and destination for their grain, both because it is located in the middle of many high producing corn acres and the output for ethanol is also important to them as farmers. We know that having an ethanol plant in proximity means an additional 24 cents of margin per bushel of corn. It was up to 80 cents this last fall. And in turn, this extra income goes back into our local communities. Our rural communities and farmers are very good at supporting the local economy. Having the ethanol plant open is equally important to livestock producers who utilize distillers grains. With that plant down, cattle feeders must spend more on freight to get feed from plants further away. I just want to add that I think it's unfortunate that we are having to ask for this bill because retailers should want to support Nebraska. The end result for our own corn that we grow, after all, aren't we the Corn Huskers that produce ethanol? I ask that you support Nebraska's farmers and ranchers, communities, rural America and families like mine by voting yes on this bill. Thank you for listening to my story. Are there any questions?

**HALLORAN:** Thank you, Ms. Scheele. I think I speak for the whole committee. We hope your daughter's health continues to improve.

**DANIELLE SCHEELE:** Thank you.

**HALLORAN:** Are there questions from the committee? Senator Hughes.

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**HUGHES:** Thanks for coming in. I think you might be then in my district. Is that, where do you live exactly?

**DANIELLE SCHEELE:** I just, a little between Gresham and Surprise.

**HUGHES:** Yes, you are. OK. Question. So I agree, around that area I put a lot of miles on my car campaigning this summer as well. Have you had a conversation with any retail owner and expressed, hey, you have E10, I would love to see E15 at all and gotten any feedback from that?

**DANIELLE SCHEELE:** So I haven't recently then--

**HUGHES:** Just.

**DANIELLE SCHEELE:** --I guess preoccupied.

**HUGHES:** Right. No, I'm not thinking you should have. I just am curious if, if these retailers aren't hearing that their consumers want it, you know, because that makes a change, right?

**DANIELLE SCHEELE:** Yes, for sure.

**HUGHES:** OK, that's fine.

**DANIELLE SCHEELE:** I used to work for a company that did make a lot of those changes before I started my own business, so. And my mom used to manage a quick shop that does not offer it. And, you know, we had had conversations about that and she had told me that she thought she was supposed to be, they were supposed to be getting new pumps. That hasn't happened yet. So I'm not really sure where that's at.

**HUGHES:** Fair enough. Thank you.

**DANIELLE SCHEELE:** Yep.

**HUGHES:** Thanks for coming.

**DANIELLE SCHEELE:** Yep.

**HALLORAN:** Thank you, Senator Hughes. Any additional questions? Thanks for your testimony.

**DANIELLE SCHEELE:** Thank you.

**HALLORAN:** Next testifier, proponent of LB562. Good afternoon.



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**JOHN HANSEN:** Mr. Chairman, members of the Ag Committee, good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union. I ran across an article this summer describing Nebraska Farmers Union's efforts to promote gasohol. At the time it was a rural publication. It was in the 1940's and so as you go through some of our Farmers Union files, we had a concentrated effort in the late 1960's to go across the state and raise the visibility of the benefits of gasohol at the time in order to help build the support for the introduction of the language to create the Nebraska Ethanol Board, which at that time was called the Nebraska Gasohol Committee. It also had a longer name that had something to do with utilization. So as we have looked at this industry, this is a, an incredible opportunity for our state to do value added agriculture, which all of us in ag community, supports, except sometimes we don't always quite get all the logistics right. But this is self-help, this is value added. And so when we take away the barriers to development, industry finds a way forward. So Nebraska has done an excellent job of growing the industry. We're the number two ethanol producing state in the nation. And yet one of the, if you have to stand back and look at how we're doing as a state, our history relative to utilization per capita is not as good as our neighbors. In 2008, we made a major push to try to take those dollars that rolled in from Washington for infrastructure and some of those things to invest in blender pumps in Nebraska. Well, if you drive across South Dakota, you don't have to get out your gadget and spend a lot of time trying to figure out some sort of a path where you can land at an E30 or E50 filling station, because pretty much about anywhere you pull in, there's going to be a blender pump somewhere in the array that you get to pick from. And so as you look at the numbers that we have and it's in my, my testimony, but obviously our neighboring states have a lot more retail opportunities than we do. I struggle to find E30 or E85 pumps. I also just took a trip and I struggled to find E15 pumps. That's silly. That's opportunity lost. This bill helps provide the, yeah, I think, appropriate kinds of incentives. There is no mechanical reason why you wouldn't put in E15. There certainly is a financial reason why you would put in E15, because it's going to cost you less money. It's going to improve air quality, it's going to improve the farm economy, it's going to do good things. And so to not move forward aggressively with E15, in our view, is a, is an opportunity lost. And so if you look at the history of our utilization, we just have time after time not taken that one extra step in order to help move utilization. Consumers can't be blamed if you can't find a pump that offers the product. And so I think that, we thank Senator Dorn for bringing this bill. We thank all the folks who have worked so hard on

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it. We think that the time is right and we have spent at the national level, our organization, a lot of time and a lot of money trying to harvest the low-hanging fruit in the biofuels and renewable fuel arena, and that is E15. And so we've taken away a lot of those barriers. And so now at the state level, we need to take advantage of the opportunity that we have before us to move forward in a more positive direction. Thank you for your time and consideration. I'd be glad to answer any questions.

**HALLORAN:** Thank you. Mr. Hansen. Any questions from the committee? Senator Raybould. Sorry.

**RAYBOULD:** Thank you, Mr. Hansen, for coming to testify. I guess when I look at the bill and I struggle with the requirement of 50 percent, so half of the dispensers have to offer E15. Do you think that there would be a better way to structure it with the incentive package for those want to offer half of the dispensers versus those that may only want to offer 25 percent and have a graduated program of incentivizing it so that retailers are willing to to make that investment because it's, it's probably a little bit more than \$150,000. The gentleman before mentioned that it would be about \$500,000 for each one of the stations that needs a lot more infrastructure improvements to be able to modify it. And just for the audience information to even install a fuel center that has a dispenser, cost anywhere from a low \$550,000 to probably about \$750,000 to \$800,000. So, you know, if it takes \$500,000 to convert one gas station, that's going to eat up that \$10 million pretty quickly for only a few stations. So if we want to encourage this type of thing, would you be open to considering different parameters, how to incentivize people to really take advantage of E15?

**JOHN HANSEN:** I'd be open to the conversation. You know, as I think a lot of folks are, this is, you know, historically, Senator, we, we have really struggled with utilization because the folks who sell our clean burning, environmentally friendly, octane enhanced product have a competing product that they would rather sell and make more money on. And they've also taken an awful lot of the cheaper product that they buy from us and they unfortunately stick a disproportionate amount of that money in their pocket. And so the benefits of that product didn't go to the consumer. So we've, we've always been in this kind of, you know, sort of a, a, a conflicted relationship with the folks who sell our product. And so I'm open to suggestions of what it is we could do to get them to want to do what it is we want them to do, which is the whole knack of horse training if you've ever worked

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with that. And I'll be glad to let them think it's their idea, if that helps.

**RAYBOULD:** Sure. Thank you.

**JOHN HANSEN:** But we do need to find a way forward.

**HALLORAN:** Thank you, Senator Raybould. Senator Holdcroft.

**HOLDCROFT:** Thank you, Chairman Holloran. And thank you, Mr. Hansen, for coming today. I haven't received a lot of emails on LB562, but the few that I have received were in opposition, primarily because of the damage that had been done to their vehicles because of ethanol, ethanol blended. Vehicles, complete with pictures. I mean, complete with pictures. And we heard a couple of numbers here. The EPA has approved ethanol for vehicles that are 2001 and younger. And that I also heard 90 percent of the vehicles on the road today could take E15. How do you feel, do you feel confident that any vehicle on the road today that uses E10 will be able to use E15?

**JOHN HANSEN:** Based on the data that I've seen, that is the case. So, if you're burning E10, you should be able to burn E15.

**HOLDCROFT:** OK. Thank you.

**HANSEN:** And I, you know, the, I call it the dead cat drag. But every time we bring an ethanol bill of any kind, we, we find the same, a lot of the same old stories that we, that we identified with the dead cat that we thought was dead, it was buried. But it comes in, it gets drug that old, unsubstantiated, less than accurate information gets brought out every single time we bring an ethanol bill. And so it's just, I don't, I'm not sure, I'm not sure why that is, but well, and that's why those folks should have the option to pay more money. But the facts, that when you look at the data, when you look at the, all of the, you know, all of the studies, all the information, you know, you have to go with the facts.

**HOLDCROFT:** Thank you.

**HALLORAN:** Thanks, Senator Holdcroft. Additional questions? Senator Hughes.

**HUGHES:** Thank you, Chairman.

**HALLORAN:** Raise the hand high.

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**HUGHES:** I feel like I'm back in school. Uh, thanks for coming in, John. So you had on your, on your sheet or, and what you testified as Nebraska has 122 retail operations offering E15, which was close to what Senator Dorn said, out of 1,127, which I did the math, about 10-ish percent of the retail locations in Nebraska offer E15. And then you list how many in Minnesota and Wisconsin. Now, we don't know, so, I'm curious, is that, is in Wisconsin three or in, I'm sorry, Minnesota was 388. Is that 10 percent of Minnesota locations? Because I was like, well, I'm going to compare it with population. Population in Nebraska is about 2 million. Minnesota is about 5.7 million. And if you do it that way, our 122 locations is about the same in relation to the number of people we have as 388 is the, the number of people in Minnesota. You see what I'm saying. It's like the same ratio. So I'm wondering, and I know Minnesota sells more E15, I know Wisconsin sells more. So is it, it's in the same amount percentagewise, same amount of stations that people are just buying more, or, do you know what I'm saying? I don't know that these numbers promote, I don't, I don't know if it's apples to apples, I guess with.

**JOHN HANSEN:** Right. And I don't know what those population numbers are and didn't pull those--

**HUGHES:** Well, yeah, not probably, I guess.

**JOHN HANSEN:** --to be able to make, to get a relative comparison of the total number of pumps and all of those things.

**HUGHES:** I mean that would be, I'd be curious about that to see if it works because just to say there's more pumps in Minnesota, well, there probably should be. There's a lot more people that live there, you know, but. OK. Thank you.

**HALLORAN:** OK. Thank you,--

**JOHN HANSEN:** You bet.

**HALLORAN:** --Senator Hughes. Senator Raybould.

**RAYBOULD:** I have one more question to follow up on what Senator Holdcroft said about some emails that he's getting. I just got a text message from a constituent. He has a 2012 Prius and it says, E15 voids my warranty. And he sent me a picture and it has E15 to E85 and it has a no, no sign on the gas cap on it. So, I mean, there, there, there are some legitimate concerns of certain vehicle types. And you're right, if people want to pay more for an alternative fuel, then they have every right to. I, I would like to see, you know, different

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crafting of the bill so that there's better incentives to really encourage people to embrace as retailers, to embrace it. Just like with E85. I know that we did the E85 tank, but they gave a pretty generous offer to, like get this new tank installed. It didn't cover the cost of the tank, but it was really like, hey, we're, we're willing to take this chance for all those new, new locations that you're thinking of installing. So, but they didn't, they didn't make it a mandate. They, they made it a, a more incentive for retailers to really consider for when they were building new stations or in some cases, upgrading the stations. That was, I guess it wasn't a question. Sorry. I wanted to share with you about one dead cat that came in so.

**JOHN HANSEN:** It, it's frustrating for those of us who have been in this for a long time and it's just that there's, there's been an enormous amount of misinformation that's been out there for a long time and it continues to resurface. And, and, and some folks, I'm sure, believe that these things are true. But, you know, when you look at the data, when you look at the information, it's, oh, you know, you have to go with, with what the research says and what the facts say. And so if you have a car that's sensitive, then don't, don't do it. But, you know, we, when we look at the, the bigger picture, if we're going to reduce carbon emissions and we're going to be responsible environmental citizens, this is a very effective way to do it. And in fact, I would argue that, that President Biden can't get to where he wants to go on those kinds of emission reductions unless he has a more robust effort. And I think that's also why EPA in his administration has been more favorable to biofuels than most have because they realize that there is a very substantial, not just economic benefit, but an environmental benefit to be able to reduce carbon emissions and biofuels is, is a good, homegrown, economically beneficial way to help ourselves in multiple ways.

**HALLORAN:** Thank you, Senator Raybould. Any additional questions? Thank you, Mr. Hansen. Appreciate it.

**JOHN HANSEN:** Thank you, Mr. Chairman and members of the committee.

**HALLORAN:** Good afternoon.

**JAN tenBENSEL:** And good afternoon, Chairman Halloran and members of the Agricultural Committee. My name is Jan tenBensel, spelled J-a-n, t-e-n-B-e-n-s-e-l, and I will be brief today because I've marked up my, my notes because everybody already mentioned everything. I'm here today as a farmer, a very minor, small ethanol plant investor and chairman of the Nebraska Ethanol Board to testify in support of LB562,

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the E15 access enter act. 18 years ago this summer, I testified at Fort Kearney in favor of an E10 bill, and I was so nervous I had been up all night working on the report. I made an elaborate report for the committee. I was sick to my stomach and I was so nervous I couldn't remember the word "refinery". (LAUGHTER) But thank goodness to a friendly committee, they reminded me what the place where oil comes from. Anyway, thanks for the humor there. We've come so far since then. You know, now 98 percent of fuel sold in the United States has 10 percent ethanol in it. But at the time, the proponents came out of the woodwork and said, oh, my God, what are you people even thinking about doing? All of the horror stories did not come to fruition. And the same, I hate to use the word dead cat drag, but it happens. It's the same stuff. Over and over again for 20 years, 30 years, 40 years as we've been, as the Ethanol Board has been involved in ethanol. It's the same story over and over again. It does not come to fruition. You know, the state of Nebraska is testing 30 vehicles with no problem. I running 30 vehicles for 11 years with zero problems. The important thing to notice is that the opponents have all been proven wrong over and over again. And Nebraska is the number-two producer of ethanol in the United States. And we have to lead by example. And we have to have proof of concept. An Iowa retailer talked to me yesterday, and he was from a really small town in Iowa, and he had saved his community \$250,000 last year by having higher ethanol blends available in their community. That's a lot of money for a little tiny town and that \$50 million number for Nebraska in savings that we could have had last year if we would have transferred to E15, those are a lot of dollars for a lot of families that, we're in really tight spots around here. And, you know, that can, you know, talk about, sales, sales tax and property tax relief, \$50 million goes a long way. Now for the, I've x-ed out everything that's been already said. I want to address Senator Hughes, your, your question about, is the incentive didn't get enough time. I believe the incentive and this work together. In Iowa, there is a incentive and an access bill and as you'll notice, this access bill was kind of molded off of Iowa. Some of the bigger problems of this bill were remove, you know, was paired down for Nebraska. It's nice to have a state next to you leading by example, which Nebraska should be. But we need to be with iowa because we're both ag states and we both produce ethanol and not petroleum products, of course. Senator Raybould, the 50 percent question and trying not to slander (INAUDIBLE), of course. There have been retailers in Nebraska that have put a, say a, an E10 or an E15 price up on their board. And then when you pull in to their dozen pumps and you drive around, you drive around, you can never find that pump that has that price on. The old bait and switch routine and that was, there's a lot of discussion

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over here in the last several years about that particular retailer. And I, myself, got caught in that several times at some of the western locations and I just pull up and you assume that the price on the, on the marquee is going to be the price you pay, but and that's the reason for the 50 percent number from what I've been told. Now, you know, can that be adjusted? I guess that's, you know, an interesting factor, but the important thing is that we don't have any bait and switch. We want to be, make sure the consumers know what they're getting and consumers can have the ability to save money here in Nebraska at their, at their retailers. So if there's more than \$100,000 of expenses, you are exempted from this, this bill. Now, also, if you're less than 300,000 gallons of sales. You know, as far as asking for E15, I ask for E15 all the time. I'm always encouraging retailers to add more, more ethanol, of course. You know, I'm a farmer, you know, keeps me in business. It's amazing that I can't, my, my branding, I want to but my branding agreement slows me down. I'm really getting pressure from my, my, my, my wholesalers. There's a, you know, petroleum is so embedded into our society and Nebraska having a two-fuel system kind of became in a rut. And that's because we were first, the first to the table on providing ethanol. Whereas, Texas, when they switched in the late, the mid-2000, they switched everything. And then we just already had ethanol here. So I know my time is up and, uh.

**HALLORAN:** OK. Any questions? Thanks for your testimony.

**JAN tenBENSEL:** 150 miles an hour, sorry about that.

**HALLORAN:** Any questions from the committee? And the Wheel of Fortune word to remember is "refinery".

**JAN tenBENSEL:** Refinery. Oh, I was surprised when that happened, it was terrible. (LAUGHTER)

**HALLORAN:** Thanks for your testimony.

**JAN tenBENSEL:** Thank you, Senator Halloran. Thank you, committee.

**HALLORAN:** All right. Additional proponents for LB562? OK, we ran the proponents through. Opposition to LB562? Good afternoon.

**DE LONE WILSON:** Good afternoon, Chairman Halloran and the rest of the committee. My name is De Lone Wilson, D-e L-o-n-e W-i-l-s-o-n. I'm here in opposition to LB562. I'm representing the Nebraska Grocery Industry Association and my organization, Cubby's Convenience stores. We operate 24 retail sites in the state of Nebraska, 23 of those sell

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fuel. Currently today, none of those sites sell E15. I have five sites that sell E85 and I have four sites that sell higher blends of E20 and E30. Let me start off by saying, I understand where we live. I understand the importance of agriculture to the state, that anything that can increase the demand for corn and the demand for ethanol is good for Nebraska. But I don't believe, I'm going to say it, a mandate is the way to do it. I, you know, we have stores in Iowa and South Dakota. We're about to install, we just put our first site with E15 there last week. We're about to do another one with E15. I have a store that I have in the planning stages right now that we're going to build in Nebraska. We're going to offer E15 there as we build it. But as many of the proponents have said, the infrastructure cost can be very egregious. They can be very high. And for us to upgrade our sites to E15, all the sites in Nebraska would probably cost somewhere between \$10 (million) and \$15 million. And if E15 is a, is a fuel that folks or customers are demanding, then we're happy to make that investment and move forward. I don't believe they are. If you go to any of my stores, there's a sign in the restroom with my name and phone number on it, and it says if you, if you don't like the way the restrooms are maintained or if you'd like to see something different in our stores, you can call me at any time. I get a lot of phone calls asking for a lot of things. Never been asked for E15. (LAUGHTER)

**IBACH:** We don't want to know.

**DE LONE WILSON:** So I'm going to go back to some of the other things our proponents said because they, they brought up misinformation a lot. And I'm going to talk about some misinformation. I know Senator Dorn mentioned a difference of a savings to the consumers of 17 cents a gallon. So, me and my team spend about roughly an hour and a half to two hours a day pricing fuel looking at, we, we subscribe to different services and we see what our competitors are charging for all different blends of fuel. I've never seen a 17 cent difference between E15 and E10. Today, at the retail level, it's about 5 cents. It has, I've seen it as high as 10 cents on occasion, but typically it's about 5 cents. The other thing I'd like to refute is, I believe this is a mandate because it says, I shall offer E15 at 50 percent of my dispensers. If, if you, if you know how the stations are piped, it, it doesn't make sense to put a tank in and run pipes to 50 percent of our dispensers. I would offer it at every dispenser if I went back to retrofit a store to add E15. The one thing I will agree with the proponents that have testified so far is, this is an extremely effective way to sell E15 in the state, because you're making, you would make us. We would have to, we would have to abide by the law. And so it is effective, but I don't believe it's the right way to do



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it. So the folks that got up here and I respect them, I admire the folks that they grow and produce agriculture in the state, but how would they feel if the Legislature came back to them and said, 60 percent of your crop has to be soybeans every year or 50 percent or whatever the number that was, was chosen. So for, for those reasons, I oppose the bill. So I would be happy to answer any questions anybody has.

**HALLORAN:** Thank you, Mr. Wilson. Any questions from the committee? Senator Hughes.

**HUGHES:** You know me. Thank you.

**HALLORAN:** Pardon?

**HUGHES:** I said, you know me. Thanks for coming in, Mr. Wilson.

**DE LONE WILSON:** Yes, ma'am.

**HUGHES:** So you, do you have any, I, so I'm just trying to remember. Do you have any pumps that sell E15 or you just put those in?

**DE LONE WILSON:** I have one dealer that offers E15 today, and I will, I don't own that station, we just sold him fuel. And I have another station in the state of Iowa that I plan to add E15 because I'm fully compatible there.

**HUGHES:** And at the one that you have E15, you also sell E10?

**DE LONE WILSON:** Yes.

**HUGHES:** And which sells more?

**DE LONE WILSON:** E10.

**HUGHES:** Even though it's 5 cents more?

**DE LONE WILSON:** Yes.

**HUGHES:** And why is that?

**DE LONE WILSON:** Habit, habit, and I think that's what people prefer.

**HUGHES:** And do people get less gas mileage with E15 than E10 or?

**DE LONE WILSON:** You'd have to ask somebody else. I'm not an expert on that, so.

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**HUGHES:** OK. Thank you.

**DE LONE WILSON:** Yes, ma'am.

**HALLORAN:** Senator Raybould.

**RAYBOULD:** Mr. Wilson, thank you for coming in. When you're thinking or in the process of getting the, the E15 station installed in Iowa?

**DE LONE WILSON:** Yes.

**RAYBOULD:** Do they offer an incentive to you?

**DE LONE WILSON:** They offer incentives for ethanol and biodiesel in those states, and they have for years. And I think that's why I, that's why I figured adoption, so.

**RAYBOULD:** OK.

**DE LONE WILSON:** Now, they, you know, we use the word again, but, you know, now they have a mandate, so.

**RAYBOULD:** So Iowa has a mandate?

**DE LONE WILSON:** Yes.

**RAYBOULD:** Oh, they just, OK.

**DE LONE WILSON:** Um-hum.

**RAYBOULD:** And.

**DE LONE WILSON:** It just was passed last year. This is, you know, basically very similar bill to what Iowa did last year.

**RAYBOULD:** So are you required to have, you said it doesn't make sense to just have it go to half the dispensers. If you're putting it in new, you want it to be available on all of them. Does Iowa require you to put it in at?

**DE LONE WILSON:** No, they're 50 percent as well, so.

**RAYBOULD:** They're at 50 percent as well. OK. Well, thank you.

**DE LONE WILSON:** I think they thought that was saving retailers some money, so. But it doesn't make sense to do it that way.

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**RAYBOULD:** So was it your understanding that's only for new stations or for that, that mandate from Iowa?

**DE LONE WILSON:** No, no. It's for existing stations as well.

**RAYBOULD:** OK.

**DE LONE WILSON:** We have to comply by 2026, so.

**RAYBOULD:** Thank you,

**HALLORAN:** Senator Ibach.

**IBACH:** Thank you for coming in.

**DE LONE WILSON:** Yes, ma'am.

**IBACH:** So tell me again how much it was to retrofit or to, or to upgrade your infrastructure?

**DE LONE WILSON:** It depends on the site. It depends on how the distance between the tanks and the dispensers, how many dispensers you have, what type of tanks you have. But it's going to cost somewhere between probably two hundred to a \$1.2 million per site.

**IBACH:** So knowing that number, would you qualify for the \$100,000 exemption as a package?

**DE LONE WILSON:** Yes.

**IBACH:** OK. And you would, you would take advantage of that, I assume.

**DE LONE WILSON:** For a while. But is, is, if E15 gets adopted more by the consumer, I'm not going to have a choice, I'm going to have to.

**IBACH:** Yeah.

**DE LONE WILSON:** And that's fine. But, you know, you have to look at it from a retailer stan, oh, to ask you to look at it from a retailer standpoint now is, you know, we've got oil, we've got renewable fuels. You know, is everybody going to be driving Priuses or Teslas in the next few years? So do I have to put in chargers? How much are chargers? What do I do.

**IBACH:** Thank you very much.

**DE LONE WILSON:** Yes, ma'am.

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**HALLORAN:** I would recommend not putting chargers in, but that's just my personal opinion. (LAUGHTER) So you're a very brave man putting your name and phone number in the restrooms.

**DE LONE WILSON:** Yes, sir. (LAUGHTER)

**HALLORAN:** Maybe this is not feasible and not practical and not doable, and maybe some of the proponents wouldn't like me asking this question, but maybe instead of E10, maybe instead of offering E10 offer E15 and, and there may be some upgrades to the equipment to do that.

**DE LONE WILSON:** As long as the Fire Marshal approves, yes.

**HALLORAN:** Right. That would, that would be a potential option.

**DE LONE WILSON:** And one day that's, might be where we are, so.

**HALLORAN:** Look, tomorrow's a good day.

**DE LONE WILSON:** Yeah. And I'm not opposed to that. I, you know, I don't want to give you the wrong impression about myself, but if it's, if it's legal, I'm going to sell it. I don't care if it's oil. I don't care if it's corn. I don't care if it's soybeans. If I can make money on it, I'm going to make money on it.

**HALLORAN:** I appreciate that. Yes.

**HUGHES:** I'm so sorry. I have one more question, you know just going along, but I'm just trying to wrap my brain around it. So someone in my district has a gas station or several. They have four tanks under their station. They do diesel, E10 or, yeah, E10, clear 87 or whatever, and then premium.

**DE LONE WILSON:** Yes, ma'am.

**HUGHES:** And so their issue with it is, the business, you have to do half of your pumps, you do all of them, like you said, and basically they would just make one of their tanks E15, But they didn't, I think we'll just replace E10 with E15, did not feel comfortable with that yet because clearly there must be some stigma out there that we don't think E15 is better because people are still buying E10. So they would have to take something else away whether that be premium on it or whatever.

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**DE LONE WILSON:** Well, I mean, I think the federal government tells us any car manufactured before 2001 is not E15 compatible. Whether that's information, misinformation or not, I don't know, so.

**HUGHES:** Right. Well, I don't know. I'm just trying, I was like, why don't we just replace all of E10 with E15 and just be done with it? But the consumers want E10, so

**DE LONE WILSON:** Today, they do.

**HUGHES:** Yes,

**DE LONE WILSON:** Today, they do.

**HUGHES:** Right.

**DE LONE WILSON:** And there's significant infra, infrastructure investment to be able to.

**HUGHES:** Even from E10. In this case, they could have done it, but they have a little bit of a newer station, so. OK. Thank you.

**DE LONE WILSON:** Yes. Mm hmm.

**HUGHES:** I'm done.

**HALLORAN:** Thank you, Senator Hughes.

**HUGHES:** Sorry.

**HALLORAN:** Any, any additional.

**HUGHES:** Super getting into this bill. I don't know why, but, good Lord. OK.

**HALLORAN:** Any additional questions from the committee?

**DE LONE WILSON:** I like your questions.

**HALLORAN:** See, seeing none. Thank you for your good service to your community and keeping your restrooms clean also.

**DE LONE WILSON:** Thank you, sir. Most days.

**HALLORAN:** All right. Next testifier in opposition. Good afternoon.

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**MATT LIPPINCOTT:** Good afternoon. Are we still looking for, for our first ditto of the afternoon?

**HALLORAN:** It would be good.

**MATT LIPPINCOTT:** I'll try to be concise.

**HALLORAN:** I'll buy you a beer. (LAUGHTER)

**MATT LIPPINCOTT:** Chairman and members of the Ag Committee. My name is Matt Lippincott, L-i-p-p-i-n-c-o-t-t. I'm president of both our company in Nebraska Iowa Supply, and the Nebraska Petroleum Marketers and Convenience Store Association. Nebraska Iowa Supply is based out of Blair and supplies petroleum products to over 90 retail locations in the state of Nebraska. Both Nebraska Iowa Supply and NPCA are supporters of the growth of liquid fuels business, ethanol, biodiesel and all, and all types of liquid fuels sold in the state of Nebraska. This bill is not something we can, I'm sorry. Last year, NPCA, along with ethanol groups, ag groups led the support and ultimately passed the tax credit bill that was put in place last year. We still need to give this time to grow and prosper and increase consumer awareness and demand. While we are supportive of ethanol, biofuels and all liquid fuels in the state of Nebraska, this bill is not something we can support and are strongly opposing for a few of the following reasons. Infrastructure and compatibility. Higher blends of ethanol are not a drop in replacement of the existing types of gasoline dispensing, dispensing infrastructure. Significant capital investments are typically required for storage and dispensing infrastructure, infrastructure to support these blends. There are currently 3,252 underground stored, storage tanks that hold gasoline and ethanol grades in the state of Nebraska between retail and commercial facilities, 727 of these tanks were installed in 2015 or after, while the remaining 2,525 tanks were installed previous to 2015. It's widely acknowledged that infrastructure after 2015 would be capable of supporting blends up to 100 percent ethanol, but highly subjective what would be deemed compatible previous to that date. There are still plenty of gray areas in regard to pipe dopes, sealant, and sealant, in addition to the 60 components that make up a retail dispensing system, many of which would need to be approved to be compatible. Out of the 90 stores that Nebraska Iowa Supply represents and supplies, roughly 85 percent of these locations would not have capable infrastructure to support the sale of higher blends, with less than 1 percent of annual volumes being sold, that we sell of higher blends of ethanol, there is no economic scenario where making these large investments makes sense given current demand and capital investment. Replacing infrastructure

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can range from anywhere from a couple hundred thousand dollars to over \$1 million. Consumer acceptance and availability. This will hopefully change this year at the federal level, but currently between June 1 and September 16, E15 is not allowed to be sold across the, across the country. It was only sold last, or was only available to be sold last year by the emergency waiver signed by President Biden each week. Hope we are all in support of this changing. It's highly confusing and complex, but hopefully that will be put to bed. Even with typically lower advertised price per gallon, consumers are still reluctant to accept and purchase these higher blends. Retailers should not be mandated to sell something, let alone something that isn't in high demand. Business owners will find a way to provide the products that their customers want and desire. Between 50 and 60 percent of retail stations in the state of Nebraska are small operations, typically single site owned by a single operator who resides and works in the store at all times. They won't have the financial capability or capacity, or capacity to execute on these large capital intensive projects, which would also shut the sites down between one and four months while infrastructure is replaced. In closing, we hope to do our part in helping grow and promote ethanol, biofuels, liquid fuels and the overall Nebraska economy. For this bill to be successful, there needs to be a complete alignment with retailers who purchase, promote and sell these higher blends of ethanol. Moving LB562 forward will be detrimental to retailers, consumers in the state of Nebraska. Thank you for your time. I'll answer any questions you have.

**IBACH:** Thank you very much. Are there questions from the committee? Seeing none. Thank you. Next opponent. Good afternoon. Can you state and spell your name for us?

**MARK WHITEHEAD:** Good afternoon, Chairman Ibach and the members of the committee. My name is Mark Whitehead. That's M-a-r-k W-h-i-t-e-h-e-a-d. I'm the owner of Whitehead Oil Company right here in Lincoln, which does business principally on the street as U-Stop Convenience Stores. I was in Matt shoes more than a couple of years ago as chairman of our state association. I've also had the privilege of serving as chairman of our national association as well. So I bring a fairly-broad perspective geographically, as well as someone who's been involved with a 63-year-old business right here in Lincoln. My father was a pioneer in the ethanol industry back in the early seventies. We introduced gasohol in every one of our locations, and that was an adventure. Some of you here, here's an education on what we refer to as pumps right now. Based on our pumps back in, when we did this back in the early seventies, they were real pumps, meaning when you turn the switch on, you could actually hear the motor going

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inside the cabinet and with the make-up of the vehicles back then and the, and using the pumps, we sometimes took the skirts off of the pumps and hosed them down in the middle, during the middle of a hot day just to keep them from vapor locking. Likewise, carburetors and vehicles did not respond well to E10 and so it was an adventure for the first ten years of gasohol. Right now, obviously, and I'm not, I'm not going to suggest that there are any issues with E10, with today's vehicle, with fuel injection. In fact, it's a very good alternative. We have been a supporter of ethanol and I personally am a supporter of higher blends of ethanol. I burn E30 on a fairly regular basis and E15 as well. We offer it at every single one of our locations that we have built over the course of the last several years. We, but to retrofit back to higher blends of ethanol under existing infrastructure, I can tell you firsthand that the experience at 10th and Capitol Mall across from the City-County Building did not work well with infrastructure that was not compatible with it and we had some serious issues at that. So I can tell you firsthand that you need to, you do need to have the right hardware in place in order to accommodate this. On the new locations that we've done, we prepare for fuels of the future and then the capability of doing it. Our newest store is over by Armory at the West Denton Road and Highway 77. We offer, in addition to clear unleaded, clear premium, we offer and E10, we offer E15, E30 and E85. I pulled up some numbers on all of our locations that we have done, and right now it does not justify us doing significant retrofits back to existing locations. Our best location is at 84th and Highway 6, where we offer, in addition to some of the regular products, E15, E30 and E85. That represents almost, those three combined represent almost 24 percent of our total fuel sales, which isn't, which isn't too bad in my mind, but that's still all three, E15, E85 and E30 combined is roughly one-third of the total of just what we did in E10. So testimony earlier, I guess I don't understand that one of our other stores on Pine Lake, we are, well, we have clear unleaded priced at 60 cents a gallon more than E15. We still sell three times more clear unleaded than we do E15. And so it is, it's, it's not a mystery. We don't prejudice one over the other. We have E15 available at every single one of our dispensers that we market. And so it's on a level playing field with, with every one of our other alternatives that we've got within our stores. My position is, we are committed to ethanol, we're committed to higher blends of ethanol, but let's let the marketplace work. And I think it is working. As manage suggested, last year we passed, Legislature passed an incentive for E15 and higher. And let's see how that works first before we start going to a mandate.



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**HALLORAN:** Thank you, sir, for your testimony. Questions? Senator Raybould.

**RAYBOULD:** Mr. Whitehead, I'm kind of curious because you have all different varieties, because you have all different customer types. Do you have any electric vehicle charging stations at any of your service facilities?

**MARK WHITEHEAD:** Yes, we put it in at Pine Lake, fast chargers there. We will be putting it in at, at West Denton Road as well. So new locations, just like with these, we, we, we do not try to be prejudicial to or any of our consumers. I go to work each and every day trying to figure out the best alternative for our consumer. And we want to be the energy choice whether that's electric, whether it's higher blends of ethanol, or whether that is conventional fuels.

**RAYBOULD:** Thank you very much.

**HALLORAN:** Thanks, Senator Raybould. Additional questions? OK. Seeing none. Thanks for your testimony.

**MARK WHITEHEAD:** Thank you.

**HALLORAN:** Additional opposition to LB562? Good afternoon.

**MELISSA LINDSEY:** Good afternoon, Senator Halloran and members of the Agriculture Committee. My name is Melissa Lindsey, M-e-l-i-s-s-a L-i-n-d-s-e-y. I'm a regional director for operations for Casey's General Stores and I appear before you today in opposition of LB562. Let me begin by stating that Casey's supports the use of ethanol blended, blended products as we currently sell them across the footprint of the Casey's brand. We also support and appreciate the incentives like the ones that are currently in place in Nebraska as passed as part of LB1261 last year. However, we oppose the bill based on two factors. First, we do not believe that a state should mandate what products are being sold in our businesses. We believe that the consumer-demand to determine what businesses like ours are available for our customers. The second and the largest concern with this bill is the financial impact that it will have on the Casey's brand and potential implications of the community in the stores in Nebraska. We have run the financial implications of the required upgrades to get all stores compliant with the requirements outlined in the bill and the financial impact is tens of millions of dollars for our stores alone. While the bill allows for \$10 million per year to be provided to assist with upgrades, there is nowhere, that is nowhere near enough

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to address the costs that Casey's alone will bear. Approximately half of our stores in Nebraska are not compatible with the current tank dispenser and STP configurations. We have looked at the footprint of all the stores in Nebraska, and many of those stores are in small-town America and they're older stores. It would, they would, we would have to compare the cost analysis against the current financial portfolio of the current stores that are not compatible to determine if the investment to comply with the mandate would, would necessitate the future viability of those half, a half of our stores in Nebraska. That would not be compatible. Excluding Senator Rick Holdcroft, I hope I said that right, each of you have one or more of the Casey's stores in your districts that would not be compatible and would necessitate the evaluation of viability and wouldn't impact your constituents. Senators, I appreciate your time today, and I'm happy to answer any questions you might have.

**HALLORAN:** Any questions? Senator Hughes.

**HUGHES:** Thanks for coming in. So of those, the half of the stores that wouldn't, that would need to be retrofitted a lot in their small towns and stuff, do they, would they have to follow this? I mean, they still sell over the 300,000 gallons a year.

**MELISSA LINDSEY:** Yes, they do.

**HUGHES:** OK. So you took the ones that don't out of the mix and--

**MELISSA LINDSEY:** Yeah.

**HUGHES:** --that's what I wanted to check. Thank you.

**MELISSA LINDSEY:** OK.

**HALLORAN:** Additional questions? Senator Ibach.

**IBACH:** I hope this isn't repetitive. So do you, you currently have stores that do sell E15?

**MELISSA LINDSEY:** Our newer stores, I think they are. We are looking at putting those in, so we are doing that in the newer stores. It's the retrofitting of the older stores that is the problem.

**IBACH:** So you would qualify under that hundred thousand exemption then as well.

**MELISSA LINDSEY:** As for new stores, yes.

**IBACH:** For existing stores--

**MELISSA LINDSEY:** For existing stores?

**IBACH:** --to retrofit the infrastructure.

**MELISSA LINDSEY:** To retrofit those, we would have to go back. It would, it would be partial. It wouldn't cover the whole port, part of it to be able to answer that. You know, I, I can tell you, based on what we know as an overall, but to give you the specifics, I could get you that information.

**IBACH:** OK. I just think when we're talking about millions of dollars, we understand that, but because there's a clause built into the bill that would exempt you, if it's \$100,000 or more, you would qualify for that. But not indefinitely, but.

**MELISSA LINDSEY:** Right. It's because it's for a short amount of time. So we would have to be compliant with those by January 31 of 2026. And so it's that timeline. They do it with them expiring. It's only for a limited time.

**IBACH:** So you don't think E15 would be a benefit to your stores?

**MELISSA LINDSEY:** I don't think it that. I wouldn't say that's not a benefit. I think that the consumers are the ones that are really the ones that would drive that demand versus us saying what they should get.

**IBACH:** OK. Thank you.

**HALLORAN:** Additional questions? So how does a consumer drive that demand? Do they come in and say, well, I wish you had E15?

**MELISSA LINDSEY:** Consumers will ask for it if they want it.

**HALLORAN:** So in the order of pizza, they would say I wish you had E15?

**MELISSA LINDSEY:** We do. And we have E88 or E15, excuse me, in our other stores in other states, and based on what they have, we offer all different brands. It is still a lower selling fuel.

**HALLORAN:** So with the option of putting, I know this may be sacrilegious to say this, but, but doing away with E10 and putting E15 in on that, on that particular pump choice option, would that work be a little less expensive retrofitting, I would assume?

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**MELISSA LINDSEY:** I couldn't answer that, you know, definitively, but could get you that information based on the consumer demand, consumers purchase the E10.

**HALLORAN:** It's so hard for there to be consumer demand if it's not available to buy. Right. I mean, there's no major really to know what the demand might be until you offer it. But, but, just don't stop selling pizza.

**IBACH:** Please.

**MELISSA LINDSEY:** There's no danger of that.

**IBACH:** I'm hungry.

**HALLORAN:** OK. Additional questions? All right, thanks for your testimony. Yes, good afternoon.

**JENNIFER WEISS:** Good afternoon. I'm Jennifer Weiss of Rawhide Chemoil in Fremont. And I'm here to oppose LB562. And I kind of sit in a little bit different situation. I don't currently own a station, but my parents do. But I also run the bulk fuel side of our company. And so looking at, I wrote out kind of my synopsis of what I was going to say today. I believe in freedom of choice, not mandates. I'm not against ethanol at all. In fact, I serve in the farming industry in farm chemicals and fertilizer and, but I also believe in freedom of choice. We provide what our, we provide what our customers want and right now, we are not getting the ask for the choice of E15 over existing choices that we offer. I'm also in the farm delivery business and I'm attaching the chart below of what our customers are requesting for the last four years. So if you look at the yellow column, that's our rural deliveries on our tank wagon. So our total not, the total nonethanol versus the ethanol sales are almost 50-50. So even my rural farmers aren't necessarily, I can't, I'll say my tank wagon customers, I can't necessarily say they are rural. And then in the blue, our ultimate, which is our nonethanol product, out sells our 89E, which is a 10 percent ethanol product. So obviously our customers want a choice and are willing to pay more for the clear product. We're also a BP station and they mandate pretty much what we carry underneath the canopy. And so I'm not sure, you know, what contract, how that would work with our contract if they would have to change their, their grades or what, what they would have to do there. In fact, their clear ultimate is more expensive than the ethanol blend, but people choose it over the 89E. If we had our choice, we would eliminate the 89 E and put it in a clear livery, because that is what our, our customers ask

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for. If BP doesn't buy E15, are we exempt from this law? Is this dispensing nozzles or dispensers? What about the single non nozzle blender pumps with three gasoline options? Greater contamination over clear products? And that's what our station has. We have single nozzle, non blender pumps. And so for us to take out a tank, we have a chance of moving the other tanks during construction. If putting in just one new tank and not replacing the others, our lot is not big enough to handle another tank. See the attached email from (INAUDIBLE) equipment on the cost of adding E15 to our station. I highlight that it would take approximately 3 to 4 weeks and probably more to complete this project for which we would have to be closed while this construction is happening. Something we can't afford in profit and a possible loss of our customers as they go across the street. Small rural towns will more than likely close down any gasoline sales as margins, nor the volume would accommodate replacing tanks and lines. As a transporter of gasoline of fuels, I haven't even had a chance to check to see what regulations are different from transporting E15 to E10. I guess, but I'm guessing that trailer drop hoses would have to be looked at, plus additional signage that drivers would have to change every time gasoline is loaded. I'd like to close my testimony with the iteration. I'm not opposed E15 blends, but do oppose costly mandates for retail locations. If retailers sees the profitability of putting it in, they will. Last year, a bill was passed giving those who supply greater plans of ethanol a tax credit. If that credit is being used to lower the cost of those higher blends, it will drive greater demand at which time retailers will make that choice to add those higher blends to their pump offerings. But I also like to add that branded suppliers will also decide when E15 is more accessible as the RFF standard is raised and they will have to meet this higher standard for blending ethanol under the fuel.

**HALLORAN:** OK. Thanks for your testimony.

**JENNIFER WEISS:** Thank you.

**HALLORAN:** Any questions from the committee? Seeing none.

**JENNIFER WEISS:** Well, that was neat. (LAUGHTER)

**HALLORAN:** Thanks for being here.

**TOMMY HERGERT:** Hello, Chairman, committee members. My name is Tommy Hergert, T-o-m-m-y H-e-r-g-e-r-t. I'm here today to testify in opposition of LB562. I represent Hergert Oil Company based here in Lincoln. Our company was founded in 1960 by my grandfather. I'm a

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third-generation owner. We have currently 11 convenient stores in Lincoln and surrounding communities and employ roughly 100 great people. Although we are a multi-site operation, I'd like to say I'm also here representing the little guys. Roughly 60 percent of underground storage tank operators are smaller than my company in our state. Complying with LB562 is not a simple task for us. We operate mostly older sites that would require in some cases a million-plus dollars to upgrade for each location, like you've heard from previous testimony. It can be fairly costly depending on the site and if you have current tanks that are compatible or not. For stores that are not compatible, we could be closed for 4-day weeks during install of new tanks, be piping, concrete, fuel dispensers. Some locations potentially apply for the waiver which, which is not a guarantee and will eventually have an end-date. In some locations, we would seriously have to consider closing and make some tough decisions if this bill were to pass. Like I mentioned before, roughly 60 percent of underground storage tank operations in the state. Our companies are smaller than mine and many have just one location that would have to make some tough decisions potentially. For the sites we would upgrade, this would all lead to an increase in operational costs, which tends to get passed to the consumer. And I believe consumers should dictate the market and government policy should provide an even playing field for all products. Like you've heard already, we do support liquid fuels and E15, but currently there's no demand for us to sell it. E15 is already available on the market. Currently across the states, it's a very small portion of the sales. If the demand was there, then leave it to us to upgrade our equipment infrastructure to sell it. That's all I got. Thank you for your time.

**HALLORAN:** Thank you, Mr. Hergert. Questions from the committee? Seeing none. Appreciate you coming in.

**TOMMY HERGERT:** Thank you.

**HALLORAN:** Additional opposition to LB562? From the backseat. Good afternoon.

**JESSICA SHELBURN:** Good afternoon, Chairman Halloran and members of a committee. My name is Jessica Shelburn, J-e-s-s-i-c-a S-h-e-l-b-u-r-n. I'm the state director of Americans For Prosperity. As one of the largest grassroots organizations in the nation, AFP is dedicated to bringing people together to change our government and public policies for the better. We strive to create an economy that works for all empowering people to earn success and realize their potential. This becomes difficult when government comes in to tell people what they

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must do. We are here today to express our significant concerns with LB562. When the government decides to dictate to a company what they must or in this case shall do is often at the detriment of other businesses and the consumer. There is no way around it, LB562 is a mandate. Plain and simple. All you have to do is look at Senator Dorn's statement of intent, and I'm reading directly from the statement of intent. LB562 creates the E15 Access Standard Act that will transition Nebraska's E10-based ethanol blend to E15. It's very simple. They're taking away options for the consumer. They are dictating what myself, what you, what everyone behind me and everyone else must have avail, available to them. They are taking away our options. The decision to offer E15 should be made by the fuel retailer after evaluating the market demand supply and of course the cost that they will incur for required infrastructure upgrades. Those costs are passed on to the consumer, which then drives up the price that we are paying. While LB562 does offer a waiver process in a grant program to sip, to assist retailers, it does not change the fact that it is a government mandate and those programs that it's offering are for a short period of time. I know there's been a lot of questions and there's been talk about what Iowa's done. I can get you any information that you want on what Iowa's done. I've been in communication with my colleague from Iowa regarding it. There are, the threshold is the 300,000 gallons. There are very few retailers in the state of Nebraska who are selling less than that. So there are very few that would be exempt on those grounds. And this is probably the closest I'm going to get to a ditto for you, but we also want to put it on the record that the Nebraska Retail Federation is also opposed to this. So they're not testifying. That's close enough to ditto, right? I guess with that, I will take any questions, but we would strongly encourage you to just sit on this bill. We're kind of moving the cart before the horse with this bill, and we would encourage you to oppose it.

**HALLORAN:** OK. Thanks for your testimony. Any questions from the committee?

**HUGHES:** A request. I promise I will be quiet.

**HALLORAN:** Senator Hughes.

**HUGHES:** So the, thank you, Chairman. The ethanol blending tax credit that went into effect last year, would you oppose that? I mean, it's too late.

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**JESSICA SHELburn:** So, yes. And I, we did not engage on that bill last year.

**HUGHES:** OK.

**JESSICA SHELburn:** It has come to my attention through our engagement in this bill. I reached out to the Department of Revenue and asked them, you know, how many people are taking advantage of this? What does it look like? And I cannot get access to that information. So with that tax credit, those numbers are provided to the municipality and then it is up to the taxpayer, the company, whoever received that credit, whether or not they want to make it public. So I do think that there's another issue that we probably need to address at some point in the future dealing with accountability there, so that we can see what's actually happening with that tax credit.

**HUGHES:** So I guess that answers that.

**JESSICA SHELburn:** Well, we would have opposed it.

**HUGHES:** OK, you would have opposed it.

**JESSICA SHELburn:** Yes, we would have opposed it.

**HUGHES:** It's more of a carrot versus a make, right?

**JESSICA SHELburn:** It is.

**HUGHES:** And just to see, let's see if it's given enough time to go into effect to make a difference.

**JESSICA SHELburn:** But from our standpoint, we're just like  
(INAUDIBLE)--

**HUGHES:** Yep.

**JESSICA SHELburn:** --from the premise.

**HUGHES:** Thank you.

**HALLORAN:** OK. Thank you, Senator Hughes. Any additional questions? I have a question. You seem to be really up to speed on what Iowa was doing on the same issue. How are they doing?

**JESSICA SHELburn:** So they did pass a watered-down version of the mandate last year, and for, and this is according to my colleague who



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just texted me before I came up here, for any retailer built 2023 or forward, they have to have the E15. I will get you the exact.

**HALLORAN:** Maybe you want to get back with me on that.

**JESSICA SHELBURN:** Yes. I will get you the exact information.

**HALLORAN:** OK. All right. Thank you very much for your testimony.

**JESSICA SHELBURN:** Thank you.

**HALLORAN:** Any additional opposition to LB562?

**DOUG COZIAHR:** Good evening, now.

**HALLORAN:** Closer.

**DOUG COZIAHR:** My name is Doug Coziahr, C-o-z-i-a-h-r. I work for Nebraska Iowa Supply and consult and supply fuel for Nebraska Iowa Supply to several dealers throughout the state of Iowa and Nebraska. To come back to your point, I'll answer several of your questions about the Iowa bill as i was an associate of FUEL Iowa and helped testify several times and would be more than happy to answer any of your questions from there. But I'd like to start out by simply saying no one is against ethanol. We are supportive of liquid fuels and will continue to be liquid fuel supporters. This is an industry where electric is growing. This is not beneficial to Nebraska. It is something we definitely want to attack from a liquid fuel standpoint. The EPA infrastructure is confusing. It's confusing to everybody that doesn't own a gas station, and it's confusing to those that own gas stations. The infrastructure, there's 60 components that we have to look at and consider when looking at E15 or higher blends of ethanol. A lot of those components are components that are compatible and some are not. We have to look, look at each and every one of those components and sign up with the EPA to certify that these sites can offer ethanol plant fuels. If we don't do that, we have to take in consideration of all the work that we've done by protecting our underground storage tanks and underground spills, because if we have a leak, which this could contend to with higher blends of ethanol, not addressing and making sure that we have the right components, we could have some serious concerns with underground storage spills or leaks. That being said, other states have started tax credits, absolutely. Iowa has done a tax credit that has been beneficial with increasing. In fact, Iowa has had the tax incentives in place for the last three years, and they've seen year over year, prior to this bill that passed last year, about anywhere from a 15 to 25 percent increase of E15

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being sold throughout the state of Iowa. We repeat, without a mandate bill, there was an increase of 15 to 25 percent each year. Rural stations that average less than 300,000 gallons or 300,000 gallons, just leave it at that, are the majority of our folks in Iowa and quite a few in Nebraska in rural areas that would be exempt. But also if they're exempt and something is built across the street with new structure, new everything, they're not capable to compete. So we're now taking them out of competition. They've probably purchased that property for about \$350,000 to \$500,000 to do a four dispenser, three tank site on average of \$500,000 or more to meet if it's not compatible with, to meet the E15 compatibility. Very important for us to understand, a lot of these sites are compatible, but many of them are not. We looked at, in Iowa just recently, we've got the insurance company that just recently informed us that there are over 400 sites in the state of Iowa, rural and several Casey's that are not compatible. This is why there's such a concern on the infrastructure side. Again, it's very confusing to understand the infrastructure business because there are so many different components that are very crucial that must be met. 50 percent of the dispensers has been brought up several times. Every tank is lined with four, with lines going to every one of those dispensers for only doing 50 percent, only reduces the, of the amount of concrete that we're looking to break up. That's what causes the cost of doing any infrastructure. So anything that you break up concrete, it's going to cost additional funds. \$150,000 is very significant. Iowa offers \$50,000. There's not enough time for us to even order equipment and everything to be in place with supply and demand of the tanks and the requests that E15 made that mandate by 2026. There's just not enough supplies. It's a year in process to buy a tank today. The exemptions are nice, the industry is growing, but I oppose this bill as the way it is written today. I think there is a lot to offer in E15 and other fuels that are out there and I thank you for your time.

**HALLORAN:** Thank you for your testimony. Any questions from the committee? Yes, Senator Hansen.

**HANSEN:** Thank you, thank you Chairman. So you say it went up about 10 or 15 percent with the tax credits, right, in Iowa? E15 did.

**DOUG COZIAHR:** 15 to 25 percent, we saw increase in--

**HANSEN:** Usage.

**DOUG COZIAHR:** --usage.

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**HANSEN:** Is that because there are more pumps or just because people used it more?

**DOUG COZIAHR:** So typical dispensers, thank you for asking this question. Typical sites that we're seeing with the infrastructure are new sites being built. The newer, or the older sites are not capable financially just to do the 2 to 3 dispenser conversion because of the high cost. So the newer sites, you're looking at larger sites, larger infrastructure or larger amounts of opportunities to grow that, and usually somewhere very close to you, multiple areas to where they can attract more gallons being sold.

**HANSEN:** So newer facilities.

**DOUG COZIAHR:** Newer facilities, absolutely.

**HANSEN:** This one offers \$150,000 versus \$50,000.

**DOUG COZIAHR:** Which is a significant difference and several states are looking at that. Iowa is actually taking consideration of that, with that today. They're also looking to push the date back further. The legislators there actually have supported us in FUEL Iowa to recognize. The bill was pushed fairly hard, legislatively, supportedly from lobbyists and everywhere from D.C. on down. I understand the pressure that's being put on this. It's a great thing for the state of Nebraska. I'm not going to say that it's not, but we also need to look at what it affects businesses today in this industry.

**HANSEN:** Thank you.

**HALLORAN:** So how would you make this bill better, make it workable?

**DOUG COZIAHR:** Thank you for asking that question. I simply would look at this bill and say--

**HALLORAN:** From your perspective.

**DOUG COZIAHR:** --from my perspective, the incentives that are out there are working, but we've got to let it work. Infrastructure that's new, take consideration of having us install E15 then, be more than happy to take that into consideration. Taking older facilities and putting them in noncompetition is going to be tough for small rural towns. You'll probably have sites close down if they have to put in, compete against anybody else.

**HALLORAN:** Even with the exemptions that are in place, I would suppose.

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**DOUG COZIAHR:** They're going to put them out of competition because they're going to be 5 to 10 cents less typically with the E15 product.

**HALLORAN:** So most of those sites probably sell E10.

**DOUG COZIAHR:** Absolutely.

**HALLORAN:** And I've raised this question over and over.

**DOUG COZIAHR:** I'm glad you've been asking.

**HALLORAN:** Well, why don't they convert from E10 to E15 and call it a day?

**DOUG COZIAHR:** May I ask a simple question back to you?

**HALLORAN:** No, you can't ask me.

**DOUG COZIAHR:** Why, why, why, why?

**HALLORAN:** No, you can't ask me anything.

**DOUG COZIAHR:** I'm not asking the exact question. I have a question to your question. Why would we incentivize something to make it happen?

**HALLORAN:** You're asking me a question, and I repeat and this is.

**DOUG COZIAHR:** I would, if I may.

**HALLORAN:** Well, it may be a rhetorical question, but you can't ask me a question. It's just the way it works here. I'm not saying it's fair, but it's just the way it works.

**DOUG COZIAHR:** Respectfully.

**HALLORAN:** OK. Senator Ibach.

**IBACH:** I'll just ask my same question here just because I'm trying to get validation. But if no one is against ethanol, which you stated in your opening statement, and exemptions have no time limit, so my little town of 250 people, there's no threat of the Casey's coming in across the street. Wouldn't they just take advantage of the exemption knowing that eventually they might be E15 because their customers want E15? Is that, am I just simplifying it too much?

**DOUG COZIAHR:** No, I think you're doing a good job of thinking through it. But, I wouldn't look at the fact that if you take E15, we're

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looking at 5 to 10 cents growth and you multiply that out over the years of return of investment, are we going to make that investment back?

**IBACH:** Well, sure, because everybody is gonna use E15 in this perfect world. Thank you very much.

**DOUG COZIAHR:** You're welcome.

**HALLORAN:** All right. Thank you so much.

**DOUG COZIAHR:** Thank you.

**HALLORAN:** Additional opposition to LB562, and I wasn't picking on this gentleman.

**IBACH:** It wasn't me either.

**HALLORAN:** It is a rule here that, that testifiers do not ask the senators questions. It's our, it's our job to ask any questions and get information from them. Additional opposition to LB562? OK. Seeing none. Neutral.

**REID WAGNER:** I'll be brief.

**HALLORAN:** And more importantly, you'll be neutral. Good evening.

**REID WAGNER:** Good evening. Apologies for being right before dinnertime. My name is Reid Wagner, R-e-i-d W-a-g-n-e-r, and I'm actually the executive director of the Nebraska Ethanol Board. So I come in neutral testimony today because this bill really afforded me the opportunity to completely just nerd out for a while. And for me, that comes from, my background is actually chemical engineering. Graduated from Nebraska here, right here, Go Big Red, of course, and worked in both sides of the fuel industry. I actually worked to produce ethanol and also on the flip side, worked in oil and gas, doing capital projects, process design, process engineering, was actually in charge of blending gasoline as a kind of shot-up to the northeast corner in the southeast corners of the country for a bit on the Gold Coast, but happy to be home, of course. So when legislation like LB562 comes through, a really important question is how technically reminiscent is it of the infrastructure we have in the state. So, and kind of going after that question, just kind of using this chemical engineering background, some of the understandings of Underwriters Laboratories regulations, of course, the U.S. EPA regulations that are oftentimes confusing, well, can see that. But

what's important is to say, how close is this bill to reality and kind of what we're seeing across the state. And so the first thing I kind of wanted to hit on because it hasn't been talked about too much, is actually the waiver process for the years or rather the age of systems and the types and components that are utilized to comprise underground storage systems and all of the equipment that it takes to get gas from that tank into our tank. So in kind of looking at some of those things and looking at the specific years, of course, it's, it's extremely imperative that those years are reminiscent of the current standards out there in industry. And in looking at the particular years, they actually go one year beyond requirements to capture transition equipment during those times when those manufacturers were changing safety standards to not only be using E25 test fuels, underwriters labs or different kinds of one off inspection facilities going toward E100 blends even in those kind of testing realms. So those years are actually well reflected in the bill in looking at single ball, fiberglass, double wall, fiberglass, steel tanks, I did hand out a bit of a two-parter on just two organizations that represent those facets of infrastructure development, in particular the Steel Tank Institute here in the country, as well as the Fiberglass Tank & Pipe Institute. They specifically lay out these requirements based on age of system and, of course, materials and construction. And then going through this bill matches those pretty, pretty readily and again, goes a year beyond, so. That was one, one good note, another one, and I won't harp on that because I have to say ditto a few times, of course, which would be the amount that is exempted on project cost if it hits \$100,000, exempted from doing, doing any kind of capital infrastructure upgrades at that point. Also looking at the 300,000 gallons over a three-year period, 42 percent of our retail stations are out in rural communities. Many of those will be a part of that exemption as well. Looking at motor fuels, you know, receipts that come in through, of course, revenue as well as other places is helpful for understanding that. Kind of to go back to some of the previous points and questions that were made looking at cost spreads, of course, 17 cents was mentioned. I will mention that several new stations in my hometown of Gretna, Nebraska, have actually gone in and been able to offer E15 consistently all year round for at least 15 cents off per gallon when compared to E10. Those spreads are real and they're very common, especially in some of these areas. But they can dip down to about the 5 cent range. So there is a range there and it moves with the fuel market. So I would like to just make that clear. And mileage differences, I know that got asked as well. That's always a fun one, is just looking at E15 versus E10, there was actually some studies done in UC Riverside this year over in California to look at

that as well as some of our E30 demonstration activities. And we saw very minor differences of maybe 1 percent and actually certain models of newer vehicles got better mileage. So we'd just like to put that out there. And then I guess the last part is that I'm just here to answer any questions, and I don't want to nerd out for too long because, again, between you and food, probably. But I'm ,that's why I'm here for as a technical resource for you from the state. And I've given you all my business card as well. So I encourage you all to reach out to our office if you have any questions on infrastructure or ethanol as a fuel or ethanol blends, so.

**HALLORAN:** Thank you, Mr. Wagner. That wasn't too wordy, that was all right.

**REID WAGNER:** OK.

**HALLORAN:** Senator Raybould.

**RAYBOULD:** Thank you, Mr. Wagner. So I think our Chair asked a really good question. How would you make this bill better?

**REID WAGNER:** Sure. So in kind of looking at the way that the bill is structured, I'm not sure I would change much by way of the waiver process and kind of understanding, especially those standards for waivers on aged infrastructure. A lot of the topic of discussion today has been, what do we do with the legacy tanks? We always talk about legacy vehicles. The waiver is included in this, generally cover those, but we, of course, understand from point A to point B in the gas tank that there's a lot of considerations to be made. There's a point made earlier that there's 60 different pieces you have to look at. And now all of those costs can certainly add up. I would attest that having the current set of waivers is appropriate and adequate within the bill. Kind of just looking at typical project costs to create concrete at various points to solve any number of those 60 pieces kind of along the way. And of course, that big ticket item, which is the tank. So I'm not so sure I would make too many changes. I just, I think the waivers are technically sound for the instruction that we had.

**RAYBOULD:** OK. Thank you.

**HALLORAN:** Senator Hughes.

**HUGHES:** You can kill me now or later. So same question, you have, we (LAUGHTER) ethanol blending tax credit, a lifetime. A previous person said that in Iowa they had that test, that tax credit in place for

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three years and they had about a 15 to 20 percent increase every year. We haven't even had it in effect a year.

**REID WAGNER:** Yeah, we have actually not seen any awards from that tax credit be put out.

**HUGHES:** Because it hasn't been long enough, or?

**REID WAGNER:** Right. Because they just haven't been awarded--

**HUGHES:** Yep.

**REID WAGNER:** --from the previous cycle. OK.

**HALLORAN:** OK. Thank you, Senator Hughes. Any additional questions? Yes, Senator Brewer.

**BREWER:** Thanks for your card. I, I think you're kind of the 911 call for us on, on issues. How many guys like you, we got sitting around, I didn't know about? You work for the state of Nebraska, right?

**REID WAGNER:** I don't have a horn on my head, but, you know, it's.

**BREWER:** Well, no, I mean, it's a great resource to go to because you just kind of look at the facts and tell us what is going on, and--

**REID WAGNER:** Well, that's--

**BREWER:** --sometimes we get a little bit of a slant one way or the other sometimes.

**REID WAGNER:** Sure. Well, you heard pretty heavy dichotomy against both of the groups today and trying to be kind of a mediator on the technical front, especially with the background that I do have, so

**BREWER:** Thanks.

**REID WAGNER:** Absolutely.

**HALLORAN:** All right. Any additional questions requests from the committee?

**IBACH:** How are you on brand new? (LAUGHTER)

**HUGHES:** Bad word.

**REID WAGNER:** Thank you, guys.



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**HALLORAN:** All right. We will close with the introducer, Senator Dorn. Oh, just a second, Senator Dorn. All right, we had one online comment, proponent, Rocky Weber, representing the Nebraska Cooperative Council. You're on.

**DORN:** Thank you. Thank you for the hearing. Appreciate very much all of you taking all your time. A lot of good questions, a lot of good comments here today. Follow up on a couple of things. You asked why 50 percent of the pumps, the people back here that helped write the bill or wrote the bill for access. And I think, I don't remember which Speaker made the comment that quite often, not quite often, sometimes it happens that they only have it on one pump it would be the last one over way on the end. So it's for access, it's for access for the people and to access so that they increase the use. I think, Ben, Senator Hansen, asked about our, our bill last year, LB1261. Yes, Senator Murman did bring that. It did pass. It's for a nickel a gallon up to, up to and including 15 percent. It is 8 cents a gallon for 25 percent and over, ethanol in it. And just in light of that, I'll talk a little bit in a minute about Iowa. But Iowa currently what the bill they passed last year includes 9 cents for theirs. Iowa did pass this bill last year, a similar bill. This is where this was modeled off of when they started looking at a bill. This is the one that they looked at was the Iowa one bringing it forward. Had several discussions with some of the people that spoke here today and other people about how it's coming about in Iowa and how they're replacing their tanks. Minnesota also passed this same, the E15 type, same type resolution in the last couple of years. Waivers. There were a lot of questions, a lot of really good questions about waivers. Yes, the waivers are very important in here. It does allow and the reasons why I don't consider it a mandate, because there are enough waivers in here. If you are under 300,000 gallons, if you're struck, if your age of your tanks don't need it, there are ways you can go in there and get the waiver. If it cost you more than \$100,000 to come up to these criteria, you also have a waiver and those waivers don't end. In other words, there is some in the bill that by '27, if you have the ability to do it, you then need to be advertising and doing it. But if the waiver, you qualify for the waiver, you still qualify after '27 if you're a small mom and pop store. The financial impact. There were several of those questions about it. Yes, it is huge for the state of Nebraska. Somebody asked, I don't remember whether Senator Riepe or Senator Holdcroft about \$7 price of corn or why are we at this time trying to bring a bill like this? I've been around farming all my life. Most of you know or anybody associated with farming, there are ups and downs. There's peaks and valleys. Yes, we have \$7 corn today, but three years

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ago we had \$3 corn and we were looking for markets. We were looking for ways to increase the price. That will happen again. And if we don't go out and aggressively, or not aggressively, but if we don't go out and work to get these types of more usage in the infrastructure and agriculture in Nebraska, we will be back there to \$3 corn quicker than we will if we have these types of things in place. This is going to create demand for the corn. This is going to create a, so that the consumer is going to save money if the stations operate it correctly. And it also is long term very, very beneficial to the agriculture part of the state of Nebraska. When you're back there and listening to all of this, and I don't know how many other people were, several people were giving me answers to some of the questions and looking it up on their phone, looked up one other thing, ExxonMobil in 2022 made \$56 billion. And yet we as a state of Nebraska are sitting here arguing about why we can't increase our ethanol and benefit our state of Nebraska instead of somebody else. I had that in my statement about the oil companies. I'll repeat that. ExxonMobil in 2022 made \$56 billion. I believe, and somebody from Farm Bureau can correct me, but I believe last year in the state of Nebraska, our income, our farmers had income of about \$8 billion. It's going to be a little, maybe that year, this year, and then it's going to be a little bit less. I think that number is right, but I'm not sure on it. So we as a state of Nebraska, we need to be supportive of these types of bills. These types of things are just going to help our state, our economy and make sure that we're very profitable for a long time in the future. And I was glad to see some young farmers come here and testify because they are our future of what we're going to be in the state of Nebraska. Thank you very much. I didn't mean to give a sermon, but I don't ask a question.

**HALLORAN:** Thank you, Reverend.

**DORN:** Yep. (LAUGHTER)

**HALLORAN:** Any, any final questions from the committee? Seeing none. Thank you so much.

**DORN:** Thank you.

**HALLORAN:** That completes our hearing on LB562. We will proceed with LB218. All right. We will proceed with LB218. Senator Ibach.

**IBACH:** Thank you very much. We missed [INAUDIBLE]. Good afternoon, fellow members of the Agriculture Committee. My name is Senator Teresa Ibach, T-e-r-e-s-a I-b-a-c-h, and I represent Legislative District 44.

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Today, I'm here to introduce LB218 a bill that will increase the appropriation into the Noxious Weed and Invasive Plant Species Assistance Fund from \$3 million to \$6 million beginning in fiscal year 2023 for the management of vegetation within the banks or the floodplain of a natural stream. Last year, Senator Dan Hughes introduced LB805, which was later enacted into law. LB805 amended the intent of the program to include the prevention of noxious weeds or invasive plant species, and expanded the land area coverage by this program from 100 feet of the banks of a channel of any natural stream to the entire floodplain of the natural stream. While LB805 did increase the funding from \$1 million to \$3 million, I do not believe this is enough to keep up with the needs of our state. In 2007, the Nebraska Legislature first appropriated \$5 million to help control the invasive species in our state's waterways. Due to some lean budget years in the subsequent years, funding for this program has been reduced time after time. Beginning in 2016, the Legislature has slowly been increasing the funding for this program. However, I believe this program remains underfunded now, excuse me, underfunded now that this program has been expanded to include the tributaries in the flood plains. It is important for our state to increase our investment in ridding the waterways from this-- these noxious weeds and invasive species. As you can see in the map I handed out all of Nebraska except a small portion of southern Jefferson and Thayer County is currently suffering from an immoderate to exceptional drought. These invasive species cause our waterways to clog, which reduce water flow, which takes away the ability of humans to fully utilize the water that should be flowing normally, if not for these species. When Nebraska does experience rain-- rains that cause flooding, which may be exasperated, which may be exasperated due to the clogged waterways, the seeds of these species are then pushed on to the fields, which then outcompete crops for water and soil nutrients as these species begin to grow. While I have given a brief overview of this problem, the testifiers following me will be able to further explain the challenges and the need to increase funding for this critical program. With that, I thank you for your time and I'm open to questions.

**HALLORAN:** Thank you, Senator Ibach. Questions from the committee?  
Senator Riepe.

**RIEPE:** Senator, thank you. Given the request to go from \$3 million to \$6 million, is that reflection that the war is on and the weeds are winning?

**IBACH:** The weeds? Yes. Actually, I think if we don't stay in control of them, that they will get out of control again.

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**RIEPE:** OK.

**HALLORAN:** Any additional questions? Senator Raybould.

**RAYBOULD:** Thank you very much. Senator Ibach, can you tell us, would it be the Department of Agriculture that's dispensing this grant funds to the counties?

**IBACH:** That's correct. Yes.

**RAYBOULD:** OK.

**IBACH:** And individual landowners can take advantage of it too, but a lot of times they don't have the right equipment or they have challenges to remediate the invasive species and so counties are called upon.

**RAYBOULD:** Thank you.

**HALLORAN:** OK. Thank you, Senator Raybould. Additional questions? Senator Hansen.

**HANSEN:** Maybe somebody after you can answer, answer this one too.

**IBACH:** OK.

**HANSEN:** Can the local weed control authorities go onto private property?

**IBACH:** Wow. I think if the property owner asked them to and I don't know any property owners that wouldn't ask them to.

**HANSEN:** Because like, what if they're going along a bank, right, and they're controlling on noxious weed and somebody says, get off my land, and then they, like-- can they go on there to control the noxious weeds or they have to have, you know--

**IBACH:** I don't know if any farmers, and this is personal opinion, that wouldn't welcome them because the noxious weeds are so invasive and they do steal the nutrients in the water. But somebody behind me will be able to answer that much more efficiently.

**HANSEN:** OK. And then they can probably maybe answer how they control them. Like, to more extent, do they use pesticides, use some kind of chemical or--

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**IBACH:** So I don't think they really use pesticides. The EPA controls what chemicals and what you spray them with. And so the labels qualify what, where you can spray them, and how much you can spray them. And the folks that do the remediation have to be certified to be able to do that. And so I-- you know, a lot of times you need heavy equipment because the, the areas are so invasive. But as far as chemical goes-- chemicals go, the EPA monitors that. And you would, you would have to abide by the label instructions.

**HANSEN:** OK. Oh, thank you.

**HALLORAN:** OK. Thank you, Senator Hansen. Additional questions? Seeing none, thank you, Senator Ibach.

**IBACH:** Thank you.

**HALLORAN:** You will stay for the close? OK. All right. Proponents of LB218. Good evening.

**JOHN THORBURN:** Good evening, Mr. Chairman and members of the Agriculture Committee. I'm John Thorburn, J-o-h-n T-h-o-r-b-u-r-n. I'm the manager of Tri-Basin Natural Resources District in Holdrege, Nebraska. I would like to testify in support of LB218 on behalf of Tri-Basin NRD and the Nebraska Association of Resources Districts. I would mention because it's relevant to my testimony, I'm also representing the NARD on the Nebraska Invasive Species Council, and I serve as secretary for the Platte River Resilience Fund. Tri-Basin NRD is responsible for protecting the soil and water resources of Gosper, Phelps, and Kearney Counties in south central Nebraska. Fifteen years ago, our local senator at the time, Tom Carlson, introduced LB458, that bill created a structure for riparian weed management areas and provided state funds to help us fight invasive phragmites and other plants that, if left unchecked, would have clogged the channels of our state's rivers. Nebraska's proactive stance toward controlling invasive riparian plants has paid many dividends over the years since LB458 was passed. The most tangible and economically valuable benefit of our work has been to increase the capacity of river channels to convey water. This was evident in several flooding events, most notably in 2019, when, in spite of extreme storms that caused sustained high flows, there was little substantial damage due to flooding along the main channels of the upper Platte and Republican rivers. This stood in stark contrast to floods in 2010 and 2011, when much lower flows caused the Platte to leave its banks in south central Nebraska for several days. It is clear to me after these events that riparian vegetation management not only benefits wildlife and natural

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ecosystems, it protects lives and property. LB218 will help NRDs and our weed management partners in the Platte and Republican River basins to sustain our long-term efforts to protect and improve the health of our riparian ecosystems for the benefit of all Nebraskans. I would like to thank Senator Ibach on behalf of my district and the Nebraska Association of Resources Districts for introducing this bill. I would also like to thank members of the committee for your time spent reviewing it, and I ask that you advance the bill to the floor. Thank you.

**HALLORAN:** Thank you, Mr. Thorburn. Questions from the committee? Senator Hansen.

**HANSEN:** Thank you, Chairman Halloran. So can you answer some of those questions?

**JOHN THORBURN:** Yes. In terms of control, first of all, it is generally herbicides that are used. There are some invasive plants that are susceptible to what we call "beneficial insects." There are certain types of beetles, for instance, that work really well on certain range invasives and noxious weeds. But primarily, especially in riparian areas, you do have to rely on herbicides. As Senator Ibach correctly stated, all these herbicides are tested by the EPA and, and other agencies. And so there are, are standard procedures that you have to use and limitations on how you can use these chemicals. The, the label is the law is the shorthand there. And so there are special chemicals that are designed for using-- use in riparian areas. A lot of times we just use an aquatic version of the, the common chemical Roundup, if you're familiar with that, just a common commercial herbicide. There is another, more systemic and effective and expensive chemical called Habitat that is also specifically for riparian areas. It works very well against phragmites so, yeah, there are, there are a number of chemicals. As far as applying it in riparian areas because of access, you can't just go out there with a spray truck, either helicopters, in some cases four-wheelers, airboats are often used to, to do this work in riparian areas. And the airboats and helicopters also have the advantage of when you apply with a big propeller behind you, you can push that herbicide down into the canopy of the plants and have a much more effective application.

**HANSEN:** OK, how--

**JOHN THORBURN:** So does that address your, your question?

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**HANSEN:** Yep, it did. And then how about the personal property issue?  
Like--

**JOHN THORBURN:** Oh, as far as access on private property, there does have to be notice to private landowners. There does have to be, you know, notices published in the paper, and generally we do send mailings to landowners. But yeah, we do have authority under Nebraska law, weed control authorities do have the ability to, with proper notice, go on private land to do this specific control work. Yes, sir.

**HANSEN:** And so then-- but there's a recourse if they come along and say, I don't want you on my land spraying herbicide, or are they stuck? They can go to the courts probably if they need to.

**JOHN THORBURN:** I think the-- yeah, you'd have to-- there are established authorities to be able to control weeds but I wouldn't be able to speak to the legal opportunities to appeal that or contest that.

**HANSEN:** OK. All right. Thank you.

**HALLORAN:** Any additional questions? There's no group-- there's no groups like, oh, you know, friends of phragmites? [LAUGHTER]

**JOHN THORBURN:** Oddly, Senator, I wouldn't have thought there would be, but there are.

**HALLORAN:** And they would be in opposition to this. We'll see.

**JOHN THORBURN:** Well, I, I would hope they won't testify today. No, but there has been-- I think there is even a bill in this session trying to make an exemption for phragmites in municipal waste treatment situations. And I have concerns about that, but that's a different situation.

**HALLORAN:** Has there been a chem-- I'm sorry, has there been chemical resistance to something?

**JOHN THORBURN:** Roundup, of course, there is becoming a number of plants that have resistance to that. The Habitat chemical seems to be really effective against the phragmites. We have not seen the plant develop resistance.

**HALLORAN:** OK.

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**JOHN THORBURN:** The problem with phragmites is it spreads by rhizomes primarily, you know, underground and under water and, boy, that is just tough to attack.

**HALLORAN:** Right. Senator Raybould.

**RAYBOULD:** Yes, I was wondering if the NRDs are using drones to help them with all the, the stream and channel management and, and, I guess, observation of those darn phragmites?

**JOHN THORBURN:** Yes, ma'am, aerial reconnaissance, so to speak, drones have been used for quite a few years. And now there are some experiments being done with actually applying the herbicides with small drones. And just listening to a speaker from the university, actually, you can, without a special license, have up to 50 pounds, which is about 8.5 gallons of herbicide on a, on a drone. And that is opening up some new opportunities because there are places where obviously you can't take a helicopter and depending on water conditions, airboats wouldn't be able to travel that harbor these invasive plants.

**RAYBOULD:** Thank you very much.

**HALLORAN:** Thank you, Senator Raybould. Additional questions? OK. Thanks for your testimony.

**JOHN THORBURN:** Thank you.

**HALLORAN:** Additional proponents to LB218? Please.

**KATIE TORPY:** Good evening, Mr. Chairman and--

**HALLORAN:** Welcome.

**KATIE TORPY:** --respected members of the committee.

**HALLORAN:** Welcome, welcome to the chair that eats people. It's the most uncomfortable chair for us, properly hide people.

**KATIE TORPY:** Thank you. My name is Katie Torpy, K-a-t-i-e T-o-r-p-y, here today representing The Nature Conservancy and also my colleagues in my organization who serve both the Nebraska-- on the both the Nebraska Invasive Species Council and the Platte Valley Weed Management Area. We support LB218 and are grateful to Senator Ibach for introducing this legislation. The Nature Conservancy is a leading conservation organization working around the world to protect



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ecologically important lands and waters for nature and people. Much of that work-- we've been working in Nebraska for over 50 years, much of that work along waterways such as the Platte. Through collective efforts, such as the Weed Management Area, we work with county superintendents and private landowners to manage against the spread of non-native phragmites and other noxious weeds. Stable annual funding is critical-- is a critical need to ensure flow conveyance-- that, that flow and conveyance is maintained and increased. That in turn supports increased wildlife habitat, reduces water usage by invasive plant species, and long term-- and leads to long-term sustainable control by landowners. Without this inter-- without intervention, the economic damage to landowners is significant. Noxious weeds crowd out-- crowds out native plants altering habitat, and infestations, as has been described, constrict channels and increase risks of flooding and property damage. Noxious weeds also impact our water resources with adverse effects to property values, recreational use, and game species. We respectfully ask you to pass LB218 out of committee. Thank you.

**HALLORAN:** OK. Thank you, Katie, for your testimony. Any questions from the committee? Seeing none, thanks for your testimony. Additional proponents of LB218? Good evening.

**JON CANNON:** Good evening, Chairman Halloran, members of the Agriculture Committee. My name is Jon Cannon. I'm the executive director of the Nebraska Association of County Officials, also known as NACO, here to testify today in support of LB218. First, we'd like to thank Senator Ibach for bringing this bill. This is one of those things that we think is a continued effort that, that certainly deserves to be looked at on a continued basis from our Legislature. The story of how Nebraska has been managing its noxious weeds is actually a really good story. And, and I've got some folks behind me that are more-- are better equipped to fully tell that tale. But suffice to say, we've made significant strides. As far as the war on weeds, we're-- I, I think we're winning. But it's, it's one of those things where if you're not vigilant, it's doomed to be a stalemate at best. They'll give a little bit more detail about how we've, we've been waging that war. This is a great example of when the state and the counties work together that we're able to make some really good things happen as far as getting a result that's going to be best for our citizens. Really, this is one of those programs that, that I would say from NACO's perspective really is the most bang for our buck. It's, its effects are immediate, they're visible, and, and they're something that I, I, I think the committee should take note of and,

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and certainly advance to the floor. With that, I'm happy to take any questions you might have.

**HALLORAN:** OK. Thank you, Mr. Cannon. Questions from the committee? Oh, we're wearing them down.

**JON CANNON:** All right.

**HALLORAN:** Thanks for your testimony.

**JON CANNON:** Yes, sir. Thank you.

**HALLORAN:** Next proponent of LB218. Good evening, sir.

**TODD BOLLER:** Good evening, Chairman Halloran and members of the Agriculture Committee. My name is Todd Boller, T-o-d-d B-o-l-l-e-r, and I serve as the noxious weed superintendent for Fillmore County. I'm here today on behalf of Nebraska Weed Control Association and the Nebraska Association of County Officials to testify in support of LB218. Thank you, Senator Ibach, also Senator Hughes and Senator Jacobson, for introducing LB218. Because of previous legislation and through environmental trust grants and assistance of our partners such as the natural resources districts, U.S. Fish and Wildlife, Nebraska Game and Parks, The Nature Conservancy, Public Power Districts, UNL Extension, and landowners, just to name a few, we have been able to improve water conveyance throughout the state of Nebraska. In 2007, legislation was passed to begin the fight to preserve our waterways in Nebraska. That was during a time when Kansas was suing Nebraska for \$72 million for not delivering enough water in the Republican River. At that time, much of the Republican River was being clogged by invasive vegetation that was only allowing 300 cubic feet per second of water before spilling out of the banks. Because of the work done on the Republican River, it easily handles 1,100 cubic feet per second now. And many of you have heard that story, but it's a big, it's a big success story that we, we love to share and, and preach because it reduced that lawsuit down to \$5 million. At that time, \$4 million was the investment by the Legislature and made with that and our partners' investments, we were able to do \$26 million worth of work on the ground to control the invasive vegetation. We have dramatically reduced the acres of invasive vegetation and reduced infestations in some cases by as much as 65 percent in increased water conveyance. The untreated sites are a constant seed source and is pushing rainwater runoff out into the fields, which outcompetes the crops, which pushes the plants out into the fields as well, and outcompetes of crops for water and nutrients. While portions of our river systems are in a

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maintenance phase, there's still much work to be done. While we have seen positive changes within the river systems to stop the reinfestation, LB218 gives us the opportunity to expand our efforts into the tributaries throughout the state. These areas provide a continual seed source which feed into the rivers. As a member of the nonprofit North American Invasive Species Management Association, I hear from states and territories all across North America how they look to Nebraska as an inspiration of boots-on-the-ground work that this state has done and continues to do, and it would not be possible without your assistance and the assistance of the State Legislature. We're getting ready to host the NAISMA Conference for 2023 right here in Lincoln, Nebraska, and we look forward to showing them the work that has been done because of the Nebraska Legislature and all the partners. The county weed superintendents and weed management areas are committed to doing the right thing for our lands and waters here in Nebraska. We spend many hours inspecting and treating invasive vegetation, and we'll continue to work towards protecting our natural resources. We will also continue to educate the landowners of the dangers of letting these weeds thrive and what they can do to help the cause. We need your support to do so. It is imperative that we continue our quest to rid these natural resources of these invasive species, which in some areas are continuing to strengthen their hold on the waters of the state. Water is life for many things, including biodiversity of wildlife and water for agriculture. Our goal is to help continue to grow Nebraska and protect our waters and land from the attack it's under. We appreciate your support for LB218, and thank you for your time. With that, I'll take questions.

**HALLORAN:** Thank you, Mr. Boller. Questions from the committee? Senator Hansen.

**HANSEN:** Thank you, Chairman. Thank you for coming to testify. I got maybe a couple of questions.

**TODD BOLLER:** OK.

**HANSEN:** Why do we have all these noxious weeds all of a sudden? Like, I'm assuming, like, in nature that this wouldn't probably ever happen because then water would just, you know, I think naturally would be able to flow, but why, like-- do we have to control-- I get the whole idea with crops and, and the kinds of things, you know, we don't want invas-- have invasive species among the crops controlling that. But why all of a sudden do we have a lot more?

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**TODD BOLLER:** You know, it all goes back to-- back before 2007, there was a drought here in those years previous that really reduced the water. And, yes, water can be used as a scouring agent. And those rivers naturally were shifting sandbars that, you know, wouldn't have a chance to have vegetation on them. But when there isn't water going down the river, it allows these weeds to take hold. And where they come from, I don't know. I know within my county it's got to be birds because I don't have the river systems that come through my county. So, I mean, it, it, it really got the foothold on the Platte and the Republican and those are the, the two number one areas with it. But now it's going up all the tributaries. It's just--

**HANSEN:** Yeah, that's what I'm wondering.

**TODD BOLLER:** And it puts off a rise on that will go 20, 30 feet, you know, and every 12 inches it's putting up a new plant, putting down more roots. It does the same thing over and over again on the phragmites.

**HANSEN:** I think, I think I figured it out. I think you get prairie dogs. This reminds me a lot of the black-- the black-tailed prairie dog bill. Right?

**TODD BOLLER:** Yeah, there we go.

**HANSEN:** So I think we should have all the prairie dogs and ship them over the rivers and they'll eat the phragmites.

**TODD BOLLER:** You know, we'd love to try anything we can do to get some help. Bio control is--

**HANSEN:** We solved two birds with one stone.

**TODD BOLLER:** --and bio control is an option. There is a bio control out there for phragmites, but has not been allowed in the United States yet. Canada is using it. We would love to get the help with that, but it hasn't been approved in the United States yet.

**HANSEN:** Yeah, I'm curious. Thank you, though, for answering my questions. Appreciate it.

**HALLORAN:** Thank you, Senator Hansen. Additional questions? Appreciate it, Mr. Boller.

**TODD BOLLER:** OK. Thank you for your time.

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**HALLORAN:** Next proponent of LB218. Good evening.

**MIKE REED:** Good evening, Chairman Halloran and members of the Agriculture Committee. First off, I appreciate the endurance of the committee and audience with everybody. My name is Mike Reed, M-i-k-e R-e-e-d. I'm the president of the Nebraska Weed Control Association and the current chair of the Governor's Riparian Vegetation Management Task Force. I've in favor of supporting LB218 to increase the appropriation to the Noxious Weed and Invasive Plant Species Fund. The current state of the weed control infestations on Nebraska's rivers and tributaries is now in a state of crisis as I testify before you today. They are in a state of management, both preventative and proactive due to ongoing work in Nebraska's weed management areas statewide and because of funding appropriated by the Nebraska Legislature and matched funds by local partners from those weed management areas. Water for Nebraska is both and-- interstate imperative to have the capacity to deliver water and an intrastate responsibility to steward our, our water resources. I believe Nebraskans have a right to those water resources. Woody and invasive vegetation, especially during drought, drought conditions pose a lasting threat to both our flowing streams and depleting the water table across the state. Drought conditions stress Nebraska's water sources, but also allow invasive species an opportunity to displace water. The water rights adjacent to any acre of river ground do not belong to the adjacent landowner. They are the, they are the water resources of the state. And the plants themselves are, as you can imagine and we've talked about, are very difficult to control on a sandbar or river habitat. River and floodplain projects are carried out by-- statewide by weed management areas, local managers, including weed superintendents, like myself, natural resources districts, and Game and Parks, private landowners, and other, and other partners. Our weed management area in my area, the Lower Platte Weed Management Area, in and around from-- roughly from Columbus down to the confluence, the Missouri River, we ask for 50 percent contribution of any acres and our local natural resources districts match landowner contribution. The grant dollars are matched one for one in most cases, and in many of our annual projects from the, from the Department of Agriculture is well, is well above 50 percent match. Our weed management area, the Lower Platte Weed Management Area, has carried out projects since 2003. And last year one of my landowners, Rich Tesar, who lives adjacent to the Platte River in Douglas County, talked to me about the ice moving out in the spring next to his property. All of the ice in the main channel of the Platte River moved through a small, narrow side channel immediately upstream, upstream

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from him. On that same, same channel, our weed management area had controlled and removed invasive grasses, woody trees, and shrubs-- the whole channel was completely choked-- and allowed for successful and uneventful ice out, ice out to happen just this past year. The last time he had seen that channel handle the whole ice out for the Platte River was 1975. Statewide weed management areas help water conveyance, lower flood risks and impacts, protect water resources from usage from woody and invasive plants, and provide habitat for wildlife and opportunities for, for recreation. LB218 will continue the level of funding established last year by the Agriculture Committee's bill, LB805. And I firmly believe it will protect Nebraska's water resources, which are a right for every Nebraskan. And with that, I'll take questions.

**HALLORAN:** OK. Thank you, Mr. Reed. Questions from the committee? Seeing none, you're pretty thorough.

**MIKE REED:** All right. Thank you.

**HALLORAN:** Thank you. Additional proponents of LB218?

**ANDREW DUNKLEY:** Good evening, Chairman Halloran and members of the Ag Committee. My name is Andrew Dunkley, A-n-d-r-e-w D-u-n-k-l-e-y. I'm with the Nebraska Farm Bureau, and I'm testifying today on behalf of Ag Leaders Working Group, which includes the Pork Producers, Cattlemen, Farm Bureau, Corn Growers, Soybean, Wheat Growers, and Renewable Fuels Nebraska, along with the State Dairy Association. On behalf of all of those groups, ditto. The only, the only thing I'll, I'll add is I, I texted some folks to, to confirm this, Senator Hansen, your, your question about landowners. I believe the, the current system is, is landowners are responsible for taking care of noxious weeds on their current property. And if, and if there's a, a, a warning that they're not taking care of it, then, then they work with the, the, the, the, the controlling body to address it from there. But the senator, the senator-- Senator Ibach mentioned that there wouldn't be an issue with landowners letting on, you know, working and, and getting noxious weeds off their, their property. That's going to be the large, large majority of landowners.

**HALLORAN:** OK.

**ANDREW DUNKLEY:** With that, I'm open for questions.

**HALLORAN:** Thank you. Any questions for Mr. Dunkley? Senator Hansen.

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**HANSEN:** And as, as a representative of the Corn Growers, now there's no concern at all, like, somebody coming up and spraying near their crop with, like, Roundup for any reason that they might have a kind of a non-Roundup ready crop or something? You haven't heard of anything like that, though, have you?

**ANDREW DUNKLEY:** With the current, with the current system of, of reaching out to landowners, we haven't, we haven't heard of that.

**HANSEN:** I wouldn't think so. I'm just kind of curious.

**ANDREW DUNKLEY:** And if-- and with the, the working with landowners, it's, it's something that they can, that they can work with and on.

**HANSEN:** Cool. Thank you.

**HALLORAN:** OK. Thank you, Senator Hansen. Additional questions? No? Seeing none, thank you so much.

**ANDREW DUNKLEY:** Thank you.

**HALLORAN:** Next proponent for LB218. Good evening.

**JOHN HANSEN:** Chairman Halloran, members of the Ag Committee, good evening. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. In order to help make the record complete this afternoon, I also want to spell Jon Cannon, J-o-n C-a-n-n-o-n, because he did not spell his name. And I don't hold that against him. It's-- the day is late, but in the never-ending quest for accuracy and the transcribers. We are in strong support of expanding the funding. And we have a long history with this issue. We worked closely with Senator Carlson. We saw the very clear and dramatic benefits of this kind of program relative to the Republican River, but we've also seen it in other rivers. And so as we expanded the pool last year, and we think that that was the correct thing to do from the 100-foot level to expand the whole floodplain. Obviously, that takes, that takes more resources. So if you look at historically where we've been funded, given the cost of increase since 2007, it seems like it makes good sense to expand it. And so we thank Senator Ibach for bringing this bill and we thank her for the background and the research. And, you know, \$6 million is a, is a good level. This is a particularly problematic challenge to be able to control these invasive weeds in this particular area. It's bad enough out in the open where you have, you know, more different kinds of management, but especially in wooded areas, wooded areas that are oftentimes not very accessible. And so it's difficult from a landowner's perspective. And so it's a particularly good program that

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we think has a, an extraordinarily overall positive cost-benefit ratio and so we are in support of that. And with that, the time is late, and I'd be more than glad to answer any questions.

**HALLORAN:** OK. Thank you, Mr. Hansen. Any questions from the committee? Seeing none, thank, thank you so much.

**JOHN HANSEN:** And now I'll go take the beating from Jon Cannon.

**HALLORAN:** You deserve it. Additional proponents for LB218? Additional proponents? Any opposition? Are the friends of phragmites here? No? Seeing no opposition, anyone in the neutral? Seeing none, Senator Ibach, ready to close. We have 19 online comments that are all proponents and since, since there's 19 I'm not going to read them all.

**IBACH:** Thank you.

**HALLORAN:** But they are in your booklets, Senators, if you want to look, look through that. Senator Ibach.

**IBACH:** Well, I would just be remiss if I didn't say in 2007 my husband sat here or in this chair in some room here testifying for this program as the director of Agriculture. So through the years, that was the year that I learned what the word phragmites was, as well as purple loosestrife and red cedar. And I could go on, but I won't. I appreciate the testimony of everybody that's come and supported this bill today. I think it is very important that we stay on top of it and this bill does exactly that. So I appreciate your support. I appreciate your listening and thank you.

**HALLORAN:** All right. Thank you, Senator Ibach. That concludes our hearing on LB218. I'm sorry. Senator Riepe.

**RIEPE:** I just have one question. It's an existing program asking for more dollars. I'm surprised Referencing didn't send it to Appropriations.

**IBACH:** OK.

**RIEPE:** And since I'm on the Referencing Committee, I, I blame myself maybe.

**IBACH:** Probably because the department has always been in charge of, of digging out those funds, they probably left it in Agriculture.

**RIEPE:** OK.



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**IBACH:** I'm just guessing. I don't know that.

**RIEPE:** Yeah. OK. Well, I'm just--

**IBACH:** I also would say, Senator Hansen, thank you for being your--  
be-- having creative solutions to the prairie dog and invasive species  
situation.

**HANSEN:** [INAUDIBLE]

**IBACH:** Thank you.

**HALLORAN:** OK. Additional questions for Senator Ibach? All right. Thank  
you, Senator Ibach.

**IBACH:** Thank you.

**HALLORAN:** That concludes our hearing on LB218. Thank you, everybody.