

Transcript Prepared by Clerk of the Legislature Transcribers Office  
Agriculture Committee February 25, 2025

**DeKAY:** OK. We'll go ahead and get started. Welcome to the Agriculture Committee. I am Senator Barry DeKay of Niobrara, Nebraska. I represent the 40th 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 at the door. Our hearing today is your public part of the legislative process. This is your opportunity to explain your position on proposed legislation before us today, to offer insights and information for our consideration. Committee members might come and go during the hearing. This is just part of the process, as members can have bills to introduce in 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. Introducers will make initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you're planning on-- planning to testify, please fill out a green sign-in sheet that is on the table at the back of the room before you come up to testify. Please print, and it is important to completely fill out the form in, in its entirety. When it is your turn to testify, hand the sign-in sheet to a 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 indicate your position on a bill, there are yellow sign-in sheets at the back of the room. These sheets will be included in the hearing record. If you have a written statement or other handouts, please have 12 copies and hand them to a 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. 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 might-- we will be using a light system for all testifiers. You will have three minutes to make initial remarks to the committee. When you begin, the green light will be on. When you see the yellow light, that means you have one minute remaining. And the red light to indicates your time has ended and you should conclude your remarks. Questions from the committee that follow will provide an opportunity to further explain your position. No displays of support or opposition to a bill, vocal or otherwise, are allowed at a public hearing. Offenders may be asked to leave. The committee members with us today will introduce themselves, starting with my far left.

**McKEON:** Dan McKeon, District 41. I'm from Amherst. Central Nebraska and eight counties.

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

**IBACH:** Teresa Ibach, District 24: eight counties in southwest Nebraska.

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**KAUTH:** Kathleen Kauth, LD 31: the Millard area.

**STORM:** Jared Storm, District 23: Saunders, Butler, Colfax County.

**DeKAY:** OK. The vice chair is Senator Ibach and serves as-- like I say, serves as vice chair of the committee. To my immediate right is committee research analyst Rick Leonard; and our committee clerk, Linda Schmidt, is seated at the far left. Our pages for this afternoon will be introducing themselves.

**TATE SMITH:** I'm Tate. From Columbus, Ner-- Columbus, Nebraska. And I'm a third-year student at UNL.

**LAUREN NITTLER:** [INAUDIBLE] Lauren. I'm from Aurora, Colorado. I'm a second-year at the University of Nebraska-Lincoln. And I'm studying agricultural economics.

**DeKAY:** With that, we will open the hearing for the first item on the agenda. Senator Holdcroft, you are welcome to, to the Ag Committee. You may proceed with your bill.

**HOLDCROFT:** Good afternoon, Chairman DeKay and members of the Agriculture Committee. For the record, my name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t. And I represent Legislative District 36, which includes west and south Sarpy County. I'm here today to discuss LB540. This bill creates the Nebraska Apiary Advisory Board. It also calls for the University of Nebraska Board of Regents to create an extension educator position with specific knowledge in the areas of, of apiculture. Merriam-Webster defines apiculture as the keeping of bees, especially on a large scale. In 2021, the ALTEN ethanol plant in Mead, Nebraska experienced an environmental disaster due to toxic chemical waste mismanagement. The plant's closure led to health concerns and environmental damage for the community, including the die-off of honeybees a significant distance away from the disaster. As part of the disaster analysis and recovery, Senator Carol Blood brought an apiary bill in 2023 to try to get a handle on the number and location of bee colonies in Nebraska. Part of that bill included a voluntary registry in which beekeepers would list their hive locations and numbers. Significant resistance was received from beekeepers, both commercial and hobby, to participate. The bill failed. In 2024, Senator Blood brought back the bill, now making the registr-- registry mandatory, with a fee included to be in the registry, and a penalty, a third degree misdemeanor, for not participating. As you can imagine, there was even more resistance and the bill failed. LB540 takes a much softer approach. There is no

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registry. There is a relatively small advisory board headed by the Director of Agriculture or a designated proxy, and includes both hobby and commercial beekeepers, representatives from beekeeping clubs or organizations, and invited representatives from the University of Nebraska. Among other things, the purpose of the bill is to advise the Unicameral on potential legislation to support beekeepers in Nebraska. The request for the-- there's also the-- the request for the additional-- the addition of an extension educator with apiculture experience actually came from the beekeepers. So in just a moment, you'll hear from probably the most knowledgeable individual in Nebraska on honeybees, Dr. Judy Wu-Smart. And she works at the University of Nebraska in research, but she's limited on what she can do as far as reaching out across Nebraska to beekeepers. And this person would be specifically tasked with, with going out from, from the university to help beekeepers with their issues. Chairman DeKay and members of the Agriculture Committee, thank you for your consideration of LB540. I would appreciate a timely vote by the committee to get this bill on the floor of the Legislature. And-- did you pass out the-- so you saw-- you should have in front of you an article about bee die-off a couple years ago, 50% of the-- and, and Dr. Wu-Smart will talk more about bee die-offs. But essentially, you know, we lost about half of our hives. And in No-- and, and if you want to look at what is the-- really the gold standard for management of beekeeping, North Dakota probably has the best program. They have a registry. They have eight beekeepers that are employed by the state. They have a program such that people-- they can get a-- commercial beekeepers can actually get a certificate from North Dakota that allows them to-- entry into-- to California without any further inspection. I mean, they really are kind of the gold standard and well-organized to be able to address some of these issues with die-- bee die-off. In Nebraska, we really have nothing. We have a number of bee organizations and clubs, which do communicate, but there's really no extension, extension communication to help out beekeepers. And that's-- this is just the start. So we're looking to this advisory board to make more recommendations to us on how we should proceed in Nebraska. With that, I'm happy to answer any questions you might have.

**DeKAY:** Thank you, Senator. Are there any questions from the committee? Senator Kathleen Kauth.

**KAUTH:** Thank you, Senator-- Chair DeKay. Senator Holdcroft, what will be the cost to the university to have the-- that individual-- there?

**HOLDCROFT:** We-- and, and-- [INAUDIBLE]-- and we-- I looked at that yesterday in the note, and they didn't have anything for that, which

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was-- we're checking on that. But I expect it was going to be one FTE, probably between \$90,000 to \$100,000.

**KAUTH:** For salary, and then benefits on top of that?

**HOLDCROFT:** I think that's all included in--

**KAUTH:** All-- OK.

**HOLDCROFT:** But we'll get an exact number for you.

**KAUTH:** Thank you.

**HOLDCROFT:** But the right now, the-- there is no note. The, the members of the advisory board serve voluntarily. They're going to have meetings. But right now, the, the intention is that they would probably meet by, by Zoom. They would not have to travel. So that's kind of the initial thought. Keep it simple and not very expensive.

**KAUTH:** And follow-up to that. If we have an advisory-- why isn't this just done on a voluntary basis with, with clubs or groups that are kind of coalescing together?

**HOLDCROFT:** Well, we'd like to have some kind of coordination at the state level. I mean-- so the Director of Agriculture is, is kind of the focal point. And she has an epidemiologist. I mean, she is the person who most knows about, you know, pesticides and how they impact bee colonies. And so I think you need to have a central location in, in Nebraska-- I mean, you know, for Nebraska, and, and also to advise the Unicameral on future legislation, if that's what they recommend.

**KAUTH:** Thank you.

**DeKAY:** Thank you. Any other questions?

**HOLDCROFT:** I'll be here for close.

**DeKAY:** OK. Just-- I have one question. You may or may not be able to answer this, but somebody coming up behind you will pro-- have that answer. You talk about clubs and small beekeepers. How many commercial beekeepers are in the state of Nebraska?

**HOLDCROFT:** I don't-- hold that question for Dr. Wu-Smart. I think she has a pretty good--

**DeKAY:** That's why ask it now, so that--

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**HOLDCROFT:** Yes.

**DeKAY:** So--

**HOLDCROFT:** She'd be ready to answer that.

**DeKAY:** Any other questions? And you said you would be here for--

**HOLDCROFT:** I will be here for close.

**DeKAY:** I appreciate that.

**HOLDCROFT:** I don't know if I'm going to stick around for the rest of the committee.

**DeKAY:** With that, we will have our first proponent. Any-- first proponent? Seeing none. Anybody in--

**JOHN HANSEN:** Mr. Chairman, members of the committee. Good afternoon. For the record, my name is John Hansen, J-o-h-n; Hansen, H-a-n-s-e-n. We have been through a, a whole host of different kinds of efforts trying to figure out what is the best way to try to help our beekeepers in our state. And they-- bees certainly play an important and critical role in agriculture. And-- so we've, we've tried a bunch of things that have not worked. And we've met, as the senator said, with substantial resistance to our efforts. So this seems to be, to be a, a start-over, a good place to see if we can't figure something out. And certainly in all successful endeavors in, in our organization and [INAUDIBLE] what we believe in, in a lot of other areas always begins with education. So starting with an education position and trying to expand the amount of information and-- that gets disseminated by the University of Nebraska. That seems like a good thing to do. So it seems like a reasonable approach. And we have supported efforts in the past to try to help beekeepers. And this looks like it is one that might have a, a better chance of success. And so with that, we would be glad to be in a position to answer any questions if you have any.

**DeKAY:** OK. Are there any questions from the committee?

**STORM:** I got a question.

**DeKAY:** Senator Storm.

**STORM:** Thank you, Chair DeKay. Yeah. So do they have-- the Nebraska Department of Agriculture already has a program that deals with this, don't they, that I'm looking at here online at-- right now?

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**JOHN HANSEN:** Yes.

**STORM:** OK. Are you aware of all that and what it does?

**JOHN HANSEN:** Somewhat, yes.

**STORM:** OK. So what would this add that the Department of Ag's not already trying to do to help beekeepers, I guess?

**JOHN HANSEN:** So to-- the, the way I look at it is that, you know, the role of extension is to take the information that we already have and help get it out to folks who need it. And so the extension educator position seems like a, a good addition to the, to the efforts of the department.

**STORM:** OK. That's all I had. Thank you.

**JOHN HANSEN:** You bet.

**DeKAY:** Thank you. Any other questions? Seeing none. Thank you. Next proponent. Are there any other proponents? Seeing none. First opponent. Anybody opposing this?

**GEORGE BUNNELL:** Hello. I am George Bunnell, B-u-n-n-e-l-l. I'm from Oxford, Nebraska. I'm a commercial beekeeper. Been a commercial beekeeper my whole life. And I'm also here as President of the Nebraska Honey Producers Association. And the Nebraska Honey Producers Association is the only trade group in Nebraska that represents commercial beekeepers. I'm here today to testify against LB540. Commercial beekeepers in Nebraska are the owners of the mark-- majority of the honeybees in the state. Although we don't have solid facts and figures for that, we know we are. I'd like to say that this is not a solicited bill by the Nebraska Honey Producers Association or any other beekeeping organization that I know of. The intent of the bill sets up an advisory board with a busybody set of objectives that result in an approach of what can government do to fix a problem that doesn't yet exist or does exist but the solution shouldn't involve the state but the beekeeping industry itself. The advisory board does not fairly represent the commercial beekeepers either, with only one seat on the board despite the owner-- an overwhelming majority of the honeybees in the state. And their livelihoods are at stake with each rule that gets implemented. The advisory board seems to also have as its purpose to find regulations it can propose, of which commercial beekeepers would bear the brunt of. The fact is, we already have a mechanism in place to propose solutions for the beekeeping industry: the beekeeping organizations we already have. The industry groups have an awareness of

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beekeeping issues and solutions. And when the solutions require legislation, we will find a sponsor or the Ag Director to put it in place. LB540 also creates a full-time educator position at the University of Nebraska, with the educator having specific knowledge in the area of apiculture. I would like to quote in our [INAUDIBLE] Nebraska Apiary Act that we have now, Section 81-2,156.02 [SIC]: it is the intent of the Legislature that the department is not responsible for education regarding good beekeeping practices and education intended to aid in the protection of the apicultural interest in the state from bee diseases, parasites, or, or pests. Department-- referring to the Ag Department. And further, the intent of the Legislature--

**DeKAY:** Sir, that is your red light. Could you sum it [INAUDIBLE]?

**GEORGE BUNNELL:** I'm almost done here. The source of the law for that LB1071, the Nebraska Honey Producers Association. We proposed that bill, and we started this education position. So-- and if, if you read it, this is alr-- the education's already supposed to be happening, and it doesn't seem to be happening. And I would ask what's going on at the university that it's not being fulfilled now.

**DeKAY:** OK. Thank you. Any questions?

**STORM:** Yeah, I got a question. Are you fin-- you done? Or you need to comment more?

**GEORGE BUNNELL:** Pardon?

**STORM:** Do you have--

**GEORGE BUNNELL:** Go ahead. I, I'm cut off, so.

**STORM:** OK. Thanks, Chair DeKay. Thank you very much. So you talked about this could lead to greater regulations if we would implement--

**GEORGE BUNNELL:** That's always a fair--

**STORM:** Do you-- are you aware of what they do in North Dakota?

**GEORGE BUNNELL:** Oh, yes.

**STORM:** So can you talk about the regulations that beekeepers have put on agriculture in North Dakota?

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**GEORGE BUNNELL:** Yes. And you have to understand that North Dakota is a totally different situation than Nebraska. Nebraska's beekeeping industry is very small compared to North Dakota. They have bees coming in there from all over the country, hundreds of thousands of colonies every year. We just do not have the same situation here or have the need for that type of regulation.

**STORM:** What's-- and Nor-- what's different about North Dakota than Nebra-- is it because it's cooler up there that-- for bees? What's better for them--

**GEORGE BUNNELL:** They, they have--

**STORM:** Or the crops that they're growing.

**GEORGE BUNNELL:** It-- a lot of it is, is the crops. There's more potential to make a honey crop there than there is in Nebraska. Nebraska was very good 50, 60, 70 years ago. We had a [INAUDIBLE] program. Lots of sweet clover, alfalfa that bloom a lot. When I was a young man and my dad was in the business, we would expect to make a 200 pound average per colony honey crop every few years. That doesn't happen anymore. We're lucky to get 50 pounds in this day and age. And it's all because of the change in agriculture. And land use has changed. So. Nebraska will never be a big honey producer again.

**STORM:** Yeah. So they don't-- and I'm not a honeybee expert-- although I'm an aerial applicator, so I deal with honeybee people. I-- you know, to try to keep their hives safe. So I'm familiar with this topic and know several guys in North Dakota that deal directly with honeybee producers. But honeybees don't feed on, like, corn. You're not going to find bees out in cornfields. Correct? Is that right or--

**GEORGE BUNNELL:** No. Usually not.

**STORM:** Right.

**GEORGE BUNNELL:** Usually not. Although I know our state apiarist and, and a university guy years ago did some, some surveys. And they did find corn pollen in beehives, but it, it wasn't a great--

**STORM:** Very minute. Right.

**GEORGE BUNNELL:** It's, it's not really usable pollen for them.

**STORM:** Yeah. Absolutely. What about-- on soybeans with the plants and soybeans--

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**GEORGE BUNNELL:** On what?

**STORM:** For-- on-- you know, when soybeans are flowering--

**GEORGE BUNNELL:** Soybeans? Soybeans, in certain areas-- I mean, in Nebraska, it's generally thought that if you're east of, of Highway 8-- or, 81, you have a chance of making some honey on soybeans. So it is possible. Where I live in western Nebraska, I can't say I've ever seen a, a honeybee in a soybean field.

**STORM:** Right. Right.

**GEORGE BUNNELL:** Yeah.

**STORM:** OK. But the impact of, of trying to regulate more with soybeans could be that could very much impact agriculture. Is that-- do you see that or not?

**GEORGE BUNNELL:** Probably. Probably.

**STORM:** That's what I-- OK. That's all I needed. Thank you.

**DeKAY:** Thank you. Any other questions? Senator Ibach.

**IBACH:** Thank you, Chair DeKay. Do you current-- does your group currently work with anybody at the university or with extension?

**GEORGE BUNNELL:** No, we don't.

**IBACH:** And would that be an option or an opportunity? I-- the only reas--

**GEORGE BUNNELL:** Well, it would be. And, and the part of my testimony I didn't get to is the fact that-- I mean, there are a lot of other educational opportunities. I mean, this is the information age, for Pete's sake. You can get on your phone, your computer, and you can find pretty much all the information you, you want to use. I think creating another position here, just for what we're talking about, is going to be a, a huge duplication of, of information that is already out there.

**IBACH:** Did you say how many in your testimony-- how many beekeepers are involved with your group now?

**GEORGE BUNNELL:** There's about 15 right now that are dues-paying members.

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**IBACH:** And are they mostly western Nebraska or are they across the state?

**GEORGE BUNNELL:** They vary from-- more in a central part of the state than, than the eastern part of the state.

**IBACH:** Are you guys the ones who are responsible for the State Fair display?

**GEORGE BUNNELL:** No. That's the Nebraska Beekeepers Association.

**IBACH:** OK. And so would they have a presence or do you know-- would they have a presence with the university or with extension?

**GEORGE BUNNELL:** They do, yes.

**IBACH:** OK. Great. All right. Thank you very much.

**DeKAY:** I had a couple questions.

**GEORGE BUNNELL:** Sure.

**DeKAY:** You just touched on it. What's the difference between your association and the Nebraska Beekeepers then?

**GEORGE BUNNELL:** We represent commercial beekeepers.

**DeKAY:** OK.

**GEORGE BUNNELL:** We, we have a requirement to-- should have to own at least 50 colonies of bees to be a member and, and have skin in the game. I mean, this has always been one of my, I guess, complaints about-- as with beekeepers-- I mean, the definition in this bill says anybody that owns a hive of bees basically is a beekeeper. But if we want to talk about farmers in the state, we don't include gardeners that have, say, sweet corn in their yard. We don't consider them corn growers. Technically they are, but they're not farmers. And I really think the, the commercial beekeeping industry was not being represented before. That's why we reinstituted this group and we, we think that the fact that we make our living, we put our heart and soul into our business, that we should have a little bit more say in what happens in how the industry's regulated.

**DeKAY:** Now, you said you have 15 members. Is that the whole state or just a region of the state?

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**GEORGE BUNNELL:** Well, it-- they vary from all over. We're, we're pretty new again, so we're, we're still growing, but.

**DeKAY:** So there are more than 15 commercial--

**GEORGE BUNNELL:** Yes. I, I would guess to say there's probably roughly 30 to, to 40 commercial producers in the state.

**DeKAY:** Are all of them in-state beekeepers? My question--

**GEORGE BUNNELL:** Not-- most of them are, but not all of them.

**DeKAY:** My question is, I-- I know beekeepers that either winter their bees in California or in Texas. I was just wondering if--

**GEORGE BUNNELL:** Well, that's, that's all part of the business anymore. You can't make it in one place.

**DeKAY:** All right.

**GEORGE BUNNELL:** Me as a business-- I would not be in business if it was not for almond pollination in California. I mean, there's just not enough cash flow to make it work producing honey anymore.

**DeKAY:** Well, we, we've had bees on our place that-- they were based in Nebraska, and then they go to Texas or California. But we did-- for a few years there. They-- had a California beekeepers that bring them to Nebraska, and then they take them back to the almond fields in California over the winter. So-- that was the point of my question, so.

**GEORGE BUNNELL:** Yes. Yes.

**DeKAY:** That's all I have. Any other questions? Seeing none. Thank you.

**GEORGE BUNNELL:** OK. Thank you.

**DeKAY:** Next opponent.

**TREY NELSON:** My name is Trey Nelson, T-r-e-y N-e-l-s-o-n. From here in Lincoln. Just to be upfront, I am the President of the Nebraska Beekeepers Association. I'm not speaking for the association. We didn't get a lot of feedback. And then in the listening session that we did have with Senator Holdcroft, most of the feedback was nothing. They just wanted nothing. So the rest is-- this is just me. Have a business here in Lincoln. We run bees, my family. We sell our honey to grocery stores, the university. We also sell beekeeping equipment, that kind of stuff. Originally, when the position was created at the University of

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Nebraska, it was 100% extension. And that has gone away. It's not 100% anymore. And that, I feel, is where a lot of the problems arise. People are, people are being pushed and pulled one way or the other. So the biggest problem-- I wanted to be a proponent for this because of that extension spot. However, the committee part frightens me a great deal specifically for this reason. I could pick three people for those positions that would have backed both of the previous bills. Obviously, those bills didn't do well, and there was a lot of opposition to them. On the flip side, I could pi-- obvi-- obviously I could pick three people that would just say every month, we don't need anything. We don't need anything. So I just think that the way it is written-- and then once that committee is formed, I think that's kind of where they were talking about. You could just start throwing anything out there that you want. And we can be right back to throwing back the last bill and saying, this is what we're advising we need when, obviously, like I said, people came out of the woodwork the last two years in opposing those two bills, and I feel for good reason that they did that. And really, that's the part-- I mean, George said a lot of it. That's the part that I wanted to address, just make you aware of both sides on that. But that's why, that's why I'm, I'm here to oppose it.

**DeKAY:** OK. Thank you. Are there any questions from the committee? Seeing none. Thank you. Next opponent. Any other opponents? Anyone in the neutral position?

**JUDY WU-SMART:** Hello. All right. My name is Dr. Judy Wu-Smart, spelled J-u-d-y W-u-S-m-a-r-t. I'm a professor at the University of Nebraska-Lincoln in the Department of Entomology. I want to first thank Senator Holdcroft and the committee for this opportunity. I'm acting on my own personal capacity as an expert and not as a representative of the university. I know a lot of you already know that many of the crops in Nebraska do rely on pollination services provided by insects, like our managed bees. I've included some of these facts regarding their contributions to alfalfa, vetch, sweet clover, a lot of the cattle forage that we need, sunflower, and then also a variety of fruits and vegetable crops. But today I kind of want to focus our attention on this national bee crisis that Senator Holdcroft briefly mentioned. Recent reports from commercial beekeepers highlight a dire situation that has not been known publicly. It's-- just hasn't been released because it's just happened in a few-- last few months. As of fall of August 2024, we had 2.7 million colonies across the U.S., but in recent months, over 1.1 million-- that's 40% of our nation's supply of managed commercial pollinators-- have died, have been lost. Many of the beekeepers are describing these losses as career ending, damages ranging from 60% to 100%. I've been granted special permission to share

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some preliminary results of a national survey that reveals that, in Nebraska, the average reported commercial loss rate was 67%, equating to an estimated loss of nearly 10,000 colonies. Most beekeepers in Nebraska do not transport their hives for pollination services in and out of the state. So they keep them here locally. We won't know the extent of the statewide losses until the weather warms and there's more access to these apiaries and we can do hive checks. I've compiled what I could find on the current status of beekeeping in Nebraska, and I'm giving you some graphics there. The NASS census shows that the beekeeping operations has grown from 126 in early 2000s-- when the apiary program was eliminated-- to now over 569 operations. And this is as of three years ago. During that same period, we've gone from 39,000 colonies to 16,000 colonies. A loss of an additional 9-- 10,000 colonies will impact the state. I cannot manage this on my own as a single person, as a single program. There was a question about the Department-- Ag's apiary program. We are contracted to help them do that service. So I'm here to just kind of talk to you guys about this urgency. And LB540 seeks to strengthen our ability to understand what's going on in the beekeeping industry, what we need to do to move forward. There's some things that beekeepers can manage in their own operations. There are some things they cannot. That includes habitat. That includes pesticide exposure. That includes bringing more resources for those bees so that they have proper nutrition, and, and that helps them with the health.

**DeKAY:** Could you sum--

**JUDY WU-SMART:** Oops. Sorry. Yes?

**DeKAY:** --sum up in a sentence or two?

**JUDY WU-SMART:** I'm sorry?

**DeKAY:** Do you want to sum up your statement in a sentence or two?

**JUDY WU-SMART:** Oh, no. That's, that's it. I just wanted to, to let you be aware of the situation. And I welcome any questions.

**DeKAY:** OK. Thank you. Senator Raybould.

**RAYBOULD:** Thank you, Dr. Wu-Smart. Can you tell us, what do you think we should be doing in the state of Nebraska to, to help fortify the bee colonies or prevent further collapse?

**JUDY WU-SMART:** Well, we really need our coordinated statewide actions. I mean, this is a really-- a cost-savings opportunity. We have money

being invested to provide pollinator habitat on roadsides, right? We've worked with the Department of Transportation on those types of things to create proper seed mixes that are low growing, low maintenance, really good for roadsides. But on the other hand, we have county road spraying and mowing that actually decreases the likelihood that those seedlings will stay. So just kind of having more coordinated actions across agencies and across levels at the local and state level will help us maybe encourage low-hanging fruit. Like, how do we-- how do we realign timing and spraying to make sure that our investments into these plantings don't go wasted? How do we better coordinate monitoring and exposure so that we can identify cropping systems that might become a danger, or mitigate that by using some more bee-friendly options in those systems? We just don't know enough. And in my position-- I'm an apiculture specialist. I need people in the roadsides department, the Department of Ag, Department of Energy and Environment, all of these agencies to kind of help us locate resources to help the beekeeping community. And that's really in habitat and pesticide exposure and looking at ways to restore lands that might be profitable for honeybees. So there's beekeepers who would like us to do some more work with bees for beef, you know. Looking at ways to encourage better lagoons in pasture systems that both benefit the bees as well as the cattle. So these are the types of projects and potential collaborations that I think a report that is working with multiple people can identify as, as statewide actions that we can move forward with. We can put together a report that says these are the things we can do. But without these agencies working together, we don't know if that's actually logi-- gis-- logistically possible or something that the agencies have resources to invest in. So that's why it's kind of important to have this kind of advisory board where a lot of people are at the tables saying, this is what we have in our system and this is what we can work towards.

**DeKAY:** Senator Raybould.

**RAYBOULD:** So I have another question. And I'm sorry. I was late to the start of this, so I don't know if a gentleman named Luke Norris testified. Did he testify? So it seems like he's the apiary manager for the UNL Bee Lab. But he went on and-- he's on the board of the Nebraska Beekeepers Association, but he said in his testimony that there is the, the bee parasite. And it's-- I don't know if I can pronounce it. Tropliata-- troplialaps--

**JUDY WU-SMART:** Tropilaelaps. Mm-hmm.

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**RAYBOULD:** --mites arriving in America, so it's only a matter of time before it really comes to our state of Nebraska and really does even more damage than the current collapse that we're seeing. So can you tell us a little bit more about that parasite?

**JUDY WU-SMART:** Yes. There's a number of these parasites that-- well, Varroa mite is the biggest challenge that we have in beekeeper management. And this is a, a ectoparasite that, that feeds on the bees and transfers viruses that can be very detrimental to the hive. So there's a lot of management that is-- goes into teaching beekeepers how to properly identify and control this pest. Tropilaelaps is a, is a nasty cousin of this mite that beekeepers are worried that once it becomes introduced into our country, it's going to spread like wildfire. Very similar to what Varroa destructor has done to our industry. So that is kind of a lot of the preparation of our industry, and USDA is keeping an eye out and putting a lot of educational material to let people know about this danger. But right now, it's not in the country. We're just trying to talk about if something like this were to come into the country. There's no form of communication. There's no infrastructure that can really deal with it in this state. Other states might be better prepared for that, but our state does not have that-- the readiness for it.

**DeKAY:** Senator Raybould.

**RAYBOULD:** One more question. So you mentioned that, you know, cross collaboration is what is needed between different departments that would encourage a bee habitat environment. But are there any states that come to mind that they're actually doing that? I, I'm guessing maybe California because they want to preserve and protect their almond crop, and so they bring in more bees. But what are they doing? Or is there some state that comes to mind that's really-- has that coordination and collaboration going on?

**JUDY WU-SMART:** There are actually a few dozen states. They're under the guise of statewide managed pollinator protection plans, or MP3s. A lot of the different states have established it, but that is North Dakota, South Dakota, Minnesota, California, Oregon. Many of these states have created what they call their statewide managed pollinator protection plan. And it is formed typically with a board, advisory board, or a governor's committee. And they identify across agencies what are the things that are most urgent that we can work on to improve health. Some of the advisory boards focus a lot on conserving natural resources and boosting wild bees, like Mi-- Minnesota's report. But South Dakota and Oregon are heavily agricultural. So some of their reports-- actually,

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their actionable items are more looking at, how do we boost bee-friendly cropping systems? How do we encourage cover crops to go into that rotation so that not only does it benefit the farmers but also provides extra forage for the bees? And so their statewide managed plans are very heavily focused on ag, while other states have chosen to take more of a natural resources focus. So it is really formed by that advisory board.

**RAYBOULD:** Sorry. I do have one more. So-- sorry. This is-- probably the dumb question is, does the state of Nebraska have a statewide management plan--

**JUDY WU-SMART:** No.

**RAYBOULD:** --in place? OK. That's the whole point of this hearing, right?

**JUDY WU-SMART:** Yes.

**RAYBOULD:** Got it.

**JUDY WU-SMART:** That is the ho-- that is the hopeful outcome of an advi-- this I-- advisory board.

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

**DeKAY:** Are there any other questions from the committee? Seeing none. Thank you.

**JUDY WU-SMART:** Thank you.

**DeKAY:** Next person in the neutral capacity.

**MATT LANCE:** Hello, everybody. My name is Matt Lance. I originally did not plan on testifying while coming here, but I felt as though I should probably lend a little context. First off, I'm in a very unique position. I'm the event coordinator for the Nebraska Beekeeping Association, as well as several other things. My day job, I'm outside sales. I travel the western half of Iowa, the entire state of Nebraska, and the western half of South Dakota. I get to speak at beekeeping conferences all over the Midwest and vendor as well. Everything from Des Moines to Denver, basically. We run-- I'm in Ravenna, Nebraska. We run about 300 to 400 production colonies to go along with my full-time job. We make an average of 80 to 100 pounds of honey per colony simply because we get to move bees all over the state. We're involved with the Omaha Bee Club. I'm a silent member on the Nebraska Honey Producers

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Group as well. And because I'm halfway between what would be considered a commercial beekeeper and a hobbyist, I get to see it from all sides. We'll sell approximately 500 to 600 nucs a year-- that's nucleus colonies-- to backyard beekeepers. So while the Omaha Bee Club might have 400 members at its highest, that average is about three colonies per member. The 15 members of the Nebraska Honey Producers averages about 1,700 colonies per person. So that gives you an idea as the ratio between groups. You might have a lot less people-- meaning you have a lot less funds coming in-- but you have the dollars in the bees. It is definitely a prof-- a professional side of things. As was said before, when the Nebraska Beekeeping Association put out a survey for this, the majority of the people that responded to that survey said they didn't want any legislation at all. There is a dormant Apiary Act on the books right now, a lot of which is either-- basically-- should be gotten rid of or changed at the very least. We get to talk to people and visit with people all over the whole state, hobbyists all the way up to commercial guys. We, we do things differently than a lot of different people, but that doesn't mean it's right or wrong or otherwise. A lot of what you're talking about-- the losses is Varroa mites throughout. But the commercial industry has been using Amitraz as the linchpin for the last 20 years. Amitraz is a synthetic chemical. It doesn't work anymore. So just like any other rancher, farmer, we've done it this way our whole life. We're not going to change now. That's what we're seeing now on a commercial level. So, you know, things change. You always have ups and downs. Beekeeping is 30 years of ranching every year. You can grow by 300% and lose by 90% in the same year. Every year. Now, that's tough to do, and it's a lot of work on the beekeeper. And it takes a lot of effort and dollars sometimes, but it can be done.

**DeKAY:** Any questions from the committee?

**MATT LANCE:** Yes.

**DeKAY:** Senator Raybould.

**RAYBOULD:** Yeah. Thank you for testifying. Even though you're in the neutral, what do you think we should be doing?

**MATT LANCE:** Do you want the real answer?

**RAYBOULD:** Yeah.

**MATT LANCE:** I mean, it, it-- what it comes down to is, is if you really want to help honeybees in, in Nebraska, you have to ban things that you're never going to ban. You have to get rid of certain fungicides.

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You have to get rid of neonicotinoids. You have to get rid of Roundup. You have to get rid of different types of Dicamba. That's never going to happen. Everybody knows that. Right? So as a beekeeper, we just don't put our bees in those areas. Are those areas becoming-- that, that we can take them to becoming fewer and further between? Yes, but that's just kind of the nature of the business to some extent. Our bees are trespassers. They're going to go two miles. Right? If I put my bees near a cornfield and they're out in the cornfield for whatever reason, they get sprayed, that's kind of on me. Right? But I have to know that going in. And we don't-- since we're a corn and bean state, we're not a pasture, rangeland state, we don't have the same limitations or desirability from commercial beekeepers across the country that the Dakotas do. Because you can go to West River, South Dakota-- which I see all the time-- and there's miles, hundreds of miles to the next cornfield. That's not the case in Nebraska. We also have the Sandhills. Sugar sand doesn't produce anything for honeybees. You know, the, the flowers they need will not grow on sugar sand. So that's a-- 30% of Nebraska's useless when it comes to that. So what should we do? I mean, how much of an impact do you want to have? To answer that question.

**RAYBOULD:** OK. Thank you.

**DeKAY:** Senator Ibach.

**IBACH:** Thank you very much. Thanks for your testimony and for all your statistics. Do you work at all with the university or with any research programs for your data? Because if you travel around and speak at these different shows and, and such, where do you get your data or where-- what's your message when you visit these places?

**MATT LANCE:** So to answer your first question first, yes. So I'm currently in a queen research project with UNL. I-- one of my yards, we're, we're testing different types of queens from different types of producers to see what does better here and so on, and then how many-- how big do they grow? How many splits do they have? What's the mentality of them? We, we raise 1,000, 1,500 queens a year already. We-- you can instrumental inseminate queens just like you can cattle. And you can have genetic lines that way for specific purposes. We do that on our own. So we're unique where we can do that stuff too. Refresh me and my memory on your next questions.

**IBACH:** I just wondered where you get the data, where you-- when you travel around and speak at different shows, what-- I mean, what's your, what's your messaging and where do you get that data?

**MATT LANCE:** OK. So when I speak, I teach people practical abilities of how to do stuff. So we're going to end up with probably an 80% success rate for wintering this year. We were at about 8% loss up until the last wintertime cold snap we had. So we'll lose a few after that. So we'll end up with at most a 20% loss for the year, which is kind of common for us. We've had as much as 30% and-- you know. But, but we're down to around that 20% every year. Where do I get our, our data? Well, it is the information age. We've, you know, read-- I'm, I'm enough of a geek or a nerd, if you want to call it that, that a scientific paper, I get invigorated reading them. So I'm working a little bit with research projects of viral research with Declan Schroeder, Dr. Declan out of University of Minnesota. Just different things to find out what can work, what doesn't work, what does. One of the things that we are capable of doing-- because we keep to ourself and we do our own thing-- is we try things outside the box. We read from Randy Oliver a lot. We read other scientific research, University of Georgia, different things around the country, and just talk to people. You know, we talk to people who try different things. Whether they'll tell you that or not is of little concern. And we have to filter through it to find out what's actually going to be useful here.

**IBACH:** All right. Thank you very much. Thank you, Chair.

**DeKAY:** Thank you. Any other questions? How many bees make up a colony? What's the average number in a colony?

**MATT LANCE:** Depends on the time of year. So in the middle of summer, when the honey flow is at its highest, it might be 60,000 bees in a colony. But when it's middle of winter, you can be as low as, you know, 2,000, 3,000 pretty readily. So it-- average, I would say 20,000 bees throughout the year. It just kind of depends.

**DeKAY:** And then queen bees. How many queen bees do you need? Is that one per colony or is that more?

**MATT LANCE:** You need one. I mean, I've seen up to three that live and not fight each other, but that's more of a unique rarity.

**DeKAY:** And then different bee producers buy queen bees from you then or--

**MATT LANCE:** Yeah, most-- mostly hobbyists. So people with one or two colonies in their backyards that they either want to make a split to make a new colony or they've had, you know, a colony swarm. So they don't have a queen. So they got to replace a queen, those kinds of

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things. So we-- yeah. We try to raise docile bees, ones that you don't need a suit to wear if you don't have to.

**DeKAY:** So if you're talking about losing half your bees, is that losing through-- whatever event causes it, that losing half the colony or losing half of your colonies?

**MATT LANCE:** So that's, that's losing half of them in general, where half of them are left alive. So-- and most people talk about that in the wintertime sense. So if it's a 50% loss average, if you want 10 colonies in the spring, you go into winter preemptively with 20. Mother Nature, she, she doesn't care if it's a 90-plus percent loss. If she has one colony in the spring, that colony swarms ten times throughout the year and there's one colony left alive the next spring, that's a 100% success rate to Mother Nature. We're just trying to make that a little bit more efficient as beekeepers. Now, bottom line means you make it as efficient as you possibly can, otherwise you don't make your bottom line. But for Mother Nature-wise, that's what she wants.

**DeKAY:** So you're saying Mother Nature's a silent partner with you then?

**MATT LANCE:** She's not a partner.

**DeKAY:** OK. That's all the questions I have. Any other questions from the committee? Seeing none. Thank you.

**MATT LANCE:** Thank you.

**DeKAY:** Anyone else in the neutral capacity? Anyone in the neutral? Seeing none. As Senator Holdcroft comes up, for the comments of record: there were 16 proponents. 38 opponents, and no one in the neutral capacity.

**HOLDCROFT:** Thank you, Chairman DeKay and members of the Agriculture Committee. I was glad Matt came up and talked to you. I buy my nucs from, from him. He's kind of a legend, really, I think-- in central Nebraska. I think he's-- you know, like he said, he's kind of halfway between hobbyist and, and commercial. But he's-- you know, he really does reach out to the hobbyists and holds, you know, training sessions in his apiary. And he's very-- and he shows up in a lot of-- a lot of conferences with, you know, equipment and, and does instruction. So he's really-- appreciate his, his comments. You know, you've seen what we got here. I mean, we've got, we've got professional beekeepers who say, we know what to do and don't bother us. And then we have others that say, you know, we, we have our clubs and our organizations. Don't bother us. And then you have the unspoken hobbyists out there who are,

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are struggling every day, you know, and and losing half their hives every winter and are-- would really like to have some kind of resource from the state to give them guidance on, on how to treat the, you know, the Varroa mites and, and everything else. So, you know, we have the disparate groups, and really the idea here is to try and, you know, have some kind of advisory group at-- I think coordinated by the Department of Agriculture to, to, you know, to decide how do we want to manage our, our beekeepers in Nebraska-- maybe that's a wrong term, manage beekeepers-- but to help our beekeepers address some of these big challenges that, that we have. The-- you know, it, it, it was mentioned that we had a listening session. My original thought on this bill was to have a registry. I think those are the two key things for me, is to have a registry so you get a handle on how many and where they are on-- and even, you know, how to communicate with them, you know, with email or whatever, so that you could-- if you, if you had some kind of a newsletter or alert about a, a pest, you could, you could broadcast that out. And I thought a, a registry would help with that. And also the advisory board. Those are the two things my-- what I thought in my original bill. But we heard-- we, we heard our-- from, from our beekeepers they don't want the registry. They don't want to, to, to be regulated. But they would like some help with an extension educator. So we added that into the bill based on what the, what the beekeepers asked for. So those are the two pieces. And the advisory board professional beekeeper said there's only one position for a professional on there. It says at least one. And the idea was to try to keep it as small as possible. But it's kind of up to the Director of Agriculture who's overall in charge of this. I don't expect that she'll actually chair the board. I expect she will, you know, have someone else kind of chair this. But the idea is, you know, manage it from, from the state level. And if they decide after one year everything's just fine, we don't need any help and the beekeepers don't want it and then-- you know, let it die. But I think we need, we need-- I mean, there-- as you heard from Dr. Wu-Smart, there's some serious issues out there. And these are our pollinators. And as the bee goes, so do our crops. Not so much with corn and, and soybean-- although, Matt, Matt will make a case that you could enhance soybean production with some bee pollination. But we-- you know, it's not a big impact for Nebraska typically. But it could be. I mean-- you know, it seems like we say, well, you know, honey production in, in, in Nebraska's not much. It's not going to get any bigger. Well, not if you're not trying. And so-- bring this organization together and see if we can come up with some ideas on how to, how to pre-- how to, how to increase honey production and bee production in, in, in Nebraska. So that's, that's what it is. It's really simple. It's really a, a, a cheap bill. These

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are going to be volunteers on the advisory board. They expected that they're going to meet, you know, probably by Zoom. So there's not going to be any travel. And, and then we'll have the, the extension educator who will probably run around \$100,000 for, for salary and, and benefits. So that's the bill. And I'm happy to answer any questions.

**DeKAY:** Are there any questions? Senator Raybould.

**RAYBOULD:** Thank you, Senator Holdcroft. It does seem like we need to come up with a solution to our, our bee potential crisis. And-- so I guess-- I'm wondering is-- would it be an appropriate start to suggest that maybe this might be an interim study to get those groups together that Dr. Wu-Smart mentioned-- you, you know, Nebraska Department of Transportation and the counties as they move their wheat operations along the roads-- I don't know. But would that be, like, a, a better start or--

**HOLDCROFT:** Well, we can certainly look into that. This was-- I mean, it's really-- if you look at the, the composition of the, of the advisory board, it's mostly beekeepers. And then the-- beekeepers, professional hobbyists, some from organizations, various organizations. And so it's-- the idea was try to come up with some ideas to help beekeepers. So I-- you know, I would recommend going forward with this small advisory group and see what they recommend as far as the next step.

**RAYBOULD:** OK. Thank you.

**DeKAY:** Any other questions? Thank you. With that, that ends the hearing on LB540. Next, LB476. Senator Guereca. You're welcome to open.

**GUERECA:** Good afternoon, Chairman DeKay, members of the Agriculture Committee. My name is Senator Dunixi Guereca. It's D-u-n-i-x-i G-u-e-r-e-c-a. And I'm introducing LB476. Essentially, this is a technical bill that helps clean up some language in the Foreign-Owned Real Estate Security Act. Last year, Senator DeKay introduced this-- and this Legislature passed LB1301, which modernized rural land ownership laws and created the Foreign-Owned Real Estate National Security Act. I understand the spirit of the act was to ensure that hostile foreign governments, foreign corporations, and sanctioned entities are prohibited from owning rural-- ownership in Nebraska-- of rural property in Nebraska. My office appreciates all the work Senator DeKay and his staff had put into that effort. And certainly my office is not opposed to commonsense strategies to protect Nebraska, the people of our state, and our economy from bad actors who intend harm.

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The spirit of LB476 is just to ensure that members of immigrant Nebraskans working in rural Nebraska, particularly in our agriculture and meatpacker industries, are not inadvertently subject to the provisions of the Foreign-Owned Real Estate National Security Act. And there's two scenarios where the act could be interpreted to allow that to happen as written. These scenarios are advance parole, which is a unique, technical procedure in immigration law that allows an immigrant to leave the United States and return in scenarios where someone must leave the country for a period of time to normalize their immigration status. The act also ensures that when land is held under these scenarios it doesn't constitute an ongoing violation of the act. I want to emphasize that these are very rare scenarios, but important to account for nevertheless. Additionally, the bill introduces a subsection designed to ensure that this bill would not apply to any restricted entities or people working on their behalf. So it doesn't create a loophole to, to the spirit of, of the original bill. I'm happy to answer any question the committee has, but I've invited two lawyers to testify: one from Nebraska Appleseed who could answer questions about the bill and the language in it; and another from Sierra who practices immigration law and could help answer some of the more nuanced questions that those immigration procedures-- you have them. Thank you again. Open to any questions.

**DeKAY:** Thank you. Are there any questions from the committee?

**GUERECA:** All right.

**DeKAY:** Seeing none. Thank you. First proponent.

**NICK GRANDGENETT:** Well, good afternoon. My name is Nick Grandgenett, spelled N-i-c-k G-r-a-n-d-g-e-n-e-t-t. I'm an attorney with Nebraska Appleseed, testifying in support of LB476. So we understand the national security concern that L-- last year's LB1301 and the underlying act, the Foreign-Owned Real Estate National Security Act, seeked to address. Like most Nebraskans, we agree we don't want to see hostile foreign governments or corporations purchasing rural property and understand the risk that this creates. We also appreciate the attention to detail from Senators DeKay, Guereca, and their offices that they bring to the table here. This bill, LB476, like LB7, is just designed to make some clarifications with respect to LB1301. The spirit of this bill is to ensure the act is not inadvertently applied to local immigrant Nebraskans. Like Senator Guereca said, it applies to advance parole, which is an immigration procedure that people can use if they have an emergency in their native country and need to leave and reenter the United States for a period of time. Immigration procedures related

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to when a person needs to leave the United States to cure issues related to admissibility and an underlying immigration application, and also immigrants who purpo-- purchase a rural property interest while work authorized pursuant to 8 CFR Section 274a.12. So the bill clarifies that a rural property interest held in these scenarios is not an ongoing violation of the act. I also want to highlight subsection (3) of the bill, which you'll find on page 6, line 15. This subsection ensures that these safeguards and clarifications for immigrant community members cannot be abused by restricted entities or other bad actors. Again, we understand the drafting challenges that LB1301 presents and appreciate the efforts of this committee to ensure the law is workable. We know immigration law is one of the most complicated areas of federal law, and LB1301 was seeking to update some of the oldest laws that we have in our state code. And I think any time you have the intersection between, you know, state and federal law and really old and really complicated law, there's just bound to be some rough patches that have to be smoothed out. That's all this bill is doing. And it's in that spirit that we ask this committee to advance it to General File. Thank you.

**DeKAY:** Thank you. Are there any questions from the committee? Senator Raybould.

**RAYBOULD:** Thank you, Mr. Grandgenett. Can you help me understand? What is, what is the problem or what are the issues that we're trying to solve by this legislation?

**NICK GRANDGENETT:** I think it just comes down to what happens if a person has permission to leave the United States and come back into the United States. Right now, the, the nonresident alien definition is tied to the IRS tax code, and that doesn't necessarily contemplate a scenario where somebody leaves and comes back. So what we're doing is just asking for an exception to better clarify with respect to the INA, which is a different body of federal law, that these specific scenarios also be accepted.

**DeKAY:** Are you-- go ahead.

**RAYBOULD:** Is it normal and customary? Isn't that, like, a federal jurisdiction that they clarify that? And you're saying there's an inconsistency between the IRS and what other agency?

**NICK GRANDGENETT:** So the-- I think the, the struggle we have here in the Foreign-Owned Real Estate National Security Act is there are certain terms that I think need to be tied to the federal statutes.

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It's a state law that's intersectioning with the federal code, whether it's with the restricted entities or immigration law. And what this is doing is just clarifying and harmonizing our state law with those. Sometimes it makes sense to, I think, cite to the definitions in the, the tax code. Other times, it makes sense with these procedures to cite to the procedures that-- the INA-- the immigration code.

**RAYBOULD:** OK. Thank you. I think I get it.

**NICK GRANDGENETT:** Sure.

**RAYBOULD:** Sorry.

**NICK GRANDGENETT:** No. It's complicated, so I appreciate, appreciate the question.

**DeKAY:** Thank you. Any other questions? These-- when you talked about the people leaving, the-- they, they are not citizens, but they are here legally, right?

**NICK GRANDGENETT:** Sorry. Can you repeat the question?

**DeKAY:** If you, if you have people leaving the country for emergency, whatever parole that you said, am I correct that these people are not citizens, but they are here legally, right?

**NICK GRANDGENETT:** I think the-- sometimes when I hear terms like undocumented or legal alien, I think one struggle with that is those terms are not defined in the federal code. So everything in this underlying act, whether it's the definition of a nonresident alien, is again tied to the federal code. So that part of the code is tied to 26 CFR Section 301.7701. The work authorized people that this bill applies to, in addition to the immigration procedures, it's tied to 8 CFR Section 274a.12. And then in some scenarios, people would be leaving the United States to cure a defect in the-- their immigration application related to admissibility. So they would be going through the proper procedures to fix the underlying problem.

**DeKAY:** OK. Could you possibly elaborate just a little bit more on what the individuals who would be covered by this regulation and how they go about qualifying for that status? Is there any vetting process for them on that or no?

**NICK GRANDGENETT:** Both USCIS and DHS have very, you know, intensive vetting processes where they try to ensure that the people who are coming into the United States are safe. They have to meet a variety of

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qualifications, demonstrate that they aren't a danger to national security, demonstrate that they aren't-- don't have any serious criminal convictions. So I do think that the process as a whole is designed to flag those issues if they pop up.

**DeKAY:** And then with these, could you describe what kind of property interests might be acquired by aliens and who are pre-- presently legal?

**NICK GRANDGENETT:** So I think the, the key in the act is to, to understand that some people are going to be living three miles outside of a city. So the underlying act applies to, again, people who are out-- three miles outside of the city. We want to ensure that they have that rural property interest, whether it's a house, land, or something else, it's exempt. So that, that interest is already exempted if they live in an urban center. Right? So if you live in, like, Crete, for example, and you work at Smithfield, your, your rural property-- or, your urban property interest would be exempted. But if you live four miles outside the community and you need to use one of these really unique immigration procedures, I think that's why we want to create the clarification to make sure that they too are not inadvertently being subjected to the act.

**DeKAY:** How common is it for nonresident aliens to be purchasing land outside that three-mile radius?

**NICK GRANDGENETT:** I think it's, it's pretty rare. You know, I think most people, they live in town and will commute to a meatpacking plant. But I don't know that necessarily people are tracking where a three-mile boundary is. I also worry a little bit about real estate agents. If they don't have clarity in the law, I think they might ha-- be apprehensive to sell property, rural property to immigrants.

**DeKAY:** OK. Thank you.

**NICK GRANDGENETT:** Yeah. Thank you.

**DeKAY:** Any other questions? Seeing-- you got-- go ahead. Senator Ibach.

**IBACH:** Thank you. Your question kind of spurred a question in me. Is, is there a minimum amount of land or a maximum amount of land that, that, that qualifies?

**NICK GRANDGENETT:** As I remember in the bill, it's, it's, it's less about how much land and it's about where the land is. So if you're three miles outside of a city or a town, that's where the Foreign-Owned

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Real Estate National Security Act I think really applies to the person. But if you're within land-- or, within a urban center, regardless of how much land you own, the, the law just wouldn't apply to you.

**IBACH:** OK. I ask because I know of, of folks that have been here, came with their parents when they were infants.

**NICK GRANDGENETT:** For sure.

**IBACH:** They certainly-- certainly productive in society. And I'm just curious if, if they would attempt to buy any type of parcel or a minimum or a maximum amount of land that might have a house on it, if they would qualify, dis-- be disqualified under this.

**NICK GRANDGENETT:** I think without this amendment, if they try to use one of these unique procedures, that could be an issue. So if you're thinking of DACA, for example, it can be possible for somebody with DACA before they apply for some other form of immigration status to need to leave the United States to cure an issue with admissibility and then come back in and, you know, fix their underlying immigration status. And this proposal here would ensure that their property interests while they use that procedure isn't subject to the underlying act.

**IBACH:** Is secure. OK. Thank you.

**DeKAY:** Any other questions? Seeing none. Thank you.

**NICK GRANDGENETT:** Thank you.

**DeKAY:** Next proponent.

**NATASHA NASEEM:** Good afternoon.

**DeKAY:** Good afternoon.

**NATASHA NASEEM:** My name is Natasha Naseem, N-a-t-a-s-h-a N-a-s-e-e-m.

**DeKAY:** Miss, could I have you speak up just a little bit? I'm hard of hearing. Sorry.

**NATASHA NASEEM:** I've had some bad luck with these microphones. All right. Is that better?

**DeKAY:** That's better.

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**NATASHA NASEEM:** OK. So I'm Natasha Naseem, N-a-t-a-s-h-a N-a-s-e-e-m. And I'm an attorney with the Center for Immigrant and Refugee Advancement. Here to offer our support for LB476. Our organization serves immigrants and refugees across Nebraska by providing free legal representation, social work services, and refugee resettlement. We support LB476 because it provides clarity for our clients and immigrant community members by making specific changes to the Foreign-Owned Real Estate National Security Act. We recognize that the aim of this act is to address the issue of hostile foreign governments or corporations purchasing rural property in Nebraska. LB476 importantly clarifies exemptions so that our immigrant community members are not inadvertently treated as restricted entities defined in the act. We understand that is not the intent of the underlying act, and so we appreciate Senator Guereca's bill. In our work, we see situations arise where clients need to leave the United States for a short period of time for education, employment, or humanitarian purposes-- advance parole, as we've talked about today. In these instances, eligible clients can apply for advance parole to receive permission in-- to return to the United States. There are also instances where individuals leave the United States to resolve issues with their immigration cases and may not be able to return in a short period of time. LB476, if passed, would better harmonize Nebraska's Foreign-Owned real Estate National Security Act with the federal INA. What we see most frequently in our work are clients who can apply to receive work authorization while they navigate the immigration process. The ability to work is critical, and work authorization allows immigrants to further support their families, our communities, and our state economy. For this reason, it is helpful that LB476 clarifies that immigrant community members authorized to work under 8 CFR 274a.12 are not subject to the act. Again, we appreciate the opportunity to highlight and discuss LB476 and ensure our state law is in alignment with federal law. And we thank the committee for your time. And I'm happy to answer any questions.

**DeKAY:** Thank you. Where-- you know, the bill appear-- you know, talks about property interests acquired by people. My question would be is, say, if someone is here legally but later leaves for some reason and, and perhaps they are deported because they committed a crime, would that person's interest be exempt by this act or not?

**NATASHA NASEEM:** If they were deported while they were outside of the U.S. or--

**DeKAY:** Yeah. Well-- but leaves for some reason. If they were on that emergency parole or whatever--

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**NATASHA NASEEM:** Oh. If they receive--

**DeKAY:** --and when they come back, they commit a crime and then deported, would they be exempted from that act or not?

**NATASHA NASEEM:** I-- I will admit I'm not certain. I think that for a person to receive advance parole, they have to have typically some status, like DACA, pending-- or have already received it. Excuse me. But they-- I-- to clarify, I don't think you could receive advance parole and be in removal proceedings at the same time. If you're subject to deportation, it's not possible for you to receive advance parole. So you wouldn't receive that permission to reenter the United States anyway. Does that answer your question?

**DeKAY:** Yeah.

**NATASHA NASEEM:** I'm sorry, sir.

**DeKAY:** OK. Thank you.

**NATASHA NASEEM:** Yeah. Of course.

**DeKAY:** Any other questions? Seeing none. Thank you.

**NATASHA NASEEM:** Thank you.

**DeKAY:** Next proponent. Seeing none. First opponent. Seeing none. First one in neutral capacity. Seeing none. As Senator Guereca comes up to close, for the position comments: there were 3 proponents, 13 opponents, and 0 in the neutral capacity.

**GUERECA:** Thank you, Chairman. Like I said, it's kind of a pretty heady cleanup bill. But it's just-- folks that are, you know, that have work permits, that are, that are working the process, making sure that they feel comfortable investing, like, in an acreage or something, right, and they work at Smithfield, want to have a little acreage outside of town, make sure that they feel comfortable and confident that their investment will be secure. But, yeah. Any questions?

**DeKAY:** Are there any questions for the senator? Just a comment or so. I wish we had got to it today. We do have-- we did have LB7 scheduled for today with the-- two amendments to it. I think this would clarify a lot of things that we're wanting visit about today. So I appreciate you bringing this and make sure that we do things the right way in the State of Nebraska, so thank you very much.

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**GUERECA:** Thank you, Senator. Thank you, committee.

**DeKAY:** With that, that ends the hearing on LB476. Next, LB638. With Senator Ibach. And you are welcome to open.

**IBACH:** Thank you very much. It's hard to get-- find good help. Good afternoon, Chairman DeKay and fellow members of the Ag Committee. My name is Senator Teresa Ibach, spelled T-e-r-e-s-a I-b-a-c-h. Representing District 44. I'm here today to present LB638, a follow-up to the passage of last year's LB1368, which adopted the Nitrogen Reduction Incentive Act. As background for those of you new to this committee, I direct your attention to the most recent map showing Nebraska has a nitrate problem, which Tyler is bringing down now. The premise behind my original bill last year was that we must all work together to protect Nebraska's most precious resource: our water. We must be proactive instead of reactive, and such was the intent of LB1368, which passed with the legisla-- through the Legislature last year unanimously. LB1368 encouraged farmers to adopt efficient and sustainable agricultural practices, including the proper use of biological nitrogen products. The Nebraska Department of Natural Resources, in partnership with the natural resources districts-- which are also known to us as NRDs-- developed an incentive program in eight short months, which was very impressive and I'm very thankful. The program incentivized farmers to reduce the use of commercial synthetic fertilizers and incorporate new technologies. Without going into all the detail, it is safe to say the program has been met with great success with just one challenge: there is more interest than money, which came as no surprise to me. As I shared with the committee and our colleagues last year, the plan was to pass LB1368, designed-- design the program, and get it up and running quickly to impact this season, this 2025 growing season, then come back-- then come back and seek a significant source of funding this year. So the goal was to get it implemented, use it this year, and then come back and find additional funding this year. As drafted, LB638 sought \$25 million over five years from the Environmental Trust. This Nebraska-- the Nebraska Environmental Trust was the original intent as the funding source for this bill last year. After visiting with the trust's executive director, Mr. Karl Eimsheim-- I-- Elmshaeuser, I provided an amendment that will appropriate \$5 million from the Water Resources Cash Fund for this program rather than having the Department of Natural Resources apply for the grant this year from the Environmental Trust. An additional change will be needed to AM379 to secure funding in future years, and I provided you a rough draft of that language in the packet that's coming down. However, I've also been told recently that all the money in this fund may be allocated, so we're exploring other funding

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options but still sticking to this fund as a potential opportunity. I also want to share with you the-- with the committee that there are, are conversations happening with private philanthropic community about how we work together to protect Nebraska's precious water, protect our citizens, and ensure that our farmers and producers are able to successfully compete on a global stage. We need to think bigger-- as in millions of dollars. And if we want to rin-- win this race, we have to think globally. I'm excited about those conversations, and I believe there will be some of these private philanthropic investments at the table as well in the future. The commitment we make this year as a state will help send a powerful message not only to the private sector but to our producers as well. The legislation this body passed last year caught the attention of other states who also understand that opportuni-- that opportunities exist for bioagriculture. Governor Pillen understands this opportunity before us. And finding significant funding that helps producers across Nebraska be the best stewards of our land is key. We not only want to participate, but we also want to win. As a reminder, this program is not designed to be in place long term. Once our farmers make use of these processes and understand that they work, there will be no need for incentives, which is why this program sunsets in five years. If you haven't read the recent article published by the Flat Water Free Press about nitrates, I encourage you to do so. In my mind, there isn't a more pressing issue for our state. Clean water is essential to Nebraska. I also want to give a shout-out to our hardworking Department of Natural Resources and to our NRDs. Not only did they put together a program in eight short months, but they actually executed it very efficiently. The only challenge now is more demand than money available. In conclusion, the intent of the Nitrogen Reduction Incentive Act is to lead to the adoption of new farming practices and adopting emergen-- emerging technologies, which will help the state solve problems faster. This is what I aim to do as we continue to fund this very important initiative. Last year saw great success with more than double the application requests as funds available. I'm eager to right the ship and establish an appropriation for the program that will support producers for the next four years. Thank you for your time. I look forward to answering any of your questions. And appreciate your, your support of, of this bill. Thank you.

**DeKAY:** Thank you. Senator Raybould.

**RAYBOULD:** Thank you, Senator Ibach. Apparently everybody loves this program. They've love this program. But the majority of opponents hates the fact that the funding would come from the Nebraska Environmental

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Trust. And I appreciate your efforts to try to find more funding. So absent the funding, what's the-- what's your next option?

**IBACH:** Well, I think we will get the funding. But if you look at the mission of the Environmental Trust, it's to provide clean air and clean water for the state. I actually think that this bill falls into the qualifications for the funding. And looking at the Water Resources Fund, which the Environmental Trust funds, that's where we got our original million dollars last year. And so I don't, I don't think that the Environmental Trust-- I mean, I know a lot of people look to it now. I really appreciate and admire the way that they've-- the new director has actually taken charge of the fund and, and made the necessary changes to make it more efficient and more effective, but I actually think that this bill falls under that mission of the Environmental Trust. So I'm really hoping to partner with them. If nothing more than the messaging, because I think their message is our message in that clean water, nitrate-free water is the goal. It's just, how do we get there? And like I mentioned in my opening statement, we're sunsetting this in five years. So the emer-- the, the urgency can't be underestimated.

**RAYBOULD:** Thank you.

**DeKAY:** Thank you. Any other questions? Senator Kauth.

**KAUTH:** Thank you, Chair DeKay. Senator Ibach, how much money is in that fund right now?

**IBACH:** There is-- well, the Environmental Trust, I think NRDs will speak to that. If you look at the, at the amount that's in the Water Resources Fund as appropriated from the Environmental Trust Fund, there's about \$41 million in there right now. And so it's our understanding that, that-- majority of that has been spoken for in other programs. We still think that we can fit within their, their-- as witnessed last year when we got the first million dollars, we think we still fit within that designation.

**KAUTH:** And what-- you said it's spoken for. So what are some of the other progra-- the water-specific programs that are used for this? Because-- you and I've talked about the nitrogen program and the fact that reducing these nitrates is critically important. You know, I, I let my kids eat stuff with nitrates in it. And then we talked about the water and [INAUDIBLE] now you can't drink water. What are some of the other things that, that are being spent, that money being spent on?

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**IBACH:** I think someone behind me will speak to that.

**KAUTH:** Would you rank your bill as, as as effective as some of those other programs?

**IBACH:** Absolutely. And if you look at the governor's directives in lowering nitrates in our water, when you look at the map that I provided and look at where the nitrates are-- I mean, I think it's an urgent need or I wouldn't have brought the bill last year. But I think it's ongoing. And until we educate and incent our producers to make those changes or to, to actually just invest in sustainability and in soil health, then we're, we're not getting anywhere. We're just staying at a plateau. And so I always use the reference of ethanol. Where would we be if we hadn't incented ethanol in the beginning? And look where that's taken us in our state. So I think there are a lot of, of parallels. I would say that this-- the, the intent of this bill is urgent. And I would rank it at the top, but that's because it's my bill.

**KAUTH:** Thank you very much.

**IBACH:** Thank you.

**DeKAY:** Thank you. Any other questions? Senator Ibach, real quick. What-- how will your bill-- what provisions are going to change them start reducing nitrogen in the water levels? It-- are we going with, like, reverse osmosis for housing or, or-- how are we doing that with livestock and, and-- plus with farm production.

**IBACH:** Well, there are a lot of programs already out there in place that reimburse folks for reverse osmosis machines. If their wells test high for nitrates or their household water, there are programs out there through the Farm Bureau and, and through the state that DE-- or, NDEE has a program where if your, if your well or your water tests high, they have a reimbursement program for reverse osmosis machines. You can also point to any of the community water supplies that have been affected by nitrates, and the exorbitant costs that they've incurred in putting in communitywide remediation systems. I know McCook is one of them. There's several across the state that have said this is important enough to our community that we need to invest in it. So I think there are programs out there that facilitate the residential and the community nitrate program. This program is designed to stop putting harmful nitrates in the ground, to start with, that leach into our water supply. And so-- I'm not saying that those programs aren't important. I'm just saying that to be sustainable and to, to, to incent

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folks or to at least bring their awareness to the fact that we are putting harm-- we continue to put harmful nitrates in our soil and in our-- that leach into our water system, how do we-- how do we stop from putting those harmful nitrates in? This program speaks to several different approaches that qualify to do that.

**DeKAY:** So how will the-- how will this help stop-- when you're talking about production agriculture with row crops, livestock, and-- how, how do we start to reverse the levels of nitrates through agricultural--

**IBACH:** Well, when we put anhydrous on with no limits-- for instance, when we put it on in the fall or the winter and it doesn't do any good during those times, once you start irrigating, those, those nitrates leach into the ground. When you put them-- I mean, we still use anhydrous on our operation and-- at a much, much reduced rate because we also incorporate biologics that take the nitrates out of the air and put in-- surround the plant-- the roo-- the root system. There are other mechanisms for obtaining that nitrate other than just a, a, a harmful synthetic ni-- nitrogen. And so the goal of this program is to educate producers and encourage them to use optional methods that are out there that don't leach into our-- that aren't harmful and don't leach into our water supply.

**DeKAY:** And that's what the \$5 million would be used for, education and monitoring?

**IBACH:** And, and incenting farmers to pivot to-- no pun intended-- to biologics or sustainable approaches that are out there.

**DeKAY:** OK. Thank you.

**IBACH:** We use, we use them on our operation, and we've seen a huge reduction in our synthetic approaches and use the biologics or the sustainable programs.

**DeKAY:** OK. Thank you.

**IBACH:** Thank you. I'll stay for--

**DeKAY:** Any other questions? Are you going to be here for closing?

**IBACH:** Yep. For sure. Thank you.

**DeKAY:** First proponent.

**DEAN EDSON:** Is this somebody's?

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**DeKAY:** Anything you find you get to keep.

**DEAN EDSON:** OK. Looks, looks good.

**DeKAY:** Is that your phone?

**IBACH:** Answer it.

**DEAN EDSON:** Speak into it or-- all right. Chairman DeKay and members of the Ag Committee. My name's Dean Edson, D-e-a-n E-d-s-o-n. I'm the Executive Director for the Nebraska Association of Resource Districts. Presenting testimony in support of LB638 and a recommended amendment to assist with implementation. What I've handed out to you is a one-page summary of the first year of the program. The NRDs worked with the Department of Natural Resources, the industry, individual producers to develop the guidelines for the program. The final rules didn't get done till late fall, so we didn't have a lot of time to promote the program. Nevertheless, demand exceeded the available funding by just shy of \$1 million. To summarize this, there was 1,137 applicants enrolled 156,143 acres the first year. The breakdown priority A area, 6-- just, just shy of 61,000 acres. These are in areas where have-- elevated nitrate levels are over 7.5 parts per million. 10 parts per million is the maximum containment level. Priority B, just shy of 63,000 acres. These are not in priority A, but acres are certified to irrigate. And then priority C, these are areas outside of A or B. There was roughly 32,000 acres there. And then finally, we had one small category of 299 acres that was basically sugar beets. It was a combination of B and C. On the money that was distributed, there were ten districts that didn't use their in-- initial allocation. That came up about \$176,000. We're in the process of reallocating that to the districts that have more demand. So we maximize the use. And we're working with DNR to maybe find some other funding sources to fill in the rest of the gap. The NRDs have dedicated a significant time working on this to help producers. We worked with, like I said, the crop consultants and every-- all the other industry. We also did radio ads, social media post, newspaper ads to promote the program. What we'd like to see is one thing is maybe the NRDs could get an administrative fee for administering the program. We still got to issue the checks and do the certification process. This takes away time from our other duties. So with-- I've broached this with Senator Ibach, about an administrative fee. We would like you-- have you consider funding-- on the funding side of it, the Environmental Trust and the Water Resources Cash Fund. We're working with Senator Ibach and some other interested parties to figure out a better way to fund this program into the law. So with that, I'll close and answer any questions you may have.

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**DeKAY:** Are there any questions? Senator Raybould.

**RAYBOULD:** Thank you, Mr. Edson. I know the NRDs do amazing work, and they are on top of a lot of stuff out in the state of Nebraska. The one thing that I've always wondered is, isn't it enough incentive for farmers to know that they're saving a lot of money by applying less nitrates? How-- or do you know-- from some of these areas, do you know approximately how much-- do they talk about how much they've saved in money by less application of nitrates?

**DEAN EDSON:** It's an excellent question, Senator Raybould. That's one of the issues that we've been pushing with our producers in our areas, especially where there's high nitrates, is to look at the cost savings that you may get. There's kind of a two-pronged approach here on that educational effort. One in these phase two, phase three areas, we have the nitrate problems. There's reporting requirements that producers have to re-- provide to the NRD. We develop a database off of that so that we know what rules, regulations to put together. Lower Niobrara NRD, 2015, the first year they required these reports, what they found out is 91% of the producers were applying more than the university recommended rates. 91%. And we were taking this and putting it in scatter gram plots, taking it back to the producers. Look, you're applying this much nitrogen. This guy over here's 50%-- or, 50 pounds less than the university rate. He's got the same yield that you do. So how much did that extra fertilizer cost you? And could you put it in your pocket? Right? So that was that last year, a year ago-- I don't have this year's final reports yet. But we're down to about 60% [INAUDIBLE]. So we're moved. We're sliding. The other effort that we have undertaken is we had 17 NRDs go together with the industry. And I'm very proud that the industries recognize that we have an issue to work on. So the fertilizer industry joined in with us. Central Valley Ag, Co-op Council, Corn Board, [INAUDIBLE]. Let's develop an app for producers on their phone and put the economic numbers to this. And, and then they can see how much money they're saving by split applying the fertilizer or applying less or applying at the right time. So, yes, we're getting at that economic number, but we-- it's going to take more than just this. It's other efforts that we're pushing out too.

**RAYBOULD:** OK. Thank you.

**DeKAY:** Any more que-- go ahead.

**RAYBOULD:** I just have a-- another question. I know that you're, you're trying very hard to find a, a consistent, sustainable funding source for a program like this, which is, is really commendable. But, you

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know-- I asked Senator Ibach this as well. I mean, some-- reading some of the opponent comments is, is really tough. This was from somebody who participated in getting the Environmental Trust set up. It says, it was not set up to fund other governmental programs when they run short of money or when the governor and the Legislature need to find a few dollars for a favorite program or two, no matter how, you know, noble the effort is. So could you tell us again-- I, I was listening, but then I didn't write it down-- all the different programs you're looking at to get additional funding from. Or how-- where, where are you going for the money?

**DEAN EDSON:** I will tell you this: I'm an honest thief.

**RAYBOULD:** OK.

**DEAN EDSON:** If I find a fund that's unused, that-- it goes to somebody else. I will go talk to that person about it. Do you have any extra cash that we can use out of your fund? With your Environmental Trust question, we support the trust and its mission. The difficult predicament that we get put in is when the-- under-- especially under the budget constraints you're in now. You take all our different programs and you cut them in half on the General Fund appropriation, and then you backfill them with Environmental Trust Fund dollars-- we don't really like that, but what are we supposed to do? Are we supposed to get by with 50% less, or do we take the money? And we don't want to be in that situation, but we are. With this, Senator Ibach and her staff and other parties, we've had a lot of discussions about the trust fund and Water Resources Cash Fund. Is there some way that we can make this work? To do the grant, apply for it, to do this program and match it with some other funds?

**RAYBOULD:** Sounds like a good plan.

**DEAN EDSON:** I'm trying.

**RAYBOULD:** OK.

**DEAN EDSON:** I'm not prom-- making promises, though, but we're trying.

**RAYBOULD:** OK. Thank you.

**DeKAY:** Senator Storm.

**STORM:** Thank you, Chair DeKay. Thank you very much. So anywhere in the state of Nebraska, are there any limits on how much nitrogen a farmer can put on his field?

**DEAN EDSON:** Nope.

**STORM:** OK. And-- you know, I--

**DEAN EDSON:** It's not a-- fertilizer is not a restricted use product.

**STORM:** Right. I'm an aerial applicator of huge farm that's over there. Farmers push limits on nitrogen for bushels. That's what they-- that's-- they-- and for [INAUDIBLE]. So they all want 300 bushel of corn, 310 bushel of corn. And it's all tied to nitrogen. So that's why there's always a demand for throwing more nitrogen in the cornfield.

**DEAN EDSON:** Oh, yeah.

**STORM:** And I'm not saying-- I'm not justifying that. I'm just saying that's the mindset of most farmers I know, is the-- are going to push the envelope as much as possible. So when you-- for-- we're talking \$25 million for this program, correct? Is what-- over five years?

**DEAN EDSON:** That's what was proposed in the bill, yeah.

**STORM:** And that's basically you're saying just for education is what-- to try to educate farmers to use less nitrogen?

**DEAN EDSON:** No, this would be-- the-- go to--

**STORM:** And to pay some per acre if you document--

**DEAN EDSON:** It would be a-- yeah. Per acre payment.

**STORM:** Per acre that you document that they use less nitrogen.

**DEAN EDSON:** Yeah.

**STORM:** OK. OK.

**DEAN EDSON:** It-- but they'd have to reduce by, what was it, 15% or 40 pounds.

**STORM:** How widespread is this-- so take Iowa for example. Huge corn-growing state. Do they have a nitrate issue like we do--

**DEAN EDSON:** Yes.

**STORM:** --at the same level?

**DEAN EDSON:** Yeah.

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**STORM:** So is it-- through the corn belt, basically? The whole corn belt has [INAUDIBLE] issues?

**DEAN EDSON:** Yes. And I'm, I'm glad you're-- made that comment. OK. Here's what happened in the Great Lake states. They don't have NRDs.

**STORM:** Right.

**DEAN EDSON:** And they don't really have a state program put together to control or help producers limit their nitrogen use. And they ended up with a lot of nitrate problems. And so the EPA came in and said, you shall do this. [INAUDIBLE] develop and implement programs. So they just started probably about three, four years ago. What I don't want with Nebraska is I don't want anybody from the EPA coming in and saying, you shall do this.

**STORM:** Is there some-- is there some talk of that, the EPA coming to Nebraska?

**DEAN EDSON:** No. That's why we're taking all these proactive steps.

**STORM:** Sure.

**DEAN EDSON:** That-- we want, we want to work with this-- with the producers, see if we can figure out a way to help them reduce their nitrogen application rates that causes groundwater contamination.

**STORM:** OK. Thank you.

**DeKAY:** Any-- do you have any questions?

**KAUTH:** No. She had-- Jane.

**DeKAY:** OK. I do have a couple.

**RAYBOULD:** I have one more.

**DeKAY:** Go ahead.

**RAYBOULD:** So Dean, can you tell us, what does-- what type of paperwork does that farmer have to provide to demonstrate that they've actually applied less nitrates to their crops?

**DEAN EDSON:** It was a form that they had to submit. OK. So-- but-- here's where your kind of dilemma is. In the priority A areas--

**RAYBOULD:** Yeah.

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**DEAN EDSON:** --phase two, or higher, we would have the farmer's records for those fields because of crop reporting. So we would know what their history has been. And so they got to go off that history. If we're in an area in-- outside of that where we don't have crop reporting, we are relying on the producer to tell us, what did you do in the past? And so we don't-- we, we don't have anything other than them telling us how-- what they did, and we have to assume they're correct.

**RAYBOULD:** And so they get the payment after they've provided the information and data to you, correct?

**DEAN EDSON:** They, they won't get the payment till the end of the crop year this year.

**RAYBOULD:** Oh, OK. And the goal is to prove that they did--

**DEAN EDSON:** There's-- we get-- we're not going to make a payment to them saying what they might do in the future.

**RAYBOULD:** OK.

**DEAN EDSON:** So that-- we'll have to certify them, what, what they submitted to us, they actually did. And then they get a payment.

**RAYBOULD:** OK. Their goal is to make sure that they have the same yield or greater by demonstrating less application of nitrate.

**DEAN EDSON:** That's the-- that's our goal too. We don't want to diminish-- or, we don't want to reduce yields. That's not the issue. We're trying to-- how can we help you make better decisions and puts-- put money in your pocket and still get the same yield.

**RAYBOULD:** OK. Yeah. I'm just thinking. Is there a better way of the incentive? Like, you-- we just saved you X amount of dollars for less application. So maybe we split that--

**DEAN EDSON:** Yeah.

**RAYBOULD:** --and will, you know, contribute a little bit more for your savings. Not a lot more, but.

**DEAN EDSON:** Yeah. So what-- I used to farm. I, I grew up on a farm. And I farmed back in the early '70s. Then we-- this was not an issue. We didn't know this was an issue. I'm guilty of overapplying. We-- but it's been going on a long time. We need to-- this problem didn't get created overnight. It's not going to get resolved overnight.

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**RAYBOULD:** OK. Thank you.

**DeKAY:** Thank you. You talk about districts getting allocated so much money. Is that-- do they have apply for X amount of dollars or is that money given to them? And I guess the basis of the question is, do they use it or lose it scenario or-- you said some of the money-- \$176,000 was reallocated. Could they reapply if they see the need for that extra 100 and-- they--

**DEAN EDSON:** Yep. So on that sheet, the column on the difference, where it's-- some of it's in red.

**DeKAY:** Yep.

**DEAN EDSON:** Those are the ones that had more applications than they got money for. The way we do it-- this is the other thing we had to create. We had to create a distribution formula to the districts so they would know how much money they had. So we kind of tried to pri-- use it. Those that have more phase two, phase three areas, they got a higher allocation. But then we, we made sure everybody did. And then we went through the application process. And once the application deadline passed, that shows that-- all those numbers in black, that totals \$176,000. So we're working on shifting that back to the ones that are in red so we can get more applications approved.

**DeKAY:** And then what are some of the examples of practices that applicants propose to qualify for some of the incentive programs?

**DEAN EDSON:** Yeah. So they can use a variety of different practices. They can use-- there's the biologicals out there, like Pivot Bio that reduces your amount of fertilizer that you need. You can do a combination of Pivot Bio and something else. You can just reduce your nitrogen application, period. You can use technology like Sentinel Ferti-- Fertigation. If that reduces it, that-- you're in. Nitrogen sta-- stabilizers or anything else. So it's not limited to one product or practice. We open it up to any practice or product.

**DeKAY:** Is there any rule of thumb on how much-- through the use of these practices, on how much nitrogen has been reduced by you im-- implementing these practices?

**DEAN EDSON:** You can go back and look at fertilizer sales by district and see-- look at it that way. We're more reliant on what the producers are telling us in their annual reports on how much they cut back.

**DeKAY:** OK. Senator Kauth.

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**KAUTH:** Thank you, Chair DeKay. Is there a way to audit the soil or-- I mean, is there any sort of, I guess, fail-safe with this? Because if you're depending on people's reports and if you're depending on looking at fertilizer sales numbers, I just want to make sure there's no way for people to really kind of cheat the system. I don't know if you do soil audits or if, if there's a way to check.

**DEAN EDSON:** We really don't have an audit process. We have to have some faith here. We could go back, I suppose, and try to do an audit process on somebody, but that-- I don't know if that would help us as far as relationship with the producers.

**KAUTH:** OK.

**DEAN EDSON:** If they're-- feel threatened by that. I think what, what we're getting to here is-- as the districts over time has worked with the producers, we've kind of identified the ones that are probably causing the problem and we're doing more-- sit down one on one with the-- those individuals to see if we can see some change.

**KAUTH:** OK. So, so at some point in time, do you foresee there being a need for a mandate that you cannot use? I mean, because right now, it's-- this is all voluntary to reduce your nitra-- nitrates.

**DEAN EDSON:** There is an authority in statute to-- for the districts when you get to phase four. And that's where the nitrate levels continue to go up and you're not seeing any spike off or trend down that we can go in there and say, you're done applying fertilizer in this area.

**KAUTH:** So there are some teeth in it--

**DEAN EDSON:** Yeah.

**KAUTH:** --along the way.

**DEAN EDSON:** Yeah. But the producers know there's-- that's there. We hate to have to use that and really want-- don't want to have to do it. But I, I can tell you this: we do have areas in the state where you don't even need to apply fertilizer anymore.

**KAUTH:** Where-- say that again.

**DEAN EDSON:** You don't need-- you don't need to apply fertilizer anymore. You can get it out of your ground-- out of your irrigation water.

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**KAUTH:** Because there's so much in the water already.

**DEAN EDSON:** Yep. But we're encouraging those producers just keep doing that because that's the only way we're going to clean it up.

**KAUTH:** And that's part of what this bill would do, is help encourage them, how to use that, how to identify it, and, and save themselves--

**DEAN EDSON:** Right.

**KAUTH:** --money.

**DEAN EDSON:** It's to help them-- let's, let's step back and let's start cutting back. But let's still look at the yield goal.

**KAUTH:** Thank you.

**DeKAY:** One quick follow-up question, sir. When it comes to practices-- you know, I'm, I'm thinking of it from where I'm at. A lot of dryland farming. How do we implement practices that will save farmers' passes across the field and still get the amount of nitrogen that they need to grow a-- the crop that they desire?

**DEAN EDSON:** I think you're seeing a lot of producers adopt split applying even on dry land. That-- again, my-- when I was farming, we front-loaded and then maybe you side-dressed. But what we're finding out is that plant can't use that fertilizer, all that fertilizer you put on. So if you spoon-feed it three to four times through the year, you could apply less and your crops still getting more. And yet that can apply to dry land too.

**DeKAY:** I, I, I agree with you 100%, but at the-- when labor-- when operations are labor-intensive and one more pass across the field with more soil compaction where your dry land-- I think it's a great practice with center pivots that can give a little bit more often and doesn't let-- have a chance to leach out. It's a great practice, but there-- just to be-- so that we can be on the same page going forward, that we can optimize our production without a lot more inputs as far as time and labor resources.

**DEAN EDSON:** Right. That's-- there's all these other limits and barriers out there that we've got to try to address. And we're working on it, but we don't have the answers to everything yet.

**DeKAY:** All right. Go ahead.

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**DEAN EDSON:** A lot of the farmers have-- the spray rigs anymore. That's a very expensive investment. We're not mandating that everybody use that or go buy one, but start looking around and see what you can do.

**DeKAY:** OK. I appreciate it. Thank you. Any other questions? Seeing none. Next proponent. Thank you, sir.

**DEAN EDSON:** I'm going to take my phone with me.

**DeKAY:** OK.

**JOHN HANSEN:** Mr. Chairman, members of the committee. Good afternoon. For the record, my name is John Hansen, J-o-h-n; Hansen, H-a-n-s-e-n. I am the President of the Nebraska Farmers Union. We supported the underlying bill last year, and we did so because of a variety of reasons. And we have been working as an organization on helping provide education and outreach on the problems with too much nitrogen in our water supply for a number of years. We've also been a part of a lot of different kinds of programs and activities to try to figure out how we can continue to maintain yields, reduce nitrogen use, reduce the amount of nitrogen in the water. And so there's several things that, that cause us to remind ourselves how the real world works here. And how do you change behavior? How do you get folks to change? And so I've been in the, in the world of helping support voluntary conservation practices for 50 years in one capacity or another. And what works is when you educate, you educate, and then you incent. And if you're in the business of regulation-- which I was as a former NRD board member for 14 years-- what you also learn is that it's a really good idea to be really long on the carrot so that you don't have to ever use the stick. And so this is a carrot approach. It is an incentive approach. It's a targeted approach, and it's aimed at changing behavior. I'm also a recovering fertilizer and ag chemical dealer for 20 years. And I have to tell you that all of those soil tests that we did-- and we encouraged our folks to use-- over and over again, we found that our customers put on-- there was a certain percentage of our customers who are going to put on more fertilizer than the soil tests ever called for. And they were-- they were bound, determined to go to the coffee shop and brag about how much corn they produced, not how much it cost them. And it just drove us nuts. And I would explain to them that I use substantially less nitrogen, and I could buy it a lot cheaper than they could, and I produced as much corn as they did. They were undeterred. They continued to use more fertilizer than they should. So we supported the bill last year. We support this bill. And relative to the source of funding, we think that the amendment is a substantial improvement over where we were getting the funding for this program that we support. We

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would much rather get it out of the, the Water Resources Cash Fund and go through their process than get it out of the Environmental Trust. And, yes, I was around when we invi-- created the Environmental Trust. And, yes, it's been a mighty, mighty enticing target for cash-strapped legislatures to go in and, and use those dollars for legislative purposes. But we do support this program and we do support funding. I'd be glad to answer any questions if I could.

**DeKAY:** Thank you. Senator Raybould.

**RAYBOULD:** Yes. Thank you, Mr. Hansen, and your work on conservancy. So tell us a little bit about-- you, you represent the Farmers Union. What are some of the other ag groups doing? Are they equally engaged? Are they stepping up and trying to come up with solutions? Is Nebraska extension all in on this to really encourage people and have a consistent message on same yields, less cost?

**JOHN HANSEN:** Well, I-- you know, I think that sort of in, a number of years ago, we would-- kind of stuck out as being more aggressive on this issue than, than kind of average. But, you know, we've always said that, you know, we're stewards of the soil and water resources. It's our job to protect the soil and water resources for future generations. And the-- you know, healthy soils has been one of our focuses. And so just kind of measuring kind of the, the response we get from our organizational colleagues. I think that there's just a growing awareness and appreciation for the need for healthy soils, for clean water generally. And, and-- you know, one of the-- one of the reasons that our NRD system is so successful is that we still have in Nebraska a very strong stewardship ethic. And that ethic is, is, is why people voluntarily participate in conservation programs at a much higher rate than we have funding for those conservation programs. And so I think that's reflected also in the other organizations' membership across the board as well. So I, I would say the, the trend line's encouraging in that respect.

**RAYBOULD:** So do you think it would be helpful if you had a few farmers go into, you know, that cafe and start bragging, like, I saved this amount of money by reducing my application of nitrates by this much and-- you know? The other way around. But is that part of the program, you think? Would that help?

**JOHN HANSEN:** It'd certainly be a goal of ours to be able to go into the, the liar's coffee shop and, and, and be the last one to go so that we would win and get the highest bragging rights, that we saved in fact the most money and had the greatest yield increase.

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**RAYBOULD:** Thank you.

**DeKAY:** Any other questions? I've always said that too, that when you go into the coffee shop, instead of telling how many bushel of acres you're producing, you should be bragging about how many dollars of profit per acre you're making. And it would probably put some of these practices into place a little bit more. So.

**JOHN HANSEN:** And I agree with that, Mr. Chairman. That would be great. Of course, the rule of thumb in rural coffee shops is that the first liar doesn't have a chance.

**DeKAY:** I won't comment. I got to go back home. So. Any more questions from the committee?

**JOHN HANSEN:** Thank you very much.

**DeKAY:** Next proponent. Seeing none. First opponent.

**JAREL VINDUSKA:** Well, good afternoon, members of the Agriculture Committee. My name's Jerel Vinduska, spelled J-a-r-e-l. Last name is V-i-n-d-u-s-k-a. Live on a farm in Sarpy County. The reason I came as a proponent-- not that I'm not saying that the reduction in nitrogen fertilizer use isn't an important goal that we should have. But my problem-- the reason I came here is because I don't think it's good public policy to have a worthy goal like that and pass a-- pass legislation but then not fund it. And it was kind of disturbing to me to see-- you know, to look at the Nebraska Environmental Trust for the funding is because I remember why that fo-- fund was formed, and, and the intent wasn't to use that money basically as a farm subsidy to try to incentivize less fertilizer use, because that's what it really boils down to. And-- so like I say, that's the reason I came here. And when you think of it logically too, farmers are pretty smart. You know, eventually, especially with, with the high input costs and, and the low grain prices, they're-- people are going to start thinking, well, I got to see where I can make some savings. I mean, it's going to happen naturally because-- think about it. We've got-- we got about 20 million acres of row cop-- crops in Nebraska that gets fertilizer most every year. And then that isn't counted the, the pasture land that gets an application also. There's a lot of that land. So-- you know, even if you give somebody \$10, \$10 an acre and there was no admi-- administrative cost to administer the money-- which the-- which we know there is going to be-- you know, \$5 million would maybe pay for 500,000 acres out of the millions and millions of acres. So my position is, if these other things-- types of fertilization work, word's going to get

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out real quickly and it's going to happen on its own. And I just don't think it's a good, good idea for government, like I say, to pass a bill and then say, OK. Look for the money somewhere. And if, if it's worthy-- it's a worthy goal, you ought to supply the funding too out of the General Fund is my position. And it's not only, not only that. [INAUDIBLE] the reason we need to do this, you know, you-- we worry about federal oversight, you know. This nitrate problem-- yeah, it's in our groundwater and we're worried about it locally, but it's a national and world issue. I mean, if you ever-- if you ever flown over the gulf where the Mississippi comes in-- I mean, it's just atrocious the, the eutrophication that's happening down there. It's just a-- it's just a terrible sight what we're doing to the sea out there. And so-- like I say, it needs to be taken care of it, but I don't think this is the way to do it. If you have any questions, I'd be happy to answer it.

**DeKAY:** Senator Raybould.

**RAYBOULD:** Well, as you were saying, your comments, I was thinking, is the Corn Board or the Soybean Board an appropriate group to request grant funding from for these type of projects, you know? Because they're directly related to our corn yields and our soybean yields and-- would they be interested in, you know, becoming a partner and, and funding these programs to--

**JAREL VINDUSKA:** Well, I can't answer for them, but another thing that I would mention, though: I think if you're going to spend money for subsidizing less use, it ought to be more targeted too. Because there's a lot of soils in Nebraska that are heavy soils that it's less likely to leach into the groundwater, but we've got other areas that are very sandy where the, where the water table's ten-- 5, 10, 15 feet under the surface where it just goes directly into the water table. So if you're going to spend the money, put it in the most beneficial spots seeing as that we don't have enough money anyway to cover all the land. Makes sense to me, anyway.

**RAYBOULD:** OK. Thank you.

**DeKAY:** Any other questions? One quick question. Just for clarity, you farm X amount of acres of the 80,000 agricultural acres in Sarpy County--

**JAREL VINDUSKA:** 80 million-- 80-- did I say Sarpy County?

**DeKAY:** I'm talking 80,000 acres in Sarpy County.

**JAREL VINDUSKA:** Oh.

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**DeKAY:** I hear that once in a while.

**JAREL VINDUSKA:** Oh. I see. OK.

**HOLDCROFT:** That's how many acres there are in my district.

**JAREL VINDUSKA:** Oh, OK.

**HOLDCROFT:** 80,000 acres of the finest farmland in Nebraska.

**JAREL VINDUSKA:** That was the highest producing county in the state.

**DeKAY:** So--

**JAREL VINDUSKA:** Because it r-- because it rains there it's a good soil.

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

**JAREL VINDUSKA:** Thanks.

**DeKAY:** Next opponent.

**KRISTAL STONER:** Hello, Senator DeKay and members of the Agriculture Committee. My name is Kristal Stoner. It's spelled K-r-i-s-t-a-l S-t-o-n-e-r. And I'm Vice President of the National Audubon Society and Executive Director of Audubon Great Plains, which includes North Dakota, South Dakota, and Nebraska. And our office is in Omaha. And on behalf of the 12,000 members that live in Nebraska of the National Audubon Society, I want to go on record saying that we oppose LB638, but I am very torn on that. The National Audubon Society is a conservation organization, and we're focused on the protection of birds. And we understand that birds signal things that are happening in our environment, and we should pay attention for our own communities and our own natural resources. So I say I'm torn because we're registering as opposed, but this original-- the bill itself and the concept itself is a wonderful program. Nitrogen is certainly a problem, and we appreciate that it enc-- encourages farmers to adopt these practices to reduce the amount of nitrogen fertilizer applied. It really empowers farmers. I think it's the right way to do it. So the only thing that we're opposed to is just the funding source. And I'm testifying only in regards to the original bill introduced, not the friendly amendment that was-- that Senator Ibach, Ibach spoke about. So I did want to just mention that we're certainly concerned about having a \$25 million grant come from the Environmental Trust. This year, the appropriation was only \$26 million. So that would essentially be the entire fund. This would be a behemoth-sized award. It would be double

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what we have ever seen from the fund's inception in '92 all the way to 2023. So-- and I also want to say that I appreciate that, that the bill is carefully worded to say that it would be "if awarded," but I have to say it would be extraordinarily difficult for any grant committee to treat an application that was mandated by the State Legislature as equal to an application, say, that came from the Washington County Pheasants Forever or from Gretna Sanitation or came from David City Parks Department or Keep Northeast Nebraska Beautiful out of Plainview or from Audubon to construct our, our blinds where people come from all over the world to see the cranes. So it, it would just be out of sync. It's not the way that we want to do business. It's a good program. We want to see it funded, just not through the trust. I want to go on to say that the trust was created to de-- and designed to conserve, enhance, and restore our environment. In terms of the things that it is designed to fund, it includes habitat restoration, water conservation, waste management, air quality, soil management, recycling, and then certainly environmental education. It was created in '92 because the people said, if we're going to have a lottery, then we are going to create a fund for the people to use to keep our natural environments whole. So that's why the fund was created. Doing programs like this, where we have a large or nearly all of the funds available go toward a certain program, is just not the best way of doing business. So in that, I see I have a yellow dot. I did want to just say there's several other bills that are proposed in the Legislature this year that is also seeking to divert funding, so it's worth paying attention to how many different sources in LB261 and LB264 that are looking to have money be diverted away from the Environmental Trust so that it couldn't continue to do that process. So as I see it, it would either completely defeat the fund-- or, deplete the fund this year or would only leave \$0.5 million available for the grants. So the Nitrogen Reduction Act is good. It should be funded, just not with the trust.

**DeKAY:** Thank you. Are there any questions from the committee?

**KAUTH:** Yes.

**DeKAY:** This side of the room. Senator Kauth.

**KAUTH:** Thank you, Chair DeKay. Thank you for testifying. It seems like a lot of the testimony that we've been hearing is this is a great idea. It's a great program, but don't take my money. Even though, according to your statement, the Environmental Trust was designed to fund habitat restoration, which I believe helping get rid of nitrates would help with that. Correct? Water conservation, which is directly related to the nitrates. Soil management-- again, related to the nitrates. And

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environmental education, which is part of what this program will do. And we heard other testimony again saying, well, yes, it's good, but just don't, don't use my money because it's a farm subsidy. Correct me if I'm wrong, but the water is not something we can say only gets used by one person or one thing. This is something that everything is contributing to. So if we're saying that the Environmental Trust has money, that seems like the broadest umbrella group to, to deal with this sort of an issue. What are your thoughts?

**KRISTAL STONER:** Well, my-- I guess my thoughts would be if, if we think that this is a program that's important-- and I believe it is. I think nitrates are a problem. I would say the general funds might be a much broader source of funding available to fund a program like this.

**KAUTH:** But, but again, your-- this-- the Environmental Trust is specifically allocated. We set aside lottery funds for environmental issues. And so I, I guess I'm wondering why then would we hold that money there and say, well, we'll take from the general funds. This is a problem. It's, it's a serious concern. Everyone has agreed on that. I, I just-- I have questions about why people are so willing to take from the General Fund when there's money that is there.

**KRISTAL STONER:** I think it's because we're having the conversation here in this setting, because it was a bill that was directing a state agency to, to apply for these funds. So if it was instead that DNR had said, I think this is a program-- Environmental Trust is a good source of funds. Let's put in an application for one, two, three, four, five-- however many millions of dollars to the trust. Then it would have gone in the front door. It would have been ranked. And then-- as all the applications are ranked. It's a good program. That committee would, would make a call on whether it should be funded or not, and it would go through the process. It's because it's being introduced in this format to direct a state agency to go after it. And I just find it hard to believe that the grants committee would be able to consider an application that came because the State Legislature told them they had to come for that application, as opposed to the state agency or other organization saying, this is something we need to go after that funds for. I don't think it would get the fair treatment.

**KAUTH:** So, so-- but isn't that the job of the Legislature, to say, hey, look, we have to direct some attention to this and, and make it an important issue to kind of drive it to the top? And I think you're probably not wrong. But if, if we're saying, again, if it's worth, you know, raising property taxes and taking it out of general funds, the Environmental Trust was set up to deal with this sort of issue. And if

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the Legislature says, hey, this is really important and it's important now-- I guess-- I, I, I need to noodle on that for a while. Thank you.

**KRISTAL STONER:** Sure thing.

**DeKAY:** Thank you. Senator Storm.

**STORM:** Thank you, Chair DeKay. Thank you, Ms. Stoner. So this year, Environmental Trust gets \$26 million from the appropriations. And is that a pass-through from the lottery? All of it comes from the lottery? Or some of it come from tax dollars?

**KRISTAL STONER:** There's probably folks coming after me who can tell you the specific allocations, but my understanding is it's 44% of what comes from the lottery per year. So it's variable.

**STORM:** The rest is tax dollars. OK. So--

**KRISTAL STONER:** No, it's, it's, it's only lottery funds that go to the Environmental Trust is--

**STORM:** OK. Only lot--

**KRISTAL STONER:** --my understanding.

**STORM:** OK.

**KRISTAL STONER:** Yeah.

**STORM:** So will the Environmental Trust spend all \$26 million this year, or do you save some of that?

**KRISTAL STONER:** That's again probably not a question for me. I suspect there'll be somebody coming after me. The process is set up to evaluate all of the grants. And going through their process and protocol, I think they certainly have the ability to allocate all the funds that they had allocated for. But again, that's-- there's probably other folks in the room who can answer the specifics of that.

**STORM:** OK. Thank you. Thank you.

**DeKAY:** Thank you. Off of what Senator Storm-- and I might-- did I hear earlier that there is currently, like, \$41 million in the Environmental Trust right now?

**KRISTAL STONER:** That is my understanding. Again, these are, these are not my area of expertise, but--

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**DeKAY:** We could simplify it real quick. If there's \$41 million in and we're-- will we be adding another \$26 million to that to make it \$67 million then?

**KRISTAL STONER:** I, I think it's a question of how much of the funds that are sitting there are already obligated into grants that are going out over the next several years, and that's a question that I can't answer.

**DeKAY:** I get what you're--

**KRISTAL STONER:** So, so I, I can't say how much is really unobligated at this moment in time.

**DeKAY:** OK. I appreciate that. Thank you. Any other questions? Seeing none. Next opponent.

**AL DAVIS:** Good afternoon, Senator DeKay and members of the Agriculture Committee. My name is Al Davis, A-l D-a-v-i-s. I'm here today representing the Nebraska Chapter of the Sierra Club and its 3-- 3,300 members. The Sierra Club is extremely concerned with the high levels of nitrate in Nebraska's water. Accordingly, we supported LB1368, Senator Ibach's 2024 bill which established the Nitrogen Reduction Incentive Act. We felt that this bill would stand as a pilot program to demonstrate to farmers that yields might be only marginally reduced by a reduction in fertilizer usage. The 2024 bill drew its funding source from the Water Resource Cash Fund. And I want to say right here before I go on that, you know, I drafted this on, on the basis of what I ha-- could see online, so I know there's been some change, but you'll just have to bear with me a little bit. We oppose LB638 for several reasons. First, the 2025 crop will be the first since LB1368 was passed last year to be grown under the guidelines laid out in LB1368. It seems premature to be extending the sunset date on a bill which has not yet produced evidence that this is a good, productive policy which is making a difference in the nitrogen content of water on participating farms. Farmers must be good stewards of the land and shouldn't need to be prodded by incentive programs to implement good policies. After all, they have the most to lose by applying wasteful amounts of fertilizer in a contaminated aquifer and higher input costs. Next, the state is experiencing a fiscal hardship, which is cutting many worthy programs and reducing the funding for many others via pass-through assistance to political subdivisions. Nebraska must manage its fiscal resources carefully and forgo many programs with good intentions but significant fiscal notes. This may be one of those which needs to be deferred. Senator Ibach is directing the DNR to apply directly to the

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Environmental Trust to fund her project. We reject that effort. The Sierra Club has always stood against the raiding of the trust for projects which, which may be outside the scope of the traditional grants provided by trust guidelines. The trust bates-- dates back to 1991, and the crafters were aware that raids on the trust by both senators, the governor, and state agencies could occur. Accordingly, an independent board was established to steward that funds to projects which achieve the most good for the least amount of money. That independence is still largely intact. Although agencies are represented on the trust board and therefore have some advantages when grants are reviewed, their applications must fit the criteria, be suitable, and score enough points to be funded, which holds them to the same standards as others. A few years ago, the trust board caved on a-- to govern-- gu-- gubernatorial pressure and shuffled several grant applications around to meet a specific grant request, which resulted in multiple long-term recipients being denied. That gravely damaged the trust's work, as many applicants for-- opt to forgo applying, applying for the grants, and that has resulted in a rising cash balance. The trust must reestablish relationships with entities who were rejected and encourage them to reapply, and the trust must offer a welcome mat to all applicants without imposing political litmus tests on the applicants and the pressure they bring forward. LB638 would receive a five-year-- would request a five-year commitment for funding, but the trust rules and regulations are limited to three-year grants, which pushed LB638 outside the parameters of trust policy.

**DeKAY:** Sir, could you wrap up quickly? Thank you.

**AL DAVIS:** Yes, I will. So I think Kristal laid it out pretty clearly. I, I'm-- could I make just a couple of od-- ad hoc comments. To answer your question, Senator, when the Legislature orders an independent agency-- which is kind of what it is set up to be. So it's got a-- it's go its own board that regulates and makes decisions about what's granted. The state is basically saying, we're taking-- we're going to take that money. There are two other bills that essentially take-- one takes 50% of the money that's available and the other one takes, I think, \$7 million. So we're taking a lot of money out of the trust. My fear is it'll never come back once that is gone. And the trust has done some incredible worthy things in all 49 districts. So thank you.

**DeKAY:** Thank you. Senator Kauth.

**KAUTH:** Thank you, Chair DeKay. So I have some follow-up questions along those lines. And I was reading through your, your statement, and it says, a few years ago, the trust board caved to gubernatorial pressure

and shuffled several grant applications around to meet a specific grant request, which resulted in multiple long-time recipients being denied. So that-- I have questions about that. Multiple long-time recipients being denied. To me, that sounds like the trust has some favorites that it's always giving money to and it's not allowing other grants in, which may be why the governor had to exert pressure on it. Ho-- hold on.

**AL DAVIS:** I don't think--

**KAUTH:** Hold on. And then it says that it gravely damaged the trust's work, as many applicants opted to forgo applying, and that has resulted in a rising cash balance. You're saying now that because they didn't get funding now they're not going to apply, which means there's more money, which doesn't that mean there should be a, a larger variety of peop-- of groups and people applying? And, and my, my biggest, my biggest frustration with this is the Sierra Club has always stood against the raiding of the trust for projects which may be outside the scope of the traditional grants provided by trust guidelines. When we're talking about conserving our water-- which most of us in the state understand is incredibly valuable resource, very limited, and-- to me, that is-- and you say you're all for preserving, you know, our water and, and getting rid of the nitrogen. This seems to be exactly the type of program that the Environmental Trust is dedicated to building up. And in 1991 or '92, when the state allowed gambling, that money was directed by the Legislature to be sent to the Environmental Trust. So when the Legislature says, hey, I think that we have something that we see as a crisis and, and important, I don't think it's out of line to say you would need to pay attention to this one. So-- I, I guess there wasn't really a question there. What are, what are your thoughts?

**AL DAVIS:** So-- well, first of all, let, let me say I think this is a good program. And we believe in the program. It's the funding source that's our problem. It's the, the same as, as it is with the Audubon group. I'm, I'm trying remember what, what-- the first point you made to mean--

**KAUTH:** About the--

**AL DAVIS:** Oh, I know. I know what I was going to say. So if-- there are several state agencies that sit on the board of trust, and they submit grants all the time, those agencies do, through the process. But they have to go through the process. So the process is scored and ranked. And if they don't, if they don't make the rank, they don't get the

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funding. So-- I mean that, that, that's protecting independence, the independence of the organization. This-- in this particular case, Senator Ibach's instructing them to go to the trust for funding. So-- and, and-- so there's a five-year-- so her bill is a five-year bill. The trust rules are three years.

**KAUTH:** And that's--

**AL DAVIS:** So I mean, those are things that would have to be worked out.

**KAUTH:** Yeah. I think that, that's actually a good point.

**AL DAVIS:** If her grant goes in, in the, in the process and goes through the-- a ranking program, I think that takes care of all the problems. But it doesn't indicate that that's what it's going to do. It indicates to me that the direction is, trust, you better pay for this.

**KAUTH:** OK.

**AL DAVIS:** So-- you know, part of it is trying to keep the trust as a quasi-independent entity. And that was what people were afraid of back in 1921, was that, before too long, somebody would be wanting to take all the resources away from the trust, which-- you know, then depletes some of the projects that I highlighted at the end I didn't get to [INAUDIBLE].

**KAUTH:** Well, and I, I can very much see the point if someone's trying to take Environmental Trust money away for road construction or for something that has nothing to do with the environment. But our water has everything to do with every aspect of, of our environment. So thank you for [INAUDIBLE]. And-- but I do agree with your, your comment about the, the trust grants are three-year grants and this is a five-year ask. I think that's a very good point. So thank you for that.

**AL DAVIS:** Thank you.

**DeKAY:** Thank you. Are there any other questions? Seeing none. Thank you.

**AL DAVIS:** Thank you.

**DeKAY:** Next opponent. Seeing none. Testifier in the neutral capacity.

**KARL ELM SHAEUSER:** The hot seat. I spent six years in Marine Corps in bomb disposal. I think this is probably going to be more difficult. Good afternoon, Chairman DeKay and members of the Agriculture

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Committee. My name is Karl Elmshaeuser, K-a-r-l E-l-m-s-h-a-e-u-s-e-r. I am Executive Director of the Nebraska Environmental Trust. I'm here today due to actions taken at the Nebraska Environmental Trust Board meeting on February 6, 2025. The NET Board is taking a neutral position on LB638 with the following considerations. Awarding a single grant in the fiscal year-- fiscal year '25 and '26 biennium budget for \$25 million would use 97% of the appropriated amount for NET grants. The full amount would be encumbered under our grant contract even if payments are made over subsequent years. NET grants are paid out as reimbursement only. Proposed legislation would advance payments to the Department of Natural Resources for en-- unspecified projects. An NET-awarded grant is paid in no more than four annual installments. This is required to avoid the lapsing of state encumbrances, per Nebraska Revised Statute 81-138.03. LB264 proposes to redirect interest from the NET Fund into the General Fund. If passed, it would negate the intent of LB638 to provide interest payments to the NET Fund for advanced payments to the Department of Natural Resources. The Nebraska Constitution Article III, Section 24 requires that funds transferred to the Nebraska Environmental Trust Fund are to be used as provided in the Nebraska Environmental Trust Act. The Nebraska Environmental Trust Act is detailed in Nebraska Revised Statutes, Sections 81-15,167 to 81-15,176. Transfers of funds from the trust to other programs or attempts to redirect or redistribute funds to other programs must still meet the requirements of the act as required by the Nebraska Constitution. There are multiple issues concerning these proposed changes, and we thank you for your thoughtful consideration of the technical and mechanical issues we have outlined.

**DeKAY:** Thank you. Are there any questions? Senator Storm.

**STORM:** Thank you, Chair DeKay. Thank you very much for testifying. So I just want to get educated on the, the Environmental Trust. And you're probably the guy here. So it's-- how much money is in there now, in the trust?

**KARL ELM SHAEUSER:** \$74 million.

**STORM:** \$74 million. And that comes from the lottery?

**KARL ELM SHAEUSER:** The lottery. 44.5% of all lottery proceeds after paying for awards and administration comes to the Nebraska Environmental Trust Fund.

**STORM:** OK. It's fully funded by the lottery.

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**KARL ELM SHAEUSER:** Fully-- it, it's, it's an enterprise fund.

**STORM:** Right.

**KARL ELM SHAEUSER:** No-- there's no general funds at all.

**STORM:** OK. What, what, what do they do with the interest off that, the \$75 million?

**KARL ELM SHAEUSER:** So the, the interest is about \$145,000 a month. But in the last special session, the Legislature has taken those funds and redirected it to the General Fund.

**STORM:** OK. So-- and you received \$26 million this year from that. Do you already have that allocated where those dollars are going or, or-- how do they do that? Do you have a board that decides and they go through the proc-- grant process to see--

**KARL ELM SHAEUSER:** It's a competitive grant process. Typically, the grant application opens in mid-July.

**STORM:** OK.

**KARL ELM SHAEUSER:** They close the day after Labor Day in September, and awards happen in January or February. It has to go in front of a grants committee first for eligibility, then back to the full board. If it's deemed an eligible project, then it goes back to the grants committee for scoring. And then from the grants committee, they make a recommendation to the full board of who's going to be awarded.

**STORM:** OK. Who's on the committee? Is it made up of just--

**AL DAVIS:** So I have a 14--

**STORM:** --is it appointed or is it--

**KARL ELM SHAEUSER:** I have a 14-member board, 5 of which are agency directors who report to the governor. The other nine are pointed by the governor, three for each of the congressional districts. Every year, my chairman changes, and the chairman reappoints. And there's six members on the grants committee.

**STORM:** OK. If, if this ask for less money from their-- from your fund, would it be received better than asking for \$25 million? In other words, if, if, say, this bill asked for \$10 million from the-- from--

to be swept from there-- or would it be the same? You'd be here in opposition and neutral-- is it not the dollar amount that matters--

**KARL ELM SHAEUSER:** It's a great question, Senator. It's-- I think there's a lot of confusion in that what the bill does, the way I read it, is it just directs the department to apply, but it directs the department to apply for a specific amount of money over a spiri-- specific period of time. There is no guarantee in this legislative bill that Department of Natural Resources would be awarded. It's just directing that they apply for funds. They still have to go through the eligibility criteria. They still have to go through the scoring criteria. If the funds had already been allocated to other entities, they could end up at the end and not be awarded or not have funds available to the full amount that they're requesting. And that's part of why I'm testifying today, that the, the technical and mechanical issues of this bill, I think people are assuming it's a redirection of full funding. It is not. It's a request for funding to apply.

**STORM:** OK. What, what did the-- can you name off the top of your head, like, what projects did the Environmental Trust fund last year? Is there several or is it--

**KARL ELM SHAEUSER:** A multitude across all counties in the state. I believe we-- earlier this year, we sent out an annual report to all the senators. It's also posted on our website. I can get you another copy, sir.

**STORM:** OK. No, that's good. That's all I needed. Thanks.

**DeKAY:** Any other questions? I got a-- when you talked about being funded from lottery, do you receive your funds from amount of lottery tickets sold or amount of profit after the winnings are paid out?

**KARL ELM SHAEUSER:** After winnings and administrative costs are taken by revenue in the lottery, it's-- what's residual is the 44.5%.

**DeKAY:** And then going back to prior testimony, so-- I, I was just talking about total funds instead of obligated funds. How many dollars are already obligated for this year yet.

**KARL ELM SHAEUSER:** So the figure I gave the senator before, the \$70 million-- which I believe some people saw in an article as well-- that was as of January, I believe, 2, 2025. And we have \$60-some million of that that were encumbered either by grant contracts or by there's a transfer that's already forecasted that the Legislature's passed. There's \$7 million that will go into the Water Resources Cash Fund by

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June 30 of this year. And the others that are-- what's already appropriated.

**DeKAY:** Are they obligated for one year or are they multiple years--

**KARL ELM SHAEUSER:** It depends upon what the applicant-- some applicants apply for a one-year funding. Other applicants apply for three years. Our typical grant contract is up to a maximum of three years. You could get a one-year extension, and that would be it. Because otherwise, as I pointed out my testimony, those funding would lapse from the appropriation, which is one of the technical aspects of this bill that I had a-- conversation with Senator Ibach as well.

**DeKAY:** OK.

**STORM:** One last question.

**DeKAY:** Senator Storm.

**STORM:** One last question. Sorry. So with the expanded gambling in Nebraska, for-- and expand, are you still going to get 44% of all the--

**KARL ELM SHAEUSER:** We'll always get 44.5%.

**STORM:** 44.5%.

**KARL ELM SHAEUSER:** But it's a great question, Senator, because what happens is as you add casino gambling, if you consider other forms of gambling, there's only so many entertainment dollars that are out there. So it's going to make a difference. The other aspect is that because we're funded through the lottery, there are years the lottery goes up and there's years the lottery goes down. But yet our appropriation over the last-- if you look at the last nine years, the appropriation's only changed twice, and it's been about 3%, while the lottery has averaged over that same nine years a 6% growth. So some of the reasons and people are asking why do those dollars go up, it's because it's not always necessarily in sync with how the lottery is handling versus how the budget is for with the trust.

**STORM:** So you're only lottery. You're not going to be funded by any of the casino gambling or-- just the lottery.

**KARL ELM SHAEUSER:** No. Just the lottery.

**DeKAY:** All right. Thank you. Next opponent-- or, ne-- neutral. I'm sorry. Neutral. Anyone else in the neutral? Seeing none. As Senator

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Ibach comes up, the positions of the comment are 3 proponents, 25 opponents, and 3 in the neutral position.

**IBACH:** Perfect. Thank you so much. So we had a lot to unpack on this. And, and thank you to Dean Edson and to Karl because I think they were able to clarify a lot of how this program works and, and why we asked for the funding through Natural Resources. He was exactly right. It was just a request. Even though the language in a bill always seems demanding, it really was just a request. Senator Raybould, I have a list of projects that the Water Resources Fund actually does fund right now, and they're everything from, from equipment to canal recharge to certifications. They do have a lengthy list-- of, as, as Mr. Edson alluded to, that are important to that fund right now. The biggest complaint that I've gotten so far regarding this program is that folks that have already enrolled in a program or already use sustainable approaches aren't included because they may have already participated in a program for four or five years. Back when corn was \$7, it was a very affordable approach. Now that corn is closer to \$4, it's cost-prohibitive for a lot of producers to invest in biologics or other approaches. And so what this, what this fund does is help offset some of those costs so that, A, they understand the importance of, of using less harmful nitrates on their crops-- and by this program, what this program affords them to do is invest in some of those alternative approaches. So that's my biggest complaint that I've gotten from producers that already are enrolled in the program but will see no benefit. Our goal was to embrace folks that were not well-schooled in those approaches and help them understand the benefits. Of-- as far as your dryland goes, there are a lot of products on the market right now that are time-released, like a product that we use on our operation. It's a time-released approach. You put it in furrow in the spring and it time-releases over the years. So it works great on, on dry land applications. I think John Hansen at Farmers Union was exactly right in that in order to change behavior, you really have to incent it. And so that's what this bill does. It incents that behavior in the change. I also would suggest that the goal isn't to replace nitrogen fertilizers. It's really just to reduce the harmful and replace it with, with less harmful. The opponents, they talked about the, the locations. How do we-- you asked a question about, how, how do we determine who gets the money? There are-- the NRDs actually set up, set up three priority areas. The first priority area is they use crop report data. The second one-- priority B areas, they're required-- they're less intense on the current nitrate. If you look at the map with all the red on it, the, the first, the first priority areas are the red. And then they kind of scale down from there. The priority C's need one or both of the options

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outlined in the priority B. So that's all outlined in here, where are the priority areas. And they gave-- for lack of a better word-- priority to those areas, which is why the graph that shows you how much they're allocating, that's why that, that graph is so diverse. So 157,000 acres were enrolled last year. And as we said, we've got, you know, millions of acres in crop production. This is just the starting place. But because the program was so attractive, we really fin-- feel like it's, it's working. So with that, I would also thank Karl for coming and testifying. He did an amazing job explaining the trust to me the other day and, and how, how they accept the applications, how they prioritize them. And I really feel like-- I've heard a lot of compliments about how he's running the trust, and I think it's true. He's very knowledgeable and, and very, very helpful. So with that, I would say, if there are any other questions that you have, I'd be happy to, to try and either direct them or take them. But in the end, this program-- I mean, it received unanimous support last year. Obviously, the NRDs have, have put a, a plan in place to implement it. And I feel like it's, it's very worthy of our, our conversation and our allocation at the same time.

**DeKAY:** Senator Raybould.

**RAYBOULD:** Thank you, Senator Ar-- Ibach. I think this is an amazing program. It's just, like, the funding dilemma. How do we get the funds for great programs? I guess-- and you mentioned it in your closing remarks, about the incentive. And if-- does this program do, like, a one-and-done to, like, one, you know, farmer or something. And, and then they should recognize, OK. I, I can use 55% less nitrate and I get this check. And so going forward, their incentive to go forward is reduction in inputs. Is that the goal?

**IBACH:** Exactly. And, and it's-- you have to reduce your, your nitrogen use by 15%, or 40 pounds per acre. And so once, once that level is hit in you're, you're reimbursed for your experience, hopefully you see the benefit in, in the biologics or the other sustainable approaches so that you will continue to, to invest in those programs. And like I said, when corn was \$7, there were a lot of people who said, you know what, I think I'll try this, and, and saw the benefits immediately, like myself. But those, those farmers that are currently struggling at \$4 or less per bushel, it, it's a, it's a barrier to invest in biologics or in other sustainable ag approaches. And that's what this-- that's what this bill does, is it incents them. It reimburses them for the costs if they can prove that they've reduced their harmful nitrates by that amount. So I think it works. I'm just one producer out there, though, carrying the flag, so. Thank you.

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**RAYBOULD:** Just, just one more question. You know how I throughout the Corn Board or the Soybean Board. It-- are they a possible source of grant funding for con-- to help continue the program or fund the program? Because that's their livelihood, corn and soybeans and--

**IBACH:** It would be great if it, if it could be. Their, their, their funds are not near what we need for-- to, to execute this program. They do support the program. And you would ask the question, you know, are they supportive of it? The Corn Growers submitted a letter, which you have. And then Farm Bureau, Renewable Fuels, Sorghum, and Soybean boards, they're all supportive of this. And, and I think they're great sources of think tanks as far as where can we find those private or partner funds outside of what we already have established. So we will continue to use them as a resource in hopes of being able to find the funding.

**RAYBOULD:** Great. Thank you.

**DeKAY:** Thank you. I have one question. It was-- talked about the timeline. You know, you're asking \$5 million for five years. Most of the grant applications for-- normally didn't go more than three years. I-- could you expound on that? Why the dif-- why the need for two more years?

**IBACH:** Well, we've asked for one more year just because this is a qualifying year. So farmers had to have their applications in by January 15. NRDs will notify them whether they qualify by March 15. And so this is actually a qualifying year. We've asked for a one-year extension just so that we can use the program for a total of five years. Does that help?

**DeKAY:** OK. Thank you.

**IBACH:** And then the \$5 million-- the \$25 million that-- we're asking for \$5 million per year for five years, but we want to extend it by the one year just-- as-- because this is a qualifying year.

**DeKAY:** OK.

**IBACH:** That make sense?

**DeKAY:** Yeah.

**IBACH:** OK.

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**DeKAY:** Thank you. With that, that ends the hearing on LB638. And-- where'd I put it? [INAUDIBLE].

**RAYBOULD:** LB502.

**DeKAY:** We could go ahead and, and get started on LB502 with Senator Meyer. Senator Meyer. Hold on just a second here. Senator Storm. OK. You're welcome to open on LB502.

**MEYER:** Thank you, Agriculture Committee. I appreciate the opportunity to come before you today. My name is Glen Meyer, G-l-e-n M-e-y-e-r. I passed out an amendment to-- it's a white copy amendment that we have added in, in consultation with the Corn Grower organization just to give a, a definition of what a seed corn grower is, which is applicable in this particular legislation. The problem, as we see it, corn producers and farm labor contractors have not been hiring an adequate number of local laborers for roguing and detasseling work in our seed fields. U.S.C. 118a.1a [SIC] of the federal code stipulates that 2-HA workers-- which are visas-- visa workers may be used for farm labor only when there are not sufficient workers who are able, willing, and qualified. The U.S. Code further stipulates that employers are required to demonstrate their need for a specific number of H-2A workers. These laws are not being adequately enforced by the federal government. On September 20, 2019, Governor Ricketts wrote a letter to the U.S. Department of Labor urging them to require detasseling companies which hire pri-- mi-- migrant workers to include in their petition for H-2A workers a certification that the benefiting seed company had already solicited bids for the work with local companies and no bids were available for that. The federal government never took any action. In 2019, Nebraska's local detasseling companies had 710 local employees waitlisted while certifications were granted to hire H-2A workers to perform the detasseling work. Since 2019, the following Nebraska detasseling companies-- which used to hire local workers-- have gone out of business: Jerim's Detasseling Incorporated, Buresh Detasseling, J's Detasseling Limited Liability Corporation, Premier Detasseling LLC, Wolfco Incorporated, P.S. Detasseling, Shamrock Detasseling, Sany Agralabor [PHONETIC] Detasseling, Barts Detasseling. H-2A migrant workers are being abused and dying-- in all, in all probability, exploited-- when they're brought into Nebraska in order to do our detasseling. As an example, Cru-- Cruz Urias Beltran died while detasseling up Grand Island in 2018. Another individual fro-- a migrant died of heatstroke in northern Indiana while detasseling in 2020. The local youth that we used for detangling, I believe, were treated-- are, are treated much better than what our H-2A visa people are, and-- which, the, the statement I made by being exploited by unscrupulous

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labor contractors, I think this is a prime example that this is actually happening. Farm labor contract companies no longer hire teenagers for detasseling work in the following states: Michigan, Indiana, Illinois, and Iowa. Nebraska is the last holdout. The result we're looking for: seed corn producers and farm labor contract companies need to ensure that local workers, especially teenagers, are offered these jobs before pursuing H-2A migrant workers. Last year, the Nebraska Legislature passed LB844, by Senator Steve Erdman, which clarified how seed companies and seed corn producers are to go about soliciting bids for contract labor for roguing and detasseling work. The bill created transparency for disclosing whether local companies with a valid certificate of exemption are being considered in the bidding process. As far as a certificate of extension-- of, of exemption, a farm labor contractor whose primary residence is in Nebraska may apply for a certificate of exemption only when 80% or more of their workforce is comprised of individuals 17 years old or younger. Between August 1 and September 1 of each year, seed corn producers must supply the Director of Agriculture with the following information. Seed corn companies must supply the Director of Agriculture with the number of acres that require manual labor for roguing and detasseling. Seed corn producers must also supply the Director of Agriculture with the name of each company under contract that was utilized, specifying those in possession of a valid certificate of exemption and those not in possession of a valid certificate of exemption. Seed corn producers must also disclose to the Director of Agriculture at the end of each season the number of acres that each contract company was assigned for roguing and detasseling. The Director of Agriculture publishes all of this information in a report which is posted on the department's website no later than September 30 of each year. The Director of Agriculture also prepares a directory of all Nebraska companies in possession of a valid certificate of exemption. The Director of Agriculture sends a directory to each seed corn company and each seed corn producer by way of registered mail on or before the January 15 of each year. The director also posts the directory to the department's website by April 1 of each year. The problem that we're trying to solve-- when the Legislature passed LB844 last year, LB844, they stripped the bill of its penalties for violating the law. Senator Jacobson introduced FA252, which struck down those lines in the bill containing penalties for enforcing the bill. FA252 passed on a vote of 30-0-12, with seven excused absences. Although the bill passed on a vote of 45-0, the bill is currently unenforceable without those penalties. LB502, which this bill is, would reinstate the Class IV misdemeanor penalty back into law. A Class IV misdemeanor is the minimum penalty that we could find which would actually be enforced by

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the Nebraska Attorney General's Office. A Class IV misdemeanor holds no risk of imprisonment but does include a fine of up to \$500. Without some kind of teeth in the law, I believe seed corn producers and farm labor contractors would continue to violate state and federal laws without fear of [INAUDIBLE]. Today, I am, I am asking the committee to advance LB502 to General File so that we can enforce the law and protect these jobs for our teenagers and local workers. You know, we, we give a lot of lip service to providing jobs for Nebraskans. We want to instill a strong work ethic-- eth-- work ethic in our youth. Here we have a prime opportunity with the detasseling, which we have a number of people currently even on the waiting list to, to detassel. And certain companies circumvent that and bring in migrant workers on H-2A visas. And I think that's just wrong. I think that's just wrong. With that, I, I would welcome questions.

**DeKAY:** Are there any questions from the committee? Go ahead.

**RAYBOULD:** Thank you, Senator Meyer, for introducing this. So also in your section, any person who violates Section 48-1711 or 48-1712 shall be guilty of a Class II misdemeanor. So what is-- is that subject to the lower fine?

**MEYER:** I would hope someone behind me could address that--

**RAYBOULD:** OK.

**MEYER:** --with regard to the Class II as opposed to the Class IV. I, I think when, when we've been discussing the penalty structure, the Attorney General in all probability is not going to-- if, if the conversations I had, if my memory's clear on that, that a Class IV would be where the Attorney General would initiate a prosecution. But we can get some clarification on that for you.

**RAYBOULD:** OK. And then how many violations were recorded without penalty last year? Do you have--

**MEYER:** Well, if--

**RAYBOULD:** --kind of an idea?

**MEYER:** --I could find that particular handout. We had a number of farm contractors-- 1, 2, 3, 4, 5, 6, 7, 8, 9, 10-- named the top 10 violators. Not, not a comprehensive list, but the top ten. There were 21 investigations. There were-- a total in the top ten, 10,109 violations. Total back wages owed were \$705,497. And total civil money penalties assessed: \$72,000. And my understanding as I look at total

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back wages owed, share of back wages-- I don't know if they were paid or not, quite frankly. So we've had thousands of violations. And I'm sure the violation is-- was on an individual basis. It's not a, a comprehensive ten people's one. I'm sure it's on a, a, a per person basis. But this is just the top ten violators. I see a total for all violators was 65,135 violations.

**RAYBOULD:** And that is because they reached out and hired guest workers?

**MEYER:** That's part of it. It, it's-- I, I think, the term guest workers-- it's H-2A migrant workers. And I think there's probably a delineation. I don't know if we need to get into that today, guest workers as opposed to actually being brought into the country specifically for this. It just seems like it's, it's a, it's a commonsense thing, certainly in the ag community, that if you've got a workforce available to you-- and certainly there's a strong history of detasseling teenagers in, in Nebraska, certainly in our seed producing areas. I had two of my three kids detassel. I think it's somewhat of a family, family tradition in many families, where it's gone from grandparents to parents to currently the grandkids are, are doing it. And it's kind of a rite of passage for many. The money's pretty decent. They're taking much better care. 20, 25 years ago, I think probably the, the high school detassellers, they, they weren't wearing hardhats. They weren't wearing protective gear like they're required to today. Some companies are actually requiring the students that, that-- the detassellers can buy their own protective equipment rather than supplying that. As has been evidenced, we've had-- in two particular instances, one in Indiana and one in Nebraska, we've actually had deaths from migrant workers. And it's been heatstroke, essentially, that the-- that, that they've discovered has, has killed them, simply because they've been forced to work long hours. The labor contractors that utilize teenagers are much, in my opinion, much better managed and certainly take greater safety precautions. And to the best of my knowledge, while I'm sure we've had the occasional injury in, in a field, I don't know of any health issues that, that reached the level of a death in the field concerning our, our high school and our, our teenager detassellers, so.

**RAYBOULD:** Thank you.

**DeKAY:** Go ahead.

**RAYBOULD:** Yeah. And so I guess I'm just trying to figure out if some of the reasons why they reach out to the H-2--

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**MEYER:** H-2A.

**RAYBOULD:** --H-2A program is because the teenagers are really not available like they used to be, or--

**MEYER:** Actually, there was 710 on a waiting list last year. And irregardless of the fact that they were on a waiting list, some companies still hired H-2As. And, and they, they say they can't get workers. And, and part of it is the deceptive advertising and a matter of convenience. And, and if you're-- are you familiar at all with detasseling, Senator Raybould?

**RAYBOULD:** Yes. I tried desperately to be a detasseler, but they kept telling me I was too short. I knew I could make some good money.

**MEYER:** I'm sorry to hear that.

**RAYBOULD:** I know. My cousin's all did it, but. Anyway.

**MEYER:** You may be very, very fortunate you did not detassel. But, but be that as it may, I-- in, in, in some cases-- and I've heard anecdotal information that's been shared with me-- that in order to circumvent getting available youth, they-- you're supposed to advertise for labor-- detasseling labor. You have pickup points. They'll use buses, things of that nature, to pick up points. But what the unscrupulous people do is put a very small advertisement in a, in a obscure paper or a very small paper and have decreased the pickup points so that they actually can say, hey, we advertised and we just couldn't get anybody. It's totally a deceptive practice and is-- totally circumvents certainly the intent and the letter of the law. Unfortunately, the federal government's been reluctant to enforce this. And once again, it was passed last year, LB844. And for whatever reason-- and I have not had a conversation with Senator Jacobson about this-- but the teeth were taken out-- were, were taken out of this particular bill. So it, it, it just turned into-- which quite often does in this body-- a shame-on-me bill. You can have a violation-- there should be penalties. In fact, there were penalties initially in LB844. But you take the teeth out of any bill and it's just a shame-on-me bill. You're-- gah, you caught me. Shame on me. I'll promise never to do it again-- until next year. And so, quite frankly, we need, we need to put some penalties in this. It's a commonsense Nebraska thing, quite frankly.

**RAYBOULD:** OK.

**MEYER:** Thank you.

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**RAYBOULD:** Thank you.

**DeKAY:** Any-- we will start with Senator Kauth.

**KAUTH:** Thank you, Chair DeKay. So Senator Meyer, if they're-- if they've got the list, they look at the list and either in that area there aren't detassellers or any-- do they have to-- say there are people on one side of the, the county or the state and, and not enough on the other, do they have to poll-- is it a state list-- is it a--

**MEYER:** There's a, there's a number of, of contracting companies. And they will travel. You know, they're-- it's not like you have to--

**KAUTH:** Even with teenagers?

**MEYER:** It's not like you have to stay 20 miles within, you know, a 20-mile radius of the field or anything. And, and so from what's been shared with me is there's an adequate supply of teenagers to do the detasseling in the state of Nebraska. And, and actually some of the-- some of the companies that are contracting with, with labor contractors for our, our teenage detassellers are sticking strictly with the teenage detassellers. They seem to-- they don't seem to have a problem finding sufficient help. There are just a few bad actors that for whatever reason-- and I, would I would opine that it's strictly for money reasons, strictly for the almighty dollar, the bottom line-- that, that's the-- that's their motivation to circumvent using local, local labor and bringing in H-2A visa workers to do the job.

**KAUTH:** And so if they, if they somehow prove, hey, I, I looked there weren't any available, is there, is there a mechanism on how to prove that they checked? And I, I-- I don't remember the bill from last year.

**MEYER:** My understanding is they ha-- they have-- there is some providence--

**KAUTH:** OK.

**MEYER:** --to show that, yes, I did advertise. Yes, I, I did make a good faith attempt. But it's the determination of whether that was a good faith attempt or not.

**KAUTH:** OK.

**MEYER:** You know?

**KAUTH:** And that's the AG who would--

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**MEYER:** Pardon?

**KAUTH:** That's the AG who would decide--

**MEYER:** The-- that would be the, the folks that are bringing in the H-2A visa folks. Yeah. You, you have to prove that you have a need. You actually have to specify what-- how many you need and the conditions under which you did try to find labor and unfortunately was not able to find some. So there's always a way to circumvent. And regardless of how tight you draw the legislation, there's always a way to circumvent. And if there's no teeth in the law, it's going to continue to go on, so.

**KAUTH:** Thank you.

**MEYER:** Thank you.

**DeKAY:** Senator Storm.

**STORM:** Thank you, Vice-- DeKay. Thank you, Senator Meyer. Couple questions. So the list-- you said there was-- how many, how many youth or whatever were on the list that they didn't hire? Did you--

**MEYER:** I, I-- the number that was given to me was 710--

**STORM:** 710.

**MEYER:** --710 that were on a waiting list, applied to detassel, and unfortunately were not able to be hired. And a great number of the detasseling fields and the crews ended up being H-2A--

**STORM:** So does it give the age of those people that were on the waiting list?

**MEYER:** Pardon?

**STORM:** Does it give the age of the--

**MEYER:** You can, you can detassel for-- starting at 12. And, and you can actually be older than 17 and that. But starting at 12 years old, you can, can start detasseling.

**STORM:** So--

**MEYER:** And-- so I did not see the age parameters of what, what the waiting list was, but--

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**STORM:** So my curiosity would be is-- would be to see what the age list is. Because I, I know a 12-year-old's not going to be able to detassel like a, an adult. And if you're-- have a seed corn business and you have so many acres, you got to detasseling on it-- because it's a time-- you're familiar with seed corn--

**MEYER:** Oh, absolutely.

**STORM:** Very much a timing issue. And so if I have to hire a 12-year-old over a 22-year-old H-2A worker that can do three times as much in a day as the 12-year-old, that can impact my business to some degree. Do you see what I'm getting at?

**MEYER:** The, the guidelines, as, as I understand them, is you have to take a look at how many acres you're attempting to detassel or rogue.

**STORM:** Right.

**MEYER:** And then there is a, a specific number of detassellers that you need to cover that many acres in that period of time. And, and if they allow 12-year-olds to detassel-- which I'm sure they do. I don't know why Senator Raybould didn't have an opportunity to detassel in her youth. So. But, yes, perhaps a grown, a grown man or a grown woman can, can detassel, maybe do more. And yet as an example of the extended work hours, we've actually had a death in Nebraska from what I would consider no less an exploitation and pushing someone harder than they needed to be. As I understand it, from news reports, he didn't come out of the field. They had to go looking for him, and the, you know, first responders found him expired in the field from heat exhaustion, so. Yeah, I, I, I wouldn't discount-- you're, you're, you're not going to have a crew totally made up of 12-year-olds, quite frankly. And-- and so given the history of the labor contracts and contractors that are working with the detassellers and the number that's required to do a specific number of acres, I believe they've got that worked out where it's not a detriment having 12-year-olds detassel.

**STORM:** Right. What-- one last thing. So you said Nebraska's the last state using--

**MEYER:** That's my understanding, yes.

**STORM:** --minors to detassel.

**MEYER:** Yep.

**STORM:** OK. That's all I had. Thanks.

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**MEYER:** Thank you.

**DeKAY:** Any other ques-- quick question.

**MEYER:** Fire away.

**DeKAY:** How many years of service does the average detasseler work in the fields?

**MEYER:** I do not know that answer.

**DeKAY:** All right. Thank you.

**MEYER:** Thank you.

**DeKAY:** With that, first proponent.

**JOHN HANSEN:** Mr. Chairman, members of the committee. 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. We have been in strong support of this-- of the preceding bills on this issue in past years, including LB844 last year. And some of the arguments that we have made is that there's different ways to look at this particular issue. But from our standpoint, this is an investment in our future workforce. We have kids who want to work. The system when we've used it has worked well. This is a decision that has been made by seed corn companies who would rather not use that system and would prefer to use H-2A workers, bring them in, run them in the ground, kick them out the door. It's a no-deposit, no-return labor policy. And the abuses that have been documented in the, in the newspaper, investigations in past years verify that. Not good places to live, not good places to eat, not good places to recoup from hard, physical labor after really pushing in the heat and, and all of these things. So do you need an enforcement provision in a bill that's already been passed by the Legislature, already been through this process, and was already passed into law? And we've-- we have successfully isolated the variable. We didn't put in an enforcement mechanism. And guess what? Oh, that was a mistake. So when you have laws, if you're serious about the laws you pass, you ought to enforce them. I would contend that if, that if you did not enforce stop sign violations that not very many people would stop. And so what is the-- what is the enforcement mechanism? It's simple. It's straightforward. It was in the bill last year. We supported it in the bill last year. We were not happy when it was pulled out of the bill. We said, we'll see how this works. We, we thank Senator Meyer for bringing this bill back. If you're going to have laws on the book, enforce them. And so is this a good investment in the-- our future workforce? Absolutely. And the,

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the hearing we had last year on this, on this bill was just incredible. The total number of, of kids that came in, but also parents that came in and folks who had worked in fields before and, and you know, how it helped shape their lives, how they thought about themselves differently. This is helping kids get money that they need to be able to buy school supplies, buy a, a, a car, do all those kinds of things. This system, when it works, is a very good system, and we ought not walk away from it because we don't have an enforcement mechanism in the bill that was already passed in the law. So we strongly urge the committee to fix that which is broken, which is the lack of an enforcement mechanism. Put it back in the bill where, where-- in-- back in the law, where it should have been in the first place. And we'd be glad to answer any questions if you have any.

**HOLDCROFT:** Any questions from the committee? Senator Storm.

**STORM:** Thank you, Vice-Vice Chair Holdcroft. So on the H-2A program-- I'm not super familiar at this. Maybe you can help me. But does any company who hires H-2A employees, they have to prove a need for those employees? So does a packing plant in my district, like Schuyler, Nebraska, do they-- when they hire an H-2A employee, do they have to prove that they didn't advertise enough for regular employees or--

**JOHN HANSEN:** H-2As-- and-- woe be it for me to explain H-2A to you. It's a complicated program. It's not working very well. It's usually for agricultural workers. It's usually short-term workers. It's been used historically for fruits, vegetables, nuts, specialty crops, and orchards and those kinds of things. And we've been-- also been using it increasingly in agriculture. And so in our state, you know, the folks who are more likely to use those kinds of, of, of workers, you know, our, our hog confinement folks, feedlots, poultry, dairies, and those are, those are much more likely to be H-2A. But part of the problem with H-2A is that because of the way it works, you're, you're really supposed to use workers. They go on and then they go back to their home country and then they come back the next season.

**STORM:** Right.

**JOHN HANSEN:** So for, for those kinds of agriculture that has a need for year-round labor, which-- the ones I just named-- the H-2A doesn't work very well. And I, you know, I, I use to-- I'm also a recovering seed corn dealer and distributor. And so I, you know-- that-- the big dogs in seed corn world, they make decisions about what they think is in their company's interest. And for whatever reason, it's been clear to us, with, with the problems that have grown up that caused Senator

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Erdman to bring this bill several times was that the companies just changed direction and decided what they were going to do. And so, you know, it was a decision that they made. And so it's been kind of the big dumb show, in my opinion, for these companies saying, gee, we can't find workers. Because there's always been workers. They just-- they, they could find somebody to sell seed corn to. They could find somebody to work in their field if they wanted to. And so, so we shouldn't have had-- in my opinion, we-- this whole issue should have never gotten this far in the first place. But it is. And so the law was passed, and, and now we're just saying enforce it.

**STORM:** Thank you.

**DeKAY:** Any other questions?

**JOHN HANSEN:** Thank you.

**DeKAY:** Senator Raybould.

**RAYBOULD:** Real quick, how do-- how will we know the new penalties are working?

**JOHN HANSEN:** Well, I think you take a look at the data and say what-- you know. Is, is, is there a difference between when you have an enforcement mechanism and when you don't? We ought to be able to see a difference in the data after a year.

**RAYBOULD:** OK. Thank you.

**DeKAY:** Any other questions? Seeing none. Thank you.

**JOHN HANSEN:** Thank you.

**DeKAY:** Next proponent. Seeing none throughout the crowd. First opponent. Still none. Anybody in the neutral?

**MICHAEL DIBBERN:** OK. Good afternoon, Chairman DeKay and members of the Ag Committee. My name is Michael Dibbern, spelled M-i-c-h-a-e-l D-i-b-b-e-r-n. And I am the President of the Nebraska Corn Growers Association. And I farm near Wood River. I am testifying in a neutral capacity to LB502 on behalf of the Nebraska Corn Growers Association, Nebraska Farm Bureau, and Fe-- and Renewable Fuels Nebraska. When the Farm Labor Contractors Act was passed last year via LB844, our office fielded calls from members concerned about the lack of clarity regarding who was included in the term seed corn producer. While we were assured that individual farmers or growers were not included in

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the term and thus would not have to fulfill the various requirements of the act, we did not request further clarification. Now, with the introduction of LB502 that proposes to now make it a misdemeanor should a seed corn producer not fulfill the reporting requirements as listed in the statute and by the Nebraska Department of Agriculture, it has again raised elevated concerns for members in the lack of a definition of a seed corn producer, which is why we initially opposed this bill. However, the proposed amendment by Senator Meyer provides a clear definition in statute of the term seed corn producer and, more importantly, specifies that the act does not pertain to farmers, growers, or producers that are the actual landowners or tenants that are personally engaged in the growing of seed corn. It is important that we protect our farmers, therefore we encourage you to vote in favor of that amendment. In 2024, Nebraska farmers planted nearly 140,000 acres of seed corn. We believe this all-- and we believe that all of this was under a contract between producers and various seed corn companies, contractual seed growers, or other entities contracted to produce seed for companies. Whether you're connected to agriculture or not, our industry utilizes the terms of farmer, grower, and producer interchangeably. You can see why it is vital that we provide the definition in the amendment a defined term of a seed corn producer that has been elevated by LB502. Thus, we stand neutral to the bill and are seeking the adoption of the amendment before you. It is critical that a clear definition of seed corn producer is provided. We must protect our farmers, which is what the amendment will accomplish. I want to thank the committee for their time today. And while I'm testifying neutrally, I could encourage you to advance the amendment. And I would hap-- be happy to answer any questions that you may have.

**DeKAY:** Are there any questions? Seeing none.

**MICHAEL DIBBERN:** Lucky me.

**DeKAY:** Thank you.

**MICHAEL DIBBERN:** Thank you.

**DeKAY:** Next in the neutral position. As Senator Meyer's comes up, the summary report of position comment: there were 3 proponents, 1 opponent, and nobody in the neutral capacity.

**MEYER:** I'll make it brief. It won't be 9:00 when I-- when you guys get out of here, so. It'll be all right.

**DeKAY:** I got a gavel.

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**MEYER:** What a no-- what a novel idea. I wish we'd have thought of it last night. It's the discussion of the Ag Committee on, on penalties with regard to this legislation. And initially, we had been told-- or, or in prior years that, that had been represented that the AG would not prosecute any violations of this with teeth in the bill. We were assured by the Attorney General that he will prosecute any violations of this legislation, so. I think that's an important, important thing to, to keep in mind. The, the AG will, will prosecute on violations. LB844 was enshrined in Nebraska state statutes last year, and the new law's being implemented this year. All that LB844 did was require corn producers to disclose how many acres they are used for seed corn and how they are hired to detassel and how, and how they hired to detassel and rogue corn. All corn producers, including farmers, currently have to abide by the new state law. All we are trying to do with LB502 is simply reinstate the penalty in order to make the law enforceable. It's not any more complicated than that. So with that, I would welcome any additional questions. And I'm at your disposal.

**DeKAY:** Are there any questions from the committee? Seeing none. Thank you. With that, that closes the hearing on LB502 and also closes the hearings for today. Thank you.

**MEYER:** Thank, thank you to the committee.