

BOSTELMAN: OK. Good afternoon, everyone. Welcome to the Natural Resource Committee. I'm Senator Bruce Bostelman, from Brainard, representing the 23rd Legislative District, and I serve as Chair of this committee. The committee will take up the bills in the order posted. This public hearing today is your opportunity to be a part of the legislative process and to express your position on the proposed legislation before us. If you are planning to testify today, please fill out one of the green testifier sheets that are on the table at the back of the room. Be sure to print clearly and fill it out completely. When it is your turn to come forward to testify, give the testifier sheet to the page or to the committee clerk. If you do not wish to testify but would like to indicate your position on a bill, there are also yellow sign-in sheets back on the table for each bill. These sheets will be included as an exhibit in the official hearing record. When you come up to testify, please speak clearly into the microphone. Tell us your name and spell your name, first and last, to ensure we get an accurate record. We will begin each bill hearing today with the introducer's opening statement, followed by the proponents of the bill, then opponents, and finally, by anyone speaking in the neutral capacity. We will finish with a closing statement by the introducer, if they wish to give one. We will be using a 3-minute light system for all testifiers. When you begin your testimony, the light on the table will be green. When the yellow light comes on, you have 1 minute remaining, and the red light indicates you need to wrap up your final thoughts and stop. Questions from the committee may follow. Also, committee members may come and go during the hearing. This has nothing to do with the importance of the bills being heard. It is just part of the process, as senators may have bills to introduce in other committees. A few final items to facilitate today's hearing. If you have handouts or copies of your testimony, please bring at least 10 copies and give them to the page. Please silence or turn off your cell phones. Verbal outbursts or applause are not permitted in the hearing room. Such behavior may be cause for you to be asked to leave the hearing. Finally, committee procedures for all committees states that written position comments on a bill to be included in the record must be submitted by 8 a.m. the day of the hearing. The only acceptable method of submission is via the Legislature's website at nebraskalegislature.gov. Written position letters will be included in the official hearing record, but only those testifying in person before the committee will be included on the committee statement. I will now have the committee members with us today introduce themselves, starting on my left.

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

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

BOSTELMAN: And on my right.

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

JACOBSON: I'm Senator Mike Jacobson. I represent District 42, which includes Lincoln, Logan, McPherson, Hooker, Thomas, and three-quarters of Perkins County.

MOSER: Mike Moser, District 22. It's Platte County and most of Stanton County.

BOSTELMAN: Senator Moser also serves as Vice Chair of the committee. Also assisting the committee today, to my left is our legal counsel, Cyndi Lamm. And to my far right is our committee clerk, Laurie Vollertson. Our pages for the committee today are Ruby Kinzie and Shriya Re-- Raghuvanshi. Thank you very much. With that, we will open up our gubernatorial appointment hearing on Donna Kush to the Nebraska Game and Parks Commission, a reappointment. Please step forward. Good afternoon and welcome.

DONNA KUSH: Good afternoon. I'm Donna Kush, D-o-n-n-a Kush, K-u-s-h. I'm of Omaha, Nebraska, here for the-- my reappointment to the Game and Parks Commission for the state of Nebraska.

BOSTELMAN: Tell us a little bit about yourself, and--

DONNA KUSH: Yes. I'm happy to be here. Thank you very much, Chairman, and other members of the committee, as well. I am a-- I grew up in rural Nebraska, actually, Monroe, Nebraska, in Platte County, in Senator Moser's district. And went to school at University of Nebraska-Lincoln, and have my undergrad and graduate degrees both from there. Never strayed very far away from home because I always had great opportunities here in our great state. And mostly worked in corporate America-- have worked in corporate America, at TD Ameritrade, and then also at Union Pacific. And now-- in, in those capacities, I was a leader of corporate communications teams, public affairs, government affairs, and also, corporate philanthropy, which then led me into my current role, where I am the president and CEO of

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the Omaha Community Foundation, one of the nation's largest community foundations, which really just speaks to the philanthropy of our, our great community. And so, I feel like my time on the commission has taken advantage of both my personal and professional parts of my life, in that I grew up in a rural area, with a family where the culture and the upbringing was very much focused around hunting, fishing, camping, very much enjoying the outdoors, which I still do today.

BOSTELMAN: OK. Are there questions from committee members? Senator Fredrickson.

FREDRICKSON: Thank you, Chair. Thank you, Ms. Kush, for being here and for your willingness to serve the state and continue to serve the state in this capacity. Can you maybe share a little bit about what are some of the things you're proud of that you've done on the commission or the commission has done while you've been serving, and maybe what you're looking forward to in, in the next term, for you?

DONNA KUSH: Yes. Thank you for that question. There are so many things that my fellow commissioners and I have been working on and very proud of. One of those has been, actually, our leadership, who's sitting behind me. I was part of the selection committee for Tim McCoy. And we-- I'm very proud of the process that we followed through that whole, through that whole interviewing and, and everything that we did, and to say that, you know, we really looked far and wide and believe that we hired the best leadership. And we see it now, across the entire organization in, in the team, in the culture of the organization and future leaders of the organization, as well. So that is, is one of my key things, I think. Also bringing in my, my business background and that as a filter that I use when we're making decisions. The commission is very much driven by science and data, and also then, bringing a business lens to that, as well, in terms of how we make our decisions in understanding what are the risk involved in that, but also, what are the-- what's the revenue or, or actual financial impact of some of the decisions we make, as well. So those, I think, I think have been-- and, and then also, because of my communications, public affairs background, community affairs background also helping to lend some advice, I guess, and guidance in that area, in particular, whether it's communications and how we communicate with landowners or the media or the general public, in terms of, again, decision making or things that are going on and just also greater public awareness of what the Game and Parks Commission does, and especially awareness for the great resources that we have in the state.

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FREDRICKSON: Thank you.

BOSTELMAN: Senator Hughes.

HUGHES: Thank you, Chairman Bostelman. Thank you for-- Ms. Kush. Thanks for serving always, and, and thanks for coming in today. Thanks for being willing to do a second term. What do you think the biggest obstacle or, or what is, what is the commission facing, you think, in the next 4 years, 10 years down the road-- challenge, that you guys have to face, I guess.

DONNA KUSH: I think it's relevancy and access. So as we see the demographics of our users changing, it's making sure that we are keeping access available to, to those different generations and keeping their interest and that relevancy to, to the outdoors there for them. And that, I think the two kind of play hand in hand. So we have to be relevant, but we also have to make sure that folks feel like they have access to it. So I think we have a great opportunity in front of us. I think if there's one thing that came out of the pandemic, it showed us is that people really want to get outdoors and enjoy those natural resources. Some of our permit numbers were, you know, sky high, and we have been trying really hard to keep that front and center with those folks, to keep them interested in it. I, in particular, you know, am very interested in our parks and trails and those types of amenities. And I see those, quite honestly, as kind of a gateway drug into the other areas of our natural resources, in that, I think, for folks, that's an easy access point. That's an easy place to get pleasure. It's an easy place to take family and kids to enjoy those, you know, the amenities that we have in, in whatever community they're in, in that nearby state park, or, or management area. And so, once we get them in there, you know, it-- we need to get them interested in then what's the next step? Hey, there's a pond or a lake that-- lets, you know, get them interested in fishing there. And then that leads into further activities. So I'd see that really as our greatest opportunity. And then I would say one of the things that has been a learning, certainly, you know-- and it, and it comes, I understand, in government, that there has just been-- there have been limitations on our ability to be flexible when opportunities arise, in terms of funding. So, you know, I can give you an example, even where-- there was one of our parks where a donor wanted to fund a major project improvement to part of the facility. And it would have been a significant enhancement in something that was outdated and very much needed the improvements. We presented the, the priorities for that park, but those priorities were then not chosen and other

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priorities were chosen instead. And therefore, since we didn't have the flexibility to take advantage of that donor coming forward with the interest, we're, we're losing out on that opportunity for funding. So I guess, coming from where I come from, in the business world, you see an opportunity, a business opportunity. It has a good ROI on it. You go after it. Whereas for us, that's something that has, has been very limiting and, and hard for us to be able to be flexible, be agile, you know, be agile and be able to take advantage of those opportunities.

HUGHES: OK. Thank you.

BOSTELMAN: Senator Brandt.

BRANDT: Thank you, Chairman Bostelman. Thank you, Ms. Kush, for your service and for being here today. In reading your resume, you serve on the wildlife committee, is that correct?

DONNA KUSH: Currently, yes. It usually changes every year or so, but currently, I am on the--

BRANDT: What an opportunity for my question. So the, the further west you go in Nebraska--

DONNA KUSH: Um-hum.

BRANDT: --and Senator Erdman has kind of been beating this drum as long as I've been here. These guys are laughing because they know what I'm going to ask. But we have a real problem in certain areas of the state with deer, elk, antelope, destroying haystacks, winter feed stocks, fences, and a lot of things, and a lot of that's unavoidable. I mean, I recognize that. I'm a farmer. How, how are we going to improve our relationships with landowners, where 97% of the state is in private hands, and we want people to hunt and fish and do all this stuff. But when people get a bad taste in their mouth, they just kind of throw up their hands and say, I don't want anything to do with letting anybody hunt, fish or Game and Parks.

DONNA KUSH: Yeah. Understandable. And I-- I'm good friends and my family has long been good friends with one of the largest farmers, I think, in the Valentine area, so I'm very familiar with not only the issues that they've had with elk, but also the work that the commission has been doing with them. And it's been a very collaborative effort to figure out what kinds of things, and they've been very good about allowing testing of different things to try to

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take care of reducing the population there. A lot of different things involving even some technology in some cases, to see what can be done there. So I think that's the number one thing, is communication and collaboration with those landowners. It's not always been great, and we know that, but we're trying very hard to improve that, to listen to them one on one, to give them public venues, too, to voice that concern. But then, also then, looking for new and innovative ways that, that we can help take care of those populations. So whether it's damage control, depredation, whatever those permits are that we can be able to-- different tools. And I think that's the other thing too, is making sure that folks are aware of those different tools that are, that are available so that we can work with them one on one on what makes sense. Because in some cases, you're right. They don't necessarily want just anyone on their property to help with it. But then, let's look at another tool then, to see what works.

BRANDT: And I was excited to hear you talk about trails. And the trails we have in southeast Nebraska are water trails, and specifically, kayaking, I think, can be developed to a much greater degree in my part of the state, which doesn't have a lot of state parks or Lake McConaughy or--

DONNA KUSH: Yeah.

BRANDT: --when you go between Lincoln and Kansas, there's just not a lot down there, but we do have a lot of rivers and large creeks that could be developed. Do you have an opinion on that?

DONNA KUSH: I agree.

BRANDT: All right.

DONNA KUSH: I-- no, I'm a huge fan of trails, whether they're water trails or, you know, otherwise, for hiking, biking, walking, running, any of that. And we've talked a lot about water trails, in particular, and having a better relationship with the Department of Transportation, in particular, so that we can work on better access points, too, because it does need to be, many times, a collaborative effort with them in that case. So we have, across the state, great opportunity, of course, with the Niobrara and other parts of the state, as well, where we could be enhancing water trails. It goes back to access, too, really, and increasing that access, so whether it's private or public property, figuring that out.

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BRANDT: All right. Thank you.

BOSTELMAN: Senator Jacobson.

JACOBSON: Thank you, Chairman Bostelman. And Ms., Ms. Kush, thank you, again, for accepting the reappointment and, and for your service on the, the, the commission. I, I guess my question is a little bit related to Senator Brandt's. We've had a number of bills offered this year that are to provide greater access, particularly for veterans, to hunting, which I fully support. I do have some reservation, however, on one bill that would open up all public lands to hunting. My concern is a lot of those public lands are also leased to farmers or ranchers who are running livestock. And so when you have unfettered access to deer hunters, for example, there's a likelihood of having some livestock dead is-- goes up significantly. Probably adds to some of the con-- issues that Senator Brandt had mentioned. I know I've had some discussion with those on what that might mean for school leases in particular--

DONNA KUSH: Um-hum.

JACOBSON: --which, my guess is if that would be unfettered access, you're going to see lease rates go down. I agree that we've got to figure out how to get more access for people, but have you thought about ways that the commission could probably also be helpful in providing incentives for private landowners to provide access, as opposed to more of the stick approach of it's just wide open and you just deal with the problems. Any, any thoughts there?

DONNA KUSH: Yeah, we have talked a lot about incentives. And I think it's a slippery slope sometimes, too, because it can probably have unintended consequences that would go along with it. It is. And then also there's the question of funding. Who's going to pay for those incentives?

JACOBSON: Thank you.

BOSTELMAN: Senator Moser.

MOSER: Just want to say hey to one of my constituents. Welcome. Glad to see you're doing well, even though you left my district.

DONNA KUSH: Yes, but I still have, pretty much all of my family and siblings and 21 nieces and nephews that are still in your district.

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MOSER: Well, be sure and stop at McDonald's or somewhere on the way and--

DONNA KUSH: OK.

MOSER: --spend some money and help us out.

DONNA KUSH: We always do.

BOSTELMAN: How many times do you have meetings during the year, and are-- where-- are they located in different areas of the state?

DONNA KUSH: They are, which has been a huge advantage to-- I mean, it's been a very strategic, intentional decision to have them across the state. We couldn't be the Game and Parks Commission and have meetings in Lincoln 6 times a year and understand what resources, what the parks, you know, what are the-- what, what shape are they in? What are-- how are people using them, and all of that. So we have 6 official meetings a year. And those are usually 2-day meetings where the first day is committee meetings and informational meetings, and then the second day is our formal official meeting. And then we-- we'll have some other meetings as needed for strategic planning or things like that. But those are everywhere from this year, from Fort Robinson, to Kearney, to Fremont, I think. Yeah. So we-- and every year we look at having them in different locations, again, so that we can see the different parks.

BOSTELMAN: Do you feel they're fairly well attended? Do you see fairly well attendance, those coming to it? Do you-- good representation of those--

DONNA KUSH: It really-- it depends on the location and the subject. So we have some very passionate folks about certain topics on the agenda, and those are very well attended. And we make time for all of those folks to be heard at the meeting and then it-- other ones, maybe, much lighter on attendance, I would say.

BOSTELMAN: Sure. Well, that makes sense. So, yeah. Are there any other questions from committee members? Seeing none, thank you for willingness to serve. And thank you for coming in today.

DONNA KUSH: Thank you, all.

BOSTELMAN: Anyone would like to testify in support of the reappointment of Donna Kush to the Nebraska Game and Parks Commission?

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Anyone in support? Anyone in opposition? Seeing none, anyone who would like to testify in the neu-- neutral capacity? Seeing none, that will close our hearing on the gubernatorial appointment of Donna Kush to the Nebraska Game and Parks Commission. Thank you for coming in. Next, we'll open our hearing on LB1258, Senator Machaela Cavanaugh.

_____ : She's on her way, Senator.

BOSTELMAN: OK. Good afternoon, Senator Cavanaugh.

M. CAVANAUGH: This is my first time here.

BOSTELMAN: Welcome to the fun committee.

M. CAVANAUGH: Thank you. Oh, and the other Cavanaugh, he's not here. Is he avoiding me? Yes. Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. For the record, I am Machaela Cavanaugh, M-a-c-h-a-e-l-a C-a-v-a-n-a-u-g-h, and I represent District 6 in west central Omaha, Douglas County. I have a handout. Here you go. Thank you, Sharon. LB1258 strengthens the Nebraska Department of Environmental and Energy, its ability to oversee compliance within livestock waste management and water quality. While groundwater contamination regulation is a new focus for me, I chose to present LB1258 this year after discovering the insufficient oversight and regulations of nitrates contaminating groundwater. It may not be a surprise to my colleagues that my interest in the regulation of nitrates in groundwater stems from a public health perspective. According to the Center for Disease Control and Prevention, Nebraska holds the seventh highest pediatric cancer rate in the United States. And although Nebraska oftentimes strives for the top spot, leading the Midwest in pediatric cancer rates is not a ranking we aspire to. The handout with colored maps provides a graphic representation of pediatric cancer incidence. Senator von Gillern's bill, LB1172, addresses a critical issue related to the lack of access to data in certain registries and databases for research purposes, specifically data concerning cancer rates, including geographic data and types of cancer. While researchers need more data to confirm the correlation between elevated nitrate-laced water and cancer, especially pediatric cancer, we should work comprehensively to tackle this growing crisis. Pregnant women who drink nitrate-laced water are at a higher risk of complications such as premature labor, miscarriages and anemia. Their babies are at great risk for birth defects. The national average for birth defects is 3.3% of all live births. Nebraska is 5.8%, between 2005 and 2014. Counties in parts of Nebraska reach 9-12%, 4 times

higher than the national, national average. Counties with higher birth defect rate-- defects have greater prevalence of agrochemicals, including nitrates in drinking water. Other adverse health outcomes attributed to nitrate contamination are blood disorders, colorectal cancer, thyroid disease. LB1258 focuses on concentrated animal feeding operations or CAFOs. Probably, there's a way to pronounce-- CAFOs? I don't know. We'll stick with concentrated animal feeding operations for now-- ensuring that the Nebraska Department of Environment and Energy does not approve large, concentrated animal feeding operations near watersheds, unless the application includes monitoring wells and reporting of the results. This legislation will give the Nebraska Department of En-- of Environment and Energy the ability to deny, deny applications that would contribute to further contamination of the groundwater. And for existing concentrated animal feeding operations, the strengthening of statute will allow the Department to make sure that the concentrated animal feeding operation is monitoring and reporting their permits-- as their permits are renewed. In addition to the reports going to the department, this bill requires the monitoring. Well reports go to the local natural resources district so they can update their nitrate monitoring. Recent news articles mentioned that NDEE is understaffed. My staff have had conversations that indicate that the current regulations are not being fully followed. LB1258 is largely taken from NDEE's own regulations. Putting this in statute will hopefully strengthen the department's ability to enforce the law and their own regulations. The majority of drinking water in Nebraska is sourced from groundwater, including 80% from community public water systems and private domestic wells, that are nearly 100% rural residents. Individuals and public entities are spending millions on trying to filter nitrates and other contaminants out. There's a lot of reverse osmosis happening in these communities. The evidence is mounting that not addressing the problem is only making our children more sick and our groundwater more contaminated. Instead, we need to put more effort into addressing the sources of contamination. This is not the only avenue to address the problem of contamination in our ground-- groundwater, but is a positive small step in addressing our very large problem. I ask for your support of this bill. I'm happy to answer any questions to the best of my ability. Again, this is a new area for me. And that's it. Thank you.

BOSTELMAN: OK. Thank you for your opening. Questions? Senator Brandt.

BRANDT: Thank you, Chairman Bostelman. Thank you, Senator Cavanaugh. CAFO.

M. CAVANAUGH: CAFO.

BRANDT: Yeah, that's how they're pronounced, CAFOs.

M. CAVANAUGH: It's with a c.

BRANDT: It is. But that's just the, the nomenclature. I've been around this a while.

M. CAVANAUGH: All right. I'll, I'll, I'll trust you.

BRANDT: So what problem are you trying to solve that the existing regulations do not address?

M. CAVANAUGH: So essentially, the existing regulations don't have any teeth to them. This is codifying the regulations so that they are enforceable in a way that they currently are not enforceable.

BRANDT: Well, I guess I'm confused because if I, if, if I get my permits to build a, a, a 5,000 head hog house, I cannot go forward unless I have a permit from NDEE. I mean, there's no, no way forward without meeting all the criteria for that. So I guess I-- that's-- I'm a little confused what we need to do that we aren't doing now.

M. CAVANAUGH: So in addition to codifying the regulations, this does do more than just codify the regulations. It also improves the reporting system. And when you're getting your things renewed, it, it puts into statute that you have to be monitoring and reporting what's going into the groundwater. And then it also has-- let me see where it is. I mean, the codifying the regulations is, is just one piece of it. It's, it's also trying to, to, to monitor and, and ensure that we aren't issuing these inappropriately, and then, putting it into statute. I mean, that's essentially what it is.

BRANDT: OK. Thank you.

M. CAVANAUGH: I don't know, that's not probably really answering your question. I might have to get back to you with a-- on a better answer.

BRANDT: All right.

BOSTELMAN: Senator Fredrickson.

FREDRICKSON: Thank you, Chair Bostelman. Thank you, Senator Cavanaugh, for being here and for presenting your bill. Welcome to Natural Resources, your debut. And you're, and you're in green, as well.

M. CAVANAUGH: Yes. That was on purpose, for sure.

FREDRICKSON: I, I don't know if you mentioned this in your opening or not, but with this bill, is there any process where, if one of these is in operation currently, for example, that is there like a grandfathering in component of this, or does this have the possibility to actually impact or shut down?

M. CAVANAUGH: I'm phoning a friend on that. No, it does not have a grandfathering clause. I don't believe it should impact shutting anybody down. It would just impact re-- addressing and assessing the work that they're doing and how they're doing it and what is going into the groundwater. So it wouldn't result in a cease and desist of your activities. It would result in a reevaluation of your operation and what/how you are operating.

FREDRICKSON: Got it. So this would not prohibit these operations from moving forward with their practice, as long as they're taking action to mitigate potential--

M. CAVANAUGH: Yes. And to Senator Brandt's point, this is already the regulation. So they should be doing this, so it shouldn't impact them. They should be doing this already, but this is putting it into statute.

FREDRICKSON: OK. Because I-- the, the other-- so, I think, I think the-- this has been in the news recently, obviously--

M. CAVANAUGH: Yes.

FREDRICKSON: --sort of impact of, of, of nitrates in, in water in our state, in particular. So I guess I, I-- what I'm try to wrap my mind a little bit around is what is it about current regulation that is either not being enforced or is there-- can you shed some light on that or--

M. CAVANAUGH: My understanding is that it is not being enforced, and that this would create additional guardrails around the nitrate levels that we should be having, that are safe and appropriate. And so, it's-- we do have regulations, but the regulations are not being followed. And part of that is possibly from understaffing, but without

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having it in statute, we-- we're having a difficult time in enforcing our, our own regulations or the agency's own regulations.

FREDRICKSON: Thank you.

BOSTELMAN: Senator Hughes.

HUGHES: Thank you Chairman. Thank you for bringing this, Senator Mc-- Mc-- M. Cavanaugh, call you MCav?

M. CAVANAUGH: M. Cav.

HUGHES: J. Cav isn't here right now, but M. Cav is. OK, so my read of it is NDEE does this all, except for the monitoring of the wells and the-- you added the, the monitoring and reporting requirements every week, that they're getting billed on all that. So-- and maybe this is a question, wouldn't it be easier to just go to NDEE and have their rules changed versus legislation-- legislate it or? And I don't, I don't-- I'm not, I'm not going to say I know how NDEE decides what rules they have etcetera. So.

M. CAVANAUGH: Well, it is my understanding that this is a longstanding issue and so--

HUGHES: Longstanding issue, meaning?

M. CAVANAUGH: The oversaturation of nitrates in groundwater.

HUGHES: Well, yes, but that's from a multitude of reasons. That's not necessarily just from this.

M. CAVANAUGH: Sure. And, and this is one avenue in addressing the oversaturation of nitrates in groundwater. And NDEE has it in their regulations as to what the nitrates should be. But they're not-- for whatever reason--

HUGHES: Well, they, they can't be built. They're, they're already set back 2 miles. They're already 100 feet from a domestic well. You're just saying by monitoring those wells, you can do something if the nitrates go over a level?

M. CAVANAUGH: So when you get your, your operation renewed, your-- whatever it--

HUGHES: The license renewed.

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M. CAVANAUGH: --thank you, your license renewed. When you get your license renewed, you have to have those monitoring in place. So you can't just get a license and then--

HUGHES: And then you're done.

M. CAVANAUGH: --it's just renewed automatically. It needs-- you need to be monitoring-- NDEE needs to be monitoring to ensure-- they cannot-- this basically prohibits NDEE from reissuing a license without ensuring that their--

HUGHES: You just want the monitoring in place and the reporting in place.

M. CAVANAUGH: Essentially, yes.

HUGHES: So then my question is how-- would it be easier to do it through that, or you're just saying you don't go anywhere-- you don't get anywhere going that route? Or maybe you haven't tried? I don't-- again--

M. CAVANAUGH: It is my understanding over the last several years that there has been a lot of work to do this in a--

HUGHES: A push to do this.

M. CAVANAUGH: --there has been a, a push to do this in a less formal--

HUGHES: Legislative way.

M. CAVANAUGH: --yes. A less mandated way, shall we say, a, a gentler, friendlier handshake sort of way. And that has not yielded the compliance that those who are advocating, myself included, for greater oversight of ground-- our groundwater nitrate levels. That-- it's not yielding the outcomes that it should because the fidelity to it is not being honored. And the hope is that by putting it in statute, or perhaps even having this conversation today, will elevate the conversation to a point where we can see this being enforced. But there are levels that are acceptable for ground-- for nitrates in groundwater.

HUGHES: Yep.

M. CAVANAUGH: And we are above those levels. And so--

HUGHES: Some places are.

M. CAVANAUGH: Right.

HUGHES: My, my well is not. I have zero, because [INAUDIBLE].

M. CAVANAUGH: I'm very happy to hear that. But yes, some places are, and that is resulting in adverse health outcomes. And so this is just another step to try to address that issue.

HUGHES: OK. Thank you.

BOSTELMAN: Other questions? Senator Jacobson.

JACOBSON: Thank you, Chairman Bostelman. Senator Cavanaugh, I guess what's troubling me is I'm looking at page 4. I'm looking at both lines 16-19. I'm looking at line 20-31. And we're talking about weekly inspections at the production area of all storm water diversion devices, runoff diversion structures, devices channeling contamination-- contaminated stormwater to the facilities; daily inspection at the production area of water lines, drinking water, or cooling water lines, daily monitoring-- that this-- and then we're also, up ahead of that, we're talking about-- and we're, we're mentioning this, including irrigation distribution systems. This seems to be much more expansive than codifying, you know, what's in the--

M. CAVANAUGH: Sure.

JACOBSON: --rules today.

M. CAVANAUGH: Thank you so much for that question. As I stated, I am new to the subject matter and not an expert, and very willing to have conversations over what are reasonable parameters to have in here. I believe that some of these accommodations were informed by others that my office has worked with, to figure out what is an appropriate path forward. So I would say this is a starting point.

JACOBSON: OK. Well, thank you for that. And, and I would also just mention that, I can tell you that when you look at nitrate levels in groundwater, a lot of people want to point to livestock facilities. But when you really look at the modern livestock facilities, you're talking about retention ponds that are lined. You're talking about contaminated-- or you know, confinement facilities, particularly for hogs, in particular. They're really not the culprits here. I think really what you're looking at, if you're really going to point to

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something, in my mind, it is irrigated fields that were over-fertilized with nitrogen fertilizer back in the '60s and '70s. And those plumes of nitrates are still moving through the, the, the profile of the soil, and are going to end up in the groundwater. And we're pulling water out to irrigate, so we're removing some of it through irrigation. But someone could spend several million dollars on a facility and have groundwater or irrigated fields in the area that would ultimately, those plumes hit the water and nitrate levels go up. That would be no responsibility at all of the livestock facility. And suddenly, they're getting shut down, and they walk away from their investment. I, I mean--

M. CAVANAUGH: Not my--

JACOBSON: --practically [INAUDIBLE].

M. CAVANAUGH: --not my intention.

JACOBSON: OK.

M. CAVANAUGH: And-- definitely not my intention. I do not want to be shutting down the livestock facilities. Though I am a vegetarian, but--

JACOBSON: Well, that's unfortunate.

M. CAVANAUGH: Actually, since yesterday was the start of lent, I gave up eating meat for lent a-- decades ago, and just never went back. So I-- it is not my intention to shut down any animal livestock facilities at all. And to your point, there are nitrates coming into the water for a multitude of reasons. This is just one that has come to light that needs attention. And I very much understand-- well, I shouldn't say that. I don't fully understand. I can, I can see concerns here. I don't necessarily understand them, but I'm happy to learn more and work with the committee on this. And my office and I have actually discussed whether or not that perhaps this should be an interim study, to look at how to address this. But I know that you have been working on this, and so I just really wanted to bring it forward to help with the conversation, specifically around pediatric cancer. And, and as I said in my opening, Senator von Gillern has a bill that is addressing the lack of cancer data that we are getting from the state right now. And, and my concern, from a public health per-- perspective, again, to your point that this isn't necessarily the entire culprit of what is causing these public health issues, is

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that we don't know because we don't have the data, and so trying to, to address a public health crisis kind of in the dark. We know that nitrates and regulating nitrates are important. We know that having a balance of nitrates in groundwater is, is going to impact the health and well-being of everyone. We know that Nebraska has a high-- very high rate of pediatric cancer. We don't have current data as to the geography of where those individuals are. And that is problematic, because then we don't know what the causes are, and we can't analyze any patterns, and so trying to solve a problem in the dark and trying to do it from all angles. But I don't believe this bill does not have a priority, and I don't believe that it is 100% where it should be. So I, I-- I'm excited about the conversation that we're going to have in this committee today. But I think that we can partner together to work to find solutions to these problems, because balancing our industry, our livestock industry, which is essential, and the health and well-being of our citizens, which is also essential, I think, is something that we all can work together on.

JACOBSON: Thank you.

BOSTELMAN: Senator Moser.

MOSER: Well, welcome to the committee.

M. CAVANAUGH: Thank you.

MOSER: Nice to see you in a different venue--

M. CAVANAUGH: Yes.

MOSER: --and talking about something else other than what we normally talk about. I think Senator Jacobson really hit the nail on the head. The nitrate problem is pretty pervasive in Nebraska. And I think, in the many decades ago, fertilizer-- nitrates are fertilizer.

M. CAVANAUGH: Right.

MOSER: So they make things grow, make corn grow more vigorously, better yields. But I think in years past they just put it on, figuring more nitrogen was better, no matter how much was there. And it was cheap, and they bought a lot of it. Now the price of nitrogen has gone up and people are trying to farm more intelligently. And so there are programs, you know, to help farmers decide how to fertilize. They can sample their fields and send in a grid work of samples, and they can change the amount of fertilizer based on what they find in different

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areas of the field. So it is being worked on. And, you know, I, I applaud you for diving into a pool where you don't know where the bottom is and--

M. CAVANAUGH: Or if there is one.

MOSER: Well, we've had-- we've talked about this topic many times in this committee. And we have a lot of regulations, and you know, to say that regulations are being followed, you know, that may be so, but it's kind of a balance of how you-- how strict you monitor and do all these things and still make a living, you know, raising corn or--

M. CAVANAUGH: Right.

MOSER: --or raising bacon, for those of us who do eat meat. Anything with bacon is better, by theory.

M. CAVANAUGH: I'm a household of 5, and 4 in the household all eat meat, so it's not--

MOSER: I just had to zing you. Anyway, I appreciate your-- as always, you're passionate about the things you bring and--

M. CAVANAUGH: Thank you.

MOSER: --thank you for coming to our committee.

M. CAVANAUGH: Thank you. And I do want to acknowledge, I know Senator Bostelman, Chairman Bostelman has been working on this for a very long time. This is just the-- the aspect of the rise of pediatric cancer and the possible correlation that has been heavily reported on, is something that I thought warranted a public conversation.

BOSTELMAN: And I appreciate that. You know, we do-- you know, since before last session and, and the WRAP started up again, which is Water Resource-- for-- what the acronym was, but UNL, [INAUDIBLE], all of our ag producers, all of our NRDs, DNR, NDEE, Chairman Halloran and myself, from Ag Committee and this committee, we sat on that. So you're right. I mean, there are a lot of things we've been working on. Currently, for those who may be listening and those who don't know right now, you do have the opportunity to test your water, your well water, through NDEE. There's a program out there currently, right now. It does not cost you anything. You just have to go online and request that. So I believe you can go onto NDEE's website or your public health department. Your local public health department has information

on it, too, because what we're working on right now, is that's doing part of what you're talking about, Senator Cavanaugh, is trying to map out a what-- if we have nitrate, where the nitrates are, what levels those nitrates may be, and maybe where they are within the ground itself. So it's a, it's a process we're-- that's being worked on right now. And we appreciate your concern with this, and your bill, as well. But-- so if there are people out there that are listening or that-- that, that is something that, that we are-- there's an opportunity now for them to participate. Our cities are pretty well taken care of because we have the systems within the cities to, to, to treat water and that, for people within our cities, towns and villages. It's usually our private wells. Our, our wells-- we tested our well, as well, and have nothing there. So it is an opportunity for people to take advantage of, and then we would really hope that they do take advantage of it, because we really do want to know, you know, if there's pockets, if there's areas in the state that we do have a concentrated area, what that is. And then the next step will be kind of along the lines of what you're talking about here, is what do we do about that? How do we begin now to, to look at that? And how do we now begin to treat that or handle that, with the wells that are there, or just that public knowledge. So-- and I do appreciate you bringing the bill and what you're doing.

M. CAVANAUGH: Interestingly, over in HHS, we also have a bill on water right now-- and fluoride in the water. So--

BOSTELMAN: Yeah.

M. CAVANAUGH: --thank you, Chairman Bostelman. I will say, again, without the, the data that Senator von Gillern is, is seeking to get from the state, it's, it's hard to say. And we had a testifier on, on Senator von Gillern's bill that really made a very excellent point, that nitrates presumably contribute to cancer. But there's also so much more that could, and without knowing the geographical data, if there's like an actual hotspot of where cancers are happening, we, we are flying blind. And, and so, this is one of those times when HHS and Natural Resources converge, and working together to solve these complex problems is important, so I appreciate your time today.

BOSTELMAN: Sure. Sure. Thank you. Any other questions for Senator Cavanaugh? Seeing none, will you stay for closing?

M. CAVANAUGH: I am not sure.

BOSTELMAN: OK.

M. CAVANAUGH: I'm going to try to.

BOSTELMAN: OK. Thank you very much. Appreciate that.

M. CAVANAUGH: Thank you.

BOSTELMAN: Proponents for LB1250 [SIC], please step forward. Good afternoon, and welcome.

EDISON McDONALD: Hello. Good afternoon. My name is Edison McDonald, E-d-i-s-o-n M-c-D-o-n-a-l-d, appearing here on behalf of GC Resolve. We work with family farmers to help protect family farms and our natural resources. We're here today in support of the concepts behind LB1258, which addresses critical issues surrounding CAFOs in our state. We need to take thoughtful action to protect family farmers and our natural resources. While some of these steps are broad, we must consider all potential solutions. We'd like to add some potential solutions that we think would be valuable within the conversation. First, looking at increased county government notice. As was noted earlier, we have seen a number of violations of our current statutes and of special operating permits. And so that increased county governmental notice will provide us extra information, provide us extra time to provide that analysis, and citizens extra time to provide the input, because there are so many citizens who may not realize that a project is being developed, if a notice is set off on the side of the road. Enhanced nutrient management plans, looking at integrating better provisions around buffer strips and cover crops is essential for mitigating nutrient runoff and protecting water quality. The elimination of livestock friendly designations, restructuring of the matrix point system, to really take into consideration some of the larger operations that we're seeing, the development of an erosion and runoff model. We talked-- earlier, you were talking about data. I have presented to this committee in the past, data from the University of Nebraska that does indicate that while there are historic sources of nitrates, that some of our current CAFO operations are contributing to that. Increased setbacks, and really looking at some of the other areas that we've really developed. In particular, if you look throughout the eastern set of Nebraska counties, we've seen a focus on those increased setbacks when we've seen a large influx of new CAFOs-- requirement for decommissioning fees that we've seen in other types of developments, and then, focus on allocation of disaster funds for environmental mitigation, should something significant happen. With

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that, we'd love to see this conversation move forward. Hope in the interim, to see this develop more. And we'd love to help to host any of the committee members who'd be interested in attending some of the sites where we've seen some of those violations.

BOSTELMAN: OK. Thank you for your testimony. Are there questions from committee members? Seeing none, thank you very much. Next proponent for LB1258, please.

JESS LAMMERS: Jess Lammers, J-e-s-s L-a-m-m-e-r-s, and I would speak-- I just handed away the title of bill. I would speak as a proponent of the bill because it addition-- adds additional nitrogen monitoring sites. You can't get nitrogen out of water once it's in there. It's problematic. To address Senator Brandt's comments and Senator Jacobson's comments, if someone builds a concentrated animal feeding operation anywhere in the state of Nebraska, they know the nitrate level of that land prior to building the facility. It's going to be part of the pre-development report. And if you're building a cattle operation, it's going to be part of the pre-development report because you're going to have to grade the land, because you're going to want your manure to flow a certain way. Now, if you're building a pig confinement, it's going to be a more detailed report, because you're going to have to actually dig a pit for the hogwash to go into to then be pumped out as fertilizer. So there again, you're going to have structure grade, you're going to have compaction, You're already going to know your nitrate levels. So I would discount Senator Brandt and Senator Jacobson's comments as misinformed. Those nitrate levels, you'll already know them. And then once you know them, you would have a baseline. And if there was a monitoring well, you would know if the concentrated animal feeding operation cre-- created the elevated level of nitrogen now present in whatever test plot you happen to be working with, in any of Nebraska's 93 counties. And in, in addition to Senator Cavanaugh's bill, if there is a monitoring well and you do find high levels of nitrogen, shouldn't there be a requirement that the owner of the operation or the state, shouldn't we then have to put in some type of water distillery or reverse osmosis system to then clean that water up? I, I mean, we're only addressing half the problem. We're saying we're going to monitor it. Oh yeah, we got high nitrogen. Senator Bostelman or Chairperson Bostelman even said, hey, you can call Nebraska Department of Energy and they'll test it for you. How do I clean the water once the nitrates are in it, other than spend more of my money to buy bottled water, which has a microplastic content problem? That being said, I would yield any remaining time back to the committee except questions or comments.

BOSTELMAN: Thank you for your comments or your testimony. A couple things, I think. Are you saying, well, if there's going to be a new facility built-- so first, I think what I'm hearing is you, you drill a well, test the well levels. Because, as Senator Jacobson, I think, was saying, as over the years, if there was nitrates applied, it will move through at different levels. So what you're trying to say is first, record or document if there is nitrates within that water table, where exactly that might be or in-- within the ground as-- and then, you would know if there was more contamination if something happened at a later date, if you had a monitoring well. Is that kind of where you're--

JESS LAMMERS: Correct.

BOSTELMAN: Am I understanding [INAUDIBLE]?

JESS LAMMERS: Yes, Chairperson Bostelman. You're understanding correctly. My point is that if you're building a facility, in, in your, in your permit to build, you're going to have to get those nitrate levels. That's just part of the process. So with Senator Cavanaugh's bill, if you then added a water monitoring well, you would know indefinitely, as a legislative body, if the animal feeding operation was the, the culprit or the, the condition that made the nitrates raise in the ground level in any runoff district that you may be working. And I-- they're all cut up differently. So depending on which-- if you're part of the Lower NRD or the Loup Basin or whatever your, your runoff basin may be, you would then know how to allocate funding going forward. And essentially, if you point the finger, you have 3 pointing back to you, but it just-- it gives the legislative body the ability to say, this is the culprit. Now, how do we address it? But that doesn't change the fact, once the water is dirty, the water is dirty. You either got to clean it or buy bottled water.

BOSTELMAN: That's one thing, and, and I appreciate that. One thing I will-- for those listening, as well, and you're-- you'll agree with this, I'm sure. Just make sure if you have a reverse osmosis, you have filters, make sure you go through and replace those. Because if you don't replace them, it does you no good.

JESS LAMMERS: Correct, sir.

BOSTELMAN: So just make sure if you do happen to have that type of a system in your house, there is a timing on that that you should go in

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and replace those filters. Otherwise, your filters won't do any good, so.

JESS LAMMERS: I-- yes, sir. You're 100% correct. And your other opt-- your only other option, to my knowledge, is distillery, is to distill the water.

BOSTELMAN: Yeah. Not for sure. Senator Fredrickson.

FREDRICKSON: Thank you, Chair Bostelman. I-- one thing I love about this hearing is it's almost like a public service announcement. There's lots of different, good information that's being out here. So I, I want to make sure I was maybe understanding you, because I think, I think, maybe, I understood our colleagues, Senator Jacobson and Senator Brandt's point a bit different. I think they were talking more about the historical reasons as to why we have high nitrates. What I'm understanding you say is that there's an ability, currently, to measure where that current level is, and seeing what-- how current practices are maybe impacting those levels. Is that-- did I understand that correctly?

JESS LAMMERS: Correct, Senator Fredrickson. That, historically, Senator Brandt and Senator Jacobs' [SIC] comments are correct. But current building practices-- if you're building a new facility. Now, I'm not speaking of preexisting facilities, but as of today, if I applied for a permit in any of Nebraska's 93 counties, to build a concentrated animal feeding operation-- and I don't care if you're talking bovine or sus scrofa domesticus, the, the pig. I, I don't-- whichever animal you're talking about, if you build a new facility today, you are going to have to take samples of that dirt and it's going to include the current nitrate level. So if Senator Cavanaugh's bill was implemented with a, a well within some justifiable distance to the feeding operation, you would then unequivocally know whether or not the feeding operation was contributing to higher nitrate levels in that area.

FREDRICKSON: And I, I guess my other question is, once you go deep enough in the ground, right, so 200 feet in, it's possible the nitrates there could be coming from neighbors? Miles away? I mean, is, is there--

JESS LAMMERS: As a guy who is highly educated in soil sciences, I-- and I was educated by Dr. Ray Ward, the old man, Ray Ward, from western Nebraska, the town, not the direction-- I would disagree with

that statement. Is there, is there a possibility that leach is happening through the the soil horizons? Yes. But at the, the rates that would be currently discussed, causing pediatric cancer? No. The neighbor is not losing that much nitrogen to my field. And if the neighbor is losing that much nitrogen to my field, he's not a very happy farmer because he's not getting the yield he wants. And he's certainly asking his agronomist, where is my nitrogen going if it's not going to my plants? And obviously, I'm seeing a direct increase because my corn's growing like a son of a bitch and I ain't putting no nitrogen on it. So that's going to fall on the agronomist, and, and I, I don't think any astute producer, whether it be corn, soybeans, milo, or hogs or cattle, is going to let that much nitrogen leach without being cognizant of the problem. And now, maybe they're cognizant of the problem and ignoring it, because of the cost of cleanup or the other ramifications that would, again, offset business profits. I mean, everybody's in business to make money, even farmers. I know they love their land. I know there's good stewards. But as Senator Jacobson and Senator Brandt pointed out previously, years ago or late '80s, early '90s, nitrogen was cheap, and grandpa's measurement was glug, glug. Glug, glug is not an appropriate measurement, according to the Nebraska Department of Agriculture. My my grandfather would argue.

FREDRICKSON: Thank you.

JESS LAMMERS: You're welcome, sir.

BOSTELMAN: Seeing no other questions, thank you for your testimony.

JESS LAMMERS: Yes, sir.

BOSTELMAN: Next proponent, please. Good afternoon. Welcome.

RACHEL GIBSON: Good afternoon. Good afternoon, committee. My name is Rachel Gibson, R-a-c-h-e-l G-i-b-s-o-n. And 2 items are coming around right now. The first is a copy of the testimony that I'm going to read. And the second is actually an example of a nitric test report that you were referring to. And, and sometimes, I want to give some context, because I visited with you all last week, and I think it was a bit of a surprise that someone from the League of Women Voters is showing up in our Natural Resources committee. But when our organization started over 100 years ago, it had kind of 2 main goals. One was to educate folks civically, and then the second piece was to actually get people involved. And so this, our involvement with this and our opinion and, and insight on this are basically coming from

people who are in Nebraska, living, experiencing these things, and then researching them and, and bringing them to the forefront. So with all that said, I would like to say that our, our letter here was penned by Claudia Stevenson, who's the natural resources director. She's from Ogallala. That's whose report you're seeing there, too. So the League of Women Voters supports clean drinking water for all Nebraskans, and believes that measures should be in place to protect water from contamination and pollution. Access to clean drinking water is becoming a huge problem in Nebraska. Too many of our small and rural communities have drinking water contaminated with nitrates. Nebraska has the highest rate of pediatric cancer, as was discussed-- and eighth in the nation-- in the Midwest, and eighth in the nation. Why so high? Researchers point to nitrates in drinking water as one of the possible reasons. This bill is patterned after existing Nebraska Department of Environment and Energy regulatory language with the addition of monitoring well installation requirements. The result of testing and wells would be reported to the NDEE and to the local natural resource district. Monitoring wells would be required for existing and any new concentrated animal feeding operation. Newly approved applications for concentrated animal feeding operations must have a monitoring well or the application will be denied. With the monitoring well requirements, Nebraska will be able to stay ahead of any further degradation to its groundwater, as the point was made by, by Senator Brandt and Senator Jacobson, that that's historical. As stated in the beginning of this testimony, Nebraska has the highest rate of pediatric cancer in the Midwest and ranks eighth in the nation. For the benefit of future generations, monitoring the quality of our water is the highest priority, as of 85% of Nebraskans use groundwater as a drinking water resource. For this reason, the League of Women Voters of Nebraska supports LB1258 and asks that you move this bill to the floor, or at least continue the debate that-- and conversation that Senator Cavanaugh has brought today, and you've been working on for quite a while.

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

BRANDT: Thank you, Chairman Bostelman. And thank you, Ms. Gibson, for your testimony today. If Nebraska ranks eighth, could you provide the committee with a report on 1-7?

RACHEL GIBSON: Yes.

BRANDT: I would be very interested in, in-- if these are farm states and, and there's a possible link here.

RACHEL GIBSON: That's a great-- that's a great question. I absolutely will. I'll also, in that, provide for you, our-- as I mentioned, Claudia Stevenson, who's our natural resource director, did a deep dive report on water in the state that she put together for the League, and I will share that, as well.

BRANDT: I appreciate that. Thank you.

BOSTELMAN: Senator Jacobson.

JACOBSON: Yes. Thank you, Ms. Gibson, for your testimony. I guess, I'm, I'm kind of going back to this idea that-- so we're looking at monitoring wells and trying to find people that are contributing to the problem. So what about consumers? What about people who are putting fertilizer on their lawns? Have we looked at the rate in which that is being applied? And I can tell you in North Platte, where I live, you could dig a post hole and hit water.

RACHEL GIBSON: Yeah.

JACOBSON: OK. So where do we stop? What? Who all is going to be here? I, I know I've been accused of being misinformed, but I've been involved in farming for all my life and working with farmers all through my lifetime. And I'm fairly familiar with how the water table works. I'm fairly familiar that water does flow underground, and water does get mixed together. And when you have livestock facilities that get built, there is a lot of-- generally, a lot of farmland in that area. And I don't necessarily control, historically, what farmers put on their land. I would also argue that I don't think farmers were being careless back in the '60s and '70s, I don't think they were aware of what was-- where this nitrogen was going. And once they became aware of that, the NRDs have been very responsible, in terms of water management and nitrogen management. I can tell you, where my farms are located in Hamilton County, or just, just on the southern edge-- just across the border in Hamilton County and Clay County, that we're in a high nitrate area. And I can tell you that I'm in a corn/soybean rotation with my farm, and if I wasn't in a corn/soybean rotation, I'd be required to do soil samples every year and submit those. I'm required to not apply any fall-applied nitrogen until after the 1st of November. It has to be stabilized. It has to be limited in how many-- and how much you can apply at any one time. The NRDs are

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all over this, in terms of modern-day practices. But I'm just telling you, that there is-- there are nitrates in the soil that, that we're not going to retrieve. It's heading down. And so, I think that those that are informed recognize that we have agencies in place today who are going, are going to limit what happens. We also know that there-- we're not stopping the nitrogen that's already too low to be reached by the red zone, today, of crops. And so it seems to me that working more on what we're doing today--.

RACHEL GIBSON: Yes.

JACOBSON: --to control the rates of nitrogen, making sure it's stabilized, making sure that we've got livestock facilities that have, that have liners on their ponds, that we're limiting how much is going onto the, the adjacent properties, is a responsible way to deal with this. And that we can monitor all we want to monitor, but if we're going to-- if we're, if we're saying we're not going to go down and shut down all these facilities because of, of nitrates that are still moving down through the soil, I think, I think it's misguided. And so, I'm just trying to understand what-- what's your viewpoint, as it relates to Omaha and Lincoln? Should we stop allowing residents to put fertilizer on their lawns, and should we monitor what they're doing? Should they have to report, as well?

RACHEL GIBSON: Right. Excellent, excellent point. I do have a, a thought that I'd like to share. But first, I-- you-- your knowledge of agriculture is miles above my head. I totally recognize that. Actually, I just learned a lot in that conversation right there. But, completely agree. And in effect, we were in very strong support of Senator Ibach's bill about the farming practices and whatnot. I think the reason that we, we were drawn to this particular bill is because we do want to keep seeing the, the, the research and the measurement. We think both can be done. And as was mentioned and you can see from Claudia's report, this is something that, that you all have been working on. We want to keep seeing that happen, and not fix issues with-- the way things are being done now, and lose sight of, of continuing to gather data and continue to gather information. To your question about Omaha and Lincoln, I completely agree with you. And it was actually kind of funny because when I was reading through Claudia's report, her background, she was a water-- worked in water for the state for her whole life. And she included, I'd like to see this also have to measure golf courses. So it's definitely that recognition that across the board, we just want to see what we're doing and see how we can better improve that, rural or urban.

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JACOBSON: And, and I would just say that golf courses themselves monitor what they put on their golf courses. But look at all of the lawns that are in Lincoln and Omaha.

RACHEL GIBSON: Absolutely.

JACOBSON: And you add all those together, golf courses dwarf--

RACHEL GIBSON: Right.

JACOBSON: --what those yards are doing. And you've got people that are out there dumping fertilizer on like there's no tomorrow, to green up the yard. And they're doing it in the fall. And, and-- where the, where the grass is going to go dormant. There are a lot of people that are contributing to the nitrate problem.

RACHEL GIBSON: Absolutely.

JACOBSON: It's not just agriculture.

RACHEL GIBSON: Right, right. And I-- you know, that would be a really neat program. I would love if in Omaha or Lincoln we had some sort of educational program, because every time I go through my neighborhood, I think, I think the same thing.

JACOBSON: Thank you.

BOSTELMAN: Senator Brandt.

BRANDT: Thank you, Chairman Bostelman. So in agriculture, we have a restricted-use pesticides. We have to take a course every 3 years that costs us 50 bucks, and I've got to pass a test so that I can get a permit to go buy pesticides. Do you think it'd be a good idea, following up on, on what he brought up on these yards, is maybe have a restricted-use fertilizer, so that you just can't go into the Lowe's and load up your shopping cart with lawn fertilizer, that you'd be required to take a, a, certification from the extension office or from the state, so that you understand, like farmers do, how much phosphate nitrogen, and that those yards get tested and everything else? So then, we're all in this, all in this together, so we aren't just scapegoating one industry and pitting it against another, and not getting anything done?

RACHEL GIBSON: Right.

BRANDT: Because we all agree--

RACHEL GIBSON: Right.

BRANDT: --pediatric brain cancer is a bad thing. And--

RACHEL GIBSON: Glad we agree on that.

BRANDT: --if, if-- and I do believe, scientifically, the, the nitrates are a problem, but they come from everywhere.

RACHEL GIBSON: Right.

BRANDT: So.

RACHEL GIBSON: Yeah. No, that's-- and I should be very careful here. So this is now Rachel Gibson, citizen, speaking, as opposed to the League, because we have, you know, stances and whatnot, that I would-- I have to ask Claudia about. But I honestly don't think it would be a bad idea to find some way to better inform folks. Because, I think, also, a lot of people, just as farmers respect the land, I think a lot of people just don't realize the harm they're doing, like the farmers who originally used nitrates. I mean, I think it would be an, an educational effort for-- particularly, urban folks would be very useful. So-- and the other thing I'm thinking of is lawn companies, I don't know actually if they have any requirements to do that, but that might be something worth thinking about.

BRANDT: I think they do on the, on the pesticide side, like farmers do. On the fertilizer side, I'm not so sure.

RACHEL GIBSON: Right. Our biggest takeaways: We, we like the idea of, that we're monitoring this. And we have already got these really great rules in place. Let's make sure we keep, keep doing that.

BOSTELMAN: Senator Fredrickson.

FREDRICKSON: Thank you, Chair Bostelman. Thank you, Ms. Gibson, for being here. It's always nice to see a constituent testifying. First of all, I, I appreciate you're-- what you're sharing with us, and I think, also, the holistic view you're sharing, as well. I-- and I tend to agree with a lot of what's been said, that this is certainly something we should be looking at from an agricultural perspective, but also more expansively, as well. There's not just one driver here.

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I'm also-- been looking through this handout I think you provided. The UNMC and Children's Hos-- or--

RACHEL GIBSON: That was not mine, but I seen that. It's an excellent handout.

FREDRICKSON: That's not you. I apologize. OK, so I was gonna ask you a question about this handout, but since it is not yours, I will defer from doing that.

RACHEL GIBSON: OK. Thank you.

FREDRICKSON: All right. Thank you.

RACHEL GIBSON: I appreciate that. Pop quiz. I'm learning a lot today.

BOSTELMAN: Seeing no other questions, thank you for your testimony.

RACHEL GIBSON: Thank you very, very much.

BOSTELMAN: Next proponent for LB1258, please step forward. Good afternoon and welcome.

AL DAVIS: Senator Bostelman, members of the National Resources Committee, good afternoon. My name is Al Davis. I'm the registered lobbyist for the Nebraska Chapter of the Sierra Club, which is made up of over 3,000 individuals with a focus on the environment. We want to thank Senator Cavanaugh for introducing LB1258, which we feel is an important bill and a good first attempt to get a better understanding of why our aquifers are becoming more and more contaminated with nitrates. Alan Guebert addressed the crisis of nitrate contamination in an article in the Journal Star, which ran on Sunday, the February 11 edition of the paper. Guebert quotes Eleanor Rogan, the chief at the Department of Environmental, Agricultural and Occupational Health at UNMC. Dr. Rogan stated, and I quote, it's pretty obvious that in the areas where levels of nitrates and other agrochemicals in water are higher, you get more pediatric cancer and birth defects, unquote. The science is showing us that we have a serious problem, one which is killing or maiming babies and young children, and possibly contributing to the early deaths of adults. The objective of LB1258 is to gather information about existing CAFOs and to try and impose better management on animal feeding operations via a rigorous, defined inspection protocol designed to prevent accidental spills. In addition, monitoring wells will be required in groundwater management areas, which will give the department good information about the

long-term potential damage to the aquifer. The bill also gives NDEE teeth to deny an application when there are justifiable reasons for doing so. Nebraska has been blessed with vast natural resources, with the bountiful aquifer contributing immeasurably to the wealth of Nebraska. Other states have depleted their share of the aquifer by overuse, mining the water until it is gone. Nebraskans are pleased that the earlier Legislatures had the vision to instill controls which manage groundwater consumption, so that our supplies will not be exhausted in just a few years. Other states, like Iowa, had lax regulation of animal feeding operations, resulting in extensive degradation of the aquifer under that state. That has produced a problem for cities like Des Moines, which relies on water from a contaminated watershed for urban purposes, and that produced, that produced lawsuits a few years ago. Where Iowa is today, Nebraska could be in a dozen years without some clear controls on CAFO locations, management practices, and more extensive regulation. Nebraska's abundant water resources are a magnet for out-of-state entities wishing to construct a CAFO here, with our ample supply of rain available for feeding, temperatures which are cooler than most southern states, and where water is abundant and inexpensive. We lead the nation in cattle on feed, have significant investments in hog production, chicken production, and some dairy. By concentrating these animals in our state-- but concentrating these animals in our state can impose significant environmental harm to the state, unless we're careful about managing our natural resources. Cleaning up the water table is much more expensive than protecting the water table via sensible regulation of the activities associated with CAFOs, and that is the goal of LB1254 [SIC]. There's no easy solution, but the Legislature cannot ignore the problem and postpone it indefinitely. Passing of LB1258 should be a high priority for the committee. Implementing [INAUDIBLE] management will save lives. And I wanted to say one more thing. And Senator Bostelman, you referenced the monitoring things that have already taken place with regard to lagoons and things, but we know that the lagoons at Mead failed, and so deposited a lot of contaminated water into the aquifer. That's an example of NDEE not really doing their job, in my opinion. So the bill includes things that will hopefully instill a more, a more aggressive approach from NDEE in trying to monitor things. We don't want to run business out of the state, but we want to do a good job with what we have. Thank you.

BOSTELMAN: OK. Questions from the committee? I guess my question would be, under the federal Clean Waters Act and the National Pollution

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Discharge Elimination System that covers CAFOs, do you think this bill sets new regulations different from or more strenuous than what is already required by the feds?

AL DAVIS: Well, I'm not an expert at this. I think it largely follows the guidelines that are already available. I think, I think, and Senator Jacobson referenced this, there are a lot of pieces of this bill that are investigative to preempt problems, which look sort of onerous. When you read the bill, you go, that seems pretty stiff, these regulations. But I think this is a lot of good business activity. I mean, that you need to check every day that you're not dumping contaminated fluid into the streams and rivers that go on down the creek. So, that would be my opinion.

BOSTELMAN: OK. Any other questions? Seeing none, thank you for testimony.

AL DAVIS: Thank you. Now, off to Revenue for the same bill.

BOSTELMAN: Other supporters for LB1258? Good afternoon. Welcome.

NANCY MEYER: Hello. Thank you. Good afternoon, Senator Bostelman, members of the committee. My name is Nancy Meyer, N-a-n-c-y M-e-y-e-r, and I live at 2043 County Road Y in Cedar Bluffs. With proliferation of CAFOs in this state, we badly need a set of strong standards guiding CAFO permitting and reporting requirements while in operation. For the past 24 years, I have lived in a beautiful rural area of Nebraska, just a mile and a half south of the Platte River. It's peaceful, clean, and a healthy place for me to have raised my children and my own food. Five years ago, a chicken CAFO moved into our neighborhood. We had no notice that this facility was being planned, just 3 and a half miles from our home. Only people within a 3-mile radius were sent a postcard. They had 4 days' notice of the planning and zoning meeting scheduled to approve the permit for it. Four days. Most of the people in the area didn't even know what a CAFO was, let alone what it would mean for our community, and we had insufficient time to learn about it. Our neighborhood group was forced to hire an attorney to help us understand what we were facing. In the end, we succeeded only in getting some limited conditions put on the CAFO permit. These conditions were the kinds of things that should have been part of the requirements for permit approval anyway. And there were so many more things that they-- that had they been required for permit approval, would have made our struggle completely unnecessary. Things like environmental impact reviews, buffer strips and cover

crops where nutrients are be-- to be applied, erosion and runoff models for the facility itself, emissions reporting, and disaster funds. These would have all made for a safer and more local area protecting arrangement that would have been far easier for neighbors to accept. As it was, we got ridiculously short notice to understand a complex factory farm that was suddenly being thrust into our midst. I can think of no better way to make neighbors suspicious of and resistant to a facility than the process that is currently followed for permitting CAFOs all across the state. The most important thing about this bill is that the standards for permitting any CAFO should be strict, consistent, and enforced. By strict, I mean that strong standards should be included in LB20-- LB1258, and they should be set as minimums, allowing the local authorities to increase but not decrease those requirements in order to permit CAFOs. By consistent, I mean that they should be comparable to those applied to other facilities, such as setbacks and decommissioning fees that are applied to wind and solar development. And by enforced, I mean that there is a clear and adequately funded process for enforcing the standards. From what I can see, once facilities are built, there is little done when violations occur other than reprimands and sometimes fines, which, by the way, often go unpaid. This is not enough to discourage an operator from cutting corners at the expense of the local area and its residents. More than two-thirds of Nebraskans live outside or on the edges of Omaha and Lincoln metropolitan areas. These are the people who this bill will affect the most. So I urge you to consider the majority of your statewide constituents and support a strongly written LB1258. Thank you.

BOSTELMAN: Thank you for your testimony. Do we have questions from committee members? Senator Hughes.

HUGHES: Thank you, Chair Bostelman. Thanks for coming in, Ms. Meyer. Just something caught me at the very end of your statement, you said oftentimes the fines go unpaid. Do you have a percent of that? Like, do you have-- what's your information for that? I'm just kind of curious.

NANCY MEYER: I live in the same county where the, the AltEn facility is in Mead, and I understand a lot of those fines were not paid.

HUGHES: OK. But you don't have like--

NANCY MEYER: No, I don't have data.

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HUGHES: --across the board--

NANCY MEYER: That's true.

HUGHES: --you know, only 10%-- OK. I was just curious. I-- it caught my--

NANCY MEYER: Yeah. Yeah.

HUGHES: --caught my ear and--

NANCY MEYER: Yeah.

HUGHES: --OK. Thank you.

NANCY MEYER: Yeah.

BOSTELMAN: Other questions?

NANCY MEYER: I, I also want to say that I, I struggled with testifying in neutral capacity to this bill, because I believe it doesn't go far enough. As you can see, all the things I'm asking for weren't even in what the introduced bill was, by Senator Cavanaugh. I think there need to be a lot more strengthened restrictions included in this bill. And I also think that there's another bill that's in a committee that-- where the Governor testified on behalf of the bill, saying that, you know, he, he felt that this bill would help remove the rancor that occurs when, when CAFOs move into people's neighborhoods. I think if you strengthen this bill, it will help remove that rancor. So, you know, the, the citizens in the-- in a neighborhood would be really served by better notice and better information, and more standard restrictions.

BOSTELMAN: OK. Thank you.

NANCY MEYER: Thank you.

BOSTELMAN: Thank you for your testimony today. Next proponent for LB1215 [SIC], please step up. Good afternoon and welcome.

KENNETH WINSTON: Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. My name is Kenneth Winston, K-e-n-n-e-t-h W-i-n-s-t-o-n, and I'm appearing on behalf of Nebraska Interfaith Power and Light in support of LB1258. There's many messages in our faith traditions about caring for the earth and caring for people,

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particularly those who are most vulnerable. We support efforts to protect groundwater, particularly drinking water, from contamination. And I don't know, I thought there was a map that was going to be handed out, showing all the places where there was groundwater contamination. But, but I've, I've definitely seen the maps that show there's lots of places in Nebraska where there's groundwater that's been contaminated, particularly by nitrates. But there's other substances that also pose health risks. And particularly-- and, and particularly, the, the health impacts that we're concerned about, as has been mentioned previously, are the impacts on pregnant women and small children. These impacts include birth defects, blue baby syndrome, and higher than normal rates of pediatric, pediatric cancer, cancer. The monitoring wells, the distance requirements, and nutrient management reporting requirements of LB1258 represent positive steps toward protecting drinking water and the health of mothers and young children. And I guess I also wanted to note that, that the Legislature is on record in many areas of being-- of wanting to do that. And so, we think that's consistent with that. I also wanted to mention, as has been mentioned earlier, that Senator Ibach has a bill that would provide incentives for reducing the application of nitrogen fertilizer. I testified in support of that bill yesterday. And, and then there's another bill in the Revenue Committee today that Senator Bostar has, that would provide incentives for people to, to invest in reverse osmosis systems. So-- and I'm going to go over there after I get done here. So we're very interested in whatever we can do to promote and protect people's drinking water. And we, we would encourage the committee to advance this bill.

BOSTELMAN: OK. Thank you for your testimony. Questions from committee members? Seeing none, thank you for coming in today. Next proponent for LB1215 [SIC], please.

REBECCA WELLS: Good afternoon.

BOSTELMAN: Good afternoon.

REBECCA WELLS: I'm Rebecca Wells. Nice to see all of you here. I am here and I'm speaking on this because it's huge interest to me. My background is as a certified nurse midwife, and I'm very interested in maternal/child things. And--

BOSTELMAN: Could you spell your name for us, please? Sorry.

REBECCA WELLS: Pardon?

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BOSTELMAN: Spell your name.

REBECCA WELLS: I have to spell my name, don't I? Yes. R-e-b-e-c-c-a
W-e-l-l-s.

BOSTELMAN: Thank you.

REBECCA WELLS: And pediatric cancers is one of the things that was pointed out that is very high in Nebraska. Also, birth defects, which are also traced to high nitrate levels. Nebraska's biggest cause of infant mortality, by far, is birth defects. And Nebraska is a very poor state for monitoring birth defects. Trust for America's Health has Nebraska as a D. They do very little surveillance. That's another big concern. I got very interested in nitrates several years ago, I think it was the Sierra Club, sponsored information about well testing of nitrates. And it was called the Citizen Scientists Program from UNL. And I don't think there's enough public awareness of it, but I started testing. I am a part owner of a small farm just south of Lincoln. And I've done for-- I think, tests for several years now, twice a year. And it is a concern, seeing those nitrate levels going up. And I think this bill is important. I think there is a lot of focus that we've had on reducing fertilizer, and there's incentives for farmers to start really watching that. But I haven't seen as much, looking at the CAFOs. And I think that also is a big source of potential problem. And I think, again, it's the getting data. And what's very interesting, I have a map of the nitrate levels. And our-- one of our testifiers earlier had a map of the pediatric cancers. And they are an overlay. They're, they're the same. The highlights in one area of the state are exactly the same, and so there is a big concern. And I think this bill would be important to-- again, I think we need data, and look and see where things are coming from. Thank you.

BOSTELMAN: Sure. Thank you for your testimony. Questions from committee members? Seeing none, thank you for coming in today. Next proponent for LB1215 [SIC], please step forward. Any other proponents? Seeing none, anyone would like to testify in opposition? Seeing none, anyone would like to testify in a neutral capacity? Seeing none, Senator Cavanaugh, you're welcome to close. We do have comments. Proponents, 13, opponents, 3, and neutral, 1.

M. CAVANAUGH: Well, I will try to make this brief. Thank you. Thanks to those that came to testify today. This has certainly been an interesting learning experience for me. And I think that I look-- you know, I'm very much looking forward to continuing the conversation

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with everyone on this committee, about how we can have a healthier, balanced Nebraska. So I'll take any additional questions if you have them.

BOSTELMAN: So is the hearing that's in a-- you talked about Senator von Gillern.

M. CAVANAUGH: We had his hearing already.

BOSTELMAN: So is, so is that for the funding of this or is that something else?

M. CAVANAUGH: No, his hearing-- the hearing up for his bill in HHS was to compel DHHS to give the cancer data that they have not been giving.

BOSTELMAN: Because I, I looked. The data you have is a little dated.

M. CAVANAUGH: It is.

BOSTELMAN: 2014, and that's one--

M. CAVANAUGH: That's the most recent we have.

BOSTELMAN: Is it? OK.

M. CAVANAUGH: Yes. So it's hard to have real-time, look at patterns, when we are not getting the data.

BOSTELMAN: Sure. I mean, that's one thing we're talking, too, within that group, is start doing that finding. So appreciate that.

M. CAVANAUGH: Yeah. So we-- currently the only data that researchers in Nebraska have they get from the CDC, which is data that our department gives to the CDC. So it is a very elongated process. So Senator von Gillern's bill would compel our DHHS to share that data so that we don't have to do that any longer.

BOSTELMAN: I understand.

M. CAVANAUGH: Yeah.

BOSTELMAN: Thank you.

M. CAVANAUGH: Efficiency.

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BOSTELMAN: Any other questions? Any other questions? I'm seeing none. That will close our hearing on LB1258.

M. CAVANAUGH: I was hoping I was going to get a question, but.

BOSTELMAN: Should we-- does Senator John Cavanaugh have any questions for Senator Machaela Cavanaugh?

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

HUGHES: Where's that come from?

J. CAVANAUGH: That's what it's called. You're not allowed to ask me questions.

M. CAVANAUGH: Not. What is that? You're making that up.

MOSER: How are the nitrates?

J. CAVANAUGH: I'm not-- the-- I appreciate-- thank you for bringing this bill. It's a very interesting topic. I'm sorry I missed it. I was introducing bills in 2 other committees.

M. CAVANAUGH: Well, thank you. A different John Cavanaugh discussed this with me at length, so-- as you well know. Thank you.

BOSTELMAN: All right. Thank you very much. That will close--

M. CAVANAUGH: Now, I need to find out what my district is called.

BOSTELMAN: -- that will close our hearing on LB1258. Thank you, everyone, who have come and testified on the bill today. Next, we will pick up LB1304. Senator Raybould will have her, I think, legislative aide, will come in and open for us on that. Good afternoon and welcome.

KATE WOLFE: Thank you. Good afternoon, Chair Bostelman and members of the Natural Resources Committee. My name is Kate Wolfe. K-a-t-e W-o-l-f-e, appearing before you on behalf of Senator Jane Raybould. Senator Raybould regrets that she could not be here and has asked me to introduce LB1304. Over the interim, Senator Raybould participated in several meetings and listening sessions for water issues across our state, including on our tribal lands, was discussed. One of the ways she hoped the state could support our tribes was additional assistance

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in applying for federal grants aimed at improving tribal-owned community drinking water and sewer systems. She hoped that with the Legislature's guidance, the Department of Environment and Energy could serve as an agency to assist them with such grants. In Senator Raybould's absence, I have had conversations with NDEE and understand that grants of this type fall outside their area of expertise, and they feel they do not have the capacity to fill the intention of LB1304. The department has been helpful in identifying other resources that we will share with tribal leaders. I am sure that the intent of LB1304 has strong support from many groups and individuals, and Senator Raybould is grateful that the bill generated discussions that will hopefully lead to additional federal aid to our tribes. But at this time, Senator Raybould would not recommend the committee advance the bill. Thank you for your time.

BOSTELMAN: Thank you very much. Does anybody have any technical questions to the bill? Seeing none, thank you. Anyone who would like to testify as a proponent for LB1304? Good afternoon, and welcome.

JUDI GAIASHKIBOS: Good afternoon, Chairman Bostelman and members of the Natural Resources Committee. I believe this is the first time I've ever testified before this committee. And it's very interesting listening to the previous bills. I am Judi Gaiashkibos, the executive director of the Nebraska Commission on Indian Affairs, and I'm a member of the Ponca tribe, and I am also Santee Sioux. Can you hear me OK?

BOSTELMAN: Spell your name, please.

JUDI GAIASHKIBOS: Oh, I forgot to spell my name. J-u-d-i, not y, J-u-d-i G-a-i-a-s-h-k-i-b-o-s.

BOSTELMAN: Thank you.

JUDI GAIASHKIBOS: So this session, as life goes, sometimes things flow in different ways, just as the water does. And I didn't know that this bill wasn't going to be asked to go forward, but I thought I would testify anyway because I want to thank Senator Raybould for all of her efforts to work with our tribal nations and go out and visit. I know this-- she went and visited the Omaha tribe this summer, along with Senator Day. Chair of State Tribal Committee-- and she met with my board to discuss how she could assist and help and advocate for our first peoples, our first farmers, on our homelands here in America. And we really appreciate that we have another bill that I already

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testified at, before Appropriations, to fund moneys for our tribal nations to have clean water. And so I learned, listening earlier-- it was kind of fun to come to these hearings and people talking about river trail. So that was a new term I hadn't heard. I serve on the National Rails to Trails Board, and I'm very, very supportive to trails. And I think that's really important. And I think about our first people, that we have treaties with the United States government that are supposed to protect our rights, as long as the rivers run and the grasses are green. And so, for the Ponca people, our tribe was terminated and then restored in 1990, without a land base. We have 4 federal treaties with the United States government, and we are federally recognized tribes. In Nebraska, there are no state-recognized tribes as there are in other states. So although this bill isn't going forward, I do hope and I wanted to give you all the opportunity to get to know me a little bit better. And for those that I haven't really worked with, some of the new senators, Senator Hughes, it's really nice to have you here with us. And I hope that you will support, when the bill goes out of Appropriations for funding, that you then will, on the floor, move that bill forward, so for once in our history in Nebraska, our tribes can have what those treaties guaranteed us and our tribal leaders. And people don't have to buy always bottled water for our people and our tribes, also our farmers. And so they have, have to address and comply with all those regulations that we discussed earlier. And on tribal lands, there is a high rate of Parkinson's and some of those things that I guess bleed into the soil. So with that, I am in support of the intent of what this bill was. And I support anything that will help our first peoples to have access to water. And I would be happy to answer questions.

BOSTELMAN: Questions from committee? So in your-- the discussions, you know, with NDEE, where-- could you tell us a little bit more about if you've been talking to specific individuals, or I mean, what's those discussions been, or is that Senator Raybould mostly been doing those type of discussions, what their interaction with the tribe, as well with the feds. The specific bill talks about that communication.

JUDI GAIASHKIBOS: Are you talking about have I been in contact with the Nebraska Department of Energy? Yes, I have. They contacted me, a staff person over there, and we had a very robust conversation about all of these issues. And I think that they want to be supportive and helpful to us if we can find, you know, cooperation and mechanisms. And I know many of you know, our Governor always leads with his honoring 7 generations into the future, that he learned about when he met with our tribes in Sioux City at a roads meeting. He spoke of that

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out in the unveiling of Willa Cather at the U.S. Capitol. My daughter was there in attendance. She is an attorney that does water law, and she also did the pro bono work on Willa and Standing Bear going out there. So I have engaged with Dave Lopez in the Governor's Office, to hopefully be supportive to all of this, because that is what you talk-- say walking the talk, 7 generations into the future. The, the bill of Senator Raybould's would do that.

BOSTELMAN: OK. OK. Any other questions?

JUDI GAIASHKIBOS: No?

BOSTELMAN: Seeing none, thank you for your testimony.

JUDI GAIASHKIBOS: Thank you.

BOSTELMAN: Other supporters of LB1304, please step forward. Anyone like to testify in opposition to LB1304? Anyone like to testify in the neutral capacity for LB1304? Seeing none, there were 6 proponent comments that were received online. If there's no other questions from the committee, technical or otherwise, we're-- seeing none, that will close the hearing on LB1304. And then, we'll open the hearing on LB1383. Good afternoon. And welcome, again. Yes.

KATE WOLFE: Good afternoon, again. Chair Bostelman and members of the Natural Resources Committee. My name is Kate Wolfe, K-a-t-e W-o-l-f-e, appearing before you on behalf of Senator Jane Raybould. LB1383 would transfer \$10 million from the Intern Nebraska Cash Fund to the Nebraska Department of Environment and Energy for grants to tribes to improve community drinking water and sewer systems. As Senator Raybould worked to find as many resources as possible to assist our tribal members with the challenges they are enduring due to unpotable water on their land, our office identified that the Intern Nebraska Cash Fund was being significantly underutilized. In fact, the fund had earned more than it had expended. Senator Raybould wholeheartedly supports the Intern Nebraska fund-- program rather, but feels that when Nebraskans have lived for 4 years without clean drinking water, like our citizens on the Santee Sioux Reservation have, we should leave no stone unturned. I'd like to address a couple of issues that I didn't have in my written remarks. In conversations that I've been able to have with NDEE, one of their concerns was the way that they process grants typically, of this type. They send the money, and then there is always a provision that there would need to be a clawback. And there was some concerns raised about the sovereignty of the

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nations, whether or not that would be possible. What I would recommend to the committee, if the bill should move forward, would be an amendment allowing NDEE to promulgate rules and regulations regarding the facilitation of those grants. They recommended it being more of a reimbursement or similar to the osmosis, osmosis rebote-- rebate program. And so, they already have a model of a way that they could do that, and I think that that would be very workable. Additionally, in the fiscal note, the Department of Economic Development did mention and we have just learned this, even though we had another bill that dealt with the same cash fund, that \$19 million of the 20-- original \$20 million that was in that fund is under contract. And so, we would probably-- we would recommend or ask the committee that if this bill were to be advanced, amending the amount to \$2 million that is not under contract, that would be equal to what the fund has earned to that point. And while that is significantly lower than the \$10 million that we know that would, that would make a tremendous difference in addressing the water issues that are affecting our tribal residents, it is still additional money that they-- additional moneys that they would be able to leverage, to get additional grants and federal dollars. So thank you for your time and consideration. I'd be happy to answer any tech-- any technical questions.

BOSTELMAN: Anyone have any questions? OK.

KATE WOLFE: Thank you.

BOSTELMAN: Thank you very much. Proponents for LB1383, please step forward.

RACHEL GIBSON: I'm back, guys.

BOSTELMAN: Welcome, welcome back.

RACHEL GIBSON: Good afternoon. My name is Rachel Gibson, R-a-c-h-e-l G-i-b-s-o-n, and I am the vice president of action for the League of Women Voters. And, you'll see in the handout that we, at the league are-- would have supported the previous bill, as well. So this is generally written from the philosophy of making sure that our communities have clean drinking water. The, the fund piece is where we just want to implore you to find the best possible place to take that money from. So with that said, again, this is from Claudia, our natural resource director. The League of Women Voters of Nebraska supports clean drinking water for all Nebraskans, and believes that measures should be in place to protect water from contamination and

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pollution. We support these 2 bills, provided they comply with the National Drinking Water Regulations, as listed in the summary of the Safe Drinking Water Act. The League encourages the cooperation between the Department of Environment and Energy to collaborate with tribal communities for the improvement of small public water systems. We also support the creation of the Nebraska Tribal Community Assistance Program for the purpose of providing grants to tribal communities. It's vitally important to provide safe and reliable drinking water and wells, as the basic infrastructure required for sanitary sewer systems. The League agrees that both of these bills, which now, currently, is 1 of these bills-- hopefully the other at some point-- are important and can be used together or independently. And we ask that you move the bill to the floor.

BOSTELMAN: Questions for the testifier? Seeing none.

RACHEL GIBSON: Come on. It was so much fun last time.

BOSTELMAN: You're doing-- you just-- great job, no questions [INAUDIBLE].

RACHEL GIBSON: Maybe I'll see you guys later.

BOSTELMAN: Yeah. Thank you. Yes, come on up.

JESS LAMMERS: Next proponent?

BOSTELMAN: Next proponent, LB1383. Welcome back.

JESS LAMMERS: Thank you sir. Thank you, Chairman Bostelman. Jess Lammers, J-e-s-s L-a-m-m-e-r-s. I would lend my voice in support of-- well, I just handed the legislative bill away-- of this legislative bill in regards to clean drinking water for Native American communities or reservations. My children are Native American, and I believe that clean drinking water is a right. We are a first-world country, and there's no reason that anyone in America should turn on a tap and have to be concerned that that water is consumable. We are not a third-world country. This, this, this is not-- this is a no-brainer. It's not an option. It's not something we can consider anymore. We have to make sure drinking water, potable water, that does not have nitrates, does not have contaminants, is available to all socio economic levels of our society. And traditionally, Jews and Native Americans have been raped the hardest since the beginning of counted time. And we do measure time by the death of a Jew, right? AD, BC. I'm glad someone got the joke. I would-- that would conclude my comments,

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and I would yield my time back to committee and accept any questions or comments.

BOSTELMAN: Thank you very much. Any questions from committee members? Seeing none--

JESS LAMMERS: Thank you for your time.

BOSTELMAN: --thank you. Other proponents for LB1383, please step forward. Welcome back.

JUDI GAIASHKIBOS: Do I have to start over again and state my name and all that?

BOSTELMAN: Yes, please.

JUDI GAIASHKIBOS: OK. I've never done this, 2 bills in one time, so. OK. I rise in support of this bill, as well-introduced by Senator Jane Raybould. And my name is Judi Gaiashkibos, J-u-d-i G-a-i-a-s-h-k-i-b-o-s. And I am the executive director of the Nebraska Commission on Indian Affairs. I am a citizen of the United States of America. I live in the city of Lincoln, and I'm a citizen of the Ponca Nation. I have dual citizenship. And tomorrow, I will be presenting to 18 countries that are visiting our state. They're going to STRATCOM to learn about security and safety of America as we face world challenges. And their other interest was indigenous people and meeting indigenous tribes and how we treat our first peoples. So I think this bill is really timely. And as the previous testifier stated, and I concur, and commend him for everything that he said, in support of this bill by Senator Raybould, that I would like to speak to. Tomorrow, I would hope to say that I have testified before Natural Resources Committee, and our Legislature is going to right a wrong. And they're going to do something good for our people, the first peoples who are dual citizens that live in all of your districts, off reservation as well as on. More people live off than on. So I think every one of you probably has native people living in, in your districts. But I'd like to specifically speak to-- you asked me in the previous hearing if I'd heard from any staff over there. I really didn't want to go too much into it. But since Kate Wolfe did speak a little bit about the language of how the funds would be administered, I would like to state that I totally support language being put in there. As the person that called me said, the concern was that it was front loaded and no clawback language. All new terminology to me, but I get it. And always, there is a concern that peop-- tribal nations

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can waive-- they have sovereign immunity and that would be a barrier. So you would put the language in there that would protect the state from liability, and the \$2 million would be granted, just similarly to the \$5 million that you awarded 2 years ago, for a movie for Standing Bear. That's being dealt with at DED, and that is specifically that way. It's invoices re-- then you get reimbursed. So it's not as though that there is no recourse or responsibilities. And I think that's being good stewards of your money and for our tribal nations to comply with that, to get grants. So with that, I would conclude and hope that this bill could move out of committee and we could celebrate. Water is life. Water is so important for all of us, for farmers, for drinking, and everything that you've heard today.

BOSTELMAN: Thank you for your testimony. Senator Jacobson.

JACOBSON: Thank you, Chairman Bostelman. I guess I have a question. What are the revenue sources that the Ponca Nation would have today? How do they derive their revenue or their income today?

JUDI GAIASHKIBOS: OK. Tribes receive money from-- based on treaties, from the Indian Health Service for health matters and from the Bureau of Indian Affairs for education. And they also have-- just like the state of Nebraska has people that have private businesses, etcetera. And for the Ponca, I will just speak to what your question was, since we were restored in 1990, finally, the Ponca Tribe, they sought, they sought to have Indian gaming. And that was in Iowa. And the state of Nebraska and Iowa opposed it in the Eighth Circuit at least twice. And the Ponca Tribe succeeded, finally, as a restored tribe and with federal language, that they now have a casino, Prairie Flower, at Carter Lake. And that has generated a lot of moneys, just as Ho-Chunk Inc. and Lance Morgan's nonprofit has, to diversify that economy. And Ho-Chunk has businesses all over the United States and world. So isn't that wonderful that tribes are like the states in our country, that they have private businesses and enterprises, and that we're not solely dependent upon Indian Health Service and the Bureau of Indian Affairs? We are not wards of the country. We are not children. We have collaborative efforts working with communities around us. We employ-- the Ponca Tribe has a health facility here in Lincoln, one in Omaha, and we were restored without a land base. So we have service areas in Norfolk. And in all of those service areas, Sioux City, Norfolk, Omaha, Carter Lake, Grand Island, we employ many non-native people, so it's an opportunity for others, as well.

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JACOBSON: So I, I guess the reason I raise that question, so since you do have the ability to operate casinos under the tribe, within the tribe itself, what kind of revenues can be generated from that alone? Do you, do you not tax that? Do you not create revenues from the operation of those casinos?

JUDI GAIASHKIBOS: Firstly, it's-- I don't, because I'm not the leadership. Way back in the day, I've been the director 27 years, and Senator DiAnna Schimek introduced a bill for Indian gaming in Nebraska that was exclusive Indian gaming, and that failed. And so now, we have gaming that's going to happen throughout the state, through Warhorse, Warhorse, etcetera. The-- Winnebago and Omaha have casinos currently, that are in Iowa, because their lands extend into Iowa. Santees have Class II gaming, and all of those things require compacts with the states that they're in. And they have gasoline, they have cigarettes, and they generate moneys. And the taxing structure, that's based on a variety of different things. You know, as an individual living on the reservation, you are held to different taxes than the tribe itself. And off reservation, you wouldn't have tax exemption if you were on reservation. I don't live on a reservation. So wherever I go, here, shopping, whatever. I pay taxes, I pay state taxes, federal taxes.

JACOBSON: And, and what I'm trying to get at is really, what are the revenue sources to the tribe. And, and the fact that we've talked a lot about nitrates being a statewide problem, and so, why focus just on the reservation? Why is that a higher priority than other rural areas in Nebraska that are also dealing with high-- dealing with high nitrates? Is, is, is there --if there's an income source to pay it yourselves, then it would seem that you would start there, because we've got a lot of areas that need, that need help. So I'm just trying to figure out what makes that need greater on the reservation than other rural areas in Nebraska.

JUDI GAIASHKIBOS: I would say, partly to answer your question is, as you've heard in testimony, maybe not today, but throughout the history of this Legislature, most of tribal people, even at Ho-Chunk, with all that's gone on there, half of the people are unemployed. They live in poverty. So I don't know about all of the rural communities in the state of Nebraska, if they're in rural communities, are in poverty. But I do think, for example, the women's prison in our state, they don't have clean water. I-- I'm all for everybody having access to clean water. But our tribes were put in certain locations for specific reasons, and it was not to our advantage. And farmers, my grandfather was born in 1878. He had an allotment up along the Niobrara River, up

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river from Standing Bear. We no longer have those farms, because of a lot of things that happened in our checkered history here in Nebraska. So--

JACOBSON: Well, I, I, I appreciate the answer. And I'm just-- I guess I would just-- I'm trying to understand that. I'm, I'm not being critical. I'm just trying-- I, I, I will truly admit I'm uninformed in this area.

JUDI GAIASHKIBOS: Sure. I understand.

JACOBSON: And so I'm just, I'm just trying to get the answers, but I think you've answered my question. And thank you.

JUDI GAIASHKIBOS: OK. Thank you, Senator Jacobson. I appreciate your question.

BOSTELMAN: Senator Cavanaugh.

J. CAVANAUGH: Thank you, Chairman. Thanks for being here. I just have kind of a technical question. I thought, in your last testimony, you said there were no state recognized tribes. Is that right?

JUDI GAIASHKIBOS: That's correct.

J. CAVANAUGH: OK.

JUDI GAIASHKIBOS: We are federally recognized tribes. So I'll give you an example. My counterpart in North Carolina, Greg Richardson, who is a director of the Indian Commission there, and he's been there for 25 years. They're under the DOA. They're not like I am. We're a non-code state agency. He has the Eastern Cherokee, which was a federally recognized tribe, but he has, oh, a dozen more that are state recognized. They do not have treaties. For example, he's a member of the Haliwa Saponi Tribe. So, in our state, we have federally only, and all around surrounding us. South Dakota has mostly the Great Sioux Nation. Those are all federally recognized tribes, I believe Iowa has only federal. They had the Meskwaki. And then our tribes go over into Iowa. Likewise, Wyoming, it's federal. But there are tribes in the United States of America, on the eastern shore. That's where, you know, the first onslaught was. And so, a lot of those people didn't even get to have treaties. They were pretty much wiped out.

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J. CAVANAUGH: Well, I-- well I guess the reason I ask is that eligibility requirements says that any state recognized tribe. So would that--

JUDI GAIASHKIBOS: That's-- we thought that language was problematic--

J. CAVANAUGH: OK.

JUDI GAIASHKIBOS: --my staff and I, so we'd like it to say federally recognized tribes.

J. CAVANAUGH: OK. That's-- I just wanted to--

JUDI GAIASHKIBOS: Because the Omaha, Winnebago, Santee Sioux, and Ponca are federally recognized tribes. The Oglala Lakota that Senator Brewer is a member of, that is a federally recognized tribe. So people that live in our state, there could be some people that are from a tribe that's state recognized that live in the state of Nebraska. I'm not saying that's not a possibility, but my son-in-law is Navajo. He is a member of a federally recognized tribe, one of the largest in the United States. And it's very complicated. I know it is. Indian law is so not taught in law schools anywhere in the United States. My daughter went to Columbia Law School and she had one native law class. Luckily, she was mentored by a water expert, so she developed her water, water expertise to negotiate water settlements. And she did the Crow water settlement, which was over \$400 million, and the Osage settlement, which wasn't water, but on rights for headrights. So it's, it's a lot to learn. And every day, I learn more about your/our government, state government. And so I have to also learn about my own tribal government, because it's not taught in schools as you know. None of this-- we were pretty invisible. So that's what we're trying to do. And in my life's work here, I have hoped to honor and respect everyone and raise visibility for our first people, so that we're not at such a high rate of being murdered and missing, that our children don't have to be adopted out through the Indian Child Welfare Act, which followed the Indian boarding schools. My mother went to the Genoa Indian boarding school. Kill the man. Save the-- or kill the Indians, save the man. Most people didn't even know that there were boarding schools. And now we're looking for over 80 children that are buried in the ground at Genoa. Most people in Nebraska don't know about it. I'm not having people calling me saying, why-- what's going on? Can I help you? What's happening? So we need your help on that, too, as well. There are many, many issues that have gone too long, buried under the ground where those children are. And it's time to

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lift-- open the curtains, to make us Standing Bear strong and proud when that movie comes to Nebraska. We all should celebrate and say, guess what? We've got good, clean water for all the people that want to come now, with eco-tourism, etcetera. The sleeping giant is that: tourism. And we are first peoples that want to be-- share with you and celebrate and tell our stories.

J. CAVANAUGH: Thank you for being here.

BOSTELMAN: I want to-- I have a follow-up question to Senator Cavanaugh's. What's the difference between a state tribe and a federal tribe?

JUDI GAIASHKIBOS: OK. State tribe has-- doesn't have treaties with the United States government. And that's where the money flows from, those treaties. And so, in North Carolina, I'll speak to that, because that's the one I'm the most knowledgeable, because of my colleague there. They administer through his office, the DOA, they administer WIA programs. That's Workforce and Investment Act, labor. They also do housing programs. They also are tasked responsible for recognizing people that somebody contacts you and calls them up and says, we want to become state recognized. So there's a process that that agency has to go through, working with their tribal nations to approve that. I am so glad I do not have to do that, because we don't deal with tribal enrollment. That's up to each specific tribe. So if we had to recognize all these state recognized people-- so that's kind of the difference, what your benefits are. And it's a challenge in Indian country, even with federal tribes, in opposition to state tribes, you know, there's the hierarchy and all of that. But really, it's sad when that happens because those state people, they didn't really have the opportunity to have the treaties and they're really, very much marginalized. So we want to try to be good stewards and share with everyone and live in harmony with all of us, don't we all? There's only so much water. We all want the same things for our children as you do. We want education. We want jobs. We want clean water. And, we don't want to blow up the planet.

BOSTELMAN: Senator Brandt.

BRANDT: Thank you, Chairman Bostelman. Thank you, Ms. Gaiashkibos, for your testimony. You might have mentioned this while I had stepped out. Back to the bill. You're at, at \$2 million. What is the total scope of the problem, problem? Do you have any idea? Is it \$50 million, \$100 million to fix the sewer and water situation on the tribal lands?

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JUDI GAIASHKIBOS: I think the largest request was from the Santee Sioux. And they're further located up at-- near, well, in Knox-- I think it's Knox County. And, you know, Senator DeKay, he has a, a bill up, too--

BRANDT: Sure. Yeah.

JUDI GAIASHKIBOS: --I think, for water support. And that's Cedar and Knox County. And the Ponca Tribe, we're in Knox County. That's the homeland of the Ponca Tribe. And he sought federal dollars from Senator Fischer to get \$10 million for up there. But the Santees weren't involved-- brought into that, nor Ponca. And STAR WARS is going on right now, or was, and the Ponca Tribe was being asked to bring millions of dollars to the table to be a part of STAR WARS. So earlier, the parks people were here-- and there's just some really interesting inequities that happen that people don't realize. And so, the amount of the projects, I'm not absolutely certain. I can't speak for each tribe. I think it was determined that the Winnebago and Omahas was less needing, and the tribes collectively said they were in support of the majority of the money going to the Santee Sioux Nation--

BRANDT: OK.

JUDI GAIASHKIBOS: --who are probably the poorest tribe. And I am Santee Sioux as well. My grandmother was born in 1890 and grew up on that reservation, and went to one of those day schools that tried to kill the Indian, but she got to go home at night and hug her mother and speak her language.

BRANDT: All right. Thank you.

BOSTELMAN: So is the intent of the program here, there's federal funds, that, that mat-- and there's a match to that. So is, is the intent of the program to provide that matching to the federal? Because I know I was at the luncheon the other day. There's \$50 million, but that's spread out across a large area, many tribes, many areas. And there's a percent, there's a match to that. So, do you know, is the funding that we're talking about here, to be the match to any federal funds come in, or is that going to be-- is this completely self-sustaining? In other words, as Senator Brandt said, or, or that, you know, if it's a \$10 million project, is the state providing the \$10 million or is the federals-- feds doing \$90-- \$9 million and the state does a million. I-- if it's a \$10 million project. Do you know?

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JUDI GAIASHKIBOS: That's a really big question to ask me. Because I am not-- you know, I don't have their total plan in front of me, so I, I hesitate to speak for the tribes, but I'm just going to say this: As you saw-- I stated earlier, Senator DeKay is trying to help his district have water and getting funding from the federal government, \$10 million. Santee is not getting a penny of that. So how much will they be able to get from the federal government per that kind of a request? Or how much currently is coming already through Indian Health Service or BIA? Not much on that, but they would also continue to look for other grants and other ways to bring all this and use the money as a leverage to get other funding.

BOSTELMAN: OK.

JUDI GAIASHKIBOS: And there are other tribes, the Shakopee Mdewakanton Sioux in Minneapolis. That state has exclusive Indian gaming. They have been very supportive to the Santee. And I know the Ponca Tribe, with the moneys that they are hoping to get for their museum, while they were waiting, they got some money from Shakopee. I don't know how much it is, \$1 million or 2, to get their design going, so they are waiting to build that museum with support from the state. And I think that the state of Nebraska, they have partners, private sector partners, as well as you, we get federal dollars. And sometimes I always feel like it's a little bit unfair when I get asked these questions about well, where-- can't the tribes just get it from the federal government? Well, you know, the state gets a lot of money from the federal government. And we take it, and we work on, you know, new bridges out in western-- near Senator Jacob's [SIC] district, the airport, those are federal dollars. So as a country, the federal government needs to honor those treaties and be supportive, and also help all of our 50 states. So it's not a crime to receive federal dollars. It's just life, that we all have to do. And wherever the tribes can find money and use some of what-- your money. And it shows that you care, and you're invested in those tribes, that will help them to have sustainability. And I would hope that we could keep getting more federal or state funds for this granting purpose. I hope that doesn't end at the \$2 million, but I'm not sure.

BOSTELMAN: OK.

JUDI GAIASHKIBOS: So I don't know if I answered that. That was a hard question.

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BOSTELMAN: That's, that's fine. It's just-- I know there's federal funds out there and state funds out there. And sometimes you can leverage your state funds by bringing in the federal funds, and it helps you out. And that's kind of, kind of the catalyst to my question. And, and maybe-- OK. Can-- we can talk about this more, as well--

JUDI GAIASHKIBOS: OK.

BOSTELMAN: --on this, on this-- on the bill. So, OK.

JUDI GAIASHKIBOS: That is great. I have another hearing in Judiciary on the Indian Child Welfare Act, which, that was-- came after the boarding schools, in 1978, to stop the children being stolen out of our families. Over 100,000 children were taken out of homes and put in different places, like in Omaha and-- to be adopted out in non-Indian homes. So we had that bill and-- to protect our children, and we're working on something with Senator Blood that will clean up the language. So I have to go to Judiciary and testify on that one. So I hope I've answered all of your many great, challenging questions, and that you'll support this.

BOSTELMAN: Thank you. Thank you very much for being here today. Thank you for your testimony. Anyone else like to testify in support of LB1383? Good afternoon and welcome.

SOPHIE HOLTZ: Good afternoon, Chairperson Bostelman and members of the Natural Resources Committee. My name is Sophie Holtz, S-o-p-h-i-e H-o-l-t-z, senior-certified law clerk at the ACLU of Nebraska, here in support of LB1383. LB1383 would provide much needed resources to our tribal communities to improve their water supply. And a lack of access to clean drinking water is a major crisis across the country on reservations and here in Nebraska. Nationally, around 48% of households located on reservations do not have clean water or adequate sanitation, according to Heather Tanana, a professor at the University of California Irvine, who researches tribal water issues. Additionally, according to Nebraska Public Media, in an article published in September of 2023, the Santee Sioux Nation is considered a water scarce area now. The Santee Sioux Nation has around 1,000 residents, and they have not had access to clean drinking water for over 4 years. In 2020, the wells on the Santee Sioux Nation had levels of manganese that was 50 times the value considered safe for drinking water. The Santee Sioux Nation has been relying on a \$100,000 grant from the Bureau of Indian Affairs to buy bottled water for tribal

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members. And the money is expected to run out by winter of 2024, which is now. Both the Santee Sioux Nation and the Omaha Tribe of Nebraska have water quality that does not currently meet EPA standards. In 2019, the EPA issued a Do Not Drink order for the Santee Sioux. A bill that would provide up to \$6 million to the Santee Sioux Tribe was introduced in the Nebraska Legislature in 2022, but it was indefinitely postponed. During the same 2022 session, however, a bill passed that allocated \$20 million to build new water treatment-- a new water treatment facility near a Nebraska lake, due to increased recreational housing there. Our tribal communities are in need of this funding in order to build access to clean water, and our federal government is currently not doing enough. All Nebraskans deserve to have, to have access to this basic need, and this bill would help make that a reality. We thank Senator Raybould for introducing LB1383, and I urge the committee to move LB1383 to General File. Thank you, and I'm happy to answer any questions from the committee.

BOSTELMAN: Thank you for your testimony. Any questions from committee? Seeing none, thank you very much for being here.

SOPHIE HOLTZ: Thank you.

BOSTELMAN: Next proponent for LB1383? Anyone else would like to testify in support of LB1383? Seeing none, anyone would like to testify in opposition? Seeing none, anyone would like to testify in the neutral capacity? Seeing none, that will close our hearing on LB1383. Thank you all for being here today.