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Agriculture Committee  
February 14, 2017

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[LB449 LB499]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 14, 2017, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB449 and LB499. Senators present: Lydia Brasch, Chairperson; Carol Blood, Vice Chairperson; Joni Albrecht; Ernie Chambers; Steve Halloran; Burke Harr; Bob Krist; and John Lowe. Senators absent: None.

SENATOR BRASCH: Good afternoon. I believe we do have a quorum here and so I'd like to welcome you this afternoon and we're just going to go over a few things first. I am the Chairman. I'm Lydia Brasch and today I'd like to introduce the members on the committee to you and introduce...the Vice Chair will be Senator Carol Blood, District 3. I believe she will be coming shortly. And then the other members on the committee...and welcome, Vice Chair Blood. I'll start the introductions. At the very end there, we have Senator Chambers, District 11; then Senator Lowe, District 37; I mentioned Vice Chair Blood, District 3; on the very end is Senator Halloran, District 33; next to him is Senator Albrecht, District 17; and then it's Senator Harr, District 8; and Senator Krist, District 10. I am District 16 and Chair of the committee. To my right is Rick Leonard. He is the research analyst for the committee; to my left is the committee clerk, Courtney McClellan; the pages, one page today, and a very good page, I might add, is Kaylee Hartman from Syracuse. She's a student at UNL. Today our committee will meet on a public hearing on LB449, being introduced by Senator Chambers, and LB499 being introduced by Senator Brewer. And for the audience that is here today, we ask that each of you be a respectful witness of the committee and of each other. Please keep your conversations among yourselves to a minimum, and if necessary, please take your conversations into the hallway. Also please refrain from any expressions of support or objection to the testimony. No one may address the committee directly except as a witness while at this table. Please turn off your cell phones and any electronic devices or put your cell phone on vibrate. Any phone conversations should be taken into the hallway. If you do not plan to testify on a bill but would like to record your position on a bill, there's a yellow sheet located outside the door where you can do so. These will be a part of the hearing record. However, only persons who testify will be included in the committee statement. We ask that on your testimony, every person introduce themselves, say and spell your name. And first we'll call the proponents to come forward, then the opponents, and then the neutral testifiers. The introducer will provide closing remarks unless the introducer waives the opportunity for closing. And if you do plan to come and testify, there are green sheets that are located on the table outside of the door. Please fill those out as well, indicate your name and your contact information, and whether you're testifying in support, opposition, or neutral on the bill on that sheet. When you come forward, again, please remember to spell and say your name, and the microphones that you see here, they are for the assistance of the transcribers. They are not amplifiers for the rest of the room. If you would like the entire room to hear your testimony, you will need to speak loudly. If you have any handouts, please gesture to our page

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and they will take your original and make any copies that are needed to distribute to the committee. If you have handouts available, we suggest that you have ten copies. Today, we will be using the light system and we'll start with a green light. You'll have five minutes. And the green light will be on for four of those minutes, and then it will change to the yellow light for one minute. When you see the red light, please finish your testimony and conclude at that point. I'm...I believe we do have our quorum present, and Senator Chambers, if you'd please come forward and introduce your bill. Welcome, Senator Chambers.

SENATOR CHAMBERS: Thank you, Madam Chair, and it's good to be here. I'm Ernie Chambers. I represent the 11th Legislative District in Omaha, and I'm offering this bill, LB449. My statement of intent is one sentence. This bill repeals the Black-Tailed Prairie Dog Management Act. I did it that way because the act comprises a number of rather lengthy statutes and the approach I'm going to take today, I don't know how many people want to testify, but I will give an opening and save much of what I would say for my closing, so I can respond to whatever may have been said during testimony that may need a response. But naturally, I'll answer any questions that the committee may have. This bill was enacted, I think, in about 2012, but at any rate I was not in the Legislature. Senator Louden brought the bill and I have a comment that was made by a person who supported the bill. This person's name is David Bloomfield. He was a member of the Legislature and he supported this bill when I brought it before the Ag Committee. It came out 7-0. The person who did not vote was Senator Schilz and when he was asked on the floor why he didn't vote, he gave an explanation and I'll give that. But anyway, here's what Senator Bloomfield said and it's a good sendoff. Do what you will on your property. You don't have the right to come on mine to kill animals I may choose to have there, colleagues. I was around four years ago when the Ag Committee...with the Ag Committee when this bill passed. I questioned at that time the invasion of property rights. I ended up supporting the bill to put this law in place in part as a favor to Senator Louden, who was in his last year here. I was mistaken in doing so. Oops, I made a mistake. That's never happened here before to anybody, but it does happen. LB128, which was the number of the bill, is an effort to change that mistake that we made. It needs to happen. Most of us in here own a little piece of property somewhere and we don't want the state or the federal government coming in telling us everything we should do. How high do we cut our grass? Cities do that. I can't live in the city anymore because I can't have anybody tell me how tall my grass should be. I also can't have the county telling me that they have the right to come in and poison animals on my property. Senator Chambers has said he wasn't going to speak on this anymore. I wonder if he would be willing to yield to a question and then it proceeded from there. But Senator Bloomfield did it as a favor to Senator Louden, as did other senators. They had no idea how oppressive, invasive the statute was. And I'm going to touch on some parts of it. There could be a dispute between two neighbors. All that that neighbor has to do is go complain to the county board and say, my adjacent neighbor has prairie dogs that came on to my property. And that puts the wheels in motion. This person who has been accused is supposed to get a notice. It can be a general notice

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in a newspaper of general circulation or personal notice. That doesn't mean that the person will get either of those. Even if no notice is actually obtained, that person has 60 days to respond. That person must tell what is being done to solve the problem either himself or herself, or people coming to get rid of these prairie dogs. If that response doesn't come, then the county board can give 48-hours' notice and send people on to that property without being invited, without a warrant, without giving the property owner a chance to show that these prairie dogs didn't come from his or her property. There's no provision for any court challenge to any of this, so these people who come on the property do not have under the statute, they do not have to have any training at all. Whoever the county says can go, can go. I'm telling you what's in the law and that's what makes it so bad. If they come on the property, they cannot be charged with trespass nor damaging growing crops, even if they destroy them. The usual method that they would employ would be poisoning. The person doesn't have to be certified as a poisoner, doesn't have to know anything about poisoning, but can use that methodology. There's a fence line between the two pieces of property. There's nothing in the law that says that poison, if it's spread along the fence line, how far into the supposed violating neighbor's property can go. So that poisoner could spread it all over the entire property and that landowner can do nothing about it because that's allowed under the law. Some people, when they think there might be a problem, will put a heavy growth of hedges near the property line...the fence line, because prairie dogs like to have open territory so they can see if danger is coming. And that's why they chew the grass down to about a half an inch so that they can see everything. Others have erected perches on which raptors, eagles, and hawks will land looking for the prairie dogs as food and that runs them away from that area. Some people realize that prairie dogs are what are called keystone animals because they serve a purpose. They are not invasive. They are indigenous or native to Nebraska. It is estimated there may have been 2 billion of them in Nebraska at one time, that over 90 percent of those have been wiped out. Unfortunately, the model for this legislation was the noxious weed law and the noxious weed is one which is not indigenous to the state. So the aim of that law is to totally eradicate those weeds on the property where they may be growing, any other public area, because they want to destroy these things completely. When you apply that to animals, especially animals which are not noxious...people may not like them, they do not fit the definition of noxious. And since the purpose of the Noxious Weed Act is to completely eliminate all the weeds, the purpose of this legislation would have to be to exterminate the prairie dogs. Now what happens when all of this enforcement machinery comes into play? The person who is the accused, remember, has no recourse. You just have to sit back and let all of this happen. Every day that that person does not do something about these prairie dogs, a \$100 fine is imposed, whether that person got the notice or not. And I'm telling you what's in the law. Up to 15 days, so a \$1,500 fine is assessed. It's certified to the treasurer who makes it...it becomes a lien and it's put on your tax bill. Whatever interest is charged on your taxes is charged on that debt also. If you still don't do anything, the county attorney is called into action and this got started as a dispute between neighbors becomes a crime. When you're convicted, it's called an infraction but that is a crime. No involvement of the court. This fine was not assessed by the court. It, by

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operation of law, is put in place. So if this person feels he or she was treated inappropriately, and still doesn't come up with the cash, the house can go into...the property can go into foreclosure from a spat, to the involvement of the county attorney, a \$1,500 fine, then the possibility of foreclosure, and to heap on further, it says that foreclosure action is not the only remedy. Any other remedy that may be available under law is available. That is not found anywhere in the law no matter what a person is accused of having done. When the state takes your property completely, they have to do it by way of eminent domain. This is a civil proceeding and the state doesn't just come in and say, give me, get off. But if eminent domain is authorized, you have to be fairly compensated for your property. Everything is turned on its head just because of prairie dogs, an unsupported complaint, and there is not even an investigation by the county. I'm telling you what the law does to see whether or not prairie dogs were already on this person's property. There's nothing to establish that the prairie dogs, if they are on this person's property, actually came from the property of the one who's accused. Prairie dogs don't recognize boundaries, so there could be somebody with land on the opposite side and prairie dogs could just as easily come from there. I'm kind of rushing because I don't want to take a lot of time. Give everybody who is here enough time to testify, the committee to ask questions, but I want to put enough in the record to show that this is not just a lark. I'm not doing this because prairie dogs are cute, which they are although I have never seen a live one in my life, but to show that they are a part of the heritage of Nebraska. The tourist people put out a poster and guess what is projected on that poster as a drawing card and something of which Nebraskans are proud? It is a cute little prairie dog, but that's not why I'm bringing it. When you own property...and this point I'll make and then I will take questions. And you all know, I don't usually scamper like this, but I want to do what I said by not taking too long on my opening. I'm trained in the law and I have a law degree from Creighton. Real property is one of the most complex, difficult to understand areas of law when you're just starting. So they try to be basic and they start with wild animals. Who owns wild animals? In England, the king owned it. Animals on your property do not belong to you. If deer are on your property, they're not your deer. Elk, moose, mountain lions, not yours. You cannot go out there and shoot whenever you want to. And even if you have a license to hunt, you have to comply with that license. So when an animal leaves Senator Harr's property and comes on my property, he didn't own that animal. I don't own the animal. So let's take it away from prairie dogs. He has a pool where animals come to drink water. There was a drought. Deer gathered there. Then after they have slaked their thirst, they're hungry. So they leave his watering hole and come and eat my corn. I can't sue Senator Harr because his deer came and ate my corn. Well, the foxes on Senator Lowe's property said, we might can find a little bitty deer and we'll maybe get, if not a full meal, a spare rib or something. But when all the deer are gone, the foxes come on the land anyway because they heard a (clucking like a chicken) chickens. So they eat a chicken. I can't sue him because his foxes came and ate my chicken. But when it comes to prairie dogs, everything goes out the window. Back to the property idea. When you own this property, you never own it absolutely. There is always an entity that can take that property. The king could take the property. So, that came down where in this country property can be taken by the state, but it

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has to be for a public purpose. The state can say, you're entitled and free to do anything you want to on your property, but you cannot use your property in such a way as to harm your neighbor. If that is happening, that's where the courts come in. You don't have blood feuds. You don't get the shotgun if your name is McCoy and shoot somebody who's name...that other family, I won't call it because they may have relatives here before you to be here, so. But anyway you would go to court and a determination would be made if you had been using your property in a way that harms somebody else's. If so, that harm has to be rectified by you paying damages and that was how these kind of property disputes were resolved. I have tried to give a general overview and now if you have any questions, I will take them. And although...and Senator...our Chairperson. I won't get familiar and call her by her name. Our Chairperson is under the misapprehension that I have a heart which I don't have. She insists I do. Actually, when you don't have a heart, you don't have any circulation. If you have no circulation, there's no need for oxygen to fuel something that's not there, so I don't have to breathe either. But because people are so superstitious, Senator Halloran, I will make moves as though I'm breathing as other people do. So this whole time of speaking, I never took a breath. If you have any questions, other than personal questions, I will answer them. [LB449]

SENATOR BRASCH: Thank you, Senator Chambers, and Happy Valentine's Heart Day to you today. [LB449]

SENATOR CHAMBERS: For those of you who have a heart, I wish you the same. (Laughter) [LB449]

SENATOR BRASCH: Questions from the committee? Yes, Senator Blood. [LB449]

SENATOR BLOOD: Thank you, Chairman Brasch. Senator Chambers, first of all, thank you for that great explanation about property rights and eminent domain. And the one thing I'm not hearing and it just helps be clear in my head is, this seems so random. What was the motivation behind this bill? [LB449]

SENATOR CHAMBERS: The motivation? Senator Louden brought it and as Senator Bloomfield said, he had questions about the property right, the evasion by people on your property sent by the county, but he did it for Senator Louden. So I don't know why Senator Louden brought it. I wasn't here at the time, but if I had been, it never would have gotten into law. [LB449]

SENATOR BLOOD: So, if I hear you correctly, the motivation was that you were aware of this past history and you're trying to right what you believe is a wrong? [LB449]

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SENATOR CHAMBERS: Say it again. [LB449]

SENATOR BLOOD: That you were aware of this past history... [LB449]

SENATOR CHAMBERS: Uh-huh. [LB449]

SENATOR BLOOD: ...even though it happened when you were not here, and that you are trying to right what you believe is a wrong with this legislation. [LB449]

SENATOR CHAMBERS: Right. I actually read the law, because I do love animals. I love all living things, great and small, human, nonhuman, but living. So when I read the law, I couldn't believe what I read there because there are some things that are so violated of a landowner's rights that it shouldn't even be in the books. If you have a problem, there's a different way to solve it than that, so I made up my mind to just get rid of the whole thing. Then if prairie dogs were a problem, and apparently they were not that big a problem before Senator Loudon's bill, people can shoot them. They can poison them, anything they want to, to the prairie dogs on their land. [LB449]

SENATOR BLOOD: Right. [LB449]

SENATOR CHAMBERS: But when somebody else could cause other people to come on your land like this, that's when it became a problem. And when I brought the bill, quite frankly there were senators who had not read the law. They had not read Senator Loudon's bill. There's an editorial in a western Nebraska newspaper that described what the bill contained and said the senators ought to be careful what they're doing. Read this and see what it is really allowing. But sometimes there's that courtesy toward a leaving colleague, and this kind of thing is the result. Remember, what I'm talking about here is not the right for prairie dogs or any other problem to be addressed. But if this is indeed a democracy, if there is such a thing as ownership of private property and property rights, those things have to be respected. They're supposedly some of the fundamental pillars of the society. So this bill is designed to take something out of the statutes that I find embarrassing as I read through it. And there are other things that I didn't even read because it would have gotten too lengthy, but I hope you have an idea of how invasive and intrusive it is. [LB449]

SENATOR BLOOD: Thank you. [LB449]

SENATOR BRASCH: Thank you, Senator Blood. Senator Krist. [LB449]

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SENATOR KRIST: Thank you, Chair. I was here when the bill was passed and my memory of the bill was that there was a pronouncement of an infestation of prairie dogs that was insurmountable and that the counties needed to get involved with the process. But I'm guilty of not reading the legislation as well as I should have to realize that it was more about property rights, and the right to have a secure property as well as the prairie dog and balancing the two. And Senator Chambers is right on the money to say that it should have never...if there was a need for the eradication of prairie dogs and the help of the state or the county to come in and should have never been patterned after the noxious weed legislation that we have. [LB449]

SENATOR CHAMBERS: And only one county has ever put one of these programs in place and from what I understand, they've never used it in the way that the law allows. But the fact that the law does allow it, and some tell me it's been used as a club, threatening people, that this is what can happen to you and then some people become fearful of...some have poisoned all the dogs on their land. Some did it even before the law took effect. They're not trained in poisoning, so there was secondary poisoning. The animals that ate the carcasses of the prairie dogs would die. That eagles, hawks, burrowing owls, foxes, badgers, everything, and even some of the black-footed ferrets were poisoned, and they're not the kind of animals that are open for this kind of extermination. And even when they have a trained poisoner, you can get certified in using the poison on your own land so it will stay here, but every 24 hours you're supposed to remove the carcasses, you're supposed to make sure you don't put it where it shouldn't be. You don't use the kind that can drift from your property on to somebody else's, but some people were so panicked that they just went out and started killing prairie dogs because the threat was made even before the law took effect. So there's one county that has done this, 92 that have said, no way. And I'm not going to--what was that word you used--scold today. [LB449]

SENATOR BRASCH: Thank you, Senator Krist. Senator Halloran. [LB449]

SENATOR HALLORAN: Madam Chair, thanks. I have not seen...the original law to your point was probably ill-written. I won't question that, but I would raise the question if anyone has ever seen a prairie dog town? Has anyone ever seen a horse with a broken leg? It's not a pretty picture. A cow with a broken leg. Prairie dogs are...then compared to an invasive weed, some level they're kind of...they're invasive. They move into a property and they create their dens which is the natural thing for them to do, but these holes are something less than the size of a badger hole, but they're very large holes. And they can have hundreds of these per acre and they aren't, to your point, Senator, they don't pay any regard to the fence, the border lines of property. [LB449]

SENATOR CHAMBERS: Um-hum. [LB449]

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SENATOR HALLORAN: They can move into...from my property into yours. And at some point in time, they can do great damage to property. [LB449]

SENATOR CHAMBERS: And those things I'm not challenging. Here's what I'm saying. On your property, if you have pasture, then you can do whatever you want to with it. When they had what they call tillage, that kept a lot of the prairie dogs away. That no longer is used ordinarily in farming, so they want to be where there's open space. The problem is that there are people who want prairie dogs on their land. If you're going to say that prairie dogs migrated from my property to yours, you should have to prove it before anything is done because you may have prairie dogs of your own. Under the law, you don't have to prove it. All you have to do is make the accusation, then everything is on me. And I may not have even actually gotten a notice, so after the 60 days have run, all this stuff happens that I mentioned. And here's what I'm talking about, Senator Halloran. I don't worship property or anything like that, but private property is recognized; and you as a person are entitled to due process whenever the state is going to take a negative action against you. The county is an arm of the state and before they start doing all of these things that I mentioned, and then make them go to court, give the persons accused an opportunity to respond, and that's what I'm trying to get out of the law. In anything else, we can work out and come to an agreement, but I'm looking at the heavy-handed law that allows all of these things to be done to people who have not been charged in a court, convicted in a court, and a noncriminal action can be converted into a criminal action by inviting in the county attorney, (inaudible) under the law. If I run into your car, it's not a crime if it's an accident. But here, something that the person may not even know and have control over can be converted into a crime only in this matter where it deals with prairie dogs. [LB449]

SENATOR HALLORAN: Did you do that on one breath? [LB449]

SENATOR CHAMBERS: I didn't take a breath. [LB449]

SENATOR HALLORAN: That's what I thought. (Laughter) So I guess my question is, was there a complaint--probably was, I don't know--but was there a complaint on the part of a person that was trespassed by the county officials to do some eradication of prairie dogs? [LB449]

SENATOR CHAMBERS: Well, people became fearful and since I don't live in that area, people didn't know to come to me and I wasn't in the Legislature then. But under the testimony, and I don't know if people will bring it up today, they had mentioned that disputes between neighbors would result in a complaint of this kind being filed and the person against whom it came would become so fearful because they'd be told what the consequences are, they might go out and start poisoning animals on their property. [LB449]

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SENATOR HALLORAN: Okay. That's fine. No more questions. [LB449]

SENATOR BRASCH: Thank you, Senator Halloran. Senator Harr. [LB449]

SENATOR HARR: Thank you, Madam Chair. Thank you, Sonny. And I think this is about the only time I can call you Sonny, because I have served on this committee continuously longer than you have. And I was on this committee when we voted on Senator LeRoy Louden's and I kept it off consent calendar. And it was brought up on the first time on Final Reading. And I'm sure Senator LeRoy Louden is watching today and he will recall that. It was on...with no objections, and I objected to it, so it got delayed on Final Reading. And the reason I objected is just so we could talk about property rights. Do you know, is it illegal to have prairie dogs on your property? [LB449]

SENATOR CHAMBERS: No, I'm not aware of that. [LB449]

SENATOR HARR: Okay. And yet we have this law that says a wild animal that's on your property, the state can come on and kick it off. Is that correct, or at least exterminate it? [LB449]

SENATOR CHAMBERS: Oh, you mean if the animal, according to the way they view it, is a menace or something? [LB449]

SENATOR HARR: Yeah. [LB449]

SENATOR CHAMBERS: I think Game and Parks does that, but I don't think they have anything to do with the prairie dogs. [LB449]

SENATOR HARR: I mean, I guess my problem...well, first of all, are you familiar with the guy, Larry...a person, Larry Rittenhouse from Colorado State University? [LB449]

SENATOR CHAMBERS: I may have heard the name, but I... [LB449]

SENATOR HARR: Well, he is a researcher who states despite these...many ranchers see efforts...where do I find it. Just a second. He goes on to state that he had not ever heard nor seen in his 50 years around cattle and horses, he does not know of a single instance where a horse or cow has been injured by a prairie dog hole. Do you know of any instance where a prairie dog hole has injured a horse or cattle? [LB449]

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SENATOR CHAMBERS: Well, the only...the only anecdotal information I heard was from Senator Halloran today. Maybe these animals know how to recognize a hazard when they see it. [LB449]

SENATOR HARR: Well, that's what I was getting at. And that's what he get's at, exactly. As a matter of fact, he goes on to talk about how the animals intuitively know to stay away from prairie dog holes. And then he goes on to talk about the...do you know...maybe I should ask this a better way. Do you know of the environmental consequences of a prairie dog town? [LB449]

SENATOR CHAMBERS: Well, some of the things they do, they chew roots off of plants that are not helpful to that particular environment, but it leads to new growth and they do keep the grass cut so that they can see what they... [LB449]

SENATOR HARR: Like a golf course. [LB449]

SENATOR CHAMBERS: Well... [LB449]

SENATOR HARR: They also...water prevents runoff. [LB449]

SENATOR CHAMBERS: Well, that's right because the water comes in and it stays there and it provides moisture when maybe there's not enough rain otherwise. And it provides residences for other critters, burrowing owls, ferrets, and such creatures, even snakes, and I don't dislike snakes. [LB449]

SENATOR HARR: Well, thank you, I appreciate it. [LB449]

SENATOR BRASCH: Thank you, Senator Harr. Are there any other questions? Yes, Senator Lowe. [LB449]

SENATOR LOWE: Thank you, Chairman. Thank you for bringing us up on the law and I will never say that you don't know the law. Has there been...getting back to Senator Halloran's question, has there been anybody that has brought this to the attention where they have been trespassed on by a county official? [LB449]

SENATOR CHAMBERS: I can't say for sure, and I don't know who they might have felt they could talk to but because the county was the one who authorized these people to come on the

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property, so then they had felt it's like complaining against Jesse James to Frank James. And if they did have a jury, it would comprise the Dalton Brothers. [LB449]

SENATOR LOWE: So it hasn't been a problem yet, is what you're saying? [LB449]

SENATOR CHAMBERS: Well, see, only one county has a program like this, and I'm not aware of whether or when they tried to implement it. But I have been told that the threat of implementing has forced people to take action on their own property which otherwise they would not. [LB449]

SENATOR LOWE: You brought up the anecdote of Senator Harr's deer coming over and feeding on your property, was that right? Do the deer dig holes on your property? [LB449]

SENATOR CHAMBERS: Say it again. [LB449]

SENATOR LOWE: Do the deer that jump the fence and come over to your property, do they dig holes? [LB449]

SENATOR CHAMBERS: Oh, they certainly do. And it looks like slow motion when they do it. [LB449]

SENATOR LOWE: Do they really? [LB449]

SENATOR CHAMBERS: I said, Bambi grew up. (Laughter) But really there's some people... [LB449]

SENATOR LOWE: Or the pheasants, do they do damage to your property? [LB449]

SENATOR CHAMBERS: Well, they eat whatever they want to, but other than that, and being for city people something to really look at and enjoy, you might say it was even a gift of nature for them to be there. But I don't know if when they dine on standing crops, those people feel that no harm has been done. And there's some people even who think that mountain lions have been-- this is in Nebraska--have been slipped in under cover of darkness to bring down the excess deer population in Nebraska. And with all the accusations that can be made against Game and Parks, I would say they have not done that. So deer apparently are the kind of problem where people who live around large numbers of them do encounter difficulty and damage because of them. But I don't know that for a fact. [LB449]

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SENATOR LOWE: Well, I have 15 that come around my house all the time. I know the damage that a deer can do, but most of that grows back and they don't dig holes. I've watched them in slow motion because I don't move very fast myself. [LB449]

SENATOR CHAMBERS: But here's another thing, you made me think of it. I'm sure deer run through this land and yet I don't know of anybody finding a deer with a broken leg as a result of stepping in a prairie dog hole. [LB449]

SENATOR HALLORAN: Who would they report it to? [LB449]

SENATOR CHAMBERS: Say it again. [LB449]

SENATOR HALLORAN: Who would they report it to? [LB449]

SENATOR CHAMBERS: It wouldn't be reported. [LB449]

SENATOR BRASCH: Senator Halloran, you're out of order. (Laughter) I can say that. [LB449]

SENATOR HALLORAN: My apologies. [LB449]

SENATOR LOWE: Thank you, Senator Chambers. [LB449]

SENATOR BRASCH: Right. Thank you, Senator Lowe. Yes, Senator Blood. [LB449]

SENATOR BLOOD: Thank you, Chairman Brasch. So to bring it back to what we're talking about, the purpose of this bill, if I understand correctly, is about property rights, not necessarily prairie dogs. [LB449]

SENATOR CHAMBERS: Right. [LB449]

SENATOR BLOOD: And I want to say something really sad to you. This is the farm girl in me. [LB449]

SENATOR LOWE: You already killed one dog today. [LB449]

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SENATOR BLOOD: I did kill a dog already today, I hear it, yeah. You know, you talk about the fox and the coyote and the animals that come in your yard and I'm going to tell you what's going to happen...and I know there's some farmers sitting here right now in the gallery, if they come into your yard regardless of whether you own them or not, and they're scaring your chickens, they're not going to be in your yard very long because... [LB449]

SENATOR CHAMBERS: The acoustics are not good. [LB449]

SENATOR BLOOD: ...we'll get our shotguns, we're going to get our...I grew up on the farm, we had a shotgun for coyotes, so I just want you to know the sad news is that regardless of property rights when these animals come on to our property, they will not be coming back a second time. [LB449]

SENATOR CHAMBERS: But here's the point that I'm making. A lot of things are done which are against the law... [LB449]

SENATOR BLOOD: Absolutely. [LB449]

SENATOR CHAMBERS: ...but a person isn't prosecuted unless he or she is shot, I mean caught. If all those pronghorns had never been found, people would not be calling for stronger punishments, but some people shot over a dozen of them and left them to rot. If they had done it someplace else and nobody had seen it, then no crime was committed. [LB449]

SENATOR BLOOD: Right. [LB449]

SENATOR CHAMBERS: So I'm not saying people don't do such things, but I'm indicating what the law says and why it says it, and I've never brought a bill to say that prairie dogs could not be hunted. [LB449]

SENATOR BLOOD: I would concur. [LB449]

SENATOR CHAMBERS: But now that you mention it. (Laughter) [LB449]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, thank you, Senator Chambers. [LB449]

SENATOR CHAMBERS: And may I take my seat? And I won't grill anybody. Okay. [LB449]

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SENATOR BRASCH: You may...yes, please do. And I understand you will close as well.  
[LB449]

SENATOR CHAMBERS: Yes. [LB449]

SENATOR BRASCH: First, we'd like to invite the proponents to come forward, please. If you favor this bill, please come forward. Welcome. Please state and spell your name. [LB449]

JAREL VINDUSKA: Senator Brasch, members of the Ag Committee, my name is Jarel Vinduska. Do you need an address too? [LB449]

SENATOR BRASCH: Just your name, for the spelling for the transcriber to put it in record.  
[LB449]

JAREL VINDUSKA: Okay. Jarel, J-a-r-e-l, Vinduska, V-i-n-d-u-s-k-a. And I'm going to speak in behalf of the Nebraska Wildlife Federation of which I'm a board member of and also myself too. I'd like to start out, Senator Blood, I might be able to give a little more insights as to you asked what the motivation for the black-footed...I mean the Black-Tailed Prairie Dog Management Act. And since you...I didn't know you from before but since you said you're from a farm, the motivation is that we're an agricultural state and that it's the largest part of our economy and a lot of people make their living from that. And in agriculture, basically the hard, cold reality is you have to control nature. We raise Roundup Ready crops so that we can spray Roundup on them and kill all of the weeds. We, like you mentioned, we kill coyotes if they're trying to bother calves. We control noxious weeds. We control insects. We control a fungus, even. We dominate nature in order to have a viable agricultural economy. But where this...where I think and the Nebraska Wildlife Federation say that this went out of line is, part of it is the property rights. Usually on a native animal we entrust that to...is the public trust, and the rights end at the property line. If a native animal goes on somebody else's property and it becomes a pest or causes damage, then that person has the right to either go to the Game and Parks and ask for a depredation permit, or if they wanted to do it on the sly, they'd take care of it themselves. But that right ends at the property line. And the motivation for this was the Noxious Weed Act and we can't compare the two. If musk thistles or purple loosestrife, or in the prairie country the...I lost the name of their plant right now, the leafy spurge. If that's out there, that's a plant that's not supposed to be in this ecosystem, so as a society we decided that we have the right to force the landowner to control that plant. But we went over the line when we said that we want the government to say, you've got to control a native plant, a native animal. And so that's why I think Senator Chambers is perfectly justified in bringing this bill forward to repeal that because it just went way too far. And to show how far we've gone basically as a human species, you know, maybe some of you have heard this, you know, we're in the midst of the sixth great extinction on

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earth. We're...unfortunately, the other extinctions were natural causes, volcanoes, asteroids, things like that that got rid of the dinosaurs and stuff. But scientists predict by the end of this century, half the species on earth are going to be gone as a result of our actions. And it's because of our domination and ever-increasing population. So as a result, I think it implores us to, you know, be very careful on how we make laws that affect some of these species especially like the prairie dog that are so...that so many other species are dependent on. Another motivation I think you should have to advance this bill is we want our laws to be consistent with other laws that we have in the state. Now, what do we have? We've already got a statute, 37-806. It's called the Endangered and Threatened Species...Nongame Species Act. And let me just read a passage from it. It says: Any species of wildlife or wild plant determined to be an endangered species pursuant to the Endangered Species Act shall be an endangered species under the state Nongame and Endangered Species Conservation. Any species of wildlife or wild plant determined to be a threatened species pursuant to the Endangered Species Act shall be a threatened species under the Nongame and Endangered Species Act. Well, if you look at the state-listed species that is under this law, one that stands out that you probably all know about is the black-footed ferret. That black-footed ferret can only live in prairie dog towns. They...there's colonies that...they were almost extinct. The last ones were in Wyoming, just a very few and they've been brought back from the brink of extinction. They're still very endangered though, but they've started and got them going again in South Dakota, Wyoming, Colorado, now in Kansas. So Nebraska is completely surrounded by these little outpost colonies of this endangered species. But that isn't the only one that is necessary...that other animals need the prairie dog towns too. Many reptiles, amphibians, the burrowing owls, and other threatened species, federally threatened species, those all depend on this. So why should we have the embarrassing situation in Nebraska where we have a law, this Black-Tailed Prairie Dog Management Act, that conflicts with our own law to protect native species? So like I...let me just...oh, it's red already. [LB449]

SENATOR BRASCH: You can finish your thought if you'd like. [LB449]

JAREL VINDUSKA: I just want to reiterate. It's one thing to preserve, you know, a rancher looks at prairie grass and says, oh, shoot, it's this tall because of prairie dogs. I've got to control them. It's one thing for him to say that, but if on the other side of the fence land there's a guy who wants them, if this guy wants to get rid of them, his job is just like any other pest. He drives the fence line with his four-wheeler. If he sees some new holes getting on his land, he drops some poison down that hole and he does that every year just like he does with musk thistle or any other pest. He don't have to go and tell this guy to give the state power to poison them on this guy's land. [LB449]

SENATOR BRASCH: Very good. [LB449]

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JAREL VINDUSKA: You got any questions? [LB449]

SENATOR BRASCH: Thank you. Senator Krist. [LB449]

SENATOR KRIST: You told us where you are from and who you are representing. Would you say it again, please? [LB449]

JAREL VINDUSKA: Nebraska Wildlife Federation. [LB449]

SENATOR KRIST: Okay. And what does the Wildlife Federation consist of? How many members are there...and are you on the board, you said? [LB449]

JAREL VINDUSKA: Yes, I'm one of the board members. What have we got, Bruce, about 12 board members and I never keep track of the amount of members that are actually in, but I bet, you know, it's hundreds that are in the Nebraska Wildlife Federation. It's an affiliate of the National Wildlife Federation. [LB449]

SENATOR KRIST: Do you meet frequently and talk about these issues? [LB449]

JAREL VINDUSKA: Sure. [LB449]

SENATOR KRIST: And this is an issue that you feel very strongly about. [LB449]

JAREL VINDUSKA: Yes, because that's what we do, wildlife, and this is a keystone species, so. [LB449]

SENATOR KRIST: Sometimes people come and talk to us and not all of us understand how powerful your voice is, so I'm just trying to give it some depth and so I do appreciate you coming in on behalf of all of your hundreds of members. You've been heard. Thank you. [LB449]

JAREL VINDUSKA: Okay. [LB449]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, thank you, Mr. Vinduska. [LB449]

JAREL VINDUSKA: Thank you. [LB449]

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SENATOR BRASCH: Next proponent, please. Welcome. [LB449]

JOHN HANSEN: Madam Chairwoman, members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of the Nebraska Farmers Union. We're the second oldest, second largest general farm organization in the state of Nebraska. This is an issue that has been in the middle of our mix for a very long time. We have folks who hate prairie dogs. We have folks who believe they are part of God's creation, and they're under moral obligation to be able to accommodate them. And so the driving force that we use in these kinds of conflicts is that we respect our neighbors' rights to do what they want on their private property. And so we have strongly opposed efforts to establish the current law which you are in the process of trying to repeal. We have opposed that because we've stood on principle and we have had people in our organization call up and be unhappy. But at the end of the day, are you willing to give up your right to decide what you want to do on your property in order to be able to bring in the county to pound the snot out of your neighbor? And the answer is, well, I don't know if I'd go that far. And so this is an interesting issue. It...we made a fundamental mistake when we applied noxious weed logic to an indigenous species. It was totally inappropriate and in the process we created one of the worst, most egregious, outlandish breaches of due process, in my opinion, that I have seen in my 27 years of doing this job. This particular law is atrocious. It does not respect any of the basic principles of due process. I would opine, however, that as much as I don't like the law which Sheridan County uses, and I...because the other counties don't use it, is an indication that there is contrary to the proponents of the original law and its establishment, some overwhelming, compelling need for this law because the other counties are managing their issues without it. But I would draw attention to what I believe to be efforts on page 2 in lines 8 and lines 22 to strike the black tailed prairie dogs relative to the use of the USDA APHIS program, Professional Wildlife Services Program. And that it has been our experience and our view for some considerable time that when you don't have trained professional people managing wildlife conflicts, that you then by definition have untrained, unprofessional people managing, and that creates more problems consistently in terms of what they do and how they do it and there's a whole host of unintended consequences. So if you have a prairie dog infestation and you're of the view that you don't want them, I think that it is not good public policy to restrict USDA's Professional Wildlife Services and APHIS from being, who have trained people who do this, who know how to do it, do things in a professional manner coming in and deal with this particular critter on your property you don't want. And so I would urge the committee to think about leaving that in there and that a lot of the damage that comes--and hard feelings as well as unintended consequences--comes, in our experience, from people who are using all kinds of products that they're not trained to use but are able to acquire somehow. And so with that, I would end my testimony and wish the committee well on a topic that is altogether too familiar to us. [LB449]

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SENATOR BRASCH: Very good. Thank you, Mr. Hansen. I see we have a question from the committee. Yes, Senator Chambers. [LB449]

SENATOR CHAMBERS: Mr. Hansen, you and I have known each other for a long time and you know that sometimes I will draft a bill as a stratagem. By putting this in the statute to be stricken, what it really does is to call to the committee's attention that there is a way to manage these prairie dogs mainly through the United State Department of Agriculture as you mentioned, and that can easily be stricken from the bill. But if I had mentioned that someplace in the statute there is a method of managing these prairie dogs other than this atrocious model, people might have said, well, maybe so, maybe not, but how can you prove it. Well, you just called attention to it right here. So I would agree with what you're saying that this part of the bill can be stricken altogether, but it served its purpose by showing that there are professional people who have done this before who can manage the prairie dogs. [LB449]

JOHN HANSEN: Thank you, Senator. [LB449]

SENATOR BRASCH: Thank you, Senator Chambers. Senator Krist. [LB449]

SENATOR KRIST: I thought you weren't going to ask any questions. Senator Chambers, I thought you weren't going to ask any questions if you went back in your chair. [LB449]

SENATOR CHAMBERS: If you noticed, it didn't end with a question mark because (inaudible) comment. (Laughter) I said I wouldn't grill anybody. [LB449]

SENATOR BRASCH: Are there any other questions? Senator Halloran. [LB449]

SENATOR HALLORAN: Thank you, Madam Chair. Thank you, John. What would the United States Department of Agriculture...what would the process they would go about? [LB449]

JOHN HANSEN: Well, the...they have a statewide network of trained people who are...have the tools and access to the appropriate poisons and other things, so whether it's, you know, we're seeing it increasingly in urban sprawl where we have wildlife that's causing problems. And so if you've got a skunk or a raccoon or a coyote infestation, or whether you have an airport with geese or coyotes, and we do in Lincoln, whatever it is, then, you know, you can call these folks. They come out, they evaluate, they study it. [LB449]

SENATOR HALLORAN: I know they study it. [LB449]

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JOHN HANSEN: They definitely study it and they figure out which is the most effective, least intrusive way to be able to manage the conflict. [LB449]

SENATOR HALLORAN: Do you have an idea what they do? I mean, do they poison them? [LB449]

JOHN HANSEN: Well, in the case of prairie dogs, yeah, pretty much. That's the preferred remedy, because they're... [LB449]

SENATOR HALLORAN: Okay. [LB449]

JOHN HANSEN: ...well, they're sneaky little things and they really are good lookouts. [LB449]

SENATOR HALLORAN: They're not little, by the way. [LB449]

JOHN HANSEN: After you shoot the first one, they get real, real hard to find. [LB449]

SENATOR HALLORAN: Okay. Thank you. [LB449]

SENATOR BRASCH: Thank you, Senator Halloran. Are there any other questions from the committee? Seeing there are none, thank you, Mr. Hansen. [LB449]

JOHN HANSEN: Thank you. [LB449]

SENATOR BRASCH: The next proponent, please come forward. Welcome. Please state and spell your name. [LB449]

BRUCE KENNEDY: Madam Chairman, members of the Agriculture Committee, my name is Bruce Kennedy, B-r-u-c-e K-e-n-n-e-d-y. I'm here this afternoon representing the Wachiska Audubon Society. We are a local chapter of the National Audubon Society. Our chapter area is 16 counties in the southeastern part of the state. I'm going to be very brief because you should have before you a letter from our chairman dated February 12, 2017. This letter outlines our support for LB449. The reason that we're here this afternoon is to underscore this support with our presence and to thank Senator Chambers for introducing the measure. The new information...I guess the information that I haven't heard so far in testimony is that I appeared in this same hearing room several years ago when the Prairie Dog Management Act was first proposed. And I wanted to tell the committee that the conservation community, if you will, was

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very much opposed to this measure. And like I said, if I had new information, that is what I would leave you with. [LB449]

SENATOR BRASCH: Mr. Kennedy, we need your green sheet. You have a green sheet. [LB449]

BRUCE KENNEDY: Green sheet, I got it. [LB449]

SENATOR BRASCH: Yes, please. Excuse me. Thank you. [LB449]

BRUCE KENNEDY: I know the committee has changed since I was last here. We know that there are new faces, new minds, a new line of thinking, and we would urge you to take a very close look at LB449 and see if this bill won't clear up some injustices that were made by the Prairie Dog Management Act. That's my testimony. Be glad to answer any questions. [LB449]

SENATOR BRASCH: Very good. Thank you. Are there any questions from the committee? Seeing there are none, thank you, Mr. Kennedy. [LB449]

BRUCE KENNEDY: Thank you very much. [LB449]

SENATOR BRASCH: (Exhibits 1-4) Will the next proponent please come forward. Anyone else want to testify in favor of this bill? Are there any opponents? Please come forward. Before you get started, I do have some names to read in the record in favor of the bill, proponents: Jocelyn Nickerson from the Humane Society of the U.S.; Gary Fehr from the Wachiska Audubon Society; Duane Hovorka from the Nebraska Wildlife Federation, and Rachel Simpson on behalf of herself. Thank you and please proceed. [LB449]

JACK ANDERSEN: (Exhibit 5) Chairman Brasch and members of the committee, my name is Jack Andersen, J-a-c-k A-n-d-e-r-s-e-n. Thank you for hearing my testimony on LB449. I'm currently beginning my 14th year as a Sheridan County Commissioner. I'm here today to testify in opposition to LB449 on behalf of the Sheridan County Board of Commissioners. The board took action to oppose this legislation; and I believe I'm speaking on their behalf, though some of my opinions may not be the opinion of the full board of commissioners. For years, landowners approached our county board seeking help dealing with black-tailed prairie dogs encroaching on their property. The county board sought help from the county attorney and was informed there was really nothing you can do without legislation. In 2012, the Legislature passed LB473 creating the Black-Tailed Prairie Dog Management Act. The county board discussed the act, formed a committee to do research, and heard testimony in open meetings five times over a seven-month period prior to holding a public hearing to present the Sheridan County plan. At the

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hearing on February 25, 2013, there was no opposition to the plan that was presented and by a three to zero vote the plan was approved by the whole board of commissioners. More than two years after implementation of the plan, the first complaint filed against two landowners was presented to the county board by the advisory committee that we had set up under this plan on June 8, 2015. Then county board chairman, Commissioner Kling, and our weed superintendent met with the offenders to negotiate a plan whereby the animal control officer, an employee of the United States Department of Agriculture, had permission to enact control measures on their property. Other landowners in the area joined into the undertaking. We had understood that the animal damage control officer cannot go on a person's property without their permission. This past December, I had the opportunity to visit with one of the farmers where that forced control had been implemented. Black-tailed prairie dogs are present but in a much lower number and he stated he felt that maintaining control was now a possibility. I asked if he would be willing to serve on the Black-Tailed Prairie Dog Advisory Council. After slight hesitation he said, yes. In January, he was appointed to fill a vacancy created when a previous member moved out of the county. It needs to be understood that Sheridan County Board is not concerned with colonies that are confined in 10 or 20 acres. The colony where forced control was requested is a colony that I believe I can safely say covers over 700 acres owned by several landowners. Prior to the board receiving the complaint, I believe owners in the area were all trying to maintain control of their property. It was not until a coordinated effort became a reality was a noticeable difference seen. I think they were each trying to do their own thing with whatever they thought might work best. It wasn't until we got an animal damage control officer that really knew what to do to come in that we seemed to gain something. And the one of the two that the complaint was filed against had had some problems with that particular person. I don't know what they were, but he would not go on that land unless the county board would guarantee that they would get paid; and through this act, we could make that guarantee. And the landowner said, yeah, bring him on. I just...he won't come here if I ask him. And that...I'm not going to get into it any further than that because I don't know exactly what happened. I feel that repealing the Black-Tailed Prairie Dog Management Act would be a giant step backwards in Sheridan County. I urge you to vote against advancing LB449. We might not need it in two more years. In two more years, we may have it to the point where there will be no need for forced control, but let's leave it there at least until we get the situation we've got now. That area, unless you've seen a big prairie dog town, it's just unreal to drive down through there and they...running across the road every which way in front of you in grass that's a quarter of an inch high all over. I would be glad to try and answer your questions and, Senator Chambers, I will allow you to grill me if you would like. [LB449]

SENATOR BRASCH: Thank you, Mr. Andersen, and I see we have questions from the committee. Senator Krist. [LB449]

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SENATOR KRIST: What you're...thank you for coming. What you're describing to me is similar to other testimony and that is that you employed a specialist from the U.S. Department of Agriculture to come in. Am I correct in that? [LB449]

JACK ANDERSEN: That's correct. [LB449]

SENATOR KRIST: Okay. So even if we repeal this, you can still continue to do what you're doing. What...I think there's a misunderstanding in terms of what this bill actually would do. You've handled property rights as, I'm a local control guy. Okay. You've handled property rights the way they need to be handled within Sheridan County, and you're talking about a problem with one person, one landowner. I represent a district that is about one-third agriculture, one-third Section 8 housing, and one-third pretty well-established and high-priced housing. And we have, as was described, infestations of critters and they encroach upon an airport. And when the U.S. Department, who are trained in how to administer the poison and take care of the wildlife problem, come in, there usually isn't any problem with it. Because as you said, and the key point here is and the point that I missed when I voted for this the first time around, no one is going to go on somebody else's property without their permission. So I guess I'm confused as to why you think you need us to continue to leave this law in place for you to do effectively and efficiently what you're doing at the local level. [LB449]

JACK ANDERSEN: Well, in part because it...we would not be able to take that person and have him go on that land without, you know, if we decide we were going to pay for it, why, then he probably would do it. But at the present time the way it was, why, he would not work on that person's land because of a disagreement they had in the past and by us guaranteeing payment, which was...this was needed for the county to become involved to the point of saying that if you do it, you know you're going to get paid because if you don't, we can assess it. [LB449]

SENATOR KRIST: You're the only county out of 93 counties that is employing something this way. I can tell you that for Douglas, for Washington, for Sarpy, on those borders where we have...we have a different problem. We have an urban sprawl problem that creates opportunities for wildlife that they shouldn't have an encroachment. We're encroaching on their place. They either need to be picked up and put someplace else, which our humane society does locally, or they are controlled. And in most cases it's the county that gets the U.S. Wildlife or credible people who have that training to come in and do it. So again, my point is, I don't think that we take anything away from Sheridan County. You sound like you're dealing with it the way you need to deal with it at the county level. [LB449]

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JACK ANDERSEN: Well, I believe it's worked well for us. One of the things that you as elected officials have to realize that our county board is also elected officials. If we do something that a very many of the people don't like, we're not going to be there much longer. [LB449]

SENATOR KRIST: So you want top cover? [LB449]

JACK ANDERSEN: Pardon? [LB449]

SENATOR KRIST: Nevermind. My point is that you want to be told you can do that by the state so that you have top cover in the fact that you want to get reelected. [LB449]

JACK ANDERSEN: No, I'm not...actually I'm not going to run again, or at least that's my intention right now. But what I'm trying to say is that if we had taken this and tried to just shove it down their throats without having what, the five hearings I think in seven months and that went to the public and got all the input. We had a board that works under us to make the determination of whether to bring it to us even to begin with. You know, and the work...I think I can say that our current board at least is...if somebody calls up and says I've got prairie dogs in my...might have come off of my neighbors and when we go out there and we see three prairie dogs, we tell him take care of them. That's not a...but when we had a town that I...like I said I believe I can safely say, covers over 700 acres on about five different landowners and each one of them were trying to do their own thing to control them, but it wasn't working until we got it together. And we would have never got it together without this. And I would have to agree that Senator Chambers brought up some real good points. There are problems with this law that we looked at and wondered, you know, is this wise. And, of course, maybe we took a little bit of latitude because we decide...designed our plan to where we felt like it would work without encroaching, and yes, it is possible too. [LB449]

SENATOR KRIST: Okay. [LB449]

JACK ANDERSEN: But we tried not to. Any other questions? [LB449]

SENATOR BRASCH: Senator Blood and then Senator Albrecht. [LB449]

SENATOR BLOOD: I have two or three questions. The first question is in reference to this. Why did you pick this particular... [LB449]

JACK ANDERSEN: Well, I just think it kind of pointed out that there is a possibility of a danger from a huge number of prairie dogs, that was a picture my daughter took up in the South Dakota

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border. And also allows me to kind of bring in that when we were setting this up, a neighboring county, Box Butte County, one of their commissioners was...sat in with us on several of the meetings with the public and with the setting the thing up and they were thinking about that they would...they might be interested in implementing such a plan because they had an area of pretty severe infestation of prairie dogs. About a year ago or so, I visited with one of their commissioners and said, have you decided to do any thing more about it? And he said, well, no, we don't really need to now, because that area that had the big infestation, they got the plague and they're pretty well wiped out, so they didn't... [LB449]

SENATOR BLOOD: Well, yeah, I was going to say that's...although I know it's been around since the 14th century and it's a pretty scary thing to talk about, the neat thing about prairie dogs having the plague is that most of them die underground and it does kill off a colony. So maybe the trick instead of poisoning them is giving them the plague, I don't know, but... [LB449]

JACK ANDERSEN: Well, there's been some suggestions to that, but I don't think we want to go there. And one of the reasons that I think that they don't get beyond the prairie dogs that are infected is that generally if prairie dog colonies, not in the area of your yard, this 700-acre colony is in the area of about three people's yards where their pets and their children play. [LB449]

SENATOR BLOOD: I guess the concern that I have is I'm hearing what you're saying. I'm hearing the dialogue between you and Senator Krist; and it still isn't clear to me why you can't, even if this bill is changed, why you can't keep doing what you're doing. It sounds like it's working for you, and I hear what you're saying that you like the protection of the state statute. The protection of the state statute and state statute not being necessary so you can do the same thing. I mean, ultimately, you guys just want to kill prairie dogs. [LB449]

JACK ANDERSEN: No, we want to keep them. [LB449]

SENATOR BLOOD: I mean in...let me rephrase that. I don't think you're purposely going out and killing prairie dogs, but you are maintaining and controlling the environment to protect the people that are affected by the prairie dogs. I just want to rephrase that in a way that it's not offensive. But, sir, I think whether they change this bill or not, you're...I think you'll still be taking care of controlling these prairie dogs. You guys will still be getting reelected because you're taking care of the prairie dog thing, and I don't think changing the state statute is going to change any of that. [LB449]

JACK ANDERSEN: We couldn't seem to do a thing about it until this bill was put into place. We had been to our county attorney, asked is there some way that we can give that person that's...this

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is a costly process and especially if you're trying to do it on your own. It's cheaper if we get that animal damage guy to come in there, but it's a costly process. And every year we had people come in and say, you know, our land is valued too high. Because of the prairie dogs on it, it's costing us so much to try to keep track of them, and our neighbor isn't doing anything. Well, and then we looked at...my brother sold real estate and he said that if you have a place for sale that is within five miles of this area, he said it's awful hard to find somebody interested in buying it. So it isn't just that infected area and I know I'm carrying on, probably saying more than you wanted me to. [LB449]

SENATOR BLOOD: I have to be really frank. What you're doing is immediately when you start talking about neighbors, it's the same in urban areas, it's just not prairie dogs. I mean, with all due respect it doesn't matter where you live, there's always going to be some neighbor that supposedly is...their neighbor, the neighbor dog constantly urinates on your yard and causes the grass to never be able to grow and because of that it's devalued your property. And I know I'm minimizing it compared to hundreds of acres of land, but the point what I hear you saying is, you're just talking about a problem that's everywhere in Nebraska, everywhere in the world. It's the not in my backyard kind of thing. It's the, you know, my value is going down because my neighbor kind of thing. Gosh, that happens everywhere, sir. [LB449]

JACK ANDERSEN: Well, it does, but the thing that I'm trying to say is that with this law we were able to kind of bring those together. Now there's one of the ones that was in opposition to one of the other ones, they're both on this board at this time and they seem to be getting along. How long that will last, I don't know. But it would...we've actually seemed to be able to bring people together rather than, you know, some people have said this will cause confusion in the neighborhood and it seems to me that we've actually brought people together. [LB449]

SENATOR BLOOD: Well, I appreciate your sharing your thoughts and I didn't mean to make light of it. I just...even after that description, sir, I just...it just sounds like something that's going on everywhere in Nebraska, same song, different tune. [LB449]

JACK ANDERSEN: Well, maybe the law needs to be changed. Maybe there needs to be something like Senator Chambers said where the person that the complaint is filed against has a legal recourse. I'm not opposed to something like that, but what I am saying is that this has really helped Sheridan County having that and I hate to see it go away when we seem to be making headway. [LB449]

SENATOR BLOOD: I appreciate that. [LB449]

SENATOR BRASCH: Thank you, Senator Blood. Senator Albrecht. [LB449]

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SENATOR ALBRECHT: Thank you, Madam Chair. I have a question. Do you have any county ordinances? Could you make it a county ordinance? [LB449]

JACK ANDERSEN: There is no such thing as county ordinances other than a very few. [LB449]

SENATOR ALBRECHT: But I think there is. I remember when I was a county commissioner in Sarpy County, but maybe it's only the bigger counties, but I think that you could put an ordinance together in your county, I do believe you have the power to do that. And then if you do, if this is really an issue, you probably would do it. But if it doesn't go through because people don't think it's a need, then you won't have anything to worry about. [LB449]

JACK ANDERSEN: I think possibly under the zoning regulations there might be something like that but as far as an ordinance there, there is an ordinance that we could put into place that says you can't trap on county right-of-way. [LB449]

SENATOR ALBRECHT: But you might look into that because that could be, if this is just an issue that you're having out of all 93 counties, one county is having more of an issue with it than anyone else, I would probably look toward that. It could be a remedy for them. [LB449]

JACK ANDERSEN: It might be a possibility worth looking at. I'm not saying it's not possible. [LB449]

SENATOR BRASCH: Thank you, Senator Albrecht. Are there any other questions from the committee? Seeing there are none, thank you for your testimony, Mr. Andersen. [LB449]

JACK ANDERSEN: Thank you to the committee for hearing me. [LB449]

SENATOR BRASCH: (Exhibits 6-9) Are there any other opponents to this bill? Seeing there are none, I have some letters to read in the record of opposition from Troy Stowater from the Nebraska Cattlemen; Scott Smathers from the Nebraska Sportsmen's Foundation; from Larry Dix of the Nebraska Association of County Officials; and Steve Nelson from the Nebraska Farm Bureau. Is there anyone here in the neutral capacity that would like to testify as neutral on this bill? Seeing there are none, I have one letter for the record. I do not. It's for the next bill. Thank you. Seeing there are no others to testify on this, Senator Chambers, would you like to close? [LB449]

SENATOR CHAMBERS: Briefly. [LB449]

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SENATOR KRIST: The clock is starting. [LB449]

SENATOR BRASCH: Thank you. [LB449]

SENATOR CHAMBERS: Without a definition of briefly, it's what I determine that it is. (Laughter) And if you will allow me to do something for this very intelligent gentleman on your committee, I know that he is a man of faith and he probably has heard that with a day with the Lord is as a thousand years. So this guy was having a conversation with the Lord. He said, Lord, if a day with you is as a thousand years, then a penny is probably as a million dollars. Lord, will you give me a penny? The Lord said, in a minute. (Laughter) But at any rate, I think that the committee heard the same thing that I did from the other testifier, there are means that are currently being utilized to control the prairie dogs. And I say again, the language of that law is so abhorrent that if we struck it, then we're not hindering or interfering with anything because it's not being used anyway. And it's something like when you read history, you read the laws that are on the books and you say, how in the world could something like that have been put there and what was happening to the people under a law like that? So it does no good to say, it's there but it's not going to be used. It can be used. These things under the law that we have put in place would be legal. Everything that I mentioned. So I hope that we will get rid of this language and the purpose of putting that provision in the green...here's the way a law...I meant a bill is drafted for the new people, if I may. The only time language that exists in the statute is a part of the green copy is if something is being eliminated. You draw a line through it. That can bring the entire statute in because that is being amended; and if that is adopted, what is currently law would not be there anymore. So by putting that drafting technique into the statute, it brought before the committee language in the law right now that shows that there is a means available right now through the U.S. government to regulate prairie dogs. And I have learned that people in the Legislature are less skeptical if they can see something that you tell them is in the law instead of just hearing you say it if it would advance your cause. So I never intended for that means of management to be retained and I was going to ask the committee to strike it. But had that been presented by me, it would not have been mentioned by one of the testifiers. So Mr. Hansen called your attention, all of our attention to the fact that right now there is that control mechanism available and it should not be stricken and I agree. So that's why that was there. And I wanted that into the record because everything we say is recorded and transcribed and I want it to be shown as having given a closing and the comment that I made about why that language was in the green copy as it is and being shown as stricken. That's all that I have. [LB449]

SENATOR BRASCH: Very good. Are there any questions from the committee? Seeing there are none, thank you, Senator Chambers. [LB449]

SENATOR CHAMBERS: Thank you. [LB449]

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SENATOR BRASCH: And that concludes our hearing on LB449. I was going to wait a minute if anyone wanted to leave the room, but everyone is here for the next bill. Next we will hear LB499. And if you do plan to testify, if you'd just sit towards the front that will help us identify how many testifiers are in the room. Thank you, and welcome, Senator Brewer. [LB449]

SENATOR BREWER: Good afternoon. For complete transparency, I have not been to law school, I'm no lawyer. I do have a heart, a small one, and I will breathe. Thank you, Chairwoman, and good afternoon to fellow senators here in the Ag Committee. My name is Senator Tom Brewer. For the record that's T-o-m B-r-e-w-e-r. I represent the 43rd District, western Nebraska. The bill that I have before you today is about Nebraska beekeepers. First, it brings the Nebraska law governing this subject more in line with surrounding states. All of Nebraska's neighbors have laws that protect the in-state beekeepers. They require the out-of-state beekeepers who bring in their hives into the state to locate them at least three miles from the in-state beekeepers. Nebraska doesn't have such a law, consequently out-of-state beekeepers come to Nebraska in the summer. Most of them are just looking for a place that has forage for the bees and are not really interested as much in the honey crop. The primary source of the profit for most of the out-of-state beekeepers comes from the pollinating of crops, such as almonds in California, for example. Nebraska beekeepers, on the other hand, are in the business of making a honey crop. The lack of these laws...the lack this law makes doing this much more difficult for the Nebraska beekeepers. Look at it this way. Imagine you have a herd of cattle that are grazing in a pasture and one day I show up and put my herd of cattle in the same pasture as yours. Now your cattle and mine are competing for the same food source. The out-of-state beekeepers in doing just that...are doing just that and Nebraska beekeepers must compete with them. Bee forage is a three-mile radius of the hive. If you have a apiary or a group of beehives sitting on 100 acres of yellow clover, for example, you might expect to generate a crop of around 80 pounds of honey for each hive. If someone else comes along and places another set of beehives on the opposite side of the clover field, your production will suffer. This is the problem that I'm trying to address with this bill. No one is telling the out-of-state beekeepers that they cannot bring their bees to Nebraska. This bill does require them to find a place to set their hives that does not compete with the Nebraska beekeepers. The bill is voluntary and only applies to the Nebraska beekeepers who have taken the time to register the location of their beehives. You'll hear more about this in greater detail from the experts who will follow me in my testimony today. Thank you for your time, and I'll take any questions that you have. [LB499]

SENATOR BRASCH: Thank you, Senator Brewer. Questions from the committee? Senator Blood. [LB499]

SENATOR BLOOD: Thank you, Chairman Brasch. First of all, Senator Brewer, I want to say that I actually know this is a huge issue. I have some rural beekeepers that sell honey at my farmer's market and they've actually talked about this problem. And it does affect in a negative

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way how they keep their bees. But the issue that I have and the question that I have is that it has a fiscal note, and I was curious that if you think the beekeepers would be open to paying a small fee to have the ability to register their hives to help offset the cost that this would be to the state. [LB499]

SENATOR BREWER: That is a great question and following me we'll have some of them here. I would just put that on the list and ask them when they come up to the mike. [LB499]

SENATOR BLOOD: I'll make that an open question for whoever wants to volunteer that information. [LB499]

SENATOR BREWER: Okay. [LB499]

SENATOR BRASCH: Are there any other questions from the committee? Seeing there are none, thank you. Will you stay to close as well? [LB499]

SENATOR BREWER: I will. [LB499]

SENATOR BRASCH: Very good. Will the first proponent please come forward. Anyone here in support, proponent? [LB499]

EDWARD McDONALD: Madam Chairman, members of the committee, thank you for hearing me. [LB499]

SENATOR BRASCH: Welcome. Please state and spell your name for the record. [LB499]

EDWARD McDONALD: My name is Edward McDonald, E-d-w-a-r-d M-c-D-o-n-a-l-d. [LB499]

SENATOR BRASCH: Thank you. [LB499]

EDWARD McDONALD: (Exhibit 1) I don't know how to make a speech, so I'm going to do the best I can here. I know my topic and I can discuss it in depth. To make it easier, I wrote up a letter and tried to drop it at everybody's office, that's a brief explanation. I apologize, Senator Chambers. I was not able to get in your office. You were closed when we got by there. I did, however, on the phone have a visit with the lady in your office. She was fascinating to visit with. So, in my...do I understand, I'm supposed to give another letter out while I'm, since I... [LB499]

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SENATOR BRASCH: If you would like to enter it into record, we can. [LB499]

EDWARD McDONALD: Yes. Am I supposed to ask that it be read into the record? I don't understand... [LB499]

SENATOR BRASCH: You're here to testify and you're doing a great job by the way. You should give speeches. I will recommend you. Just speak from the heart or from your letter. You have five minutes. The green light will be on for four minutes, then a yellow, and then a red and we'll ask you to wrap it up. [LB499]

EDWARD McDONALD: So I ask that the letter be part of the record and I'll try to briefly go through it so we have more time for conversation. But the Nebraska beekeepers, we earn a living by producing honey. My family and I have been commercial honey producers in Nebraska for over 20 years. We raised our children in the bees. When they were five years old, they were out working bees, so when they graduated high school, they joined the military so they wouldn't have to work so hard. (Laughter) But now they're coming home. So to produce honey, it's just like cattle producing beef. Cattle need acres of forage. Honey bees need acres of forage to produce honey. We've developed western Nebraska, that's our home so that's where we decided to be. It's not typically a good commercial beekeeping area. Typically, beekeepers wanted 100 percent average and we just can't do that in western Nebraska. So we developed it there when there was nobody that was interested in it. Honey prices were 33 cents a pound and 80 pounds just didn't do it at that. So, we worked on our stocking density just like you would cattle. We found areas that had four to five acres of honey producing forage and we would put one hive for that. So we tried to place 48 hives in one set so we would find 200 to 300 acres of forage and we'd put 48 hives and we'd move on. We'd get permission from all of the landowners in that area where our beehives are going to forage, we'd get permission for that, for our bees to go forage on theirs and then we'd give them honey in exchange. So this has worked pretty good for 15...almost 20 years for us. And then in the winter, you have to leave with the bees. It's just too cold here, so beekeepers typically go to warmer states. In early spring they go to California, pollinate the almonds, and then come back here for the honey season. Over the years, almond acreage has increased in California and that's produced a larger demand for beehives to pollinate those almonds. Pretty much...or I would say, 90 percent of all beehives in the United States go to California to produce almond...or to pollinate almonds. Well, with that demand, they've also...does that mean I only have...? [LB499]

SENATOR BRASCH: You're fine. Just when it turns red we ask that you come to an end and then we'll ask questions. [LB499]

EDWARD McDONALD: Does that mean only one minute? [LB499]

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SENATOR BRASCH: You have a minute left. [LB499]

EDWARD McDONALD: So the increase...the people in California are increasing their number of hives, but they have no place to put them. At the same time, they're decreasing acreage by planting almonds, pistachios, they're taking out bee-friendly acreage. So now they have to leave there in the summer. They do their pollination, they make their honey, and then they're done. So they come out here so they have a place to go and then they put their bees on top of our historical bee yards. They go across the fence and offer the guy \$300 and we'll put 200 hives of bees out there. Well, that completely destroys our honey crop. This bill that's in says it's a voluntary bill. For my family, it's not voluntary. It's either we have registration or we're out of business. We have to make honey and we cannot make honey without protected areas. Bordering states have registrations. [LB499]

SENATOR BRASCH: You want to just...you can finish your introduction and then we'll open it up for questions. [LB499]

EDWARD McDONALD: My introduction had addressed property rights, invasions by bees on other properties, so it would take a while yet, so I would love to have questions. I'm much better at discussion than speech. [LB499]

SENATOR BRASCH: Okay. You did well, thank you. And we see Senator Krist has a question. [LB499]

SENATOR KRIST: So thank you, Chair, and thank you for coming. And five minutes isn't always enough time, but it is...it's a good start and I understand. I really appreciate you dropping off the letter. It gave me so much more in-depth knowledge and that made a big difference. Let's cut to the chase. Nothing this year is going to see the light of day, I don't think, not even \$45,000 price tag with the situation that we have with our budget. You suggest that it's not a voluntary process because it's the way you make a living. All of this is made...all of this cost on this bill is made up according to the Department of Agriculture in the fact that they'll have to document and take your registration and basically keep a database of where that is. I don't think that it's going to cost \$45,000, but I have a few questions to get to that point. Do you currently register places where you have your hives with the Department of Agriculture? [LB499]

EDWARD McDONALD: We do have beehives, a few of our hives are in South Dakota. We register there. We pay a registration fee. We have some in Wyoming. We pay a registration fee. In Nebraska, I don't believe we're asking to do anything we're not already doing. Everything is already registered. The Department of Agriculture has CRP program, NAP programs. We report to the FSA every year our hives, where they're at, how many we have, what production we have.

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They come out and inspect our beehives. They come out and inspect our honey crop. Everything is already being done. There is no law, however, that protects us from being set upon. [LB499]

SENATOR KRIST: So is there currently a fee that you're paying to the state of Nebraska? [LB499]

EDWARD McDONALD: None of those are a fee. Those are under programs. The NRCS with their EQIP, they actually pay people to plant bee-friendly crops. And then they inspect that crop that is there, they tell them what to plant and they inspect it and make sure they're doing it and make sure they're managing it right. So we're not asking you for money to do something. We're asking you to give us a law to protect our income and all the enforcement that we need is already there and already being done. I think it needs to be consolidated into a manageable process, but...and also in the past, Nebraska did have registrations, had bee inspectors and it was funded. I don't...I don't know why that was dropped, but I don't think the funding was dropped at the same time the registration was. [LB499]

SENATOR KRIST: Sure. So the point I'll make is that it now becomes the introducer's responsibility along with the committee to try to make the Department of Agriculture understand what's currently in place and maybe they're trying to duplicate a process that's already in place. I'm suggesting, maybe, and the other part of that is, I'm suggesting that if they do think that this is a price tag legitimately that's going to happen, that there might be a fee for registration in Nebraska, as you're suggesting there is a fee in other states. I would be interested if you would share with Senator Brewer what those nominal fees are so that if we do go down that path, they're not oppressive to you. [LB499]

EDWARD McDONALD: Yes, sir. And I'll point out that in South Dakota, for instance, you register the location, the apiary, or the bee yard, and you pay a fee for that registration every year. And then they'll inspect your hives and you pay for that inspection. You pay for every service provided. [LB499]

SENATOR KRIST: Sure. [LB499]

EDWARD McDONALD: And so that can easily be done. And we would willingly pay the registration fees. [LB499]

SENATOR KRIST: Thank you so much. Thanks for coming. [LB499]

EDWARD McDONALD: Thank you. [LB499]

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SENATOR BRASCH: Thank you, Senator Krist. And we have questions from Senator Blood, Senator Albrecht, and I also have a question. Senator Blood. [LB499]

SENATOR BLOOD: And you did fine in your testimony, you should relax. So to build on what Senator Krist said and what I had asked earlier...can you hear me okay? [LB499]

EDWARD McDONALD: I have some ear damage, but I'll... [LB499]

SENATOR BLOOD: I totally get it, if you can't hear me let me know and I'll speak louder. So I hear you saying that you may be willing to pay a fee, and Senator Krist suggested that you speak with Senator Brewer, but I actually...I want to hear what you pay South Dakota for...to register the hives. [LB499]

EDWARD McDONALD: My wife would be a better person to ask that, for she's kind of our administrative and she does all of that. I work on production. She works on the bees also, but she would know the fees that were paid. [LB499]

SENATOR BLOOD: Well, it's a noble profession. I think what you do is remarkable and I know the one thing that each and every beekeeper in this room has is patience. So thank you for what you do. I know how important it is to our environment. I'm hoping somebody will be able to come behind you and talk briefly about what an acceptable fee would be, because I would like to hear that number. Thank you. [LB499]

SENATOR BRASCH: Thank you, Senator Blood. Senator Albrecht. [LB499]

SENATOR ALBRECHT: I just have a...thank you, Chairman Brasch. I'd like to know how many beekeepers would you say would be in the state of Nebraska. Do you have any idea? [LB499]

EDWARD McDONALD: I don't believe anybody can answer that question. [LB499]

SENATOR ALBRECHT: So do you think if they had to register, would they? [LB499]

EDWARD McDONALD: I believe so. Well, if they had to, they would. [LB499]

SENATOR ALBRECHT: Well, I'm just saying, I mean, in my neck of the woods there are several and they all seem to make sure that this is my area, this is your area. They are conscientious of where they put their hives. But I mean because local honey is very important for

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you to consume. Okay, local honey, so you want it from your own areas. But you're saying that you go to different states throughout the year with your honey boxes, your hives. Do you go to different places? [LB499]

EDWARD McDONALD: We only produce honey in Nebraska. We go to California to pollinate. We're paid to pollinate. And what you are discussing, we call self-policing. We don't want to sit on top of our...another beekeeper's forage because he'll just do that back to us. So it's been our experience, Nebraska beekeepers over the years have...we just stay away from each other's area. And once in a while it will happen, you'll wind up too close to somebody else, you didn't know they were there and they'll call you and, oh, sorry, we didn't realize you were over the hill there. We'll move them out, or if there's enough forage right in that area, we'll just...we'll just go, oh, there's plenty of forage there for the amount of bees we have there, it's fine. But that's not what the California beekeepers do. They come in, they set their bees and they don't care what you say. I actually had a California beekeeper tell me, if you don't want my bees stealing your honey, build a taller fence. (Laughter) [LB499]

SENATOR ALBRECHT: Huh. But again my question is, in the state of Nebraska you want us to help you with that. But it's not really a problem here as much as it is in California for you, correct? [LB499]

EDWARD McDONALD: Well, no, it's the problem is in Nebraska. California is not a problem, they're a well-managed program.

SENATOR HALLORAN: They're trespassing on our beekeepers. I mean, it's... [LB499]

SENATOR ALBRECHT: In our state, you think that they're doing that. [LB499]

EDWARD McDONALD: Yes. [LB499]

SENATOR ALBRECHT: Yeah, could you explain? [LB499]

EDWARD McDONALD: We are being destroyed by out-of-state beekeepers putting their bees on our locations. We have went from... [LB499]

SENATOR ALBRECHT: Okay. Just a quick question. So you have a piece of property that you asked someone if you could put your bees on that property? [LB499]

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EDWARD McDONALD: Yes. [LB499]

SENATOR ALBRECHT: So does the same...somebody else comes right back...right in and just parks next to you, or do they go on the neighbor's ground, or how is it that they impose on your...? [LB499]

EDWARD McDONALD: They'll typically go on a neighbor's ground. We have lots of examples where we have center pivots of alfalfa that we've put our bees on for over 25 years and could consistently make an 80-pound average and they'll find somebody across the fence that has five acres with a big lawn. And a California beekeeper will pay him \$300 and they'll sit 200 hives of bees in there and that person has no forage for the bees. So they're putting it there to take our honey. [LB499]

SENATOR ALBRECHT: Okay. [LB499]

SENATOR BRASCH: And I will save my questions for last. Go ahead, Senator Halloran. [LB499]

SENATOR HALLORAN: Thank you, Madam Chair. Your testimony is very good. What you're asking us to do is to have a registration program to give you some protection against beehives or apiaries coming in from other states. Correct? [LB499]

EDWARD McDONALD: Correct. [LB499]

SENATOR HALLORAN: So if you're registered, that will give you the opportunity to file a complaint with the state that this is happening... [LB499]

EDWARD McDONALD: Correct. [LB499]

SENATOR HALLORAN: And have them removed? [LB499]

EDWARD McDONALD: Yes. [LB499]

SENATOR HALLORAN: Does this...does California have the same...does California have the same kind of thing that you're asking for us to do here? In other words, protecting from out-of-state trespassing, if you will, on to... [LB499]

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EDWARD McDONALD: California is the exact opposite of what we do here. California needs beekeepers to come. They pay us \$150 for every hive we'll bring out there to pollinate. So their problem is in reverse. They need us out there. They have to pay to get there. And we're not taking a honey crop from a California beekeeper. We are... [LB499]

SENATOR HALLORAN: You're pollination. [LB499]

EDWARD McDONALD: ...pollination service. [LB499]

SENATOR HALLORAN: How about South Dakota? [LB499]

EDWARD McDONALD: South Dakota is the best-managed bee program in the nation, and all the states that have registered locations also have the highest honey production per state. [LB499]

SENATOR HALLORAN: So is there room for California producers to come into Nebraska without getting too close to yours and still have production for them? [LB499]

EDWARD McDONALD: Yes, there is. I could put 100,000 beehives in western Nebraska and make the honey crop. There is room there. The key is it takes some work and some time and some experience to learn where that forage is. [LB499]

SENATOR HALLORAN: So it's managing the place where those are. [LB499]

EDWARD McDONALD: Correct. These people can come in and they don't have to do 20 years of research. They drive down the road and, oh, McDonald set these here, here and here, must be a good spot. [LB499]

SENATOR HALLORAN: Must be a good spot. [LB499]

EDWARD McDONALD: Also what they're doing is...I work with local farmers. We've developed new crops for farmers to plant so that they can be profitable. And they're planted specifically to produce a honey crop. And those farmers spend a lot of money planting that crop. Well, these California companies will come in, go across the fence for \$300 and now they take all of that crop. Right now the program is dead. We had five years of research and we had multiple farmers getting ready to plant crops with us for honey producing and that's dead without protected areas, protected forage areas. Those farmers can't even participate in that. [LB499]

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SENATOR BRASCH: One more question here. Well, we can have more questions, but from Senator Chambers before. [LB499]

SENATOR CHAMBERS: Whose property are your bees on? [LB499]

EDWARD McDONALD: We go to all the local landowners and we find the ones that have the forage and then we contact them and get permission and we pay them honey to let us put our bees on there. So...but also, we accept that our bees are going to go to the neighbors if the neighbors have forage. So we go to the neighbor also and we tell them we have bees sitting here; they're going to forage on you, is that okay? And we'll give you honey also. So we have permission on the surrounding landowners also to forage our bees on there. [LB499]

SENATOR CHAMBERS: Then are you asking the state to tell these landowners that they cannot allow somebody from out of state to place their bees in close proximity to yours? Is that what you're asking us to do? [LB499]

EDWARD McDONALD: That is what we're asking, a protected area from our registered locations. However, and I'm glad you brought this up because it's very, very important. I believe there needs to be an exception in the law for landowner rights. If there's a landowner down the road from my apiary, and I don't have bees on him, he has the right to have his own bees. There's no doubt about it. He can own his own bees, provided he has the forage for those bees. I have seen people own ten acres of property and put 20 head of horses on there. And I've seen the sheriff come and arrest them, and haul the horses off. So the property right is, you have the right to own your own bees, and put them there if you're feeding them. However, you can't necessarily transfer your property rights to somebody else unregulated. You can... [LB499]

SENATOR CHAMBERS: But here's what I'm trying to get at because I don't want to be the one questioning you too long. We have two pieces of property side by side. One has agreed to let you put your bees there in exchange for honey. The other one might or might not. Let's say that the other one does not. Then that one would rather deal with these out-of-state people because they'll pay more money. If the law were put in place that you want, then that landowner could not do that, isn't that true? [LB499]

EDWARD McDONALD: No, that is not. The way the bill currently is you are correct, but I think it needs an exception for the landowner. That landowner may not want my bees. He may not like me and that he should have the right also to have a California beekeeper come in and put those bees on his property. However, it needs to be an exception and he has to state the forage that he has. And that needs to be inspected. If he puts a landowner like the person with 5 acres on it, he doesn't have the forage for the bees, he's after my forage. So if the landowner says, I want ABC

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Bee Company from California to put their bees on my property, the state needs to say, that is fine, you can do that as long as you have the forage for them. And the state under the USDA has inspectors that can come out and inspect that forage. They will bring biologists out and inspect forage and say, yes, he said he had 50 acres of clover. He has 50 acres of clover, he can put bees there. [LB499]

SENATOR CHAMBERS: Well, suppose it's an in-state beekeeper who wants to put the bees next door. Could that one do it if he or she is from Nebraska under this law? [LB499]

EDWARD McDONALD: I don't believe that in-state beekeepers would do that, but it's a possibility. [LB499]

SENATOR CHAMBERS: That's what...see, the law has to be evenhanded, and they...when it comes to commerce, some cannot be favored over others. So if you're going to allow a Nebraska beekeeper to use this land on plot B, you're in plot A, plot B can make that land available for Nebraska beekeepers, but under this law of Nebraska cannot make it available to somebody from another state. That's not equal protection of the law. [LB499]

EDWARD McDONALD: In all the states that are registered, they're required to register, all beekeepers register. I've never heard of voluntary registration, but all beekeepers do register. [LB499]

SENATOR CHAMBERS: Is that the case in Nebraska? [LB499]

EDWARD McDONALD: We have no program in Nebraska. [LB499]

SENATOR CHAMBERS: So then Nebraska is not governed by the law of any other state. If 49 states did something a certain way, Nebraska, as a sovereign state, can do it differently from all of those others. That's what I'm not understanding that...I'll just listen to the discussion because I don't know whether constitutionally the state could do what you're asking the state to do. If there are businesses competing with each other, the state licenses. Then whoever meets the state's requirement can get a license. But I don't think the state can say, if you live in Nebraska you get a type of protectionism which somebody from another state cannot. I'm just asking the questions because I haven't thought it through completely yet. [LB499]

EDWARD McDONALD: And I don't know the law. I have some pretty good ideas on it, but those are good questions. I know a mandatory registration where all beekeepers register covers

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all the constitutional requirements you're talking about and I do understand your question that if... [LB499]

SENATOR CHAMBERS: Okay, let's say that all of them have to register. Then Nebraska couldn't favor some over others under their registration law. And they cannot pretend that there's a basis for making the distinction that it's valid, but the only reason for it is that this one, although has to comply with all the registration laws, except some, so that Nebraskans can be favored when they all are supposed to be under the same law. [LB499]

EDWARD McDONALD: The states that register, it's mandatory registration for everybody. They have the three-mile rule and everybody complies with it. So out-of-state beekeepers, if you want to come in, you have to register. If there's a...if you're not three miles from somebody else, you can't put your bees there. [LB499]

SENATOR CHAMBERS: Is that for whether you're in-state or out of state? [LB499]

EDWARD McDONALD: No, that is for everybody. It does not matter. I don't know of any state that their laws have narrowed it down to only that state's beekeeper. [LB499]

SENATOR CHAMBERS: So first come, first served. [LB499]

EDWARD McDONALD: Well, and historically also, all the other states have had their programs for a long time. So, say, if you implemented just a strict registration state and you said everybody has to register and you have to stay three miles away, you should absolutely grandfather the people that have been there for 20 years. We used to register with the state of Nebraska, so when they dropped it, then we were out on that. But you should not allow a new beekeeper from California who just bought hives last year to come in and register before you give us the opportunity. [LB499]

SENATOR CHAMBERS: How about a new beekeeper from Nebraska, that one could come closer than three miles, correct? [LB499]

EDWARD McDONALD: Well, not on a strictly registered situation. If everybody registers, nobody can come within three miles of each other. That's the way all of the others are. State of South Dakota, everybody registers and you don't come within three miles of each other. [LB499]

SENATOR CHAMBERS: Okay. It's clear what you told me so I won't delay it. That's all that I have. Thank you. [LB499]

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EDWARD McDONALD: I thank you for your questions and I encourage as many as you want. I'm well-versed in this, not the law, but... [LB499]

SENATOR CHAMBERS: But I don't want to keep chewing the same cud and you've answered the best you can about this. Thank you. [LB499]

EDWARD McDONALD: Thank you. [LB499]

SENATOR BRASCH: Very good. Are there any other questions from the committee? Yes, Senator Lowe. [LB499]

SENATOR LOWE: Thank you, Chairperson Brasch. And thank you for coming down to testify today, especially from western Nebraska. I don't think any of us want to hinder small business and that's exactly what the beekeepers are, small businesses in Nebraska. We're very proud of that. Is the bee population in Nebraska increasing? I know at one time we were concerned about the bee population in Nebraska. Through your efforts and everybody else's efforts, is the bee population increasing? [LB499]

EDWARD McDONALD: There's no way to know. [LB499]

SENATOR LOWE: Okay. [LB499]

EDWARD McDONALD: There's...Nebraska doesn't know what's happening in the bee industry. The USDA will publish some stuff, but I do not believe that it's anywhere near accurate because there's just no program. Bee populations go up and they go down. If we manage them very, very well, we maintain stability; but typically throughout the national area, we lose 40 percent of the bees every year and we have to replace those. So overall, we have not brought the populations up. We've managed to maintain is all we've done. [LB499]

SENATOR LOWE: Okay. And in your belief, if we would draft this bill more like South Dakota, or a similar program like South Dakota, would that be good for the beekeepers of Nebraska? [LB499]

EDWARD McDONALD: That would be good for all beekeepers. It would be good for the state of Nebraska. It would just...a well-managed industry is a profitable industry. It's the old west out there. In the past, one reason beekeepers didn't sit on top of each other is one thing, they might get their bees poisoned and then they would be out of business. Well, in the past the old beekeepers they could poison 50 hives that got set on. We're now dealing with people who drop

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10,000 hives overnight. You know, that's just not going to work anymore. It's going to require laws. And if you look down the road and you see what's happening, there will be no Nebraska honey producers. That's just how it is. That's where the industry is going. [LB499]

SENATOR LOWE: Okay. My last question then, do black-tailed prairie dogs eat the forage of the honey bees? (Laughter) [LB499]

EDWARD McDONALD: I have a prepared statement for that question. (Laughter) My wife said, well, the honey bees are good for the forage that they help produce more and more forage. So even the prairie dogs will benefit from the managed honey bees. [LB499]

SENATOR BRASCH: Very good. Any other questions from the committee? I do have a question here as well. Are you familiar with a program called DriftWatch at all? It's DriftWatch and I just pulled it up on my little gadget here. My staff had let me know that there is a program through Purdue University, through the university where you can register your bees here. It says that its...you can register it to...register your bees and it's also in conjunction with pesticide use. And it's a free program through the university and it's monitored by Purdue. Are you familiar with that at all? [LB499]

EDWARD McDONALD: Yes, I am. [LB499]

SENATOR BRASCH: And are you thinking that this program that's currently in place just doesn't have the law behind it, or is that not working, or can you tell me a little bit how that has affected you or other beekeepers? [LB499]

EDWARD McDONALD: That law is working for what that law was intended to do. And it is doing exactly what we're asking you to do. Just let us participate, give us a law. Give us a statute that can protect our forage and that was my point that there's already in place registration. And I'm under the EQIP, the NRCS, under the FSA, all that, bees are registered. And bees are inspected, so registration is already here. We have it. We haven't... [LB499]

SENATOR BRASCH: Through DriftWatch, through this... [LB499]

EDWARD McDONALD: Through DriftWatch, through FSA, through the NAP insurance. Everything we do is registered, but it doesn't...it doesn't address this one topic, the protection of forage areas. [LB499]

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SENATOR BRASCH: So if this program could, in some way, protect that where we're saving \$50,000 of a fiscal note...saving, because those fiscal notes, you know, who writes the check for those, don't you? [LB499]

EDWARD McDONALD: Yes, we do. [LB499]

SENATOR BRASCH: Yes, you do. So if there's a way to work within the Drift...if we'd explore that, perhaps that would resolve this need for legislation, or...? [LB499]

EDWARD McDONALD: It would...it...we should absolutely utilize these programs, but we don't have the law we need. We still need a law that they're... [LB499]

SENATOR BRASCH: With the three-mile radius protecting... [LB499]

EDWARD McDONALD: Correct. [LB499]

SENATOR BRASCH: ...and that does not...that's a registration, but it has no boundaries in place for the beekeepers. [LB499]

EDWARD McDONALD: It's there to help protect beekeepers from being sprayed by insecticides and it works well. It's not there to help beekeepers from being destroyed by other beekeepers. There's no law against it. If you're a beekeeper and you have forage, I can come and I can just literally destroy you. I can put...if you have 100 hives, I can just...I don't like her. I'm going to put 1,000 hives on her and you're done. [LB499]

SENATOR BRASCH: I see. [LB499]

EDWARD McDONALD: So there's no statute that protects there, but the mechanics of the law, registration, inspections, all that... [LB499]

SENATOR BRASCH: Is already in place through DriftWatch. [LB499]

EDWARD McDONALD: In place in several different spots and so I don't believe we have to reinvent the wheel. I'm going to get in trouble because she's really... [LB499]

SENATOR BRASCH: It's my turn right now. [LB499]

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SENATOR BLOOD: It's her turn now. [LB499]

SENATOR BRASCH: She shouldn't point fingers. [LB499]

SENATOR BLOOD: I'm listening. [LB499]

SENATOR BRASCH: So, basically, that is something that we could explore is the boundaries that need to be in place without having to create a fiscal note through the Department of Agriculture, perhaps. [LB499]

EDWARD McDONALD: Correct. And I question FSA, Farm Services, everybody knows what...every county has Farm Services and everybody in agriculture is in that office. And beekeepers are in that office, perhaps not the smaller beekeepers, but commercial beekeepers, we're in that office already...we already register. They already... [LB499]

SENATOR BRASCH: Already in place, so maybe we don't need to reinvent something, and... [LB499]

EDWARD McDONALD: Correct. So...and they have trained inspectors if there are violations that need taken care of. If there's exceptions due to forage, they have trained inspectors who already know how to inspect forage. We see them all the time. So, like I said, the mechanics are all there. [LB499]

SENATOR BRASCH: Very good. [LB499]

EDWARD McDONALD: It just needs to be properly applied. There needs to be a statute. [LB499]

SENATOR BRASCH: Very good. Senator Blood. [LB499]

SENATOR BLOOD: Thank you, Senator Brasch. I'm an active listener so you'll see me shake my head and it wasn't because I was in a hurry or...and I notice other people that want to testify so I'm going to make this really quick. I always like to get back down to what we're here for. So the question I have for clarification purposes...can you hear me okay? [LB499]

EDWARD McDONALD: Yes. [LB499]

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SENATOR BLOOD: Okay. For clarification purposes is that, yes, there's already instances where you have to register, like Purdue is more about the tracking of bees because they like to have...they like to know about...I can't even think of the word, where the bees are and where they travel to and so Purdue, I think, from my research, was about tracking. So what we're talking about is creating policy that has some teeth to protect the small businesses that we call beekeepers so you guys quit getting screwed over by these people that come in from California and other states. Would that be right? [LB499]

EDWARD McDONALD: That is correct. [LB499]

SENATOR BLOOD: All right. Thank you. [LB499]

EDWARD McDONALD: May I expound on that? [LB499]

SENATOR BLOOD: Well, I just want to make sure that other people get to talk, too, though. [LB499]

EDWARD McDONALD: It's not just small beekeepers. In my letter, South Dakota produces \$30 million of honey in a year. Does anybody think that Nebraska only produces \$7 million of honey? It's just...it's just not possible. That people make that honey here and take it somewhere else. So when we talk about the fiscal notes, how much tax revenue are we losing? It's just going across the border in semis. So a well-managed program, a well-regulated program is a profitable program. [LB499]

SENATOR BLOOD: And a program that you, hopefully, would be willing to pay a small fee for to offset the fiscal note so we could possibly get this done. [LB499]

EDWARD McDONALD: That's an easy one for us. It's pay the fee or you're out of business. Like I said, this voluntary is not for...it's not voluntary for us. We are being driven out of business by other out-of-state beekeepers sitting on our forage when there is adequate forage 100 miles down the road for them. So absolutely, we would love to pay the fee to preserve our income. [LB499]

SENATOR BLOOD: Thank you. [LB499]

SENATOR BRASCH: Very good. Any other questions from the committee? Mr. McDonald, thank you for your testimony. You did a good job. Thank you. [LB499]

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EDWARD McDONALD: Thank you. [LB499]

SENATOR BRASCH: Next proponent, please come forward. [LB499]

SUSAN McDONALD: Good afternoon, Madam Chair and Senators. My name is Susan McDonald, Ed's wife. I would like to do some testimony on (inaudible) in other states. [LB499]

SENATOR BRASCH: Please have a seat and spell and say your name for the record. [LB499]

SUSAN McDONALD: Okay. Susan McDonald, S-u-s-a-n M-c-D-o-n-a-l-d. As Ed mentioned, we do register part of our bees with the state of Wyoming. In Wyoming it is a two-mile limit from another beekeeper. They have a flat registration fee of \$25. They come out...if you ask them, they will come inspect your hives and give you a health certificate for an additional fee and that depends on how many hives you want certified. State of South Dakota, it is an \$11 per apiary fee plus one more dollar per apiary for the National Honey Board for research and anti-dumping, whatever we need to do for our domestic honey. You also, in the state of South Dakota, have an entry permit. Before you can bring one beehive into the state, you have to file for an entry permit to bring them; and if I remember right, I think the entry permit is \$100. And you have to have that in place at least 30 days before you want to come in. On your permit you have to say how many hives and when you're bringing them. Consequently, at the end of the season you have to do an exit permit and have an inspection so that you can go to other states. So South Dakota's program is very well run, and I have never heard a beekeeper in South Dakota quibble one bit about that \$12 per apiary to register their colonies. They have forage protection because of it. And you're talking a \$12 fee, like my husband said, we try to establish forage for 48 hives. Twelve dollars, if we make our 60 or 80 pounds of honey, is a great investment for the return to have that protection. On a side note, the state of Oregon, they have a...if you have five or more colonies, you are required to register those with the state. All...I think their registration fee...it's a small, kind of like Wyoming, but every penny of that money goes to the University of Oregon for their bee research lab and their university does all of the tracking and registration. [LB499]

SENATOR BRASCH: Mrs. McDonald, you must be the bookkeeper and beekeeper, is that correct? [LB499]

SUSAN McDONALD: Correct. [LB499]

SENATOR BRASCH: I'm a farmer's wife. I know bookkeeping too. [LB499]

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SUSAN McDONALD: Yeah, and another note I wanted to mention here, we have our grandsons that also are involved in the bee business with us. Our son Christopher is here. He left the military to come home to the business. He is a reservist yet, but he did 12 years active duty. And his youngest son is a bee whisperer. From the time he was a little boy, he could go out and play around the bees and he would move them around on the ground, pushing them around, and he never got stung. And he will go out with grandpa and when we get a box of new queen bees in, you have to check them to make sure they shipped in okay. Hunter will not suit up, he does not protect his hands, his head, anything, and he's out there right in the midst of the bees looking at queens crawling up and down his hands and he has never yet been stung. So it's definitely a family business. [LB499]

SENATOR BRASCH: Very good. That's fascinating. Any questions from the committee?  
Senator Chambers. [LB499]

SENATOR CHAMBERS: Your son...is it your son who does that? [LB499]

SUSAN McDONALD: That's my grandson. [LB499]

SENATOR CHAMBERS: Your grandson. [LB499]

SUSAN McDONALD: His dad is here with us. [LB499]

SENATOR CHAMBERS: Is your daughter's name Rosemary? [LB499]

SUSAN McDONALD: No. [LB499]

SENATOR CHAMBERS: So it's not Rosemary's baby? [LB499]

SUSAN McDONALD: No. (Laughter) No, no. [LB499]

SENATOR CHAMBERS: I couldn't resist. I'm sorry. (Laughter) [LB499]

SENATOR BRASCH: Any other questions from the committee? [LB499]

SENATOR LOWE: Must be a really sweet grandson. (Laughter) [LB499]

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SUSAN McDONALD: Yep, it is. As we say when you're in the bee business, business bee sweet. [LB499]

SENATOR BRASCH: Very good. Any other questions from the committee? We also had a beekeeper keep their hives. I don't know if you're familiar with the Wordekempers. [LB499]

SUSAN McDONALD: Oh, yes, Dan. [LB499]

SENATOR BRASCH: That's...we're in northeast Nebraska and they may have retired and now they sell seasonings, I think, for different things so. [LB499]

SUSAN McDONALD: Dan still lives right out by us by Chadron. His dad is here in northeast Nebraska and Dan does not keep bees anymore. I think he actually works for Dawes County as a weed guy. [LB499]

SENATOR BRASCH: Very good. Well, it's a great business. [LB499]

SUSAN McDONALD: So, we know Dan very well. [LB499]

SENATOR BRASCH: And honey is a very healthy crop... [LB499]

SUSAN McDONALD: It is. [LB499]

SENATOR BRASCH: ...as well as good for the state. So thank you for coming forward. [LB499]

SUSAN McDONALD: Thank you. Thank you. [LB499]

SENATOR BRASCH: Any other proponents? Please come forward. Welcome. Please state and spell your name. [LB499]

NORMAN ODELL: (Exhibit 2) Thank you. My name is Norman Odell, N-o-r-m-a-n O-d-e-l-l. We farm in western Nebraska. We're certified organic, have been now for 17 years. I met up with Ed about seven or eight years ago and we got to talking about trying a project that interested both of us. With organics we use a lot of green manures, plow downs, we're pretty much limited on the fertilizers that we can use so that's a big part of our business. One of the things I've been using new is sweet clover. So he suggested, would you like to try it under a pivot. Well, I guess so, so we bumped heads. The first time I had a failure, the second time we did pretty good. He

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brought his bees in and he produced 54,000...27,000 pounds of honey. That year honey was \$2 a pound. He put some skin in the game when he got into me. He said, I'll give you half. I want to see if this works. I don't have that happen. Somebody wants to sell me fertilizer, it will do this, it will do that, it's all pie in the sky. This guy laid it out and said, I'll give you half. If it works, we're going to do fine, if it don't, I said, well, if it don't, at least you got some skin in the game, so away we went. The second time we produced, it was the next year, it would be the third year, we had a pretty good crop of clover, one of the best I'd ever seen. He brought his bees in and at the peak, about three days after they got there, they're producing 6 pounds of honey per day per hive. I'm running the water, paying attention to my side of it on the clover. A few days later, California showed up. Two semi-loads of bees a mile and a half away from us. The honey production just nose-dived. So we got about half a honey crop that year. I just barely covered my expenses. The part of this that kind of sucks is, if I'm down in your neighborhood and I run a store, I can put bars on the window and keep people out. They can't trespass if my bars are big enough, get a gun or hire somebody, but I can't do that with bees. They move around. That's what the biggest part of this is about is giving these guys a fair chance. They stole \$60,000 worth of honey. They backed in there in the middle of the night, loaded up two semi-loads and disappeared. The people they were sitting on didn't even get paid. They disappeared. They're a little on the crooked side, but most beekeepers aren't, but this particular outfit pretty gruff to deal with. That's one of the issues. Now South Dakota has a good program. I don't see any reason why we can't have the same program here address some of your...well, all of it. Finances. Craig Romary is a block south of here with USDA runs the DriftWatch program for bees and specialty crops. I've talked to him. There would be virtually no expense other than a little more work on his part registering these bees. Everybody, if you make it mandatory, you could go right through him. The Web site is set up, it's easy to use, you can put it on the map. It's a Google map. It's very easy to use. The other side of it, we have a CRP program that's a 15-year program. They come in. It's a pollinator program. You have both EQIP and CRP. The CRP thing is 15 years long. We have biologists and even the local NRC guy, the NRCS guy, is trained in the pollinator what in our area the different soil types, what flowers will grow there, what will work for the pollinator program. So you wouldn't really need to hire an inspector to come out and inspect hives. If you have an issue with somebody, they could come out and say, hey, there's not enough forage here for these bees here, so the issue of somebody being too close and back and forth, you could eliminate that and not have a lot of expense. If this guy isn't qualified, they do have a biologist on staff that...and he does overrule. If they come in with a question of, well, we're not sure what we can do for this particular type of land, what kind of flowers, the biologist steps in and he advises. And he could do the same thing. So it really wouldn't be any cost to...to either \$45,000, \$50,000 wouldn't need to be if you add in a fee for these people to register cost 10 bucks, 15, \$20. Add that together. I don't think the taxpayers need to pay for it. It's already...the programs are available to us. It's just get a hose clamp and put them all together. You know, that's all you need right now. The second part of it is for you people to put some teeth in it so you can actually do something. Like I say, I lost \$30,000, so did he, in one year. And this thing can go

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farther. One of the things we thought about was seed production and opening it up to seed business. Clean the seed, use it for green manure crops, and Green Cover Seed in Bladen, Nebraska, they're a multimillion dollar business. They're just...you know, it's going crazy. [LB499]

SENATOR BRASCH: Very good. Senator Krist. [LB499]

SENATOR KRIST: Yeah, I think you heard my comments earlier and what you've said just played straight into it. I'll give you an analogy. [LB499]

NORMAN ODELL: Sure. [LB499]

SENATOR KRIST: We have four or five different silos and those silos are operating independently, data collection here, testing here, another data set here. One is set up to monitor bees to see the effect of the insecticides or pesticides and the hose clamp analogy, brings all of those silos together. And that's our job to make them talk to each other. And that's why I directed my comments earlier to the introducer and to this committee, because now it will be our responsibility to bring the silos together as they exist and eliminate, if we can, any part of that. In fact, from what I see and what you're saying, with a pretty minimal registration fee, this program may be funding itself or making a little money. [LB499]

NORMAN ODELL: Yes, it could very easily. [LB499]

SENATOR KRIST: It's never a goal of government, of course. [LB499]

NORMAN ODELL: Now on organic side of the farming, we have a certified agency that we pay a half of one percent of our gross, which...it's not overly expensive but the inspection fee usually runs between \$600 to \$1,000 depending on the amount of time we have to spend with the inspector. And he inspects each and every field, so we drive around in the vehicle and showing him different things. Then he goes over our records. Part of it's from field to table. When I raise something, it goes to your table. We can track it back to the field that it came from, the year and the crop itself, so that's part of our program and you don't need to get near that extensive of that. I don't see why we can't do just the same thing as South Dakota. We don't need to be behind the eightball and I don't think there's too many issues. The Nebraska beekeepers take care of one another. I've never seen any fights. If they happen to see one another, they're pretty congenial with one another. They look out for one another. But we've got a problem and here's an industry that we could take it to the next level. It isn't just organics. I mean, you could take a conventional guy and do the same thing. Things that they've done with their hives that surprised me was they'll

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go into a sunflower field, no charge. They'll bring their bees in and the increase between this field with bees on it and this one, there's 30 percent difference in production. [LB499]

SENATOR KRIST: Production of the sunflower. [LB499]

NORMAN ODELL: And that's a sunflower that doesn't make any honey. He just pollinates the crop and at this time, he's not charging. It's just something he's doing out of...well, just being a good neighbor, and that's just one crop. Several of our crops will do better than that. So it's a service that we need bad and we need to kind of protect our own. We've got a predatory practice that we've allowed to begin, and it isn't that we won't let them come in. They need to develop their own business rather than steal what we produce. Let them produce their own. This particular company uses...they're the second-highest user of water in the state of California. They should be able to develop their own bee forage without stealing ours. It's a lot of work. I generally, on a pivot I'll have between \$21,000 and \$25,000 invested before I start. When I get the crop, he gets the honey off, then if I go to process in the seed, that's where my profit is. He pays my expenses. Now I might have a little beer money left over, but my expenses are taken care of. Then if I wanted to develop a second business and start to look at cleaning seed and doing other things with it, I could. We have a government program, the CIG program designed for that but these people are taking it away from us. They stole it. They didn't come and ask, they didn't offer to pay. They didn't even...they just moved in on top of us and stole it. So that's what I want to stop. I'm watching a family business go down the drain that took them 25 years to build and they're good for us, good for western Nebraska. They're good for us. They don't hurt anybody. They're beneficial to life. I've yet to see the downside of having beekeepers in the state of Nebraska. [LB499]

SENATOR BRASCH: Thank you, Senator Krist. Any other questions from the committee? Senator Halloran. [LB499]

SENATOR HALLORAN: Madam Chair, thank you. I agree with Senator Krist. I think most everything that you have been asking for is somewhere already, pretty much in place, and that... [LB499]

NORMAN ODELL: Yes, it is. [LB499]

SENATOR HALLORAN: ...in looking at you folks, I would say you would be the last ones that will be coming to the state asking for something that you're not willing to pay for. [LB499]

NORMAN ODELL: No, this is something we've discussed at length. [LB499]

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SENATOR HALLORAN: Right. So I think the one question I have is and it's probably easily covered by fees as well, but it's the enforcement side of it. To me that's, it's...when I hear the word stolen... [LB499]

NORMAN ODELL: It is. [LB499]

SENATOR HALLORAN: ...there's going to be...there has to be some enforcement side to it. So I'm guessing that might be one of the parts of it that might be a little spendy, but again it's probably coverable by fees. [LB499]

NORMAN ODELL: Well, the other side of it is, I wrote a check for \$50,000 last year for land taxes. Could I get a little something for that... [LB499]

SENATOR HALLORAN: Oh, let's don't go there. (Laughter) [LB499]

NORMAN ODELL: I mean, I'm not trying to offend anybody. [LB499]

SENATOR HALLORAN: Oh, I understand what you're saying, absolutely. [LB499]

NORMAN ODELL: I'm just saying that's just one part of it, you know. I am, I'm not...this is the first time...I'm 61 years old, I've never been here before, not asking for a favor, I'm just saying, this is the right way to do it. We've got two states, both border states that are going good. [LB499]

SENATOR BRASCH: I believe Senator Krist has another question? [LB499]

SENATOR KRIST: You should have come earlier. We need people with common sense. I appreciate you coming. [LB499]

NORMAN ODELL: I have to lay a lot of that on the McDonalds too. I mean, there's no...he said that we don't need to reinvent the wheel. These programs are in place and we'll get a little more use, get more value for our money by getting these people out and using them. They're there in the office sometimes sitting around and they could maneuver time. The guy in Alliance is more than willing and he said if I can't do it, the biologist will. So it's available to us. So it's just a matter of... [LB499]

SENATOR KRIST: Just one other quick comment. [LB499]

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NORMAN ODELL: Sure. [LB499]

SENATOR KRIST: This is going to require a little bit of tweaking, if you will... [LB499]

NORMAN ODELL: Yes, it will. [LB499]

SENATOR KRIST: Okay. And don't be impatient with us because it could take two years, it could take this year and go into next year to put this in the right place. But I think...I think it's...as far as the enforcement side is concerned, as soon as we set up the parameters for the radius ground, then it's a complaint made and the county sheriff can investigate. [LB499]

NORMAN ODELL: Yes, that's correct. [LB499]

SENATOR KRIST: So they're in place to do it as well, as well as agriculture. So give us a chance. I think this is a valuable conversation and I think...I really think that the concerns with Senator Chambers are in the interstate commerce side of it. So whatever we do for ourself, we would do for anyone else. So the same restrictions would apply as they do in South Dakota, so. [LB499]

NORMAN ODELL: No, we're not here to tell them to stay the hell out, there's plenty of room in Nebraska. It's just, there's a difference between predatory and competition, and that's what we're talking about here. [LB499]

SENATOR KRIST: Yes, sir. [LB499]

NORMAN ODELL: It's the difference between red and white...I mean, black and white, sorry. [LB499]

SENATOR KRIST: Well, you're in Nebraska. [LB499]

NORMAN ODELL: Thank you very much. I thank you for your time. [LB499]

SENATOR BRASCH: Sir, Mr. Odell, I believe we have another question here. [LB499]

NORMAN ODELL: Sure, I'm sorry. Yes, ma'am. [LB499]

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SENATOR BRASCH: And it's from Senator Blood. [LB499]

SENATOR BLOOD: Thank you, Chairwoman Brasch. Kind of listening to what's going on and I've been putting the numbers together while we've been talking. This could be a self-funding program very easily. [LB499]

NORMAN ODELL: Yes, it can. [LB499]

SENATOR BLOOD: And I don't know if I agree that this would be a two-year process because I'm looking and it's already showing that there's punishment in statute that would reply...that would reply...apply to this bill. So I don't really know with the exception of the fee, and it's already clear who is going to be responsible for it, that's indeed going to be the case to have it be two years. So, just again, bringing back clarification, just like this bill says, the purpose of this registration is to protect Nebraska, right? Your hives from the proximity exposure to any out of state... [LB499]

NORMAN ODELL: Any hives. It doesn't matter. If it's a neighboring...maybe well, like McDonalds, there's another beekeeper in Crawford. There's another beekeeper down in Anselmo. I mean, they're around the state, in-state, even in-state... [LB499]

SENATOR BLOOD: But you guys get along in Nebraska. [LB499]

NORMAN ODELL: Yeah, they do. [LB499]

SENATOR BLOOD: The bill is really to protect you from... [LB499]

NORMAN ODELL: They're phenomenal. Drive in and talk to one of them sometime. If they're not really busy... [LB499]

SENATOR BLOOD: Yeah, I've talked to... [LB499]

NORMAN ODELL: ...they'll talk your ear off and a lot of fun to listen to. [LB499]

SENATOR BLOOD: I've talked to a lot of beekeepers at our farm. I run our farmer's market where I'm from, and you guys do like to talk and God bless you for that. (Laughter) So again, protecting your rights as small business owners and some business owners as well, the

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framework is put into place, the fees, the minimal fees would help make this a self-paying program. You guys are all okay with all of that. [LB499]

NORMAN ODELL: I would have to defer that to them, as I'm just a farmer. I'm the one growing the clover. They're the ones that are doing the work. He's the elephant, he's doing it all. [LB499]

SENATOR BLOOD: It's kind of the chicken and the egg thing, though, sir, it's like... [LB499]

NORMAN ODELL: Pardon? [LB499]

SENATOR BLOOD: It's kind of the chicken and the egg thing: which came first, the bee or the clover. They both need each other. It's a symbiotic relationship. [LB499]

NORMAN ODELL: We work good together. He's quite a guy. Quite a family and they need to stay in business. [LB499]

SENATOR BLOOD: They do. [LB499]

NORMAN ODELL: All of them, everybody. That...like I say, there's predators and there's prey and we don't need that. [LB499]

SENATOR BLOOD: I agree. [LB499]

NORMAN ODELL: We've got two states that have good laws. We just need to follow that and I think you'll find that Craig is exceptional to talk to. I would imagine you can talk to him, call him, and I think he could even step up the game a little bit and make the registration happen a little easier. He's got the Web site set up and stuff and the local NRCS are real helpful, so. Hopefully, it would be real easy for you. It's just...you know, I want to thank each and every one of you to allow us to come and talk. I don't ask for things very often, but this, what's going on is wrong. We need a little help if you would. Sure would appreciate it. [LB499]

SENATOR BRASCH: Mr. Odell, I have one final question. And you grow all this clover just for a jar of honey? [LB499]

NORMAN ODELL: I would the first time just to see if we could do it. It was one of those things, can you do it. I don't know and it was difficult to figure out the method it takes to get

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good clover. The yellow clover honey is some of the best in the world and I should have brought some, but I'll leave that to the beekeepers. [LB499]

SENATOR BRASCH: Very good. Thank you. I believe there's no other questions. Thank you for coming forward. [LB499]

NORMAN ODELL: Okay. Thank you, everybody, again. [LB499]

SENATOR BRASCH: Next proponent in favor of this bill? Proponent, please come forward. Welcome. [LB499]

BRIAN NILSON: Hi, I'm Brian Nilson, B-r-i-a-n N-i-l-s-o-n. I'm the vice president of the Nebraska Beekeepers Association. Our association is primarily hobby beekeepers in the eastern part of the state. The association itself at this time doesn't have an official position because we didn't find out about the bill until yesterday, so we haven't had a meeting on it at all. But our beekeepers definitely need protection from encroachment. Eighty percent of the beekeepers in Nebraska are small-scale, hobby beekeepers, but the commercial beekeepers have better than 70 percent of the hives in the state. Honey prices in the past five years have really slumped due to the imported honey. So profit margins, if you're relying strictly on honey to produce, are small to begin with. So if your forage is encroached upon and driving your yields down with lower prices to boot, it gets hard to stay in business. I row crop 600 acres plus run...I had 50 hives last year. I'm on my way to 200 as I'm expanding now. In my area, I don't see the encroachment because I'm in primarily a corn and soybean county that does not have large areas of forage for honey bees to begin with. But in the areas that do have bigger areas, I know it's a problem and I've heard a lot of it. Unfortunately, the way this bill is written I think there's a lot of gaps that aren't covered in it and it needs to be expanded more. Prior to the early '90s, there was a mandatory registration program. When they eliminated the state apiarist and the bee inspectors in the state of Nebraska, they did away with the registration program at the same time. It did involve a fee. I don't believe the fee at that time was large enough to pay for the state apiarist and the bee inspectors, and it was a budget issue why they were eliminated. I believe we're only one of 13...I think there's only 13 states that have some kind of state apiarist and bee inspection done that really promotes better bee health in the state, but it is an expensive program. I don't believe beekeepers in the state of Nebraska would be opposed to paying the fee to register their beehives. We've done it in the past. It probably would not self-fund unless it was a mandatory registration, because I don't believe a lot of the beekeepers in the eastern part of the state, especially the small, small-scale beekeeper would register because we don't have an encroachment problem as of yet. But they would also need on that three-mile rule there would need to be some clauses in there for nonresident landowners, or just landowners, period, being allowed to put bees on their own property. You'd have to address urban beekeeping. There's over 40 beekeepers in the city

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limits in Lincoln. Just trying to think. You know, there's just...the basic idea of what the beekeepers want is in this bill the way it is now, but I don't think it's enforceable in the form it's in currently. That's pretty much what I had. [LB499]

SENATOR BRASCH: Very good. Thank you. Do we have a question? Senator Chambers. [LB499]

SENATOR CHAMBERS: Are Nebraska bees dying from whatever it is that's killing bees around the world? [LB499]

BRIAN NILSON: Yes. [LB499]

SENATOR CHAMBERS: Do you have any idea what, well, no, you'd correct it if you have an idea what caused it. [LB499]

BRIAN NILSON: Well, the cause is so many different causes that all contribute to the end result. You know, most of our bees that we see die, the Varroa mite is our biggest problem; but the Varroa mite itself doesn't actually kill the bee. It weakens the bee, makes the bee more susceptible to other diseases that eventually kill the hive off. Annual losses swing between 30 and 60 percent in Nebraska and nationwide. Because they've been in the news so much lately, the hobby side of the industry has really expanded and new people taking up keeping bees in smaller amounts. And if you take a nationwide survey of bee numbers in the middle of July, you don't see a big decline of hive numbers in the United States because we do our increases and split our dead hives. We take our dead hives and we take our live hives and we split it two, three, sometimes four ways, buy more queens and recover our numbers. But today versus pre-1980, it is much more expensive to keep bees today because of the losses we experience because of what is. [LB499]

SENATOR CHAMBERS: Thank you. [LB499]

SENATOR BRASCH: Senator Krist. [LB499]

SENATOR KRIST: Thanks for coming and you bring a different perspective that I think we need to think about. Many times...in the time that I've been here, many times we have a hearing like this and we recognize that we have not heard the voices of the people who present a different faction. In your case having...in this case having a roundtable discussion with Senator Brewer and talking about those restrictions, because what you bring is a metropolitan area kind of perspective where we couldn't very well, or we wouldn't want to enforce the three-mile radius.

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And so there's a different kind of perspective there. And my point in saying that is I hope that you will stay involved with this process and maybe a roundtable with Senator Brewer and his staff because the last thing we want to do is...we never try...we think we know that the consequences will be positive, but we always, sometimes...not always, but sometimes see some really unintentional bad consequences. And keeping you in the equation in terms of that other perspective I think will be very important. I hope you stay involved. [LB499]

BRIAN NILSON: Right, because no...you know, no two pieces of ground have the same carrying capacity for bees, so it's what...out there in western Nebraska where forage is more sparse, three miles is probably needed. There's other areas with a larger forage base where you can put more hives per acre and have hives closer together. But the other forage...the forage range of the bee is out to three miles, beyond three miles they're using more energy to go past that than what you're bringing back, so. [LB499]

SENATOR KRIST: That doesn't necessarily mean that they're going to go three miles. It's wherever they can get their (inaudible). [LB499]

BRIAN NILSON: No. The closest source is where they're going to go first and, well, depends on the quality of the source some too, but, yeah use as little energy as possible. [LB499]

SENATOR KRIST: Thank you. Thanks for coming. [LB499]

SENATOR BRASCH: Any other questions? I do have a question for you, Mr. Nilson, but the bill is written to address commercial beehives and bees. What would you define as commercial beekeepers or how would...? [LB499]

BRIAN NILSON: Typically in the industry, once you pass somewhere between the 200 to 400 mark, you're considered commercial. [LB499]

SENATOR BRASCH: Two to four hundred dollars or bees? [LB499]

BRIAN NILSON: Two to four hundred beehives. [LB499]

SENATOR BRASCH: Okay, beehives. [LB499]

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BRIAN NILSON: We have a term we call it sidewinder which is like from 25 hives up to that 200 to 400. That's usually a person that's doing another full-time job and doing bees on the side and then below 25 either going with small-scalers, hobby beekeeper. [LB499]

SENATOR BRASCH: And any other questions from the committee? [LB499]

BRIAN NILSON: The one thing on the bill...is the way the bill is written it just defines registering an apiary. If you look at the existing apiary act, apiary is any placement of one or more beehives. So any hobby beekeeper with one beehive could register an apiary and then expect that three-mile protection. So that's some of the definitions. And I haven't taken the time to read the South Dakota law because I'm a stationary beekeeper. My bees never leave the state of Nebraska, but I do know from the conventions I go to, they all say South Dakota has the best law currently. But I don't know how well their law addresses hobby beekeepers other than I do know in their law, a landowner is allowed to put bees...his own bees on his own property irregardless of the three-mile rule as long as they're his bees on his property. Now as far as him renting out his land to another beekeeper, then they have to follow the three-mile rule. [LB499]

SENATOR BRASCH: And you're with the commercial association, or... [LB499]

BRIAN NILSON: I'm with the Nebraska State Beekeepers Association, the only association in the state. But primarily our membership is small-scale and hobby beekeepers. We do have some commercial beekeepers that pay dues to the association, but they don't tend to be very active with it. [LB499]

SENATOR BRASCH: And I believe you have a booth at the State Fair. Is that correct or used to? [LB499]

BRIAN NILSON: Yes, I run that booth at the State Fair. [LB499]

SENATOR BRASCH: Yes, I recognize you and I'm your customer. (Laughter) So and it's an excellent booth, very informational. [LB499]

BRIAN NILSON: Well, thank you. [LB499]

SENATOR BRASCH: You have the hive and all of the literature. So I believe we have one more question. Senator Blood. [LB499]

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SENATOR BLOOD: Thank you, Chairman...Chairwoman Brasch. I just want to clarify that indeed you're right on page 2, it clearly says that any Nebraska resident that owns or operates can...an apiary in the state can voluntary--I cannot talk. It's been a long day--can voluntarily register the location of that apiary and associated hive or hives with the department. But the purpose it says in the bill is to protect the commercial beekeepers. [LB499]

BRIAN NILSON: Right. [LB499]

SENATOR BLOOD: So you still have the right to register indeed so you would know who was coming into your area. But when it comes to the teeth of the bill and the people that can take action, it looks like it's geared towards commercial. [LB499]

BRIAN NILSON: Yeah, I would assume so. Like I said because at the beginning of the bill it does state a single...I mean, just states being able to voluntarily register... [LB499]

SENATOR BLOOD: Right. [LB499]

BRIAN NILSON: ...a apiary and then as far as I read it, anyone that has a registered apiary would be entitled to the three-mile rule from an out-of-state beekeeper, but the rule says absolutely nothing about an in-state beekeeper, so... [LB499]

SENATOR BLOOD: Right. [LB499]

BRIAN NILSON: ...in Omaha a beekeeper with 2,000 hives could easily go out to Valentine and dump hives right across the fence from somebody and the teeth...the law has no teeth to protect the beekeeper out there from that. [LB499]

SENATOR BLOOD: From the three-mile quarantine, right. So I just wanted to clarify what would be your expectation and what you contributed was what I read as well in the bill. [LB499]

BRIAN NILSON: Yes. [LB499]

SENATOR BRASCH: (Exhibit 3) Any other questions from the committee? Seeing there are none, thank you, Mr. Nilson. [LB499]

BRIAN NILSON: Thank you. [LB499]

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SENATOR BRASCH: Any other proponents? Those in favor of this bill, supporters? Any...I think we...any opponents? We do have one letter for the record in neutral and it's from Greg Ibach, Department of Agriculture...Nebraska Department of Agriculture. [LB499]

SENATOR CHAMBERS: So he'd be a drone, bzzzz. [LB499]

SENATOR BRASCH: Are there any other neutral? No other neutral. Welcome to close. [LB499]

SENATOR BREWER: Thank you. Obviously, we thought the prairie dog issue would consume the majority of the time. We did not anticipate quite as much interest or knowledge being shared on the issue of beekeeping. So I am much more knowledgeable than I was a couple of hours ago. But going back to the bill, the bill just puts Nebraska beekeepers first and brings the Nebraska law governing this subject more in line with surrounding states, while I do wish that I had had a chance to read South Dakota's law before we worked on this. But that was the intent and obviously we're going to try and drain as much information as we can while we've got the experts close here. [LB499]

SENATOR BRASCH: Very good. Any questions from the committee? Yes, Senator Chambers. [LB499]

SENATOR CHAMBERS: So by putting Nebraska beekeepers first, we may make Nebraska beekeeping great again. (Laughter) [LB499]

SENATOR BREWER: Ouch, that hurts. Why would you do that? Yes, we will try and make them great again because you said so. [LB499]

SENATOR BRASCH: Senator Krist. [LB499]

SENATOR BREWER: Yes, sir. [LB499]

SENATOR KRIST: I just think it is a shell that needs a bunch of tweaks and I didn't mean...I just...I want to go on the record. I didn't mean that it's going to take two years. I meant that don't be shocked if it takes a little bit of time. But I think this is worth doing the first time right so we can make it good for everyone. [LB499]

SENATOR BREWER: Agreed. [LB499]

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SENATOR BRASCH: Senator Lowe. [LB499]

SENATOR LOWE: I would just like to make a comment that I appreciate Nebraska's second house for showing up and putting your input in today and helping us assist you. [LB499]

SENATOR BRASCH: Any other questions from the committee? Seeing there are none, thank you, Senator Brewer. [LB499]

SENATOR CHAMBERS: I guess we'll all be buzzing off pretty soon. [LB499]

SENATOR BRASCH: I want to thank everyone who has come forward to testify today. That concludes our hearing. [LB499]