

Transcript Prepared by Clerk of the Legislature Transcribers Office
Executive Committee February 24, 2022

HUGHES: [RECORDER MALFUNCTION] --have to vacate this room by 12:30 at the latest and we may be having an Exec Session at 12:15. No? OK, so welcome to the Executive Board. I am Senator Dan Hughes. I am from Venango, Nebraska, and I represent the 44th Legislative District. I serve as Chair of this committee. The committee will take up the bill that is on our agenda for today. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. Move to the front row of seats when you are ready to testify. The order of testimony is introducer, followed by proponents, opponents, neutral, then closing by the introducers-- introducing senator. Since I do believe we will have several individuals wanting to testify, we will do three proponents, three opponents, then back to three proponents and three opponents and we'll, we'll put the neutral in there too if anybody wishes to choose-- to testify in that capacity. So three proponents, three opponents, three neutral, three proponents, three opponents, and if we run out of one category, we will finish up with whoever's left. If you are testifying, please fill out a green form found in the back of the room. Hand in the green sign-in sheet to a, to our page or the committee clerk when you come up to testify. Spell your first and last name for the record as you begin testifying. Speak clearly into the microphone and be concise. Because we are a lunch-hour committee, we ask that you please keep your testimony to three minutes. When you see the yellow light come on, that means you have one minute remaining and the red light indicates that your time has ended. Questions from the committee members may follow. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate white sheet on the tables that you can sign for that purpose. This sign-in sheet will become an exhibit in the permanent record of-- at the end of today's hearing. We ask that you please limit your-- limit or eliminate your handouts. If you have handouts, the materials may be distributed to the committee members as exhibits only while testimony is being offered. Please make sure you have at least 13 copies and give them to the page when you come up to testify. They will be distributed to the committee and staff. The committee members with us today will introduce themselves beginning on my left.

HILGERS: Mike Hilgers, District 21, northwest Lincoln and north Lancaster County.

HUGHES: And senators on my right.

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LOWE: John Lowe, District 37, the southeast half of Buffalo County.

LATHROP: Steve Lathrop, District 12, which is Ralston and parts of southwest Omaha.

HUGHES: To my right is my legal counsel, Janice Satra, and to my far right is our committee clerk, Mandy Mizerski. We also have Chloe Fowler, who is our page today. She is a senior at UNO majoring in political science. With that, we'll open our hearing on LR159. Senator Blood, welcome to the Executive Board.

BLOOD: Thank you, Chairman Hughes, and good afternoon to the entire Executive Board and thank you for scheduling LR159 for a public hearing today. My name is Senator Carol Blood, spelled C-a-r-o-l B-l-o-o-d, and I represent District 3, which is the western half of Bellevue and eastern Papillion, Nebraska. Before I start, I'd like to respectfully put on record that I protest the fact that not everybody in this hearing room will get to testify today when it's clearly known that public hearings are so that all voices of our second house are heard. And so the fact that we are being asked to leave at 1:15, I would say is shameful. But moving forward, now that that is on record, on May 18, 2021, I introduced LR159, which would establish a special legislative oversight committee to investigate the AltEn ethanol plant disaster. I'm relieved that nine months later, this resolution has been granted a hearing before this committee. The AltEn disaster-- and make no mistake, it is a disaster for Nebraska like none other in recent memory-- has deeply affected Nebraskans, the very people we represent and are charged with protecting and advocating for. As I speak, the 99,000 tons of pesticide-ridden wet cake in an unlined pile on the site are being covered up with a mortar-like product. You should know that even NDEE has expressed on record concern about this cover-up. Nevertheless, the agency still approved it. Licensed landfills have refused to take the poisoned wet cake, yet NDEE believes it's safe to cap it and let it leach into our precious aquifers for an unknown period of time. Why? This disaster unfolded while Nebraska agencies failed to act. Friends, colleagues, you've seen the press coverage. Nebraska is in the news on a national and international scale about AltEn and now, today the eyes of the public are on the Unicameral waiting to see how we will respond. A special legislative committee is a powerful tool to be implemented when there is a need for broad action via engagement from members of multiple committees. The AltEn contamination impacts agriculture, natural resources, judiciary, appropriations, and health and human services. The scope of the cleanup work and damage to industries, our natural resources and human health, are still largely unknown and must be

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ferreted out. The AltEn situation meets all the criteria for establishing a special committee. Let me give you a few examples of why we must get to the bottom of this. First, the profound lack of transparency. Why has the NDEE director refused to participate in or hold public meetings, but instead has chosen to meet with pre-picked-- of the pre-picked handful of Mead residents to share information in a private setting that excludes the general public and the media? And why has the director been comfortable with having photos of those meetings posted on social media? Is he tone deaf to the many others who have suffered the consequences of this disaster? This is not just a Mead problem. It's an unfolding disaster for Saunders County, who, you will note, wrote a letter of support for my resolution, and much of eastern Nebraska downstream and downwind of the plant. Director Macy's callous disregard for informing the public is shameful. Why, in 2012, did NDEQ approve a permit modification request from AltEn allowing the plant to use treated seed in its ethanol production process and why did NDEQ approve this request without a public comment period? Why, in October 2016, when the Nebraska Department of Agriculture was made aware of the land application of AltEn's stinking pesticide-ridden wet cake throughout Saunders county without the required state-issued label, did the Department of Ag not act immediately to halt the process and initiate enforcement? Instead, the Department of Ag coached AltEn to the agency's prescribed labeling language in order to issue the label AltEn needed to keep spreading the concentrated witch's brew of chemicals. Why? Is it now our policy to coach polluters into compliance rather than protecting Nebraska's people and our environment? Why, since 2015, when AltEn came online producing ethanol, has NDEE issued dozens of letters of warning to AltEn threatening referral to the Attorney General for prosecution and fines of \$10,000 per day per offense without even once following up on that threat? Within recent days, NDEE Director Macy assured members of the Natural Resources Committee when he testified on LB1102 that he has always had the authority to act. So why didn't he? Why is AltEn being allowed to sell off assets like its cattle feedlot and numerous pieces of equipment without any liens or attachments in the midst of this unfolding disaster and while being delinquent in back property taxes for hundreds of thousands of dollars? Are we just going to watch while the company gathers up cash, files bankruptcy, and sticks Nebraskans with the bill for cleaning up this mess? Why has the AltEn site not been submitted to the EPA as a superfund site, which would unlock federal dollars and bring in the expertise needed for the cleanup, restoration, and protection of our water? A disaster of this magnitude certainly demands superfund designation. What about the remediation and restoration needed outside the plant's footprint,

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which the interim remediation plan provided by seed manufacturers fails to address? Are Stan and Evelyn Keiser to be left on their own to restore their destroyed six-acre pond on their century farm six miles downstream? What about Ray and Emily, Emily Loftus, who had to abandon their dream home just north of AltEn and flee for the health and safety of their young family? What about the millions of dollars of ag research investments put at risk at the university's NREC facility, which borders AltEn? What about the family-owned farming operation bordering AltEn, which is in the midst of turning a significant amount of cropland into strictly organic production, a certification now at risk because of the AltEn disaster? These are Nebraskans. These are our friends, our families, our neighbors. And lastly, here's the question we receive most often. Why isn't someone in jail for treating Nebraskans like a-- for treating Nebraska like a dumping ground for toxic waste and its people like worthless collateral damage? It's not lost on anyone that a former Saunders county attorney was installed as upper management at AltEn after being voted out of office following his being investigated and fined for abuse of his office. AltEn's upper management has done nothing but thumb its nose at NDEE. Why has this long-term behavior been tolerated? So at this juncture, we have no idea what the final price tag will be for taxpayers. The very seed companies that sent their chemically treated seed to AltEn are guiding the short-term management of the AltEn site through subcontractors, one of which is a serial polluter right here in Nebraska. When the seed companies pull out, and they will, what's the plan for long-term cleanup and who will pay for it? Friends, colleagues, we have a job to do. This committee's work should not be a blame assignment effort. Rather, it should be a fact-finding, solution-oriented journey to the truth so that we can put into place remedies for the future. I urge you to pass this resolution out of committee with your full support and help us find a path to make this committee happen. Nebraskans deserve better, and this is your opportunity to show them that we can do better. With that, I know that we've been given a limited amount of time. I'm hoping that that actually changes because we do have so many people here in support, but I would ask that you would save your questions for my closing to help expedite this forward.

HUGHES: Thank you, Senator Blood. Are there any questions from the committee members? Very good. Thank you. There has been a change. We have no need for an Executive Session so we will be going to 1:30, but that is a hard cap for us. So we will try and accommodate as many testifiers as possible. With that, we'll open up testimony of proponents to LR159CA SIC].

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RAY LOFTUS: Thank you.

HUGHES: Welcome.

RAY LOFTUS: Hi. My name is Ray Loftus, R-a-y L-o-f-t-u-s. I reside at 1444 County Road 10, Mead, Nebraska. I'm not sure if there was any other that you needed. That's it? OK. I'd like to start off my statement with saying good morning to all of you and appreciate you coming here and listening to us today. We're less than-- our, our house is less than four-tenths of a mile, so not even a half a mile from AltEn's property and where all the waste is being stored and we're just straight north of there. On November 10, we bought our dream home and on November 11, I proposed to my beautiful wife and our journey began as a family to be, just far and away-- far enough away from the city life to raise up children with good country values. Everything was on, was on track and in 2015, our son was born and then our daughter was born in 2019. The AltEn plant was up and running around the same time that our son was born. That's when the smell became horrific. In 2015, I was only five years into my ten-year project, making this old farmhouse a livable home with all the bells and whistles, trampoline, swing sets, four-wheelers for kids. And after my son was born in 2015, everything-- he was born healthy and everything. So when we got home, he started having respiratory issues, which we talked up to possibly being asthma or anything. So we started going to the doctors and they've done a few breathing treatments. We've had to do a few breathing treatments. Within that time that we've left Mead, his health has gotten better. Thank you. Trusting that NDEE and the EPA would be doing their job and protecting the innocent people from the wrong that we now know AltEn was putting out. When the Guardian posted an article in the late 2020, we got alarmed and started following this more closely. Now, by the end of the summer of 2021, after speaking with Dr. Schalles, Rogan, and Wu-Smart in a town hall meeting, we gathered-- oh, boy-- we gathered enough information to realize the magnitude of this problem. No more bees, rabbits, squirrels, or even those Japanese beetles that no one can get rid of. They were gone. And I don't mean gone, I mean dead. When the doctors informed us the air quality was very bad for the very young and the very old, we tried to call the state of Nebraska for assistance, hoping that they might be able to declare us an eminent domain or anything. And then after contacting NDEE, they told us that they couldn't say it was safe for our kids to live there without a lot more data. And less than ten days after that, we put an offer in on a house in Papillion and we moved 19 days later. Fortunately, we were able to do that, but most are not. Nobody in this room would put their children at risk like that. And, you know, the kind of trauma that it

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causes, you know, uprooting children with daycare and new schools, trying to develop a good life pattern, and that all changed. And I'd like to know if anybody in here would like to buy my dream house in the country, you know? Two acres, full of kids' play equipment. Just don't breathe, though, because you'll be all right then. I'm a 51-year-old veteran. How do you put a price on ten years of your life to raise a family? Can anybody tell me who's going to pay for this? And I'd like to close by thanking all of you for listening to my story.

HUGHES: Thank you, Mr. Loftus. Are there any questions from committee members? Seeing none, thank you for coming in today.

RAY LOFTUS: Thank you.

HUGHES: Next proponent.

STAN KEISER: I got some handouts here.

HUGHES: Welcome.

STAN KEISER: Wel-- thank you. It's a beautiful day in Nebraska, we think. Good afternoon. My name is Stan Keiser. For the record, my name is spelled S-t-a-n K-e-i-s-e-r. As you are aware of, my wife and I have a four to five-acre private pond located approximately six miles southeast of the AltEn plant. In 2016, we had a complete fish kill. AltEn started up in 2015 and has confirmed that they used treated seed with the pesticides in their alcohol plant. We asked that a study be performed to determine the best paths to mediate our pond. This would include removing the contaminants as well as the settlement. The hope would be that the pond water is removed and treated as part of the AltEn site cleanup. This would mean we would like the water hauled off our property and taken back to the AltEn facility to be run through their filtration system. The settlement will be needed to be removed, hauled off our property, and appropriately be disposed of as well. Our pond will require a new liner seal, as the removal of the settlement will impact the integrity of the pond and our well water of which is only 40 foot deep and it approximately sits 100 yards from the pond. The NDEE tested our well in 2021. Pesticides below EPA standards were found in our drinking water. We ask that the fish habitat be restored and continued testing to the water quality is done to ensure that the pond is sustainable for future generations. We would also like to see the installation of entrapment structures, also known as retention features or buffer strips, be implemented upstream from our pond. This would help in controlling the interests of nutrients, contamination,

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and settlements, along with being helpful to monitor the water quality. This otherwise is known as the inlet control system. This would also affect the continuation of water downstream in the aquifer. Our private drinking well would need to be continually monitored to determine if the contamination will adversely impact our water quality and any required to make it a safe source. We personally feel the need for the filtration system for our home and for our livestock waters. It would require a filtration system in our wells and our shop, which feeds our house, shops, and livestock. In previous correspondence, Mr. Steve Goans of the NDEE-- emails, so and so-- a draft proposal from JEO Consulting Group was presented that outlined the pond restoration process that we requested as a quote guide to the process required to remediate the pond. We are asking that NDEE, along with AltEn Facility Response Group to consider engaging this-- these legal experts that we trust to assist with this project of cleaning up our pond. We do acknowledge-- and at the bottom, I'll say one last thing. The NDEE did a baseline test on our pond water under the ice prior to the plug being released prior to the breach. It was in our structure before the breach. Thank you.

HUGHES: Thank you, Mr. Keiser. Are there any questions from committee members? Seeing none, thank you for coming in today. Next proponent. Welcome.

ANNE HUBBARD: I'm Anne Hubbard, A-n-n-e H-u-b-b-a-r-d. I am a retired physician. I practiced pediatric radiology for 35 years, most of which was at the Children's Hospital of Philadelphia, looking at diagnosis of prenatal fetal anomalies. I moved back to Nebraska in 2005. I'm a fourth-generation Nebraskan and proud to be back here. In my work at the Children's Hospital in Omaha and UNMC, I began to learn more about issues specific to our state. We are number seven in the country for pediatric cancers and those other six-- the six leading ones are in the Northeast and those cancers occur predominantly in agricultural areas along specific watersheds. We have high incidence of prenatal anomalies also, particularly spina bifida. So with that, I became more interested in environmental issues and have traveled the state extensively. Anyway, so I retired. With my retirement time and while I still had good brain and I had some money, I wanted to do something that I thought could really make an impact in our state and that had to do with talking to people across the University of Nebraska. So in 2020, a new center for water, climate and health was funded at the college of public health, but it works across campuses so trying to bring that science together. I know I've talked with the chairman or Chancellor Gold rather numerous times as he talks about treating cancers and all the innovative things we can do and we can't, which is

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work on prevention. So that's where I am. So anyway-- and I know seeing what happened in Flint, Michigan, and some other places. In Flint, so many children were poisoned from that lead. And by the way, Nebraska is number one in the country in lead poisonings, but that's not what we're talking about today. So anyway, what happened in Flint, I mean, there was a legionella outbreak when they changed the water. And then later on, you find out about all the lead poisonings, but that was a typical deflect, deny-- and anyway, for years, people were exposed to toxic chemicals. But when I saw that article in the Guardian after we had started the center for water, climate, and health, I was just stunned that this was happening 25 miles from my house, that this much chemical contaminant was in one community. As some asides, it's 60 years since the publication of Rachel Carson's Silent Spring. That had to do with DDT and its effect on wildlife. These-- well, DDT and these chemicals are forever chemicals. There's-- was a study that came out last year from University of California-Davis. Girls exposed-- fetuses, female fetuses exposed in the 1960s, their grandchildren-- now have granddaughters-- have effects of that chemical exposure, which is cancers-- anyway, reproductive health issues. So I was horrified that we did not do anything, that nothing happened really. Citations were given, but no enforcement over at least five years.

HUGHES: Dr. Hubbard, your red light is on. If you could wrap up, please.

ANNE HUBBARD: Well, anyway, that's the thing is, like, nothing was done again in an area where there was gross chemical contamination. And somebody else can tell you-- I mean, the neonicotinoids are also shown to have effects on brain development, neural development, not just in the bees, but also in humans.

HUGHES: Thank you, Dr. Hubbard. Are there questions? Senator Pansing Brooks. Dr. Hubbard, please wait for a second.

ANNE HUBBARD: Oh, sorry.

PANSING BROOKS: Thank you for coming, Dr. Hubbard. I appreciate your being here. So-- and thank you for your work as a physician for children and now as an advocate for Nebraska. I'm wondering before you retired, did you see some of the effects of any of the people at Mead or any of that area? Have you run across any of the children or did you retire before that?

ANNE HUBBARD: I retired in 2015--

PANSING BROOKS: OK.

ANNE HUBBARD: --so no, I hadn't.

PANSING BROOKS: OK.

ANNE HUBBARD: And I did not know-- Mead wasn't on the radar for some of the watersheds that they've been looking at, at the college of public health. So when that came up, most of us were surprised that that was happening.

PANSING BROOKS: And you talked about spina bifida. I thought that was a genetic disease.

ANNE HUBBARD: It can be environmental.

PANSING BROOKS: Environmental as well?

ANNE HUBBARD: Yes, yes.

PANSING BROOKS: I didn't know that. Thank you very much.

HUGHES: Any additional questions from committee members? Seeing none, thank you, Dr. Hubbard. We will now switch to opponents. Are there any opponents who wish to testify? Welcome, Director Macy.

JIM MACY: Good afternoon, Senator Hughes and members of the Executive Board. My name is Jim Macy, spelled J-i-m M-a-c-y. I am the Director of the Department of Environment and Energy. I'm here today testifying in opposition to LR159. First, department is transparent. For a decade, we've had a robust public portal that allows public record review on facilities. Many of you know we've devoted a special web page to keep the Mead and Saunders County residents and the public informed about activities related to the cleanup at AltEn site. Residents of Mead and surrounding area are our primary focus as we work on this cleanup. That's why I led the effort to open a direct line of communication with Mead community leaders. We share our information and we listened to their questions and their concerns. I believe this meaningful dialogue has been mutually beneficial to all of us. We also worked with the Natural Resources Committee, the department's committee of jurisdiction, to keep members informed of the activities at the site. Senator Bostelman, the committee's Chair and Mead senator, asked us to work on LR152 during the interim to look at additional tools to help us protect Nebraska's environment. That effort resulted in LB1102, which the senator introduced on our behalf. Finally, this matter is in litigation. The Attorney General filed an

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unprecedented 98-page lawsuit nearly a year ago on behalf of the state of Nebraska and the Department of Environment and Energy. This outlines numerous environmental violations at the AltEn site. It provides many details in what occurred and the environmental violations at the site. The complaint was filed on March 1, 2021. In conclusion, while there's still much work to be done at this site, here are a few highlights on the progress made in the past year. Yesterday, after nearly a year, I signed an administrative consent order that resolved the contested case on emergency orders. AltEn agreed to certain compliance obligations initiated under those orders and agreed to further work, including a groundwater assessment. It will be posted today on our website. We coordinate with EPA on treatment, monitoring, and inspections. We sample public and private wells. Groundwater shows no levels of pesticides above EPA human health benchmarks for drinking water. Six seed companies formed the AltEn Facility Response Group, AFRG for short, to join the Nebraska's voluntary cleanup program. They continue interim and emergency remedial measures and further work towards cleanup at no cost to the Nebraska taxpayer. They hired contractor, contractors to develop a treatment system to reduce the levels of pesticides in the AltEn wastewater and have treated approximately 12 million gallons of water to date to nearly nondetectable contamination levels. AFRG's contractor designed, constructed, and are using two unplug-- two planned new lagoons on the AltEn property to hold the treated wastewater. The two lagoons together will hold approximately 52.2 million gallons of treated wastewater.

HUGHES: Director Macy, your red light is on.

JIM MACY: I just have a few--

HUGHES: Wrap up.

JIM MACY: --seconds, OK? Two 4 million-gallon digesters on site have been emptied and the wastewater and will be treated. The AFRG's contractor consolidated three wet cake piles at the facility to one location and have appropriate storm water control. In conclusion, we continue our active oversight of the AFRG and we do three inspections a week. We conduct quality engineering reviews and process necessary permits in an efficient but protective manner, all while producing information, feedback, and approval. We're committed to working with the local leadership and we have been and will continue work-- to work with the Mead community until the site is cleaned up. Happy to take some questions if you want.

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HUGHES: Thank you, Director Macy. Questions from the committee?
Senator McCollister.

McCOLLISTER: Yeah, thank you, Mr. Chairman. Thank you for being here.
Has the site been designated a superfund site, which would bring
additional federal resources to the issue?

JIM MACY: No, it has not.

McCOLLISTER: Why not?

JIM MACY: Because we have six seed companies that have entered into a
voluntary cleanup at no cost to the taxpayer. When you enter into a
superfund site, the state is obligated, after ten years, to 10 percent
of the cost of that cleanup. We believe that the six seed companies
and the legal proceedings with AltEn at the site that the Attorney
General filed, those two combinations together are effectively
cleaning up the site at no cost to the taxpayer.

McCOLLISTER: If that doesn't result in a satisfactory cleanup, will
you bring in the federal government and declare it a superfund site?

JIM MACY: We are already working with EPA. We coordinate with EPA on
almost everything that we do at the site and we are looking towards
the future. So we're going to see if this voluntary effort works first
and then we'll use any tool that we have in the toolbox to clean up
the site.

McCOLLISTER: Thank you, Mr. Macy.

JIM MACY: Thank you.

HUGHES: Additional questions? Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for coming, Mr. Macy. I, I'm
wondering, do you, do you have open meetings on all of this?

JIM MACY: We will have open public meetings on future permitting
actions and we'll have an open public meeting when the Facility
Response Group compiles their final action report on what they propose
to do during this final voluntary cleanup site.

PANSING BROOKS: OK, so right now you are not having them?

JIM MACY: We have not to date yet.

PANSING BROOKS: OK. Why is that?

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JIM MACY: Because we're in an interim phase of the cleanup. The Facility Response Group, the voluntary seed companies are developing a plan and they need to put that plan together and get it in a-- into an order to where they can present that to us and the public and then have public comment.

PANSING BROOKS: So you can imagine, as a state senator, we are getting lots of complaints and concern about all of this and our duty is to respond to our constituents. And so I understand that your testimony suggested that you feel that you're doing everything necessary, but the problem is we have to be responsive to the public as well. And if people are suggesting that the department is not being transparent, that's a concern. And so waiting until you've gone through all of your process, that's, that's concerning to me when I hear, no, we'll decide what the process is and then tell the public what it is and they can comment. I mean, it seems like there ought to be able to-- do-- who are the people that are investigating and who are, who are the people in these meetings now, people you've chosen?

JIM MACY: They're local leadership at Mead. Senator, we're following the statutory guidelines that's offered to us through the Legislature as we process to clean this site up. We're confident that we're very transparent on, on this site. So we're just looking to the future and getting this site cleaned up. Right now, to date, we're trying to make the site safe. That's the reason that we are taking all of the proactive measures, doing all the monitoring, all the testing, involving EPA. So I, I disagree. I think we're being very transparent.

PANSING BROOKS: OK. The problem is we have a lot of pressure to find out what's going on and so I hope you'll send some of those studies to us that you talked about that you-- you had mentioned studies just a minute ago that you've done that, that things are turning around. I'd like to see those.

JIM MACY: All of, all of the information, all of the information that is not privileged through the Attorney General's Office is on our website. We have even put a repository of significant records at the Mead Library. So between updates on almost a daily to weekly basis, the information that we provided at the library, the discussions that we have with local elected leadership, I think we're being very transparent. And I understand the need for a public discourse on this at the appropriate time when we can bring a proposed plan that then will be subject to public scrutiny. And then if, if the public and, and the department or EPA have comments or concerns on that plan, that's the time that gets adjusted and then a final remedy is offered.

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PANSING BROOKS: So in the group that you have selected to look at all of this with you, do you have experts in hazardous waste?

JIM MACY: We're involving, yes, senator, all the experts that are available to us. We're con--

PANSING BROOKS: That, that--

JIM MACY: --consulting with EPA. That's who we report to and-- in terms of our delegated programs and we are involving them in our decision-making.

PANSING BROOKS: Experts in hazardous waste and spill?

JIM MACY: Certainly.

PANSING BROOKS: OK, thank you.

JIM MACY: Thank you.

HUGHES: Senator Vargas.

VARGAS: Thank you for being here.

JIM MACY: Thank you.

VARGAS: I had a question. It's about what you said previous, that we would be waiting until after these lawsuits or the AG's lawsuits. Walk me through-- I don't understand why we would wait to then apply for a superfund site when there is a lengthy process for a superfund site designation and we would-- my understanding is even-- you know, and it was referenced by Dr. Hubbard-- even when we've had other superfund sites that have had litigation, you still follow through on applying for a superfund designation because usually the lawsuit doesn't always cover the costs of the cleanup anyway. So why, why don't we move forward on applying, knowing that we're still going to have to need to cover more than just what the lawsuit might cover? Like, why, why don't we move forward now?

JIM MACY: OK. So Senator, maybe the red light cut off some of my testimony. There are two paths that we are on currently.

VARGAS: OK.

JIM MACY: There's a litigation path that was the 98-page complaint that was filed by the AG and that's with the AltEn facility. There's also now a voluntary cleanup path with six seed companies that have

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financial resources and technical resources to clean the site up. They've entered into a, a voluntary agreement with the state, with our department to clean this site up. So those are currently the two paths. The superfund path that you discuss, it's a lengthy process. It's another tool in the toolbox should these other two things not work. But currently we have a lot of remediation that's going on site at no cost to the taxpayer. Superfund sites do cost the taxpayer a lot of money. So I think it's prudent to use the voluntary cleanup method to clean up the site. We've used it in Lincoln at the Pinnacle Arena facility in downtown Lincoln and other sites across the state. This program is very successful and it can work.

VARGAS: And I, I don't disagree with you that it might be successful and it can't work. The concern I have is we have taxpayers here testifying that are saying they want as many resources put together to be able to address this. And so hearing that we would wait because it's a-- well, it's on the taxpayer and it would be expensive on them when they have so many pending threats and issues with health concerns in their communities, it doesn't add up. We should be overexhausting these. I appreciate the answer, but that's just-- I'm really concerned that-- since we have people testifying about the need. Thank you.

JIM MACY: Thank you for your comments.

HUGHES: Additional questions? Senator Lowe.

LOWE: Thank you. Thank you, Director, for being here. You said your testimony may have been cut off or shortened down. Is there anything else you would like to, to say?

JIM MACY: Just, just that we are very diligent and actively involved with this site. We're inspecting it three times a week. We have good cooperation with the six seed companies. They've, they've moved a lot of the material into a safe location. That pile is covered by a product that will keep water off of it. And the more water that we can control at the site, the better off the site's going to be. That's less water that we ultimately have to treat. We understand the concerns about the wet cake and groundwater. We're monitoring that. Matter of fact, the, the, the document that I just signed yesterday that will be posted on site reflective of the emergency order puts AltEn at a responsibility to do groundwater study. So a lot of diligent work by our legal counsels within the agency, with our Attorney General. There's two significant paths to this and, and we're using all those tools to get this site cleaned up as quickly as possible.

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LOWE: What is the way that you are going to be able to get rid of the residue and wet cake, the, the seed corn that's left? How was that taken care of?

JIM MACY: That's going to be in the final remediation plan, the wrap that comes probably in about two months with the sixth seed companies. So right now, they are, they're studying how the best method is to take care of that material. This is a material product that there's only a couple of laboratories in the United States that can analyze this and, and make determinations. So they are using their in-house laboratory and familiarity with the neonicotinoids to figure out what the best possible way to dispose of this because we don't want to create two problems. We want to get this community cleaned up and we want to get this safe in an area where it will have a final resting place. So we're actively looking for the end decision on that and there will be public participation within that decision-making process.

LOWE: Thank you.

HUGHES: OK. I'd like to ask a question first. So Director Macy, thank you for coming today. So the six seed companies that are in this partnership to help take care of this problem, are they engaging chemical engineers, environmental engineers to try and solve this problem?

JIM MACY: All the resources that they have available, yes.

HUGHES: OK. Thank you. Senator Pansing Brooks.

PANSING BROOKS: Thank you. So thank you, Dr. Macy, again. So you spoke about an online agreement with the seed companies. Is that-- or is that online? You've talked about an agreement with the seed company so is that online?

JIM MACY: All, all, all those documents are publicly available, yes.

PANSING BROOKS: On, on your website?

JIM MACY: On our website.

PANSING BROOKS: OK and I guess my, my concern is why cite them 12 times and not really-- what did you do after you've cited them in the past?

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JIM MACY: OK, so I appreciate that question, Senator, and I hope you appreciate that I think that leads into an area of where we make decision-making with our, our attorneys and that's privileged. So I can't tell you how many notices of violation it takes to, to lead to a decision to refer to the Attorney General. That, that is privileged and I'm sorry, I just can't talk about that part of it.

PANSING BROOKS: It must be 12, right?

JIM MACY: Senator, I'm not going to say it it's--

PANSING BROOKS: OK.

JIM MACY: It, it-- I'm not going to say if it's one or if it's 12. That's privileged.

PANSING BROOKS: OK. Well, thank you very much for being here today.

JIM MACY: Thank you, Senator.

HUGHES: Any additional-- Senator Lath-- or, I'm sorry, Senator McCollister.

McCOLLISTER: Mr. Macy, Director Macy, what are we looking at in terms of the timeline?

JIM MACY: Well, we'll know more about the timeline when the final remedial action plan is, is disclosed. I, I don't have a great crystal ball on that, three to five years, maybe more. Superfund sites are average 15 to 20 years. So this is a complicated process. We want to do it right. We want to get it cleaned up,

McCOLLISTER: But it's not a superfund site, is it?

JIM MACY: I was just comparing the two--

McCOLLISTER: OK.

JIM MACY: --Senator.

McCOLLISTER: Thank you.

HUGHES: Any additional questions? Seeing none, thank you for coming in today, Director Macy.

JIM MACY: Thank you.

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HUGHES: Are there additional opponents to LR159CA [SIC]? Welcome.

BILL THORSON: Good afternoon, Senator Hughes and the Executive Board. My name is Bill Thorson, B-i-l-l T-h-o-r-s-o-n. I'm the chairman on the village board of Mead. We have concerns with the oversight committee, which is LR159. Right now, there's six seed corn companies with a project manager and also multiple engineering firms working to stabilize the site and come up with a cleanup plan. The NDEE has been overseeing this since the large spill one year ago, which they cleaned up in a timely manner. They're giving input on the cleanup plan that is being fine-tuned as of now to get this mess cleaned up. We feel if we add another committee of multiple people to oversee what's already being overseen, will just cost us valuable time and probably more money also. Our other concerns with this committee is that it was stated when it was proposed that it was the people of Mead and the surrounding communities wanted answers. If that is what it's really about, why is no one in the area or even the county being asked to be on this committee, but the people of Omaha and Lincoln are? We would like them to know that-- the senator that is pushing this to know that there's a lot of people and landowners between the AltEn site and the Omaha and Lincoln water wells and they need to be involved in this and they need to be, be known. I'd also like to ask why they've never reached out to the Mead community and where were they at the beginning of this when Senator Bostelman was the only one doing his best to help us? Nowhere to be found and they haven't asked Mead any other concerns or at least the officials in Mead. I'd also like to state that the NDEE on site with a lot of highly educated people working on this and this isn't their first major cleanup that they've had to deal with. Also, LR159, they claim that they're worried about AltEn's reputation and hurting other ethanol plants and agricultural businesses in the, in the area, but yet they have unproven accusations about cattle that can hurt the cattle companies and some people that eat beef. This makes me feel that this has become a political issue and isn't really in the best interest of the people. And with that being said, I'd like you guys to put an end to LR159.

HUGHES: Thank you, Mr. Thorson. Are there any questions from committee members? Seeing none, thank you for coming in today.

BILL THORSON: Thank you.

HUGHES: We'll take one additional opponent before we switch back. Welcome.

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JOHN SCHNELL: Thank you for allowing us to speak today. My name is John Schnell. That's J-o-h-n S-c-h-n-e-l-l. I'm the pastor of a local church in Mead. I've been involved in the AltEn situation since 2015, certainly since 2016. I'm disappointed in this proposal because another person that's been involved since 2016 is Bruce Bostelman, our representative, and he was not involved in the writing of this nor were any of the people in Mead and I feel like that's a significant oversight. So something like this is going to directly impact our future more than anyone else's and yet neither our representative nor local people were involved in this. As one of the local representatives been fighting this since early on, I know great frustration, which I can't express, of trying to wade through the state departments and we have been sent to as many as five different departments over the years trying to figure out who's what and what's where. And they were all trying to do their job and I don't have any complaints against the departments. Everybody was trying to do their job best they could, but it's hard for me to see how another bureaucratic unit is going to help the situation. We are finally seeing progress. Some people may not like the progress. I think some people just don't like the fact that they don't feel that they're informed about the progress and-- but we're finally there and I would hate to see something come into play that is going to shut that down. The ration-- there's several rationales given on this proposal that are no longer applicable also if, if the research was done currently. The voluntary cleanup site with NDEE, I am one of the people that meets with NDEE and the group that meets was not selected by Director Macy. Let me clarify that. It was selected by local people. We said, who are the local leaders, elected leaders or local leaders, who should be involved in this that would be productive for us to communicate then to the committee-- to the community, excuse me. So that's how that came about. Within four months, we were told that the voluntary cleanup group will have a total remedial proposal. I think the timing of this bill is really bad right now. I don't see how you can-- we're sort of saying, hey, we need to shut this down before we know what it is. We don't know what to-- what they're going to propose doing. We don't know how it's going to work. I would think waiting two to four months to see what they propose would be prudent, as well as good for taxpayers not to put a bunch of money forward. We do support a health study. We'd love to see that happen. That ought to be a separate issue removed from the rest of this proposal. And well, I'll just state that I am-- I agree with everything Bill said also.

HUGHES: OK, thank you, Pastor Schnell. Are questions from the committee members? Senator Lowe.

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LOWE: Thank you. Thank you, Pastor Schnell, for being here. What is the attitude of the people in Mead and are they united or are they divided or--

JOHN SCHNELL: I think what we run into is when people are asking questions and when we're able to provide good answers. You know, one of the reasons for the meetings the way they are is because if you have a public meeting and you have somebody that actually has an intelligent question, they tend to get shot down by somebody who's there very, you know, emotionally. So the meetings have allowed us to then go talk to them and provide information, as well as direct them to the website. I've gone to the website myself a lot of times, downloaded information and provided it to a community member, and that actually answered their question. So once we are able to talk to them and say, hey, here's what's going on and here's where it's going-- and a lot of the questions they have can't get answered. I think we're all tired. We're all tired. And when you're tired, you get frustrated. So we'd all like to see things happen. We're starting to see things happen now. So I think overall-- again, I think we're, we're united in wanting to see AltEn cleaned up.

LOWE: Thank you.

HUGHES: Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you very much for coming here, Pastor Schnell. As, as you know, this came before us-- and I have talked with Senator Bostelman about some of this so I don't know if he is or is not involved with Senator Blood on, on this proposal, but please understand that when something comes to us like this, it is our duty to look at it and to-- you know, I have heard about the closed-door meetings. People are not happy about that. And you can imagine that if you weren't included and didn't know what was going on, you probably wouldn't be very happy about it either. Now, you're trusting the process as you see it from within and for the rest of us, as representatives of the state, it's our duty to make sure that the people are being cared for in the state and that means that we have to oversee the departments in our government that we are partially in charge of. So I just hope that you can understand and not come here critical about the fact that we are looking at this. You're saying in two to four months that we may know more. We move slowly enough in the Legislature that if we wait two to four months, we're going to have to be dealing with it next year. So that's part of the problem that we're faced with if there is need, if there's something that comes out in two to four months. If everything's going great, then, then there's no

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problem with a special investigative committee. So to me, I'm not quite sure why anybody would really be against it because if everything is going well, then perfect. And if there is need for more help or more help from the state, then we come together and are able to work on it over the summer. At this point, if we don't go forward on something, there's no way that, that the state's going to be able to do anything until next year at this time. So that's our concern. You can understand it, I presume. And I understand that you feel things are going well, but the people we are hearing from are feeling like they aren't in the loop and that they don't get to participate in something that is affecting their health and their lives. And maybe it's not, maybe it's not being done appropriately, but that's why I think it's good to have the state involved and asking questions and the Legislature.

JOHN SCHNELL: Can, can I-- may I--

PANSING BROOKS: Sure, I'd love to hear, yeah.

JOHN SCHNELL: And I don't know if you're hearing from Mead residents or if you're hearing from people from outside the Mead area that have--

PANSING BROOKS: Both.

JOHN SCHNELL: --alternative agendas.

PANSING BROOKS: Mead residents too, yes.

JOHN SCHNELL: OK and so what-- you know, what I would say is that there's a lot of agendas that we run into in the last couple of years. And to this-- for this oversight, this whole development of this, not to involve our senator, I think-- you want to talk about being shameful, a word used earlier, our senator should have been involved and from the ground floor of this. And so, you know, there's just a lot of other agendas right now involved in this and you don't have to be on Facebook very long or social media to pick up on that.

HUGHES: Any additional questions from committee members? Thank you, Pastor Schnell, for coming in today. So we will now switch to neutral testimony. Is there anyone wishing to testify in the neutral capacity?

JUDY WU-SMART: Thank you.

HUGHES: Welcome.

JUDY WU-SMART: Good morning or good afternoon. My name is Dr. Judy Wu-Smart, spelled J-u-d-y W-u-S-m-a-r-t. I'm an assistant professor and extension specialist at the University of Nebraska-Lincoln in the department of entomology. I want to first thank the committee for this opportunity to testify. I'm here in a neutral capacity as an expert representing myself and not as a representative of the university. I've been studying various aspects of impacts of pesticides on bees for about 15 years, including research on the effects of systemic neonicotinoid insecticides, which can move into floral nectar and pollen and that is where bees and other pollinators may become unintentionally exposed and harmed. I'm here today to inform the committee that, according to the National Agricultural Statistics Survey data, the number of honeybee colonies in Nebraska during peak pollination season was about 70,000 hives. It has now dropped, in the last five to six years, to 43,000 hives. Just consider that for a moment. Honeybees are classified as agricultural livestock for the pollination services that they provide and Nebraska has lost roughly 38 percent of our commercially managed pollinators, yet few are aware of this fact. Unfortunately, our state does not have a mandatory registry or a state apiculture inspector so I'm concerned that these self-reported numbers are inaccurate and many of them-- many of these beekeepers do not reply to the surveys so we really don't have a good understanding of the accurate losses in our state and the impacts of the reported losses. High honeybee losses are attributed to unsuitable landscapes, pesticide exposure risk, and high pest pressures. These losses have led to statewide pulling out of entire beekeeping operations, many of which are providing our state with pollination services provisionings, honey production revenue, and employment opportunities, much of which are in these rural communities. Many people have already heard the commonly referenced fact that one-third of our diet is dependent on insect pollinators, but less known is the fact that the commercially managed bees contribute roughly 80 percent of that. This critical pollination services directly affect the production of many of our nutritious foods, including fruits, nuts, and vegetable crops. A lot of this conversation has about-- been focused on the effects of or on the impacts and investigations on site and what is happening directly at the facility. But a special investigatory committee may help determine not only the environmental, ecological, and human impacts locally. Offsite, how much of it has spread and how far downstream do we need to be concerned? For example, we don't know what's happening to Nebraska's bees. Are there concerns that some of these pesticide contaminants have entered various food systems intended for the consumption of livestock or humans? These are questions that need to be answered. Bees are bio-indicators of our

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environment and can help us become better stewards of our land. While many may not care about losing a few bugs, the widespread loss of insects hinders ecological services critical for sustaining agricultural food production systems and keeping our natural resources. LR159 seeks to address critical gaps in our understanding of what has happened and how to prevent this from occurring. Thank you and I will take any questions.

HUGHES: Thank you, Dr. Wu-Smart. Is that correct?

JUDY WU-SMART: Yes.

HUGHES: Thank you. Any questions from committee members? Senator Geist.

GEIST: Early in your testimony, you talked about the drastic reduction of the bee colonies. Are you drawing a correlation between what happened in Mead to that?

JUDY WU-SMART: No, I can't. What I can say is that the commercial beekeepers that have left our state said they left the state because they were experiencing 60 to 80 percent losses. Consider, consider this in any other livestock sector. If the businessperson was losing 80-- 60 to 80 percent of their annual livestock inventory, you couldn't blame them for pulling out, for removing their business. And this includes the largest beekeeper in the U.S. who had an operation here.

GEIST: Were those colonies close to Mead?

JUDY WU-SMART: These colonies represent apiaries all across the state and so somebody would need to go to that beekeeper and ask them, where were the 300 apiaries that you had bees kept? Which ones were the ones that experienced the highest losses? We don't have a state apiculturist to do that service. I conduct research and I, and I help teach beekeeping courses and training, but that's not my role. We need more resources and help to determine what are potentially the statewide ramifications of this improper practice.

GEIST: Thank you.

HUGHES: Any additional questions? Senator Lowe.

LOWE: Thank you and thank you. Dr. Wu-Smart. What is happening across the United States as far as bee population? Do you see similar

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reductions in populations across the United States or is this specific to Nebraska?

JUDY WU-SMART: There are people and beekeepers all across the U.S. that have reported bee declines consistent and some are related to pest pressures and some are related to pesticide exposure risks. There are certainly a lot of studies that have come out to show that areas that are in the highest demand for pollination services are also the same areas that grow the most crops and have the highest exposure risk. So there is a need across the nation to reevaluate the risk and benefits of these chemical uses. Where can we reduce the use, where is it actually helping, and where are the costs outweighing the benefits? And in this case, I think we have been-- Nebraskans are really receiving most of the costs where the benefits have been very few in terms of these products. So we have to do-- there is a strong interest in what's happening in Nebraska. Because of that federal exemption, there are independent states that are looking at statewide or state-specific restrictions on how to, how to handle these products from the birth to the disposal practices.

LOWE: These commercially managed bees that you say-- they're brought into the state from, from aviary-- what are they--

JUDY WU-SMART: Yeah, apiaries are just kind of a location where hives are located, yes.

LOWE: OK. They're brought into the state to pollinate to, to-- during the off-season somewhere else?

JUDY WU-SMART: It's a mixture. There are, there are commercial beekeepers that are migratory, which are beekeepers that move from state to state to fulfill pollination contracts of particular crops. Then there are stationary beekeepers. Most of Nebraska beekeepers are stationary. They produce honey in a particular area. They service the crops in their local area, but they don't migrate from state to state. We in our state have a mixture of both. Some of them will also migrate out of the state to overwinter their hives in more suitable conditions and then come back into the state for honey production.

LOWE: Are both the local beekeepers and the ones that move from state to state, are they seeing similar losses?

JUDY WU-SMART: It's, it's a complicated issue because there is poor management involved in terms of how successful a beekeeper is. Commercial-- the three major commercial beekeepers that have pulled

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out from our state were the ones contributing the most of these pollination, about 30 percent of those hives. They claim that the pesticide pressure and pest pressure was too much for them to overcome their inventory. The local beekeepers, the hobbyist beekeepers, it's hit or miss because they're here every year. They recover their losses, they bring in new hives, they kind of-- you know, so they have good years and bad years. It's the beekeepers that manage thousands of hives that can't take that risk and they will pull out to another state completely.

LOWE: OK. Thank you.

HUGHES: To my committee members, we have several people who would like to testify yet so let's kind of maybe keep our questions to a minimum on, on specific points. Any additional questions for Dr. Wu-Smart? Seeing none, thank you for coming in--

JUDY WU-SMART: Thank you.

HUGHES: --today. Any additional neutral testimony? OK, we'll switch back to proponents. Welcome.

JANECE MOLLHOFF: Thank you. Janece Mollhoff, J-a-n-e-c-e M-o-l-l-h-o-f-f. I live in Saunders County and we want answers. It's the job of our state regulatory agencies to protect air and water, safeguard human health, and maintain the health of our ecosystems. That did not happen in Mead and since there's been a lack of public hearings from 2012 forward when the first permit was approved for the use of seed corn at the plant, it's time for an investigation. How did we get to 99,000 tons of contaminated wet cake and sludge covering 16 acres on unlined ground, 173 million gallons of pesticide-laden wastewater, and a spill that contaminated waterways and farm ground over six miles downstream? NDEE's benchmark for success is how many days it takes for them to approve a permit. However, there's no metric for ensuring compliance once the permit is enter-- is issued. In their annual report to the Legislature, there's no accounting for the quality of air, water, or soil that they are supposed to manage. There's a list of spills, but no record of the damage caused by those spills or how they were remediated and no mention of how our natural resources are faring. The Legislature should know how many letters of warning are currently outstanding across the state that have not been resolved. What is the standard for time allowed to pass between NDEE warns they will levy fines and when action is taken? AltEn was cited again last September for not submitting a required report after they once again discharged contaminated water. It's not surprising that bad

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actors would locate in Nebraska when they can see a pattern of lax enforcement of regulations in Nebraska. The AltEn disaster is now a year past and the remediation plan has not been approved nor a public hearing scheduled. Now we want, what, three or four more months? That plan was due last summer, the deadline was extended to November, and now it's not even-- there's no published deadline. Why are the seed companies who contributed to the contamination in charge of remediation and not the EPA? Why have there been so many delays when we have clear documentation of groundwater contamination at the site, at least one dead fishpond from runoff, and continued violation of permits? Why didn't NDEE work more closely with the Department of Agriculture and natural resources district to ensure that output from the seed corn ethanol production was tested and restricted according to established guidelines? Why was there no testing of pesticides in the air, water, solid waste, or soil in 2018 if NDEE knew earlier that there were concerns about the operation? If they always had authority, as Mr. Macy says, why did they not act until 2021? If there are gaps in regulations that prevent action, how can the Legislature remedy that? All across Nebraska, public and private wells are increasingly contaminated with nitrates and harmful chemicals. State agencies working together can address this problem. You should find out why they failed at AltEn because if we wait, the water, air, and soil are already contaminated. It's too late. I would be happy to take any questions.

HUGHES: Thank you, Mrs. Mollhoff. Are there any questions? Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for being here, Ms. Mollhoff. Do you, do you know of any people or animals who were sickened or hurt by the wet cakes and--

JANECE MOLLHOFF: Yeah, I believe that one of the online comments that you got as a proponent for this was from a Kevin Binkley. He had to pay over \$760 to save his life-- his dog's life in March of 2019 because he was out hunting and his dog ate some of the wet cake that was scattered around in a field. The vet said that whatever chemicals the seed corn was treated with is most likely the cause. So yes, this is-- the, the pesticide levels in the groundwater may be less than what's harmful to humans because we don't know what level is harmful to humans, but it certainly is harmful to bees, other insects, and wildlife of all types.

PANSING BROOKS: And I just-- I wanted to clarify some of the discussion we had earlier. The Chairperson of Natural Resources

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Committee is Senator Bostelman so he would be integrally involved in this.

JANECE MOLLHOFF: He would be on the, he would be on the committee.

PANSING BROOKS: And I, I agree that somebody from Mead should be on that committee, but that's-- that can all be determined, how we organize all that. And of course, if they are part of the Legislature, they'd have to be nonvoting members, so. That's the same thing with a Lincoln and Omaha representative, so anyway.

JANECE MOLLHOFF: Just-- so this, this LR was submitted last session so it was submitted in a timely manner. This hearing has been delayed and so that's why it's been so long between-- when, when the LR was submitted, some things have changed so we have to recognize that.

PANSING BROOKS: Thank you. I did not recognize that so thank you very much.

HUGHES: Senator Vargas.

VARGAS: Thank you for being here. I just wanted to acknowledge and I appreciate this because I think some of the other opposition testimony, which is warranted and, you know, everybody's entitled to their perspective and opinion, but oftentimes we create these committees and it could be seen as a roadblock. But I mean, what you're laying out, our legislature has a responsibility for identifying the process, for reviewing whether or not timelines were adhered to or citations were enforced. If authorities or entities or agencies don't have the authority to do something, we change legislation as a result of that and so that's what this can do. I don't see it in conflict with what is currently happening in terms of the cleanup. And I just appreciate you outlined this and this and hopefully provide some answers for some of the testifiers, both opposition testimony as well. So thank you.

HUGHES: Any additional questions from the committee members? Seeing none, thank you, Ms. Mollhoff. Next proponent. Welcome.

MARY ANN VINTON: Thank you. Good afternoon, everyone. My name is Mary Ann Vinton, M-a-r-y A-n-n V-i-n-t-o-n. I'm a biology professor and I direct the environmental science program at Creighton University, where I've been for 27 years. I grew up on a ranch in the Sandhills and my Ph.D. is in the field of ecology. I'm here representing myself and I have four primary motivations for, for being here that really spring for my, from my experience as a scientist and as a person

raised in rural Nebraska. First motivation: the AltEn plant was the only ethanol plant in the entire country to accept pesticide-coated seed in this kind of volume, which has left Mead and the surrounding area really infused with contaminated soil, air, and water. Why here? Why Nebraska? Is there something about our state, our rural areas, and our residents that makes it OK to accept pollution exposure that no other state would accept? Of course not. I would never accept this for my friends and family who live in rural Nebraska. Second, a little bit about the pesticide-coated seed. It contains fungicides, as well as those neonic insecticides you heard about. What is the fate of these substantial amounts of pesticides that are in AltEn's massive wet cake and wastewater lagoons? What changes has it wrought to soil food webs as well as aquatic and terrestrial life? We don't know yet. Other studies do show that neonics can have a-- serious effects on a whole array of vertebrate animals, including humans. Some of those effects are nervous system impairment, brain development abnormalities, embryo deaths, low birth rates, short or long-term damage to major organs like lungs, heart, and liver, endocrine and immune system disruptions, and reduced fertility. Younger individuals are generally at greater risks. I don't have time to go into fungicides, but biologically, fungi are much more closely related to humans and other vertebrates. So antifungals, these fungicides potentially cause more harm to animal cells than do pesticides that are designed to kill bacteria or insects. Finally, the-- a word on the longer-term fate of pesticides at this site. What will happen to the neonics and fungicides after the giant waste pile of wet cake mixed with soil and settled sludge from the waste lagoons is capped? I'm not seeing any plans for a liner to stop the leaching of highly toxic chemicals into the local Todd Valley aquifer. Plus, those massive amounts of added organic matter will rot undoubtedly and can form highly explosive and toxic gases. Clearly, the major measures called for in this spill are really needed to help us as Nebraskans assess the damages and mitigate the harm to the environment that this catastrophe wrought by the actions of AltEn. I've included a fact sheet compiled by my colleague at Creighton, Dr. John Schalles, who's an eco-toxicologist and ecologist who has been active in monitoring and researching contaminants at AltEn. Thanks very much.

HUGHES: Thank you, Ms. Vinton. Are there questions from the committee members? Seeing none, thank you for coming in today. Next proponent. Senator, welcome.

AL DAVIS: Thank you. We're good there. So I'm going to take a few minutes in my-- pass my letter. I'm going to ask you-- you can read that later, but if you listen to me more, I think it might make more

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sense because some of the comments I want to-- I want to answer some of the questions that we heard earlier. My name is Al Davis, A-l D-a-v-i-s, so I'm going to read a little bit that I think is pertinent here before I go on. So an ecological disaster is slow and unfolding, which contributes to the overall damage they can do, and that's exactly what happened at AltEn. It took a number of years, a lot of complaints from people in Mead before people in Lincoln were starting to pay attention to what was going on. In the meantime, the company is, is masking up wet cake. The Department of Agriculture issued permits-- or did not issue permits. They told them to [INAUDIBLE] and someone literally decided they should look at that and they decided, oh my gosh, we've got a mistake here. So they withdrew that. So there are lots of mistakes that can be ascribed to NDA and also NDEE, which just did not do its job. As Senator-- or Mr. Macy said at the LB1102 hearing, he had the authority. He already had the authority. I don't know why the authority wasn't used if that's the case, but that's a serious problem. The part of the-- the LB507 hearing took place last year. That is a bill that Senator Bostelman introduced to ban the use of treated seeds in Nebraska, which we supported. Former Senator Loran Schmit testified in support that day of LB507. If he remembers-- if you don't know who Senator Schmit is, he served 24 years in the Nebraska Legislature. He's considered to be the father-- the grandfather of ethanol really in the state, kind of remarkable man. I asked him about coming today. He's pretty frail and I'm glad he didn't try to make it, but I'm just going to quote him from the LB507 testimony. He said approximately 30 years ago, surplus seed corn was offered to the ethanol industry in Nebraska. At that time, NDEQ officials and ethanol producers immediately rejected the offer and none of the NDEQ representatives indicated that they had a problem not being able to prohibit the use of the material. I was given to understand that they had to approve it. Well, that's exactly what they did in 2012. AltEn notified NDEQ that they were going to start using treated seeds and NDEQ said, well, we don't think you need to worry about that because it's a minor change. It was a major change. To answer some of the questions that came up earlier today, I think it's really important-- first of all, as, as was stated, this LR was written last year. Some of the, some of the information we had at the time was that there were high-- could be high levels of, of these neonicotinoids in the air and those can be damaging to animals that are close. So our concern when we drafted this LR-- and I did a lot of the writing on it-- was that we had cattle in the feedlot and had been there before so Mr. Thorson's objection to that was what we knew at the time. Moving on, I want you all to know I wrote this LR with, with Ken Winston [PHONETIC]. We did it together. The first person I went to

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was Senator Bostelman with this LR and I said, Senator, would you like to look at this? I gave it to his, his assistant, Cyndi Lamm. I said, have Senator take a look at this and see if he's interested in this. There was no interest on that part of Senator Bostelman in carrying this LR, which I was disappointed in, so I went to some other senators and Senator Blood picked it up. I think that's important. I think the real issue is this is not just a Mead issue and it's not just a Saunders County issue. This is a Nebraska issue. And so I understand the frustration that the Mead folks have, but there are people who are demanding that we need to know what's going on and private meetings don't work very well. Thank you.

HUGHES: Thank you, Senator Davis. Are there any questions? Seeing none, we'll switch back to opponents. Are there any opponents? Welcome.

JODY WEIBLE: Welcome. Thank you. My name is Jody Weible, J-o-d-y W-e-i-b-l-e. I am from Mead. I have people that I am close to on both sides of this issue, but I would like to get past the finger-pointing and get to the resolution of the problem. AltEn is the problem. We have six seed corn companies that are volunteering their time. I have spoken with the head of Nufields and said if AltEn declares bankruptcy, which is what we hear all the time, and they walk away, what happens then? And he said they have essentially walked away now. They have done nothing. We are doing it all and that will not change. So the scare tactic of the seed corn companies walking away and leaving it all on us is just a scare tactic. I would like to see the people at AltEn criminally charged. I would like to have public hearings so that we can quit hearing about secret hearings. They aren't secret. I try to post on a page, "Quality for Saunders County," everything that we talk about. I try to keep people informed. I just think there's got to be a better way to do this. I'm fully-- Keisers and Loftuses need to be helped. They were egregious, egregiously harmed with this. But we got to get past finger-pointing. We need the money for the medical research. In my opinion, every committee I've ever been on, the more people you get, the more bogged down it is. I know that you think that it's a really good idea and I think a lot of you have your minds made up already, but simple always works the best and the quickest. The Department of Ag and DEE has heard from me nonstop since early 2018. I have health problems because of, I'm positive, the contamination that came from the ethanol plant, but that was while it was operating. I have bees again, I have mosquitoes again, I have birds again. I didn't have any of that last year or the year before so things are improving. I just-- I would like it resolved. Yes, it's frustrating to take so long, but I'd like to quit

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finger-pointing, except of the people that caused the problem. Yes, it could have been resolved sooner. I'm positive it could have, but it wasn't. Now let's just fix it. That's all I have.

HUGHES: Thank you, Mr. Weible. Are there questions? Senator Pansing Brooks.

PANSING BROOKS: Thank you. Thank you for coming today. Were you-- is there-- why are you on that committee? Was it just you're active in Mead or--

JODY WEIBLE: Yeah.

PANSING BROOKS: That's how--

JODY WEIBLE: I was the planning commission. I was on that for 24 years and I was chair for quite a few of those years, but yes, I have a big mouth apparently and I have advocated--

PANSING BROOKS: Well, you've been a good advocate is what--

JODY WEIBLE: Mead is my home and if we label it a superfund site, what's going to happen to the town? Already, people compare us to Flint, Michigan, and businesses don't want to come and people don't want to move there and Loftuses has had to move away. I don't want our town to go under.

PANSING BROOKS: Thank you for coming today.

JODY WEIBLE: Sure.

HUGHES: OK. Any additional questions? Thank you for coming in today. Next opponent and I will remind you, we do need to wrap this up very shortly. Welcome.

MICK MINES: Thank you, Mr. Chairman. My name is Mick Mines, M-i-c-k M-i-n-e-s. I'm a registered lobbyist for Renewable Fuels Nebraska and we are opposed to LR159. Briefly, our members are certainly appalled by the devastating circumstances at AltEn. The incident should never have happened. It's important to remember that AltEn's owners and management chose to adopt practices beyond their Nebraska permits, beyond industry ethics, and certainly beyond industry standards. Our concern is too often bad actors set a precedent in the public's mind. As you know, this can result in overarching legislation and excessive regulations for an entire industry. That's our concern. We-- while we

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appreciate Senator Blood's LR159, it's well-intended, but we don't believe it's necessary. Thank you, Mr. President.

HUGHES: Thank you, Mr. Mines. Are there any questions from committee members? Seeing none, I guess at this point, I would refer back to Senator Blood for a closing. And I certainly do apologize to everyone who came here who did not get a chance to testify, but this committee is an over-noon committee so we are very limited on the amount of time that we have. Senator Blood.

BLOOD: Thank you, Chairman Hughes. I'm going to try and quickly as-- and pack everything as I possibly can. I do want to first approach the alternative agenda comments. I have to be honest with you, I didn't need more things to do. It was not my choice to come to Mead and put in hours and hours of work to help the residents in Mead that came to me. And as you know, there were residents that spoke at the beginning of those who were in support of this bill, as well as the county who gave us a letter of support. And you know the last three months, I've been living in hospitals with my family. This was not extra workload that I needed. I had no alternative agenda except to represent the citizens of Nebraska that came to me for help. So I do take issue with that comment. And as you heard, Senator Bostelman had an opportunity to come in and, and assist with this. He knew about this. We talked about it a lot during the last session. I talked to him at the very beginning of this session about what bills I've brought forward for Mead. So to say that he was excluded would be not accurate. I heard the opposition in reference to, to the other renewable fuel plants. I am in 100 percent support of, of the work that they do. They are not bad stewards. They are not bad actors. This gave them a black eye. This is not meant to oversee what they are doing because they are not the bad actors. It's meant to make sure that this never happens again because this is a chemical that was used off label. It was not used as was meant to be used and that's why this happened. And then I want to remind everybody that I-- the six seed companies that they're referring to now are litigating and that came out in the news within the last 24 hours so they're unhappy with how things are processing as well. So the Legislature is rightly focused this week on the improper behavior of one of our peers. I'm pleased that this work is finally taking place and I'm supportive of the work to be accomplished. Unfortunately, I don't believe the Legislature has focused enough attention on what took place in Mead, Nebraska. The failures-- and they are failures of the Department of Ag and the Department of Environmental Quality-- and this is not finger-pointing, this is fact. This is background that you need to know because we don't want this to happen again. They brought us into this room today and the need for

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this particular legislative resolution to move forward. In Mead, there are financial damages, many that are unknown, threats to human lives, from long-term exposure to pesticides-- trying to do this fast so I'm sorry-- to pesticides that were used off label, damage to the water table, which is unknown without oversight, potential birth defects, which you never got to hear as much about as we wanted to share with you today. We won't know a lot of this for decades. Will the residents of Mead develop unusual tumors or heart defects? I don't know, but do you either? We don't have a good grasp on who ultimately clean up the site, how much it will cost, and if it can even be done. The problems of Mead deserve your attention, the attention of the citizens of Nebraska. We need to put just as much energy into the AltEn disaster as we do investigating bad behavior from a fellow senator. Friends, Nebraska are our friends, our families, and our neighbors. How can we remain quiet knowing that they have been made collateral damage to bad actors and pretend that everything is fine? Our body is complicit when we don't step up to the plate to address the largest environmental crisis in Nebraska memory. You gave our resolution a late hearing, but we still have opportunities to find vehicles to move this forward, especially if you vote it out with your full support. If we haven't learned anything from the debacle of Saint Francis, I mean, the one thing we know is that it's never too late to do the right thing. And I have to say I understand their concerns of us supposedly being bureaucratic or slowing the process down. We're not trying to slow the process down. We're trying to bring greater transparency because, as Senator Pansing Brooks and others have said, we are still getting calls from the people of Mead. And again, we may be elected by our districts, but we're also elected to represent all Nebraskans. And I don't know about the other senators in this room, but when someone calls me, regardless of their district, if they ask me for help, that's what I do. And again, I didn't need more things to do, but I do need to protect Nebraskans and I want to remind you that, be it the people who voted-- who, who spoke from Mead that were in favor of this bill or against this bill, that there are other residents that aren't here being represented. And I can say by far, I've had more people ask me for help than tell me to take-- to stand down. If we do this well, if we do this right, we help Nebraskans. It is not our job to interfere with the process. It is not our job to hurt the ethanol industry, but it is our job to make sure that this never happens again and that's what this is about. And so with that, I hate that I've been rushed through, but I do encourage you, if you have time, to talk to some of the people who still did not get to testify. We had a lot of science that you didn't get to hear and it's really unfortunate. And

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again, I'm doing this because I was asked to do this and because many others chose not to participate.

HUGHES: Thank you, Senator Blood. Are there any questions? Seeing none, we do have position comments for the record, for the hearing record. We had 46 proponents and three opponents and one neutral testimony. With that, we will close our hearing on--

_____ : [INAUDIBLE]

HUGHES: You can leave it with the clerk. That will close our hearing today on LR159. Thank you, everyone, for coming.

BLOOD: Senator Hughes, did you say 46 proponents or did you say 46--

HUGHES: 43 proponents.

BLOOD: Wow. All right, thank you.