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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
AGRICULTURE AND RURAL AFFAIRS COMMITTEE

IRVIS OFFICE BUILDING
ROOM 523
HARRISBURG, PENNSYLVANIA

PUBLIC HEARING
SB 251 - FERTILIZER LAW

MONDAY, OCTOBER 25, 2021
10:02 A.M.

BEFORE:

- HONORABLE DAN MOUL, MAJORITY CHAIRMAN
- HONORABLE EDDIE PASHINSKI, MINORITY CHAIRMAN
- HONORABLE STEPHANIE BOROWICZ
- HONORABLE RUSS DIAMOND
- HONORABLE MINDY FEE
- HONORABLE MARK GILLEN
- HONORABLE BARBARA GLEIM
- HONORABLE JAMES GREGORY
- HONORABLE JOHNATHAN HERSHEY
- HONORABLE RICH IRVIN
- HONORABLE JOSEPH KERWIN
- HONORABLE JOHN LAWRENCE
- HONORABLE MARCI MUSTELLO
- HONORABLE JASON SILVIS
- HONORABLE DAVID ZIMMERMAN
- HONORABLE DANILO BURGOS
- HONORABLE NANCY GUENST
- HONORABLE EMILY KINKEAD
- HONORABLE CHRISTOPHER RABB
- HONORABLE PAM SNYDER

BRENDA J. PARDUN, RPR
REPORTER - NOTARY PUBLIC

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SUBMITTED WRITTEN TESTIMONY

* * *

(See submitted written testimony and handouts
online.)

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MAJORITY CHAIRMAN MOUL: Good morning, everyone. We're having a hearing today, House Agriculture and Rural Affairs Committee, on Senate Bill 251, Senator Yaw bill.

And, Dawn, if you would, please take the roll.

(Whereupon, roll call was taken.)

MAJORITY CHAIRMAN MOUL: Thank you.

Senate Bill 251 has been around for a while. And we did have it scheduled for a vote, and we had some members who had questions. So, rather than take a vote with questions hanging out there, I thought it'd be pertinent to bring in the stakeholders.

I apologize, Senator Yaw had something come up and could not join us this morning. But I'm sure he will be available to answer any questions for any members with just a quick phone call.

So, we will go ahead and get started. The format will be, we'll take testimony from the three of you, starting with Secretary Redding, and then, at the end, then we'll take

1 questions.

2 So, if you would, Secretary Redding,
3 the floor is yours.

4 SECRETARY REDDING: Mr. Chairman,
5 good morning.

6 Chairman, thank you, and to all the
7 members. It's good to be with you. Again,
8 thank you all for being here and for the time
9 this morning to talk about Senate Bill 251 and
10 very much appreciate the opportunity to
11 testify today.

12 You have the written testimony for
13 the record, so I'll just provide a few summary
14 opening remarks to start us off.

15 I'm certainly honored to be here with
16 Erin Bubb, who is the division chief of
17 Agronomic and Regional Services for the
18 Department of Agriculture and one of the chief
19 architects who manages fertilizer and
20 pesticide work for the Department every day.
21 So honored to be with her and certainly the
22 stakeholders who are here this morning as
23 well, who have been with us on this journey of
24 updating and modifying Pennsylvania's
25 fertilizer law.

1 I say "journey" because when we began
2 ten years ago, our approach was narrow. I
3 think it lacked context and certainly didn't
4 look like Pennsylvania. In contrast, Senate
5 Bill 251 takes a statewide, wholistic approach
6 and modernizes Pennsylvania's fertilizer act,
7 which first began in 1909 -- so there's a long
8 history of fertilizer regulation in
9 Pennsylvania -- but in its current form, 1956.

10 It builds on the significant progress
11 that Pennsylvania has made in local water
12 quality improvements through municipal
13 treatment upgrades, agricultural conservation
14 stewardship, and managing nutrients at the
15 farm level. It recognizes the rapid
16 conversion of 500,000 acres of agricultural
17 land to residential and commercial development
18 that is no longer under the farmer's
19 stewardship.

20 It makes significant improvements to
21 the earlier fertilizer bills, due to extensive
22 stakeholder engagement, including our
23 Pennsylvania-based scientists and research
24 institutions, the fertilizer manufacturers,
25 and distributors, the industry at large, and,

1 certainly, the Pennsylvania nursery and
2 landscape association -- who we'll hear from
3 this morning -- in addition, the County
4 Commissioners Association of Pennsylvania, the
5 lawn and horticulture products working group,
6 and the fertilizer advisory board, among many
7 others.

8 Importantly, it retains the
9 exemptions for private application of
10 fertilizer by our farms and farmers, who are
11 already governed by other statutes.

12 And, finally, it mirrors our
13 pesticide act that has proven to be both
14 beneficial to the applicator and customer,
15 because it recognizes that professionals with
16 credentials are good for business, the public,
17 and the environment.

18 I referred to the summary of the
19 seven things in the testimony that I note
20 Senate Bill 251 will do. It establishes the
21 best practices for fertilizer application. It
22 creates a certification program for the
23 applicators. It establishes an education
24 outreach program. It enhances the labeling
25 requirements. It provides preemption of local

1 laws and regulations. It enhances reporting.
2 And it updates the fee structure, which hasn't
3 changed, in most cases, for thirty-seven
4 years, dating back to 1984.

5 So, I'll end where I began, with a
6 simple thank you to the committee for their
7 support of the Department and of agriculture;
8 to the PDA staff, who administer the
9 fertilizer program, for their dedication and
10 skill to guide our discussions on amending the
11 fertilizer act; and, lastly, to the many
12 stakeholders who stayed engaged and stayed at
13 the table to help us develop Senate Bill 251
14 to ensure that it looked like Pennsylvania, it
15 works for Pennsylvania, and it works
16 particularly for our commercial fertilizer
17 industry. So, at the end of the day, we can
18 all be proud of our stewardship and the
19 improvements we've made to water quality.

20 So, Erin and I look forward to the
21 conversation this morning and your questions,
22 Mr. Chairman.

23 Thank you.

24 MAJORITY CHAIRMAN MOUL: Thank you,
25 Mr. Secretary.

1 Next up we have Marel King, director,
2 Chesapeake Bay Commission.

3 MS. KING: Good morning.

4 MAJORITY CHAIRMAN MOUL: Good
5 morning.

6 MS. KING: Thank you, Chairman Moul,
7 Chairman Pashinski, all of the committee
8 members who are here today.

9 I also want to thank you for the
10 opportunity to speak with you this morning and
11 answer certainly any questions that you have
12 about this bill. As the Secretary mentioned,
13 this bill has been in the works for a while
14 now.

15 And, just briefly, my interest in
16 this bill, the Chesapeake Bay Commission, we
17 are an advisory, tri-state commission to the
18 general assemblies of Pennsylvania, Maryland,
19 and Virginia. The Pennsylvania delegation is
20 chaired by Senator Yaw. Our vice-chair is
21 Representative Mike Sturla, and the other
22 legislative members are Senator Scott Martin,
23 Representative Keith Gillespie, and
24 Representative John Hershey. Secretary
25 McDonnell, from DEP, is also a member. And we

1 have a citizen member, Mr. Warren Elliot,
2 Franklin County. Just gives you an idea of
3 who the commission is.

4 Again, we are advisory; we are not
5 regulatory. And we primarily deal with
6 legislation across those three states that
7 would assist in improving the health of the
8 Chesapeake Bay. And the Susquehanna River is
9 the largest tributary to the Chesapeake Bay.
10 It provides 50 percent of the fresh water to
11 the bay.

12 That said, one of the guiding
13 principles of the Pennsylvania delegation
14 throughout the three-plus years now that
15 Pennsylvania has been a part of the
16 commission, one of those guiding principles
17 has been that we have no bay shoreline in
18 Pennsylvania, obviously, but, really, the
19 health of the bay is just a product of the
20 health of the tributaries and the watershed.
21 So, any activities that we take in
22 Pennsylvania to help our local waters will, in
23 turn, translate to healthier waters downstream
24 and vice versa. Anything we do to reduce the
25 nutrients and sediment that end up in the bay

1 mean that we're taking them out of our own
2 local waters as well.

3 So, with that sort of overarching
4 guiding principle, as we were working on this
5 particular legislation, there were several
6 other principles that came into play.
7 Maryland and Virginia, the other two
8 commission states, enacted similar legislation
9 back in 2011. And when we brought this idea
10 here to Pennsylvania, it became very clear
11 very quickly, as the Secretary mentioned, that
12 we needed to have a Pennsylvania-specific
13 bill. It was not going to be acceptable to
14 just adopt what had moved forward in the other
15 states.

16 And so, we worked very hard on that,
17 with the assistance of the Department, back in
18 2011, you know. They opened the doors to the
19 Fertilizer Advisory Committee. We got to meet
20 a lot of the different industry folks involved
21 in fertilizer in Pennsylvania. We learned a
22 lot about the industry. And we believe that
23 the legislation that is under your
24 consideration today really reflects the latest
25 knowledge about the products that are in use

1 today in Pennsylvania. It is a statewide
2 standard that would be established, avoiding a
3 patchwork of different local ordinances all
4 across the state. The industry was very clear
5 that they wanted a statewide standard that
6 they could rely on.

7 They wanted it to be aligned as much
8 as possible with the existing pesticide
9 requirements as far as training and
10 certification of applicators, and we worked
11 with the Department and others very closely to
12 make sure that that has happened.

13 And, really, they also wanted to know
14 that we would get credit for this toward our
15 work in restoring the Chesapeake Bay, even
16 though, of course, we will also be benefiting
17 locally.

18 And we have information from the
19 Chesapeake Bay program, from EPA, confirming
20 that all the components necessary for
21 Pennsylvania to get credit are in the current
22 legislation, things like rates for the
23 do-it-yourself products, the bagged fertilizer
24 that you would buy at the hardware store; also
25 for professionals, certification requirements

1 and recordkeeping requirements. Because there
2 are two pathways for Pennsylvania to get
3 credit. One is merely a reduction in the
4 actual pounds of fertilizer that are out there
5 in the environment, which gets to the content
6 of the bagged fertilizers, but then also the
7 acres under professional management. And
8 "professional" is defined as a trained,
9 certified professional. So, the recordkeeping
10 then will help to document that acreage. And
11 that is the second pathway we will use to get
12 credit.

13 And, finally, we are currently
14 operating under what's known as the Phase 3
15 Watershed Implementation Plan. This is
16 hopefully the final phase toward the 2025
17 deadline of having all the practices and
18 programs in place that would mean a restored
19 Chesapeake Bay. And this fertilizer bill is
20 one of many components of that Phase 3 plan,
21 and it is one, in particular, that EPA has
22 said would be very helpful. They have
23 encouraged us to be moving forward with this
24 all the way back from 2019, when that plan was
25 submitted and reviewed by EPA, as well as the

1 county plans that are another layer of that
2 watershed implementation plan.

3 Of the eight counties who have
4 developed their plans so far, every single one
5 includes this fertilizer legislation in one
6 way or another. They're either relying on it
7 to achieve reductions in their own counties or
8 they see the lack of legislation as a hurdle
9 to them achieving those reductions from the
10 developed sector in their particular counties.

11 So, it's important that it be
12 meaningful. We feel the language is there for
13 it to be meaningful. And in order for us to
14 get credit, it just has to be implemented.

15 Thank you.

16 MAJORITY CHAIRMAN MOUL: Thank you,
17 Marel.

18 And last, but certainly not least,
19 Gregg Robertson, from the Pennsylvania
20 Landscape and Nursery Association, if you
21 would.

22 And, Marel, could you slide him the
23 microphone, please?

24 Thank you.

25 MR. ROBERTSON: Thank you, Chairman

1 Moul, Democratic Chair Pashinski, and members
2 of the Agricultural Rural Affairs Committee.
3 Thank you for the opportunity to offer
4 testimony today on Senate Bill 251,
5 legislation to regulate the application of
6 fertilizer.

7 I represent the Pennsylvania
8 Landscape and Nursery Association, the leading
9 trade association representing Pennsylvania's
10 6.8 billion dollar green industry. Its member
11 landscape contractors, retail garden centers,
12 wholesale nurseries, and greenhouses produce
13 outdoor living environments that improve
14 economic value, air quality, water quality,
15 and human health.

16 Personally, I've been associated with
17 the LNA for more than twenty years, serving as
18 the association chief staff executive for
19 twelve and a half years and its government
20 relations consultant for the past eight years.

21 At the outset, I want to recognize
22 the efforts of Senator Yaw, Secretary Redding,
23 Deputy Secretary Strathmeyer and the other
24 professionals at the Department of Agriculture
25 for working with the industry to craft

1 legislation that minimizes the potential
2 impact on the professional lawn care industry.

3 Senate Bill 251, introduced by
4 Senator Yaw is the result of a cooperative
5 effort by his office, the Department, and the
6 industry. We commend Senator Yaw and PDA for
7 their openness and willingness to work with us
8 in smoothing out the objectionable parts of
9 earlier bills.

10 Before I get into specifics of Senate
11 Bill 251, I'd like to take a minute and talk
12 about the voluntary environmental stewardship
13 efforts made by the lawn care industry in
14 Pennsylvania over the past two decades.
15 According to EPA, the voluntary efforts of
16 Pennsylvania lawn care industry have led to a
17 reduction in phosphorus use in lawn
18 fertilizers in Pennsylvania between 2006 and
19 2010 of 82 percent.

20 It's very likely that the more recent
21 data will show further phosphorus reduction
22 since 2010 as the lawn fertilizer industry has
23 phased out phosphorus in bagged lawn
24 fertilizer sold to the public. Commercially
25 available bagged lawn fertilizers now contain

1 no phosphorus except for those designated for
2 use as new lawn fertilizer.

3 The industry is already in
4 substantial compliance with the fertilizer
5 application rates in Section 6852. In a
6 recent survey PLNA conducted of bagged
7 fertilizers available in major retail outlets
8 in central Pennsylvania, all bagged
9 fertilizers we surveyed are now labeled for
10 application rates at or below the .9 pounds
11 per thousand square feet in the bill. All,
12 except those for new lawn development, have no
13 phosphorous. All meet the minimum for
14 slow-release nitrogen, set at 22 percent in
15 the bill.

16 PLNA supports Senate Bill 251 as
17 written and urges the committee to report the
18 bill to the full House for action this fall.

19 PLNA supports the fertilizer best
20 management practices outlined in Section 6851.
21 These are common sense practices that are
22 already widely adopted by the industry and
23 should be followed by any commercial turf
24 grass fertilizer applicator.

25 Senate Bill 251 also addresses two

1 areas that PLNA was concerned about with
2 previous iterations of this legislation in the
3 past sessions. First, Senate Bill 251
4 streamlines the certification processes
5 between the pesticide control act and the
6 anticipated certification for fertilizer
7 applicators under Senate Bill 251.

8 Second, Senate Bill 251 now contains
9 language that will assure that PDA can collect
10 the data that EPA will need to grant
11 Pennsylvania credit in the Chesapeake Bay
12 model for our industry's efforts.

13 Further, Senate Bill 251 contains an
14 appropriation of 100,000 dollars, which would
15 allow the Department to begin development of
16 the computer system soon after Senate Bill 251
17 passes, which will be necessary for the
18 collection of this data.

19 Finally, an additional concern that
20 will involved both the general assembly and
21 the Department is that any new regulatory
22 program must be enforced to be effective and
23 provide a level playing field for all
24 businesses in the lawn care industry. We in
25 the green industry have seen too many

1 regulatory programs passed by the general
2 assembly only not to be universally and
3 consistently enforced by the administering
4 agency. What this means is that it -- what
5 this means is the companies who try do the
6 right thing and comply with the law, like
7 members of our association, can be undercut by
8 competition which can flout the law and suffer
9 no costs or consequences.

10 If Senate Bill 251 passes, we urge
11 the general assembly and the Department to see
12 that this program is adequately funded so that
13 it can be fairly and consistently enforced
14 across the industry, creating a level playing
15 field for all lawn care businesses large and
16 small.

17 I'd like to thank the committee for
18 its time and consideration today.

19 MAJORITY CHAIRMAN MOUL: Thank you,
20 all three of you, for your testimony.

21 One thing that I would like to point
22 out, and I think, Gregg, you touched on a
23 little bit, was -- and from being in business
24 for well over thirty years, there's nothing
25 worse than competing against people who fly by

1 night. I refer to them affectionately as Joe,
2 bag of donuts, and his truck. Sorry.

3 MR. ROBERTSON: We know him well.

4 MAJORITY CHAIRMAN MOUL: Yes. And
5 I've met him many, many times in the past.

6 But we do have some questions.

7 Representative Rabb.

8 REPRESENTATIVE RABB: Thank you,
9 Mr. Chairman. I'm going to have to use that
10 one myself.

11 Thank you all for your testimonies.

12 My question is for the Secretary.

13 Hello, Secretary.

14 SECRETARY REDDING: Good morning.

15 REPRESENTATIVE RABB: I'm curious
16 what impact SB 251 will have on soil health
17 across the state. Specifically, I'm
18 interested in efforts that the Department's
19 taken to improve the soil health on prime
20 farmland, nonprime farmland, residential land,
21 and really unusable land that hopefully could
22 be repurposed for productive measures.

23 SECRETARY REDDING: Yeah.

24 Representative, thank you.

25 And thanks for mentioning soil

1 health. Right? I think it's one of those
2 principles that we've adopted in production
3 agriculture, has gotten significant sort of,
4 you know, attention appropriately over the
5 last couple years, and, certainly -- and
6 Marel's noted our WIP 3 Phase that we're in
7 right now, soil health is one of those sort of
8 foundational pieces of our plan, right, and
9 being sensitive to.

10 For those -- you know, on soil
11 health, it is a defined term to look at not
12 just the primary nutrient but really to be
13 aware of the health of that soil. Right? So,
14 that means that the micronutrients. It means
15 the management. It means the cover crop.
16 It's all of those components are conveniently
17 termed as soil health.

18 So, we are working, you know,
19 significantly with our state conservation
20 commission, working with the ag community to
21 focus on soil health.

22 I feel like a lot of things in the --
23 in the nutrient side of soil, there's a lot we
24 don't know about -- about it. But we continue
25 to elevate that and recognize that there are

1 clearly practices applied to the land that
2 have a direct correlation to the health of
3 that soil. So, we're focused on, we will
4 continue to.

5 It is -- without sort of mentioning
6 in the bill directly "soil health," it is
7 certainly a principle of commercial fertilizer
8 application, I would say. Right? It's the
9 same principle applied simply to what we're
10 doing on the urban landscape as we do on
11 the -- the agricultural landscape. But the
12 difference, of course, is that, in the
13 agricultural side, we have a lot of testing we
14 do on the soil for, you know -- part of it's
15 required, right, for nutrient management
16 planning and manure application. It's a
17 little different in the commercial
18 application, and we can talk more about that.

19 But the short answer to all of this
20 is soil health is a key principle, should be a
21 key principle. We're focused on the
22 agricultural side, and we think that the
23 fertilizer legislation, without drawing
24 specific requirements on soil health, it goes
25 to that foundation of good soil equals, you

1 know, the health of the soil and the health of
2 the water.

3 REPRESENTATIVE RABB: Thank you,
4 Mr. Secretary.

5 Mr. Chairman, if I could have a brief
6 follow-up?

7 Thank you.

8 So, I'm glad to hear all that. I
9 can't say I'm surprised. That's wonderful.

10 I'm actually going to be filing an
11 amendment to make that explicit, basically
12 what you said, but wanted to make sure that
13 the intent matches what you think makes sense.

14 And I'm curious, my amendment would
15 require that the Department would include soil
16 health improvement practices to the
17 agricultural and homeowner education program
18 that you'll be creating and maintaining. So,
19 I'm just curious, if that makes sense to you,
20 what perceived costs would you associate, you
21 know, being incurred if my amendment were
22 included in the legislation? Because,
23 obviously, I'm not seeking this to be a burden
24 but to be a help by making it explicit.

25 SECRETARY REDDING: That's a great

1 question, and I don't know if I can give you
2 sort of a clean, clear answer, right, because
3 the one thing we have witnessed -- and just
4 taking the agricultural community as an
5 example, you know, soil health, while they are
6 aware of what they're doing to the soil and a
7 concern for the soil, they normally don't
8 speak in terms of soil health. Right? And I
9 think part of this is the education side and
10 knowing that you've got folks who make their
11 living from that soil, who may have a -- not
12 have a full appreciation for the soil health,
13 translating that to those who are only
14 concerned about the health of that turf,
15 right, and getting them engaged and thinking
16 about what that would actually mean.

17 I think it's going to take
18 significant effort, but it's consistent with
19 why we've included education outreach and
20 worked with Penn State College of Ag on that.
21 We'll have to engage many, many people in this
22 conversation about, you know, nutrients, the
23 use of nutrients, and the correlation to soil
24 health and water quality.

25 REPRESENTATIVE RABB: Thank you.

1 MAJORITY CHAIRMAN MOUL:

2 Representative Gleim.

3 REPRESENTATIVE GLEIM: Thank you for
4 being here. As a newer member, I haven't been
5 here the whole eleven years of the process, so
6 I am guilty of one of the people that had
7 questions.

8 So, the first question I have was:
9 Why the regulatory aspect for the landscapers?
10 And, you know, my background, Secretary
11 Redding, is why couldn't landscapers just
12 report their nutrient management, you know --
13 like a nutrient management plan to a
14 conservation district instead of regulating
15 it, just have the reporting aspect of this? I
16 guess that's one question.

17 SECRETARY REDDING: Yes. Good
18 morning. It's good to see you.

19 REPRESENTATIVE GLEIM: Yeah, you,
20 too.

21 SECRETARY REDDING: And thank you for
22 the question.

23 And the questions, by the way, are
24 fair. I mean, the Chairman and I spoke
25 briefly about this. And I think these are

1 complicated issues. It's been eleven years in
2 this journey. It started out over here and
3 it's moved to this spot. But, I'll tell you,
4 the difference between today and eleven years
5 ago is that the awareness of the environment,
6 the awareness of sustainability, the issues
7 that we've addressed and the progress that
8 we've made just in, I think, our land
9 stewardship, and you've seen that locally,
10 many of you have. And I think that's the
11 journey, right, it's part of, like, we're here
12 at a different time, with a different level of
13 sensitivity.

14 But, to the question, I think there
15 are several things that we wanted to do. One
16 is -- and we're borrowing from the experiences
17 we've had on nutrient management, where the
18 credential of the folks doing the plans is
19 critical. The work of conservation districts
20 is critical. The difference we've seen where
21 the manure haulers and brokers, under Act 38
22 and 49, and the difference that's made for
23 them both to have the credential and to the
24 public perception of seeing manure applied and
25 knowing that that's done with a plan by a

1 professional.

2 We borrowed that framework here to
3 really give recognition to, as Gregg noted,
4 the professionals who are in the business but
5 also to draw a very clear distinction, is the
6 expectation is that we want that credential to
7 be earned and protected through continuing
8 education. We want the reporting to be
9 intentional so we can satisfy any inquiry,
10 whether it's from our own conservation
11 district or our own public who has concerns
12 about water quality or the EPA and those who
13 we're working with to make sure that
14 Pennsylvania gets all of the credit.

15 That's not to cut the conservation
16 district out, because I think they're
17 actually, at the end of the day, going to have
18 a significant role and responsibility to help
19 in the outreach and education to homeowners.
20 But that is sort of inside of the framework
21 here, is to really be intentional about it,
22 not to burden the conservation district with
23 more reporting, but also to make the
24 Department sort of responsible, because it
25 goes to the Chairman's point about enforcing

1 this. At the end of the day, right, we want
2 to make sure that we're being very intentional
3 about getting the credential, earning that
4 credential, protecting it, but also in the
5 event that there's somebody who doesn't care
6 about that, so we can respond to the
7 professionals who are in the business, and we
8 respond to the public. And that has to be
9 sort of a consolidated, focused
10 responsibility, I think, with our inspectors
11 and the Department.

12 REPRESENTATIVE GLEIM: Thank you for
13 that answer.

14 Mr. Chair, could I ask one more
15 question please?

16 MAJORITY CHAIRMAN MOUL: Sure.

17 REPRESENTATIVE GLEIM: And this comes
18 from a constituent actually.

19 What specific authority will the
20 Department have to inspect, sample -- and
21 sample lands? And would it hold up a
22 construction project if the landscaper that
23 they used as a sub violated the application
24 process?

25 SECRETARY REDDING: Erin, do you want

1 to respond, and I'll support it?

2 MS. BUBB: Yeah. The authority of
3 this bill and this language rests with this
4 proposed bill, which would be for the
5 Department of Agriculture to administer, to
6 enforce. There would likely be follow-up if
7 there was complaint-driven, investigation-type
8 action that was required for an applicator.

9 It does not mean that they have to
10 receive clearance. They don't need a
11 preapproval. They don't need a preinspection
12 of a job site. I want to make that very
13 clear. This would be something that is more
14 along the lines of doing the work in -- in the
15 best practice. But the Department would get
16 involved if there was a complaint or a
17 follow-up that was needed.

18 I don't see it holding up
19 construction or having an approval process in
20 place of -- that's kind of what I heard you
21 possibly asking from your constituent, if that
22 was the concern there. Not an approval-based,
23 "yes, go ahead, make your application" type
24 program here.

25 REPRESENTATIVE GLEIM: Right. I

1 mean, that is basically what the question is.

2 Usually at the end of a construction
3 project you bring in the landscaper; right?

4 MS. BUBB: Um-hum.

5 REPRESENTATIVE GLEIM: And it's part
6 of the punch list of tying things up. But you
7 have to complete that in order to get paid.
8 So, you know, that's why the concern is there,
9 is if something were to go wrong with the sub
10 that they were using, would that have to hold
11 up the entire construction process, where
12 they're actually tying up loose ends and
13 getting paid.

14 SECRETARY REDDING: If I could just
15 add, I think it's goes to the credential.
16 Right? So, if you're in this situation, I
17 would want to know, if I'm building the
18 project and I'm general contractor, is that
19 the landscaper and firm that I've engaged is
20 actually, you know, licensed and credentialed.
21 Then I have -- my worry sort of goes away.
22 Right? I know that they're doing what they're
23 required to do versus not being licensed and
24 credentialed, then you've got to question, you
25 know, do they know what they're doing? Are

1 they following sort of the best practices?

2 So, I think that's the distinction.
3 And right now, of course, you know, I don't
4 think it matters if the -- you know, the
5 general manager asks for or puts that out as
6 part of the spec requirement. We would hope
7 that that becomes sort of the standard
8 expectation here of anybody engaged in the
9 landscape industry, is that they have that
10 credential.

11 REPRESENTATIVE GLEIM: Thank you very
12 much.

13 MAJORITY CHAIRMAN MOUL: If I can add
14 just a tad onto this, and I'm -- I swore I was
15 going to keep myself quiet and not delay this.
16 But I did this for a long, long time. I did a
17 lot of hydroseeding in my day, and every time
18 I did a commercial job, it was spelled out
19 exactly what was supposed to go on right in
20 the plan that I received from the general
21 contractor. And I had to follow that to the
22 letter.

23 And I don't know that I ever got
24 inspected, but I had -- it had to be exactly
25 the -- the seed had to be exactly the right

1 seed. Fertilizer had to be the right
2 fertilizer. Everything was spelled out
3 specifically for me on those large, commercial
4 jobs.

5 But I just thought I'd throw that in
6 there so you know.

7 My co-chair, Representative
8 Pashinski, has a question.

9 MINORITY CHAIRMAN PASHINSKI: Thank
10 you, Mr. Chair.

11 And thank you all for being here
12 today. Appreciate your testimony.

13 And I'm thinking about it from the
14 standpoint of Senator Yaw, who, for those of
15 you who know Senator Yaw, he's a very
16 fastidious individual. He dots every "I",
17 crosses every "T". And we have eleven years
18 in the processes.

19 So, I wonder if you could -- and all
20 of you are welcome to comment on this,
21 starting with the Secretary, if we could --
22 what would this be like -- if this bill went
23 through, what would it be like for the
24 experienced fertilizer, the applicator, who's
25 experienced, knowledgeable, what would the

1 rollout look like? And then, how would this
2 affect the actual homeowner, who does their
3 own gardening, et cetera?

4 So, it's a multi question, but I know
5 that you guys certainly can handle this.

6 Mr. Secretary.

7 SECRETARY REDDING: Mr. Chairman,
8 I'll take part A. I think there are several
9 pieces there that others are probably better
10 prepared to address.

11 I think, at the end of the day -- and
12 what I said in the opening statement that this
13 has been a journey, and that the first -- the
14 first bill, you know, the more we reflected on
15 that, I think, the -- it wasn't Pennsylvania.
16 And I think that sort of came into light the
17 more we worked on it, particularly when we
18 engaged with the PLNA and Gregg Robertson, is
19 that we realized that we had sort of a
20 hundred-year head start that our other states,
21 the neighboring states and members of the
22 Chesapeake Bay Commission did not have.
23 Right? And that was, first and foremost, is
24 the value of the fertilizer industry in
25 Pennsylvania is critical to us. We are an

1 agricultural state. Right? And many of those
2 other states sort of looked at Pennsylvania's
3 source nutrients and suppliers.

4 So, I think it comes with extra
5 responsibility for us to sort of do the right
6 thing, to make sure we grow that industry and
7 protect that industry and, at the same time,
8 make sure we're protecting those who are
9 buying that fertilizer. That was the original
10 bill in 1909 as a quality assurance. Right?
11 And -- so, I think that, first and foremost,
12 is that we want to make sure that industry
13 stays here, continues to grow.

14 But it also recognizes the leadership
15 of Pennsylvania relative to nutrient
16 management. Right? We're the first state in
17 the nation to have a nutrient management law
18 for farmers. And we have seen amazing
19 adoption of that. It is a -- to the principle
20 question, it is, you know, part and parcel to
21 being in the agricultural industry. So,
22 respecting that nutrient, managing that
23 nutrient, making sure that we're really being
24 very intentional about both farm level
25 management of it. They are also the things

1 that we're held accountable for, both locally
2 at the state and federally. So, that becomes
3 important.

4 So, what does it look like? I think
5 we draw this distinction now between those who
6 are managing nutrients farm level and those
7 who are managing nutrients at the commercial
8 fertilizer level. And we have had a double
9 standard in Pennsylvania for too long. We've
10 expected a lot from a certain group of people
11 in the agricultural community, you know, to do
12 the right thing. And they've delivered on
13 that. But we haven't had the same level of
14 expectations for those who are applying
15 nutrients commercially to do the same thing.
16 Right? And the molecule of nitrogen that's in
17 the water, it doesn't know whether it came
18 from a municipal plant or a farm or
19 fertilizer.

20 And that's, I think, an important
21 principle here. We want to sort of have a
22 standard, not a double standard, and make sure
23 that everyone who is applying nutrients takes
24 that seriously but also can contribute to
25 water quality.

1 And, the -- I hope, that -- and Gregg
2 talks about this -- that, again, watching the
3 industry who's on the front line sort of push
4 hard to make sure that this had -- this was
5 real. It wasn't just superficial. It wasn't
6 just another obligation. They pushed us hard.

7 So, I think the -- the credibility is
8 retained. I think our leadership position in
9 Pennsylvania is retained.

10 The credential we're talking about
11 here is a differentiator for Pennsylvania.
12 That doesn't exist in any other states who did
13 a fertilizer bill. I think that's important.
14 Right? And the value of that credential for
15 us is important.

16 So, I'll leave it there. But there's
17 a lot of pieces to that. The world looks
18 different when you've got this bill in place,
19 I think both confidence for all of us as
20 consumers, but I think also for those who are
21 in the industry to have a standard that they
22 can point to, a credential that they can point
23 to, that that's worth a lot both in, I think,
24 they're own personal value, the value that
25 this is, but also the perception of the work

1 that we're doing is worth a credential.
2 Right? It's not Joe, six pack of donuts.
3 This is really serious work. And all of us
4 are held accountable on the farm level for the
5 work that we're doing on nutrients, so we want
6 that to be adopted.

7 The more people engaged in protecting
8 the environment, sustainability, the better
9 off we are.

10 MINORITY CHAIRMAN PASHINSKI: I
11 appreciate that.

12 Anyone else?

13 MR. ROBERTSON: Yes. Thank you for
14 that question, because I think it gets to the
15 heart of some of the concerns that our
16 association had. And one of the things that
17 you may not realize is that the professionals
18 who are applying lawn chemicals, now
19 fertilizer now, are typically certified under
20 the Pesticide Control Act. And one of the
21 things we wanted to make sure of is that this
22 fertilizer program was closely aligned with
23 that, because the greatest cost to a business
24 is having their employees off doing training
25 and taking exams and things like that.

1 So, our working with the Department,
2 we got language in the 251 that now aligns
3 those closely so it will be the minimum amount
4 of time spent off site just for fertilizer.

5 So, I expect the rollout of this from
6 an industry standpoint to be very smooth,
7 because our folks are used to the Pesticide
8 Control Act and getting their certifications
9 renewed and that sort of thing. Also, the
10 bill grandfathers those that already have
11 their Pesticide Control Act. So, for them,
12 it's really not going to be a big deal.

13 From the public standpoint, as I
14 mentioned, our survey showed that the bag
15 fertilizers are already in compliance. So,
16 the -- if the public, if they read the label
17 and follow the label on the bag, they're going
18 in be in compliance. Okay?

19 And I think the public education
20 program that the Department's going to conduct
21 is going to help the public understand the
22 impact of their putting fertilizer on the lawn
23 and to do it in the right way, don't get in
24 the sidewalk or the driveway, and follow the
25 bag instructions, and don't think that: Well,

1 it's green now. Boy, if I put more on, it
2 will get even greener.

3 So, I think the rollout will be
4 pretty smooth, actually.

5 SECRETARY REDDING: If I could add
6 two other points. One is the -- it will also
7 address the interstate commerce. Right?
8 Because we have been challenged by the
9 manufacturers putting product into
10 Pennsylvania where the labeling is different
11 than in Maryland and Virginia, so for the
12 manufacturer being able to make that
13 consistent across the watershed.

14 The other thing is that, through this
15 bill, we bring 2 million acres into the
16 conversation. Right? There are 2 million
17 acres of turf grass in Pennsylvania, 70
18 percent of that, according to Penn State, is
19 home lawns. Right? We only have a million
20 and a half acres of corn in Pennsylvania. We
21 have 600,000 acres of soy beans. We have a
22 million 300 acres of hay. Right? You're
23 talking about a crop of 2 million acres that
24 now is influenced by what we do through
25 professional management of nutrients. Some of

1 that will be the homeowner directly through
2 what happens on the label, the bag, and others
3 will be through the professional services that
4 they employ. But you bring 2 million more
5 acres into this, that begins to really get at
6 the issue of, you know, for accountability,
7 both, you know, for the state but also making
8 our case as compelling as possible to those
9 who are monitoring what we do here. Right?
10 You bring 2 million acres into the
11 conversation, and it's significant. There's
12 not another state that can do that, by the
13 way.

14 So, that's a really important
15 statement about what we value and how we do
16 our work here and how we manage nutrients
17 across the board.

18 MINORITY CHAIRMAN PASHINSKI:

19 Excellent.

20 Anything?

21 MS. BUBB: I'm glad the secretary
22 brought up about interstate commerce and
23 leveling the labeling requirements. I was
24 going to bring that up for the manufacturers.
25 But I also just wanted to reiterate again how

1 important it is that, for the homeowner, while
2 this -- we are not capturing records from the
3 homeowner, we are not certainly requiring them
4 to obtain any sort of licensing or
5 certification -- the components of the
6 fertilizer will be limited. The nutrient
7 components will be standardized. The
8 application rates will be standardized
9 regardless of what lawn care product that they
10 choose to purchase. It will be a standardized
11 type of fertilizer that he or she may use for
12 their own lawn care.

13 And, again, the education and
14 outreach component cannot be overstated. We
15 need to understand how important that part is
16 for the homeowner to understand best
17 practices, environmental responsibility, even
18 the economic portion. You don't use too much
19 because you're wasting money. That might
20 resonate with them as well.

21 So, I just -- I'm happy to talk again
22 about how the manufacturers, it levels that
23 playing field for the manufacturing facility
24 and their labeling for interstate commerce.

25 MINORITY CHAIRMAN PASHINSKI: Okay.

1 Thank you all.

2 Marel, you have something?

3 MS. KING: I just wanted to briefly
4 add -- Erin mentioned consumer choice. And
5 that was another thing we worked very hard on,
6 to make sure that the variety of fertilizer
7 products that are out there -- whether it's
8 slow-release or not, whether it's an organic
9 product or inorganic product, whether its
10 granular or liquid, whether you're a homeowner
11 or professional -- that that range of products
12 would all still be available to you but within
13 the certain content or application standards.

14 MINORITY CHAIRMAN PASHINSKI: Thank
15 you all very much.

16 Chairman.

17 MAJORITY CHAIRMAN MOUL: Thank you.

18 Representative Kinkead.

19 REPRESENTATIVE KINKEAD: Thank you,
20 Mr. Chairman.

21 Thank you for coming today.

22 I just wanted to start by saying I
23 appreciate the highlighting of the Chesapeake
24 Bay and, you know, the impact that this bill
25 would have on that.

1 As a representative from Allegheny
2 County, not really something that most of my
3 constituents understand as having an impact on
4 their lives. But highlighting the fact that
5 putting these into place in terms of trying to
6 help the Chesapeake Bay also helps, you know,
7 the three rivers in Allegheny County, helps
8 to -- to deal with issues that we have in our
9 own area. So, I appreciate you highlighting
10 that. I think that's a really important
11 point.

12 I want to focus on Section 4 of
13 SB 251, which transfers 100,000 dollars to the
14 agronomic regulatory account to develop
15 certification courses and software, which are
16 the key piece, I think, of this legislation.
17 What programs are funded with this account?

18 MS. BUBB: The programs that are
19 funded with this account are the fertilizer
20 program currently, the soil and plant
21 amendment program, and the seed program.

22 REPRESENTATIVE KINKEAD: Okay. And
23 is 100,000 dollars really going to be
24 sufficient seed money to start up this
25 program?

1 MS. BUBB: It's excellent seed money.
2 So, while -- yes, you're correct. This --
3 this funding is so necessary because the first
4 big hurdle is getting that software built. We
5 can't have a certification program, we can't
6 start the recordkeeping with the enhanced
7 reporting until we have that software program
8 that can obtain and hold all of that
9 information. So, that's where we see the
10 first big hurdle.

11 And then, as the fee structure kicks
12 in and we start to receive an influx of a
13 little bit more money into that account, we
14 can start to take some of that increased
15 revenue and put it back into the fertilizer
16 program, to build this without -- and this is
17 what's really important -- without robbing the
18 ability of those other two programs to use
19 that account for their operations. So, that
20 was the key.

21 REPRESENTATIVE KINKEAD: And what are
22 you -- what other costs do you anticipate in
23 establishing and administering the program?

24 MS. BUBB: The costs that we see,
25 again, we talked about, right off the bat, we

1 see the software development. The development
2 of the exam itself, we will need to utilize
3 subject-matter experts, a professional exam
4 preparer. We currently contract with Penn
5 State University to do our pesticide exams, so
6 I would imagine it would be a very similar
7 model there, to contract with an education
8 agency -- not an agency -- university -- thank
9 you -- like Penn State, that would do the exam
10 building for us, but that costs money.

11 We would, of course, have to start
12 the education and outreach component. That is
13 going to definitely be a hard lift. We don't
14 have money in the account currently that can
15 really take that and push the level of
16 education and outreach that we see as needed.

17 We would also have increased costs
18 with administering the program. We will
19 simply need to bring in a few more folks to
20 help now with administering the expanded
21 program.

22 So, the costs are there. The bill
23 itself, the way that it is written, addresses
24 that in the fee structure. And we feel that
25 with the proposal that we have here, that --

1 that is -- that's an appropriate influx of
2 money and perceived expenditures.

3 REPRESENTATIVE KINKEAD: Okay.

4 SECRETARY REDDING: If I could just
5 add, it's not a lot of money. Right?

6 REPRESENTATIVE KINKEAD: Yeah.

7 SECRETARY REDDING: But I think it
8 goes to this point that Gregg mentioned at the
9 outset, it's about accountability. Right?
10 You've got to signal to the world that things
11 are different than they were yesterday. And
12 we need money to sort of get this operation up
13 and running.

14 The IT, we have learned, is the
15 kingpin to, you know, being able to receive
16 data, collect data, you know, engage with --
17 so, it's sort of a down payment. I mean, I
18 look at it's sort of the yeast, right, to help
19 raise other money. But you need something
20 between getting the regs completely in and,
21 you know, our exams done, all that kind of
22 stuff. Parallel to that is building the
23 system.

24 REPRESENTATIVE KINKEAD: You've
25 convinced me, so I appreciate that.

1 I guess my last piece of the question
2 is, do you foresee any issues developing if
3 this seed money is not included when enacting
4 the legislation? And I think you've kind of
5 highlighted a little bit of it, but if you
6 maybe can speak a little bit more specifically
7 to that.

8 SECRETARY REDDING: Yeah. I think
9 there are important optics here, right, that
10 we made a commitment to the industry at large,
11 particularly the PLNA industry, that if we're
12 going to do this, we're going to be serious
13 about it. You're going to set up a system for
14 collecting data. You're going to enforce it.
15 There's not going to be, you know, the double
16 standard that we're looking to make.

17 So, I feel that is as important as
18 the material, you know, effort of -- you know,
19 of coding and system build is the outward
20 signal from the Department and the state about
21 how serious we are about this.

22 REPRESENTATIVE KINKEAD: Thank you.

23 MAJORITY CHAIRMAN MOUL:
24 Representative Mustello.

25 REPRESENTATIVE MUSTELLO: Thank you,

1 Mr. Chairman.

2 And thank you, Secretary and the
3 panel, for coming out this morning.

4 I have a bunch of questions, but I
5 will only stick with one. I'm sorry.

6 The one question I do have is, how
7 does PDA plan to pick places to inspect? I
8 mean, I'm kind of with Representative Kinkead,
9 being from the western part of Pennsylvania,
10 there are people that vacation in the
11 Chesapeake, but a lot of our landowners, I
12 don't see how our water flows into there, and
13 the -- you know, the punishments, if they get
14 fined, if, you know, their land is inspected.

15 So, my question is, how is PDA going
16 to inspect these various places? Is it an
17 unannounced visit? Is it a neighbor calling
18 another -- calling PDA saying, I think my
19 neighbor's not using appropriate fertilizer?
20 What is the -- how has this been -- I mean, if
21 it's been in process for eleven years, I'm
22 sure you guys have ways that you've come up
23 with this. But how are the inspections going
24 to take place?

25 SECRETARY REDDING: Yeah, two points.

1 One, to the first concern just on the western
2 part of the state, and I appreciate your
3 acknowledgement of that. It's one of the
4 changes from the initial bill to where we are
5 today is I don't care about the bay. I mean,
6 I do, but, at the end of the day, I'm worried
7 about Pennsylvania. Right? And we've got
8 18,000 miles of impaired waterways without any
9 further conversation. So, that is of concern
10 to us.

11 The bay is the beneficiary of
12 everything that we do on the landscapes, farm,
13 and lawns. And so that, I think, is the
14 reverse of where we were ten years ago, is to
15 turn that on its head, right, and let's do
16 what's right for Pennsylvania, and the bay
17 will benefit.

18 Now, if we can get the credit, we
19 need to get the credit.

20 Sorry, Marel.

21 But just to say that, in our minds,
22 we first have to do what's right for
23 Pennsylvania. So, we think that's statewide.
24 It doesn't matter if you're Lake Erie or
25 Monongahela, wherever, that's an important

1 principle.

2 To the enforcement component, you
3 know, quite frankly, we're going to look to
4 the professional industry, to, you know, point
5 out who is and who is not. Right? So, PLNA,
6 you know, certainly I see playing a role --
7 and Gregg may want to comment on this -- but I
8 would hope that they would help us get to the,
9 you know -- to the infractions and addressing
10 that.

11 We will certainly have homeowners --
12 I mean, it's, again, borrowing from the
13 pesticide, we get those calls from homeowners
14 who are concerned about either what they've,
15 you know, asked to be applied or what the
16 neighbor sees being applied. Right? So, I
17 think there is -- but there's no -- there's no
18 prohibition from anybody raising their hand or
19 pointing to or expressing concern about if
20 they want to know. Right? Our challenge
21 would be, as we do with the pesticides right
22 now, is to triage that and respond -- respond
23 to those inquiries.

24 Erin or Gregg, anything you want to
25 add?

1 MS. BUBB: Yeah. Our enforcement, we
2 would mirror this very similar to the
3 pesticide program as it is. It's just the
4 same group of inspectors, same regions. We
5 conduct inspections now. We go to facilities
6 that are licensed. We go to applicators that
7 are licensed. We can conduct those types of
8 inspections during business hours. And we do
9 do such things.

10 It is not something that we will just
11 knock on a homeowner's door and say, We are
12 here to look at your fertilizer, to see how
13 you store it. It is really only a
14 complaint-driven process. If we are to
15 involve a homeowner, it is something that was
16 initiated by perhaps a misapplication of a
17 pesticide. Perhaps there's -- you know, like
18 the Secretary indicated, there -- it doesn't
19 prohibit anyone from saying, Hey, I believe
20 there's been some misapplication here.

21 We will certainly investigate. We
22 will inspect. It doesn't mean that it will
23 turn to enforcement action because maybe there
24 was nothing there that really was wrong. But
25 we would certainly act upon it. We would

1 follow up.

2 But, really, the enforcement comes
3 with the outreach to the industry. And,
4 remember, the component here for the
5 certification is that they're taking on a
6 higher level of professionalism. They are
7 taking on knowledge, a skill set that they're
8 demonstrating through their certification,
9 their continued outreach, that -- they're
10 continued education that they are obtaining.

11 And so, it would be very similar to
12 the pesticide use. It would simply be a
13 matter of quality, quality assurance with
14 industry for the most part. Homeowners would
15 be mostly complaint-driven, if at all.

16 MAJORITY CHAIRMAN MOUL:
17 Representative Mustello, are you finished?

18 REPRESENTATIVE MUSTELLO: Yes, I am,
19 sir. But I think the gentleman -- were you
20 going to respond also, sir?

21 MR. ROBERTSON: Well, I can, and, you
22 know, the enforcement in the -- on the
23 commercial applicators is one of our big
24 concerns, that the Department is able to get
25 the word out and then enforce the law once.

1 So, no bag of donuts. Can't go around without
2 having any certification and be applying
3 fertilizer and not bearing the cost of that
4 certification.

5 We have given a plan to the
6 Department for how we might work with them in
7 enforcement and, I think, would like to see
8 that -- that implemented not only in the
9 fertilizer program but across the board in all
10 the programs. And so, we're looking forward
11 to continuing our conversations with them on
12 that plan.

13 MAJORITY CHAIRMAN MOUL: Thank you.

14 Representative Guenst.

15 REPRESENTATIVE GUENST: Can you hear
16 me?

17 -- [inaudible] -- especially for the
18 amount of education for the public that's
19 going to need to be addressed, which I think
20 is really important.

21 But besides that, do you know of any
22 groups, besides the donut guy, who oppose this
23 legislation, and for what reason? Any type of
24 conservation people or anything that is
25 actually opposing this?

1 SECRETARY REDDING: We don't know of
2 any group that is opposing. We have some that
3 are neutral. Right? So, part of it's their
4 policy manuals that they work from. But, to
5 my knowledge, no one has sort of put out an
6 objection --

7 REPRESENTATIVE GUENST: Okay.

8 SECRETARY REDDING: -- to this.

9 REPRESENTATIVE GUENST: Thank you for
10 the Chesapeake Bay Commission, Ms. King. I
11 appreciate that you were here today. Thank
12 you.

13 And all of you, appreciate the help.

14 MAJORITY CHAIRMAN MOUL:
15 Representative Zimmerman.

16 REPRESENTATIVE ZIMMERMAN: Hello,
17 Mr. Chairman.

18 And thanks, guys, for the testimony.
19 Appreciate that.

20 So, with the phosphorous, for the
21 most part, gone out of this backyard
22 fertilizer, what -- what's -- what's the plan
23 to actually measure progress? For example, is
24 there going to be any -- any stream testing in
25 the mix? Because, in the end of the day, what

1 ends up in the Chesapeake Bay is through the
2 Susquehanna River. As Mrs. King very well
3 pointed out, about 50 percent of the water in
4 the bay comes from the Susquehanna River.

5 And then, how -- how are the credits
6 actually earned? How do you -- how do you
7 earn credits? How are they actually applied?
8 Who ends up getting those?

9 For example, with so many of our farm
10 community, we continue to add no-till crops in
11 farming, but we get very little credit, if
12 any, for that. So, I'd like to have you speak
13 into the whole credit program and how that's
14 actually going to work.

15 SECRETARY REDDING: Do you have an
16 hour?

17 REPRESENTATIVE ZIMMERMAN: Almost,
18 yeah.

19 SECRETARY REDDING: No, just because
20 this has been -- and, first, Representative,
21 thank you for the question. This has been
22 sort of the running battle that we have. And
23 I call it a battle just because we are in
24 constant search of getting all of the credit
25 that Pennsylvania earns. Right? And that --

1 I think we're much better today. Again, it's
2 been a journey, an evolution, to fine tune the
3 components of the model that equal a positive,
4 you know, reduction for us. And we've made a
5 lot of progress. And I think part of this is,
6 you know, what Penn State has done with the
7 survey that you're aware of.

8 So, I think, here -- I mean, two
9 things. One, all of those in-stream monitors
10 that are in place for Chesapeake Bay are going
11 to be used also, you know, to determine, just
12 because they're not -- they're not
13 source-based, they're nutrient-based, so,
14 phosphorus and nitrogen -- we use those
15 indicators. So, we've got the in-stream
16 monitors that are going to help us tell
17 whether nitrogen is up or down, phosphorous up
18 or down.

19 It won't tell us, Representative,
20 whether that molecule is from a lawn, from a
21 septic system, from a municipal system, or a
22 farm. That has been the challenge for us,
23 trying to monitor that as nonpoint source
24 versus the point source.

25 But, the calculation -- let me say

1 this, the only way to get any credit
2 consideration is to have a law that sort of
3 sets forth requirements. Right? It's nice
4 for us to show fertilizer reporting on a
5 voluntary basis, but unless we can actually
6 document that there is an intentional,
7 statewide collection of that, monitoring of
8 that, is part of the -- the effort and stands
9 in distinction to what we have today.

10 Two is the -- the credit will be, you
11 know, a gain by Pennsylvania. Right? And as
12 Marel pointed out, I mean there's sort of two
13 indicators, one is the formulation changes in
14 what that looks like in terms of pounds of
15 reduction, and then the acres under
16 professional management is the other. So,
17 they're the two ways. Those are the two
18 pieces of metrics that we'll use to make the
19 case.

20 REPRESENTATIVE ZIMMERMAN: Go ahead.

21 MS. KING: Well, if I can just follow
22 up. Yes, there is an extensive monitoring
23 network throughout the watershed, with
24 partners like USGS and SRBC and others who
25 have monitoring stations throughout the

1 watershed that we'll be able to identify
2 trends. Now, as the Secretary mentioned, we
3 don't know exactly what's driving particular
4 trends, but we know that if something in
5 policy or practice changes and afterward we
6 see something, you know -- and we have seen
7 that in Maryland and Virginia, in particular,
8 that passed this type of legislation several
9 years ago. In subsequent years, they have
10 been showing a decrease since then of -- of
11 nitrogen and phosphorous fertilizer sold, the
12 actual pounds sold. And so, that sort of
13 top-level input number gets counted in the
14 model. So, that is the signal that we should
15 see.

16 Also, as was mentioned, the second
17 pathway for credit is the acres under
18 professional management. And "professional"
19 being defined as someone who is trained and
20 certified. So, that's where the
21 certification, the credentialing comes into
22 play, because we only get credit if it's that
23 professional-managed acre.

24 And, finally, you know, you mentioned
25 acres of no-till not being captured, not being

1 counted. And, really, the challenge for that
2 is because we don't have a really strong means
3 of getting that information, you know, a
4 reliable source of that information. And
5 that's where the recordkeeping component of
6 this come into play, because it will provide
7 that level of documentation of not only the
8 pounds applied but the acres to which that is
9 applied, that we can then aggregate it and
10 feed that into the model for credit.

11 So, those are the components
12 necessary, and they are in this language now.

13 REPRESENTATIVE ZIMMERMAN: So, yeah,
14 I appreciate that.

15 A state like Maryland, for example,
16 they're monitoring the water in almost every
17 stream -- excuse me. And how -- and so you're
18 saying, with the credit program, it's not
19 necessarily going to revolve around progress,
20 it's going to be more if a certain acreage or
21 what-have-you is professionally managed, some
22 way, shape, or form. So, it's not necessarily
23 for progress to the quality of water going to
24 the bay.

25 SECRETARY REDDING: Well, ultimately,

1 we're judged by the quality of the water.
2 Right? And you can strip away all of the
3 model -- this has been part of our discussion
4 across time. At the end of the day, measure
5 me on the quality of the water that's leaving
6 my property or leaving the Commonwealth of
7 Pennsylvania. That is the single most
8 powerful indicator of whether we're making
9 progress or not.

10 But, we're all, you know, part of the
11 systems. Right? So, they need to set, you
12 know, across the whole watershed a set of
13 components that are imbedded in the model.

14 So, Representative, to your point
15 though, it should be both. Right? We're
16 making progress. This has been our base
17 argument. The progress of Pennsylvania has
18 been significant in water quality, you know.
19 The upper reaches of the bay sort of indicate
20 that. The grasses -- I mean, I'll save you
21 the speech, but, you know, all of that is
22 because of what's happening in Pennsylvania.
23 Right? And that's good for us. And we should
24 be very, very proud of that.

25 We think that there's also an

1 opportunity, when you bring 2 million more
2 acres into this conversation that are in the
3 turf side, is that that only enhances our
4 ability to gain credit and change the water
5 quality in a positive way.

6 REPRESENTATIVE ZIMMERMAN: Again, to
7 just kind of wrap this one up is, I'd like to
8 see a little more on actually how credits are
9 going to be applied, and especially using the
10 quality water ending up in the bay, in the
11 process of passing a bill.

12 But, with that, thank you,
13 Mr. Chairman.

14 Thanks to the testimonies.

15 MAJORITY CHAIRMAN MOUL: Thank you.

16 Representative Burgos.

17 REPRESENTATIVE BURGOS: Good morning,
18 Mr. Chairman.

19 Mr. Secretary, good morning. Thank
20 you for your testimony.

21 SECRETARY REDDING: Good morning.

22 REPRESENTATIVE BURGOS: What efforts
23 has the Department undertaken to support the
24 Spanish-speaking community who work in
25 applying fertilizers at homes, farms, golf

1 courses, parks, and school campuses?

2 SECRETARY REDDING: Relative to this
3 bill?

4 REPRESENTATIVE BURGOS: Yes, sir.

5 SECRETARY REDDING: Yes. Great
6 question. And thank you.

7 We certainly respect the -- you know,
8 the Hispanic community, you know, in so many
9 ways who have been revealed to us in the last
10 year and a half different places, to include,
11 you know, what they're doing in our building
12 and landscape industry.

13 So, we have -- there's not a simple
14 answer to this, I guess, is the -- because
15 it's a national conversation, right, of trying
16 to get the manufacturers to recognize that
17 they have a responsibility on the labeling,
18 right, to include Spanish language.

19 We are working with the -- you know,
20 the trade associations across the board,
21 national associations and others who are
22 referenced here as part of our testimony, you
23 know, to make sure that we address that
24 concern of language and the language barrier
25 potentially.

1 So, we're continuing that work, and
2 you have our commitment to continue that
3 discussion with Penn State.

4 It shows up as well as on the
5 pesticide education side of our discussions.
6 Again, a national conversation with both, we
7 think, the national trade associations, also
8 the manufacturers of product, have a
9 significant responsibility here to help set a
10 standard.

11 But we're going to continue to work
12 at addressing that issue here in Pennsylvania
13 as well.

14 REPRESENTATIVE BURGOS: Thank you.

15 Mr. Chairman, I have another question
16 for Mr. Robertson.

17 Mr. Robertson, good morning, sir.
18 Thank you for testifying this morning.

19 Do you think it would benefit
20 businesses PLNA represents if the Department
21 of Ag were to offer Spanish language versions
22 of the fertilizer application exam and courses
23 and study materials?

24 MR. ROBERTSON: Absolutely. As a
25 matter of fact, we have been working with Penn

1 State to develop online educational materials,
2 and right now they are in English, and we're
3 looking now for grant opportunities to be able
4 to translate those into Spanish.

5 A significant part of our workforce
6 in Pennsylvania is Spanish speaking, and only
7 about half of those are fluent in English.
8 And so, we think it would be really important
9 to have Spanish materials available to them
10 for the certification programs for this
11 upcoming fertilizer certification program as
12 well as pesticide certification.

13 REPRESENTATIVE BURGOS: Thank you,
14 Mr. Robertson.

15 I have a follow-up for the Secretary.

16 Thank you, Mr. Chairman.

17 I have prepared an amendment on
18 Senate Bill 251 that I'll be filing later
19 today. This amendment will require the
20 Department to create and maintain a Spanish
21 language version of fertilizer applicator exam
22 as well as course and study materials in
23 Spanish. What cost would the Department incur
24 if my amendment was included with the
25 legislation?

1 SECRETARY REDDING: Yeah. The honest
2 answer is I don't know. It's not going to be
3 an insignificant cost. Right? I mean, we
4 were talking about 100,000 just for the IT.
5 Our projection was 300,000 for outreach and
6 education materials to -- when we're up and
7 running fully.

8 So, I can get back to you in terms of
9 our best guess on that, but it's not going to
10 be insignificant, because we've got to work
11 both on our own test preparation first, and
12 then -- getting that done and then convert it
13 to Spanish and, you know -- and supporting
14 materials with that.

15 So, I think the best answer I can
16 give you is let us look at it. Let us do a
17 guesstimate of what that would be. But that
18 would certainly be a significant cost, that
19 consideration.

20 But, it's the right thing to do. I
21 mean, I'll tell you. I just don't know
22 whether we can do all of that in the cost --
23 cost column that we have budgeted at the
24 moment.

25 REPRESENTATIVE BURGOS:

1 Mr. Secretary, can I count on your support for
2 my amendment?

3 SECRETARY REDDING: If you're willing
4 to, you know, allow us to sort of look at the
5 cost and considerations and timing on it, yes.
6 I mean, you can plan on the Department being
7 supportive.

8 But we would ask, you know, that we
9 also are championing the changes that we need
10 to at the national level with the
11 manufacturers to help support that. My worry
12 is to have, you know, a state piece that's out
13 of step with the national component. Right?
14 So, we would need that support as well.

15 REPRESENTATIVE BURGOS: Absolutely.
16 Thank you, Mr. Secretary.

17 MAJORITY CHAIRMAN MOUL: Thank you.
18 Representative Diamond.

19 REPRESENTATIVE DIAMOND: Thank you,
20 Mr. Chairman.

21 Good morning, Mr. Secretary.

22 SECRETARY REDDING: Good morning.

23 REPRESENTATIVE DIAMOND: Everyone
24 else, thank you for your testimony today.

25 I kind of want to just follow up on

1 Representative Zimmerman's line of
2 questioning, because I share some of his same
3 concerns.

4 So, you know, look, I've been here
5 for seven years. I have been on the
6 agriculture committee for seven years. I've
7 heard this talk about, you know, getting the
8 credit that Pennsylvania deserves to get.
9 I've heard this all seven years that I've been
10 here, and it's an ongoing battle.

11 And I also agree with Representative
12 Zimmerman that I would prefer some actual
13 measurements and results to be reflected here,
14 rather than, you know, this being put into
15 some modeling that we're going to try to
16 predict on. I would rather have credits be
17 awarded on what we're actually doing, rather
18 than what we think we're doing.

19 So, I do -- let me just share an
20 experience with these credits from my county,
21 a third-class city in my county, who went out
22 and spent a whole lot of money on two
23 brand-new street sweepers, on -- on the
24 premise that that city would get credit for
25 having them on hand, and then having that

1 decision be changed after the fact, after they
2 already spent the money.

3 So, I'm concerned about, we go down
4 the road, we put this new regulation and this
5 new program in place, and then down the road,
6 we don't actually get the credit that we're
7 thinking we might be getting for it.

8 So, I'm wondering, is there a way, up
9 front, before we enact this piece of
10 legislation, to have some sort of metric of
11 what credit we're going to expect to get out
12 of this? And then, I guess my secondary
13 question would be, if we don't receive that
14 level of credit that we expect to get from
15 having this regulation on the books and, you
16 know, imposing on our small businesses this
17 way, if we don't get it, would you support a
18 sunset provision that would say, Well, we're
19 just not going to do it if we're not going to
20 get the credit we assumed we were going to get
21 before we went down?

22 SECRETARY REDDING: So, you know,
23 complicated question, right, because the
24 credit thing and there's --- and I'll be
25 careful here, just because I think the -- the

1 credit discussion, you know -- has been, you
2 know, this sort of love-hate relationship
3 around this credit thing. Because, at the end
4 of the day, you know, the credit is -- is a
5 driver, for sure, and sort of what we do.
6 But, to me, you know, it -- it's not the
7 reason that the farm community does what they
8 do, right, in terms of conservation. I mean,
9 it's not. They don't think in terms of
10 credit. They don't think in terms of the bay.
11 They think in terms of their economics and the
12 conservation work that they're doing.

13 So, I think the -- you know, the
14 credit piece, you know, is one of these topics
15 that has a way of, you know, complicating, you
16 know, conversations with just our own nutrient
17 management approach in the state. So -- so,
18 it's one of these contributors to -- we know
19 that the -- the sources of, you know,
20 fertilizer, commercial fertilizer, are a
21 contributor to, because of development, and we
22 ought to be extracting whatever, you know,
23 reductions we can that help get us to the
24 point of -- of a, you know, a credit for that.

25 But as part of the change, when we go

1 back to where we started ten years ago, is I
2 think we had this thing completely upside
3 down. We were doing it for the benefit of the
4 bay. And where we are today, we're doing it
5 for the benefit of Pennsylvania, with the bay
6 being a beneficiary. Right? And it changes
7 the perspective of where we place the value of
8 credit.

9 I'm not saying we shouldn't get
10 credit for whatever we do. That will be a
11 constant, everyday argument over whether we're
12 getting credit, whether the model works to our
13 advantage, et cetera. But we do know that,
14 just because of the good stewardship
15 principles applied to the land, that we've
16 seen a difference in water quality across
17 Pennsylvania. And I would expect that would
18 continue with this fertilizer.

19 To be direct, though, there is no
20 consideration -- we can't even get in the game
21 of getting credit unless you've got a law that
22 says, Here are the left and right boundaries.
23 Right? This is what we're going to hold
24 ourselves accountable for. This is what
25 information you're going to collect. This is

1 how you're going to assess that. And it will
2 be supported by, you know, the in-stream
3 monitors and so forth. But there is no
4 consideration of credit unless you have the
5 legislation to hold us accountable.

6 The sunset piece, I don't want to say
7 yes to that, because I could have said yes to
8 that under the nutrient management Act 38 and
9 Act 6 and Acts 49. Right? But all of the
10 other nutrient management piece had no sunset
11 provision. So, I don't want to go -- go
12 there.

13 I would rather have the committee
14 say, We want all of the credit, however we
15 establish it, wherever we get it. If we're
16 doing the work, we want credit for the work
17 that we're doing. And let us fight for -- you
18 know, at the table, when we talk about credit,
19 let us fight for that credit to be applied to
20 Pennsylvania's sort of reduction of
21 phosphorous and nitrogen.

22 REPRESENTATIVE DIAMOND: I certainly
23 understand, and I will stipulate. You know, I
24 mean, this is a two-pronged kind of thing
25 here. First of all, good stewardship for

1 Pennsylvania. I agree with that
2 wholeheartedly, 100 percent. Okay.

3 But this -- this interstate compact
4 that we're in, it's a two-way street. And if
5 we're going to be held to some standard, I
6 think that, on the other side, there should be
7 some standard, some expectation of what's
8 going to be returned to Pennsylvania in
9 exchange for doing this. And I think we ought
10 to hold them to the line.

11 So, Mr. Chairman, it would be my
12 suggestion, at the very least, that we put
13 some sort of sunset provision into this bill,
14 based on hard data and metrics and results,
15 and just move forward with that way.

16 So, thank you so much, Mr. Chairman.

17 MAJORITY CHAIRMAN MOUL: Thank you.
18 We will talk afterward.

19 Representative Borowicz.

20 REPRESENTATIVE BOROWICZ: Thank you,
21 Chairman.

22 Thank you, panel, for being here
23 today.

24 Here's the bill, let me get it. I
25 think it's sixty-eight to seventy pages of

1 government regulations, more government
2 regulations, which I ran on less government
3 regulation. So, my question would be, if
4 anyone can answer it, how many new fees,
5 licenses, or regulations will be required and
6 changed out from the agriculture -- the
7 fertilizer chapter in the ag code?

8 I think it's important, especially as
9 Republicans, to know that. So, new fees, the
10 amount that is going to have to be paid,
11 new licenses that are required, just so we
12 have an idea.

13 SECRETARY REDDING: Yeah,
14 Representative. Thank you. And again, I'll
15 look to Erin, who can supplement this.

16 But the existing -- we have 728
17 licenses for manufacturing -- manufacturers,
18 that will increase from 25 dollars to 50. We
19 have 5,832 product registrations in
20 Pennsylvania currently at 25 bucks. That will
21 go to 100 dollars.

22 Existing tonnage reports, you know,
23 from 826 -- almost 827,000 tons of fertilizer
24 reported currently at 15 cents per ton, goes
25 to 17 cents, so it's a two-cent change. We're

1 eliminating the tonnage for small packaging,
2 that's 897 brands.

3 We've got 3500 companies that today
4 have a pesticide license, and they would be --
5 again, assumed to be licensed under -- and
6 certified under the fertilizer.

7 And the fertilizer exam, how many --
8 Erin, how many would take the fertilizer exam?
9 Five hundred -- no.

10 MS. BUBB: We anticipate an
11 additional 100 new exams that will be taken
12 annually.

13 REPRESENTATIVE BOROWICZ: Did you say
14 100 new exams?

15 MS. BUBB: Correct. With the
16 fertilizer exam, we anticipate about 100
17 exams adding each year.

18 REPRESENTATIVE BOROWICZ: Okay.

19 SECRETARY REDDING: Yeah. And I
20 think the important point that Gregg had noted
21 is the -- using the pesticide sort of model we
22 have in Pennsylvania really fast tracks the
23 certification and process on the fertilizer
24 side.

25 So, we don't see a huge spike in the

1 new businesses. We see categories being added
2 by companies who are currently registered and
3 licensed with the Department, certified with
4 the Department under pesticides. So, we don't
5 see a huge increase there.

6 REPRESENTATIVE BOROWICZ: Thank you.

7 MAJORITY CHAIRMAN MOUL: Thank you.

8 Representative Lawrence.

9 REPRESENTATIVE LAWRENCE: Thank you,
10 Mr. Chairman.

11 And appreciate everyone being here
12 today to testify.

13 I want to come back to some of the
14 points that Representative Zimmerman and
15 Representative Diamond were making. And I
16 hope you'll forgive me for going back to this
17 metrics question.

18 I just -- I mean, I think about the
19 number of regulations and new processes that
20 have been put into place in the last number of
21 years. I mean, a friend of mine bought a
22 one-acre, level lot in Chester County, in a
23 subdivision that already had a stormwater
24 management system in the subdivision. He was
25 required to put his own stormwater management

1 system on his one-acre, level lot, at a cost
2 of nearly 50,000 dollars, prior to beginning
3 construction of his home. This is substantial
4 cost. And, frankly, I think the impact to
5 water quality was nil. But those are the
6 requirements.

7 So, before we enact new requirements,
8 I would like to know -- and I feel like there
9 hasn't been a good answer to this question --
10 what are the specific measurable metrics that
11 would see an improvement if this bill were to
12 pass into law?

13 MS. KING: What we are looking at are
14 pounds of nitrogen and pounds of phosphorus.
15 And that is in addition to pounds of sediment,
16 but that's not included in this particular
17 law. Nitrogen, phosphorus, and sediment are
18 the metrics that we're looking at for
19 Chesapeake Bay in particular. That's what I
20 can speak to.

21 So, as we reduce the pounds of
22 nutrients that are out there in the
23 environment to be begin with, so the pounds
24 that are applied in the first place, that is
25 one way to reduce that number.

1 The second way is to, once those
2 nutrients are applied, to do it in a manner
3 and with other best practices that will reduce
4 any pounds from escaping into the water and
5 the environment generally. We want to keep --
6 we want to apply those nutrients in the first
7 place where they are needed and keep them
8 where they are needed and available to the
9 plant.

10 And so, that is what we're trying to
11 address with the legislation, and the
12 measurement is pounds of nitrogen and
13 phosphorus.

14 REPRESENTATIVE LAWRENCE: So, I
15 appreciate that, and I suspected that that was
16 going to be the answer, nitrogen and
17 phosphorus.

18 I guess my question is is that we've
19 heard several times today, in fact from the
20 testifiers even, we've heard several times
21 that fertilizer sold at the retail level are
22 already in substantial compliance with the
23 measures contained in this legislation. We've
24 also heard from testifiers today that the
25 processes contemplated in this bill have

1 already been widely implemented in the
2 industry.

3 So, one would think, if phosphorus
4 has been removed from residential fertilizers
5 sold at the retail level, that we would have
6 seen an improvement. So, it seems that either
7 we haven't seen that improvement or that
8 improvement's occurred but we're not getting
9 credit for it. Which is it? Or am I wrong?

10 SECRETARY REDDING: So, you're not
11 wrong. Right? So, again, this goes back to
12 this question of the model. So, if you
13 have -- you have two measurements. One is the
14 in-stream water monitoring that we do, right,
15 to know whether we're making -- at the mass
16 level, whether the water quality is improving.
17 Then the second part of that is the
18 substantiation of the different management
19 practices that are applied to the land where
20 we can measure success, whether no-till,
21 number of nutrient management plans, on and
22 on. Right? There's a whole list of those
23 types of management practices that
24 substantiate and, quite frankly, help guide us
25 on what the best management practices are to

1 gain the best result.

2 And I think that's a -- goes back to
3 the soil health question. It goes back to the
4 no-till and these land practices.

5 So, you're not wrong, it's both.
6 Right? So here, in this case, we have the
7 in-stream water monitoring that we would use
8 also substantiate the progress. We would have
9 the other metrics of, you know, pounds of --
10 of fertilizer reductions in nitrogen and
11 phosphorus, coupled with the numbers of acres
12 under professional management, as further
13 substantiation of the best management
14 practices that we're making.

15 So, again, you have some sense of,
16 you know, are the labeling requirements the
17 right label? Are the soil testing
18 requirements the right soil testing? Is the
19 management of that turf, whether it's the
20 athletic fields or schools or municipal parks
21 or homeowners, it's the right thing to do.

22 So, it's both.

23 REPRESENTATIVE LAWRENCE: So, I mean,
24 that doesn't give me a great deal of
25 reassurance. I mean, my understanding is, you

1 know, tonnage reports collected under existing
2 law indicate that we're close to zero for
3 phosphorus for urban turf. I don't see how --
4 if that's, in fact, the case, then I'm not
5 sure -- first of all, it concerns me that
6 we're not getting credit for that. And it
7 also concerns me that, if that's the case,
8 then where is the room for improvement for us
9 to get additional credit down the road?

10 SECRETARY REDDING: Right. So, I
11 would say several things. One is, that's
12 from -- and Gregg can speak to the survey --
13 and that's the survey results. So now, like
14 everything else that's inside of the model
15 world, is you have to substantiate what it is
16 that you can do. Right? That's the first
17 principle. You have to substantiate that. It
18 goes back to the conservation districts and
19 why we ask them to report on acres and so
20 forth.

21 And so, Representative, we would need
22 to substantiate what the survey results are
23 indicating as the --

24 REPRESENTATIVE LAWRENCE: With all
25 due respect, Mr. Secretary, wouldn't the

1 in-stream monitoring be the ultimate
2 substantiator of what's occurring? I mean,
3 you're right, anybody can say anything. They
4 can say that they're complying. They can say
5 that they're not putting phosphorus onto the
6 ground, even though they can't buy it anymore,
7 so I don't know how they would be getting it,
8 but, whatever, but maybe they're lying.

9 And I understand the desire for, you
10 know, a government minder checking over
11 somebody's shoulder, perhaps. But, I guess,
12 regardless of any of that, the ultimate -- the
13 ultimate metric that I think we should be
14 looking at is what does the water quality
15 suggest.

16 And what concerns me is, again,
17 coming back to this, we've already taken the
18 phosphorus out of residential fertilizers.
19 Passing this legislation is not going to
20 change that. The fact that we have not gotten
21 credit for that concerns me. It concerns me
22 that we have very little room to improve -- I
23 mean, if I'm not spending any money and
24 somebody says you need to cut costs, what am I
25 supposed to do?

1 So, I'm very concerned about that.
2 And I'm looking for an answer. And maybe
3 I'm -- maybe I'm wrong, but I'm looking for an
4 answer on that question.

5 SECRETARY REDDING: So, I think --
6 again, representing agriculture and having,
7 you know, stood for interrogation on this
8 question many, many times from the ag
9 community, is that the expectations is that
10 what they are doing in terms of managing of
11 nutrients shouldn't be solely held by them.
12 Right? They see homeowners applying. They
13 see commercial application being made. You
14 know, they see 827,000 tons of fertilizer
15 being applied in Pennsylvania and want to have
16 some assurance that what they're doing in
17 terms of good stewardship are also being
18 applied throughout the community in protection
19 of that water quality.

20 Two is that we know from when we
21 started the conversation some years ago
22 that -- and at that time the nitrogen loads,
23 about 11 percent, were -- were coming from --
24 I'm sorry, 9 percent -- were coming from
25 developed land, and today it's 14 percent of

1 the nitrogen load comes from developed land,
2 while the agricultural piece has reduced over
3 the same time, is that there's some
4 expectation that we're seeing the results,
5 right, of the agricultural application that
6 we've set forth in Acts 6, you know, 38, 40,
7 you know, make the whole list.

8 I think that's, Representative, what
9 we're trying to get to, is you've got a parity
10 question here of nutrients finding their way.
11 Ultimately, the water quality is improving,
12 yes. But where do you direct the attention in
13 terms of improvements? Do you say it's only
14 going to be on farms? Only municipal? Or
15 should we really look at this fertilizer --
16 commercial fertilizer application, which has
17 never been reported or included because we
18 don't have a way to do that without the
19 existing law to require reporting.

20 And acres -- I mean, there's a whole
21 calculus to this. That's what we're trying to
22 get to. You'll never prove, unless -- that
23 you're doing the right things unless you have
24 a way to actually measure what you're doing.
25 Right? And it's got to be more than just the

1 tons of the fertilizer going out of the
2 manufacturing plant. And that's what we have
3 at the moment. We have no way to measure.
4 So, this gets us the measurement.

5 REPRESENTATIVE LAWRENCE: I mean,
6 with all due respect, the number of tons going
7 out of -- fertilizer going out of a
8 manufacturing plant, I mean, that does count
9 for something. I don't imagine that there's a
10 tremendous amount of fertilizer just that
11 people buy and just let it sit around and
12 don't use it. I mean, I don't want to be, you
13 know, too sharp on that.

14 I mean, I guess I come back to my
15 friend who spent 50,000 dollars on stormwater
16 engineering on a one-acre, level lot in a
17 subdivision that already had a stormwater
18 management plan. There's no way, that I'm
19 aware of, that the impact on clean water that
20 he went to great expense, personal expense --
21 we have an affordable housing crisis in
22 Chester County and much of southeastern
23 Pennsylvania. It's very difficult to
24 construct affordable housing when you need to
25 put 50,000 dollars into a lot before you put a

1 shovel onto the ground. That's in addition to
2 the cost of the lot.

3 It would be great to know that his
4 expense was not for naught, that that's being
5 calculated and that the runoff of his one acre
6 is being calculated and is being credited to
7 the Commonwealth for the reduction, whatever
8 it is, very minute, but still a reduction, and
9 I'm sure there are many other one-acre lots
10 collectively, but I don't see that.

11 What is frustrating to me is that I
12 feel like we do a lot of talking in this
13 building but the facts on the ground are yards
14 away from what we're talking about. I'm
15 interested in clean water. I'm interested in
16 a positive impact that we get credit for.

17 I'm not interested in measures that
18 make it look like legislators are doing
19 something. That's already happened. There's
20 no real impact to the bay. But somebody gets
21 a pen card, and there's another bill that
22 makes the general assembly look like it's
23 doing something. That's my concern here.

24 I'm very concerned that we do not
25 have specific metrics -- and the proof of the

1 pie is in the eating. If we've already taken
2 phosphorus out of a tremendous amount of the
3 fertilizer that's been sold in this state, but
4 we're not getting credit for that on the back
5 end, that's very concerning to me, to
6 implement yet more regulations on top of that.

7 And I don't want to belabor my point.

8 Mr. Chairman, you've been very
9 generous with the time you have given me.
10 Thank you.

11 MAJORITY CHAIRMAN MOUL: Thank you.
12 Representative Fee.

13 REPRESENTATIVE FEE: Good morning.
14 And thank you for being here.

15 I hate to pile on, but it's
16 obviously -- I'm from Lancaster County, and,
17 you know, it's one of my great frustrations.
18 And I am monitoring all in the waters. In the
19 Chiques, we've been monitoring for years. And
20 I constantly am asking, you know, what
21 difference are we making, and they probably
22 tell me, Mindy, it takes years to figure that
23 out.

24 But I guess -- and I'm going to
25 digress just a little bit with the Chesapeake

1 Bay Commission here -- but I guess if we are
2 working so hard to try and get credit and try
3 and get -- you know, if it just takes a
4 certification and some testing to get our
5 landscapers taken care of, then you know
6 personally how hard our farmers work with
7 no-till and with crop covers -- cover crops,
8 why can't we get them credit? Because we
9 haven't been able to get that done.

10 So, if I introduce legislation where
11 they just get certified or have to take a
12 test, can we then work towards getting them
13 credit also?

14 SECRETARY REDDING: So, let me --
15 I -- several things. Thank you, you know, for
16 the question.

17 The short answer is no. It's not --
18 it's not simply about the credential. Because
19 I look at, you know, the nutrient management
20 plan that's developed by the professions given
21 to me on my farm as a credential from the
22 person that gave it to me, and I trust them.
23 Right? So, that process is a really important
24 and foundational difference between what
25 Pennsylvania does and what other states do.

1 And I think that's a really important
2 difference here, is that we have a farm
3 community who has accepted those conditions
4 and do their level best, I mean, to try to
5 comply and, you know, implement the plans, and
6 we are always working to get that -- that
7 credit that Pennsylvania's earned and the
8 individuals have earned.

9 I think the -- what we're trying to
10 do here is to take that same farmer who
11 complains to me constantly that they have
12 those responsibilities -- they'll do them, but
13 it really agitates them that the neighbor
14 doesn't have to do any of that. Right? Or to
15 live next to the golf course that doesn't
16 require any of that. And they're, like,
17 really torqued about that. Right? Because
18 they think they're doing -- and they are,
19 really trying to make a difference. And it is
20 what's showing up in the -- in the monitoring.

21 But there's more to do. We've got 30
22 million pounds of nitrogen that we've got to
23 squeeze out of this system somewhere in the
24 next number of years. Where's it going to
25 come from? I think that's the question.

1 Where's it come from?

2 We're an animal agriculture state.

3 We want to maintain animal agriculture here.

4 So, we need to be, I think, as a body, a
5 public, that set forth many years ago in Act 6
6 and all of the acts, and we're down to, you
7 know, licensing and certifying manure haulers
8 and brokers for the benefit of both
9 application and record and documentation and
10 accountability. All of those are contributors
11 to whether we get credit or not. But every
12 one of those farms will tell you that their
13 crops and the lands are better today than they
14 were before they had.

15 I'm trying to sort of decouple that
16 this is not about only getting credit in the
17 bay model. This is a bonus. The credit's a
18 bonus. Doing the right thing for the water
19 quality in Pennsylvania is the real -- the
20 real gain here. To get credit for it in the
21 model, we'll work our tails off, as we've
22 done, but that is the flat-out wrestling match
23 every time we get involved in it, because
24 there are scientific bodies which stand in
25 judgment of every single BMP that we apply on

1 the land. We'll do that. These are parallel
2 discussions. Right? You have to make your
3 case inside the larger watershed. But we also
4 know that what Act 6 did and Act 38 and Act
5 49, all of those have made a significant
6 difference on the water quality in
7 Pennsylvania. The bay is a beneficiary, but
8 it's not the reason I'm doing it.

9 MS. KING: And I should say the --
10 the -- this idea did not originate out of the
11 model. You know, the model didn't do a run
12 and suggest that we take this particular path.
13 But, you know, the commission first heard
14 about it from a presentation from Michigan,
15 and they had taken these steps out there for
16 the benefit of a particular lake, and the lake
17 water quality improved significantly.

18 There are many other states
19 throughout the country, totally outside of the
20 bay watershed, several in mid Atlantic and New
21 England, completely outside of the bay
22 watershed, who have taken very similar
23 action because of the benefits for local water
24 quality.

25 If -- this legislation is informed by

1 the bay in particular. It's through an expert
2 panel report that was convened by the entire
3 bay partnership to look at best practices and
4 what constitutes and what expectations there
5 should be for professionals and for
6 do-it-yourselfers and for just best practices
7 generally that has helped to inform this --
8 this particular legislation. But that, again,
9 was reaching out beyond the watershed and
10 looking at -- at research and actions
11 nationally to identify what we should include
12 and what should be creditable.

13 And that's why, you know, groups like
14 Trout Unlimited is supportive of this
15 legislation, because they see the benefits to
16 local water quality that we -- that we expect
17 to see and we feel that it will show up in
18 the -- in the water quality itself at those
19 various monitoring stations.

20 And those trends are already showing
21 improvement. We know that we're doing good
22 work in Pennsylvania because those monitoring
23 stations are all showing downward -- not
24 actually all showing, which is why we need to
25 dig a littler deeper sometimes -- but are

1 generally showing downward trends in that
2 nitrogen and phosphorus going to the bay, and
3 which means improved local water quality. We
4 just have more to do.

5 MAJORITY CHAIRMAN MOUL: Thank you.

6 Chairman Pashinski.

7 MINORITY CHAIRMAN PASHINSKI: Thank
8 you very much, Chairman Moul.

9 And thank you all, once again, for
10 your testimony.

11 I'd like to just focus in just a
12 minute or two on PA First. Mr. Secretary, you
13 emphasized PA First. And I also want to share
14 with the folks that are here, as well as
15 anybody that might be listening, I come from
16 northern -- northeast Pennsylvania, where the
17 finest anthracite coal in the world, in the
18 world, was. Pennsylvania has been very, very
19 blessed, the finest anthracite coal in the
20 world, great bituminous coal, incredible
21 amount of natural gas and oil, incredible
22 farmland, and water. We need air first to
23 survive, and then we need water.

24 And coming from the northeast, I have
25 experienced yellow and orange streams that

1 then led into the Susquehanna. Nothing lived
2 in the yellow and orange streams, including
3 what went into the Susquehanna. And you
4 pointed out about Trout Unlimited. It all
5 connects. When you have clean water, there's
6 vegetation, there's animals. We get brown
7 trout. We get bass in the river. We get --
8 sorry -- cats, catfish. So, it all works
9 together.

10 And the thing that I want to share
11 with you is, up in that area, we've been
12 working for decades trying to clear up the
13 coal banks, trying to eliminate the yellow and
14 orange rivers. I was just out this past week,
15 as we then inspected various streams, because
16 of what's transpired with the coal industry.
17 And there's -- some of them are still yellow
18 and orange. Nothing lives in it.

19 Here's what I want to tell you,
20 though. It's been getting better, because
21 there was a time you could fish in the
22 Susquehanna and catch incredible channel cats
23 and bass and everything. It's coming back.
24 We now have fishermen on the Susquehanna. We
25 didn't have them there for years. So, but

1 it's taken decades and decades and decades to
2 clean that water up to prevent that water from
3 coming in there.

4 The other thing I want to share with
5 you is -- and I've been around for a few
6 years, there is no -- thank you, thank you
7 very much, Mr. Chairman -- I never had gallons
8 and gallons of Ortho spray to kill this weed,
9 to kill that weed. I'm talking gallons. Do
10 you remember when they used to sell a device,
11 it was a weed eliminator. You had to stick it
12 in the ground and you take out that weed one
13 at a time. See -- I see in your faces you
14 don't even know what I'm talking about.

15 So, my point to you is, there was a
16 time when people cut grass, and they cut their
17 bushes. They didn't do weed killing, and they
18 didn't use pesticides, and they didn't use all
19 this stuff.

20 There was a time in northeastern
21 Pennsylvania when the coal furnace, the
22 residue was ashes. You know, where they put
23 the ashes? In the alleys. Now, those alleys
24 are paved roadways. Do you know where a lot
25 of the guys changed their oil? In the street.

1 Where'd the oil go? In the street. We said,
2 Hey, this ain't working right. The science
3 says this is really bad. That doesn't happen
4 anymore.

5 So, this is just another step in
6 trying to preserve the water not just for the
7 fishermen but to consume it for our own lives.
8 And the more -- and that's a valuable --
9 that's a valuable quality that we have in
10 Pennsylvania.

11 You see what's happening in
12 California, do you not? Lake Mead, Colorado
13 River, that's horrifying. They have about 30
14 percent left or something. Just incredible.

15 So, we -- anytime we have a chance to
16 make sure we preserve our water, we should.

17 I think it's also important that we
18 have made the progress. We've eliminated the
19 phosphorus, and we're going to continue to
20 work on it. The farmers have done a good job.
21 Am I right, Mr. Secretary?

22 So, now we just want to expand that a
23 little further. And when we all realize it's
24 for our own benefit, it shouldn't be too much
25 of a problem.

1 So, I just -- I had to get that off
2 my chest, because I don't want any yellow or
3 orange rivers. They don't grow any fish.
4 They don't grow anything. And you can't swim
5 in it. In fact, there's points there where
6 you can't even touch it with your hand because
7 it -- the acid in there is so bad.

8 Maybe we should end on a much
9 brighter note, Mr. Chairman. Maybe you can
10 bring out a little bit more stories about Joe,
11 bag of donuts, and a truck.

12 MAJORITY CHAIRMAN MOUL: Well,
13 that's -- I affectionately use that term. I
14 don't like to discredit anyone, but, boy, when
15 I was back in the business, back in the day,
16 that was one of my major concerns. And this
17 bill would help take care of that, because
18 I've been on the receiving end of being outbid
19 by guys running under the cover of darkness,
20 so to speak.

21 But, in any event, this will conclude
22 this hearing. I want to thank everyone -- our
23 three panelist, and, Erin, you as well, for
24 testifying here today to help elaborate on the
25 bill, get these questions answered for our

1 members.

2 And again, thank you so much for
3 helping us out with this hearing today. This
4 concludes this hearing of the Agriculture
5 Committee.

6 SECRETARY REDDING: Thank you.

7 (Whereupon, the hearing concluded at
8 11:46 a.m.)

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BRENDA J. PARDUN, RPR
Court Reporter
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