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Agriculture Committee
August 27, 2007

[LR76 LR93]

SENATOR ERDMAN: Let me introduce the members who are. First of all, my name is Philip Erdman. I'm the Chairman of the Agriculture Committee. I reside in Bayard, Nebraska. And I'll introduce the committee members who are here, as well as those senators who are visiting the hearing this afternoon who may not be Agriculture Committee members. And one of the traditions that I think it's important for the Agriculture and other committees of the Legislature to do, is to invite area senators to these discussions, and so you'll see some of the local senators that have been or will be a part of this discussion, as well. I'll start down, on my far right is Senator Arnie Stuthman. Arnie is from Platte Center, he represents District 22. Next to him is Senator Norm Wallman. Norm is from Beatrice, representing District 30. Senator Don Preister, District 5, from Omaha, and he is the principal introducer of LR76, which will be our first interim study this afternoon. Probably someone who doesn't need much introduction in northeast Nebraska, but I'll do it anyway, Senator Cap Dierks. Cap is from Ewing. As a former Chairman of the Ag Committee and a new member of the Legislature, all over again, so we're excited to have him. To my right is Rick Leonard. Rick is the research analyst for the Ag Committee. To my left is Linda Dicken. She is the committee clerk, and she'll be taking down the records of this afternoon's discussions, and gathering any information that you have for any records that we may need to keep. To Linda's left is Annette Dubas. Annette is the Vice Chair of the committee. She's from Fullerton, and has been a member of a lot of these discussions for a number of years, and we're grateful for her participation. Next to Annette is Russ Karpisek. Russ is from Wilber, Nebraska; District 32. And to Russ's left will be the Speaker, when he arrives, Mike Flood; he's from Norfolk. And the Speaker was gracious to give us a tour of his community this morning. We got to see Nucor Steel and the Norfolk Regional Center, and then he bought us lunch. Well actually he didn't buy us lunch; it was free to all of us, but that's why we were delayed. We were speaking at another event over the lunch hour. We are grateful you had patience with us. Here is how I would like to proceed this afternoon. If you have a cell phone, I noticed that some of you are a little more

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

technologically advanced than even I am, and you have your starship command in your ear. That's probably acceptable, but try to make sure that if your phone is on to a ringer, that it's either set to vibrate or at least you could turn your phone off. That will wreak havoc on the recording when those go off, because I'm told that the sensitivity of the recording today is very good, so we need to be sensitive to those that will be listening to this deliberation afterwards. If you would like to testify, we have sign-in sheets over here. It's not a prerequisite to do it beforehand, but it really helps us. If you can grab one of those before you come up and testify, have that filled out, and then you can place it in the box that's set at the testifier's stand. That way we have a record of who you are and your address in case we need to follow up with you or to make the record complete. In an interim hearing there's not a pro or con or a neutral; we're simply gathering information. So you don't have to come forward and say I'm testifying in favor of LR76 or LR93; we just simply want your perspective on the topic, and so if you can come forward with that information. You'll want to state your name for the record. Spell it for us so that way we have a duplicate copy of that. That will help us make sure that our records are complete, as well. We will also be able to distribute information to the committee, so if you have brought handouts, feel free to bring those forward and we'll make sure that we pass those down so that everyone gets to see that. This isn't a Husker football game, although that's just around the corner, so if somebody makes a really great speech that might remind you of a Hail Mary touchdown pass to Eric Crouch or something, don't applaud. Just think to yourself that was a great speech. Or if it looks like he got sacked, don't boo or hiss. Just keep that to yourself, and maybe at the break we can all erupt in joy or sorrow, depending upon what you'd like to do. But try not to show any vocal display of support or opposition. We want to make sure that everybody feels welcome to come before the committee and share their perspective. And I think that's one of the most important things that I hope you'll take away from this process, is that interim studies are designed to let you give us your perspective as we gather information about the topics. Don't be nervous. If we weren't elected state senators, we would probably be just like you, sitting in the room trying to figure out what we should be doing. We're fortunate that you are here to help us figure out what that might be. To

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

open up on LR76, what I would like to do is ask Senator Preister, who has introduced the resolution, to give us some background and some information about what he would like to accomplish. After Senator Preister gives his introduction, then we will welcome testimony from anybody that would like to come forward and share that with us. So, Don, you can either take the testifier's stand or, I probably should have said this, you could stay at your seat if you would like. [LR76]

SENATOR PREISTER: Now that I'm up. (Laugh) Chairman Erdman, members of the committee, and other distinguished senators, my name is Don Preister, P-r-e-i-s-t-e-r, and I am here as the primary introducer of the study that I think is intended to look at the potential in Nebraska for economic development in rural areas through wind energy development. One example that we have seen is Daniels Manufacturing. It's a welding shop, and the owner was able to develop a concept that he turned into guides for the cables that run from the top of the turbine down into the electrical wiring. Daniels Manufacturing, just a small family operation, was able to get a contract with other wind developments outside of the state, and to be able to sell and market the concept that they developed. So that was one small example. When you bring people into a rural community, you also bring their dollars. When we set up turbines in a community, the contractors, the people who are working on the turbines, come in. They eat in the restaurants. They spend their money in the hotels. That's economic development in the community that wouldn't otherwise be there. When you have workers that work on these wind turbines, those workers are the ones that receive an income, and that tends to stay in the same community. With other forms of generation that are less worker intensive and are more centralized, you tend to have the large power plants in bigger cities. You don't tend to have as much of them located in rural areas. I think there is potential through the C-BED concept where we can take advantage of tax incentives and where we can bring money into the rural communities, particularly at a time when we see farmers needing that additional income. My goal is to explore, through this interim study, the options, the opportunities, and to look at what we can do to help facilitate and enhance those opportunities. So the resolution has been introduced. This is a good

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

opportunity for the public to have some input and let us know how they view it. My goal was to explore these potentials and to do what we can as a committee in the Legislature to help facilitate that. I would be happy to entertain any questions. [LR76]

SENATOR ERDMAN: Very good. Any questions for Senator Preister? Senator Stuthman. [LR76]

SENATOR STUTHMAN: Thank you, Senator Erdman. Senator Preister, I truly support your endeavor here. But do you think that we should be putting more emphasis on wind energy, or should we be putting on renewable sources of energy? [LR76]

SENATOR PREISTER: Thank you, Senator Stuthman. I support renewable energy in all of its varied forms. Some are developed to the point where they are more promising than others. Those that aren't as promising, if we put research money in and begin to work on them, can become more promising, so I like all of them. But I think wind has particular promise because all of us that walked in this room today know what those flags were doing. They were standing straight out, and this is August when there is not supposed to be much wind, so I think wind has particular promise. But I agree with you; I think we need to look at all different forms. [LR76]

SENATOR STUTHMAN: Okay, thank you. [LR76]

SENATOR ERDMAN: Thank you, Senator Stuthman. Any further questions? You're off the hook. [LR76]

SENATOR PREISTER: Thank you. [LR76]

SENATOR ERDMAN: Thanks, Don. Before we go to testifiers on LR76, let me briefly read the purpose in case you may not have received a copy of this. The purpose of this study is to examine the rural economic development potential of wind energy

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

development in Nebraska, and legislation which may advance this goal. So if you have an opinion on how to do that--and that's pretty broad--we would welcome your input, and again there is no rush to be last to speak, so feel free to step up and share your perspective with us. If you don't, I will solicit some folks to come forward that may not have anything to say but may want to know what they're thinking. Anyone willing to testify on LR76? There we go. [LR76]

RICH WALTERS: Good afternoon. My name is Rich Walters, W-a-l-t-e-r-s, and I am general manager of KBR Rural Public Power District in Ainsworth, Nebraska, and we provide electric service to roughly 4,000 meters scattered across 5,000 square miles of sandhills up in Brown, Rock, Keya Paha, and Cherry counties. KBR has been and continues to be a very strong supporter of winder energy, having been involved with site testing and evaluation of wind energy since the 1980s, with agencies such as the Western Area Power Administration, Nebraska Public Power District, and the Nebraska Power Association. We currently are responsible for the operation and maintenance of the two wind turbines at Springview, Nebraska, and also have been closely involved with NPPD on their wind farm sound of Ainsworth. I'm here today on behalf of the Nebraska Rural Electric Association, which is an association made up of 35 members rural electric systems from all the way across Nebraska. In 1998, six utilities, including KBR, installed the first two large wind turbines in Nebraska, locating them at Springview. They were two 275 kW units mounted on steel lattice towers, at the time were the largest west of the Mississippi River, and on the cutting edge technology. Our Lyman and Springview--we have an outpost located up there--they are responsible for operating and maintaining these two turbines, and have done so since 1998, so we've got probably ten years of experience in operating, maintaining, kind of baby-sitting wind turbines, in general. As for the economic benefits of these two turbines, obviously the landowner receives an annual lease payment, and on this particular case at Springview, it's currently at \$2,000 a year in exchange for the turbines to be located on his property. The installation of the two turbines provided a symbol of pride for the residents of Springview and Keya Paha County, and were the driving force to create the annual

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

Wind Turbine Days in August, which they have every year now to celebrate the ribbon cutting of the wind turbines. It is also credited for being the stimulus for several young entrepreneurs to pool their resources and build the first and only quick shop gas station in Springview, fittingly called the Springview Wind Turbine Mart. But this has also come at a price. Once the Turbine Mart opened and began offering sandwiches, snacks, etcetera, the town's only other full-time cafe experienced serious financial problems, along with the community's small hotel and restaurant. The cafe has remained open, but the hotel/restaurant has closed and reopened several times under different management, and now is open only periodically in the summertime. The Ainsworth wind farm is at a much different scale. During construction, the community of Ainsworth saw an increase in sales tax revenue, which then went back down to normal after the short construction phase. Local motels saw an increase, along with restaurants, during the construction phase. But both are very similar to what we are experiencing right now during the remodeling and addition to our hospital and the construction of a new Pamida discount store that's coming to town. New jobs created in Ainsworth have also been touted as a tremendous benefit to the wind farm, and is one of the advantages of having a wind farm in your area. The rule of thumb for employees is one employee per six turbines. So there are 36 turbines at Ainsworth, so you expect eventually to have six employees. Currently, NPPD has moved two employees to work at the wind farm, with Vestas, the turbine manufacturer who is supplying the balance of the labor during the two-year warranty period. Once the warranty period expires in mid-September, it is anticipated that Vestas will then leave the area, expecting their current employees either leave with them, transfer to NPPD, or find other employment. Several of their current employees were hired originally from local area employers, so as anticipating they are hoping to sign on with NPPD with their experience of operating and working on the turbines. As a footnote, Pamida will be hiring 10-15 new people in comparison to wind farm six. Obviously, the wind technicians will be a higher salary, but every new job up in our area is extremely important, whether it be a wind technician, a clerk at Pamida, or a new lineman at KBR. The landowners do see an immediate and ongoing revenue stream if they are fortunate to be in an area where it has documentable wind resources,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

and near transmission facilities. Of the four landowners involved with the Ainsworth project, each receives approximately \$2,500 per turbine per year. Of the 36 turbines scattered across 11,000 square acres, 32 are on one landowner; 2 are on the second landowner; and 1 each on the final two. Although the turbine lease payment per owner may range from \$2,500 per year to multiple times that, that property may or may not be local landowners, and may or may not have a serious economic need for the additional revenue. So, in reality, the actual increase to economic development would be additional jobs, the six for the wind turbines, and the increased revenue for the landowners, which is really good if you happen to be one of those landowners. But this also comes at a cost, or a potential cost. Once a transmission line and the substation facilities are loaded to the capacity to move this electricity, what do we do if we need to supply extra load to local customers, such as irrigators, industrial customers, or residential homeowners? Will the wholesale and retail customers of Nebraska be expected to pick up future billings? And if so, (inaudible) fulfill the electrical requirements for wind developers, and that's a real serious question for retail and wholesale customers of Nebraska, how that will be handled. Currently, Nebraska has very advantageous electric rates when compared to our regional neighbors. If existing facilities need to be upgraded to satisfy the needs of wind developers, and these costs are put into the rate base, how long will be able to maintain this rate advantage? And if not, how will this affect rural economic development? All, I'm sure, have answers, but these are some of the concerns that we have. Extreme care should be taken into benefitting a very few at the expense of the very many. In closing, yes, there are economic developments, but not nearly as great or as advantageous as has been publicized, and very similar to the construction of the quick shop, discount stores, or remodeling existing buildings. Thank you, and I'll be glad to answer any questions you might have. [LR76]

SENATOR ERDMAN: Thank you, Rich. Any questions for Mr. Walters? [LR76]

RICH WALTERS: Thank you. [LR76]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR ERDMAN: Okay. Hold on, I might have a couple for you. Before we get to that, Mr. Speaker, Mike Flood, the senator from Norfolk, has joined us as I said he would, so he made my prediction come true and I'm grateful for that. Some of your testimony focused on the construction boom versus probably what you would consider the residential or the long-term bust that that may contribute to. Aside from that, what type of benefit--and you said you've been operating or overseeing turbines since 1998--in your opinion, have you seen any benefit for that wind production to the system, for the power industry, and then also to the consumers? I mean, I don't know that I caught any of that from your testimony other than you get a great benefit if you're the landowner. In your opinion, do you see this as a viable tool that should be added to the power system? [LR76]

RICH WALTERS: I think it's a mix. It will not satisfy the total problem if we are energy short. Today, as a manager of a rural electric system, being in the business for almost 40 years, I have not had one ratepayer ask me to put in, can we get more wind up here for the power itself. If...and almost every time we get a call or a contact, it is, they're hoping, as I would be, is be able to have a turbine on my property. That's where the benefit comes in. As to the energy, the concern that--and this has been brought to my attention by ratepayers--is that if the costs go up because of wind, because it is a very sporadic, unreliable power source, will my costs go up? And they feel they are high enough now, so that's one thing that...the consumers in our area, it's a very remote area, and some areas very economically depressed, so it's a very concern. [LR76]

SENATOR ERDMAN: Do you have access to any information that would tell us generally what the cost is for production of wind versus traditional sources? [LR76]

RICH WALTERS: All I know right now is our Springview units are slightly under...between three and a half and four cents per kilowatt-hour for the two at Springview. And we monitor that very, very closely. And with the repairs on it, that was

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

the determining factor of why we're going to take those down and replace them with another technology, because the cost would have made it much more expensive.

[LR76]

SENATOR ERDMAN: Okay. And do you have any...? What was your...? What's your cost for buying traditional energy over the grid? [LR76]

RICH WALTERS: The energy itself is under 2 cents. Combined with demand and energy, in that 4-cent range. But with wind energy, you cannot consider it a demand factor, because when I turn that light switch on, I don't know whether the turbines will be going or not. [LR76]

SENATOR ERDMAN: Okay. Any further questions for Rich? I don't see any. [LR76]

RICH WALTERS: Thank you. [LR76]

SENATOR ERDMAN: Thank you, sir. Appreciate it. Next testifier on LR76. And I know there are some folks in here who aren't shy, so maybe they're just waiting for the opportune moment, as opposed to shy about saying something, because there are certain people wearing blue shirts and red ties that I know aren't bashful. Welcome. [LR76]

CLINT JOHANNES: Thank you, committee members, and others. My name is Clint Johannes, J-o-h-a-n-n-e-s. I'm from Columbus, Nebraska. I work for the Nebraska Electric Generation and Transmission Cooperative in Columbus. We represent 21 rural power districts and one cooperative, and we purchase their wholesale power from NPPD, and so we can combine it and work on their behalf. [LR76]

SENATOR ERDMAN: I'm going to stop you for just a second to make sure I've got your first name. Clint, right? [LR76]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

CLINT JOHANNES: Clint, C-l-i-n-t. [LR76]

SENATOR ERDMAN: Very good. All right, go ahead. [LR76]

CLINT JOHANNES: I'm here today representing the Nebraska Power Association, NPA, and I don't know whether or not you're familiar with NPA, but that's an association that was formed back in about 1980, and it's a voluntary organization made up of all segments of the electric...consumer-owned electric industry in Nebraska, municipals, power districts, cooperatives, and so forth. And NPA is used as a forum for those entities to collectively study things, to collectively exchange ideas. NPA has several committees that help them accomplish this, and one of those committees is the joint planning subcommittee, and I happen to currently chair that committee; that's why I'm here today, to talk to you about NPA's position. They ask that I come and give you some statistics, and summarize...and some of this is a little bit repetition of what Mr. Walters has just said, and I'll try to keep that to a minimum. Just to give you some idea from a statewide perspective, I'm talking now about utility-owned-type wind resources. The major portion of Nebraska's renewable are hydro, but outside of that the next major portion would be wind resources. And Nebraska utilities have, in total, 73,000 kilowatts or 73 megawatts of wind generation today. The largest of these, Mr. Walters spoke about to some degree, is NPPD's Ainsworth wind farm. It has 36 turbines, a total of 60 megawatts. To put that into perspective, that's about enough to serve about 19,000 households. The next largest is MEAN's, Municipal Energy Agency of Nebraska, their Kimball wind farm. It has seven turbines with a total 10.5 megawatts. And there are a smaller units. OPPD has a unit at Valley, LES has a couple units near Lincoln, and then of course there are the two units up by Springview; that's what we retired and replaced. Some examples of the economic benefits in Kimball's case, that farm was built in 2002. It had a construction workforce of about 30 people, and the total cost was about \$14 million. Most of the expense if for equipment rather than for labor, but there still are labor expenditures. Many of the components, as is true with Ainsworth, are not

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

manufactured, even domestically. None of them, at this point, are manufactured in Nebraska. Some in the Dakotas, some in Canada, and of course some come from overseas. Maintenance, now still of the Kimball farm, is performed by a single technician with seven turbines, and that technician is located in Cheyenne at this particular point, but he comes to Nebraska and does their maintenance. There are also transmission line use payments that they make to the city of Kimball and others, so those folks get some revenue out of it. In terms of NPPD's Ainsworth farm, that was constructed in 2005, a total cost of about \$81 million. Again, most of those expenditures were for equipment. Those components came from Denmark, England, North Dakota, Canada. At that site, there were a total maximum of 92 workers at peak construction. As Mr. Walters mentioned, there are currently two full-time NPPD employees, plus employees from the contractor that will stay outside as long as the units are still in warranty. In general, as Mr. Walters said, the economic benefits are the highest during construction, when you have the most people there, which is obvious, and I guess that's true with other types of construction. They are smaller during normal operations, but at times when there is major maintenance they would pick up again as you bring in more people. I guess some of those are obvious, but would point them out in any case. And then of course there are landowner payments. I don't know if I mentioned, in the Kimball site's case, there are about \$2,000 per year per site. In the Ainsworth they're a little bit higher than that; they're between \$2,000 and \$3,000, about \$2,500 per site. In general, economic development potential for wind is similar to other construction projects, as Mr. Walters mentioned, an addition to a school or a hospital or some retail business. They're highest during the initial construction and then some less during just operation. If there were new large-scale wind generation development, this would then probably require additional transmission facilities, which in themselves then would generate some additional economic benefit to the areas that they pass through. I guess it depends on your perspective as to whether you are a landowner or not, whether you think those are positive or not, but in any case those would be some economic benefits to the area. As Mr. Walters mentioned, normally wind turbines will require about one technician per six turbines, and those folks are technical people that would be paid in the \$40,000 to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

\$50,000 range, so they are highly paid people. In addition, Senator Preister mentioned some of the other economic benefits that come with wind facilities. Columbus, Nebraska, will be seeing some of those benefits here soon. There is a facility that has announced they will open a plant there. Senator Stuthman, I'm sure, is well aware of this. They plan to manufacture 80-meter type wind towers. They will be located in the industrial tract there at Columbus. They expect to have over 100 employees and they expect to produce more than 300 towers per year, so that's going to be quite an advantage for that particular area. As Mr. Walters mentioned, Nebraska has generally had success with economic development and the power districts are very active in this. And one of the reasons is because we have, compared to the rest of us in rest the region, we have low electric rates. And so if you have an industry that that's important to, that helps us to grow economically. I think we need to be careful that we don't do something superficially that tilts that balance to make us less attractive to industries. I guess with that, I would close. Thank you for your time and I'd be happy to try to answer questions if you have any. [LR76]

SENATOR ERDMAN: Thanks, Clint. Any questions? Is it Johannes? [LR76]

CLINT JOHANNES: Yes. Johannes. [LR76]

SENATOR ERDMAN: Any questions for Mr. Johannes? Senator Preister. [LR76]

SENATOR PREISTER: Yes, Mr. Johannes. In the years that you and I have worked together and that we have been working on wind development, it's been kind of in its infancy and small projects. Has there been good benefit? Has there been good benefit? Has there been a good learning curve from the experience of, whether it's in Springview or in Ainsworth, any of the projects, in your estimation? [LR76]

CLINT JOHANNES: Sure, I think so. I think the industry learned some at Springview and will go to a new technology. I think that's the plan, (inaudible) different technologies,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

so that was a learning curve. In Ainsworth, relatively speaking, for Nebraska, that's a very large project, but regionally it's not. But it is of such a scale that you begin to learn about how these sorts of facilities integrate into the system. I think Ainsworth, being of the 60-megawatt size, it can be integrated fairly easily into NPPD's system. I say fairly easily. If you would have much, much larger amounts in that, then you have to have units that can blend that wind in with it, because wind can vary from--even at a good site like Ainsworth--can vary from virtually nothing to the full 60 megawatts over a day's time or over several days' time, so you have to have equipment that can be (inaudible) to cover that. And I think we're learning how to do that, which will be a tool to expand into bigger projects, or more of them. [LR76]

SENATOR PREISTER: Good. And as we're learning, I think we also see that there are economies of scale, so in Springview where there's only two turbines, is going to have a little higher cost to generating that electricity. But you get to an Ainsworth where you have more turbines, the cost per kilowatt is dramatically different. Would you...? [LR76]

CLINT JOHANNES: Sure; sure. It's like with most construction projects. If you can spread the cost...for example, in those cases where you move cranes in to do work, spread it...they do more...set up more towers while they're there. Or building roads; you have the road people build all the roads, why, there it spreads the cost further and the unit cost then comes down. [LR76]

SENATOR PREISTER: Okay. And with the turbines, we obviously don't have any real cost with externalities, so we're not worrying about global warming; we're not contributing or doing things that we may not necessarily be measuring in an economic way or in a bottom-line figure, but yet may impact our health costs or our environmental impacts. Would you agree with that? [LR76]

CLINT JOHANNES: Could, yeah. I think, you know, depending on what comes in terms of carbon tax or any of those things that may be coming, wind doesn't have those

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

negatives so that makes them a positive resource. They are not the same type of resource as a coal plant, of course, or other gas plant that you can call them on when you want them. They come on when the need is there, so you have to kind of balance the two. But I think some sort of combination is (inaudible). [LR76]

SENATOR PREISTER: Thank you. [LR76]

SENATOR ERDMAN: Thank you, Senator Preister. Senator Dubas. [LR76]

SENATOR DUBAS: Thank you, Senator Erdman. Thank you, Mr. Johannes. Kind of along this same line of the question that Senator Preister just asked, if we're able to continue to expand wind energy development, do you feel we're going to be able to get the costs down there to be competitive with other sources of electrical generation? [LR76]

CLINT JOHANNES: I'm not certain, but one thing I think should be pointed out is, the states around us that are putting in so much more wind than we are, there are reasons for that. One of them is that...of course, our cost is lower; I mentioned that...but probably the more...at least as significant is the incentives that are provided. if they are private, they get the renewable tax credit, both federal and in some cases state. And so if we had some of those with...I think without some of those additional benefits, financial benefits, it's going to be difficult to compete at this point. Now, when you start...if you factor in some of the other externalities, that changes the equation some, but these incentives are large to make it financially comparable. [LR76]

SENATOR DUBAS: So if we're able to use models like C-BED, that helps brings some of those incentives into the equation, that should help us... [LR76]

CLINT JOHANNES: That should help some; that should help some. [LR76]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR DUBAS: ...in the development, and then ultimately in the price. And the building of transmission lines. Would that...? How major is that? I mean, what do we...? [LR76]

CLINT JOHANNES: Unfortunately, in Nebraska the wind is where we don't much transmission, so it can be sizeable. NPA did some just rough calculations about adding significant amounts, in the thousands of megawatts of wind, primarily in the Sandhills area where the wind generally is higher. And you talk then about building large transmission lines, and you would probably be looking at something in the 345,000 kilovolt category. You're talking like...and these are just round numbers...but like a million dollars a mile. Then you have to build the substations, and so forth, so you have to get very large...when you get very large, then you get very expensive transmission. And you know, that in itself, like I mentioned earlier, brings economic benefit to those people who spend dollars for those things too, but it does raise the cost then of getting that wind to the load centers, which are...for (inaudible) least. [LR76]

SENATOR DUBAS: Thank you very much. [LR76]

CLINT JOHANNES: Yes, you're welcome. [LR76]

SENATOR ERDMAN: Thank you, Senator Dubas. Senator Preister. [LR76]

SENATOR PREISTER: I just want to follow up with Senator Dubas' question, her comment about can we get the costs down to be more competitive, I believe. Currently, from what I remember from NPPD, the Ainsworth site is generating electricity for about two cents a kilowatt hour, unlike Springview where it may be three or four cents. And that two cents is competitive with coal's nuclear, and as I recall, is very close or is the lowest cost generation. [LR76]

CLINT JOHANNES: I think...yeah, Ainsworth is lower cost than Springview. I don't know

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

the exact numbers, but my recollection, it was higher than that. The average costs for NPPD is in the (inaudible) cents. Ainsworth has a very high capacity factor which helps it, and I don't...off the top of my head I don't know the actual number. There are some folks here that can probably tell you those, but it's not quite that low. [LR76]

SENATOR PREISTER: Okay, thank you. [LR76]

SENATOR ERDMAN: Thank you, Senator Preister. Any further questions? Senator Stuthman. [LR76]

SENATOR STUTHMAN: Thank you, Senator Erdman. Clint, with the manufacturing plant that's going to go in Columbus to build these towers, and they see a real future in Nebraska for the wind towers. Do you think that with our low-cost energy, you know, are we going to get enough economic development manufacturing places, or demand, I should say, that needs that extra energy? Are we going to be able to build the state with additional demand to take care of that extra energy that we're going to be having? Are we going to be replacing some low-cost energy? [LR76]

CLINT JOHANNES: That's a good question. Right now, the...and NPA actually does this, these studies for the Nebraska Power Review Board to determine what our low growth is projected to be and what our capacity that's in service and was planned. And to date, with load projections as they are, including plants like the one coming in at Columbus, including a lot of irrigation conversions, including the ethanol plants, including the pipelines that are coming in, which are very significant in the next few years, that the state will have enough capacity till 2013 and a little beyond that. And part of the reason is, in NPPD's case, they've got several pieces of units that were sold, and they would be retrieving, in fact, been retrieving almost the full-sized unit, almost like 600 megawatts. So, yes, there should be capacity through that time period, at least. Then when you get from '13 to '17, something will probably have to be added. [LR76]

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Agriculture Committee
August 27, 2007

SENATOR STUTHMAN: Okay, thank you. [LR76]

SENATOR ERDMAN: Thank you, Senator Stuthman. Clint, thanks for your testimony. [LR76]

CLINT JOHANNES: You're welcome. [LR76]

SENATOR ERDMAN: Before we go to our next testifier, we're going to change the tape in our recording device so that we have that. [LR76]

JOHN K. HANSEN: (Exhibit 1) Mr. Chairman and members of the committee, for the record, my name is John K. Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union, and am also their lobbyist. Welcome to my neck of the neighborhood. And if you talk to folks who know me from this area, I just want to remind you they're nice people but they tend to stretch the truth. And we, in Nebraska Farmers Union, have been working on renewable energy for a very long time. We started pushing for and educating and trying to create an understanding of the potential of ethanol in the mid-1960s. And we helped created enough public support that we were able to hoodwink Senator Schmit into carrying our bill to create the Nebraska Ethanol Board. So we have a long-standing tradition of trying to look at ways that we can get production agriculture involved in renewable energy in a profitable and beneficial fashion, for not only production agriculture, but the community at-large. And so based on that history, we have learned some things as the result of what we have seen in ethanol production, and so we take some of those lessons learned and understood, and we apply it wind energy, which we have been working on, Senator Preister will remember, since I first came in, in 1990, as president of Nebraska Farmers Union. So we have been at this for some time. We have made some considerable progress this last session. But as we kind of walk through some of the materials that we have provided, we're going to do some background materials here, kind of on wind energy potential and some of the basics that document economic development benefits. But before I get to those I would

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Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

just say that one of the lessons learned is that ownership matters. And the biggest single critique that my organization has taken as a result of our very public and visible leadership role in ethanol development is, why weren't you guys more carefully trying to incent and support efforts for farmer and community ownership? And so as we look at ethanol development in Nebraska and we see all of this that's come forward, we would say that there's a substantial economic benefit gained through local ownership. And so those ethanol plants in Nebraska that are making good money these days, those monies tend to stay in those communities, and they get reinvested into either additional services to the community or additional profit opportunities and economic development opportunities in those communities. And so I would just saying our defense as we were pushing for ethanol development as hard as we could, one of the obstacles that we had was that it was very difficult to find bankers who really wanted to partner with us on some of the risks that need to be taken to get farmers in the ethanol business. And so from the developers' standpoint, it was easier to work with one owner or two owners who were investors, than trying to corral and organize a whole host of independent bunch-quitter farmers into some kind of a cooperative effort of some sort where they're pooling resources and doing things. So it was just easier, quicker, faster, to do the outside-investor model, and it was also reluctance on the part of the banking community. We were out there. I a lot of cases we had some viable projects that just didn't go forward because we couldn't find the financing. So the packet that I gave you is "Wind Energy for Rural Economic Development," and it's kind of a nice backgrounder by the Department of Energy, and the National Renewable Energy Lab, and Wind Powering America, and the folder itself provides some very good background information on the economic development potential for energy. And in your packet I gave you some of what I thought would be useful to the committee, just as background, kind of base information. And so I used America Wind Energy Association data for the amount of wind energy potential in the country, so as we look at how Nebraska stacks up nationally, North Dakota is first; Texas, second; Kansas, third; South Dakota, fourth; Montana, fifth; and Nebraska is sixth. And so as you go through that list and you compare it to the next handout, which is who has of what kind of wind energy

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

developed, you'll notice that in that list, obviously Texas has now taken over as the top wind-developed state with 2,631 megawatts; California, 2,323. And so as you go through that list, and also kind of look at the neighborhood, Iowa has really been on fire lately. They are up to 837 megawatts of wind; Kansas, 364; Colorado, 291; Wyoming, 288; Minnesota, 812; and South Dakota is 44. So thank goodness for South Dakota, because they are the only state who has actually more wind capacity, who has done less than we have. But based on what I understand is going on in South Dakota, that's about to change pretty quickly because they're going to be moving forward, as are a bunch of our other neighbors. So Nebraska currently ranks about 18th in the country in wind energy development, but we'll be slipping down into the 20's probably by the end of the year. The third handout has to do with, "Wind Energy and U.S. Energy Subsidies." It's a question that gets raised a lot about, gee, how much should we subsidize land? And I draw your attention to the handout put together by the American Wind Energy Association, which would clearly indicate that fossil fuel and nuclear gets substantially more incentives. And you've got to remember, I'm kind of sensitive on this issue of subsidies as we're going through the (inaudible) bill, and would remind the committee that one man's subsidy is another man's incentive. And so when farmers get money from the government, they are subsidies; and when large companies get it, we call it incentives, although it kind of looks like the same thing to me. So you can see that wind is at the bottom of that stack of what we call, since it goes to business primarily, "incentives." And then the next handout, as I searched the most recent data for what we could kind of look at to document the amount of economic development potential for wind energy. The data that's out there gets holes very quickly because of the dramatic and dynamic way in which the industry is growing. But this is a March 2006 special report from the Umatilla County out in Oregon, and the studies that they did where they compared different kinds of wind energy development, and they compared the out-of-state megadeveloper versus the local community ownership. And the kind of the summary or the take-away on that was it was about three to five times the rural economic development benefit through community ownership. And so rather than cherry-pick a summary, I just gave you the whole report so you can peruse that as you

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Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

have time and have problems getting to sleep at night. The next study is the "Small Packages, Big Benefits," done in The Iowa Policy Project in April 2005, and would draw your attention to page 6, Table 2, looks at "Where the Dollars Go: A Comparison of Different Ownership Structure." And there it said that, as you look at the total amount of dollars that stay in the community, if you'll look at the large wind owned by out-of-state companies, for a total amount of electric sales of a little over \$100,400, about \$12,200 stayed in the community as opposed to comparing that to small wind owned by local community members with smaller commercial-sized wind projects, over \$65,900. So again, a very substantial difference. Again, in that five to six times the economic development benefit realized by the rural community itself for the same amount of electricity produced, apples-to-apples, oranges-to-oranges comparison, comparable rates, comparable benefits to landowners relative to leases, all of those things being the same, that again confirms our view that ownership does in fact matter. And then the earlier last year in the Nebraska Legislature's Natural Resources Committee, Mark Lindquist testified on LB629, and this is just his PowerPoint from that presentation. And he is from Minnesota; he was with The Minnesota Project; he is now with the Minnesota Department of Economic Development. And Mark was very good at saying, look, you know, wind energy development is good; it's all good; but community-owned wind is just a lot better. And he said that's the same thing we learned also in Minnesota from ethanol development. Ethanol development is good but farmer- and community-owned ethanol development is better. So if you have a chance to pick and choose between the two, why not pick the one that maximizes the economic development benefits? So he had some interesting points to make in his presentation and his PowerPoint, and I thought it was a particularly good, and a kind of a clear and on-point, an economic development-based presentation, so I just included it for your consideration. And then the Nebraska Farmers Union's last convention's "Special Order of Business" on "Farmer and Community Owner Renewable Energy." And so our members are telling us in very clear terms, we want renewable energy, we want wind, and we want you to do a little better job next time than you did last time relative to the amount of ownership, so that we can keep more of those dollars in rural communities, put them to work, and we can

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

go ahead and try to grow the economic development base so that we can help keep more folks in rural communities; we can keep more kids in rural communities; we could provide more jobs. But we also have revenue. And the primary benefit of ownership of the community-based energy development approach is the benefit from ownership, where the profits stay in the community. So from our standpoint, the reason we were such a strong supporter of the C-BED concept was because it, apples to apples, oranges to oranges, comparing the different kinds of ownership structure, provided the one additional economic development benefit to rural communities that public power ownership and that out-of-state developer ownership simply does not provide. And that is that the profit centers from that activity stay in the rural community and stay in Nebraska. And so if we're fixing to move forward and be a part of the President's vision for his goals, for wind energy generation as a part of the national portfolio, Nebraska has to think in much bigger terms than just trying to meet our own domestic need. We are basically a state that is a gold mine of wind energy potential, and it would behoove our state to not only get our portfolio up to the same levels that comparable states in our neighborhood are looking at, in the 15-25 percent of their total generated capacity made up of wind, that would be step 1; but, step 2, gearing up for the potential for export. And as we look at where Nebraska is located, we have folks in the public utility industry who say, well, Nebraska is just not in a good position because we're in between that eastern and western markets, and, you know, the grid is divided. But I'll tell you that from my organization's perspective, that means we're centrally located. That means that we can gear up total capacity and we can send it both east and west, and we can tie into that grid. And, yes, we need to participate in all of those things to expand transmission capacity; they're being talked about. Nebraska needs to aggressively want to be included in those. It looks like, to me, that there's going to be some national efforts afoot. And if one of the other lessons that we could learn in ethanol, is that when Nebraska, as a state, is able to take our state policies and complement them with what is going on at the national level, we are able to maximize the total amount of benefits to our state. And so strategically speaking, Nebraska is a huge potential player in wind energy in the national market. And if we're going to gear up and we're going to do that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

and we're going to produce somewhere in the neighborhood of 2,000 megawatts to 3,000 megawatts of total generated capacity, which some national players think we can, why not do it in a fashion that maximizes the rural economic development benefits to our state? And the last is the not very heavy GAO report, which says, in case you don't just want to read the whole thing, the summary is that it says about 2.6 times more jobs are created through local and community ownership than out-of-state ownership, and about 3.1 times more rural economic development benefit. And I would point out that this study, which is the GAO study of economic benefits, was only a ten-year window. So if you actually looked at the 20-year window, where the bulk of the C-BED projects are paid for in the first ten years, the second ten years the economic development benefits, that's where the bulk of those benefits exist. So 3.1, I think, is a very, very conservative estimate. And if you expand the perception window to 20 years then, it would be substantially greater than 3.1. And with that I would be glad to answer any questions. [LR76]

SENATOR ERDMAN: Thank you, John. Any questions for Mr. Hansen? Senator Dierks. [LR76]

SENATOR DIERKS: John, I have a couple questions for you. You touched on some of them just now. Can you expand a little more on some of the difficulties that people have with...we hear, over at the coffee shop, that the cost to produce ethanol, per gallon, for instance, outstrips the cost of the benefits from it. And we hear that they use more water than they need to use. And we hear that the jobs in economic development, you talked about that a little bit. Can you expand on that a little bit for us as far as both ethanol production and the electric wind energy production? And then besides that, the other question is, how does net metering affect our production of electricity, not only to the owner, but to the buyer? [LR76]

JOHN K. HANSEN: Well, fortunately, I have been standing at the state... [LR76]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR DIERKS: I said net energy. I meant net metering. [LR76]

JOHN K. HANSEN: All right, thank you, Senator. Fortunately, I've been standing at the State Fair for the last three days, next to the Nebraska Ethanol booth, and so I'm ready. (Laughter) And what I would say is that is that it just goes to show that no matter how much good you do, you can always find folks who can find fault with something. And as I look at the modern ethanol industry in the state of Nebraska, and you look at the amount of dollars that we have invested in it as a state, as ag producers where the EPIC fund right now is about a 50/50 match between checkoff dollars at the three-quarter cent rate, along with general tax dollars, and you look at that investment in ethanol development, we are getting an enormous return in terms of total amount of tax revenues generated; capital construction; local, state, and national revenues as a result of that activity. But two of the simple numbers to keep in mind is, just figure out what percent of the total amount of consumed gasoline in the state of Nebraska is an ethanol blend, and it's about three-fourths right now; 70-80 percent, depending on the particular month where we check it, of all the consumed gasoline in the state is ethanol. And you've got to remember that taxpayers and consumers are paying ten cents a gallon, on average, less for that than they are regular gasoline. So we're keeping that total number of gallons times ten cents. That's money that stays in consumers' pockets, and it's an economic benefit, while we're also producing a product that makes the air more clean, causes fewer total tailpipe emissions, provides a lot of environmental benefits, but it's also, by the way, raised the price of corn a dollar a bushel, which is no small thing when we look at the economic development benefits of a dollar a bushel and the total amount of economic activity tied to the increase in the price of corn. So we've done two good things right now, and so when you look at the amount of dollars the state has invested, it's been a tremendous investment. And so when we look at net energy gained from ethanol, when you look at whatever it is you want to look at, we're still ahead, to move forward with ethanol. Certainly, corn ethanol, and in the process gets more and more efficient. We're getting better at it. We're getting...we're cranking out more...we're using less water, we're cranking out more ethanol for the same amount of product. That will

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

continue to get better as we practice through real-world experience. And, too, you know, the cellulosic ethanol potential is just enormous, in my opinion. And sooner or later we're going to start being able to get some real-world experience with that so we can start looking at more efficient fuel stocks. I was encouraged by the House Ag Committee, that we were able to get included in the House Farm Bill, sweet sorghum, as a source for cellulosic ethanol. I think there is an enormous of animal fat and oil seed, new crops we don't even think about in traditional terms, that have oil seeds potential for biodiesel. I think we've just scratched the surface, frankly, in terms of what we can do with agricultural products relative to renewable energy. So I think it's been an enormously good investment. I wish most of our investments went so badly. [LR76]

SENATOR DIERKS: I would... [LR76]

JOHN K. HANSEN: I'm sorry. The rest of the question was net metering. [LR76]

SENATOR DIERKS: Net metering. But let me...before you get to that, let me ask you...go ahead. [LR76]

JOHN K. HANSEN: From our perspective, if you assume the perspective of the electrical load and you're looking at it through the eyes of the load, there is no real difference between energy efficiency that gets done in order to make appliances and activities, in all kinds of utilization of electricity, more efficient. There is no real difference from the loads perspective to renewable...between energy efficiency efforts, which we strongly support, which is an important first step toward trying to move forward in a responsible way relative to global warming and environmental considerations, not to mention economic considerations, as is, small electrical generation. So from our perspective there's not much difference between the loads perspective, whether we just now have a small wind turbine on the line, or whether somebody just did a really caulking job and insulate, and bought a more efficient refrigerator and freezer. And so we have...we're of two minds in Nebraska at this point on this issue. We reward the one

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

and brag about it, and on the other we're sure it pretty much represents the end of civilization as we know it. And we would suspect that the truth is a little closer to the middle; that the first activity is a good activity, to encourage energy efficiency, and small wind and net metering, which in our view is a commonsense fairness issue, ought to be done. It's not a substantial cost to other folks on the load. We ought to not waste our time fighting about that anymore. We ought to try to gear up for bigger, more important battles than fighting over net metering, which is, the costs are just miniscule. And, you know, the public, as a whole, pretty much they support wind, both big wind and small wind. I just don't see this huge onslaught of small wind development when you figure out much it costs to actually buy a small turbine versus how much money you save. You have to want to do it and you have to have the resources to do it. But is this a knockdown, in-your-face, economic benefit right off? Well, no; no. [LR76]

SENATOR DIERKS: You touched on the benefits of keeping it--you're talking about ethanol--keeping the profits in rural Nebraska or in the hands of Nebraskans. That's been a problem that I've had for a number of years, too. How do we correct that then in future legislation, keep the controls of the profits in our state? [LR76]

JOHN K. HANSEN: Well, I think that there are some things that you can do without getting in major trouble at the state level to try to take a look at state incentives. And I've been encouraged, working at the national level as much as I do, about a growing concern and realization that if we want to do more renewable energy and we want to try to do some of these things, we ought to also be taking look at how we do it instead of just doing it. And that when we talk about more farmer and community ownership of renewable energy across the board, whether it's biodiesel, ethanol, or wind, there is a growing audience in Washington that's saying, this makes sense. We ought to maximize. We're not doing our job if we don't maximize the economic development benefits. And so I think that there's a bit of a sea-change where perceptually we're going from just generic development to now getting into a bit more sophisticated and appropriate kind of second level of, okay, now that we've actually got this far, now how

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

do we do this more cost-effectively? [LR76]

SENATOR DIERKS: Thank you. [LR76]

SENATOR ERDMAN: Thank you, Senator Dierks. Senator Dubas. [LR76]

SENATOR DUBAS: Thank you, Senator Erdman. Thank you, John, for being here. You mentioned in your testimony, an apprehension on the part of financial institutions to get involved with locally owned, multimember co-ops, or whatever, to fund, whether it would be ethanol or wind energy or whatever it is. Do you think that apprehension is still there to the same degree, with the development of wind energy? [LR76]

JOHN K. HANSEN: In the case of C-BED, community-based energy development, we're getting more and more commercial lenders that are interested in participation, because they're seeing what works in other states, and so there's.... In Minnesota, 300 megawatts of Minnesota's wind is community-based wind development, and so there's just too much track record. So you have more equity partners who want to participate, and some new equity partners who want to participate, and there's also more and more interest on the part of lenders. And so this is all a good thing...and so in the case of wind. In the case of ethanol, my experience with bankers is pretty much, with ethanol, is kind of like it is with cows, in my background. And so my banker always wanted me to sell all my cows when the price was absolutely in the tank, so you could sell out at the absolute worst level. And then when the price of cows went way up, they wanted me to buy. And I was always of the mind that if you were, in fact, going to be in it for the long haul, you would be some better off to try to buy when cows were low and try to sell when cows were high. And so in the case of ethanol, we're now at that point of the level of understanding that now that everybody else is doing it and it's working, now there is almost kind of a gold rush mentality, where the bankers before, we couldn't get them to sit still long enough get through a presentation, now they're kind of beating down the door and saying, oh, gee, how about this, have you guys thought about that? So the fact that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

they're so supportive right now makes me a little nervous. [LR76]

SENATOR DUBAS: Thank you. [LR76]

SENATOR ERDMAN: Thank you, Senator Dubas. Thank you, John; appreciate it.
[LR76]

JOHN K. HANSEN: Thank you, Mr. Chairman and the rest of the committee. [LR76]

SENATOR ERDMAN: Can I see a show of hands of those that remain that would like to testify on LR76? One, two; and I may ask a question of somebody. We got started a little bit late so we're going to try to continue this one for the time that we had allowed, which would be about an hour and a half, so we have a little over ten minutes left. And then we'll take a five-minute break and try to start the next one right at 2:45, so that way some of you that have been sitting in here can get a chance to visit with some of your new friends that may have shown up, and take a break, and then we'll try to start that one at 2:45. I have it at 2:30 right now. So I have two that wanted to testify. If one of you gentlemen would come forward. [LR76]

J. PAUL McINTOSH: I'm Paul McIntosh, and I really didn't intend to testify. It's just a comment more than anything else, and that is that in studying the power requirements of the electricity, as well as natural gas, one of the problems that you have is that the peak periods of use. And although I'm very much in favor of wind power, I don't see how that can help us on our peak periods, whereas with water power we can turn the water on with the dam built or if we pumped the water into a dam in the off-use time. So we have water, and then we get a peak period and we can turn it on when we want it. We cannot do that with wind. Unfortunately, we can't order up the wind when we want it, and that becomes a major problem. I recognize the other assets that we have when we have wind power and the things that can help farmers and this sort of thing, but it doesn't really...we have a tough time developing if and making it work unless you had it

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

over a huge grid so that there would be some wind blowing all the time that you call on. And then I question whether the economics of it would work, and that's really all I have to say. [LR76]

SENATOR ERDMAN: Thank you, Paul. Any questions for Mr. McIntosh? We're going to let you off easy. Thank you, sir. Next testifier. [LR76]

MARK HALL: Good afternoon. My name is Mark Hall, H-a-I-I. I'm a resident of Senator Flood's district; also a landowner that has property south of Tilden, which has some tall hills that would be very advantageous for wind farm production; also involved in local economic development from a community standpoint and how we can help out communities grow and prosper into the future. I attended a forum a year ago about this time. It was hosted by Senator Fortenberry and the University of Nebraska-Lincoln, and they brought out some very interesting results. One of the presentations was on wind energy and the efficiency of the turbines. And they showed a map of the wind that's being produced or running through the state, and the thing that caught my eye that they hope in four to five years that the efficiencies of the turbines will allow for a majority of Nebraska to be in an area to generate efficient wind energy, and that was just a one mile per hour increase in efficiency. So with that, that tells me that I looked back 40 years ago when I worked on center irrigation pivots, and a couple things come to mind. One, we had a water resource; in that case we had REA that provided electricity to some of those center pivot irrigation systems. And we had an entrepreneurial workforce, i.e. the farming community, that took advantage. What did we do? We built a tremendous production capability here in Nebraska, especially northeast Nebraska. We are probably lucky that we have that capacity with the ethanol production facilities that we have in state. We also generated a lot of industry: Valmont, Lindsay, and several other major manufacturers that are now producing center pivot irrigation systems worldwide, exporting a tremendous amount of product around the world. So we developed that expertise because what, we had a natural resource that was almost totally renewable. We're going to seriously challenge that in a few years with the amount

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

of wells that are still going in, especially in northeast Nebraska. So what I would challenge the committee, is to look at what incentives we can provide. One, I'm also an investor in an ethanol production facility, and I know of other ethanol production facilities that aren't owned by the community; they're owned by corporations that have headquarters outside of the state and outside of the United States, and they're reaping the benefits from those tax credits or benefits. So I would like to see if there are going to be some benefits, credits, that it goes to the producer as closely as possible to incentivize them in the development, the investment, of that technology, and incentivize those folks that have a vested interest, and thus help the community at-large. I'm also very interested if we bring this technology to the forefront. I've traveled throughout southern Minnesota and have seen their wind farms. I've been in southern California and have seen their wind farms, and they really grow. They continue to grow every time I've passed through those areas. So they can see the benefit of that power generation, so I would encourage that as much as possible. We did a recent study here in Nebraska--actually in the community--part of the Visioning 2026 poll. And so we asked one of the questions: What do you believe will be an important energy source by 2026? And there was a large response for solar and wind energy; that they believe, the people believe that there would be a tremendous amount of effort put into that by 2026. So I encourage you to look at how we can incentivize those producers, those communities, to develop this natural resource that was blowing when I was here 40 years ago, and continues to blow. That would conclude my statement. [LR76]

SENATOR ERDMAN: Thank you, Mark. Any questions for Mr. Hall? I don't see any. Thank you, sir. [LR76]

MARK HALL: Thank you. [LR76]

SENATOR ERDMAN: Can I get a volunteer from the Nebraska Public Power District to come forward? Just a little lightheartedness there; you're not going to be a victim. I mean, you're capable of handling the heat, and I know you rushed over and grabbed a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

sheet, but you probably scribbled all over the back of it, right? [LR76]

DAVID RICH: Probably. Or it may sitting over there, but I'll get it to you. [LR76]

SENATOR ERDMAN: Okay. Why don't you state your name for us? [LR76]

DAVID RICH: David Rich, R-i-c-h. [LR76]

SENATOR ERDMAN: All right, David. One of the questions that I had--and I have before me a July 16 press release from Nebraska Public Power, and I was giving Terry a bad time about this before we began--I noticed the deadline for submitting a proposal to Nebraska Public Power was set for August 20, 5 p.m., for a request for a proposals for wind powered generation capacity of up to 100 megawatts. Can you tell me what the interest has been in that request, that RFP from NPPD? And I recognize that your deadline isn't until October as far as making a decision, but generally the RFPs that you received, was there an interest? What can you tell us about some of that interest? [LR76]

DAVID RICH: We received proposals from seven different developers. Some of those developers had multiple proposals. In that mix were some C-BED proposals, and we are in the process of evaluating not only the cost of the proposed power purchase agreement, but also the cost of the transmission facilities that will be necessary to integrate that wind into the system. Unfortunately, the developers were a little quicker than our internal transmission people. We have not seen the transmission costs yet to put with the power costs. [LR76]

SENATOR ERDMAN: Okay. And another follow-up question is from the earlier testifier, or maybe it was from Senator Preister, mentioned the cost of production at the Ainsworth facility was two cents, and I could sense, or at least maybe read, that that might not be the right number. Do you have updated information on...? [LR76]

Transcript Prepared By the Clerk of the Legislature
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Rough Draft

Agriculture Committee
August 27, 2007

DAVID RICH: And again, it depends on what you include in there. We just received payment from REPI credits, Renewable Energy Production Incentives, from the federal government for the time frame of October 2005 for the following 12 months, and that was about a half-cent a kilowatt hour. So when you figure that in, we're probably going to be a little under 3.5 cents when you bring all the capital costs and estimated O&M in there. So we're in the 3.8-4 cents is what I typically refer to as the cost of the Ainsworth all-in costs. [LR76]

SENATOR ERDMAN: Okay. [LR76]

DAVID RICH: Again, that may change. There are renewable energy credits. And if the market for those go up, well, that would reduce the cost. Now that I'm up here, I'll make some other comments. First of all, community-based ownership. I think public power has taken that to the extreme, and that all of our resources are owned by the entire public power community, and they all benefit then from the lowest rates available. So through their ownership in public power, they are benefiting just as ethanol is ten cents a gallon less. As was stated earlier, just our prices are lower because of public power. And I would fully support any efforts that the committee or the Legislature can do as far as the federal renewable portfolio standard. As was said earlier, Nebraska has a huge opportunity if there is a federal RPS and if there is transmission built. It's going to take billions of dollars for that transmission, but I think Nebraska would definitely benefit through that. And that metering, I tend to agree that on the big scale that's a small thing; we need to work through that and hopefully we can do that in the next year or so. [LR76]

SENATOR ERDMAN: Very good. Well, I appreciate you coming forward, David. Any questions for Mr. Rich? Senator Dierks. [LR76]

SENATOR DIERKS: David, I have had some information that at some of your

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Agriculture Committee
August 27, 2007

presentations across the state that you are actually now pursuing the purchase of wind rights from landowners. Is that right? [LR76]

DAVID RICH: Yes. Effective August 1, we began by Verdigre, and then August 20 we kicked off by Elgin, and we have other sites. If I back up a ways, earlier this year we engaged a consultant to help us do a new model of the wind speeds throughout Nebraska, and then to select 20 sites near transmission lines that would be potential sites. And so not for this RFP that was just in the process now, but, say, a year from now, we hope to have land under our control, that if we go out and ask for competitive bids, again to get the lowest cost power for our customers, that it potentially, if in fact the federal incentives stay the way they are, it most likely will be between a C-BED proposal and a private developer, because they get the approximate two cents a kilowatt hour incentives. But our goal was, is to acquire this land to pay...or determine first if there is local landowner interest and to pay those landowners for that, to put wind monitoring equipment up to gather that data. And then in the future, let the landowners have some control as to what type of project it is. One of the challenges we saw with the current model is, in some cases private developers are locking up land and then may not give...if they aren't selected by NPPD, those landowners never received the big check because the towers aren't built. Our concept is, if we control the land, then we can competitively bid that. If there is an interest in C-BED, they can develop a C-BED proposal if the majority of landowners are. We believe it's a better opportunity for the landowners to actually see a project developed on their property. [LR76]

SENATOR DIERKS: If I were the owner of some land in that are, say Madison County or Boone County, what would you offer me for my leasing you my land? [LR76]

DAVID RICH: What we are paying now, it's based on an annual fee of \$3 an acre, with a minimum payment of \$1,000. That's per year for the first five years. If it was extended, that would go up by approximately 67 percent for both the...to \$5. And then the minimum fee would also go up. We are not negotiating what the actual tower fee would

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

be. It somewhat depends on who is successful with the project. If it's a C-BED, for example, they may offer and would offer local ownership participation of the landowner. So they may have a different arrangement. We're not trying to attempt to decide what that would be at this time. We're just trying to determine if there is, in fact, local interest in a project, and then verify what the wind speeds are. [LR76]

SENATOR DIERKS: Well, you know about my interest in the C-BED concept, because that was my bill last year--my priority bill. And I noticed that in some of these presentations you had people there promoting renewable resources, another promoting NPPD power, but I didn't see anybody promoting C-BED. Is that...? Or who did that? Is that...? [LR76]

DAVID RICH: As far as acquiring some of these land rights for wind development?
[LR76]

SENATOR DIERKS: Yes. [LR76]

DAVID RICH: Okay, and what...and we believe, I guess, and we visited with John about this earlier, that we believe that this is beneficial for the C-BED, because if a private developer comes in and signs up the land, it will probably be very difficult for that project to become C-BED if it's an out-of-state investor. But with this approach, it's keeping the door open. There can be education about the benefits of C-BED, and then the local landowners will need to decide which way they want to go. But it gives them an opportunity for education. Unfortunately, what we see happening, is some cases a private developer will come in, indicate that they have some arrangements with NPPD to sell the power. They may not actually have those arrangements, so in some cases I believe landowners may be misled as to what arrangements are in place, and it's a take-it-or-leave-it, sign today, or in the next couple days, or we will go to your neighbor and you're going to lose out. And so there's some sales tactics that I don't believe are beneficial for the landowners. [LR76]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR DIERKS: That's one of my concerns, too, that the landowners are not going to misled; that they have everything presented to them right up-front. So thank you.
[LR76]

SENATOR ERDMAN: Thank you, Senator Dierks. Thank you, sir. Appreciate you coming forward, David. And that will close the hearing on LR76. We are going to take a brief...we're going to start at 2:50. So if you see the clock on the wall, it's about six minutes. That will give the committee a chance to take a break, and we will... [LR76]

BRIEF RECESS BETWEEN RESOLUTIONS []

SENATOR ERDMAN: As we begin with LR93, we'll follow the same process that we used with LR76. For those of you that are new to this, this afternoon, that came in after the introductions on the first one, turn off your cell phone or at least set it so that it won't ring audibly. There are sign-in sheets to my left as you come in the door. If you wish to testify, please fill one of those out, and you can place that in the wooden box at the testifier's stand for us; that would be fantastic, so we have a record of who you are. The senators have been introduced. If you don't know who they are, we would be happy to visit with you afterwards, but in the interest of time we're going to proceed now with LR93. LR93 was introduced in coordination with LB516, which provided the Ag Committee \$50,000 in funding to assist us in trying to determine an appropriate response after the Jones V. Gale lawsuit was settled, and that the courts had upheld that Initiative 300 was unconstitutional. I won't go through what this specifically says because it simply gives us, as a committee, the authority to do what we need to do to engage you in a discussion about what public policy needs to be in place in Nebraska to support production agriculture, and what that needs to look like, and what structure, what form, and a number of avenues that you may believe is appropriate. And so what this process is designed to do is to allow you to come before the committee to share with us your perspectives, your opinions. We've obviously had a great deal of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

discussion recently about Initiative 300 after the lawsuits had been filed and just actually prior to that. But what we would like to do is gain knowledge from the last 25 years of this law being in place, to give us a basis for going forward, and then trying to understand the legal ramifications of what the court has told us, will be something that we'll discuss probably at a later date, because we're actually researching a lot of those issues, as well. But what we'd like to hear from you today is what are your thoughts generally. Do you have specific ideas that you would like to see be put in place? I'm sure that we could all sit around for the rest of the afternoon and discuss whether or not the court proceeded appropriately in the way that they handled the case, but that's, in my humble opinion, water under the bridge. And so what we would like to do is get your perspective of what needs to be in place or what should be in place to enhance production agriculture in Nebraska for the benefit of Nebraskans in the future of our agricultural industry. So if you have perspectives or opinions, we would greatly appreciate hearing from them. We have this hearing scheduled today. We have one scheduled tomorrow in Lincoln, and we'll have one scheduled Thursday evening in Scottsbluff. And the purpose of going across the state and having these public hearings on LR93 in response to the Jones v. Gale lawsuit, is so that we reengage you in that discussion that took 10-15 years to put Initiative 300 in place, and to learn from what we have had for the last 25 years. And I know a lot of you here in the room were key players in that discussion, including our own Senator Dubas and Senator Dierks, and you have a wealth of knowledge that we would like to gain from and would welcome you to come forward and testify today in whatever capacity you feel led. And if no one else wants to volunteer, I'll call on Chuck, and he can start us off. [LR93]

CHUCK HASSEBROOK: Thank you. Thanks for having me. I do want to speak to how I think the best...how we could best proceed... [LR93]

SENATOR ERDMAN: Chuck, we all know you, but the recorder can't see you. [LR93]

CHUCK HASSEBROOK: Oh, yes. Sorry. I'm Chuck Hassebrook of Alliance, Nebraska.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

I'm here on behalf of the Center for Rural Affairs. I would like to make a few comments about how I think we can best proceed, given the nature of the court ruling. And if there is a key point that I want to make today, it's that there are ways that the Legislature could proceed to write legislation very similar in effect to Initiative 300, within the bounds of the court ruling. This court ruling was the third in a series of rulings that all basically say that if you're going to regulate corporate farming you cannot discriminate against out-of-state investors over in-state investors. It started with an Iowa ruling that said the Iowa law was unconstitutional because they specifically...they had a provision that specifically allowed Iowa cooperatives, but not cooperatives organized under the laws of another state. The second ruling was South Dakota, where they said that the sponsors of that initiative, through their statements, demonstrated an intent to discriminate against out-of-state interests. And then in the Nebraska case, they said that Initiative 300 was, on its face, discriminatory against out-of-state interests because of the exception for family farm corporations in which the person lives on or works or is engaged in the day-to-day labor and management of the operation. On appeal, the Attorney General argued; I, John Hansen, and others argued, as the people who drafted Initiative 300, that that initial ruling was based on a flawed understanding of the family farm, as a family farm exception to Initiative 300, that you could be a family farm, a person who lives on your operation and works on it every day in North Dakota, and by virtue of that you would be qualified to buy...that corporation would be qualified to buy land in Nebraska, feed cattle in Nebraska. The court just agreed; the court said, that's not the way Initiative 300 works; you've got to be on the land in Nebraska according to the court. And, in fact, one of the things they pointed to was language not in Initiative 300 but in the language that was developed by the Secretary of State for the ballot description that referred to the family farm corporation as a Nebraska family farm corporation. I say all of that because I think it points very clearly to the way that we can write legislation, that it continues to advance the intent of Initiative 300 while being consistent with the court ruling, and that is simply--and I have some language here--it's simply to write a statute that is very comparable to Initiative 300, but says that a family farm, very explicitly, doesn't have to be based in Nebraska. But if you have a family farm

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

corporation on which you work on a day-to-day basis or in which you live, and that's based outside of Nebraska, that qualifies you to invest in Nebraska, in land, in feeding cattle, or what have you, as a family farm corporation. You know, I think that basics...keep reinstating an issue, writing a new bill that has that basic standard of, we outlaw certain corporations but we allow family farms to incorporate, it's really integral to what Initiative 300 was all about. And I think it's the reason that Initiative 300 withstood legal challenges for 25 years. This was the first time Initiative 300 was challenged under the commerce clause, but it was repeatedly challenged on, for example, equal protection of the law. And the reason it withstood is because there is, all those challenges, is because there is a very clear justification for Initiative 300 based on its social and economic rationale. And it's simply this, that societies, rural communities, are healthier when the people who work on farms also have the opportunity to own the land and own their production and make the management decisions. And to provide a bit of history, I think one of the things that's made our family farm communities and the farm economy in the Midwest and the North unique, is that to a much greater extent than you would find elsewhere, either in southern agriculture or in the nation's large urban industrial centers, the people who worked, enjoyed the benefits of ownership and shouldered the responsibilities of ownership. And that brought meaning to life and work to generations of rural people, and it provided the basis for much stronger communities. And there is a large body of academic research on this topic. And about 25 years ago, the Office of Technology Assessment for the U.S. Congress commissioned a study on how the structure of agriculture affected life in rural America. And there was one report in there that I'll never forget--one statement. It was by a sociologist by the name of Dean McCannell, and he wrote that all the serious studies have researched the same conclusion, is that communities that are surrounded by farms that are larger than a family can operate, have a few wealthy elites, have a majority of poor laborers, and virtually no middle class. Now that, I would suggest to you, is not progress; that's social decay. And what Initiative 300 says, it's not that we're going to outlaw other types of agriculture at all; what Initiative 300 says is that we're going to provide a level playing field to the type of agriculture that's most beneficial to rural America. And so...but if

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

somebody wants to invest in agriculture, a nonfarmer who doesn't live in the area, who doesn't work on a farm, they're more than willing to invest, but they have to play on a level playing field. They have to operate by the same rules as most family farmers and ranchers. And that means they operate a general partnership or sole proprietorship. What that means is, they play by the same tax rules, but more importantly, they take full legal responsibility for their operation. Because that's really what it says. If you can operate as a sole proprietorship, you can still invest, but you're going to be personally liable. You can't hide behind the corporate shield. I'm going, when I'm done, I'm going to hand something out to you, but in it I include some testimony by Tom Lipps who is an attorney from Algona, Iowa--he grew up at Tekamah, Nebraska--and in it he argues in favor of Initiative 300; this was back in 2004. And he said that in Iowa where he practices now, the standard model--and where they did not have a kind of law that restricted nonfamily farm corporations--the standard practice in the hog industry is that people will set up these shell corporations that have almost no assets. And then if something goes wrong, they just walk away. And my last attachment is an article from the Omaha World-Herald from 2004, talking about a case involving Jack DeCoster. Jack DeCoster is from Maine but he raises a lot of hogs in Iowa. He's one of the richest men in American agriculture, and one of the largest hog producers. But DeCoster does not have one corporation; he has a lot of corporations; many different corporations, all producing hogs or eggs or what have you. And they described a certain case where DeCoster set up a farrowing corporation; they had contracts with a group of farmers to provide healthy pigs. They didn't provide healthy pigs; they provided very sick pigs. The farmers sued him. DeCoster's corporation lost, and he just filed bankruptcy and walked away. And, you know, my point here is that we often talk about corporate limited liability, but it's really a misnomer because there is no such thing as liability, limited liability, because the liability is still there to the same degree it was before. What you are doing is shifting liability, and in that case Jack DeCoster shifted liability for the operation he owned. The operations whose profits benefited to him and that he controlled, he shifted liability to the people with whom he did business. And that's what Initiative 300 is really about. It's about saying that, look, if you want to invest in agriculture, invest. But you do

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

what most farmers do: you take responsibility for your operation. I think we can continue that type of legislation under the court ruling through legislation as opposed to a constitutional amendment, and I have specific language I would suggest right here, and I'll hand out when I get up. [LR93]

SENATOR ERDMAN: Okay. Thank you, Chuck. Any questions for Mr. Hassebrook? Let me ask you a couple questions to make sure that I understand where you're coming from, and I think this is based on some of the research that we're doing and for the benefit...the committee knows this, but for the benefit of those who are here, as well. We've also had planning sessions and research sessions that we're doing in addition to these public hearings, so that way, as we're going through this process, and a lot of the same observations that Chuck is making, we're analyzing and asking for insight in trying to find articles--I have an article in front of me from the Ag Law Center--different information that has analyzed this. Because this is a bigger case than just how it affects Nebraska. There are, as John Hansen and I have talked about, commerce clause issues about state's rights. You can get into a number of issues. And so a lot of people are looking at what the Eighth Circuit did, both in South Dakota's case with Hazeltine, and in ours. One of the observations that you made is that if we simply would have treated, or if we do treat, going forward, everyone the same...in other words, we say a family farm, or however it's defined, in North Dakota, qualifies as a family farm in Nebraska, that would be a viable option, wouldn't you also then have to...? And this would have to be litigated I would imagine. But you would have to somehow clarify, as well, that in the Progress pig case where we talked about day-to-day labor, how that was defined. Because it's my understanding where the court came to in their analysis was based on the state's successful challenges or successful...having I-300 upheld through the state court, because we argued these points, that actually it at some point came back to hurt us in some of these arguments. Is it your opinion that had we argued differently in the state court, we would have prevailed at that, or was it your opinion that had we started off initially and been clear that family farmers in any state would qualify for this, we would have been better off? [LR93]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

CHUCK HASSEBROOK: Well, it's my argument that there is nothing about what I'm saying, about allowing a North Dakota family farm corporation to buy land in Nebraska, nothing about that is inconsistent with the Progress pig ruling. The Progress pig ruling was not about somebody based in North Dakota providing day-to-day labor and management in North Dakota. It was about somebody who lived a half-mile from a hog unit who didn't work in it; didn't live on the same property and didn't work at that operation. That's a completely different situation. What I'm saying is, we make it clear that if your farm, if you work on your farm on a day-to-day basis, we never...we don't say that you have to work on every parcel on your farm on a day-to-day basis. So if you are engaged in agriculture in North Dakota as a corporation, you're working it on a daily basis, you're living on it, the fact that you extend that into Nebraska and you may not be on the Nebraska operation everyday, does not make you illegal. There is nothing different about that than a family ranch corporation in Nebraska that, say, ranches in the Sandhills, and then rather than selling their cattle at the end of the year, they put them in a custom feedlot in the Platte Valley. They're not going down and feeding those cattle every day, and nobody has ever argued that was a violation of Initiative 300. The principle isn't here that...Initiative 300 never said that you have to do the labor on every thing that farm corporation does. It just says you've got to work on that corporation somewhere, on that farm somewhere that the corporation owns. So I don't think the Progress pig case is inconsistent with what I'm arguing. [LR93]

SENATOR ERDMAN: Okay, let me just...we're making a record, obviously, and so we want to be able to look back and make sure that I understand what you're saying and that we have that. The question then that would come to my mind is that if you're talking about the benefit of local ownership, how would you make the argument that a North Dakota family farm, which has extended their operation to Nebraska, essentially being an absentee landowner, is local ownership? And how the benefits that we have generally heard, whether it's in the C-BED ideas, which I think we all supported here...? And, again, that doesn't go into a family farm; that's a local ownership option. Can you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

somehow make the connection for me that that is local ownership, or is it family farm ownership that we're preferring? Is it the local ownership option that we want to preserve, and if so, how does that work? Or are they different issues that have to be addressed simultaneously, because of the way that the court has ruled? [LR93]

CHUCK HASSEBROOK: Well, they're different issues, and the courts have told us that we cannot favor local ownership. But what we can favor is keeping ownership in the hands of people who work on the farm, and keeping ownership and control in the hands of working farmers. And I think there is a wide body of research that demonstrates that that's a socially beneficial thing to do. It's economically beneficial. It creates healthier rural economies; and that we can do. What we cannot do is provide that policy in a way that specifically favors local ownership. [LR93]

SENATOR ERDMAN: And I guess the last question I would have, and open it up to the committee if they have others, do you see a benefit or does it become difficult to enforce or to defend if one of the options is, is that if you and I, who both live on neighboring farms with one another, wanted to avail ourselves of the opportunity that the law now provides, and that would be incorporated as a limited liability or, as you say, it's transferring liability but the law would recognize it as an LLC, currently you and I can do that. We're both neighboring farmland owners. The fact that we're not relatives may be somewhat irrelevant to the local value. The value is, is that both you and I may be able to be better farmers if we were able to work together in a more coordinated effort. Is that something...? And that's been one of the arguments against I-300 from some, is that it doesn't allow nonrelated family members or nonrelated producers to be able to join together in some ownership structure other than a general partnership, to be able to operate. Do you see any value in pursuing that? Or is it your opinion that we simply say that we broaden it to be any family farm regardless of where they're at, and treat them all the same, and try to restore I-300 in some form? [LR93]

CHUCK HASSEBROOK: I think it depends on the nature of the relationship, but I think

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

there's certainly circumstances. And I think where if both those farmers are actively working in the operation, that it makes sense to provide that same opportunity to them. And I believe that there are some states' laws that have said that farmers can go together, but then when they go together the operation they create actually involves them working on it, that's allowed. And so I think there's...one can go to the point there where you simply say, well, farmers can become investors and set up, as long as farmed at some point, you can start becoming the investors, and corporate farms are simply operated by employees. And you really...you don't have the principal of the people who own that operation, or the people who work in that operation have the opportunity to own it, but I think that a limited liability company or a corporation where two neighboring farmers join together, work together, and invest together, is consistent with the principles of Initiative 300. [LR93]

SENATOR ERDMAN: Okay. Any further questions for Chuck? Russ? Senator Karpisek. [LR93]

SENATOR KARPISEK: Thank you, Senator Erdman. Chuck, I guess that was my question, not being a lawyer...I should have asked Flood, I guess...but can we...and I'm not saying this is the way I want to go, but could we do an LLC or an S-Corp or something like that, a small corporation that would still have the liability like you've talked about? Is there...? In your opinion, is there a way that we could do that but keep out a full-fledged corporation that is a Smithfield, Monsanto? Or once you open that door, is the door open and everybody is going to run through? [LR93]

CHUCK HASSEBROOK: Well, you know, I think...I mean there area certainly ways you could write a law that would say that we want to prohibit large publicly traded corporations, but not corporations owned by groups of investors. Now, I think, arguably, I would argue that one of the reasons Initiative 300 withstood so many legal challenges, for example, legal challenges on equal protection of the law, is that we were pretty consistent. We said there was a basic rationale here about providing a level playing field

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

for the person who worked the land. And I think that helped us withstand those challenges on grounds like equal protection. If we went to a law that simply said we're going to prohibit publicly traded corporations or corporations with more than 100 stockholders or something like that, I don't know what the court would say. You know, I think it would be more vulnerable on equal protection grounds, frankly. [LR93]

SENATOR KARPISEK: The other point of my question is the co-op in town trying to--you know, that's what the co-op is, was--to try to spin off that in some direction. But, yeah, where would you draw the line from the local co-op compared to the big megacorp? [LR93]

CHUCK HASSEBROOK: I've never been a big fan of co-ops going into competition with their members and getting directly involved in farming as an entity unto itself. And I mean, frankly, that was a...you know, when we worked on Initiative 300 and putting the language together, there was a lot of discussion about that. And our feeling was that this principle of the corporate vehicle and the corporate shield being available only to farms where the people who worked on them also sheltered and enjoyed ownership, we wanted to be consistent about that so we didn't create an exception for co-ops that set up corporate farms. And I think that was the right decision. [LR93]

SENATOR KARPISEK: Okay, thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Karpisek. Senator Dubas. [LR93]

SENATOR DUBAS: Thank you, Senator Erdman. Thank you, Chuck. Can we, as a state, define how we want our economy driven, the economic structure of our state? Do we have rights in there as to how we...? [LR93]

CHUCK HASSEBROOK: Well, I think we have rights, and we do that all the time. I mean, you know, we...I mean, state policy has many aspects of it that try to shape the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

economy. I mean, LB775...I don't...what do we call it? Well, Nebraska Advantage is one example of how we try to shape economic trends. We created land grant colleges to shape our economic future. We do many things at the state level to shape our economy. And I think the key is that we do that in a way that gets us where we want to go as a state. And so, yeah, we have powers. Now, these rulings have certainly narrowed those powers, and I think these rulings are going to have a lot of shaking out. I know we're not going to talk about the merits of the rulings, but I think there's going to be a lot of shaking out, because you start looking at some of the logical extension, the logical extensions of the rulings on the corporate farm issue, it could carry into a lot of other areas of law. For example, you know, are we...? Teacher certification. I will tell you, as someone with some experience in education, that it's a whole lot easier for a Nebraskan who has gone to the University of Nebraska, to qualify with our state teacher certification laws, than somebody who went to the University of Florida, because there's a very close linkage between the teacher's college education we provide and our state regulations for teacher certification. So our state is going to get out of that business because the courts are going to say that, hey, this is discriminatory against people who are from Florida because they don't have the same opportunity to prepare themselves to meet your standards? I just think these rulings, carried to their logical extension, are going to be used against a broad array of things the states currently do, and have long done, in the economic area. And I think there's going to be a lot of sorting out on these issues. [LR93]

SENATOR DUBAS: We know that corporations basically are run by the will of the government. They're not a living, breathing entity or anything, so it's how...the right set we give corporations. So do you think that we have...there's room to redefine how we see corporations operate in our state? Not just ag; you know, across the board. [LR93]

CHUCK HASSEBROOK: Corporations are a creature of the state, and they were created to facilitate capital formation by providing limited liability and things like that, and so they are subject to regulations. So, very much so. I mean, this state, if it chose, could

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

say we want to reexamine our policy with respect to limited liability, those provisions. Limited liability is a creature of public policy. It goes back a long, long time. I think it started under the Crown to encourage capital formation many centuries ago. But corporations are creatures of state. [LR93]

SENATOR DUBAS: Where would you see market access coming into the play of trying to redefine where we want to go with reestablishing what Initiative 300 has done? [LR93]

CHUCK HASSEBROOK: Well, I think Initiative 300 was very important in that...one of the effects of Initiative 300 is to prevent meatpackers from raising livestock. And I (inaudible) pretty strong evidence that when meatpackers can produce their own livestock, that it reduces market access. And the University of Nebraska has done studies on this, that others have, that when packers own their own livestock, control their own livestock, they can bring those livestock in at beneficial times to help them sort of manage prices, hold prices down. And so one of the reasons Nebraska has had a strong livestock market and one other reason Nebraska has more family farm producers, in the cattle feeding in particular. But even hog production, the last time I checked, our share of the nation's hog producers--not hogs, but hog producers--had gone up since Initiative 300 passed because we have protected market access better here with Initiative 300. And it's particularly true in cattle because if you go to Texas, there's really not much of an open market bid down there. And so have maintained that in Nebraska and it's been good for family farmers. [LR93]

SENATOR DUBAS: Thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Dubas. Chuck, if I can follow-up on one thing just so that I'm clear. The issue of packer ban or packer banning of ownership of livestock, your testimony is, is that was covered under I-300. We also passed a statutory prohibition under LB835, I think it was in 2000. Was that designed because the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

enforcement issue wasn't being handled, or was that an aside or an additional assistance to make sure that it was clear that that was the intent of the state law of the state of Nebraska? [LR93]

CHUCK HASSEBROOK: I think Senator Dierks passed that bill, but it was part of a package that was passing in a lot of states that creates some uniform statutes. But, clearly, the ownership keeping and feeding of cattle by meatpackers was prohibited, or hogs or whatever, was prohibited by Initiative 300, but I don't.... You know, I think there were a number of provisions in that market access legislation beyond the packer feeding issue. [LR93]

SENATOR ERDMAN: Okay. I don't see any further questions. Thank you, sir. Appreciate it. [LR93]

CHUCK HASSEBROOK: Should I give these to...? [LR93]

SENATOR ERDMAN: And bring those forward. You could be a page for the (inaudible) if you wanted to, or we can pass them out? All right. How about that? [LR93]

CHUCK HASSEBROOK: You know, I spent my last hour in (inaudible). [LR93]

SENATOR ERDMAN: All right. Next testifier on LR93. There is n ever a rush to be first, but when we say we're running out of time, there sure is a rush; everybody wants to say something. So if you get in a little early, it helps to balance that out. [LR93]

JIM HEGEMANN: My name is Jim Hegemann. I don't know that I come in any particular capacity here today, but I just want you to know I appreciate you fellows all taking the time, and ladies, to come out here and listen to us a little bit. I hope it isn't just because Mike is having a big party afterwards or something like that. [LR93]

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Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR ERDMAN: He's have a party? What? (Laughter) Jim, why don't you spell your last name for us? [LR93]

JIM HEGEMANN: (Exhibit 2) Hegemann, H-e-g-e-m-a-n-n. I just have a bit of information I thought might be of interest to you here, and I am basically going to read this. What we did back last...in '04, actually, was took a survey in Platte County down there, and I'm just going to read it if it's all right with you, and you can take it from there. But this ag survey was conducted by the Platte County Farm Bureau, in cooperation with the Nebraska Soybean Association, Farmers Union, the Platte Valley Cattlemen, the Center for Rural Affairs, and Pla-Co Pork Producers. Now, these three groups asked different people to participate, and several of them were just because they were related to Platte County. The other ones were because of other interests. But all the ag groups participating had the opportunity to review the survey letter and make comments and adjustments to the survey prior to the mailing. Now, we want to remind you again that some of the ag groups...none of the ag groups were stating their positions; only that they wanted to help in conducting the survey. The ag survey was mailed to those entities who were residents of Platte County owning farm ground and those who operate farmland in Platte County using Platte County FSA mailing lists. The results were as follows: 780 surveys were sent out in mid-April. The surveys were tabulated on May 20, with 534 returned surveys, equating to about 30 percent of the return rate, which wasn't that bad. There were several questions asked, but the main one I wanted to make a point here is, are you in favor of I-300, Nebraska's corporate farming ban? Four hundred and forty-three responded yes; that's approximately 83 percent. Sixty-five said no, approximately 12 percent; and then 26 had no opinion. The next question was, Do you think changes need to be made to I-300? And the way this was written, you respond: Yes, I am willing to open the act to make changes. Eighty-seven, or only 16 percent, voted yes there. The other part of the question was: No, leave I-300 as it stands today. Four hundred of them answered in this response, which is about 75 percent: They don't want any change. There were only 47, or 9 percent, that made no opinion. Whether that's of any interest to you or not, I don't know, but it just...I thought it

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Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

might be interesting to know. [LR93]

SENATOR ERDMAN: Okay, thank you, Jim. Hold on a second; we might have questions for you. The only questions I have for you, is that survey available that you could get a copy to us so that we can add to our...? [LR93]

JIM NEGEMANN: I can leave them right here, if you want. [LR93]

SENATOR ERDMAN: That would be fine, or you can bring that up here and hand it to Linda, and she can put that in our record. And you put in a sign-in sheet there, right? Okay. Any other questions for Mr. Hegemann? I don't see any. Thank you, sir. Next testifier on LR93? [LR93]

ALDEN ZUHLKE: Hi there. I'm Alden Zuhlke, A-l-d-e-n, Zuhlke, Z-u-h-l-k-e. I didn't come here necessarily to testify, but I just heard some of the comments, so a little background. Some of you I know. Cap is close to my district. But anyway I've got a family of four boys and a girl, and we're in the hog business, and it's interesting how many times hogs come up in conversations when it comes to I-300 and different things. But of the...going back even to the other testimonies on the other bill, there is a lot of economics is what you're driving from. And it's interesting, we just had articles in the paper from, the Norfolk paper, about Norfolk and Columbus, of how many, how the labor shortage is. You know, my hometown is Brunswick. What do you think...? How many do you think employees we need in Brunswick right now? I mean, we've got 200 people there. How many do you think we need? I know of ten, for sure. We've got ten positions in that little town we can't fill. There's not enough people. Mark Hall is back there, and I asked him how many. And he says, well, you probably need one at the local bar. I wasn't counting that one. (Laugh) Our bank just changed hands. You know, I don't know what the exact plans are, but the guy is 75 years old. They've set up a special program here at Northeast College to help that industry. So it's kind of interesting how we drive ourselves, thinking we're going to do this wind deal and we're going to set up

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

I-300. You know, we want this rural economic development, and yet we don't have enough people right out there now to fill, in Brunswick. Now, I don't know; maybe the rest of you; maybe you've got an excess of people that are looking for jobs out there, but obviously Norfolk and Columbus don't. You know, when it comes to the hog deal, Cap, you know you live in Ewing, which is Holt County, and I'm in Antelope, and you're part of Knox County, your district is. You know, when you look at the hog deal, you know, how many pigs do you think are exported out of those three counties to be fed in other states? Take a guess; anybody. Do you think 1,000, 100,000? [LR93]

SENATOR DIERKS: I didn't even know they raised any hogs out there anymore. [LR93]

ALDEN ZUHLKE: You didn't, did you. There are a million hogs leave Antelope, Holt, and Knox County, to be fed in other states--1 million. And when you talk economic development, I don't know. And you know, I know Senator Dubas and Dierks, if you went back and said, hey, let's add 50,000 finishing spaces to our...you know, it's not going to happen too easy. I mean, you know, it's a challenge. But there's economic development that could take place. So you've got some challenges, you know, and that's.... A little bit more of my background: I was...I'm past president of the Nebraska Pork Producers. I followed Arnie a few years later. But it's been a challenge in this state. I mean, you know, obviously we peaked in hog numbers in '92 of 4.2 million. We went into a severe decline and we were down to about 2.3 million. We have gotten that back to 3 million, and I can't give you the exact answer why, but it has turned around to a point here, and we seemed to have stabilized and at least getting a little bit of growth. But I'm telling you, we could add a million hogs back into this state, but on the same point we're not going to do it because we don't have...because you come back to that employment part. You know, honestly, I don't mean to make any of you feel bad, but none of you could to work in a hog farm. I mean, I don't want to discriminate against age or anything, but seriously there are qualifications to do almost anything in agriculture. We've got some other farmers in the room, and I'll guarantee you, if you haven't climbed in a combine lately, yeah, you can get in there and run that thing, but if you think you're

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

going to set the GPS and all that stuff, it's become quite a technical business anymore. And actually the hog business has too. I mean, to run fans and just the whole everything with it, it's really changed. And that's a little bit of the unemployment problems in some of those small communities. You simply don't have people qualified to do the specialized areas we have anymore. One other comment was made about...you know, you're concerned about a company coming in, liabilitywise, and the comment was about a corporation coming in and dumping liability. Right now, I have a 23-year-old, and that's exactly what I'd like him to be able to do, because the amount of cash we need in agriculture right now is just overwhelming. I mean, for him to build a 2,000-head finishing unit, you know, he's talking a half-million dollars. And back when John Hansen was thinking he was going to buy some cattle, I'll guarantee you, John, if you went to the bank right now and you need a half-million dollars to put up a 2,000-head finishing barn and you're 23 years old, you need to get rid of some of that liability. You need to have somebody to step in there and say, well, I'll take some of that liability from you. And whether it was right or wrong the way some of those corporations set that up and did that, you know, in my mind, yeah, it looks bad too the way they did it. But it's kind of ironic; I need that exact same thing for my 23-year-old right now. I need him to get rid of that liability somehow. And I'll guarantee you, you wouldn't do it at the state of Nebraska. And federally, we may get something done. You know, they're looking more...you know, obviously, they're trying to update through the farm bill of what they can do for young farmers, because at one point \$200,000 was a pretty nice investment for a farm, but right now that's kind of went out of style here in the last 12 months with the increase in values and things. But that's just some of the comments I had of some of the things that have listened to. I could actually go back to that other bill. I serve on the Environmental Quality Council, and so a lot of the Nebraska Public Power stuff that was talked about before, I guess if you don't mind I will make a couple comments. And, you know, I like you seeing the foresight of doing something, windwise, because I don't know how many of you have had the opportunity to tour Gentleman Jim's (sic) which I believe is our largest coal-fired plant in the state. But, you know, our power source is rather old. You know, I don't know if you're aware of that or not. If you went through any

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Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

of the nuclear plants and went through those coal plants, they've been here quite awhile. [LR93]

SENATOR ERDMAN: Alden, I should have probably cut you off before I let you get into that. [LR93]

ALDEN ZUHLKE: Okay, sorry. [LR93]

SENATOR ERDMAN: But it makes great sense to us because we sat through that, and now we're on this, but when we keep a record of this, they'll be treated as two separate items. And so unless you're going to require people to cross-reference and go back and read that... [LR93]

ALDEN ZUHLKE: No. [LR93]

SENATOR ERDMAN: ...you can visit with us and we would be happy to add your comments to that portion. [LR93]

ALDEN ZUHLKE: I appreciate that. [LR93]

SENATOR ERDMAN: I appreciate you coming. Any questions for Mr. Zuhlke? Is that how you say that? [LR93]

ALDEN ZUHLKE: Yes. [LR93]

SENATOR ERDMAN: Mr. Zuhlke. Cap. [LR93]

SENATOR DIERKS: Alden, are you in a farrow to finish operation? [LR93]

ALDEN ZUHLKE: The terminology...yes, close to that. [LR93]

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Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR DIERKS: So you have hogs that are...? You finish them for market? [LR93]

ALDEN ZUHLKE: Yes. [LR93]

SENATOR DIERKS: Okay. Now, do you have contracts for all those hogs when you start? [LR93]

ALDEN ZUHLKE: As far as...? [LR93]

SENATOR DIERKS: Like the packers. Do you have a packers contract for your hogs? [LR93]

ALDEN ZUHLKE: Do you mean, do I have to deliver so many hogs to a certain packer at a certain value, or...? [LR93]

SENATOR DIERKS: No, I mean do you just contract with a packer to provide them with your hogs when they're ready to go? [LR93]

ALDEN ZUHLKE: Yes. I mean, it's kind of a wide-open question. I have packers... [LR93]

SENATOR DIERKS: But you don't go to the open market to sell your hogs? It isn't a...? You don't have a spot market so you can sell hogs on? [LR93]

ALDEN ZUHLKE: No, no. Not...no, do I call ten people and get bids is what you're suggesting? No. [LR93]

SENATOR DIERKS: Okay, thank you. [LR93]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR ERDMAN: Thank you, Senator Dierks. Further questions? [LR93]

ALDEN ZUHLKE: Again, thank you guys for coming up here, and for the opportunity for the rest of the public to have input on this. [LR93]

SENATOR ERDMAN: You bet. Thanks, Alden. Next testifier on LR93? Come on up. In case some of you are wondering, there wasn't a training course prior. You can just simply come up and sit down and tell us what you're thinking. It doesn't require any great expertise or training. [LR93]

MIKE KORTH: I'm Mike Korth, K-o-r-t-h, from Randolph, Nebraska, which is Cedar County. And I'm just going to make a real couple off-the-cuff remarks. Corporate America doesn't need anymore help in this country. The family farm needs to be...we need to try to save it. The farm bill has been dismantling it systematically. It's not by, you know, that the law was made in such a way that it happened. The law was made to do exactly that. I-300 was made to try to protect the family farm, and we found a way to destroy it now. So what we're really doing here is trying to figure out what should the future of ag look like in this state. If we want to open it up to corporate farming, that's what we've basically got going on right now. And we've all seen these shell corporations put up where they can keep them basically with no money in them. And then if you would go after them through a...I don't care if it's an environmental problem or something, there's no money in there to be had. Look at what has happened to South Carolina. I mean, that looks like a war zone down there. And there's no one that's going to take care and clean up this mess. The competition to buy our products is getting so limited...I mean, I just sold cattle this spring on the spot market, and I basically have three people that I can call on to try to sell the cattle. One of them never showed. One of them has got me on his black list. So I had one guy that I could really sell cattle to. It's really a tough feeling when you're sitting there, begging for someone to come and buy...you know, what in essence turns into being about 70 percent of my annual income comes off them cattle, and I watched the market erode by over \$200 a head in a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

three-week period. That just gives you a really sleepless night. And when I look at...you know, we all try to define what is a family farm, and we try to define big from small, but we all run from these answers because then you're starting to pick. And I know there's always a line in which somebody is going to end up being just on the other side of it. It's no different than taxing your land. Eventually there is a line where it's much higher-valued on one side of the road than it is on the other. But we have to draw a line in what we're going to protect as far as the family farm. And I don't think it's as tough as we say. We look at the court systems, we get scared. And isn't this all about we the people? We're the ones that are supposed to be making these laws; not the courts. The courts have got too much power, so we need to do the will of the people, and then let them try to do their job. But this was a disservice that was done because corporations weren't allowed to come into Nebraska and do whatever they wanted under this law, so they hid behind some rather odd things... [LR93]

SENATOR ERDMAN: Mike, I hate to do this to you, not that you need to stop. We need to...(pause for recording device tape change). Okay, go ahead. [LR93]

MIKE KORTH: But we have to take a look at where we're trying to get with this law. And, to me, Nebraska is a...it should be an icon state for ag law, because that's what we are here. We're so diversified in so many different parts of ag. We could be a gleaming light for other states to follow. And in the end, it's simple. It's do what's right. Look at the numbers that you were given on a survey where 75, 85 percent of the people agree with this. Well, then why do we go against those people? Why do we sit there and basically say you don't know what's good for you? What's good for you is what we'll create for you. Well, excuse me; that's being force-fed. And you know what happens if you overfeed someone: its ugly. So I'm saying, let's figure this out; we've got enough good heads in this state. We'll let the lawyers worry about it on another day. Thank you. [LR93]

SENATOR ERDMAN: Thank you, Mike. Any questions for Mr. Korth? Senator Dierks.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

[LR93]

SENATOR DIERKS: Mike, are you free to say what you meant by being on someone's black list? [LR93]

MIKE KORTH: I would say so, yes. I attended a trial that happened in Alabama regarding Tyson versus...or excuse me, IBP versus...or Picket versus IBP. And if you're aware of that court case, the jury unanimously...12 jurors, after listening to a month of testimony, convicted IBP; 12 jurors, after a month of testimony, and the judge overthrew it. I didn't know that's even what our court system is made of. Why did they have 12 people waste a whole month, when the judge made up his mind anyhow? I mean, hell, just have him do the whole thing. Save everybody their time. Well, I attended that trial, which made me pretty unpopular with that company, because, you know, I shouldn't have been there I guess. But I saw it to be quite interesting. I thought it was well worth my time. [LR93]

SENATOR DIERKS: Thanks, Mike. [LR93]

SENATOR ERDMAN: Thank you, Senator Dierks. Senator Flood. [LR93]

SENATOR FLOOD: When you attempt to sell cattle to Tyson Foods, what do they tell you when you make an attempt and an offer to sell your cattle? I mean, are they...? What do they say? [LR93]

MIKE KORTH: They're out of the market; my cattle ain't ready; whatever is convenient. [LR93]

SENATOR FLOOD: But they never call you back? [LR93]

MIKE KORTH: No. There's just no available bid, you know. They might come out and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

bid \$4 under the other guy. What I'm going to do in the future, I really don't know. I mean, I'm to the point I don't know if I'm going to feed cattle anymore, because this was pretty ugly, what happened to me this year. And the fact that the market can fluctuate that much, just because you're on the spot market...yeah, I had an opportunity to market the cattle for basically a break-even. If I'm going to do a break-even, I just as well feed them in a commercial feedlot, because I can't go out and feed them everyday. And that's not what made this area good. My school district is in severe trouble right now; I mean, severe trouble just from depopulation of my area. [LR93]

SENATOR FLOOD: Thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Flood. Mike, I've got a question for you. You talked about drawing the line. If I can try to extract that a little bit from you here, would you draw the line as family farms versus nonfamily farms, or would you draw the line based on size, or both? [LR93]

MIKE KORTH: Probably both. [LR93]

SENATOR ERDMAN: And where would you draw that line? [LR93]

MIKE KORTH: I'm not prepared to answer that. (Laughter) But when I...I mean, I heard...you know, the farm bill, to me, when everybody asked that, to me, an entity is one household. And I appreciate very much the women who stay home and work, but in the end if you file one tax return, that's an entity. And I don't like the Mississippi Christmas trees, because that's what's ruining us. But then also if we want to compete on the global scale, we need to produce at the market. Under the current situation, we're hurt worse with that than we are...with the farm bill than without it. So to me, take a good living, if it's \$50,000, why isn't that enough money? If you can't live with that, we're doing something...(laugh)...I mean, really think about it. If you can't live off of \$50,000, \$60,000 worth of income, you're doing something wrong. And so what do we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

do? We give millions to millionaires, and it's all of our money; it's the taxpayers'. I'm giving my own ammunition to my enemies. And it don't work because they've got thousands of bullets and I've got a handful. If I'm behind a tree, they shoot the tree down and then they get me. So what's the bill number so I can write it? [LR93]

SENATOR ERDMAN: LR93. Senator Stuthman. [LR93]

SENATOR STUTHMAN: Thank you, Senator Erdman. Mike, in some of your statements you stated the younger people aren't coming back, aren't raising the hogs. And one of the other testifiers, the other spokesman said that we've got a lot of pigs leaving the area. Is this because the kids don't want to come back to the farm, or is it because of the hurdles that they have to go through because of planning and zoning? [LR93]

MIKE KORTH: I'd say a combination of both. I have four kids but they're all daughters; I've got four daughters; but I have plenty of cousins and friends. A lot of them see how insanely hard their parents are working for the small return that they're getting. And when you look at the risk that's out there, they just have decided against it. It's a hard way of life. But I think some of them...I mean, when you look at small farms now and you look at what we're doing as far as the EPA regulations go. Okay, I filed the proper permits. It took three years to have my farm inspected. They came out and I had three different government entities on my place with three pickups and seven people, and I don't know what that costs an hour to have seven state people sitting in my farm arguing over who is in charge. And the one guy said, you are not doing this, I'm in charge you. Another guy said, well, this is a viable solution; you can do this and get by. But who is in charge? Who could pull the strings? I sat there and I just got more and more frustrated as time went on. And finally I walked away and called down to Lincoln. I said, what's the point of having seven government employees standing in my farm, arguing who's in charge? Well, eventually I did get to sink a tile in the ground, because this was farmable ground. But they were looking for a \$100,000 lagoon on my farm, and the bottom line was, I would quit before I would ever do that because I can't recoup, at

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

my age, to recoup \$100,000. Now if I had 10,000, 12,000 head of cattle, and could build a \$200,000, \$300,000, \$400,000 lagoon, I might have been able to do it. But in the end, this turned out to hurt the small family farmer, and aid the large one, because he took on.... In my area, there's several of them just quit, like I would have if I wouldn't have got the acceptance that I did. But I'm under a period. They're going to be back in three years, and maybe they'll shut me down then. [LR93]

SENATOR STUTHMAN: Thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Stuthman. Senator Dubas. [LR93]

SENATOR DUBAS: Thank you, Senator Erdman. Thank you, Mike. As I've listened to your testimony, it's sounding to me like it's market access that's frustrating you. And with Initiative 300, although it wasn't 100 percent effective, would you agree that it was a fairly effective ban on packer ownership? [LR93]

MIKE KORTH: I don't know if I would go that far, Senator. I thought I-300 was a very good bill, but I don't know how they go around it, but I know there was livestock being fed in our area that was owned by the packers. How they're doing it, I don't know. I mean, I don't know if we need more cops, we call them, like the guys that watch the NRCS, or dirt cops, or...? But the abuses are out there. I don't know how you get around it. But I-300 was an aid. [LR93]

SENATOR DUBAS: So would you anticipate...this is purely conjecture on your part, but would you anticipate the situation getting worse now that we don't have I-300? [LR93]

MIKE KORTH: Yes. Exactly. [LR93]

SENATOR DUBAS: Thank you. [LR93]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR ERDMAN: Thank you, Senator Dubas. Just to follow up on that, the packer ban in Nebraska is a statutory ban that is still in effect. So whether or not that issue may come up, will be because they're violating the existing statutory law and not because I-300 is absent. Any other questions? I don't see any. Thank you, sir. Appreciate it. [LR93]

MIKE KORTH: Thank you, Senator. [LR93]

SENATOR ERDMAN: Next testifier on LR93? Do I need to invite you forward, John, or are you going to take your sweet time and...? [LR93]

JOHN K. HANSEN: I just want to give everybody who came today the opportunity to testify (inaudible). [LR93]

SENATOR ERDMAN: Well, I can't pick on them because I don't know them as well as I know you. So I can just pick on you. [LR93]

JOHN K. HANSEN: I know who these people are and they are not shy and retiring. [LR93]

SENATOR ERDMAN: Okay. Could you encourage a couple of them to come forward if they have something to say? (Laughter) [LR93]

JIM DINKLAGE: I didn't come here prepared to talk to this committee. I'm Jim Dinklage. I used to be from Wisner, Nebraska; I was a cattle feeder. And now today, after moving five times, I am in Senator Dierks's district at Orchard, Nebraska. [LR93]

SENATOR ERDMAN: Jim, you want to spell your last name. [LR93]

JIM DINKLAGE: D-i-n-k-l-a-g-e. Probably in 1983 is when I quit feeding cattle, and the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

reason I quit feeding cattle is because of discrimination: \$2 to \$3 difference between what they would offer a large cattle feeder, who was my cousin, who fed millions of cattle, compared to me, feeding 500. And you cannot operate your operation when you have comparable costs and receive \$3 less on the market. That's one discrimination. And for a young feeder or a young farmer to start today in agriculture, there's discrimination amongst your bankers on interest rates. They have a formula that they look at risk, and will charge a young producer higher interest because he is more of a risk. Or course, naturally he's more of a risk; he doesn't have the assets yet to grow. But there is discrimination there. And this was told to me by a banker. They were charging me more interest and I found somebody else who was paying for interest because I was more of a risk because I did not have the assets to compare (inaudible). And even though Initiative 300 was in place, there was packer ownership, because I used to live close to one of the largest cattle feed operations in the state of Nebraska, and those farmers were being paid with checks drawn on IBP. And they could get around Initiative 300 by not owning the cattle, but financing the producer that was feeding the cattle, because Initiative 300 doesn't say they can't be in the banking business, and that's where their checks were being drawn on that feedlot, from IBP. That's all I have to say. [LR93]

SENATOR ERDMAN: Thank you, Jim. Any questions for Mr. Dinklage? So I'm assuming that your cousin is the one that owns the feed yards throughout (inaudible). [LR93]

JIM DINKLAGE: He did. He's dead now, so, but it's a family corporation...or it's a corporation now; I shouldn't say family. [LR93]

SENATOR ERDMAN: So when I drive by Dinklage Feed Yards to get to work in the morning, I'm driving by your cousin's, not yours. [LR93]

JIM DINKLAGE: It's plastered all over, the name is; even out in western Nebraska.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

[LR93]

SENATOR ERDMAN: So I knew how to spell it. Jim, can you get a sign-in sheet for us and fill that out before we go to the next testifier? [LR93]

JIM DINKLAGE: Yes. [LR93]

SENATOR ERDMAN: I don't see any questions. [LR93]

JIM DINKLAGE: Okay. [LR93]

SENATOR ERDMAN: Thank you, sir. Appreciate it. The next testifier on LR93? Now, John, you don't have to come up. Now, if you feel guilty, you can come up, but... [LR93]

JOHN K. HANSEN: Thank you, Chairman Erdman, members of the committee. For the record, again, my name is John K. Hansen. I'm president of the Nebraska Farmers Union, and H-a-n-s-e-n is how you spell my last name. And what I would like to do is just focus... [LR93]

SENATOR ERDMAN: Did you fill out a sign-in sheet? [LR93]

JOHN K. HANSEN: (Exhibit 3) I will. I have it setting back there and I will turn it in. Thank you, Mr. Chairman. And I will also give you these numbers, if I may. And since I'm likely to see you tomorrow, where I get into more of what I think we ought to maybe be looking at in terms of language, I...because of some of the discussion today, I wanted to just put these numbers before you. These are the latest numbers of market concentration that exist in agricultural markets. And as we think about Initiative 300 and where we go from here, Nebraska is such a big player--we're the top red meat producing processing state in the united States of America; we're about the last place in the country where you can actually find a cash bid. Most of the rest of the meat, in

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Rough Draft

Agriculture Committee
August 27, 2007

Kansas and Texas, is so packer dominated that there are no open bids. And so when you look at the market reports, they look to see what Nebraska feedlots do, because they're still some semblance of what would most folks (inaudible) a marketing system. So, Dr. Heffernan and Mary Hendrickson, Dr. Hendrickson, from the University of Missouri, compiled these numbers at the behest of National Farmers Union, and we also compensated them to be able to do that, because the University of Missouri stopped paying for all of the interns and the graduate students needed to be able to go through and help them compile these numbers. So I have been handing out these numbers for many more years than I have been president of Nebraska Farmers Union. So for about 20-some years I've been helping distribute Dr. Heffernan's numbers. And as I worked with Dr. Heffernan this last time to compile these numbers as we were getting prepared for the farm bill and all of the issues before it, Dr. Heffernan said, this may well be the last time that we're ever able to even do this exercise; that so much concentration has happened, and that the publications that we have normally relied on down through the years to be able to gather information about market share, ownership share, all of those things, have just become dimmer and dimmer and dimmer, and there's just less and less light being shed on actual ownership and market share. And that it finally gets to the point where's there no point in even, in internal publications, talking back and forth between yourselves about whether you're number two or number three, and all of those things, as readers of Feedstuffs. And a lot of you, if you are, you know how this works. So he said that I am...this is really at the break point for me, academically, to be able to feel solid about these numbers, because the level of concentration is getting so intense that it's now getting past that point where we could even document it. And we said it may well take some sort of congressional direction of USDA and the packers and stockyards to compiled numbers and make them available in a fashion so that we could even compile the data. It's pretty...my theory in playing ball was that when you finally got to the point in the ballgame where you couldn't either remember or no one else could remember what the score was, that was probably a sign that somebody was taking a pretty serious whooping. And so I think that that would be fair to say in agricultural markets. When it finally gets so concentrated that you can't

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Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

even hardly keep track anymore, because of not only just vertical integration, but also horizontal. So when you look at these numbers and you look at the beef packers, you've got four packers that have 83.5 percent. You look at also the owners of the primary beef feedlots; gee, you see a lot of the same numbers, names, cropping up there. And certainly in the case of pork, Smithfield Foods, who is the top pork packer, the CR4 in the case of pork, is 66 percent. Smithfield, by a wide margin, is the top packer. They are also, by four times, the next nearest competitor, the largest single producer of hogs. So now we have the packer also owning the hogs. And so how is it that any young producer can go into that kind of concentrated, vertically integrated, and controlled marketplace, and compete, when the value of the Smithfield hogs is not the value of those hogs going through the front door of the packing plant like everybody else's, but it's the value of the hogs going out the back door? Well, that's not a fair contest. That's not a level playing field. And so as you look at these names and these numbers, and you see it through the grain trade and you see it through, increasingly, animal feed plants, flour milling, ethanol, an awful lot of the same names crop up. And so we're looking at, in the case of meat packing, packers that not only dominate pork, but also dominate beef, that also dominate poultry, also dominate turkeys, also just happen to be in the feed industry, also just happen to be in the grain trade. And so we're looking at such massive consolidation that the opportunity for market distortion and price control and manipulation is just enormous. So the federal government and the Antitrust Division of the Justice Department and the packers and stockyards division of the United States Department of Agriculture, have absolutely, positively not been doing their jobs, just based on the data. You can't look at this kind of data and say that somebody somewhere who is in charge of antitrust has been doing a good job, because they just haven't. So then you look at I-300, and you look at other efforts, in the case of Iowa with the ban on packer feeding that also went down in Iowa. So at a time when the federal level is not being responsive to the needs of agricultural producers and/or consumers, or the economy as a whole, we see the courts now disarming states who are trying to fill a void and doing what they can at the state level to provide competition. So from our vantage point and Farmers Union, we think, structurally, and so the line of demarcation

Transcript Prepared By the Clerk of the Legislature
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Rough Draft

Agriculture Committee
August 27, 2007

between family farm and nonfamily farm was a reasonable line, going all the way back to the first bills that we introduced in 1968. And so you have to pick some kind of way to divide, and so that was the divide that we made, because we said, structurally you've got to have something that makes sense, but you also have to have something that's legally defensible. So it has stood up a very long time. It's very disappointing that the court took the path that it did. But the benefits are very, we would argue, substantial, and we'll get into that more at the hearing tomorrow, and the data that comes from that. But from a market standpoint, big picture nationally, if you want to provide more economic opportunity for agriculture, you have to provide more competition in the marketplace, you have to provide more access to markets. When I get calls from pork producers who are substantial pork producers who can see the pork producing plant in Crete, Nebraska, but cannot sell them hogs, that is not a market. A market must be accessible. It must be transparent. It must be fair. And it must be competitive. And so we're not all on the same playing field here. We have different levels and we have different amounts of access. And so what Nebraska has done, has been very, very dramatic, and very, very positive. And had we had the opportunity to actually get, in this particular court case, to the business of arguing merits, which would have been helpful, which we never got to, we could have talked about the value of I-300, not just to Nebraska agriculture, but what it meant to the average marketplace value of pork and beef producers nationally. And so what we have done is we have done some very serious harm here, through court action, to production agriculture, in our view. And so I wish the committee well as we work with you and as you struggle to find lines of demarcation that make good public policy sense, and also are legally defensible. But tomorrow I'll focus more narrowly on just what it is that the court said and where we might go, if that's all right, Mr. Chairman. [LR93]

SENATOR ERDMAN: Thank you, John. Any questions for Mr. Hansen? Russ; Senator Karpisek. [LR93]

SENATOR KARPISEK: Thank you, Senator Erdman. John, you hit the nail right on the

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Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

head, talking about Crete, and you can see it, I heard recently that they were not buying anything on the open market because they're shipping them all in out of Kansas, Oklahoma, Texas. My question is, what do we do about that? You know, I-300, we can keep out the...they can't own it in the state, but they can truck it in from somewhere else, which has really hurt the pork production in my neck of the woods, because they won't take anybody's anymore. [LR93]

JOHN K. HANSEN: Well, Nebraska is not in good shape, Senator. But we're in better shape than most other states. So everything that happens nationally also happens here. But in relative terms, as bad as we are, we have more market competition here, based on the total number of packers we have. But the competitive nature of the marketplace, generally, is very bad, and it's getting worse. And so when you look at the opportunities for a young producer, in a lot of cases, they're looking at this and saying, well, I don't have a market anyway, so what do I do? So we, unfortunately, have folks in production agriculture who have come to the conclusion that their only real viable economic opportunity is to rent a bed and breakfast for a packer. And I will tell you that running a bed and breakfast for a packer, is a fundamentally different economic enterprise, with a different level of economic risk and also benefit in reward to the community as a whole. And to me, when we look at structurally the different entities within the different commodities within the ag markets, poultry is not a good example of where you would want to go. That is a very controlled, very tightly held market; it is held very closely. It limits who gets in. On my "Irons in the Fire" radio program, I had the chairman of the National Contract Poultry Growers one day, and that person came forward during the program, and I ask him, and I said, do you ever suffer any adverse consequences as a result of trying to organize contract producers? And he said, adverse consequences?--I'm bankrupt. He said, I am the third national chairman in a row to become bankrupt by virtue of the fact that I'm trying to actually get producers to work together to be able to negotiate contracts. And so that, to me, doesn't look like the best future in the world. [LR93]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR KARPISEK: Again, I'm not saying, at all, that I-300 is a bad idea, but I have a friend that runs two or three loads up to Madison every day from around my area, when we have one right there. So I guess my question is, is there some way that we can regulate the packers on what they can buy? Well, good luck with that, I'm sure. But those trucks come through, day and night. And everybody knows where they're coming from; everybody can see it. And I guess I don't have the answer to that, but it is very frustrating. [LR93]

JOHN K. HANSEN: Thank you. And I would agree that I don't believe that the Secretary of Agriculture and the United States Department of Agriculture really has a good grip on that issue. I mean, what we're really looking at is the manifestation of a national policy and a player who is in Nebraska and you see how they operate and what they do. And so it is really beneficial for the local community? No, it's not. And so when you first look at it, at first blush, it looks very different than it is in the experience of reality. And so we're...you know, how do we create more fair, competitive, transparent, and accessible market? Well, there needs to be a regulatory overhaul at the national level. And that's part of what we're trying to do in the Senate and in the farm bill, in which we were not successful doing in the House. [LR93]

SENATOR KARPISEK: Thank you, John, and thank you, Senator Erdman. [LR93]

SENATOR ERDMAN: Thank you, Senator Karpisek. We're going to change the tape real quick, but after we do that I have a quick question for you. (Pause for tape change.) All right. The only question I have for you is, does it matter who owns those companies in those top four? Hypothetically speaking, if number one on that list was a bunch of family farmers that owned a packer, you probably wouldn't have some of the same issues, right? Because what you're targeting is that the people that are out making an honest living on the farm, raising the cattle, or whatever the concentration is, if they were in control of the market, you would, I would assume, would say that the market is doing what it's supposed to do, and that is access for everyone, or at least a good

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

access for those producers. Or would it be your opinion that, if that was the case, that we would still have a problem, because those producers would be somehow abusing the populace by making money farming, instead of donating the betterment of society? Let me give an example. National Beef is a cooperatively owned entity. Does it matter that they're cooperatively owned, or is it the size of that entity and the fact that they are number four on the beef packers? Is the issue...? Again, it comes to back, I think, Mike, Mike Korth was here, and I asked him, is it the family farm or is it the size, or is it both? My question is, if family farmers were able to access the beef packing market by doing it collectively, would that be an issue? And every time you've done one of these, I've seen cooperatives listed, and I'm just trying to understand, does that matter? Because one of the things that we try to promote as an opportunity for agriculture, is to use cooperatives outside of under Capra Volstead and others things, that we can argue about all those things. But I'm just trying to understand if one of the tools is allowing those...as I asked Chuck earlier, if you have two unrelated farmers, do you want to give them the opportunity, if they're actually engaged in agriculture, a benefit, as opposed to two people who aren't? And that comes back...I guess where I'm trying to go here...does it matter who owns these companies? And in the event that they were owned by farmers who are actually out there producing the product, would that be as big a concern to you as what we see in the current market? I don't know (inaudible). [LR93]

JOHN K. HANSEN: Let me try to answer the question this way: That first, from a regulatory standpoint, some markets are more or less based on the regulatory treatment of those markets, a fairly constructed and competitive process. And so there are characteristics that apply to those markets, those particular markets, in terms of how many competitors there are, how much true competition there is. And part of those...answering that question about how much true competition there is in a particular marketplace, is also to look at the rest of the ownership share and structure and control that they have in other markets. And so what we're seeing in some markets, for example, is we're seeing not only the end-gate, if you will, on the wagon going up or down based on the amount of directly or indirectly owned captive supply that comes into

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

the market that's being used or manipulated in a particular fashion to maximize the economic benefits to a particular player, which almost always operates against the interests of the ag producer, but you're also seeing some of their other interests in other metes, in other sectors, being applied vertically, as well. So you have layers and layers of opportunity for mischief, based on who those players on. And so I would just tell you that, for example, we found ourself in the very awkward position of being happy to see a Brazilian owner of a beef packing plant, rather than seeing the ownership of that particular plant fall in the hands of one of the other dominant beef packing plants, based on how they play and how they treat producers. So actually we think that the Brazilian owner, based on our discussions with that Brazilian owner and their...if they do what they say that they intended to do...will probably cause more competition. So the characteristics of the marketplace itself have a lot to do with whether or not the market works, more or less, well. And we have supported, historically, cooperatives as a farmer's tool that they can use to help provide more competition in noncompetitive marketplaces, in ag supply sectors, as you look at the farmer-owned cooperatives that got into the business of trying to provide decent quality tools and fencing materials, and posts, and all of the rest of things. So a lot of the original cooperatives that we organized...and we've organized more cooperatives than anybody else in Nebraska by a wide margin--about 436 by our count...a lot of those were supply cooperatives. And so there was a legitimate reason to do that. That was a good thing. We supported also the efforts to...we helped organize, collectively, all of the marketing through Harvest States, for example. So we wanted to use our cooperative to get going so that we had more competition in the marketplace. So you have a player there so, if you will, was kind of representing our interests and trying to provide more competition. We also helped organize Farmland, with the same idea in mind, as well as Cenex. So we support the use of the cooperatives in those particular ways, to help provide more competition on behalf of the vested interests of producers. But where we draw the line, and where we drew the line in I-300, is we drew the line where the cooperative was coming out and directly competing against their own owners, and actively involved in production agriculture. So we had, within our own organization, a very intense battle and

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

discussion over that. And the consensus of the majority as we came down on the side of not cutting...not allowing cooperatives to be exempted in the case of I-300, was that that was not overall a good practice, and that they are still artificial entities, just as are other corporations, and why would you want them doing the same thing that other corporations were doing, and by virtue of the fact that we owned them, we might even want them doing it less. So that's where we drew the line as far as the use of the cooperative vehicle, if that makes sense. [LR93]

SENATOR ERDMAN: Oh, I understand. When you are done testifying, you can do Mr. Dinklage a favor, too, and get his sign-in sheet and put it in the box ahead of yours. But before we do that, Senator Wallman has a question. [LR93]

SENATOR WALLMAN: Thank you, Senator Erdman. John, I appreciate that. You know, you setting up farmland and that. Through mismanagement or whatever, they didn't make it. But do you think it's time for farm organizations to start packing plants? You know, a lot of these are being abandoned. And it would be a noncooperative thing. It would be a farm organization. And like Nolan Ryan, (inaudible) beef in Texas, and that's going over quite well. [LR93]

JOHN K. HANSEN: Well, Senator, we have encouraged different kinds of value-added activities and cooperative activities. And one of the risks, quite frankly, and I'll just tell you, as we've worked in that and we've encouraged folks to do it and we've had success, it's a very risky business. And one of the things that we tell them to guard against, is make sure that when you are developing a business model, that you're thinking that you're going to be doing exactly what it is that you're going to be doing, and that you're not going to be overreaching, and all of a sudden getting on the bigger radar screen where one of the dominant players view you as a potential threat. And so it's good to get big and it's good to do what you do, but, you know, if you make a little too much noise, the next thing you know, somebody is going to come in and put the squeeze on you. And the nature of how economic pressures are brought to bear, is that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

when you have somebody with disproportionate amounts of money and resources, they can come in, into a particular isolated market, and they can do what it takes to be able to successfully eliminate the competition within that sector and then after they've driven them out of business, then the margins go back up. And so it's not a case of we're all getting along; it's a zero-sum gain from their perspective, where they aim to kill. And so a lot of those kinds of value-added markets that we have tried to get folks to take advantage of, one of the risks is that you're going to get too good at what you do, and the next thing you know, you're going to get lit up with a lot of fire power. And when that happens, they go down. And we've had it also with our ethanol plants. It's a rough and tough business. [LR93]

SENATOR ERDMAN: You're going to shoot the tree down, and get you from behind, I think I heard earlier. [LR93]

JOHN K. HANSEN: Yeah; there you go. Thank you. [LR93]

SENATOR ERDMAN: Other questions? Okay, again do Mr. Dinklage a favor, and make sure his gets in ahead of yours. [LR93]

_____: Can we ask him a question from (inaudible)? [LR93]

SENATOR ERDMAN: No, sir. You can try but I won't let you. (Laughter) Hypothetically speaking, if he was still up there and you would have said out loud, why don't you ask John something like this, one of us may have hypothetically done that, but since we've let him off the hook, you'll have to ask him privately. And we could have... [LR93]

_____: Can we ask you a question? [LR93]

SENATOR ERDMAN: No, sir. You can ask, but we won't answer, but you've already testified so we're not going let you come back up. You can come tomorrow and ask us a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

question, but we probably won't answer it then either, because that's not the purpose of an interim study. We gather information and we don't...now, we can have stakeholder meetings, and if we have those, you can follow, and those are a different situation where it's more of a give and take, and I think different levels of that discussion are beneficial throughout this. You're on. [LR93]

MATT NORDHUES: I am Matt Nordhues, and I'm from Randolph. [LR93]

SENATOR ERDMAN: Matt, spell your name, please. [LR93]

MATT NORDHUES: N-o-r-d-h-u-e-s. [LR93]

SENATOR ERDMAN: One more time. N-o-r-d... [LR93]

MATT NORDHUES: h-u-e-s. [LR93]

SENATOR ERDMAN: How do you say that? Nordhues? [LR93]

MATT NORDHUES: Nordhues. [LR93]

SENATOR ERDMAN: Nordhues. Okay. Go ahead. [LR93]

MATT NORDHUES: I recently graduated from Randolph High School. I'm 19 years old. I just enrolled in Northeast here. I've wanted to farm all my life; I grew up on a farm. My dad, he has farmed all his life, milk cows. We have about 800 acres. A lot of the big guys, recently they've raised prices for land...I mean, competition. It's hard. I can't even get started. I mean, I've gone into agribusiness just so I could stay close to the ag field, but it's basically impossible for me to start. The price is just...the competition...I mean, the land that they can afford, they can afford prices from \$200 to \$300 an acre, cash rent. I don't even think I could afford \$100 an acre. It's just...with corporations coming in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

here, they could take over...they get, say, I don't know how many thousands of head that they would feed. They could control the markets easily for Swift, IBP, Tyson. I mean, many of those buyers and packers will just come in, get theirs from them. And say that I have 300-400 head, why are they even going to look at me? So from my standpoint, the small farmer, how am I supposed to get started? [LR93]

SENATOR ERDMAN: Is that it? Let me ask you some questions. You are studying ag business at Northeast? [LR93]

MATT NORDHUES: Um-hum, at Northeast here. [LR93]

SENATOR ERDMAN: And that would be a two-year program. And then do you plan to go to...? [LR93]

MATT NORDHUES: I'm taking my "gen eds" here, and I'm transferring to UNO. [LR93]

SENATOR ERDMAN: Good idea. When you talk about wanting to go back into the operation, are the only child, or...? [LR93]

MATT NORDHUES: No. My brother, he's actually basically the same as I am. He is working for another farmer right now. He graduated from Northeast here last spring. [LR93]

SENATOR ERDMAN: Okay. And so he's back farming with another individual in your area? [LR93]

MATT NORDHUES: Yes. He went into building construction because he knows he can't afford to get into the farming industry either. So he took building construction, and he knew that he should have gone into ag, something in ag, because that's his passion, as well as mine. But he went into building construction, and now he went back and started

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

working for a farmer for full-time now, and I think he's planning on staying there. [LR93]

SENATOR ERDMAN: And is he working for someone with the opportunity of eventually farming that individual's farm, or is he just working there until he can figure out...? And maybe you don't know the answer to that. [LR93]

MATT NORDHUES: It depends on how long he stays alive, I guess. (Laughter) [LR93]

SENATOR ERDMAN: I guess is that your brother or the farmer? [LR93]

MATT NORDHUES: The farmer. [LR93]

SENATOR ERDMAN: I wanted to make sure that's clear. Is that...? And when you have talked...just you and your brother, and then your family has an operation...have you talked, in your family, about who would take over the farm, or...? Is that an option for one of you? [LR93]

MATT NORDHUES: As of right now, my dad can't even afford to get...first of all, we need more ground to feed more cattle, so we have the corn, the product to feed the cattle. Because there's...for what we farm now and as many cattle as we feed, you can't afford to keep three individuals going. So right now it's impossible for even one of us to come back and help dad, and for us to allow to have the income, as he does, and to keep a house and a family growing. [LR93]

SENATOR ERDMAN: Your brother found another farmer that he can work for and possibly hopefully have an opportunity to farm, and maybe down the road somehow bring that in with your other family operation that your dad runs. Are there other individuals in your area that are similar, that you may be able to pursue, or have you had those discussions? And I guess one of the aspects that we get into in the committee, and not specifically this topic, but how do we do a better job of matching up

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

farmers or young people...not just young people, but young farmers who would like to get into agriculture, don't see the opportunity, either locally or immediately, with people who would like to partner with them. Have you seen any value or do you see any value in some program or in some way having those types of discussions in your community? Or...the average age of farmers is over 56 now, so, I mean, your joke earlier isn't much of a joke. I mean, it's a reality. [LR93]

MATT NORDHUES: Yeah. Well, a lot of the farmers that are around my area...I mean, they can't afford to pay someone full-time. I mean, a full-time salary, you've got to average at least \$30,000 a year just to even think about having food to eat and a place to rent, to sleep. I don't think there is anybody around that can pay that for at least to get started, to even get married, start a family, and continue that occupation. The farmers just don't have that kind of money around our area. So, to your question, I... [LR93]

SENATOR ERDMAN: It would be something you would be interested in, but it would have to be the right circumstances. [LR93]

MATT NORDHUES: Yes. [LR93]

SENATOR ERDMAN: Would it necessarily have to be in your immediate area, or are you interested in pursuing production agriculture anywhere? [LR93]

MATT NORDHUES: It's a possibility. If I found the right community. [LR93]

SENATOR ERDMAN: You would entertain it, if the right situation...right situation, right circumstance... [LR93]

MATT NORDHUES: Yes. [LR93]

SENATOR ERDMAN: ...doing what you want to do, maybe not in your hometown of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

Randolph, but nearby or anywhere? [LR93]

MATT NORDHUES: Yes. [LR93]

SENATOR ERDMAN: That's the passion that you have, is to pursue that. [LR93]

MATT NORDHUES: Yes. [LR93]

SENATOR ERDMAN: Very good. Any questions for Matt? Senator Karpisek. [LR93]

SENATOR KARPISEK: Thank you, Senator Erdman. Matt, I would have to say in 19 years you've learned a lot, and you are probably well on your way of being a state senator, because I would have loved to farm. I couldn't afford it. Phil farmed; now he's doing this. Cap and Norm, I think, are still in it. But...oh, yeah, and Annette. Well, I forget about Annette because she also sells meat, and so do I, and that's probably what loses you money. But...and I see where Senator Erdman is going on this, because we're talking about if, whoever...if I'm...don't have kids, and my farming operation is going well, but who am I going to leave it to, could come talk to you, and say, hey, I'll leave it to you somehow; we'll work something out. Good idea. How does that work? I don't know. But I just wanted to say that you're exactly right. I got out of school in the mid-'80s; it was the same problem back then. Dad is not making enough money, and now he is out of it, there is no way that I could make it go either. So I think it's a bigger problem than just I-300, in that, but it is a big part of it. So thank you for coming up. I appreciate it. Thank you, Senator Erdman. [LR93]

SENATOR ERDMAN: Thank you, Senator Karpisek. You know, one of the things, Matt, that I think is interesting about recruiting, and when you were probably deciding where you're going to go to college or whatever, there were probably folks that came to your school when you were a junior or a senior, and try to talk you into going to their school for all of the right reasons and all of the great things that they could provide for you.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

Now it hasn't been that long ago that I was a junior or a senior in high school, and I didn't listen to any of them because I thought I had it figured out. But when I was about five or six or seven, I was actually listening to what was going on, on the farm. I was listening to Mom and Dad talk about the things they are. And I think one of the things that we need to do a better job of in our state, is that every industry has a hard time, every industry is difficult; agriculture is no exception. But it's a phenomenal opportunity, and it's a wonderful tradition in lifestyle. And it's amazing that, in spite of all the things you've heard and all the pressures you've seen, whether it's through presentations like John's, or others, that we still have this passion in our soul, those of us that are born and raised on a farm, to farm. And so we're going to work, and it's not in this interim study, but beginning farmer programs and things, are all the things that we're looking at to figure out if there are ways to make it possible for individuals like yourself who want to farm, to be able to pursue that. You know the obstacles. You know the pressures and that issues that are going into it. I went back to farm right out of college. I didn't have a wife, and I was thinking, well, no one is going to want to marry me as a poor farmer anyway, and so I ran for the Legislature, and I was still a poor farmer. And when I got married and started having children--we have a daughter, I had to quit farming; I couldn't afford to pay the bills. So I know...I mean, I'm probably ten years ahead of where you would like to be, and hopefully, as Russ said, you'll want to be one of us, because the perspective that I think you bring is the right one, to this discussion. And hopefully you'll go back and talk to your classmates here at Northeast about what we're doing, and you'll also share your opinions with us as we continue on this process, whether it's on this or other things, because you have an interest in the future of agriculture because you want to do it. And, jokingly, you're younger than us; you'll hopefully outlive us. And so it's got to be a bright future for you as much as it is for the rest of us in the room. So thanks for coming. Appreciate you being here. [LR93]

MATT NORDHUES: Thank you. [LR93]

SENATOR ERDMAN: Anyone else wishing to testify on LR93? Come on up. Can I see

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Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

a show of hands of anyone else that wishes to testify? I see one. Okay. I see two; a maybe. Well, we'll count you. When you get done, we'll ask you to sign a sheet. [LR93]

SCOTT KINKAID: My name is Scott Kinkaid, K-i-n-k-a-i-d. I don't know that I've got anything new to say that hasn't been said already, but I thought I might try to maybe mentally highlight a couple of things that have already been said. The first being a comment that Mr. Hassebrook made some time ago about, I think he referenced maybe a study that was done regarding the viability of communities that are surrounded by corporate farming interests as opposed to those that are surrounded by individually owned farms, or at least that's what I heard. I hope that's correct. I want to kind of highlight that because I thought that was important and relative to I-300. A second thing I wanted to highlight a little bit was the paper that Mr. Hansen gave you with those concentration numbers on it. You've probably seen those before, as I have. I haven't seen these exact numbers, but I've seen the same thing from a year ago or two years ago and five years ago, and I'm pretty sure that these are probably pretty much like those, the only difference being these might be a little bit worse than they were, because the trend has been bad for some time and it just keeps getting a little bit worse. And it's been my argument for some time that in the last few years we hear a lot of talk about the farm program and how we need more money from the government. And I've been saying all along, that's not the problem...or I mean that really is the problem. We already get too much money. But the real problem is the lack of competition, as those numbers there talk about. And that's what makes it so difficult for people like Matt to get into farming here. And I think the third comment that I wanted to make or highlight that I wanted to make was Mr. Hassebrook's approach, I don't know really very much about the details of his paper that he gave you, the wording and that, but it seemed like that it had a logical approach in that it appeared he was identifying what was broken and trying to fix that, much like I might if my combine breaks. I want to identify what's broken, and fix that and go on combining. That would seem like a logical approach to moving ahead with something like I-300, is identify what's not working or what's broken, and fix it and move on. [LR93]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR ERDMAN: Great. Thank you, Scott. Any questions for Mr. Kinkaid? Thank you, sir. If you can make a sign-in sheet for us and put that back in the testifier's box, we would appreciate it. Mr. Hall; Mark. She's a maybe, and you raised your hand like you were sure, so we'll let her think about a little more before we call her up here. [LR93]

MARK HALL: Thank you, again, Senator and committee members. My name is Mark Hall, H-a-l-l. I was a farm boy at one time; still think I am one. What is the definition of production agriculture? I think we need to look at what that means to us today, okay? And then try and understand maybe where we should go, and ask more questions. I'll go back 50 years. Grandpa and Grandma didn't make a lot of money off an acre of ground, but the way they increased the value of that was, they had livestock. They used the refuse from that grain operation to feed the livestock. They raised chickens, and guess where they sold the eggs? They sold it in town to the consumers that were their neighbors. They also invited recreational hunters to come every winter from North Carolina. You don't see that anymore in Nebraska. That needs to change, because where are they going? They are going to South Dakota; they're going to Kansas; they're going to other locations. I happened to be in Orlando, Florida, last November. Two gentlemen were getting on the vehicle, getting on the aircraft with two high-powered rifles. And I asked them, where are you going? They're going to Kansas. I said, well, what are you going to shoot in Kansas with those high-powered rifles? Oh, whitetail deer. I said, really? To Kansas for whitetail deer? And they have to be half the size of our whitetail population here in Nebraska that I've seen recently. (Inaudible) we mentioned...Alden Zuhlke, \$500,000 to create an operation to possibly make his son successful in the hog raising business. How can we reduce the risk of startup for that young gentleman that wants to stay on the farm, and be supportive? What can we do? I would say we've got to start looking at how we can market directly to the consumer; how we can reduce or allow ourselves to get directly to that consumer. And there is a trend...it's not a fad, but it is a trend, and you're seeing sustainable agriculture where the producer is now marketing directly to the consumer instead of producing everything

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

wholesale and going through the big, very few buyers that are buying those produce, and not suffering very good consequence from that. I would say we need to change at least a portion of our agricultural production to where we can generate more revenue off that acre of ground. Give this young gentleman the opportunity to generate more revenue off that acre. Now, as Alden Zuhlke mentioned, where are we going to get the labor to do sustainable agriculture? That's reducing the chemical input, the herbicide and the chemical input. We do have one big advantage because there is a lot of irrigation so we can still produce a crop on many acres here in northeast Nebraska and across the state. So we need to look at that. The organic business is growing, leaps and bounds. How can we help producers go through that three-year certification process to reduce the risk of generating organic crops that can be produced and sold, in some cases almost directly to the consumer? The producer is not making a large sum of money, but guess where the money is being made? It's being made between the producer and the consumer. And so we need to figure out how we can help that producer get as close to that consumer as possible. So how can we do that? The recreation bill. His dad could actively be a participant in there. We can reduce the cost of transitioning ground, potentially, to organic, or at least sustainable operations. The Farm Service Credit of America has been very good to the farming community over 50 years ago. They provided lower-risk loans. Is there something else that we can help in reducing that cost of operation, that initial investment, to do that? We do have zoning and regulations requirements. Are they in line with a young producer trying to expand operations in the family operation? Roman Packing was one of the few local meatpackers right here in Norfolk, Nebraska. They closed operation a little over a year ago. And so that was an outlet, although a very small outlet, that products could be sold directly to a packing operation. We don't have that access, obviously, as has been discussed. So what do we want? What is production agriculture going to be like in 20 years from now? We are the protein king producers of the world. We produce soybeans. They are exported all over the world. They're extracting the protein out of those beans, and they're going into lots of food products--a tremendous number of food products. We are producing all kinds of animal protein that is being exported all over the world. The

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

ethanol that we produce, produces a by-product that is then ingested by our farm industry for the production of meat protein. How can we increase the value of that protein and get it closer to the consumer so that the producer can realize a larger margin in that production. So I ask you those questions. Can you answer them today or in the near future? It's an integrated problem, and I think it requires an integrated solution to make young producers successful in the years ahead. I would like to see young producers stay on our land and make the community strong, because I don't want to see any more small communities close schools and continue to consolidate like it's being done all over the country. And it's happening, and there's more and more pressure. So how can we increase the value of that product that's being produced on that farm, and get it directly to the consumer? Thank you. [LR93]

SENATOR ERDMAN: All right, thank you, Mark. Any questions for Mr. Hall? You're off the hook. Thank you, sir. The maybe is now a yes. [LR93]

BEV G. HENKEL: My name is Bev Henkel, H-e-n-k-e-l, and I live about six or seven miles west of here on a farm. My husband Chuck and I have lived there since 1976. And in 1995 we started direct marketing things that we began to raise. I appreciated what Mark said about that. And we do grass-fed lamb, grass-fed beef. We buy ten feeder pigs a year, and raise them outside. They turn our compost and they dig for the corn, and all this meat is direct-marketed to people in the area. However we do raise more than we can direct-market. So then we have the sale barn where we can sell in Norfolk, which is another resource for us. Woodbury County is an example to this committee, and to every state and every community and county in Nebraska. Woodbury County, in Iowa, they're county board voted that they would not buy any food produced more than 100 miles away for any county function. The second thing they chose and voted to do, was that if anyone was already in agriculture and wanted to transition to organic, they would get a tax break and incentive. And if anyone was entering agriculture as organic, they would also get a break. And people are responding to this in Woodbury County. What I hear in that is that they are committed to being local. They're committing to a

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

food security in their community and in their county, that they see as really important. And I think, as a state in Nebraska, that we could look at those issues, as well. And in ten years we have processed chickens at our farm under a public law number. The most we've ever processed in a season was 1,300--it's just my husband and I; 1,300 or 1,400. People have ordered those chickens. They've come to the farm. They've picked them up and bought them the day they were processed, whole and fresh. They have been able to visit the farm to see how I raise them. They ask us questions about what we feed them. Nothing has been hidden from those customers. For the last five years, we've added turkeys. Last year we did 30 turkeys. We're not a big operation we are operating under a public law label. The mistake I made last fall when I took six chickens to a customer, was that I didn't put a label on those bags, nor did I invoice that sale. And we had a state inspector at the farms, followed a week later by a USDA federal and another state inspector, and we were told that we could no longer sell those chickens. We could no longer process chickens or turkeys unless we built a building. And when the one gentleman talked about a \$100,000 lagoon, our building would have been maybe \$20,000, which doesn't sound maybe like a lot of money, but it's just Chuck and I. And the rationale was that they wanted to be able to inspect our building and make sure we had clean chickens and clean turkeys. For ten years we've never had a complaint. We've had increased customers. We have people coming from out-of-state, picking up chickens and taking them to where they live. We do not take chickens across the state line. But if it was their chicken, they can do what they want with it. We are not going to spend \$20,000 to put up a building. But that meant that at least 80 to 90 families within a 100-mile radius of Norfolk, Nebraska, lost their food supply, if they were choosing to buy from a producer like us. Bigger isn't always better, so I would encourage you to really consider the small-family-farm issues. We need to be...it needs to be even and fair, and not just corporate ag getting a lot of benefits. I don't mind being under a system of rules. Don't get me wrong on that. But when there is never a complaint and we are working under what we thought was the existing rules, then why were we shut down? The other thing we were asked to provide to the state Department of Ag, was a list of customers' names, addresses, and phone numbers, and how many

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

chickens and turkeys they bought from us. And I refused to do that. And made a list, just with initials and numbers; submitted that. They would not accept that. We were told that they had the right to that. So we wrote a letter to every customer, because we needed their permission. This is like a HIPAA. You can't even...the local hospital can't even tell the pastor that their patient is in the hospital. And now we have the state Department of Ag telling us we have to tell them who has bought from us. All our customers gave us permission to release that information, and all of them would like to talk to the state Department of Ag, because they do not like losing their meat supply. So there are lots of issues here. There is the young farmer that wants to get started. There are wonderful things happening in sustainable ag in Nebraska. We had an extension tour that toured pasture-based ag, which we are; our crop is our grass. And they visited our farm, among others, over a two-day period. And one of the extension agents at the end of the two days, told Terry Gompert, the agent in Knox County, I'm so excited by the hope in what I've seen here that I'm going back to get my Ph.D. in sustainable ag. Now, the hope is that he will do that, but at least he saw hope. He saw families living off the land. He saw grass-based dairies that were making money, where the wives could stay home and raise the kids and help bottle the calves. He saw pastures being able to be grazed by cattle and sheep, and the meat going to people without antibiotics, hormones, and other things in it. So there is hope and there are wonderful things happening in Nebraska, and I would just encourage you to know that and to learn about that, and to support that in your decisions. Thank you. [LR93]

SENATOR ERDMAN: Thank you, Bev. Any questions for Ms. Henkel? Senator Karpisek. [LR93]

SENATOR KARPISEK: Thank you, Bev. I own a meat market; Senator Dubas does kind of the same thing, marketing meat. I will tell you, not that I agree, you were not within the law when you were butchering chickens and selling them. Even if you thought you were, you were not, okay? [LR93]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

BEV. G. HENKEL: Okay. All right. [LR93]

SENATOR KARPISEK: I can't believe you got away with it for ten years. I wish I could. I can...unless if you are federally inspected, you cannot do what you were doing. I am state-inspected. Senator Dubas has to take their beef to a federally... [LR93]

BEV G. HENKEL: Oh, no. We're not processing anything but chickens and poultry. All our beef and pork go to USDA facilities. [LR93]

SENATOR KARPISEK: Well, it's still meat. [LR93]

BEV G. HENKEL: But anyway. [LR93]

SENATOR KARPISEK: Yeah. [LR93]

BEV G. HENKEL: There is a public law that we were told we were operating under, so. [LR93]

SENATOR KARPISEK: Okay. Well, I would have to see that. [LR93]

BEV G. HENKEL: I will stand corrected... [LR93]

SENATOR KARPISEK: And I would love to show my inspector that too, but it's the USDA that is in charge of this. The state of Nebraska does not have a law that we could sell, even within the state. Kansas, Iowa, I think South Dakota do. Be quiet, John. (Laugh) And they can sell within their borders, okay? So anyway, it is a USDA law. I am only state-inspected. I can't even sell a piece of jerky to the bar next door for resale. So, although I agree with you 100 percent. It's not...it's the USDA. And anything that we can do, short of starting a state meat inspection, (laugh) which John Hansen thinks is a great idea...and it may be; I don't know. He hasn't told us where we can get the money

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

for that yet. But, you know, I agree. And like you say, if you take it to a federally licensed, then you can do that, but... [LR93]

BEV G. HENKEL: Well, yes. Beef, pork, and lamb, those all go to federally processed...you know... [LR93]

SENATOR KARPISEK: Um-hum. Okay. Well, so you... [LR93]

BEV G. HENKEL: It's the poultry that was under the public law that we were operating under, but I will look that up. [LR93]

SENATOR KARPISEK: Okay. I'm going to have to try to look that up. Is there...? [LR93]

BEV G. HENKEL: I can get that to you also. [LR93]

SENATOR KARPISEK: That would be wonderful, because I don't...I have never heard of anything like that. But it is a great idea, and the argument about having more federally, or just even the state-inspected plants, is fine, but the thing about a state-inspected plant, it has to be equal to or greater than a federal plant. So if I would do a state plant under state inspection, then I could only ship within the state. But if I would do a federal plant, which is the same thing, then I could ship around the nation. [LR93]

BEV G. HENKEL: That's right. I understand that. [LR93]

SENATOR KARPISEK: So that's the argument that John and I have had, and I'm sure others have. But anyway, I just wanted to kind of either straighten something out or confuse myself more, but. [LR93]

BEV G. HENKEL: Well, I will get you that information. [LR93]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

SENATOR KARPISEK: Well, that would be wonderful. I would love to know about that.
[LR93]

BEV G. HENKEL: But we're grateful that we have Craig in Osmond and the state-inspected facility, and we've got Lavonne Anderson in Wausa. There are reasons that you choose different plants for different things, and part of it is, if I bring in a hog to a processor, I want my hog to go to that customer. And if that hog is made into sausage, I do not want commodity hog in my sausage, because my customer is not buying the commodity hog; they're buying the hogs that we produce for pork. So the producer has to really be known, you know, have that relationship again, not just with the customer, but with the processor, as well. So, thank you. [LR93]

SENATOR KARPISEK: Okay, thank you, and thank you, Senator Erdman. [LR93]

SENATOR ERDMAN: Thank you, Bev. Just...the community...Woodbury County.
[LR93]

BEV G. HENKEL: Woodbury County. That's Sioux City. [LR93]

SENATOR ERDMAN: Sioux City. [LR93]

BEV G. HENKEL: Their county board voted that they would only purchase food for county events from within 100 miles, which actually does technically include Norfolk. And if you were going to transition to organic farming, there would be a tax break or incentive or assistance there. And if you wanted to enter agriculture as organic, that there would be that also. [LR93]

SENATOR ERDMAN: Okay. We will look that up. That would be something...the state of Nebraska doesn't levy property taxes, thankfully, although we get accused of that,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Agriculture Committee
August 27, 2007

and some of us get involved in trying to solve that problem from time to time. But those would have to be local decisions, but we'll look that up to see if that might be something, as well, to pursue. Appreciate you coming. [LR93]

BEV G. HENKEL: Thank you. [LR93]

SENATOR ERDMAN: That is going to close our hearing this afternoon. It is 5 p.m., although if you're on Mountain time it's only 4 p.m., as I tend to be. But we do appreciate you coming. [LR93]