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Agriculture Committee
August 28, 2007

[LR93]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, August 29, 2007, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR93. Senators present: Philip Erdman, Chairperson; Annette Dubas, Vice Chairperson; Merton "Cap" Dierks; Russ Karpisek; Don Preister; and Norm Wallman. Senators absent: Ernie Chambers; and Vickie McDonald. []

SENATOR ERDMAN: Good afternoon, ladies and gentlemen. We are going to begin our interim hearing on LR93. We are grateful that you've decided to join the Ag Committee's reunion. We had a reunion yesterday in Norfolk and had a great turnout. We're glad that you've joined us here today. We will dispose of some housekeeping items as usual before we begin, in case some of you have...are longing for the days of session, you can be reminded of all the things that we tell you before committee hearings. I'll introduce myself on the committee first. I'm Phil Erdman, I'm from Bayard, Nebraska. I chair the Ag Committee. Senator Chambers is a member of the committee. He's in the building. It's my understanding that he will not be joining us, but he is going to be following our deliberations. And it is being broadcast throughout the Capitol on our television network so those staff as well are able to follow along in their offices. Senator Preister from Omaha is with us today, as is Senator Dierks who's to my right. Senator Dubas is our Vice Chair and she is to our research analyst Rick Leonard's left. Next to Senator Dubas is Russ Karpisek and next to Senator Karpisek is Senator Wallman. Senator McDonald is at the Council of State Governments Midwest meeting so she will not be joining us. But it's my understanding her staff is following along. And also Linda Dicken is our committee clerk. If you have testimony that you plan to distribute to the committee, please feel free to approach Linda and give that to her. She also has the sign-in sheet near her, or the box for your sign-in sheets. So if you would fill out a sign-in sheet before you testify, that will help us to expedite our transcribing. Kara Johnson of Lincoln is attending Doane College. Kara is going to be our page today and we're grateful that she's here. And again, if you have other information that you'd like to

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distribute after you give it to Linda, Kara will be happy to distribute that to the committee. Make sure you turn off all your cell phones. I know that there are all kinds of neat features, but as long as they don't ring audibly, that's fine with us. And we would prefer it, if they do ring, that you don't answer them in the room, that if you would step out that would help us as well. If you'd like to testify, and I would imagine that there's a great deal of interest in this topic today, that you have the sign-in sheet filled out in advance, that you be prepared to come forward and testify in a timely manner so that we don't have giant lags between one individual and another and that will move our process along as well. I know Husker football starts on Saturday. It's very exciting. Unfortunately, this is not a Husker football game. So if you hear something that you like, don't cheer and applaud. And if you hear something you don't like, don't boo and hiss. Because we want to try to make sure that this is a fair process for everybody that wants to come and testify today. And as you are well aware, most of you, this is an opportunity for the committee to gather input from you and to be able to take that information in addition to the other research that we're doing and try to determine the appropriate course on this area of law. Try to relax and don't be nervous, unless you're a lobbyist or someone that's paid to be here, and then we will try to make you feel nervous when you come forward. If you need assistance, please feel free to ask and we'll be doing our best to facilitate that. I also would like to point out there are a number of other senators in the room who are not members of the Ag Committee but are here to follow along, as well as other staff members who are here. And I am also recognizing at least one former senator that may have something to say on the topic. And so we're grateful for all of you that have shown up. LR93 is simply an opportunity for the Ag Committee to take public comment and to help us facilitate the discussion hopefully statewide of what the state of Nebraska's public policy should be now that Jones v. Gale has been decided by the courts and Initiative 300 has been ruled unconstitutional. This opportunity, we hope, will extend beyond today to have a statewide discussion in a number of forums. But specifically, as you go back to your communities or your organizations, that you continue to discuss these issues with them and that you're willing to share those ideas and be as involved in this process as you would like to be. And so we're grateful that

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you're here to help facilitate that and we look forward to your testimony and comments today. With that, if you need additional information on LR93, I believe we can find you copies of that if you'd like to read the actual testimony of the resolution. But for the most part, it simply allows the Ag Committee the opportunity to do what we're doing, and that's to pursue the public policy response that either we or the state feels is appropriate in regards to the litigation that has now been settled. There also is a complement to this process and that's LB516 that was passed by the Legislature and signed by the Governor, which provides \$50,000 in funding for the Ag Committee to hire consultants and to secure assistance as we go forward with this process. So in addition to your testimony, we're going to be taking that, doing research, and trying to determine how do we best utilize the resources available to us to make the best opportunity that we believe is appropriate for public policy in the state. So there's a lot of things going on. We're grateful that you're here to be a part of this and we look forward to your testimony. With that, we will open the public testimony on LR93 this afternoon and would welcome any comments that you may have regarding this topic. And I can always solicit folks, as John Hansen can tell you from yesterday, that he was a target of our conversation. But we do know that there are a number of you here that have been a part of this discussion for at least the last 25 years since it's been in law, and possibly 15 years prior to that in the effort to make Initiative 300 part of the state's law. Now we want to hear how we have learned from that and what opportunities need to be in place to ensure success of Nebraska agriculture into the coming years. So we are going to open it up for any comments. If you rush up first, then you don't have that lag of saying, I ran out of time, when we cut you off at midnight. It's a short trip to Omaha, Don, don't worry about it. I have to drive to Bayard tonight, so we'll be sensitive to your needs. And again, when you come forward, if you would state your name, spell it for the record before you begin your testimony, that will help as well. Go ahead. [LR93]

JOE FRYMAN: (Exhibit 1) Good afternoon, Senators. Thank you for the opportunity to speak at this hearing. My name is Joe Fryman. I'm currently president of the Nebraska State Grange. I live near Blair, Nebraska, in Washington County. [LR93]

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SENATOR ERDMAN: Joe, can you spell your name for us, please? [LR93]

JOE FRYMAN: J-o-e F-r-y-m-a-n. [LR93]

SENATOR ERDMAN: Thank you. [LR93]

JOE FRYMAN: I'd like to begin by quoting from sections from the National Grange policy statement on agriculture. It states, while the United States represents only 5 percent of the world's population, American farmers and ranchers produce 25 percent of the world's food supply. These American farmers and ranchers are the foundation of this abundant, safe, and efficient food source. The Grange continues to pledge its support for rural American and family farms and ranches. It behooves America to maintain the family farm system as a cornerstone of agriculture. The Grange believes that policies that promote a viable family farm structure in America's agriculture sector are in the best interest of all citizens. The Grange continues to strongly support family farms as an integral and important contributor to stable agriculture production in rural communities. The Grange believes that a family farm is a business or enterprise involved in the production of food, fiber, and related products or services that is owned and operated by members of a family who make the management and financial decisions and supply at least part of the labor. End of the quote. We in the Nebraska State Grange believe in the intent of what is commonly known as Initiative 300. We believe that the agricultural sector in Nebraska is strong because of I-300, not in spite of it. We believe that we need to keep much of the intent of I-300 in place, while changing those parts that were deemed unconstitutional. We don't feel we need to abandon I-300 entirely due to specific faults found by the court system. Some contend, and unfortunately the courts agree, that some provisions of I-300 were unfair. They contend that some of the restrictions created an unfair disadvantage toward them. But what about farmers like me who operate as sole proprietors, who go to the bank for a loan and risk everything while others, because of their corporate structure, are afforded the

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advantage of limited liability? Does that not put me at an unfair disadvantage? If we're trying to achieve fairness and a level playing field, the limited liability issue needs to be addressed. I-300 was thrown out through the use of legal and judicial system. I'm a farmer; I'm not an attorney. I believe that it will require considerable effort by legal minds to craft legislation that will be meaningful, useful, and result in a more nearly fair and level playing field. I am convinced that a majority of the people in Nebraska wants to see our family farms and ranches survive and prosper. I know the Grange does. I urge you, as senators, to work with us to develop legislation that will provide fertile ground for these family farms and ranches. Thank you for your consideration. [LR93]

SENATOR ERDMAN: Thank you, Joe. Any questions for Mr. Fryman? See, that's the benefit of going first. The committee hasn't quite warmed up yet and you get off easy. (Laughter) Thank you for your testimony. [LR93]

JOE FRYMAN: Thank you very much. [LR93]

SENATOR ERDMAN: Appreciate it. See how easy that was? Just come on up, give us your opinion. Next testifier on LR93, please. [LR93]

JIM KNOPIK: Good afternoon, Senators. My name is Jim Knopik, K-n-o-p-i-k, from Belgrade, Nebraska. And I come to you today to testify on LR93. I come as a Loup Ferry Township treasurer today, because we're having a lot of problems out there and the township is trying to keep the roads maintained. The cost of our road maintenance has gone up quite large this year. It's over doubling the cost of keeping the roads maintained. And so we're going to, after this following month, have a township meeting to raise the taxes of the township in order for us to keep those roads maintained. We have a couple of them that are already closed because we don't have the funds to do it. And we're overspent probably about \$4,000 maintaining some really important things that need to be done. So we've got some people on hold. And since realizing that we are going to have to raise the taxes, I've been looking at the ownership of the land in

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Loup Ferry. In Loup Ferry, there's 40 sections of land and this morning I just started adding up some numbers for that. But there is 160 quarters of land approximately in Loup Ferry and 135 of them are owned by absentee owners. Those...what I consider, and you can categorize these any way you want to. But these, this category would be of people who don't live in the township and are probably over 70 years old. They either live in town or out of county or out of state. And there is only two landowners, two quarters of land that are owned by two people under 30 years old. There's 16 quarters of land that are owned by, and operated by people that are under 50 years old. And so you can see that there's a problem there of people living in the community that are actually supporting, what I think are supporting the township. There's an imbalance out there of responsibilities. There's a lot of responsibilities put on...there's only about ten people that actually live in the township that are operating farms. And that is stretching it because some of them, as I say, are over 70 years old that are there. And it's mostly relatives that are operating them for them. But we have to raise taxes and we have to do it, if we're going to do it, I suppose, under the constitution we have to raise them for everybody. But there's a lot of things out there that the people in the community do for the township and the community for free of charge that the absentee owners benefit from that. And that is keeping the roads up, keeping them open in the wintertime, because they use their own tractors and vehicles to keep those roads cleared. This last year, there's been a lot of volunteer help of people who live in the communities to repair and replace roads and culverts and volunteering their time. But that's all done by people in the community with their equipment and...because of the fact they realize that we are short of funds there. And so we want to raise the taxes in the township, but we want to do it what we believe as people living there would be fair. And we look at the tax, the tax bases there and the incentives to the both sides of the issue, the people that live there. We...if we build any new buildings within the township, within Nance County, we're taxed greatly for those improvements while, on the other hand, people that are acquiring all and buying all the land to develop it and put irrigation on it and so on and so forth are tearing them all down. And so, you know, we lose and we gain. But there's a real imbalance on who is benefiting from these and who actually is paying for everything. So

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that's what I bring to you today. I think, you know, maybe it's not constitutionally right for people or a township or a government to tax some people greater than others. But we need something or something in our structure or our statutes in order for us to, not necessarily penalize, but get from the people who are taking all the money out of the community and retain some back in in those communities. So that's what I've got to say. And while you're looking at Initiative 300 or redoing something about it, the next step beyond...when you're looking at 135 quarters of land out of 160 owned by people who don't live there, you know, the next step is corporate ownership. And if we lose all of Initiative 300, the next step is that. So I'd like to...wish I had more time, I'd like to talk about my dad's situation and you know, he's over 80 years old and he's acquired a lot of land. And it's unfair for him to own and control that much land and what he's doing with it because the system allows him to keep it. He's been off the farm for nearly 25 years but...and he wants to see it stay in the family. But now once something happens to him and that, he tries to keep it in the family, over half of the family he's leaving it to live out of state and out of town. So thanks a lot for your time. Appreciate it. [LR93]

SENATOR ERDMAN: Thank you, Jim. Any questions for Mr. Knopik? Jim, let me ask you a couple questions, and that's very interesting to do the research on those sections in your township. You said that your definition of an absentee landowner was someone who doesn't live in the township or is over 70 years old; essentially somebody who's not actively producing on that section. Is that probably a good way to... [LR93]

JIM KNOPIK: Yes, yes. [LR93]

SENATOR ERDMAN: Two of them are under 30, 16 of them are under 50. Of the people who own the land in that township that may be over 70 or may be living nearby but not on the farm, how many of them still live in the immediate area and just aren't producing? In other words, you know, maybe it's a retired farmer that lives in town still and owns the land. [LR93]

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JIM KNOPIK: Oh, counting even the ones that live in town? [LR93]

SENATOR ERDMAN: Yeah. [LR93]

JIM KNOPIK: Boy, I don't know. [LR93]

SENATOR ERDMAN: Do most of the people in Nancy County in your township still live in the area, they don't just farm that, or is it people that live out of state, out of county? I'm just trying to get a sense. [LR93]

JIM KNOPIK: I'd say it may be right at 50 percent yet. [LR93]

SENATOR ERDMAN: Okay. [LR93]

JIM KNOPIK: But it's going by the wayside real fast. In the next ten years, once these 70 years old, you know, pass on or whatever, then you're leaving that in...you know, it's a gamble of who's going to end up with it. [LR93]

SENATOR ERDMAN: One of the things we talked about yesterday in Norfolk, we had a young man from Randolph come and testify. He graduated in 2007. His name was Matt. And Matt talked about wanting to farm but that his family operation wasn't large enough or the situation didn't enable him to be able to come back and farm. And one of the questions that we were interested in pursuing with him was, is it something that has to be in his immediate area that he would consider farming or is it something in the right situation regardless of where it was, maybe in Nebraska, would he consider farming. And he said if it was the right situation, he would consider it. Given the fact that you've stated there's a number of older farmers in the area, is there an interest or has there been efforts undertaken either through the beginning farmer program or other similar programs through organizations to try to recruit younger farmers to partner with those older farmers, to try to continue on those operations with locally owned individuals?

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[LR93]

JIM KNOPIK: Oh, I think there's probably that effort out there, you know, and a lot of them would like to. But usually it's family comes first, you know. No, I don't think there's enough of that. But when I think about it, I think the chances ought to be equal and there shouldn't be this impossible task of any new farmer starting out there, because of the imbalances. I mean, these two new farmers, they spent \$1,500 an acre for dryland. There's no way that pencils out, you know, unless they have the help from older farmers or their parents to get started. And I think that's a real unsustainable society out there that can't exist. Because although there might be a very small percentage of them, there's not enough to make this thing work. [LR93]

SENATOR ERDMAN: Okay. Any other questions for Jim from the committee? Senator Dierks. [LR93]

SENATOR DIERKS: Jim, I notice that you harvest your own farm products and sell them. Is it an organic market, is that what you... [LR93]

JIM KNOPIK: A natural, yes. [LR93]

SENATOR DIERKS: Natural market. How do you think that that market...how do you think Initiative 300 has helped you develop that market? How do you think, because of Initiative 300, that market is more available than without? [LR93]

JIM KNOPIK: Well, because of Initiative 300, we don't have the competition by the large operations. But even though we have Initiative 300, we don't have any infrastructure out there for people to use to develop any kind of markets. All of our markets are gone and our markets were gone because of the consolidation in agriculture. And all the concentration of the farms and the large animal operations is what helps large corporations control fewer individuals. So that's... [LR93]

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SENATOR DIERKS: So you've escaped that control by marketing your own? [LR93]

JIM KNOPIK: Well, we are trying to escape that. You're always...we have escaped that and we have our own dream of developing our own markets. But larger companies can put such a pressure on you with passing stricter regulations and policies that we all have to go through the same loops. It's not that we're not capable or able to, but it costs money and time to go through those. And I...you bring up an example. I'm president of Valley View Assisted Living in Fullerton. We spent \$1 million to build an assisted living complex in Fullerton. And we were granted an exemption of property tax under TIF financing, tax increment financing. And I don't understand the whole thing. But I think there's another kind of not fair thing that goes on in society. And I asked one of the board members the other night if we're all eligible, no matter how small or how large. And he said we all are eligible to get TIF financing. But if you don't spend nearly \$300,000 and hire somebody to get that into a fact, it's really unfeasible for anybody less than that to do that. So although it's there for everybody, it's not feasible for a small person to use this same thing. I don't know if that makes sense or not. But here that million-dollar spending that we did at Valley View gets a nearly \$20,000 exemption for a dozen or 15 years. And you know, that's...by having that, we were allowed to make this business cash flow. And we got a lot of other benefits from that, from the city and free water and sewer. Just not the small person yet, so...but... [LR93]

SENATOR DIERKS: Thanks, Jim. [LR93]

SENATOR ERDMAN: Thanks, Senator Dierks. Any further questions? I don't see any. Thank you, sir. [LR93]

JIM KNOPIK: Thanks a lot. Appreciate it. [LR93]

SENATOR ERDMAN: Appreciate you coming down. Next testifier on LR93? Senator

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Burrows, welcome back. I recall the first time I was presiding over a hearing on this topic. We had not met. So this time, I'm glad that I can know who you are and we've had numerous discussions since then. So welcome back. [LR93]

GEORGE BILL BURROWS: (Exhibit 2) Well, thank you, Senator Erdman and members of the committee. I'm really pleased to have a chance to visit with you a few minutes on this because I believe the replacement of Initiative 300 would certainly be to the advantage of the people of the state of Nebraska. [LR93]

SENATOR ERDMAN: Senator Burrows, I need you to spell your last name for us. [LR93]

GEORGE BILL BURROWS: Oh, excuse me. B-u-r-r-o-w-s. [LR93]

SENATOR ERDMAN: Very well. [LR93]

GEORGE BILL BURROWS: However, its advantage could well be a detriment to agriculture if used as a substitute for providing a climate for farm prices and income are neglected. Now I remember the years when I first was interested in this. I had been an organizer of...state vice president of the NFO and the First and Second Congressional District president. And at that time, we had a very going organization. We had about 400 members at our district meeting. And at that time, we had discussions of taking up initiative...well, what was then corporate farm, family farm act, corporate farm bill. And what came about at that time, we decided it would not...we'd keep it from jeopardizing our efforts on collective bargaining. And I think we were right at doing it. Sometimes I've seen in the past where some of the members, usually the opponents when we came through legislative hearings, Initiative 300 is really an extension of the final corporate farm bill I had involved before the Legislature with some changes that Neil Oxtan and I and others agreed upon to toughen it up from what we had in the last legislative session. Now when it came to proponents of this, the...bunch of people that were

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deciding at that time and the various organizations I think were all agreed, you know, that it was not a substitute. It was not a cure-all for agriculture and has not solved things for agriculture. And we don't...didn't predict it to, we didn't promise it to, but opponents would come in and say, well, it isn't a solution to agriculture's problems. And they were correct on this, but they were inferring all the time that the proponents were implying this. And that was incorrect. So I'd like it clear. I very much want to see it used and put back in place, a family farm act of some sort that will protect general family farms from the takeover by large corporations. And I think that, as far as that goes, I'd like to go back...well, right now, ethanol is appearing to be the go thing, at least in the state of Nebraska. It does maybe have some problems in the future because in the east coast it has not politically sold like it is in the state of Nebraska or Iowa or Minnesota. And their main objection is that this should be used as food rather than as a fuel. And I think for the long run that, in looking at it, I support ethanol also. But when Cargill and ADM get in and they are currently major players, their interests have traditionally and always been in cheap raw materials. And I think it wants to be looked at very careful that percentage of the ethanol industry that is in the hands of a handful of big players again, which will again want to maintain a price structure that is probably to the disadvantage of all farmers and to the advantage of those that are buying the product. I do believe Initiative 300 could have been found constitutional if a more adequate preamble of public purpose had been used in its defense. Now this is...my understanding of the court system is that the court decides on the case that's presented to it. Now I asked one of the defense attorneys what was in there for a proof of public purpose, which is essential when you regulate a corporation beyond that of an individual. A corporation is a creature of the state and I believe it's a legislative obligation to regulate its creatures so that they provide a better atmosphere for the public. And I see it as not a prerogative but an obligation of a legislative body to do this. Now what was presented, I was told, was a study from California. It's one that I used back in the sixties and maybe in the seventies as an argument for corporation, along with some others that were brought in. But to my understanding, I never did get to see the whole thing. But that was the public purpose evidence and I think it was entirely really a little bit old. I think it was a good

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study. I think it was probably a little bit old but I think maybe not an adequate defense of the rationale for regulating corporations. Because I think when you get into the rationale for regulating these corporations, you have to go back to the monopolistic tendencies of large corporations. The facts that the multinationals--ADM, Cargill, and all the grain procurers--the industry, the packing industry is highly organized and small in numbers that buy vastly in majority and have a tremendous advantage in setting farm prices over the individual farmer. They have not used...some of the university releases tend to ignore the idea that monopoly or monopolistic power, which in the case of this would be an oligopoly or the terms or...which are given to...where a few large organizations of undue economic power. Now to discuss farm prices without discussing corporate power and the advantages held by large corporations buying from farmers, I consider really inadequate and unfair to have an open and free understanding of the subject. And I see entirely too much of this coming out of the university because of the corporate funding of most of the research that comes out of it. Corporations, certainly livestock operations are going to be larger than they were 50 years ago. However, the largest livestock operations have serious pollution problems. Now some of the investors and opponents of Initiative 300 wanted freedom to escape the liability they incur when odors and damage to the environment cancel the potential profits with potential lawsuits. I think that as you expand these large livestock operations, they should be required to get along with in the neighborhoods and the localities that they go in. Now we have other things helping on this at this time with zoning regulations in most of the state. But the idea that by going into corporate setup you can avoid the liability, the personal liability, and just take a small share of your wealth and gamble it over here, then maybe dump the operation and avoid the cleanup and the mess it created and not have personal liability, I do not believe is a good purpose for an individual coming into the community. And I think it's much better if they come in, take their own personal liability for the odors and the problems that they create when they come in with the livestock operation. I believe that such regulation should be...well, excuse me, I skipped...if agriculture is allowed to fall in the hands of large corporations, we will no longer have the safe, dependable, and reasonable priced food supply that we today enjoy. Now I therefore

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think Initiative 300 should be replaced by the Legislature and I think there are really two things. There are some details that would help a whole lot as far as changes within it, I think, in passing constitutionality. But I think the biggie of it all would be starting out with a preamble and a lot of research work showing good public purpose for regulating the corporations. Our alcohol, tobacco industries have been subject to detailed regulations that interfere with interstate commerce all the time. And it's accepted in many areas of law today. But there has to be a public purpose for that regulation. They can't do it. You couldn't do it if tobacco was...go to the degree you have in regulating smoking and the sale of tobacco in different ages and everything that comes if you did not have a public purpose for the better health of the people. And I believe that...well, that if we could reinstate in the state, it would be quite an asset to the state of Nebraska. I don't think it's a solution and would never propose that to be for the problems of agriculture. But it ought to be reinstated and I'd like to see...it would really please me to see the Legislature moving in that direction at this time. [LR93]

SENATOR ERDMAN: Very good, Bill. Any questions for Senator Burrows? I just have, I guess, a couple. In your opinion, and you probably have as much experience in going down this path as anyone, do you see the appropriate response as statutory response or constitutional response? [LR93]

GEORGE BILL BURROWS: I would say as a statutory response, probably more desirable. Because we went the route of constitutional response because of the lack of ability of getting the Legislature behind anything when the lobbyists came in on the opposition of it and weren't getting anything done. In fact, I had conversations when Neil Oxtan was president of the Farmers Union at that time. And I had no resources but we discussed it maybe a year in advance of when we went into the drive. And Farmers Union had an organization which sponsored it and carried it through. And I was sure it would pass the people, from what I felt when I was out at meetings with the public, that the public would support it. And they did, in spite of a massive amount--I think over a half million dollars--spent in the opposition of it. It still passed. And I think the same

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situation would be there today. [LR93]

SENATOR ERDMAN: Okay. Very good. Further questions? Senator Karpisek. [LR93]

SENATOR KARPISEK: Thank you, Senator Erdman. Senator Burrows, thank you for testifying. I guess one thought of mine is, we don't have the people in the rural like we did. You can't farm on your own, your small amount. The thought that I keep hearing is, what about neighbors coming together and being able to farm together to make it more viable? Would you say that we should try to look somehow toward that type of a small corporation being able to farm under the I-300 or should we just try to promote that as a partnership? [LR93]

GEORGE BILL BURROWS: I think probably to get it passed, you would probably need to put in what we call the qualified corporation, which was involved in many of the corporate farm bills at that time. I'd hate to see it there instead of Initiative 300 because it takes the livestock operations off the hook. And I've seen so many instances of damage, when I was in the Legislature working with the labor people on it and the labor commissioner. We had cases where a corporation came into rural agriculture, they hired people, and then they dumped them. They didn't get paid for their work. The individuals owning the corporation had plenty of assets and they skinned the workers in this circumstance. Now it was giving...Initiative 300 was giving protection to things like that happening, where they had personal liability. If a guy went broke and couldn't pay is help, if he was unable to, that was one thing. But when he used a corporation to skin the workers out of their pay, and some of those happened that I saw sight of. And also, the idea of taking away the liability of people that might want otherwise when they want to develop a huge hog lagoon system, which is objectionable to the neighbors. And I kind of...I like the results of Initiative 300 working on that score. But I think I would buy it from this Legislature certainly (laugh) to see it come through, exceptions for what it carried, it was ten or less stockholders, none of which were corporations, generally was the language used on those bills that came in. And I was involved in these, too, but I

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preferred it otherwise. In fact, we took out some of the tougher...we added some of the things that relaxed my last bill when it was introduced as Initiative 300. It was tougher than my last bill because we figured if we didn't have to get the votes, we could, you know...you've got to play that game to a degree but please don't play it to the game, it doesn't do anything. (Laughter) [LR93]

SENATOR KARPISEK: I appreciate that because I guess, to me right now is where I'm at, is can two neighbors go in together and make it better? Now something that probably just came up yesterday is the liability part. And so then if you and I went together to form a S corp or a limited liability corporation, does that put us at an unfair advantage to Senator Wallman, who's trying to do things on his own and has no liability shield? [LR93]

GEORGE BILL BURROWS: Oh, some. But my own experience, we formed a farm corporation in 1960, a family farm corporation. And I wish we hadn't (laugh) after some, what was it, 47 years now, I think. Because there were advantages to it. We never were interested in the liability portion though as a part of it because I never was in a situation where I felt I wouldn't personally sign for anything I was doing as that corporation. So that advantage is minimal. Right now when it goes into inheritance, when you go to dividing it with your kids, you've got a piece of lands in the corporation. And there are disadvantages, too, because if they each have their piece of land...now if they want to sell it, there are tax consequences on the capital gains. This happened between when that land was \$150 an acre and \$2,000 an acre. And there are substantial tax consequences to moving that or buying anyone out and changing it to personal ownership where you split that off. It's a situation that, when I pass away and my wife, why, is not necessarily desirable. [LR93]

SENATOR KARPISEK: Okay. [LR93]

GEORGE BILL BURROWS: I think they've been oversold, I'll put it that way, the

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corporate advantages. [LR93]

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

SENATOR ERDMAN: Thank you, Senator Karpisek. Further questions? I don't see any. Thank you, Bill, for coming forward. Appreciate it. [LR93]

GEORGE BILL BURROWS: Well, thank you very much, Senator Erdman and everybody. I appreciate it. [LR93]

SENATOR ERDMAN: Next testifier on LR93, please. Can I see a show of hands of those that plan to testify this afternoon? Can I see a show of hands of those that think they'll testify after somebody else testifies and provokes them? (Laughter) I figured I'd at least get one, Mr. Hansen, from the front row there. Welcome. [LR93]

NORMA HALL: (Exhibit 3) I'm Norma Hall, H-a-I-I, from Elmwood, Nebraska. You made me feel old. I know I'm getting old but you made me feel older. You know, there's a hymn that's sung at many memorial services and it goes something like, I was here when you were born and I'll be here when you die. I sort of feel that way about Initiative 300. I was here when it was born (laugh) and I hope I will continue to be here when something of its nature is reborn. I am Norma Hall from Elmwood. I live on the family farm. I'm representing Women Involved in Farm Economics, WIFE. WIFE members were supportive of this legislation that would protect family farmers and farm corporations from nonfarm corporations owning agriculture land in Nebraska. Since we and others were not successful in convincing senators to enact revised needed legislation, we carried petitions and worked tirelessly for the passage of I-300 by the people of the state. We believe this legislation was beneficial to the farms and rural communities and the people still favor the language in I-300. We believe this legislation has had little effect on agriculture production in the state. WIFE has no legal solutions for the court's decision. The question that needs to be asked is, who do you want to own

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the land in the state of Nebraska and what is best for the people in the rural communities? Thank you for permitting me to share my views with you this afternoon. [LR93]

SENATOR ERDMAN: Thank you, Norma. Any questions for Ms. Hall? Norma, I'd have one question for you. I know that WIFE, Women Involved in Farm Economics, is a statewide organization. In your discussions as an organization, do you generally see a common thread or a common philosophy across the state or do you have different interests throughout the state in your organization that have different philosophies based on the type of agriculture that's found in those areas? [LR93]

NORMA HALL: I think we generally have the feeling of one mind, that with Initiative 300 anyone could purchase the land; doctor, dentist, whoever. And we see now that sometimes the farmer is not able to purchase land maybe that adjoins him because some person with a larger sum of money not involved in agriculture wants it for hunting or some other purposes. And I was told that if it has a pine tree on it, you can sell it for a lot more than you can for farm ground. At the time, there was some controversy from some of the WIFE members because at the time that this was going on, there were other organizations that they also belonged to that not necessarily supported Initiative 300. But through its long involvement to get to that place, we feel that, through the cooperation of the farm organizations and the church community, that Initiative 300 was successful at the polls. [LR93]

SENATOR ERDMAN: Okay, very good. Any further questions for Ms. Hall? [LR93]

NORMA HALL: Thank you. [LR93]

SENATOR ERDMAN: I don't see any. Thank you. Next testifier? Larry, would you like to come forward? See, if you raise your hand then we pick you out of the audience. [LR93]

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LARRY SITZMAN: I shouldn't have raised my hand, huh. [LR93]

SENATOR ERDMAN: I could have called on John first, if you'd rather, but he was a maybe. He thought maybe you would provoke him to say something, so... [LR93]

LARRY SITZMAN: I'm sure I will. (Laughter) [LR93]

SENATOR ERDMAN: And make sure you spell your name for us please, Larry. [LR93]

LARRY SITZMAN: Senator Erdman, members of the committee, my name is Larry Sitzman, S-i-t-z-m-a-n. I am currently the executive director of the Nebraska Pork Producers Association. I want to thank all of you to coming back to town and giving me and others the opportunity to talk about this important issue. What do Norman Rockwell and his picture of the family farm have in common? Their common link is that he and his presentation of the family farm are dead. Please note, I said his presentation of the family farm, not the family farm. Farming as we remember it in our youth and many wish could return is gone forever. We have been losing family farmers since the founding fathers signed the constitution, and I think testimony today reenforces that. Ninety percent of the population was involved in farming at that time. The Industrial Revolution and modern farming use of technology pushes us even farther from Rockwell's print. External forces or influences today are forcing us to reexamine our proven production systems to remain competitive in the worldwide marketplace of the future. Do we move forward or do we step backwards? Sometimes in Nebraska it seems like we're a farmer walking in his boots in a muddy field and as he walks, one of his feet gets stuck in the mud and his boot is about to be pulled from his foot. He can't move forward because one of his feet are stuck in his past. Is there an industry in America that wants to go back and return to how it was years ago? Does the automobile, the household appliance, the clothing, the footwear, the farm equipment, or any other industry want to return to the past? How many farmers in Nebraska really want to say, yes, I want to go back to the past? They may say it, but will they proceed? How many do you know that

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want to return to open hitch, hand-dug irrigation, horse-pulled plows or, more recently, tractors without cabs, hand milking of cows, having a sow and a few pigs for fresh meat or quick cash, a lamb or two for wool, and gather eggs daily so you can sell them on Saturday to have enough money to buy groceries for the family? I remember those days and I don't want to go back to them. Agriculture responds to marketplace signals that may not always be directly associated to the consumer, but come from the new monster organizations that speak for the consumer, repeated by the media and therefore the consumer follow. This causes change, and as change happens, if we don't take it by the hand it will take us by the throat. Consumers of today, and that includes world consumers, are making decisions that affect the family farm. Consumers in America demanded leaner meats, creating greater feeding technology, resulting in greater concentration of animals. It's a fact. Recent signals from the monster organizations include animal welfare demands reflecting household pet conditions provided for food animals. These pressures are directed at the marketplace of the consumer, but affect the bottom line of every family farmer. If a major chain makes the decision to place only fluorescent light bulbs on their shelves, what will happen to the light bulb industry? If that same chain makes a decision to place farm products only from proven animal welfare accepted or proven sources, what will be that result? Consumers in foreign lands are demanding consistency, quality, availability, quantity, and price. These demands are supplemented by request for traceability. Major markets for our product today can end today with one small consistency or quality mistake that cannot be traced back or corrected. The loss of one foreign market affects the bottom line of every farm family. Competition for markets and value-added production exist between neighbors across the fence, between states, and between nations. The winners in this competition enjoy the economic advantage of many forms--jobs, sales tax, income tax, property tax, and a lot of use of our bulk commodities. Now we can adopt, adapt to all my examples in two fashions. We don't have to export pork. We do not have to meet consumer demand and supply to the domestic market. We can cut production and we will lose family farmers. Or we can react to the market signals that maybe have been flashing as a red light that we haven't been seeing. Traceability is being addressed by premise

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registration to help protect animals, increase consumer confidence, and help producers connect to the global marketplace. In our industry, our pork quality plus assurance program combines past programs for producers and their employers to ensure the production of safe, wholesome food with verification and audit. Animal welfare issues are challenging, but our industry is responding with study, education, communication, and working on a plan to help move the industry. The Legislature must watch all signals and demands on this issue and respond in a manner that maintains Nebraska producers' right to produce, hopefully, in a competitive setting. Competition is the issue Nebraska needs to actively study, and this committee can make recommendations to improve. Now I'm confused by the official language announcing the hearings on LR93, stating you're seeking other options that are available that might protect state interests in the structure and development of agriculture production. Protection from what? Protection from ourselves? Protection from the fact that we maybe have one foot stuck in the past while others' feet are moving forward? Do you honestly feel that family farmers can survive or profit by legislative restrictive protections? Let's balance protection with production and promotion of Nebraska agriculture. We in Nebraska import milk to meet consumer and industry need. We watch as poultry farms and swine facilities are built in adjoining states. We export hundreds of thousands of feeder pigs to other states to be finished and then they're returned to Nebraska to be sacrificed. Why? Maybe someone behind me knows. Could it be that our past actions and our lack of confidence producers have in our agriculture state structure? We need a statewide public policy that supports the right of producers to produce animal agriculture under established state and federal rules and regulations. Recently 240 FFA students participated in a survey. Sixty-seven percent said they wanted to live and work in rural communities after high school or secondary education. Sixty-two identified agriculture as their preferred choice. And more than half indicated they wanted to be engaged in production agriculture as a farmer, rancher, or livestock feeder. Are we sending them positive signals and helping them in an environment to be competitive in the worldwide marketplace? Those young people can't start with a 50-head sow unit or a finish barn and compete or be profitable without the ability to contract animals. Production

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contracts allow producers of all sizes to build facilities, create wealth, and ultimately become independent. Equally important is the ability of producers to join together individually or in a cooperative manner in the production of animal agriculture. Producers are looking at methane capture from manure lagoons to generate electricity. I was shocked to learn that one Nebraska producer who now generates electricity by this method must sell all of it to their rural power district and buy back what he uses at a higher price. Maybe something you'd like to look at. Our state agencies as well as counties with conflicting rules that regulate and permit agriculture in the forms of environmental and water issues need to respond timely and helpfully to producers. Last, our state Department of Agriculture needs to be funded timely and fully in the area of terrorist threat to our livestock industry to sustain activities, momentum, and staff if federal funding declines. Let me end by saying, we need every family farmer we can get and keep. But they need the ability to compete freely with others in the world in the global marketplace. I believe I have set a tone of our feelings, of our big picture, and given you some suggestions or ideas for your consideration for its future. Thank you. [LR93]

SENATOR ERDMAN: Thank you, Larry. Before we open it up for questions, do you have a copy of your testimony that we may have? [LR93]

LARRY SITZMAN: (Exhibit 4) Yes, I do. And I don't hand it out in advance because then you sit there and read it. (Laughter) [LR93]

SENATOR ERDMAN: We prefer you read it to us. The comment...I guess one thing that I'll clarify is that the actual language of LR93, I don't believe the word "protect" is there. It says the study shall seek to identify policy instruments available to the Legislature and the people in Nebraska including, as appropriate, but not necessarily limited to or requiring, modification of Article XII, Section 8, of the Constitution of Nebraska, which is commonly known as Initiative 300, in order to foster and enhance legal, social, and economic conditions in Nebraska consistent with and which advance state interests and

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policy objectives relevant to the structure, development, and progress of agricultural production in Nebraska. That's just a...I think I got a sense of where you were going, but I don't believe that the resolution... [LR93]

LARRY SITZMAN: I did receive, Senator, a document, I did not bring it with me, that the wording was used "protect." [LR93]

SENATOR ERDMAN: Okay. Well, we'll make sure you get an accurate one. We apologize for any confusion that that may have caused. Questions of Mr. Sitzman from the committee? Senator Preister. [LR93]

SENATOR PREISTER: Yes. Mr. Sitzman, I particularly noted your comments on Danny Kluthe, I assume is who you were talking about having to sell his electricity back to the utilities and an exclusive contract, so all of the electricity he generates to them, and at a much lower cost than what the utilities charge him for his own electrical utility usage. I've been introducing a decent net metering bill for years and I would certainly welcome the pork producers and anyone else to help put a little pressure on our rural electric board members and our other electricity officials to create a very fair net metering type of bill for our producers and our farmers, and would welcome your and other organizations' input. So I appreciate that comment and we're on the same page on that issue. [LR93]

LARRY SITZMAN: Senator Preister, I appreciate that, and we would be very willing to help you with that. I know there are other efforts to get into the wind generating of the electricity. And until we have the capabilities of the lines and the capabilities to be profitable back to the producer in some of the things you're suggesting, I think we may have some problems. So thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Preister. Further questions of Mr. Sitzman? Senator Dubas. [LR93]

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SENATOR DUBAS: Thank you, Senator Erdman. Mr. Sitzman, as I've been visiting with people around the state, asking them, you know, what are your concerns as a ag producer, whether it be crop or livestock, you know, what do you see as some of the biggest barriers to either bringing young people into it or even keeping your own operation going. And what I seem to be consistently hearing is market access, that unless you are a part of some contractual arrangements that, you know, the open market is quickly disappearing, which in return kind of reduces competition, prices on the open market are not necessarily fair or profitable. So how would you address those concerns to market access? [LR93]

LARRY SITZMAN: I don't know if I would touch whether they're fair or unfair. I believe that falls under competition in a worldwide marketplace. I hate to be so cruel to say survival of the fittest, but we are competing with the world. My office is on the ag campus of the University of Nebraska. The students that I see there from foreign nations, and there are many of them, are getting straight A's and they're taking everything they're learning back to their countries. And if you take the top 25 percent of students in China, the top 25 percent, it surpasses the entire student body population of the United States. So when they're looking at ways to compete in this country, I don't see how we can restrict or regulate or make rules of how they have to operate. They're going to have to operate in a global marketplace. Yes, producers that I've talked to can do better if they can have some type of joint effort of getting together, putting their monies together, being able to build, because maybe one or the other can't do it alone, or contract feeding for someone else gives them the opportunity...and I know several young people that are trying to do it, that have been turned down for various reasons. And I can get into that in a minute. But it gives them the opportunity to stay on the farm and get a beginning because Dad over here doesn't have enough. So maybe if Dad says well, Son or Daughter, you can get started, I'll sell you or give you this little piece of ground if you can get some EQIP monies, etcetera and so forth, and build a facility. Well, then I don't have enough money to buy the hogs. Well, why don't you start with

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contract raising of animals, build your equity, and then become independent? But some of the problems that we have with those issues are the federal EQIP funds, before you can even apply for monies for that you have to own the land. So if a young producer goes out and doesn't realize all these rules, they get so disappointed and so discouraged that they're giving up. And maybe that's why there's 135 sections empty out of 160. I don't know. But I will say that 135 sections got emptied during the time Initiative 300 was in force and it didn't seem to stop the exodus. So these young people need encouragement. They need to know that the state, the Legislature, the Governor, all of us are behind them and promoting an economic activity to make them positive and move forward and so that they know that they're competing equally with everyone else. [LR93]

SENATOR DUBAS: So would you say that a producer who either can't or doesn't want to enter into any kind of a production contractual arrangement, marketing arrangement, do they stand less of a chance of succeeding? [LR93]

LARRY SITZMAN: Absolutely not. Maybe they have their own monies to buy their own hogs or maybe someone is going to provide them to them. No, they don't stand a lesser chance. It's just that those that don't have the economic means to buy the facilities and the animals need the contract option to help them get going. [LR93]

SENATOR DUBAS: Well, I guess I go...I think of my own personal situation with our son, a young farmer who's working hard to get into the business and, you know, of course we're trying to help him. And what he seems to be running into, as well as some of his counterparts, is...again, it's the market access. It's the price that he can get on the open market, whether it be for his commodities or his livestock. And so, as I said, as I've been talking to producers around the state, that seems to be the recurring theme that I keep hearing. Well, I just, you know, unless I'm in some type of contractual arrangement for me to go to the market, I don't have...you know, number one, I don't have access or there aren't the markets in the area, I can't get buyers to come to my farm, you know,

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just a variety of issues along those lines. So I'm looking for ways. How do we address that market access, how do we address the competition and the concentration issues as far as having those prices available? [LR93]

LARRY SITZMAN: I don't know that I can answer all those questions. That's probably why you've got this committee. But I definitely know that, as I said in my presentation, when I was at the age of your son I could go to the sale barn and sell my animals into a competitive market of active buyers. I believe Senator Dierks used to even contract and test some of these animals in sale barns. Those type of operations are diminishing, they're leaving. It's part of the evolution of agriculture. And we accept it and move forward and try to be competitive in it with every opportunity we can. And tying people's hands with restrictive regulations isn't going to help them. [LR93]

SENATOR DUBAS: Thank you. [LR93]

SENATOR ERDMAN: Thank you, Senator Dubas. Larry, we've had a number of cases, I think a couple come to mind dealing specifically with the production of pigs and pork in Nebraska, that were attempting to operate under Initiative 300 but were found in violation of Initiative 300 and not successful. I guess, going forward as a representative of the pork producers, what type of discussions has your organization, members of your organization had about how they as members would see the opportunities now available to them, absent a response? Because I'm trying to get the sense that you think that allowing them to work together is a more preferred method than trying to tie everyone else's hands, which may indirectly tie theirs. I've got to think that you're aware of those cases. And what are some of the things that you think might be available to the producers now that may not have been under I-300? And the reason that I ask that is not to say, well, let's not do anything, but that might give us some insight on what you think is viable to help adapt to the new markets. [LR93]

LARRY SITZMAN: I have had numerous producers contact me. I've had several say,

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can you, Larry, give me something in writing that Initiative 300 is gone so that we can move forward. And I told them, you've got the court case. You've got the rejection by the Supreme Court. There are individuals combining efforts monetarily, physically to move forward and build facilities in a joint effort that they couldn't do before because of that. But just as important, I have been contacted by producers that have come to the realization that we produce hogs in Texas and it's a long ways from corn and a long way back to the market. We'd much rather produce them in Nebraska, at which time I start working with them and they very quickly discover that they can't build facilities because of other issues in our counties. And now they are going to Iowa. So we have lost even the ability to get additional production in this state that people wanted to because of some of our restrictive rules and regulations on the county level. There's a lot of producers out there that want to produce hogs. And I hate to see this million head a year go out of our borders to be finished somewhere else. [LR93]

SENATOR ERDMAN: Okay. Further questions? I don't see any. Thank you, sir. [LR93]

LARRY SITZMAN: Thank you. [LR93]

SENATOR ERDMAN: Next testifier on LR93, please. Mr. Hansen, you promised us language that we could look at yesterday, so we're anxiously awaiting that. [LR93]

JOHN HANSEN: (Exhibit 5) Chairman Erdman, members of the committee, for the record my name is John K. Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and I appear before you today as the president and also the lobbyist for my organization. Make sure I got that handed in before I got another demerit, as I did yesterday. I've gotten several demerits this last year; one for my cell phone going off, one for not turning in my testimony. [LR93]

SENATOR ERDMAN: We think we've been very kind and merciful in reprimanding you to the extent that we have. [LR93]

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JOHN HANSEN: And I understand that. I appreciate and accept it. I appreciate you trying to work with me and improve me. You would think after 18 years I would figure this out. The lawyer that I wanted to come forward today and deal with the specifics of what was litigated and what was not litigated and where the court really clearly weighed in and where the court chose not to weigh in, so as you think about it in terms of trying to fix that which is actually broken, got called into court this afternoon. And so he is not able to be here. And what we talked about doing was to really bring the legal team that we had as a part of the Friends of the Constitution and the different organizations, the four primary lawyers together and to offer to the committee a summary of kind of a legal executive summary of about four pages that would try to more clearly focus on that, which we thought might be helpful. So in the absence of having that work product done or our lawyer, Jeff Kirkpatrick, to be before you today, it would say that the court did struggle and clearly weigh in on two issues, in my nonlegal expert opinion, that dealt with day-to-day labor management and dealt with residency issues. And because there is not a severability possibility in Nebraska, the constitutional amendment did not have a severability clause, and despite the Attorney General's efforts to try to encourage the court to only sever those parts of the constitutional provision known as I-300, if they found it wanting, they chose not to do so because of Nebraska Supreme Court opinions to the contrary relative to severability. So it was kind of all in or all out, if you will. And so the...while the court did indicate that there was...if you were to isolate the issue of Nebraska residency and the day-to-day labor management, that it was...looked like to court it was workable, they were not going to sever it. So there was some hope in the decision and being able to kind of look at what they did think was salvageable and workable from that standpoint. So given those issues, the Attorney General's Office did argue that, from a practical standpoint, they had been, in fact, from an enforcement standpoint, accepting family farmers who chose to feed cattle or hogs or whatever in Nebraska who might be family farmers from South Dakota or North Dakota or wherever. It was not Nebraska-specific. The court zeroed in on the ballot language back in 1982 that the Secretary of State Beermann put on the ballot that said Nebraska corporations,

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family farm corporations specifically. I would just say that as someone who was involved in the drafting of that, as was Norma Hall and Chuck Hassebrook, we did discuss that at that time. And the question before us, we thought it was an awful description, it was a bad description, and the lawyers who were working for us at the time said, yes, it is, but don't worry. You have a political battle ahead of you to get the...now that you've gathered the signatures, you need to get the voters to agree with you on this matter and you need to focus on the election ahead. And in the end, the case, the law will be litigated in all likelihood on the enforcement and the actual language of the law itself. And so we were assured that it was...our time and money was not well-spent to litigate, which is what then Secretary Beermann indicated to us was our option, because we indicated to him we were not happy with the ballot language and he pretty much said, sue me. So we decided that that was going to tie up way too much time and efforts and that we needed to get about the business of the campaign. So we were aware of the problem at the time. We're not happy with the description, did not think it was accurate. But it did come back to haunt us. There's no question about that. So I do think that as we're trying to explore language options, looking at those two particular areas and trying to refine those or redefine them or make them less onerous, more specific, what we can do is kind of the focus of what we have tried to do. And I would agree with the assessment that the remedy at this point, certainly all of the efforts to go into trying to find a statutory response and that, you know, our efforts previous to the passage of I-300 went back to 1968. And so we had a very substantial period of time. We had a long effort in the Legislature and we were not able to convince the Legislature to deal with it in statute, which was our preference. And so finally when our political efforts were becoming more successful and it was becoming harder to deny the pressure that was coming from the constituents. We were finding more and more state senators playing golf on certain afternoons, leaving the building under curious circumstances. And we even dug one out of a coat closet one day during a vote. It was...we were having a difficult time, regardless of how many votes we had, to ever get to 25. We could get to 23, we could get 24, but we could not get to 25. And then there was an Attorney General's Opinion by Bud Packett that said that even though our language was

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patterned after Minnesota and our constitution was similar to Minnesota's, he said that if it were to be passed statutorily, that then it would be, in his opinion, unconstitutional. And so that really just put all of those organizations who were working on it at that time in the position where we either, you know, had to throw in the towel on the legislative efforts or we had to go around the legislative process. And so that's why we did the drafting of I-300 and we did put it in the constitution. But our preference always was to do it statutorily and our preference at this point in time would be for the Legislature to look at the situation, deal with all the different perspectives, and to try to move forward with what we believe an appropriate and effective remedy. And that's all I would say at this time and I would just commit to the committee that we'll try to whip our lawyers into shape, if such a thing is possible, and get them to get that summary done as soon as possible and to the committee for their consideration. Thank you very much. [LR93]

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

SENATOR DIERKS: John, I've been doing a pretty severe examination of conscience up here since the last testifier. I'm trying to figure out all the places I went wrong over the years. How do you think packer concentration affects the marketplace for production agriculture today in Nebraska? [LR93]

JOHN HANSEN: Packer concentration, any time that you have too few players with too much market share, the opportunity for mischief, and mischief would be defined from a producer standpoint as market manipulation in a fashion which does not reflect supply and demand realities and that markets become more or less manipulated in a fashion downward to the advantage of the buyers. A system of shared monopoly is price depressing and it is price depressing because it's to the mutual advantage of the players to depress the prices. And captive supply, which when we talk about packer ownership, which is why we are going to be pushing for efforts at the national level in the Senate to have them revisit their support of a ban of packer feeding which was in

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the Senate version of the last farm bill at the national level, be revisited because captive supply is always, always caustic to the cash marketplace. And the more tightly held the market is, the more caustic captive supply is. So it's a two-prong problem. One exacerbates the other. And as the total amount of capacity in the cash market or the spot market itself goes down, that amount of product is more easily manipulated, which then becomes also the pricing bar and basis for the contract or the direct or indirect amount of supply in the market chain at that point in time. So it becomes a downward spiral, if you will, where the captive supply is used to price the cash and the cash is used to price the captive. And it very seldom ever causes prices to go up to producers. [LR93]

SENATOR DIERKS: So has that had some effect then on the size of an operation that's profitable? I mean, I can remember in my youth that a herd of cows numbering in the 80s and 90s would be enough to support a family. Today it doesn't happen. Is that because of packer concentration? [LR93]

JOHN HANSEN: Margin times volume equals the amount of net profit. And it takes so much profit to be able to feed a family and meet business operating expenses. And so as margins become lower, it makes it then necessary to expand volume or, in the case of agriculture, the USDA's latest numbers for last year is that 86 percent of total net farm income comes from off-farm families working off the farm to augment and supplement the farm income. And so it becomes increasingly difficult to have an economically viable-sized, family farm-sized unit. So like in 1982 in the case of hogs, for example, we had 5,731,000 hogs produced in Nebraska. Last year, we had 6,514,000 hogs. And yet, because there's a lot of the smaller operations, even though they might be more operationally efficient, still don't have enough volume, even though they might be as efficient or more efficient, to be able to generate enough money to be able to stay in business. So you see the number of hog producers having gone from 16,000 down to 2,500 last year during the same period of time. And a lot of that was because of...(RECORDER MALFUNCTION)...not realized by producers and lack of market

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access, in our opinion. [LR93]

SENATOR DIERKS: Nine years ago we were having hearings about these issues and we had people come here to visit...people came here from Alabama and North Carolina, talking about the poultry industry and how they lost their farms, lost their operations because of contracting in the poultry industry. And their admonishment at that time was be careful, the poultry industry is gone, the pork industry is next. And we saw it earned by contracts that were issues of pork producers that were confidential. The contract had to be signed when the contractor came to get the contract delivered. They couldn't show it to an auditor, they couldn't show it to their banker, and they couldn't show it to a lawyer. And yet the language in those contracts was abominable. And these were the same contracts that destroyed the poultry industry for the ordinary farmer in North Carolina and Alabama. Same type of contracts. Is that something we need to live with because we're in, as Larry Sitzman says, globalized market? Is that...how do we compete with a globalized market unless we have thousands of animals to deal with rather than hundreds? [LR93]

JOHN HANSEN: Well, I...the one thing that Larry said, and so I'll try to look at it from the positive, that I agreed with was competition. How it is that we create competition in the marketplace, I'm not sure that Larry and I would be on the same page. But part of the problem with contracts is if you think about what it takes to make a healthy marketplace--it needs to be competitive, it needs to be accessible, it needs to be transparent, and it needs to be fair. Well, contracts tend not to be any of those things. So how do you make contracts by themselves fair in terms of producers having some idea of how many contracts are out there, what the value of the contracts are? So part of our market reform efforts that we've been working on for a very long time at the national level and continue to work on in the Senate side of the farm bill is contract reform, so that you try to make the whole business of contracting much more transparent and fair. So that if your...the rules of the game must be fair. And part of the problem with contracts is by their nature they're secretive. And I also have seen some of

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those contracts. I've had some of our members bring in those contracts and share them with me. And they are...you read them and you just wonder why anyone in their right mind would sign. Well, because they're very...pretty much, it's take it or leave it. Those are the terms. And so they've had to. So to the efforts to make contracts more fair and transparent, you should never sign a contract that your banker and your lawyer and, you know, your mother and your cousin couldn't look at in advance. That's just...I mean, if it's a fair contract...and so anytime you have folks with disproportionate amounts of economic finances and muscle enter into a contract, there is the opportunity for mischief and really taking advantage of one side over the other based on both the legal expertise, but also the economic muscle that they have available to them in that arrangement. And so I think it's appropriate that we focus on contract reform as well. But that's kind of off to the side of this issue. But this issue really, this is the use of the corporate shield and liability. And so we want to take a look at what's going on in agriculture across the state and urge the committee to do that and see if there's any other necessary or appropriate changes that should be made as we try to update our law and make it more appropriate and effective. But would just remind the committee that with every additional carve-out, every additional exception, there's always the possibility to also open even the statute up to additional legal challenge because those two words that seem to be kind of joined at the hip tends to be arbitrary and capricious. And they always bring in the capricious word not long after the arbitrary. And so the more different kinds of exceptions you do and the more carve-outs you do, and that's part of the reason that I feel I-300 stood the test of equal protection and all those other legal challenges down through the years was in part because it was pretty darn simple. [LR93]

SENATOR DIERKS: Thanks, John. [LR93]

SENATOR ERDMAN: Thanks, Senator Dierks. Before we go to Senator Wallman, I want to make sure that it's clear what LR93 does and what it doesn't do. LR93 doesn't require the committee to try to resurrect I-300. What it does is it requires the committee

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to analyze all of those issues, not specific to I-300 but anything in addition to that that may have an impact on production agriculture for the state of Nebraska. And so I want to be clear to all of those that are here today, all those that may be watching in the office or may read any of these deliberations, it has not been the vision of this committee to back in to any public policy that was currently in place, but rather to go from a broad-based approach going forward to analyze all the issues objectively and arrive at a conclusion that we believe is in the best interest of agriculture in the state of Nebraska. And so just as we go through this dialogue, while it's very difficult and may be impossible to remove the history of I-300 and what that means in the landmark or the gravity that that all entails of this discussion, the fact is, is that we're not simply trying to recreate I-300 here. We're trying to understand what we learned from I-300. And if at the end of the day that's the best possible response, that very well may be the response pursued by this committee. But if you read the language of LR93 and if you at least follow what I believe is the appropriate direction to go, we are doing a number of research topics that aren't specific to just what I-300 entailed, and that is the corporate shield. We are looking at a number of issues, including taxation, including organization, including a number of public policy decisions both in Nebraska and throughout the country that may benefit Nebraska agriculture into the future. And so I want to make sure that as we continue these discussions either later today or Thursday in Scottsbluff or as we have additional meetings throughout this interim and possibly legislation next year, that it's clear that this discussion shouldn't just be how do we put I-300 back together again, but rather how do we create the right foundation to build agriculture upon. Senator Wallman. [LR93]

SENATOR WALLMAN: Thank you, Senator Erdman. John, I agree with...you know, I have my daughter's in-laws, they feed hogs in Iowa. And I have some relatives that feed hogs here and friends. So why...what's the difference between Iowa and Nebraska? Do they compete on the same field with the packers? [LR93]

JOHN HANSEN: Senator, one of the laws that Iowa had was also a ban on packer

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feeding, which was struck down and then contested and it was...it sort of ended up in a more limited capacity. So that's been one of their issues they have struggled with. And so I, you know, I just look at...I focus more on Nebraska but I also look at the ownership structure in Nebraska and what our experience has been. And it seems that, you know, we're number...last year, and according to the Nebraska ag rankings, we're number one in red meat production, commercial red meat production. We're number two in all cattle and calves. I mean, you look at the data here, we're, you know, we're competing with other states very favorably, in fact. But our ownership structure, I believe, has been much more diverse than, say in the case of cattle especially, Kansas or Texas. And so if you look at the amount of open bids for the amount of cattle fed in Texas that come from Texas, there just hardly isn't any. I mean, it's all pretty much Nebraska bids. So you know, part of what you're trying to do at the state level is also to kind of recognize the forces that are out there, the bigger sector, figure out where do you want to go and what do you want to try to do. But at the end of the day, everyone in America benefits when we have open, competitive, fair, accessible, and transparent markets. And so we're having troubles right now at the national level, but also we're seeing the courts striking down efforts at the state level in a lot of cases to try to do that. I don't know if I've answered your question. [LR93]

SENATOR WALLMAN: Well, you can't hardly get three farmers to agree with each other (laugh), so I don't know either. But I do know market access bothers me more than anything because if you can't get competitive bids, that would be discrimination. And looks to me like you could go to court on that issue alone. But that would be hard to prove. So thank you. [LR93]

JOHN HANSEN: Well, we've been there, we won, and we've had the judges tell us it was a really bad idea and the jurors didn't know what they were doing and threw the whole thing out, if you're familiar with that case. [LR93]

SENATOR WALLMAN: Thank you, Senator. [LR93]

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SENATOR ERDMAN: Thanks, Senator Wallman. Further questions for John? John, just so I can clarify what you're going to be delivering to the committee. Yesterday you mentioned language. That is not what you have distributed. This is a different analysis, correct? [LR93]

JOHN HANSEN: Yes. What I distributed was just the most recent on-point sociological study of the impact of corporate farming restrictions. And Welsh and Lyson did on-point study. And I fail to remember which one of those two is the former head of the National Sociological Society, but certainly well respected in his field. And that, I just...I've got the full study if the committee wants it. But the...I just gave you the executive summary. But the executive summary found when it did case studies of all the various states, and Nebraska was one of the case studies because we were deemed to have the most stringent corporate farming restrictions in the country. So as they kind tried to measure the effectiveness of those restrictions and how it impacted on economic structure, social well-being of rural communities, all of those things. In the various state, the kind of the thumbnail summary was, if you read down to that, was that the more effective they were, the more sociological benefits in terms of socially health communities occurred. So there are...there was, in their view in this study, clearly documentable sociological benefits to corporate farming restrictions and that there was a cause-and-effect relationship between ownership structure and the overall well-being of the community. [LR93]

SENATOR ERDMAN: In your humble opinion, when do you think we might see a draft of the language that you had said we would get from you yesterday? [LR93]

JOHN HANSEN: The summary that I talked to our lawyers about, we hope to have out by the end of the week. And one of the lead lawyers that have worked with us for the longest period of time and has by far the most expertise and experience has a medical problem in his family where his wife has fallen and has been severely injured. And so it's

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hard to outguess his availability right now. [LR93]

SENATOR ERDMAN: Sure, I understand. [LR93]

JOHN HANSEN: And that's been kind of the limiting factor, getting our legal team back together to do the postmortem, if you will, for some time this summer. [LR93]

SENATOR ERDMAN: Okay. I guess I have another question as well. When you...I would imagine that your organization, Friends of the Constitution and others, have a number of studies that you have either commissioned or have access to that have supporting documentation for a number of public policy options. Would it be possible to get a listing, a bibliography of those items and maybe have you work with Rick so that as the committee goes forward with trying to research some of these things, that we may know what's already available before we would go out and ask somebody to create something that may already be either at our access or possibly at our access? [LR93]

JOHN HANSEN: Yes. And I would be glad to do that. And Dr. Bill Heffernan, for example, who does the agricultural market concentration data and tables that I turned in to the committee yesterday, has also authored a lot of...has done some of the pioneering and the longest standing studies on ownership structure and the contract poultry industry. And that's really where, for what he was...until he did the concentration tables, what he was known for was those studies. So there's those. There's also some out of the University of Missouri. There's a host of those. And we'll just kind of go back through some of our materials, but also some of the materials, frankly, that we were going to use some of the experts with. And had we ever had the oh lucky day to go to court where we actually ended up in court on the merits of I-300, which we never had the opportunity to do. [LR93]

SENATOR ERDMAN: So you'll work with Rick to get us... [LR93]

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JOHN HANSEN: We will be glad to try to go through some of that research as well.
[LR93]

SENATOR ERDMAN: In about 32 days and 9 hours, the farm bill will expire. What are your odds that the Senate will actually get in the next 32 days and 9 hours a bill through committee and through the Senate and through conference and ratified by both houses and sent to the President for whatever he would do with it and then approved by October 1 at midnight? And in the course of your efforts, I know that's a loaded question you probably can't answer truthfully, but you've been more involved in that discussion probably than most folks. What do you think that odds are that that happens and what are the efforts that you're undertaking within the farm bill on the Senate side that may relate to some of the efforts that we're looking at here in Nebraska, specifically on corporation or ownership issues? [LR93]

JOHN HANSEN: We are...I represent our organization at the national level in a coalition, broad-based coalition of organizations that have been working on market reform issues. And some of those issues did not get very much traction in the House or enough traction in the House but seemed to have a lot better traction in the Senate. So some of those may well include a ban on packer feeding, may well include a variety of market reform-based efforts, including some overhauls of the USDA's Packers and Stockyards Division, some of those things. So that seems to be getting a more favorable treatment. And there's also a kind of an auxiliary effort afoot, of which I mentioned earlier this last year in some of the testimony, that there's also an effort afoot to perhaps deal with commerce clause issues, specifically relative to states' ability to be able to chart their own course and set their own direction relative to corporate farming restrictions. And there are parallels and similar efforts done by Congress to clearly delineate certain areas where the commerce clause, in their opinion, is not applicable, which sort of is the king's X, the legal king's X on that particular area. The ability of states to set fees for hunting fees where out-of-state hunters pay more money for hunting fees than in-state hunters do, for example, is a congressional carve-out of the

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commerce clause. So there's some efforts and some interest in that, and so we're going through drafts and have been going through drafts with that relative to that. And there seems to be a fair amount of interest from the preliminary shopping around of Senate leadership that we've looked at on that. I've been working on farm bills since 1972 and I must say that what happened in the House was pretty close to a kind of Hail Mary type experience in some worries in that it was unlike any of the other farm bill experiences that I've been involved in. And I was very, very intimately involved in the House version. It was just a very strange critter. And the Senate, it appears, seems to be shaping up in a somewhat similar fashion in that I see things going on in the Senate that cause me to just scratch my head. And I...the chairman of the committee has some very strongly held opinions about certain things that he thinks should be in the Senate farm bill, notwithstanding the fact that members of his own party don't support those things. And it's (inaudible) clear that the opposition party thinks much of him either. So what that causes the chairman to do, whether it causes him to just kind of, you know, change his mind or whether it causes him to be more aggressive after he jettisons those, I think right now if I were betting I would say that it's less than likely that Chairman Harkin will get his work done. I suspect there may need to be an extension of the current farm bill. But I wouldn't discount. I would say that there's a high possibility but not a probability that the Senate will actually come together and do what they need to do in a fairly quick amount of time. [LR93]

SENATOR ERDMAN: Very good. [LR93]

JOHN HANSEN: But the Senate, as you know if you've worked in this area, the Senate, they're not all that taken with what the House does a lot of the times. So they believe that they're the higher body and they pretty much do what they darn well please. [LR93]

SENATOR ERDMAN: Well noted. Thank you, John. Appreciate it, look forward to getting information and continuing to work with you on this. [LR93]

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JOHN HANSEN: Thank you, Chairman. [LR93]

SENATOR ERDMAN: You going to come to Scottsbluff as well, so that we can have a triple crown or... [LR93]

JOHN HANSEN: Well, you know, I... (Laughter) [LR93]

SENATOR ERDMAN: If so, I'll alert the State Patrol, but... [LR93]

JOHN HANSEN: I'm torn between going to Scottsbluff and going back to the State Fair and eating additional foods on a stick. (Laughter) [LR93]

SENATOR ERDMAN: Maybe we could get you to stop...you could do this in one day. You could stop at the State Fair in the morning on Thursday and still make it to the hearing and bring us something as well. I think Senator Karpisek would appreciate that. (Laughter) [LR93]

JOHN HANSEN: Well, I think I'll consider that. At last count, I believe I'm up to about five different foods on a stick so far and, you know, I want to make sure that I realize the full opportunity to eat things on a stick while the fair is at this current location. (Laughter) [LR93]

SENATOR ERDMAN: So noted. I see Mr. Withem is here, would you care to rebut that or... (Laughter) Okay. Other testifiers on LR93 please come forward. I notice there are a number of organizations and individuals here that have...I know they don't lack in opinion. They just may choose not to come forward. But depending upon some specific questions, we may invite some of you to come forward. So be prepared. [LR93]

BILL BEVANS: Senator Erdman, my name is Bill Bevans, B-e-v-a-n-s. [LR93]

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SENATOR ERDMAN: Was that B-e-v or B-e-b? [LR93]

BILL BEVANS: B-e-v, as in Victor. [LR93]

SENATOR ERDMAN: Okay. [LR93]

BILL BEVANS: I'm a turkey grower from Waverly, Nebraska. I'm chairman of the board of the Nebraska Turkey Growers Cooperative Association, which owns and operates the processing plant at Gibbon, Nebraska. I'm also a member of the board of directors of Nebraska Poultry Industries Association. And I've taken the opportunity before to promote the idea that in Nebraska, it's always appeared to me that livestock is our natural value-added product. And I've always been somewhat disappointed that we seem not to have taken the initiative to protect our livestock industry in Nebraska. But if you take the abundant resources of grains that we have in this state and you feed them to livestock and then process the livestock here in Nebraska, then take that processed meat and further process it into further processed products, value-added products, put that value into those products in this state and market them throughout the country, I always thought that that was a really good plan and a natural fit for our economy. Some of the discussion that we had with Mr. Sitzman was why some of the pork...why the pork feeding industry has not thrived in Nebraska and why it seems to have thrived better in Iowa. And it's just been my observation, and I'm not an expert, but two reasons. I've heard that the Initiative 300 preventing corporate ownership of farming has inhibited some organization of structure to put together those feeding operations. My observation is simply that I know growers in Iowa and they deal with their state DEQ, whatever they call it, the environmental control agency, and that's one set of regulations. In Nebraska, you deal with our DEQ plus you have the local control zoning issues. And so it's always a struggle to get those kinds of operations approved. And one comment I've heard earlier today that I wanted to give a little bit of response to is that these large feeding operations are the polluters, they're the ones that damage the environment. And the reality is, Senators, in my opinion is that actually it's the large operators that have the

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resources to comply with the new DEQ regulations and the other environmental laws. And it's been my experience in watching the poultry industry that they take those obligations seriously and, with very few exceptions, are very good stewards of the environment and do have, like I said, the resources and the people and the ability to pay for the extra costs that those kinds of controls put onto the livestock feeding operation. And with all due respect, Senator Dierks, I had, I guess, to respond to the statement that the contracts in Alabama, North Carolina ruined the poultry industry in those states. It's to my knowledge the poultry industries in North Carolina and Alabama are alive and well. And it is based on contract growers. And in response to Senator Dubas' questioning about how do you get in this business and be able to thrive in this business, well, contracts are not necessarily a dirty word. If they're negotiated unevenly with somebody having a heavier hand than the others, they can have harmful effects on individuals. But the reality is that contracts are a means of placing the risk involved in these operations. And so if you take a contract on a livestock feeding operation, what a contract does is it guarantees the producer a certain payment for the products coming out of those livestock operations. And that is, you know, fundamentally, if you're going to go to your banker and ask for, in this day and age, you know, if it's going to take a half-million dollars to put up a facility, he wants to know how you're going to pay for it. And if you have a contract that, if you meet the production standards, will pay you X amount of dollars for the product you're putting out of those facilities, so if you're a good manager and put out the product, you're going to get paid that much, it should provide that many dollars to make the building payments with it, you're going to get the facility built. If you don't have that kind of contract opportunity, you have to be independently wealthy. It's the only way it's going to happen. Or you have to be a corporate entity, which can generate its own financing through sales of stock or some other means. But contracts are a way to get yourself hooked into a food production system. And in order to be involved in agriculture today, you need to be a part of a food production system. The days when you can speculate on the open market is...they're gone. Even, I think even in the commodities corn production, crop production people will tell you that if they can contract that corn out there for ten years at a certain price, it guarantees them the

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ability to make their land payments and make a living at it. They're going to be very interested in doing that. And certainly in the livestock industry where it does take such a huge capital investment to get into it, it's the way to get the job accomplished. The Nebraska Turkey Growers Co-op...I'm not a contract grower because I've been associated with the cooperative and we've been on the open market as growers. And I can tell you that that's not a very comfortable place to be when corn goes to \$4 and the price of turkey goes to 50 cents and who bears the risk, who bears the brunt of that? Well, we set it up at the co-op so that the growers have to be the buffer in that. And so if things go south and north in the wrong directions, it's the grower that gets the whammy. We currently are out trying to promote the turkey industry in the state and surrounding states so that we can increase the tonnage that's going through our processing plant because we're running at about 80 percent efficiency at the processing plant. If we could increase that up to closer to 95 or 100 percent of capacity, our fixed costs down and processing plant makes more money, or at least covers costs better. And ultimately that feeds back to the growers in reduced processing rates. Well, Nebraska Turkey Growers is composed of...essentially we're a small group. It's 12 turkey farmers, turkey-growing families. We've never felt like we had the financial muscle to go out and offer a floor contract, which would guarantee new growers the ability to make building payments for over the long term. We have done some programs on a limited basis and have some incentives. But as far as being able to offer that kind of a contract, we've been unable to do that. We had some Kansas farmers that were very interested in getting into the turkey business and we spent a lot of time in the last year talking with those folks and they're really like, you know, how it would fit into their operations. Some of them are in dairy farming and they can see how the turkey operation would compliment the dairy farm. But in the end, even those east folks, I view them as pretty well off and are successful in their fields and are actually out looking for a place to invest some of their wealth. They, in the end, are putting up facilities, but they're going to grow turkeys for the Iowa Turkey Growers Cooperative because that organization, for various reasons, because they're bigger, but they have a history of using a contract that will help these folks make their building payments and therefore it's easier for them to

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get the financing. So the bottom line is, we shudder at the concept of losing this competitive environment in our markets because that's what we grew up with, but I think what we need to think of is trying to get (inaudible) plugged into production system. And the way you do that is you contract. You tell whoever is going to be using your product that you can produce turkeys that are going to weigh 22 pounds in 18 weeks and they're going to grade 87 percent and you can do that day in and day out, year after year. And that way they have this quality standard that they can go out and sell into their end of the production system. So I just wanted to kind of have you think that maybe contracts aren't necessarily a dirty word in our ag industry because it's really the basis on which we need to grow, or will grow. And one other note on the contracts. I know that I'm not real familiar with all the details of it, but I know that in this farm bill there is provisions that we're trying to get adopted that go further in protecting the contract growers, poultry contract growers and how they can combine into semiunions and negotiate these contracts on a union basis and how disputes are resolved in those contracts. So there is some federal legislation that, you know, is on the books and being improved to help with those kinds of situations. And I think that, with that, I'll take questions if you have any. [LR93]

SENATOR ERDMAN: Thank you, Bill. Any questions for Mr. Bevans? Thank you for coming forward. [LR93]

BILL BEVANS: Thank you. [LR93]

SENATOR ERDMAN: Appreciate it. Well, I see I cleared half the room after I made the announcement that I may be inviting some of you to come forward. (Laughter) And I noticed the organizations that did leave, so I'll be making a note of that for our next meeting. Is there anyone else that would choose to come forward and testify on LR93? Can I see a show of hands of any organizations that plan to be at the Scottsbluff hearing on Thursday? I see two for sure. Mr. Andersen from the Co-op Council, would you please come forward just briefly? You can tell your members that we saved the best

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for last, because I believe you're the last one that we would willingly or begrudgingly agree to come forward. Can you state your name and spell it for us, please? [LR93]

ROBERT ANDERSEN: My name is Robert Andersen. I'm with the Nebraska Cooperative Council. That's spelled A-n-d-e-r-s-e-n. [LR93]

SENATOR ERDMAN: Bob, I guess the question that I have, and I think it's...there's this line that we're trying to figure out how to walk. And as I mentioned earlier, we're not simply trying to put I-300 back together in some form. But I think you can't ignore the history of where we've come. The organization that you represent, the co-ops of the state generally find themselves in a different circumstance than they have for the past 25 years. Can you give us any insight on what type of conversations you've had? And I know you've had some recent members join that are in the more processing side of the cooperative business. Have you had any conversations with your membership or with their organizations about some of the opportunities that they may see or some of the consideration that they would like us to consider as we begin to nail down some of the research and information? [LR93]

ROBERT ANDERSEN: Senator Erdman, about two weeks ago I was out doing our district meetings. That gave me an opportunity to really do a lot of visiting with a lot of people across the state. And my response to the question you presented is going to somewhat meander a little bit, so bear with me. There's a lot of people that are watching these hearings at this point in time, curious as to where we're going here. That's the obvious. The question then as you ask people, are there things that they're looking at in terms of where they may want to go, well, livestock production tends to be more of a very sensitive area there in terms of, you know, these boards of directors are accountable to the boards, the members, they feel they're in competition. That's a very precarious position and at one time you saw some of that going across state lines. I don't know that at this point in time that I am picking up on that needs to be the direction we want to go at this point in time. However, however, there seems to be a lot of in the

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former case that dealt with the Pig Pro case that was out around the Gothenburg, Lexington area. As the case...going back in terms of what did that case involve, and then I am not an attorney, I don't profess to be an attorney. But under Nebraska statutes there, we have a nonstock cooperative statute there. What that was a case there was of individuals here at that point in time, that community that wanted to go together in terms of (inaudible) operations, what have you, and create a nonstock co-op. It went to the courts, the courts ruled against them in that particular case there. This would not have involved, in that particular case there, a local cooperative. It was going to be producers. And under the statutes, for nonstock it has to be producers there. There seems to be discussion out there. Is there opportunities that they may be looking into that particular area out there? That may take some more traction along that lines if there's no changes out here within the state. There tends to be an interest, although I can't say that anybody wants to put their name with it at this point in time, but is there an opportunity for cooperatives out here that we can do a better job for our farmer-owner members in some type of a process there where the cooperative may be involved with the group there, provide the feed to them, things of this nature here. Where that may go, I don't know. I had hoped to have our attorney, Rocky Weber, who is involved in cases and probably more specifics of some of the cases be able to attend here today. And the last I knew, he was going to be out of state there. So he could go into more details. I would like to provide with you, and I've talked to Rocky about trying to put together somewhat of a summation of some of the things that he thinks that may be on the horizon that are being discussed, a little bit more detail. And the reason I can't go into that, sometimes this is proprietary information here in terms of where they're at as they're in the planning processes. But there is interest out there, going back to your original question--again, I said I'd be meandering, I have. I think, again, it comes down, where are we going on this, what are the parameters that are going to be? And is there an opportunity there that we can do a better job for our farmer-owner members out there? [LR93]

SENATOR ERDMAN: Okay. Any further questions for Mr. Andersen? I don't see any. Thanks, Bob, for being a willing partner in this discussion. [LR93]

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ROBERT ANDERSEN: I got drafted again, it looks like. (Laughter) Thank you very much. [LR93]

SENATOR ERDMAN: We'll be in touch as well. Linda, did you get a sign-in sheet for...can you fill out a sign-in sheet for us, Bob, please? Is there anyone else that wishes to testify on LR93? Sometimes it's good as you're having these discussions to prove to people that you can call them up, and that way it makes them prepared when they come to the next one or some people may not come to the next one. We hope that doesn't happen. I did notice that some of the folks that said their members are going to be testifying in Scottsbluff did duck out. So we'll make that record as well. In all sincerity, we do appreciate you coming. We appreciate greatly the insight and the perspective that you bring. We recognize that this is somewhat of a crossroads for Nebraska but as I mentioned earlier, the focus of this interim study and the focus of the resources that we have that we have earned through the legislative process and through the Governor's Office of signing LB516 hopefully gives us the blueprints, if you will, that we can begin to build that strong foundation that I think we would all hope and strive to have for Nebraska agriculture. So we appreciate you being here. There will be further discussions in the coming months and weeks about these topics and many others as we continue to research ideas. So if you're interested, at the risk of filling my in-box, feel free to send us an e-mail specifically if you have an interest that you'd like to stay informed on what's going on. Of course, you recognize that if you do submit that interest, that we have the opportunity of recruiting you to assist us as well. But this has to be a statewide discussion. This can't be something that the Ag Committee puts together in an interim study discussion of us. This has to be a discussion directly with you, with your members, and ultimately with the people of the state of Nebraska to make sure that we're moving the state forward in the right direction. Agriculture is our number one industry. We should cherish that. We should promote that. And hopefully after we've completed our process, we'll have created that bright future for our state and for our industry. Thanks for coming. This will conclude the hearing on LR93. The

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hearing on LR93 in Scottsbluff will be at 6:30 Thursday evening. That's Mountain time, that gives you an extra hour to get out there. It is uphill going there but downhill coming back. We would welcome you to come out and join us there as well. [LR93]