

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: Welcome to the Agriculture Committee. I'm Senator Steve Halloran. I'm from Hastings, Nebraska. I represent the 33rd Legislative District. I serve as Chair of this committee. Committee will take up the bills in the order posted on the agenda. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. Committee members might come and go during the process, during the hearing. This is part of the process. We all have bills that we may be sponsoring. I ask that you abide by the following procedures to better facilitate today's proceedings. Please silence or turn off your cell phones. I checked mine. I'd like to see everybody else check theirs, if you would. Please move to the reserved chairs on either side of the aisle. This will help facilitate who is coming up next to testify. Introducers will make initial statements, followed by proponents, opponents, and neutral testimony. Closing remarks are reserved for the introducing senator only. If you are planning to testify, please pick up a green sign-in sheet that is on the table at the back of the room. Please fill out the green sign-in sheet before you testify. Please print. It is important to complete the form in its entirety. When it is your turn to testify, give the sign-in sheet to the page or the committee clerk. This will help to make a more accurate public record. If you do not wish to testify today, but would like to record your name as being present at the hearing, there is a separate white sheet on the table that you can sign for that purpose. This will be part of the official record of the hearing. If you have handouts, please make sure you have 12 copies and give them to the page when you come up to testify, and they will be distributed to those in the committee. If you do not have enough copies, the pages will make sufficient copies for you. When you come up to testify, please speak clearly into the microphone. Tell us your name and please spell your first and last name, to ensure that we get an accurate record. We will be using the light system for all testifiers. First, I'd like to ask, how many folks are here to testify for the first bill, for LB357-- LB657, excuse me? Oh, I didn't know. OK.

BRANDT: Wow. That's manageable.

HALLORAN: OK. I'm impressed, Senator Wayne, in general. So OK, we will have five minutes on the clock. When you see the yellow light come on, that means you have one minute remaining, and the red light indicates that time is ended. Questions from the committee may follow. No displays of support or opposition to the bill, vocal or otherwise, is

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Agriculture Committee February 12, 2019

allowed at a public hearing. Committee members with us today will introduce themselves, starting at my far left.

MOSER: Hi, I'm Mike Moser, from District 22, Platte County, a little bit of Colfax County, and most of Stanton County.

SLAMA: Hi, I'm Julie Slama, representing District 1, which includes Otoe, Johnson, Nemaha, Pawnee, and Richardson Counties in southeast Nebraska.

LATHROP: Steve Lathrop, District 12. It's part of Douglas County that includes Ralston and parts of southwest Omaha.

BLOOD: Good afternoon. Senator Carol Blood, District 3, which is western Bellevue and southeastern Papillion, Nebraska.

HALLORAN: To my far right, Ben Hansen. Senator Hansen is sponsoring a bill and he isn't with us at the moment. Senator Chambers--

BRANDT: Senator Chambers.

HALLORAN: --as well, is excused for the moment. And then we have our vice chair--

BRANDT: Tom Brandt, District 32. Fillmore, Thayer, Jefferson, Saline, and southwestern Lancaster County.

HALLORAN: To my right is committee research analyst Rick Leonard. And to the far left is committee clerk Linda Schmidt. Two of the most important people here at the hearing today are our pages. Brigita Rasmussen, she is a sophomore at UNL with a major in ag education; and Katie Andersen, she is a senior at UNL with a double major in English and political science. Thank you. Let us begin the hearing. Senator Justin Wayne, welcome to your committee.

WAYNE: Thank you, Chairman Halloran and members of the Agriculture Committee. What I handed out was a white copy of an amendment that we received at about twelve o'clock today, right after we adjourned. So we were not able to file it today, and I will kind of base the testimony off of that because that's where we're going. But there are some changes that we will have to do at least over the next week, whereas I set up a hemp committee. And I also used the word "commission". Because the Bill Drafters were not sure they just put both in. So we both have a committee and a commission in the draft that we will have to address. But my name is Justin Wayne, J-u-s-t-i-n

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Agriculture Committee February 12, 2019

W-a-y-n-e, and I represent Legislative District 13, which is north Omaha and northeast Douglas County. Nebraska and United States have had a long history of hemp production. At the first permanent English settlement, Jamestown, Virginia, hemp is recorded as being in production as early as 1619, 400 years ago. A century and a half later, George Washington and Thomas Jefferson grew hemp on their land, and John Adams wrote about the crops' many uses. And in fact, it was a requirement in early settlers' day that you have hemp as part of the overall economy if you owned farmland. Today hemp can be used for fabrics, yarns, rope, paper, insulation material, drywall, animal bedding, industrial oils, body care products, and many, many more. According to the 2015 Congressional Study, the global market has grown to over 25,000 products that are derived from hemp. Over 47 nations currently allow the production of hemp, 17 more than when I first introduced this bill two years ago. I thought you were going to gavel me already--

HALLORAN: You are fine. [LAUGHTER]

WAYNE: --and I haven't even said anything. This is a growing market and we need to allow that our Nebraska farmers to have alternative crops and more importantly-- not more importantly, just as importantly-- that many people [INAUDIBLE] in my district have an opportunity to participate in the production and the manufacturing of said products. In 2018, United States changed. And what I mean by that is the 2018 Farm Bill allowed for hemp to be legalized federally, and all that we have to do in which this bill incorporates is the four things. We have to have a system of licensure or registration of hemp. We have to make sure there is a means of tracking hemp. We have to have annual testing of hemp to make sure they're compliant with the THC levels of the federal law. And we have to have a method of destroying hemp if it does not match or meet the levels of federal law of THC. If we as a state can put those four things into state law, all our farmers can have hemp in their production. LB657, and now the amended version, address all those issues. We continue to work and we have been working with a lot of people and I want to thank Senator Krist for heading up another group of individual farmers and Native American groups to help bring people together around this. And that's why there was an amendment today, that we just had another one and we'll have another review cycle, and get it to the committee for its consideration. One other thing you should note, that part that we're going to take out of our current amendment is the State Patrol. We had a meeting with the State Patrol, and the State Patrol is going to view

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

this as a commodity. That is a major shift from where we were two years ago and last year. So there is no need for them to be on the commission if they're going to treat it as a commodity and that's another change we have to make from the current amendment before you. The Department of Ag will be testifying in neutral, and this is the first time that I agreed with neutral testimony. And it is because we don't have the bill filed with the amendment. So it's the attorney in me would agree that they probably should not be in favor or against, until they actually have the bill for the amendment filed. But I think you'll hear positive conversations. We met with the Governor and the Governor recently spoke yesterday on the radio and also in favor of hemp. So the things are in the stars and everything are lining up to make sure that this is the opportunity that Nebraskans can get this year. Every year Americans and American's business spend on by-products of hemp industry over \$820 million and is believed to grow every year. The first time I introduced this bill two years ago, the annual expenditures were only \$220 million. Think of how fast that industry is growing and right now our Nebraskans are missing out. Today as I sit here, Montana has over 22,000 acres of hemp in production, and Colorado just increased its production to 21,000 acres of hemp. Even in Nebraska, as we go to a store, we still see hemp-derived products. Part of what this bill will do is to make sure that those things are legal. Senator Lathrop also has another bill that mirrors the same language in Judiciary to make sure that CBD and hemp-derived are legal. There are some tweaks we got to make. So I'm just being very transparent with this committee. There are some FDA-approved CBD products that are derived from marijuana. We have to be able to distinguish them in our bills so there will be an amendment language making sure we meet federal law in that regard. Let me be clear and those who are testifying; this is not marijuana. This is not something that will get you high. So if you're here to testify on medical marijuana, that already had a hearing. This is hemp, a safe product that will provide an alternative crop for our farmers. And for my district, I believe we can move manufacturing facilities into that area because of logistical-- the interstates that connect right across the river-- to make a sound production and grow our economy. With that, I will answer any questions.

HALLORAN: Yes, Senator Blood.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

BLOOD: Thank you, Chairman Halloran. Thank you, Senator Wayne. It's nice to see you back with us again. I have a couple of quick questions.

WAYNE: Yes.

BLOOD: How will this affect a fiscal note?

WAYNE: So because of the specialty and testing, you'll see one of the universities and one of the amendments we changed to say, "a university or licensed product tester." The reason is because of the federal law and how they define THC. It's actually a different machine than what the university currently has. And that's why there was a \$500,000 fiscal note to buy a machine that we were just going to have to contract out with a third party. Department of Ag does not have that machine. And the reason is it has to measure, not whether there's THC present, but the amount of THC. And so our law enforcements right now can measure whether it's THC or not, but they can't measure the amount. So that's why part of the amendment will address that issue, to make sure that-- the Attorney General-- again, they are going to hire an attorney to deal with the licensing fees. That probably won't change, but the university will change significantly because we're going to have to do, most likely, a third party who already has that ability to test the amount of THC, not just the presence of THC.

BLOOD: And can you also tell me why the fee is so high for the license to process the hemp?

WAYNE: We were trying to set a fee, and we're still working with the department to make sure it covers their costs. So we're still in that negotiation, and not really a negotiation. We're just trying to figure out how would it be, and there were some assumptions that were made the first year, only 100 growers. I think that's a little low. So we're still trying to figure out that fee. But ultimately, the reason why there is a fee in statute-- and next year, if this passes this year, next year we'll come back and remove all these fees-- is that in order to get it approved, we have to submit a plan to the federal Department of Agriculture. And so we have to write a statute that really is regulations to make sure it moves fast enough to give our farmers the opportunity to plant this year. And so some of those fees are going to be stat-- statutorily set now and they will come back and adjust them after the program's been approved.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

BLOOD: But-- so the question still is, why is it so much higher?

WAYNE: Because of the inspections that would have to occur. And then the Department of Ag can better answer that question, but these were numbers we were looking at across the industry, and they kind of mimic what they were in the industry, the safe side.

BLOOD: And so something I didn't hear you say, I just want to get it on record, so when we talk about hemp and we compare it to marijuana, which I know, it is not the same thing. I always like to have this heard by-- by other people. It's not the stalk. I mean, the hemp is the stalk, and the marijuana is the bud.

WAYNE: So actually the whole plant is considered hemp, on both hemp and marijuana. The biggest difference is, hemp can grow as tall as six feet high and it's thinner and depending on if you're going for CBD oil versus fiber, whereas marijuana grows four feet high and is out because it's more about the flowering than it is about the product. And so if you were to ask any State Patrol person or any cop, they can immediately tell a difference between ditch weed, which is hemp, and high-volume THC.

BLOOD: We used to pull it out of our windbreaks and feed it to our goats. Thank you.

HALLORAN: Welcome, Senator Chambers. Everyone knows you, so you can introduce yourself if you like, [LAUGHTER] or I think it goes without saying.

CHAMBERS: I am modest. [LAUGHTER]

HALLORAN: All right, any more questions for Senator Wayne? Seeing none, we'll move on to the first proponents. Good afternoon.

ANDREW BISH: Good afternoon. I've got some items to distribute here.

KATIE ANDERSEN: The green sheet as well.

ANDREW BISH: Yeah, absolutely. Hello, my name is Andrew Bish, A-n-d-r-e-w B-i-s-h. Hello, Senators and members of the committee. Thank you for your time today. I speak to you as a third-generation agricultural manufacturer, business operator, job creator, private citizen, and proud hemp supporter. I'm also involved in a coalition of supporters, including Senator Krist, working with Senator Wayne to achieve appropriate farmer-centric language for this bill. I come

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Agriculture Committee February 12, 2019

today in support of this bill and I support this bill for the following reasons. First and foremost, to help Nebraska farmers. I come from a long line of farmers in Nebraska. My grandfather, Louis Stukenholtz, 82 years old, still farms over 4,000 acres in Nemaha and Otoe County today. Because of this, I have plenty of both first and secondhand knowledge about the struggles of today's Nebraska farmers. Nebraska is stuck between corn and soybeans; two crops that year after year fail to generate enough revenue to support our farmers through the next year and lack the versatility to expand Nebraska's economy. Hemp is appealing to Nebraska farmers for a number of reasons. Hemp is extremely versatile and can thrive in various soil and climate conditions throughout the state. The canopy is created by its own branches, retains its moisture, resists drought, and requires a fraction of water compared to corn and soybeans. Hemp's high levels of protein could literally help to solve the world's hunger problem. Once hemp is fully grown, farmers can use custom combine headers and attachments to separately harvest seed and stalk among other equipment to process the crop for a variety of refinery sales. Secondly and personally, I'm sure we all know the old adage of leave the place better than you found it. Hemp can greatly contribute to reducing our carbon footprint without the need to impose taxes or fines to businesses and individuals. I cannot imagine a better way to leave this world than to know I made a step in the right direction. And together we can all make a step to leave this planet better off than we found it. In addition to the benefits to the atmosphere and the planet at large, hemp has a tremendous benefit nutritionally. My family incorporates hemp into our lives in a number of ways. We dehull hemp seed regularly. It's extremely high in protein and has many omega-3 fatty acids as salmon. Another way is by using cannabinoids topically and orally. I suffer from some arthritic pain and have a repetitive stress injury in my wrist and use-- the use of hemp decreases the inflammation, mitigating the pain. My wife does the same, but uses it to address the issues she has with her back. In addition to the nutritional and medicinal value, we have hemp clothes. I have a hemp ratchet used to tighten a bolt on a space station. My ten-year-old daughter, just this weekend, wrote a constitution for her class project onto hemp paper, so no trees were injured in that project. In fact, I wash my body every night with soap that incorporates hemp seed oil. I say all these things to demonstrate to you that this is truly a valuable commodity and these are just a small fraction of its uses. Finally, I support this bill to improve the economic outlook of Nebraska. BastCore of Plattsmouth is currently processing hemp stalks. Pleasant Hill Grain is selling milling

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Agriculture Committee February 12, 2019

equipment to hemp producers nationwide. And my companies, Bish Enterprises and Hemp Harvest Works, engineer, manufacture, and resell equipment to agricultural outlets and hemp growers nationwide. We all have something in common; we have no customers in Nebraska relative to hemp. We change this today. We can change this today. We can change this now. We can take this short list and we can create a long list, a long list of companies that are employing Nebraskans and selling to Nebraskans. We can increase employment opportunities for our citizens. We can bring tax dollars to our schools, to our communities. We can finally give young Nebraskans a reason to move back home, back to the farm, back to the small community. This bill isn't just about hemp. This bill is about preserving Nebraska. If Nebraska businesses are allowed to compete in a fair and open market, Nebraska can and will be a leader in this industry; and it will be our friends, our neighbors, our sons, and our daughters that will benefit from this change. We can make a difference and we can do this together and we can do this now. As I leave here today, I want to read this quote. This quote was printed on hemp paper and is from the words of one of the founders of this great nation in which we reside today. I leave you this from George Washington, "Make the most of the hemp seed and sow it everywhere." Thank you, everyone.

HALLORAN: Thank you, Mr. Bish. Are there any questions from the committee? Yes, Senator Lathrop.

LATHROP: [INAUDIBLE] maybe make this point? You can tell me if you're the right person. But we're here today because the-- if we're going to make this a commodity and an ag product, we can accept the federal under the Farm Bill, we can accept the federal regulation or we can create our own. Is that your understanding?

ANDREW BISH: Correct.

LATHROP: And what we're trying to do with this bill is to create our own form of regulation consistent with the requirements of the Farm Bill?

ANDREW BISH: I believe that the purpose of this bill is to harmonize Nebraska regulation with the regulation in federal code.

LATHROP: OK. How do we know that this-- that the plants that are going to be grown-- is there a process for-- like, are there seeds already available, or how's that work?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

ANDREW BISH: So there are certain varieties that are known to be less susceptible to high levels of THC than other varieties. And there will continue to be more varieties as we continue to breed plants, but there are current known varieties that we can start with, for instance, that are, I guess, safe bets that will likely not produce high levels of THC. And then throughout an appropriate testing procedure, we can identify whether or not that ends up being true or valid.

LATHROP: Does the Farm Bill address that? In other words, do we have-- is there a certain kind of seed required from the Farm Bill?

ANDREW BISH: No. The Farm Bill simply identifies hemp as having below .3 percent THC. So you can-- if feral hemp in Nebraska, for instance, possesses less than .3 percent THC, you could widely distribute that throughout both Nebraska and the United States without any issue.

LATHROP: OK. Thank you.

HALLORAN: Thank you, Senator Lathrop. Any other questions from the committee? Senator Moser.

MOSER: Well, a couple of questions. How does hemp compare to marijuana in the quantity of THC? You say .3 percent is the threshold for hemp to be legal. And how does marijuana compare? Is it 10 times, 50 times?
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ANDREW BISH: So if you'd-- if you go to what hemp and marijuana essentially are and consider that they are of the same plant structure or plant family, then they are essentially genetically the same. The difference is going to be the type of cannabinoids they produce and the level of cannabinoids. So marijuana produces a high level of THC cannabinoids, where hemp typically does not produce high levels of THC, typically lower levels of CBD, lower levels of THC and higher levels of things like CBD, CBG, CBN, and other cannabinoids. There's over 150 different cannabinoids. THC is just one cannabinoid, and that happens to be the one cannabinoid that also has psychoactive effects.

MOSER: And so, what I, in all that, I guess maybe I missed that, how does the ratio compare?

ANDREW BISH: So if you look at-- technically, there is no difference. This line was defined by the DEA. And so if it's .4 percent, technically by DEA standards, it's marijuana.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

MOSER: I see.

ANDREW BISH: But in terms of the difference between the plants, there is no difference between the plants. It is just whether or not the plants produce more than .3 percent THC when tested.

MOSER: Are there companies that readily sell hemp seed, then?

ANDREW BISH: Yeah. There's companies in North Dakota, Colorado, Tennessee, Kentucky that distribute-- Oregon that distribute and sell hemp seed that would typically not have more than .3 percent THC when grown.

MOSER: Is it drilled or planted in rows like corn? Or how does it--?

ANDREW BISH: That's a great question. It depends on what your output purpose is. So typically growers growing for grain, fiber, they're going to drill at seven and a half inches apart like soybeans.

MOSER: Yeah.

ANDREW BISH: And then growers that are going for the floor material oftentimes space those plants apart, in like three foot by three foot, four foot by four foot, or even five foot by five foot spaces.

MOSER: So kind of cross-checked like corn was 40 years ago.

ANDREW BISH: Yeah, there's-- there's still a-- hemp is in its infancy, so--

MOSER: Sixty years ago, maybe.

ANDREW BISH: --and so, identifying what the appropriate row spacing relative to the yield is, is still yet to be identified.

MOSER: Yeah, was just more my curiosity. I don't think I'm going to start growing it, [LAUGHTER] yet. And you say that it's advantageous to the farmer. Does it take less inputs or does it produce nitrogen, use nitrogen?

ANDREW BISH: Well, it definitely uses nitrogen but it does have typically less inputs. For instance in North Dakota this last year, 95 percent of the hemp grown was grown on dryland and had extremely good yields, regardless of the fact that they didn't put any water inputs and didn't add any herbicides or pesticides. A lot of herbicides and

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

pesticides aren't labeled for hemp. And so the usage of them wasn't allowed, driving down input costs relative to that. But in Nebraska, for instance, we have a very strong feral variety that resists a lot of local predators that would have a lower input cost of production.

MOSER: OK. Thank you.

ANDREW BISH: I do have some input costs I can share with you at any point relative to different states. We have found that input costs do vary per state and outputs do vary on a per state basis.

MOSER: Can I follow up with one other question?

HALLORAN: Sure, go ahead.

MOSER: And how do farmers sell it? Is it sold by the ton, by the bushel by, the--?

ANDREW BISH: So that's-- that's an excellent question. Bales are sold by the ton. Grain is sold by the pound, and floor material is typically sold by the pound.

MOSER: So you combine it first and then you'd cut it and collect the stalks and things?

ANDREW BISH: So currently in the United States, if you are growing grain, growing hemp for grain and fiber, you would-- you'd make a first cutting of the grain with the combine, and then come back and cut down the fiber separately.

MOSER: OK. Thanks a lot.

ANDREW BISH: Uh-huh.

HALLORAN: Thanks, Senator Moser. Senator Brandt.

BRANDT: Thank you, Chairman Halloran. Thank you, Mr. Bish, for coming today. I know you're an activist on this and you have a lot of expertise in this. I myself am a farmer from Plymouth. So I go out and I plant some industrial hemp and it tests .31. What happens next?

ANDREW BISH: So that's the question we-- ought to decide as a state. In Colorado, for instance, they give leeway up to 1 percent before they require mandatory destruction, although they don't allow it to be sold onto the marketplace if it's over .3. So what happens in that

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

gray area? For instance, a grower could use it on his own facility as long as it doesn't leave the property, might be a suggestion that I would have. But if it does test over .3 in a nonresearch setting, that would be a decision for the state to decide what to do.

BRANDT: Is typical destruction with a shredder or you have to plow this under or disk it under? What qualifies as destruction of a crop that's out of compliance?

ANDREW BISH: I have-- I have seen crops that have been eaten by cattle as destruction. I have seen people cut it down, process the fiber, turn it into Hempcrete, and then build a building on their own property in terms of destruction. I have seen people light it on fire. I have seen people disk it. I have participated in combining 200 acres for the purposes of destruction as well.

BRANDT: I guess, real quick, the last question I've got. As an ag producer of corn, soybeans, I've got thousands of outlets for that. In hemp production, do I have to be aligned with a processor to assure a market? I mean, you obviously wouldn't take a chance and grow-- put \$50,000 into a crop and then hope you've got a market for this. How would-- how does the marketing work?

ANDREW BISH: So most of the people have done what you have said you wouldn't do. And because we are in a chicken-and-egg situation, it does take people to grow it to develop processing. But you typically see that processing start to develop within 12 to 24 months. That's what happened in North Dakota. They put about 3,000 acres in the ground with no outlet to sell it. And now there are processors in North Dakota that are purchasing that, and none of those farmers that I'm aware of have gone out of business during that. I do recommend that farmers are conservative in their approach with hemp and that Nebraska farmers, because we don't have a direct outlet, consider being able to sit on that crop for at least 12 to 36 months while processing does develop. There are places in Nebraska to immediately take hemp stalks, though, although again, due to the low production numbers in the country, the facility itself isn't extremely large, limiting its capacity.

BRANDT: Thank you.

HALLORAN: Thank you, Senator Brandt. Just to spin off Senator Brandt's-- I'm sorry, another question, Senator Slama, go ahead.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

SLAMA: Yeah, but if you want to go--

HALLORAN: No, go ahead, Senator Slama.

SLAMA: OK. So I was just wondering in terms of production, what are the water demands for a hemp crop versus, you know, corn or soybeans?

ANDREW BISH: So if, again-- if you look at it going to-- the best way that I could speak to that, and I've got some information in those packets that I handed out-- and one of those, by the way, is printed on hemp paper, you'll notice a difference. I could speak to North Dakota. In the growing season, the dryland crops on the low end experienced five to six inches of rain, and on the high end experienced ten to eleven inches of rain. And they were achieving 1,100 pounds per acre of grain while putting in approximately 20 pounds per acre.

SLAMA: So this is something that can pretty reasonably be farmed across the state.

ANDREW BISH: Oh, absolutely. There's a lot of opportunity in every single microclimate in the state, there's an opportunity for this plant.

SLAMA: Great. Thank you.

HALLORAN: Thank you, Senator Slama. The spin-off of Senator Brandt's question in regarding to crops it's grown and tested over .3. Without getting bogged down into the details on the feed value, what's the feed value like for livestock? Is there a feed value for-- for this product, if they can't market it otherwise legally?

ANDREW BISH: Yes, I-- there is known qualities to the-- to the cattle. There is currently a test going on in Colorado that there's a lot of data for that I shouldn't speak directly to. But yes, there is. There's a lot of value there. The seed itself is already legal to feed to cattle and has, like I mentioned, a tremendous amount of protein. So there is value there even if crops needed to be destroyed. If it was a grower that had their own animals, there would be a benefit for that. Currently, it's not legal to market any of the hemp flour for feed, as that's not been approved by the FDA.

HALLORAN: OK, OK. How does crop store? The fiber-- can you round bale it? [INAUDIBLE]

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

ANDREW BISH: Absolutely. The fiber can be stored in a general bale. Typically it's going to be left to rett out in the field for about 30 days. Rett's a German word for rot and then it'll be picked up and then it can be stored in bales like straw. Grain can be stored in today's grain storage facilities with stirrers and airflow without doing any conversion or anything like that. The fiber or the flower is a little bit tougher product to deal with, just because it-- that-- that's where the cannabinoids are and it's a little bit more delicate storage.

HALLORAN: Is there a high moisture level in the flower, I would assume, or not?

ANDREW BISH: Well, if you're-- if you're harvesting for flower, you typically harvest above 70 percent moisture level, where when your fiber and grain, you're below 16.

HALLORAN: OK. Well, from a healthy soil perspective, it's good for eliminating compaction, I would suppose. It's got quite a root system.

ANDREW BISH: Yeah, it's exceptionally good at aerating the soil and it's considered a soil sucker, which actually is a detriment if you're going to put it in soil that has contaminants in it, because it will absorb those contaminants right into the grain and flower. And then if you feed that to humans, that would be nonideal. But if you have a soil problem, you can easily grow hemp to remediate that, then disk that crop back under to resolve that problem.

HALLORAN: OK. Any other questions from the committee? Yes, Senator Moser.

MOSER: A couple of follow-ups, kind of on yours. Do animals readily consume it or is it-- would it not be their first choice if they had hay or hemp or stalks?

ANDREW BISH: I will be honest, like, if you put a cow around some good quality hay or some hemp, they're probably going to eat the hay first. But when it's combined with that there, typically doesn't seem to be as much of a problem. If they're--if they're left just to graze on hemp, they will. But it is-- it's got a lot of fiber, so it's a little bit tougher. Animals are, you know, they're smart, so they know what--what is easier and they're going to go-- go for that.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

MOSER: So would the animals get ill from eating this hemp if it was too high in concentration of THC? They show effects of eating it or were they more immune to that than humans?

ANDREW BISH: I'd have to go back to the animal feed study. I-- I couldn't speak to that directly. I apologize.

MOSER: What's-- how does hemp value per acre compared to corn or soybeans?

ANDREW BISH: So if you look at some numbers that we collected this year in terms of grain-- well, the flower, we were looking at about \$30 a pound on the high end or \$5 a pound on the low end. That typically puts a grower somewhere between about \$70,000 to \$80,000 an acre. When you look at those numbers, the-- that's in a high grade flower situation.

MOSER: Seventy thousand?

ANDREW BISH: That's correct. With medicinal quality hemp, we've seen growers achieve up to \$70,000 an acre with medicinal quality hemp. That's-- that's not something that somebody should consider the standard. That is a real thing that can happen, but should not be considered the standard.

MOSER: Would they need a contract with a pharmaceutical company or somebody in order to realize that kind of income?

ANDREW BISH: No, no, it's really based, again, on that cannabinoid content and then the yield that they're able to achieve. It does have a little bit to do with the time in which that they sell it. Hemp-- hemp sold at the right time because again the market conditions can vary up to 50 percent. So if you do contract-- contracting doesn't necessarily net you a greater amount of money in the southeast part of the country. For instance, growers in Tennessee yield more-- get more dollars per acre than growers in South Carolina because the contractors are tobacco companies in South Carolina where there are not tobacco companies in Tennessee that are buying-- buying the hemp, so they see typically a few more dollars in that situation. But it really comes down to quality. Quality and then the quantity will-- will determine that. You're getting a lot less- you're into about seven-- \$550-\$750 per acre on grain and then about \$250 per acre on fiber. So if you look at grain and fiber crop, then you're into close

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

to \$1,000 an acre on grain fiber crop, with very low level of input, much less than \$200 per acre input.

MOSER: Thank you.

HALLORAN: Thank you, Senator Moser. Any other questions? All right. Thank you, Mr. Bish.

ANDREW BISH: Yes. Thank you.

HALLORAN: Very informative. Any further proponents, please? Good afternoon. We've got some Bish brothers today.

JACOB BISH: That you do, two for one.

JACOB BISH: So hello, Senators. Thank you for your time today. I am Jacob Bish, J-a-c-o-b B-i-s-h. Like my brother who spoke before me, I am also a third-generation Nebraskan working in agriculture. I'm also a first-generation Nebraska-- graduate from the University of Nebraska as of this past December. I received my degree in microbiology with a minor in plant biology from the College of Agricultural Sciences and Natural Resources, or as we call it on campus, CASNR. Well, my brother and others today will speak about the benefits Nebraska can receive both environmentally and economically from hemp. I have a much more specific agenda I'd like to speak about. Last year I testified for another bill to promote the growth of hemp in Nebraska. The point of that testimony is very similar to the point of this testimony, where I want to continue the excellent work that CASNR and, by extension, the university or the Institute of Agricultural Sciences and Natural Resources, has done to establish itself as a premier agricultural research institution. As far as crop research on campus goes, there are programs that focus heavily on corn, soybeans, wheat, and turf grass. There's further research that focuses on more specialty crops, such as hemp. This last summer I was actually the manager of the hop yards on campus and managed the breeding program for the hops. Hops, funnily enough, is a cousin to the hemp plant. I can tell you there is nothing I would enjoy more than passing this bill to allow Nebraska farmers to grow hemp, because I think that would in turn produce a need for research to come from the university. I would love to open the door to let researchers get together and collaborate on experiments to perform, while I personally want to manage a hemp breeding program at the university to give farmers reliable genetics that can move this industry forward into standardization. I'm the first member of my family to graduate from the University of Nebraska

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

and I'm very proud of that. I've had a lot of generations work very hard to get to afford me the opportunities that I've had. I owe a personal debt to this state and to everyone in it as they've helped raise me, and I believe the best return on investment I can provide to this state is my continued education and research of hemp. Really, what I'm asking from you all today is a job. It's not a very fun job and it's not one that pays really well, as long as while I'm doing it for university research. But it's a job I love. It's the job I can do really well. It's a job Nebraska needs. And I put a lot of work to be able to sit here today and ask for this job. Thank you for your time today.

HALLORAN: Thank you, Mr. Bish. Any questions from the committee? Yes. Senator Slama.

SLAMA: Thank you. First off, thanks for coming out and congrats on finishing college. That's awesome.

JACOB BISH: Thank you very much.

SLAMA: So do you have any examples of projects or research that universities have conducted on hemp in states where it's been legalized?

JACOB BISH: So I know, I'm-- a year and a half ago I visited the University of Kentucky--

SLAMA: Uh-huh.

JACOB BISH: --and they have several research projects going on. One that really stuck out to me at that point was that they are working on production of seed shatter, because that is a big issue when harvesting grain. You'll notice when you harvest corn, it all stays on the ear. We don't want all our seeds flying around when we harvest it. So that's really important. As we are implementing this .3 percent THC increase, there's been a lot of breeding programs to verify we're having low THC content in our hemp plants. So that's going to be an important research topic going forward. There's been talk about bioremediation, so we know a lot about what hemp can do and we need to research that further, just like we have every other crop.

SLAMA: Great. Thank you.

JACOB BISH: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: Any other questions, Mr. Bish? Now this isn't a fair question, but just how hard is it to genetically modify-- well, I don't, I mean-- hybridize, if you will, because that's what you-- when you get into breeding plants, that's what you are doing--

JACOB BISH: Uh-huh.

HALLORAN: --is you're attempting to take the best trait from one plant and another plant of the same species, and combine them to end up with a net result that's somewhere where you're going.

JACOB BISH: Correct.

HALLORAN: I understand how that works for corn. How does that work, in layman's terms, for hemp?

JACOB BISH: From the experience I've had, from the time you get an idea to breed two crops, it takes between six and ten years of breeding for that product to come to market. So it will take a lot of time to adequately perform a breeding program. But that can be done between the native hemp that we have growing here in Nebraska today, as well as-- we can breed that with certified seed from other states, or we can just examine the qualities that the native hemp currently does have and see if that would be appropriate.

HALLORAN: But it's like corn, right? It's a self-pollinator.

JACOB BISH: No.

HALLORAN: No?

JACOB BISH: Hemp--

HALLORAN: There are separate plants, male and female?

JACOB BISH: Correct. Hemp is dioecious, so there is a male and female plant, which is why you're able to produce that floral plants, because those are all females. So, yeah, it is not self-pollinating.

HALLORAN: OK. So you won't see kids out there detasseling hemp.

JACOB BISH: Correct.

HALLORAN: OK. I am just [INAUDIBLE]. Any further questions for Mr. Bish? No? OK. Seeing none, thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

JACOB BISH: Thank you for your time today, Senators.

HALLORAN: Next proponent, please. Just remind everyone to spell their name, too.

ALLAN JENKINS: Good afternoon. Allan Jenkins, A-l-l-a-n J-e-n-k-i-n-s. Thank you for this opportunity to speak today. I'm an educator; I'm an economics professor at UNK. So four years ago, some landowners from western Nebraska got ahold of me with the idea they were interested in, moving toward hemp cultivation. So as an educator, what would I do? Well, we put together a book and actually the book will help answer some of the questions you have. Hemp is a-- hemp is an ancient plant, and so it has many different cultivars. So for example, on the issue of seed, the Canadians have been growing low THC hemp now since 1998 and they have 20 different cultivars now that are certified as low THC. So there is a seed bank that's being developed. Again, it's not-- again, it's still under development but there are, there is an option. So my-- I am going to go ahead and read my statement, then. My support for this bill stems from the economic benefits which will accrue to the state of Nebraska and its citizens if we become leaders in the commercial development of hemp. Nebraska has a long history with hemp. The early homesteaders brought hemp seeds to the state, and that hemp was grown here. Fremont had a processing plant 120 years ago. During World War II, American farmers were encouraged to participate in the Hemp for Victory Program needed because the war had stopped the flow of rough fiber from Asia. The ubiquitous ditch weed, all those millions of hemp plants that you drive past as you travel across Nebraska, are the descendants of those Hemp for Victory plants that were last purposely cultivated in 1944. The growing conditions in Nebraska are so favorable for hemp that it has prospered without any chemical or irrigation help for 75 years. Nebraska's economy, particularly the ag economy, needs a shot in the arm and fast. While Nebraska still enjoys a low unemployment rate, the payroll employment tenure index of growth shows our state lagging behind national growth-- growth rate since December of 2014. For the fifth straight year, farm income and credit conditions continue to be problematic in 2018. According to the latest Tenth District Survey of Agricultural Credit conditions, 80 percent of crop producers had at least modest decrease in working capital in 2018, and nearly 85 percent of district bankers reported that their farm borrowers plan to sell mid- to long-term assets this year. The [INAUDIBLE]-- the latest IANR crop income projections include a low crop price scenario that shows small returns of farmers growing corn on irrigated acres and negative

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

returns for dryland corn. With the uncertainty in the soybean export market, it's not unreasonable to assume that many farmers will shift some soy acres to corn this year. This increase in corn production will put downward pressure on corn prices. And, of course, we all know the slight-- how the sluggishness in the ag sector is impacting the state budget. Hemp provides one viable alternative crop. The Canadians have been growing hemp since 1998. In 2014, 108,000 acres of hemp were grown in Canada, increasing to 140 acres in 2017. Twenty different hemp varieties are now grown in Canada. The highest seed yield there topped 2,000 pounds per acre, with an average yield between 600-800 pounds per acre. In 2017, on-farm contract prices for hemp seed generally ranged from 76 to 85 cents per pound. However for organically produced hemp seed, which is the growing segment of the market, prices range from \$1.80-\$2.00 per pound in 2017. In the natural health products market, the bene-- beneficial fatty acid and high-protein content of hemp seed makes it a valuable commodity. The seed contains about 35 percent oil and 25 percent fruit protein. Both seeds and oil are used for human consumption and animal feed. In addition to humans eating seeds, all game birds and most songbirds love hemp seed. That's why it grows everywhere. I have known hemp my whole life. It grew naturally on my grandparents' farm in northern Oklahoma. They knew you couldn't get high from hemp so did not eradicate it. We knew the hemp patch was the best place to shoot a few doves in the evening or to be completely truthful, the hemp patch was the best place to shoot at a few doves, since we missed 80 percent of our shots. Beyond the seed, the other parts of the plant are now the focus of intense product development. New paper, textile, and building products are being created out of hemp stalks. Nonpsychoactive CBDs are being used in a growing menu of personal healthcare products. Hemp-derived CBDs are being evaluated in literally hundreds of medical studies. One of the-- one of the most attractive features of hemp is that it allows small-scale cultivation. Today, an ordinary citizen has no reasonable chance of becoming a corn grower. The startup costs for land and machinery are unbreachable barriers. But even a few acres of high-CBD hemp cultivar can create a significant second income for a family. In conclusion, I encourage all senators to consider the economic potential of hemp and its benefits for the Nebraska economy. Those desiring more information can look at reliable sources like the Purdue University Hemp product-- Project to better understand the potential of hemp as an agricultural crop and as raw material for an ever expanding list of products. In 1938, Popular Mechanics magazine referred to hemp as the next billion dollar crop. The magazine was off a bit in its timing, but will prove to be correct in the near future.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

As is true of most things in life, education is the key and economics is the driver. Hemp is not marijuana. You cannot get high from hemp, but you might make enough money to save the family farm. Thank you.

HALLORAN: Thank you, Mr. Jenkins-- Dr. Jenkins?

ALLAN JENKINS: Dr. Jenkins.

HALLORAN: Dr. Jenkins, thank you very much. Any questions from the committee? Yes, Senator.

BLOOD: Thank you, Chairman.

HALLORAN: Senator Blood.

BLOOD: Thank you, Chairman. And thank you, Dr. Jenkins.

ALLAN JENKINS: Uh-huh.

BLOOD: You spoke last time too, didn't you?

ALLAN JENKINS: I did. I did.

BLOOD: All right. [INAUDIBLE] familiar.

ALLAN JENKINS: I'm still in favor of it.

BLOOD: Good for you. So I just have a question that I am curious-- so the hemp that my husband eats on his breakfast cereal in the morning-- what state is producing that? Is that coming in from the United States or is that being shipped in from other countries right now?

ALLAN JENKINS: There is a global market in hemp products. So you know, in 1937, when the United States passed the Marijuana Tax Act, it lumped all cannabis product-- product-- products together. So pretty-- pretty much the U.S. stopped producing hemp commercially in 1937. But in places like Romania and in China and in India and Italy, they never stopped producing hemp. So there is a global market. Again, so--

BLOOD: So--

ALLAN JENKINS: --exactly where that's coming from, it-- likely it's coming from Canada, but there's no guarantee of that. It could be coming from other places.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

BLOOD: --that, and that's what I am looking [INAUDIBLE] where it comes from. If it's not coming from the United States, does it come from China? You're saying Canada--

ALLAN JENKINS: It-- again, most of it is probably coming from Canada, but it could come from other places too. Yes [INAUDIBLE].

BLOOD: Thank you.

ALLAN JENKINS: Once again, it's-- it's-- it's high protein. The world loves cheap protein. And so that's-- that's why that hemp market is growing so quickly.

BLOOD: That's why they're eating insects, right?

ALLAN JENKINS: Oh, yeah.

BLOOD: Insect flour and all those delicious things.

ALLAN JENKINS: Yeah. Yeah.

BLOOD: Yeah. I-- we actually eat hemp in our house. You can get, like, Malt-O-Meal type stuff from--

ALLAN JENKINS: There it is again--

BLOOD: Yeah, because it is so high in protein.

ALLAN JENKINS: Well, again, that-- that-- you know, that-- the CBDs are naturally anti-inflammatory--

BLOOD: Right.

ALLAN JENKINS: --and that's why there's so much interest now from the medical community, in looking at, you know-- you can get most of the benefits of medical marijuana from these CBD-based medicines instead and then you don't have to worry about the THC problem.

BLOOD: But this is not a medical marijuana hearing. We're talking about hemp--

ALLAN JENKINS: Right, right.

BLOOD: --so, yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

ALLAN JENKINS: Right, so--

BLOOD: So just to stay on the hemp, so-- yes, so--

ALLAN JENKINS: Right, so--

BLOOD: --so it can be eaten in your daily meals, it can be--

ALLAN JENKINS: Right. And again, that's why the CBD market is exploding.

BLOOD: OK. Thank you.

HALLORAN: Any further questions from the committee? So in your estimation, this is probably more accurately a niche market, right? Just by the nature of it, it's not going to consume a lot of acres.

ALLAN JENKINS: Well, like Andrew said, it better be a niche market early on, while those supply chains are all being developed.

HALLORAN: Uh-huh.

ALLAN JENKINS: But once again, hemp is a bit like soybeans in that you can use the-- you can use the fiber, you can use the oils, you can use the seeds. So there are many, many products under development now. And once again, that idea of a very high crop prices for that specialized, the high-CBD hemp-- I've had conversations with Colorado growers who made more than \$150,000 an acre by growing a particular strain of a high-CBD hemp.

HALLORAN: And the only reason I-- I-- I bring that up is-- is that on one hand, we're talking about maybe consuming acres to minimize the number of acres that are in corn and soybeans so that might in hand help those commodity prices.

ALLAN JENKINS: I think it will be a long time before--

HALLORAN: A long time.

ALLAN JENKINS: --but one thing. You can bet-- you can make building products out of it-- you know-- you know-- the Mercedes you drive has hemp panels in it.

HALLORAN: The Mercedes I wished I drove. [LAUGHTER] OK, thank you, Dr. Jenkins. Any other questions? Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

ALLAN JENKINS: Thank you.

HALLORAN: Next proponent, please. Welcome.

ROGER HARMON: Welcome. Thank you, Senators and Chairman, for this opportunity to present before you. My name is Roger Harmon, R-o-g-e-r H-a-r-m-o-n. I'm from Imperial, Nebraska. My farm is located 10 miles from the Colorado border. And to expedite this hearing, I'm going to slightly change my presentation, not to be repetitive of what you've already heard so many times. So please forgive me for any additions or corrections here. I am a third-generation farmer, and as we have heard before, the soybean, corn, wheat simply are not cutting it for the farmers anymore. Anybody that has any debt, any leverage, or wants an opportunity or a better life, simply those mainstream commodities aren't doing it. And what I will insert now into this, due to my location being so much closer to Colorado, I had been approached by a company-- am I allowed to name their name or not in the hearing?

HALLORAN: You can do whatever you want. This is your hearing.

ROGER HARMON: Thank you, Senator Halloran. I was approached by Bija Hemp, which is a subsidiary of Hemp-- International Hemp Solutions, which you will find or one of this leading seed producing hemp companies in the country. I was approached by them out of the clear blue to investigate the possibility of growing hemp seed for production, as they call it, propagation so that we could have more widespread plantings in 2020. So with that, then of course with the government shutdown, we got caught with seed sitting on a dock in Poland, because it couldn't be inspected when it hit the United States. And-- that's everybody's nodding in agreement. Who-- who knows when all those i's and t's will be dotted and crossed, and we can get back to doing business as usual? So they have the United States contract with a seed supplier from Poland to bring a dual-purpose seed into the United States that will expedite the seed general production for the flower, the stalk, and the actual seed itself for consumption. This specific variety that they're looking at bringing in is more fit for western Nebraska, for a little bit drier climate and a little bit drier soils. This particular, as it's called, cultivar, which has been here, does not do as well on your heavier clay soils. There are too many seedborne, soilborne diseases that affects the plant when the plant is small in that vulnerable stage. So therefore due to my location, they approached me and said, if we can get this cleared, would you help us with this seed that we're trying to get ramped up like any other seed to bring in? Yes, there are other seed

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

companies. Yes, there are other seeds from all the previous mentioned states and foreign countries, but this appears to be one of the leading seeds that they're wanting to bring in. So with that, with this-- with visits to Nebraska Department of Ag, visits to the Nebraska Crop Improvement Association to become certified so that we can have a reputable product to sell, that's what brings me to this hearing today, so that we're doing this according to the proverbial Hoyle, getting all the ducks in order, getting ramped up to make it widespread. Now, with this said, then we can-- what do we do with this? OK. And as the stars had lined up, as was said earlier, also out of the absolute clear blue sky, I was approached by a venture capitalist who had heard of this discussion. And, gentlemen, this is the kind of money and this is what it can do for the state of Nebraska. As of yesterday, he had \$200 million that he and his group were willing to put into processing plants in Nebraska if he can do it. He has deep roots in Nebraska, but will go to Colorado if he's forced to. So there is a lot of money out there, and granted, venture capital isn't what we as Nebraskans want because we want it to be, like, produce your own co-ops, owned and produced by us. But what I'm saying is, the need is out there and it will be addressed. And maybe it needs to be addressed by this venture capitalist in the short term to get it done, so we can therefore do it on our own. And the other final thing that I did not hear, to prove the credibility of this-- NAU, which is a national insurance company, and you gentlemen that have said that you grew-- farmed, have heard of NAU, they are working on a policy, which whether it's been submitted or not, I don't know, will be in place to insure the-- some of the financial risk of growing hemp.

HALLORAN: OK. Thank you, Mr. Harmon. Any questions for Mr. Harmon?

LATHROP: Can I ask--

HALLORAN: Senator Lathrop.

LATHROP: --just a couple of quick and simple questions? In Imperial, you are in the Republican River Valley?

ROGER HARMON: Yes, sir.

LATHROP: And tell us. How much water does it take to grow corn--

ROGER HARMON: We are allotted 13--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

LATHROP: --in your area?

ROGER HARMON: In our area, we are allotted 13 inches by our natural resources district.

LATHROP: OK. How much is--

ROGER HARMON: --and that is on a five-year floating average, so you-- one year overpump, one year underpump. But--

LATHROP: --but you need that in rain, or you need to pull it out of the ground, in order to raise corn?

ROGER HARMON: Yep. Yes. We-- we need to-- we need to-- usually, our-- the average use is probably between 10 and 13 inches.

LATHROP: OK. How much water do you need to grow a crop of this stuff, if you were to grow it on your farm?

ROGER HARMON: If I was to grow it on my farm, by what information that I have read, what I deem credible, we can cut that from 30 to 50 percent. So we should be able to grow a crop in our--

LATHROP: Six inches.

ROGER HARMON: --in our area we average, give or take, 16 inches of rainfall. Then we add, say, on the low end, ten inches of artificial or irrigation water. So we're-- so then we're at 26. By all indications, we should be able to grow that on a grand total of-- of artificial and other rain, you know, 13 inches between rain--

LATHROP: So if you get average rain, you won't need any water from the ground.

ROGER HARMON: Minimal-- minimal. Minimal irrigation.

LATHROP: Okay. That's all I got. Thank you.

HALLORAN: Senator Slama.

SLAMA: So I've got a bit of ag experience as well. Could you-- you mentioned this very briefly towards the end of your testimony about the financial risks of growing hemp. Could you go into that just a little bit more and expand on it?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

ROGER HARMON: Well, OK. On the financial risks-- anytime that there seems to be a new crop-- and that's-- we can all relate back to over the years with a new crop-- the part that the NAU, which is a nationally recognized crop insurance company-- they're willing to step up. They foresee this as being a long-term viable crop. So they're developing the policies, of course for the premium, but they're developing the policies to take this forward. So them, as an industry, see that this is going to, you know, be something that continues. This isn't the proverbial flash in the pan, and this--

SLAMA: Uh-huh.

ROGER HARMON: --is something that they want to get on board with. And also for the leading producers in that arena, that take-- take some of the financial risk off of them, so to minimize the-- the damage that could be done by crop failure.

SLAMA: Sure. So this is just your standard crop insurance so, if there is a hailstorm, that sort of thing--

ROGER HARMON: Hailstorm. And I do not know this to be fact, but if this is the standard hail was their first offer that they were working on, then they were discussing is the only word that I can use accurately, a revenue insurance plan that if the price of it fell, then they would step in with that. But I do not know their progress on the revenue insurance plan.

SLAMA: Sure. And then could you go a little bit into the differences in water usage between different types of hemp? Just because you mentioned there needs to be different types in this. The heavier, thicker clay soils versus the thinner soils out in western Nebraska.

ROGER HARMON: Well, yes, and let me maybe back up and qualify that with-- through the breeding. Let me back up. I want to get there but--

SLAMA: No, you are fine.

ROGER HARMON: --I need a little bit of background. Through the different breeding programs that hemp has, different hemp cultivars as they are referred to, go after different aspects of production, be it-- be it seed for propagation, be it seed for protein, be it the flowers, or be it the stalk. So you have those different ones. Now, if you're going after one-- one for the fiber or the stalk, you're going to pick a taller cultivar. Therefore, the taller core-- cultivar will

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

probably take more water. So I'm not sidestepping your question, but what I'm saying is it's going to depend on what's the processing plant in your area, what's your expertise, what is your comfort zone. Those types of things will determine your exact water usage. But irregardless of that, your total water usage is going to be substantially less than corn, some less than soybeans, in--

SLAMA: Uh-huh.

ROGER HARMON: --in those general parameters subject to where you are in the state.

SLAMA: And this is just across the board.

ROGER HARMON: Within general parameters, yes, across the board.

SLAMA: OK. Great. Thank you.

HALLORAN: Thank you, Senator Slama. Any more questions? Yes, Senator Moser.

MOSER: What's a growing season like? Do you plant it in the spring and harvest it in the fall or--?

ROGER HARMON: If-- if the--the hybrid that-- us at Bija Hemp-- just for the record, I am associated with Bija Hemp, but I am an unpaid person, so I'm not on any salary, so there's nothing like that coming in. Your primary cultivar that fits western Nebraska is in and out in 12 to 16 weeks, so typically it plants after corn, harvest it before beans even, or/and certainly before corn.

MOSER: So a shorter season--

ROGER HARMON: Shorter-- shorter season crop. Yes.

MOSER: So it would give you something to do while you're waiting for things to get mature so you can go combine them?

ROGER HARMON: Yes, it-- it does fit in, and actually it certainly will in eastern Nebraska, too. My testimony was more based on how it fit western Nebraska because due to my proximity to Colorado, that's what we have the best information on. But I certainly see that as the university, and that's what the Nebraska Crop Improvement Association said, as soon as the university can fully grab on to and we take the cultivars, i.e. varieties that are out there and adapt them, we can

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

certainly move this line across the state of Nebraska, even though it will probably excel best in western Nebraska first. By the time the infrastructure is in place to process and handle this, the university will have cultivars that will work very well at least in mid to central Nebraska.

MOSER: Are there certain herbicides that are more effective at killing hemp?

ROGER HARMON: To my knowledge, as the last I knew, Senator Moser, there are no herbicides that are approved for hemp once it is--

MOSER: Legal to use or none that work good?

ROGER HARMON: To my knowledge, both. There are no-- there could be burndown, preplant, preemergent herbicide to take out any type of weed, but that kind of defeats how hemp is grown, because hemp seeds are small seeds, drilled very shallow in the soil. Therefore, you need a very fine seedbed so you're going to be working the soil literally the day of or the day before planting. So the burndown herbicides that could be legal become basically irrelevant, because of how you need to prepare the seedbed for a successful emergence of the crop.

MOSER: What if your hemp blows into your neighbor's field? What-- what can he use to control it?

ROGER HARMON: I would assume, and I don't know this but I would assume, any type of glyphosate if it's a glyphosate-resistant plant, even though glyph-- glyphosate is really losing its punch, or even maybe the dicamba family with the various [INAUDIBLE], those 2,4-D and that sort of thing where it is a broadleaf. I am weak on that area, Senator. I-- I--

MOSER: Thanks a lot.

ROGER HARMON: I've focused more on-- on the-- the-- understanding the breeding program, getting the seeds moved in to basically speed the-- speed the states up ten years, in getting where we need to be to actually compete, not necessarily so much between the states, but with the foreign countries.

MOSER: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: Thank you, Senator Moser. Any other questions? Seeing none, thank you, Mr. Harmon.

ROGER HARMON: Thank-- thank you for your time, Senators.

HALLORAN: Next proponent, please. Good afternoon.

ANSLEY MICK: Hello. Thank you, Chairman Halloran and members of the Ag Committee. My name is Ansley Mick, A-n-s-l-e-y M-i-c-k. I'm here on behalf of the Nebraska Farm Bureau, testifying in support of LB657, Senator Wayne's proposal to establish the Nebraska Hemp Act and provide Nebraska the opportunity to once again become a leader in the development and commercialization of industrial hemp. Nebraska and American Farm Bureau policy supports the production, processing, commercialization, and utilization of industrial hemp, and we supported the language in the 2018 Farm Bill paving the way for states to make this possible. We believe LB657 as amended will instruct the Department of Agriculture-- the Nebraska Department of Agriculture-- to create a regulatory structure for the cultivation and processing of hemp consistent with the intent of lawmakers when writing the Farm Bill. Under the bill, the department would be authorized to carry out a licensing program for hemp growers and processors, collect fees, conduct inspections of growing operations licensed under the act, approve site modification licenses, and carry out enforcement of the act. Understanding costs associated with such oversight, LB657 creates a structure where hemp growers and processors, like many commodity growers, will be directly assessed for the oversight and administration of their state level regulatory program. Farm Bureau also has policy opposing the legalization of marijuana. LB657 defines hemp and all its derivatives as having .3 percent or less THC, the level outlined in the Farm Bill. We would like to thank Senator Wayne for his leadership on the issue. Given what we know about the opportunities offered by industrial hemp and the need for diversification in the ag industry, we encourage the committee to advance LB657 with the proposed amendment. Thank you. I'd be happy to answer questions.

HALLORAN: Thank you. Any questions for Ms. Mick? Seeing none, thank you. Good afternoon.

JAMES WILSON: Good afternoon. I am James Wilson, J-a-m-e-s W-i-l-s-o-n. I'm a professor, Department of Psychiatry at UNMC. I'm a clinical pharmacist by training. I have my doctorate in clinical pharmacy. I'm also a fourth-generation rancher out of Holt County,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

Nebraska. And so I'm interested in this-- in this bill because I'm interested in that oil being produced from the hemp production here in Nebraska. I'm interested in CBD, or cannabiniol, as a-- as a product or a by-product of the production of hemp harvested here in Nebraska, is needed as a distinct compound that's readily available across the state. I see it as a compound behind the counter of pharmacies but not prescription, so that pharmacists can counsel the patients and the family of the patients appropriately. I also see that as a compound that is tested to quality and tested with the level of THC. And by the way, worldwide the amount of THC allowed in CBD oil is .2 percent worldwide. The U.S. is .3, of course. Why that is, I have no idea, but that's-- that's the way it is. I think it is very, very necessary that this compound be here from the-- from Nebraska for Nebraska residents. I fear for children with Lennox-Gastaut seizures and others that don't get the right compound to give to their children. The lowest price I could see on CBD oil, commercially, to get it for their children was \$459. That was-- that was the best price I could see for a two-ounce bottle. Way I figure, we could do a lot better job here for our citizens and our parents and whoever else is using this oil for-- for here in Nebraska. But it's important that counseling occur with this oil, with these people, because it's got significant drug interactions that everybody has to be aware of and a few side effects, not severe, but some side effects, especially parents need to be aware of, especially if their kids are in school. And I think that's all I want to say, that because-- it's really, really necessary that we take a look at this. And as a ranch kid, if I got in trouble with my dad, my job was to go out and cut down hemp. I don't know how many acres I did because I was kind of an ornery kid. But it's easily-- you got a little manure, little bit of hay, let it sit there over the next fall and spring, you got hemp. It grows readily in Sandhills. So it's kind of interesting. With that, I'll-- any questions?

HALLORAN: Thank you, Mr. Hemp [SIC]. Any questions from the committee? Mr. Hemp-- you know what I just called you? [LAUGHTER].

JAMES WILSON: Yeah. It's better than what my wife calls me [LAUGHTER].

HALLORAN: Mr. Wilson-- Mr. Wilson, thank you for your time.

JAMES WILSON: You bet. Sure.

HALLORAN: Dr. Hemp?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

MOSER: Yeah. Yeah. More of a comment than a question, but-- I would say this is a more interesting discussion than most we've had, so-- thank you.

HALLORAN: Thank you, Senator Moser.

MOSER: Time is passing quickly.

HALLORAN: Thank you, Senator Moser. I can't disagree. Any other questions or comments from the committee? Seeing none, thank you--

JAMES WILSON: Thank you very much for your time.

HALLORAN: --Dr. Hemp.

JAMES WILSON: I apologize for my voice. I've got granddaughter [INAUDIBLE].

HALLORAN: Mr. Wilson, you did a nice job.

MOSER: You sounded fine.

HALLORAN: The next proponent. Welcome.

JOHN HANSEN: Chairman Halloran, members of the Committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president of Nebraska Farmers Union, our state's second-largest general farm organization and also their lobbyist. We have been through our grassroots process and the development of our policy, a longtime supporter of trying to find a pathway forward. So we have-- I remember very clearly the hearing that we had with Senator Schrock over a dozen years ago, who brought this issue forward. It was a great hearing, we had the tribes in, they had all the different materials that you could make out of the products, they had displays. It was all of those things. But the timing was not right. The opposition was strong and so the process didn't go forward. So we have come a long way. The-- the folks in Tennessee have been looking at this issue for a long time because they've been trying to find a commercial replacement for tobacco production. And so Oak Ridge Laboratory has been doing research on this, and that's how I got started helping them provide technical advice on how to grow a weed that I had spent my life trying to kill about 25 years ago. And so the whole development of this has really moved forward to the point that here you have-- the Farm Bill has made it very clear that the ball is now back in our court in Nebraska, and it's up to us whether or not we want to take

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

advantage of this opportunity or not. We believe that there's two things necessary in order to do that. One is to take it off of the list of-- of the criminal list, which Senator Lathrop's bill will do tomorrow in Judiciary. We think that that is the first step. The second is to create the appropriate regulatory regime in order to be able to harmonize our approach with that authorized in the Farm Bill. And so we prefer that the state step up and find its own way to do that. We find it preferable than waiting for USDA to figure out how and when they might do it, and would say that there might be some additional costs, but I think that the benefits of assuming the responsibility here at the state level far outweighs those additional costs. Because if we get things wrong here at the state level, we can fix it. We are not able to fix the regulatory regime of USDA if we wait and defer to their regime. So moving forward at the state level in a fashion, I think is important. We're a part of the working coalition of groups that are working on this. We thank Senator Wayne for bringing this bill forward and we think that the amendment that was just produced represents a substantial step forward toward coming up with the-- a kind of regime that keeps the most opportunities available for this as a commodity so that we have-- we avoid some of the pitfalls of a gold rush-type situation where folks come in and claim territory and take advantage of things. And so we want to-- we want-- we are in a hurry to move forward, but we are also really committed to trying to do it as right as we can. So we would thank the committee for their kind time and attention, and would be glad to answer any questions if I could do so.

HALLORAN: Thank you, Mr. Hansen. Any questions from the committee for Mr. Hansen?

LATHROP: Maybe, maybe-- just this point, John--

HALLORAN: Senator Lathrop.

LATHROP: --I know that you've been on this issue for a long, long, long time. And I'm just glad you stuck with it, and that we're here today with the opportunity to move this issue forward, and that it does seem to be the right time. So thanks for all your work on this subject.

JOHN HANSEN: Oh. Thank you. I-- I think that timing is everything, and I think that this is the time.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: OK. Thank you, Mr. Hansen.

JOHN HANSEN: You bet.

HALLORAN: Next proponent.

TODD THOMPSON: Good afternoon. My name's Todd Thompson, T-o-d-d T-h-o-m-p-s-o-n. I would like to thank you for letting me testify in front of you today. I'll keep it short. This got a lot of great information. I live in eastern Nebraska. I've lived both in Senator Wayne's district, Senator Chambers' district, and now I live on the south side of Omaha, which is Senator Vargas' district. I think it is very important to understand there-- there are opportunities for eastern Omaha. I personally have talked to people who are manufacturers in other states who are willing to come in and partner with-- with Omaha, particularly in the airport area, because of logistics in that area which will bring not-- not only the professionalism needed to produce oils and products, but also the-- also the capital and provide jobs in the area. I-- I just think it's very important to also understand, there's-- there's a difference between the kind-- the-- there's the kind of seed, stalk hemp. And then there's a much more labor-intensive way to-- for the CBDs. I think that's going to be a unique opportunity in eastern Nebraska, particularly in the Omaha-Washington County area. A lot of times, those kind of farms are much smaller, five to ten-- they can be five to ten-- ten acre farms, and you've heard the kind of returns that you can-- that you can receive with those. The people that I personally know that are growing-- excuse me-- they-- they-- they-- they generally average about \$35,000 per acre profit. But like I said, they-- they-- they plant and grow, but they-- they individually tend the plants, as opposed-- as opposed to bringing machinery in and cutting that way. So you know, one of-- one of the biggest things that's-- that-- that's limiting people coming in right now, in my-- in my experience, is that everybody's waiting on the regulations. So you know, we-- we are-- we in our area are very, very hopeful that you guys move forward expeditiously and we can-- we can get the regulations in place so we can start bringing in the much needed jobs in that area. Thank you for your time and can I answer any questions?

HALLORAN: OK. Thank you, Mr. Thompson. Any questions from the committee?

TODD THOMPSON: Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: Seeing none--

MOSER: Thank you.

HALLORAN: --thank you, Mr. Thompson. Next proponent, please. Spell your name, too.

BILL HAWKINS: Yes. Senator Halloran, members of the Ag Community. My name is Bill Hawkins. B-i-l-l H-a-w-k-i-n-s. I'm with the Nebraska Hemp Company who has been working a long time on this issue. We brought our display tables into the Capitol Rotunda for quite a few years and worked with Senator Wallman to get a hemp bill passed five years ago that would have put us leading the hemp production and the hemp industry if we would have been given the chance to proceed. This is Nebraska's opportunity too, as it states in the bill put us at the forefront. We have more or almost more tillable acres than any person or any state in the Union. And we need a-- our farmers need an economic boost. You've heard the revenue forecasts. In making a hemp industry here in Nebraska, we have to get the cart ready before we get the farmers and the horses ready to race off with this. And so it is going to take some cooperation with a lot of groups to do this. But as you've heard, there is a lot of money, a lot of investment money ready to come into this state and start processing industrial hemp. I'd like to address a couple of issues that maybe hasn't been quite addressed. Senator Moser, you had a question on the THC issue. Industrial hemp has been defined as .3 percent THC. In the recreational medicinal cannabis market, generally those range anywhere from-- can be 10 to 15, to 20 percent, 30 percent THC. And so you're talking about 500 times an industrial hemp plant. And so, as we know, there is recreational cannabis out there everywhere. And so nobody is going to go into an industrial hemp field and try to pull out the THC. We've learned from years ago that the ditch weed doesn't do anything for you. So the other issue is the drought and the water usage issue. I've spent-- I've got over 45 years of experience-- horticultural experience with this plant. I've been all over the state looking that the genetics of our "ditch weed." We have the best genetics in the world for this industrial hemp. Senator Lathrop had a question on the Republican River Valley which I have extensive knowledge in. Right now there are Nebraska ditch weed that goes 14 foot tall and produces a stalk that is three to four inches in diameter without any additional moisture, without any fertilizer in poor soil conditions. Those genetics are extremely important. There are people around the world that know that. And so for us to be able to breed and select those

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

varieties-- in Kentucky two years ago, they early planted varieties, both clones of high CBD and also European hemp varieties. They frosted out. They are not adapted to growing here. Our industrial hemp, our ditch weed out there, will start to germinate in March. I have witnessed it being five to six foot tall, take a one-foot snowfall with 18 degrees the following day. This is an annual plant. And as farmers know, soybeans are dead. This plant continues to thrive. So we're still learning about how to plant this plant. And so early planting is maybe more beneficial for the establishment of a quick plant. I urge you to really consider this bill and as a committee you have an ability to prioritize a bill. I highly recommend for the economic benefit of our farmers and manufacturers and processors to consider prioritizing this bill. That being an Ag Committee, we need to get in the ground and be moving on this plant as quick as possible. Thank you for your time and I'll take any questions you have.

HALLORAN: Thank you, Mr. Hawkins. Any questions for the committee? Yes, Senator Blood.

BLOOD: Thank you, Chairman Halloran. Just a quick question.

BILL HAWKINS: Yes.

BLOOD: So are you aware that Senator Wayne is definitely not making this a priority bill?

BILL HAWKINS: I-- yes, I am aware of that.

BLOOD: OK. That's why I'm asking, so he is not making it a priority bill.

BILL HAWKINS: No, I am-- I'm just suggesting that the committee has-- has several bills that they can prioritize, and so I-- it's just-- a recommend--

BLOOD: Fair enough. I'm just clarifying.

BILL HAWKINS: Yes.

BLOOD: I am not questioning.

BILL HAWKINS: No, no. Yes, I am aware of that.

BLOOD: And then, you've also been before us multiple times. And--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

BILL HAWKINS: Yes.

BLOOD: And I've seen you in the Rotunda multiple times, and-- and-- good job staying on an issue and-- and spreading the information around. You're always so open to giving people education and I respect that.

BILL HAWKINS: Oh, I appreciate that. And you know, it is a issue that we need to educate people about, and I appreciate your time, and it is an economic benefit for this state.

HALLORAN: OK. Thank you, Senator Blood. Any further questions? Seeing none, thank you, Mr. Hawkins.

BILL HAWKINS: Thank you for your time.

HALLORAN: Any more proponents? Welcome.

GREGORY LAUBY: Senator Halloran, good afternoon to you and the committee members. My name is Gregory C. Lauby, G-r-e-g-o-r-y, C as in Christian, L-a-u-b-y. I have been involved in issues relating to cannabis since the '70s and in fact testified at Senator Schrock's bill in 2001 and brought some hemp items, including clothing, to that hearing. I find myself today in the uncomfortable position of testifying in support of a bill I have not read, and I suspect most of the supporters here are in the same situation. For that reason, I would request that the record of the hearing remain open for written comment for two weeks. Despite my reservations, though, I support this bill because of the stated goal and the overwhelming benefits hemp offers Nebraska agriculture, rural communities, and supporting businesses. You've heard a great deal about its potential already, and I'll try not to repeat that testimony. But I would like to add to some to the information. I have provided you with a copy of a Farm Journal article written in 2017, describing a North Dakota farm family that raised 300 acres of hemp with state approval in the North Dakota climate, and they expected a \$250-\$350 per acre profit from the sale of the seed alone and then they were going to store the stalks until a processing facility was developed in their area to which they could transport them to. That article, I think, will answer many of your questions about the-- the details about how to raise hemp and-- and what is required and the benefits of using it as a crop. A recent update is that they now intend to plant and harvest specifically for oil, and the potential for that market is a potential return of more than \$1,000 per acre in profit. Less profitable but perhaps more

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

reliable is production for hemp silage, using the hemp after it "insulizes" the process, in a ration for corn or hogs. And I didn't check before the hearing, but I think it can also be used for horses and sheep and is, in some other countries. It is also-- can be used for Hempcrete, and I've enclosed a flyer that describes both the silage that tested in Canada and a background in calf rations, and a workshop that was conducted in Lincoln about Hempcrete. And also, you have a request made in July of 2015 to the Nebraska Department of Agriculture that they actively develop a hemp support program, which would have been allowed under state and federal law at that time. The department declined. I support the goal of this bill because of the urgency of Nebraska agriculture for something that is hope and profit rather than illusion and despair. At this time, there is a transfer of private property ongoing in rural Nebraska that has not been seen perhaps since the Depression of the 1930s. There are many factors, and I won't try and go into them. I have listed some in the handout statement that I've provided; but as a result of those factors, there simply isn't profit in farming. And the evidence of that is that precious many farmers in Illinois, Indiana, and Wisconsin filed for bankruptcy in 2018, the-- as they did in the 2008 Recession. That's true also in the 8th Circuit Court of Appeals figure, which includes the area of Nebraska where bankruptcies, I think, are up 96 percent in 2018. Those kinds of problems are also confirmed by the farm family member suicide rate, rural health failures that are going on that are associated with high consumption of alcohol, and other indications of despair and stress on family farms. My problem really is that as farm comes-- consolation grows, so does institutional and out-of-state ownership of that land, and those people are not going to be interested in local schools or colleges and universities, even law enforcement and roads, and their purchases and taxes are going to mean-- apt to flow more out of state, rather than into the state coffers. I hope you can provide a workable, sound program that can be developed much like the ethanol plants or the popcorn industry for Nebraska farmers. Thank you.

HALLORAN: OK, thank you, Mr. Lauby. Any questions? Senator Blood.

BLOOD: Thank you, Chairman Halloran. Thank you for sharing your story. I looked at the article, and I have a question, and I am hoping you can answer this. So I noticed that the farmer that the article referred to yielded higher than what they were yielding in Canada. Why is that? What makes--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

GREGORY LAUBY: What was higher in Canada?

BLOOD: The yield. The yield that he got from his fields.

GREGORY LAUBY: Well, I think it's the climate.

BLOOD: OK.

GREGORY LAUBY: Plana-- you know, Canada has a much colder climate. Snow cover more of the year. So the growing season is shorter even than that in North Dakota, and there may be also some difference in growing techniques. Now I can't tell you for sure, but those would be the first things that I would want to look at that might explain the differences.

BLOOD: So things that we could benefit from in Nebraska.

GREGORY LAUBY: Oh, I think we would be much improved in Nebraska over the North Dakota climate. We could expect a situation here, where I think the crop could be double-cropped with a growing season by starting early, as Mr. Hawkins was referring to, being able to harvest in 70 to 90 days, depending on the variety of the crop and then following up with either a cover crop or perhaps winter wheat.

BLOOD: So with those cover crops, though, would it-- would it contaminate the soil in a way that-- because they had talked about how the hemp plant basically eats what's in the soil. I mean, I know it's not what it actually does, but so it consumes what's in the soil. Would that compromise the quality, if you were mixing the crops like that?

GREGORY LAUBY: Well, I--

BLOOD: [INAUDIBLE] their head no behind you, so--

GREGORY LAUBY: I-- some of those questions hopefully will be answered by some of the experiments that are going on at the university now. But from what I have read, I don't think that that's a problem, especially if you rotate fields and move hemp into your normal crop rotation from one field to another annually.

BLOOD: OK. Fair enough. Thank you.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: Thank you, Senator Blood. Thank you, Mr. Lauby. Any further questions? Thank you so much.

GREGORY LAUBY: Thank you very much for the hearing.

HALLORAN: Next proponent, please

DILLON CORNETT: Hello, committee members. My name is Dillon Cornett, D-i-l-l-o-n C-o-r-n-e-t-t. I've provided my written testimony and a research article by Columbia University in 2017. I'm an employee of the Nebraska Department of Labor, but I'm here in a personal capacity on leave from the agency, so thank you for being here on my vacation. I'm testifying today from the perspective of potential small business entrepreneur and a researcher. I'm also testifying on behalf of my friend and potential business partner, Nate Belcher, B-e-l-c-h-e-r, who currently owns multiple businesses in Omaha involved in regenerative agriculture. A little bit about me. I graduated at the UNL in 2011 and I earned a master's degree from Louisiana State University in 2014. Upon my graduation, I made the decision to move back to Nebraska to be close to family. Bills like this one would help keep me here in the great state of Nebraska. I've adopted head coach Scott Frost's motto, have a desire to excel and no fear of failure. With this in mind, my intention, should this bill become law, is to create a small business in the industrial hemp agriculture sector to connect Nebraska farmers to the resources they need to grow industrial hemp. I've been researching this topic for about a year and I'd like to share a few reasons why I believe industrial hemp will grow Nebraska. Hemp is a nonpsychoactive, rotational crop that has potential to improve soil and doesn't replace traditional crops necessarily in the state. Nebraska land also has natural advantages, considering the relatively superior and abundant native wild hemp already growing and the vast capacity and existing agriculture infrastructure in the state. UNL Professor Ismail Dweikat stated that, "we have the ideal conditions to grow it: the soil and the moisture, and that the wild hemp already adapted-- is already adapted to our climate." Once harvested, hemp can be sold to processors that crush the seed for oil, and the remaining solids can be utilized as a nutritious and protein rich livestock feed, resulting in a healthier product sold to an increasingly health-centric U.S. market. Growing hemp for grain production, as opposed to CBD processing, widens the potential market due to the size and feed demand of the livestock industry. Hemp seed harvesting can be accomplished with simple modifications to a combine with a bean head. I'd like to provide some

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

maybe more modest profit numbers, general production numbers, based on Montana growers and processors. I think-- and this is for seed production-- average yields, 1,000-1,500 pounds per acre. With Nebraska climate, soil irrigation, producers could surpass Montana yields. In 2019, Montana processors are currently paying 50 cents a pound for crop that is free of mold. So per acre, 1,500 pounds by 50 cents a pound, \$750 per acre in gross revenue, minus seed input and general fertilizer, it's possible to gross profit \$530 before land and equipment costs. Prior to the passage of the 2018 Farm Bill, the U.S. hemp industry total sales in 2017 were \$820 million. The industry grew 16 percent in 2017 and the top five product sale categories were CBD, 23 percent; personal care, 22 percent; industrial applications, led by automotive at 18 percent; food, by-- led by snack foods at 17 percent; and consumer textiles, 13 percent and among others. With the passage of the 2018 Farm Bill, the U.S. hemp industry is now estimated to expand 18.4 percent over 5 years. The U.S. market, traditionally an importer, is expected to lead the global market hemp industry, result-- representing a 32 percent share of a \$5.7 billion global market by 2020, which would be \$1.8 billion in transition to a global exporter. For these reasons and others, I believe some of the estimated 25,000 products derived from industrial hemp will grow Nebraska agriculture and business. Hemp will improve the labor market, human and animal health, and be an environmentally sustainable agriculture product for our state. Thank you, and I'd be happy to field any questions.

HALLORAN: Thank you, Mr. Cornett. Any questions from the committee? Seeing none, thank you for your testimony.

DILLON CORNETT: Thank you very much.

HALLORAN: Next proponent, please. Any further proponents? Welcome.

JIM KUNTZ: Welcome. Thank you for having us here today. This is a nice experience. I am Jim Kuntz, J-i-m K-u-n-t-z, and I'm eager to speak simply about feral hemp. The good news is Nebraska's already got a crop of 100,000 acres of hemp. It's growing in the state. It's going to come up next spring, no matter what, has for years and years. I think the important thing to consider in that, with the laws that are being made, is that those plots don't incur the cost of destruction or testing, that's never existed for them before, considering the rules with industrial hemp. Furthermore, it might behoove the state to look at a way that registration of those plots and the experimentation by the people whose land those reside on be allowed to explore even the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

unharvested uses of hemp for wildlife, erosion control, mulch. And that basically sums it up. I think it's an element of the hemp discussion I've heard that isn't addressed because we're not taking into consideration already an extensive amount of hemp in this state.

HALLORAN: OK. Thank you, Mr. Kuntz. Any questions from the committee? Senator Brandt.

BRANDT: Thank you, Chairman Halloran. That's interesting. I like that. I would think with the rules that we've got if you pass the .3 THC test, that patch of ditch weed that's in the creek or pivot corner or wherever you've got this, I would think that would qualify. But you know, I haven't actually gone through rule by rule here to see-- you would have to become a grower. You would have to, you know, pass all the tests. But-- yeah that's an-- that's an interesting argument that you raise.

JIM KUNTZ: The previous speaker had mentioned that not having the time to read the language of the bill and leaving it open for comment a little bit further, which I would do if that were open to do so. Thank you.

HALLORAN: Thank you

BRANDT: Thank you.

HALLORAN: Thank you, Senator Brandt. Any further questions? Seeing none, thank you so much. Any more proponents?

JULIE MILLS: Hello.

HALLORAN: Good afternoon.

JULIE MILLS: It's an honor to be here today to speak in front of you. I basically agree with the people in front of me have said, their knowledgeable comments--

HALLORAN: State your name and spell it, please.

JULIE MILLS: I am sorry.

HALLORAN: You are fine.

JULIE MILLS: My name is Julie Mills, J-u-l-i-e M-i-l-l-s, and I live in Lincoln. And that's good for you?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: That's good for me.

JULIE MILLS: OK. I just want you to know that although I don't think I've done as much-- as much research as the preceding speakers, I've been following this issue of using hemp for years and years. I am certain that it would be a benefit to Nebraska. As you've heard, there are many uses for this crop and it is a crop. It has nothing to do with, you know, kids sneaking in there, or somebody trying to plant in the middle of a field to hide it. It would get pollinated, it'd be worthless if you understand me. I too have seen ditch weed all my life. I'm a good ole Nebraska girl. We used to go drive the mile roads and have fun on a Sunday, and you'd see so much ditch weed out there and it's leftover from the World War II era when we were the row producers here with hemp for World War II. We were part of the war effort with this crop, and now we've learned even more. That it has these multiple uses that have a light footprint in our precious soil for our precious water resources. In these uncertain times of climate with the big swings we've been having, and the ability of this crop to grow anyway and to survive and be viable here for our farmers to make a profit off of is a godsend, I would have to say. I know how our farmers struggle. One of my aunts and uncles went down during the Farm Aid era. So be it. But please, understand that this would be a good bill. It would help our farmers. This is an agriculturally based state. Both farmers and ranchers need another arrow in their quiver to help them and their families. I also know about the rates of suicide, drinking, depression, other signs of grave stress within our family farms. We're the bedrock of this state. One way or another, all our people, all our families came here to farm, and we have an obligation to take care of them. We're in uncertain times, climatewise. We need all the markets we can get for these farmers, and this would be a safe and proper way to add this benefit for our farmers. And I think it's been proven by some other locations, other states, as was mentioned.

HALLORAN: OK.

JULIE MILLS: I got here late, and I-- some of the things I was going to say were already said, so thank you.

HALLORAN: Thank you, Ms. Mills.

JULIE MILLS: I appreciate it.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: Anyone have any questions from the committee? Seeing none, thank you so much.

JULIE MILLS: Thank you.

HALLORAN: Any further proponents? Seeing none, are there any opponents? Any opponents? Seeing none, anyone in the neutral? Good afternoon.

AMELIA BREINIG: Good afternoon. Think you need a booster seat for this chair.

HALLORAN: Yeah. Could you state your name and spell it for us, please?

AMELIA BREINIG: Absolutely. Senator Halloran, members of the Ag Committee, my name is Amelia Breinig, and I'd love to spell that for you, A-m-e-l-i-a B-r-e-i-n-i-g and I am the assistant director for Nebraska's Department of Agriculture. And I'm here today to testify, Justin-- Senator Wayne already, spoiler alert, said-- in the neutral position for LB657, the Nebraska Hemp Act. I have written testimony that's being passed out to you that I ask be submitted for the record. The Agriculture Improvement Act of 2018, also known as the Farm Bill, was signed into law in December of 2018 and legalized industrial hemp by removing it from the federal Controlled Substances Act and recognizing the crop as an agriculture commodity. The Nebraska Department of Agriculture supports the 2018 Farm Bill and supports hemp as a commercial product in the state of Nebraska. The department testifies in the neutral position today because while LB657 is a step in the right direction, there are still a number of issues that we feel need to be resolved with the bill as is. The department is committed to working towards resolving these issues, with the hope of establishing a state hemp program approved under the Farm Bill to allow hemp growth and production in the state. We've been engaged with other interested parties and state agencies including the State Patrol and the Attorney General's Office, to ensure that our statutes and any program created within the department to monitor and enforce both hemp growth and production will comply with federal and state laws. I'd like to close by saying that we appreciate very much Senator Wayne's efforts on this legislation. We look forward to working with him and members of the committee as this bill moves through the committee process. And with that, I will gladly answer any of your questions.

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Agriculture Committee February 12, 2019

HALLORAN: OK. Thank you so much. Any questions from the committee? OK. Seeing none-- [INAUDIBLE] Yes, Senator Moser.

MOSER: What issues do you think there are to work through? Just very briefly, I mean.

AMELIA BREINIG: Sure. Thank you for the question, Senator. So from our view, and again, as the senator said, you know, the amendment to the bill was passed out in a rather late fashion today. We were still working through it and I understand that there are going to be a number of changes to that, starting at the top of the funding structure for us essentially just making sure that the department would have the appropriate funding to carry out the program and to bring about the necessary proponents of the program that we-- we need, looking at other issues, making sure that, as some gentleman said, making sure that it harmonizes with the federal program, making sure going through line by line that our plan and this legislation would meet what we are required to do under the federal Farm Bill.

MOSER: OK. Thank you.

AMELIA BREINIG: Sure. And there is some more laid out in my written testimony and it lays out what we are expected to do under the federal Farm Bill.

MOSER: Thank you.

HALLORAN: Thank you, Senator Moser. Any other questions from the committee? Seeing none, thank you very much.

AMELIA BREINIG: Thank you.

HALLORAN: All right. That draws an end to the hearing-- public hearing for LB657. We do have some letters for the record.

BLOOD: [INAUDIBLE] senator close.

HALLORAN: Oh. Oh, I suppose we should let the guy that brought in the superamendment close.

WAYNE: Thank you, Chairman Halloran. This has been a great hearing. There, I guess. There will be additional amendments or amendment that we will get to the committee. But I just want to-- there is a lot of talk about water usage and hemp being-- it was described as a sucker plant that sucks things out. I do want to know that there are plenty

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

of studies that show that hemp is a great rotational crop, that if you use it between corn or soybeans, or rotate around-- rotate around hemp, it does put a lot of nutrients back into the soil. While the water usage is lower than most corn and soybeans, it does remove, and what it meant by a sucker plant was it removes harmful chemicals so you can literally plant it a feedlot and years after years of planting there, it will remove the harmful nutrients or harmful chemicals from the ground, while at the same time putting better or more-- better, better nutrients back into the ground and making that soil better for crop yields. Here's why there's confusion on where we're at. Had we adopted this bill two years ago, which underneath the old Farm Bill we had what was called a Nebraska Seed-- Nebraska Heritage Seed because at the time under the old Farm Bill, you could only use it for research purposes. So we were going to go out and develop the strands through the Nebraska seed. What may-- you may or may not know is that during World War II, Nebraska had more hemp per acre growing legally than any other state. We have the best soil. You heard a farmer here testify that he's already being approached from different companies to grow seeds and to grow hemp. We have the soil that is needed for hemp to be the best in the States, but we are lagging with the regulations in the law to get it done. I will tell you this is the hardest bill that I've ever wrote, because unlike having people against concepts and you bring people together and you say, OK, we're going to go here and here's an amendment and everybody's happy, everybody wants to do it. And the problem is there's no guiding regulatory information out there to do it. The Farm Bill just passed. So every state, including Kentucky, who was the first one who started doing it and Tennessee followed, they were all basing theirs off of the old Farm Bill, which was a research pilot program and they used loosely definitions of research to let everybody grow it. But underneath this Farm Bill, there really isn't anybody out there doing it yet. I mean, simple things as THC, total THC level versus the THC that they're actually .3 percent testing. We are all sitting around thinking the university had the ability to do it, because they've been doing the research program since 2014. It's different. And it's those kind of things that we're trying to navigate and why this has been such a hard bill to write because everybody at the table wants to do it. There's no objections. It's how do we make sure you write it best for Nebraska farmers. We don't have any other models out there we can really go off of, so we are literally creating the model here. And I look forward to answering any questions you may have. And to clarify, my good friend who always has the hemp downstairs and does great things and makes sure-- if you ever have a hemp question, you can find him in the building and he

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

will--he will answer it, I did not say it's not my priority bill, but I agree with him. I would love it to be an Agriculture priority bill.

HALLORAN: Well, thank you for the marketing effort. [LAUGHTER] Are there any-- thank you, Senator Wayne. Are there any questions from the committee? Senator Brandt.

BRANDT: Thank you, Chairman Halloran. Senator Wayne, you're to be commended for getting a production model going here. OK. But don't stop there. It's critical because we, as-- as farmers, will overwhelm the market. We always do. We need processing capacity, whether that takes the city of Omaha, the Chamber of Commerce, but the business community needs to step up next. Because otherwise, what usually happens is we'll overproduce. It's going to be worth zero. You're going to burn out your growers. Unless there's viable contracts with processors out there, that needs to be in place before we-- we-- we start this. And I see that the bill has a emergency clause in it. And from my knowledge and-- and-- we've got experts here in the room. Generally, this gets planted toward the end of May around here, so you know, you could very well have a crop this year.

WAYNE: And the reason we're having-- the reason why this bill reads so regulatory is because we do have to submit it to-- the department has to submit it to the USDA and the department. And the reason the emergency clause, because at a minimum, we want to get those who may want to get into the seed business and use greenhouses, they can still have a grow season at a minimum. Maximum, I would like to get this out and get it done, three rounds in the next three days, and everybody is happy with that. Probably won't happen because I won't have the amendment done by then. [LAUGHTER]

BRANDT: Thank you.

WAYNE: Thank you.

HALLORAN: Thank you, Senator Brandt. Any further questions? Just-- just-- just a quick comment. When I finally think I kind of understand, you kind of come up with a lot more and-- and I appreciate that. I mean, you've looked at the initial bill and said, eh, this isn't probably going to work. You've done a lot of work on the amendment, but we have a lot-- we have a lot to digest here.

WAYNE: Right.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: And we will.

WAYNE: Yes. And we are looking at setting up a luncheon. And then later on this month or the first couple weeks of March, where we bring in the university-- we have an expert in the university-- to really educate everybody on hemp, what it is and what it isn't.

HALLORAN: OK. Thank you, Senator Wayne.

WAYNE: Thank you.

HALLORAN: That brings a close to LB657. I do have some letters to read into the record. Proponents: Stephen Ziegler for self; Bill Grothe for self; Bill Ekeler for himself; Lyle Webster for himself. Opponent: Baron and Lynette Nash, for themselves. Neutral: Michael Boehm for the Institute of Agriculture and Natural Resources. These letters are in your binders, Senators, for your reference. All right. That calls a conclusion to this bill. Thank you all for attending.

_____ : Yes.

HALLORAN: We'll take a five-minute break.

[BREAK]

HALLORAN: Save everyone my running through this script to start this hearing, but many of you are very familiar with the process. I would just encourage you that if you wish to testify, please pick up a green sign-in sheet at the table by the doors. Please fill out the green sign-in sheet before you testify. Please print and it's important to complete the form in its entirety. When it's your turn to testify, please hand to the pages or the committee clerk. So with that, we will begin the hearing on LB227. Welcome, Senator Hughes. Welcome to your committee.

HUGHES: Thank you, Chairman Halloran. It's a pleasure to be here and before the members of the Agricultural committee. For the record, my name is Dan Hughes, that is D-a-n H-u-g-h-e-s, and I represent the 44th Legislative District. In 1982, Nebraska Right to Farm Act was adopted. It protects farm operations and public grain-- grain warehouses from nuisance laws if they existed before a change in the land use or the occupancy of the land on or about the locality of the existing operation. The intent of LB227 is to continue the protections to the production of food, feed, fiber, and fur, as long as there's not been a significant change in the type of farm or public grain

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

house-- warehouse and such farm or public grain house-- warehouse has been in operation for more than one year, was not a nuisance at the time it began, and reasonable techniques are employed to keep dust, noise, insects, and odors at a minimum on-- at the farm, or the public grain warehouse is in compliance with applicable laws and regulations. This bill will not have any effect on current county zoning laws. If there is an expansion, current county zoning law, it must be adhered to. I have an amendment that I would like this committee to consider. When the bill was originally drafted, some people thought we could clean up the statute and make it a little less wordy by dropping the word "operation." After the bill was introduced, a group contacted me and asked that it be reinstated into the bill because they were afraid it may create a loophole. There are several individuals coming after me that can probably better explain the nuances of this bill, but I would appreciate the committee taking a look at it. And I think the-- you do have the amendment.

_____ : Yeah.

HUGHES: And I'd be happy to try and answer any questions.

HALLORAN: Thank you, Senator Hughes. Any questions from the committee? Senator Hughes? You're good.

HUGHES: Thank you, sir. Are there proponents for LB227? And if you're wishing to testify, if you could come to the front row this would be helpful. Welcome.

JACOB MAYER: Thank you. Good afternoon, Chairman Halloran and members of the Agriculture Committee. My name is Jacob Mayer, J-a-c-o-b M-a-y-e-r. I'm a professional engineer, cattle producer, and on the Nebraska Cattlemen board of directors. I'm here today on behalf of the Agriculture Leaders Working Group, which is comprised of elected leaders from Nebraska Cattlemen, Nebraska Corn Growers Association, Nebraska Farm Bureau, Nebraska Pork Producers Association, Nebraska Soybean Association, Nebraska State Dairy Association, and the Nebraska Wheat Growers Association. The Ag Leaders strongly support LB227. The Nebraska Right to Farm Act provides broad protection against nuisance liability in the instances where residential occupants come to a preexisting agricultural operation. However, the courts have been clear that the law does not apply when changes occur on the farm itself rather than in the surrounding locality. Unlike many agricultural states, Nebraska law considers any change to the operation, no matter how minor, to be significant enough to void the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

nuisance protections. If an operation conducts any type of change, even without initial objection from a neighbor, and then proceeds in that manner for a number of years, that neighbor could theoretically file suit at any time. The threat of nuisance lawsuits has impeded our industry's ability to expand and grow our state's agricultural economy. As an agricultural engineer, I encounter this obstacle on a regular basis. Whether it be change in ownership and conversion of technology to increase the efficiency of the operation or increasing livestock numbers, even if only by a few head, producers can be found liable in a nuisance lawsuit. Additionally, assertions that a producer used best management practices and due care may not be enough to avoid liability. This gap in the law has had a deterring effect on Nebraska's agricultural industry, stagnating growth in rural communities, and stoking resentment among neighbors. Ag Leaders are asking the Legislature to clarify that common changes to the operation do not void a producer nuisance productions under state law. We do not wish to extinguish property rights or limit someone's right to sue. An adjacent landowner can still bring a nuisance claim against a nearby operation. However under LB227, changes to regular management practices would not count against the producer. This will give farmers and ranchers certainty to expand their businesses, keep our lands productive, and grow Nebraska without concern that these changes may come back to haunt us. This is in line with other agricultural states like Arkansas, Florida, Indiana, Michigan, Wisconsin, Pennsylvania, Idaho, and Texas, which all explicitly extend nuisance protections to changes on the operation so that growth is not inhibited. Thank you again to Senator Hughes for introducing this legislation. Ag Leaders strongly support LB227 and we encourage the committee's swift passage. Thank you all for your time today.

HALLORAN: Thank you so much, very thorough. Senator Lathrop.

LATHROP: You're an engineer as well as a producer?

JACOB MAYER: Yes, sir.

LATHROP: And so I'm looking at this bill and I'm just reading it for the first time actually and it says "For purposes of this subdivision, a significant change does not include the conversion from one type of farm or public grain warehouse to another type of farm or public grain warehouse." So if I have one type-- I'm trying to-- I'm not a-- I'm not a producer.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

JACOB MAYER: Yes, sir.

LATHROP: So I'm going to stumble through this a little bit but I understand there are some types of farming operations that may have more odor or may have more fly issues than others. Is that fair?

JACOB MAYER: I think that's probably a fair statement, yes.

LATHROP: And just so I can give you a decent hypothetical, why don't you tell me which is the least problematic farming operation. If I'm raising things in a-- in a-- in a big barn, what's going to be the least smelly and the least amount of flies?

JACOB MAYER: I think that's pretty subjective, so I'm not sure I should comment on which--

LATHROP: Well, are hogs the worst? They have ponds, right?

JACOB MAYER: In some circumstances, yes, they would.

LATHROP: Okay. They have more odor and more flies than, say, maybe chickens?

JACOB MAYER: Again, I think that's very subjective. So I'm not sure that--

LATHROP: Well, if you convert your farm from one type of an operation to another, under this bill you would have protection. Is that your understanding?

JACOB MAYER: That, that is my understanding. Yes.

LATHROP: And that would be true even if you had one kind of an operation which might not be as offensive as what you've changed to, right?

JACOB MAYER: I believe so, yes.

LATHROP: OK. Also we would not have a significant change depending upon a change in the size of the operation. So if I had one barn with a particular type of an animal operation and I converted it into-- my operation into 25 barns, under this it wouldn't be a significant change in circumstances. Is that also your understanding of the bill?

JACOB MAYER: It is.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

LATHROP: That's all I have. Thank you.

HALLORAN: Thank you, Senator Lathrop. Any further questions? Senator Brandt.

BRANDT: Thank you, Chairman Halloran. Thank you for being here today. If you were to double the size of your operation, you would still need to go through your zoning, would you not?

JACOB MAYER: Correct.

BRANDT: Yeah.

JACOB MAYER: It would be a state and local permitting process.

BRANDT: Right. And just as a point of clarification, what part of the state or county or town are you from?

JACOB MAYER: I live in Saunders County.

BRANDT: OK. And there's a lot of feedlots up there, right?

JACOB MAYER: There are some, yes.

BRANDT: Yeah. So if you were going to double the size your feedlot, you would have to go before your county zoning and there's a lot of setback rules and there's a lot of regulations that deal with things like odor and such.

JACOB MAYER: Yes, sir.

BRANDT: OK. Thank you.

HALLORAN: Thank you, Senator Brandt. Any further questions from the committee? If not, thank you very much.

JACOB MAYER: Thank you.

HALLORAN: Next proponent, please. Good afternoon.

HEATHER VOEGELE: Good afternoon. Good afternoon, Chairman and members of the Agriculture Committee. My name is Heather Voegele, H-e-a-t-h-e-r, V as in Victor-o-e-g-e-l-e. I'm an attorney with Dvorak Law Group, which has offices in Omaha, Nebraska, and Hastings. And I'm here today on behalf of the Nebraska Cattlemen's Association. As previously mentioned, the current Nebraska Right to Farm Act was

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

enacted to provide protections to agricultural producers in the state of Nebraska when nearby residential landowners come to the farming operation. While the current Nebraska Right to Farm Act was noble in its intent, it is clear from interpretation by the Nebraska Supreme Court that any change in an existing farming operation may remove agricultural producers' rights to use the Farm Act as a defense. The purpose of legis-- or of LB227 is to provide protection for existing agricultural operations in increasingly urban landscape. Under the current law, even transition between type of products produced or transition of operations between families would likely remove the protections allowed by the current Right to Farm Act. The protections allowed by LB227 are paramount to incentivize growth in Nebraska. LB227 would not be an aggressive unprecedented action by the state of Nebraska, but rather an amendment necessary to update the state's laws and make the act similar to those in Arkansas, Wisconsin, Michigan, and Indiana to name a few. In fact, this proposed amendment is much more limited in nature than amendments such as that recently enacted in North Carolina. Based on its current form, LB227 does not remove the requirement of producers to comply with Nebraska or federal environmental or zoning regulations. Further, LB227 still provides adjacent landowners with remedies against agricultural producers to the extent that reasonable techniques are not employed. The concerns that exist with other bills such as those in Iowa do not exist with LB227 because of the-- of the remedies that still do exist. There is no cap on damages in LB227 and residential landowners-- nor does it place residential landowners in unreasonable positions if they determined to bring suit such as in North Carolina where statute of limitations are extremely limited. Based on our review of national legislation, LB227 is a reasonable, commonsense approach to the issue that adequately protects both agricultural producers and residential landowners alike. Thus as a member of a law firm dedicated to the growth of agriculture in the state of Nebraska and as an agent of the Nebraska Cattlemen's Association, we strongly support the passage of LB227. I'm happy to answer any questions.

HALLORAN: Thank you, Ms. Voegele, for your testimony. Questions from the committee? Seeing none, thank you very much. Next proponent, please. Good afternoon.

DEBBIE BORG: Good afternoon. Good afternoon, members of the Ag Committee. For the record, my name is Debbie Borg, D-e-b-b-i-e, B as in boy, o-r-g. I'm a farmer from Dixon County. And on our 135-year-old family business, we raise cattle, corn, soybeans, alfalfa, and most

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

importantly three NextGen farmers. Plus we will start production on our poultry farm this April in partnership with Lincoln Premium Poultry as part of the Costco project. And you are receiving a letter from our nutrient consultant we use. I want to begin by sharing a little bit about my involvement with various trade organizations and some of the things I've discovered through my volunteer efforts. I initially raised my hand back around 2005 when a few animal activist groups started heading down the road of encouraging consumers to reduce or even eliminate animal protein from their plate. It was then I first heard of stories from vegetarians choosing to eat chicken wings because they grew back or, you know, because you pump your beef full of hormones. Or I didn't even realize that 98 percent of all farms were still family owned. I often feel like that we are in the fight of our livelihood and none of us signed up for it. Today's farms look different but it's an industry full of passion and grit, just like 100 hundred years ago, people who care for the land and the animals who are trying to make a living and want to pass it on to the next generation. I was very excited to see this legislation brought by Senator Hughes because I believe we all need to be honest about the challenges that are staring at us-- more and more people moving to the country to escape city life, but also more and more people who are very disconnected to production agriculture who express concerns about normal farm operations: noise, dust, smell and so forth. It's another stark reminder that only 2 percent of the population is in production agriculture, so that the remaining 98 percent can do the things-- do other things than worry about growing their own food. As an industry, we continue to do more and more to share the story of agriculture. That being said, there is a tremendous amount of risk involved with growing and expanding livestock in Nebraska. For our new chicken facility, we have invested over \$2 million. Our current cattle operation requires a million dollars a year in operating expenses. The capital investment is positive and something we willingly did not only because it creates opportunity for our family, diversifies our operation, and adds a new fertilizer source which will benefit our soil but also because it is a small way-- in a small way we're helping to grow Nebraska's tax base and expand the local economy. In other states, we have seen agriculture come-- come under attack at even a greater level than what we've seen here in Nebraska. Nebraskans for the most part seem to be proud of their ag heritage, and it is the economic engine that drives our state's economy. But all that can change. And I would tell you from personal experience support is shifting away and I believe a lot of it is driven by what they don't know and don't understand. And emotions start driving decisions

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

instead of common sense and science and then we are back in the fight of our life again. Life in rural Nebraska can be dusty and smelly, but we call that the smell of money and we work hard at farming every day while working with Mother Nature. Because in the end, we want to pass it on to the next generation better than we found it. Again. I thank Senator Hughes for bringing this bill forward and I ask for all of your support to move LB227 forward to support production agriculture in Nebraska for me and the next generations. Thank you for the opportunity to share with you today and I'm happy to answer any questions.

HALLORAN: Thank you, Ms. Borg. Any questions from the committee?

LATHROP: Can I ask a few if you don't mind?

HALLORAN: Sure. Senator Lathrop.

LATHROP: What's the nearest community to your operation?

DEBBIE BORG: Three and a half miles straight up the highway.

LATHROP: And what's the town or the community?

DEBBIE BORG: Allen, A-l-l-e-n.

LATHROP: OK. And so right now do you have a feedlot or do you simply have the cattle?

DEBBIE BORG: It's a feedlot.

LATHROP: Again, I got to confess that I'm not a-- I don't have the background in the operations.

DEBBIE BORG: Well, we actually call it background in cattle, but people all say, well, what's that. So in general it's a feedlot.

LATHROP: OK.

DEBBIE BORG: We have yards that hold between 75 and 100 cattle per pen and we have between 800 and 900 cattle on our place.

LATHROP: OK. Without this bill, it sounds like you, you have either entered into a contract or you intend to enter into a contract with the poultry, is it Lincoln Poultry?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

DEBBIE BORG: Lincoln Premium Poultry, correct.

LATHROP: Lincoln Premium Poultry. Without this bill, would you be able to expand and, and enter into that contract or do you need the protections from this bill in order to enter into that contract to raise chickens for Lincoln Premium Poultry?

DEBBIE BORG: We do not have to have this bill. I believe it would be a proactive to help other people who want to enter into other types of livestock operations.

LATHROP: So for whatever reason because of your circumstance and being three and a half miles from town and having a, a feedlot you're not-- you're not at risk for creating a nuisance by adding the chicken barns to your property and, and engaging in that enterprise?

DEBBIE BORG: Ask the question again. I don't know what you're-- I don't understand.

LATHROP: You don't-- you're not concerned with a nuisance or creating a nuisance by adding chicken barns to your property in addition that already has feedlots there. Is that true?

DEBBIE BORG: I see this as-- I hate to use the word "protecting" but I guess that's what it is-- for future instances. You know, somebody from the city can move out and get annoyed that we have a few more flies some days.

LATHROP: OK. So you will-- you're one of the people that will be protected if this bill passes from a nuisance suit because you added the chicken barns to your property in addition to the feedlot that you already operate. Is that true?

DEBBIE BORG: I don't know that I know the legalities of this well enough to answer that question.

LATHROP: OK.

DEBBIE BORG: I think this is a proactive move and supporting livestock expansion in the state of Nebraska. So whether I'm adding chickens or if I want to add pigs down the road or I didn't do anything I think this is a bill that's being proactive.

LATHROP: OK. In your estimation, let's, let's go five years down the road. You have a feedlot, you have now your chicken barn so that you

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

can raise chickens for Lincoln Premium Poultry, and now you want to add a hog operation. OK? Is this bill going to protect you from a nuisance suit if you choose to do that?

DEBBIE BORG: You would probably need to ask the lawyers in the room and not myself.

LATHROP: OK, fair enough. Thank you.

HALLORAN: Thank you, Senator Lathrop. Any further questions? OK, seeing none--

DEBBIE BORG: Thank you very much.

HALLORAN: --thank you, Ms. Borg. Next proponent, please. Welcome.

JESSICA KOLTERMAN: Hello. Chairman Halloran and members of the Agriculture Committee, thanks for having us today. My name is Jessica Kolterman, J-e-s-s-i-ca K-o-l-t-e-r-m-a-n. I work with Lincoln Premium Poultry handling corporate and external affairs. I also appreciate Senator Hughes bringing this legislation although I will say he did not bring it for us in particular. But we saw that it was introduced and it is something that would be important for the livestock industry in the state of Nebraska, of which we are a part. One thing that I think is often not shared and I thought this might be a nice opportunity to share it is some of the things that farmers go through prior to establishing a new livestock facility. I can only share definitively what our farmers will go through, but it's a very long, long and extensive list. They must meet the county setbacks and the zoning in their own county. They receive an inspection by the DEQ. They complete the livestock siting matrix through the Department of Agriculture. They complete a nutrient management plan with our nutrient consultant. That is then shared with the county as part of the zoning process, as well as with DEQ and our company. And then they go in and complete the odor footprint, which is a tool from the University of Nebraska. After their public approval, then they go and do their formal DEQ application and finalize that permit. They will work with the NRD on a well permit. And then they will be subject to ongoing monitoring and accountability through both the DEQ and the NRD. So it's, it's a little simplistic sometimes I think when people look at livestock and say, oh, well, they added cows or they added poultry or they added hogs. There's a lot of processes that go into it and we are working very closely with all of our farmers to make sure that they're adhering to the very highest letter of the law. And in

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

our case specifically, many of these processes are not required by law for our growers, but they're doing them anyway. Very briefly I'll just share, the local economic development group gave me some new numbers today for the Fremont area. So specifically in Dodge County they have established that 3 new businesses have been opened because of association with our project and 24 regional companies are now on record as being engaged. The capital investment for our project specifically is \$450 million which will have an annual economic impact of around \$1.2 billion, which is about 1 percent of the state's GDP. So as you're looking at your budgets, those are real numbers and numbers we're proud to be contributing to. I will leave it there that we're in support and entertain any questions.

HALLORAN: OK. Thank you, Ms. Kolterman. Any questions? Senator Lathrop.

LATHROP: I do.

JESSICA KOLTERMAN: Sure.

LATHROP: So just to be clear, I'm all for agriculture. Right? And to be-- also to be very clear, I think that if I have a feedlot or someone has a feedlot and some community is growing towards the feedlot I shouldn't have to shut it down. OK? And that seems to be you were there first. This is about I wasn't there first, right? You just went through a list of things that a producer needs to go through in order to open up a facility. Whether that's an expansion or it is a brand new facility, they have to go through these various steps that you described. True?

JESSICA KOLTERMAN: Correct.

LATHROP: Nevertheless, even though they've been through those things, it doesn't protect them from a nuisance suit. Would you agree with that? Otherwise we wouldn't need to be here today. All we'd do is delegate the responsibility for this or we would immunize somebody after they've been through all these steps. But that's not the case.

JESSICA KOLTERMAN: One thing I can tell you that's been really interesting observation through this process which we've been through, I've been in over 100 public hearings with farmers in the last year and a half. Surprisingly, people don't believe that these bodies such as the DEQ, the NRDs, and other public health bodies and so forth they don't believe that it protects them. I think that all, not all, I

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

would say almost all of our farmers are very good stewards and are doing everything by the book. But I do think that from time to time people get very concerned about things that are very normal farm practices when they're living in the countryside. And I believe that Senator Hughes brought this bill to provide protection from perhaps some emotionally driven concerns.

LATHROP: Let me be clear. I don't have a problem with, with the Costco--

JESSICA KOLTERMAN: I know. No, I--

LATHROP: --and the Lincoln Premium Poultry--

JESSICA KOLTERMAN: I understand that.

LATHROP: --what they want to do. I appreciate the investment and what it does for the state. So let me start at that proposition because this isn't me expressing some concern about this because of some belief I have about that project. This is me, like some of the people that bring these nuisance suits, by the way, are other farm neighbors. Right? This isn't just an urban phenomenon. It's somebody who is in the next section over who said, you know, they may be raising corn or, or having one kind of an operation and pretty soon the guy down the street, or down the road to be more accurate, is expanding and creating an odor and/or a fly issue, which are typically the nuisances created, perhaps dust. True?

JESSICA KOLTERMAN: I think that people can express concerns about those things, yes.

LATHROP: Yeah. I've never brought a nuisance suit. I don't have any interest in bringing a nuisance suit. But I-- but I do think that somebody who moves in next-door ought to be able to expect that what they see when they move in is what they can expect going forward.

JESSICA KOLTERMAN: Unless that land is through zoning and other items still allowed for expansion and growth of livestock.

LATHROP: OK. Well, this bill would protect somebody from a nuisance suit if they change their operation from one type of livestock to the next and I use livestock in a broad sense I suppose to include chickens, which may not be-- are they considered livestock?

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Agriculture Committee February 12, 2019

JESSICA KOLTERMAN: I believe when you look at the legal definitions in our state statutes they often say livestock and poultry.

LATHROP: OK livestock. So somebody could go from raising cattle to raising chickens and/or grow 1 coop into 25 coops, barns, whatever they call them and they would be protected. True?

JESSICA KOLTERMAN: I-- as this is written, I believe they would be.

LATHROP: OK. I think that's all the questions I have.

JESSICA KOLTERMAN: Sure.

HALLORAN: Thank you, Senator Lathrop. Any further questions from the committee? Seeing none--

MOSER: Mr. Chairman.

HALLORAN: Yes. I'm sorry, Senator Moser.

MOSER: I don't know that you're an expert on the legal. Are you an attorney?

JESSICA KOLTERMAN: I am not actually.

MOSER: All right. But if you've been through this a hundred times, maybe you'll know more than what we do. But I think along the lines of what Senator Lathrop is asking. OK. So there are rules that farmers have to follow. There's the DEQ and you have zoning in some counties. Some counties there's no zoning. Correct?

JESSICA KOLTERMAN: Correct.

MOSER: Okay. And then-- and then the nuisance suits are really not so much that you flunked any of these laws. Well, they may allege that but really the nuisance part of it says that they're annoyed by your presence, so to speak. OK. And so sometimes producers are hindered by neighbors that bring nuisance suits against them. So here you're trying to give some protection to that producer who might expand his operation--

JESSICA KOLTERMAN: Correct.

MOSER: --or change the formula a little bit--

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

JESSICA KOLTERMAN: To diversify, for example.

MOSER: Yeah, to give him some protection against a nuisance suit. Could you still file a nuisance suit? I mean, you can sue for everything I would assume but--

JESSICA KOLTERMAN: My experience is we have had suit filed against some of our farmers who've never even built.

MOSER: Well, that's my point.

JESSICA KOLTERMAN: So, yeah.

MOSER: So, so, yeah, we are maybe offering in this bill-- I should say we are considering offering extra protections. They may or may not be suit proof. And you're I think concerned that we may be giving up a right that we should keep. Is that a fair question?

LATHROP: Sure.

MOSER: OK. I just want to make sure I understood it so. Thank you.

HALLORAN: OK. Senator Blood. Thank you, Senator Moser. Senator Blood.

BLOOD: Thank you, Chairman Halloran. Thank you. It's nice to see you again.

JESSICA KOLTERMAN: It's nice to see you too.

BLOOD: I remember from last year. You do such a good job. So I'm kind of listening to the concerns, but aren't some of those concerns really answered on page 3, line 15 when they say "Reasonable techniques are employed to keep dust, noise, insects, and odors at a minimum"? So I mean it is already being addressed.

JESSICA KOLTERMAN: That's the way I read the bill, yes.

BLOOD: All right. Thank you.

HALLORAN: Thank you, Senator Blood. Any further questions from the committee? Senator Lathrop.

LATHROP: Well, you know, I am going to-- so you can-- what reasonable techniques do you have to keep the odor down on something?

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

JESSICA KOLTERMAN: I can specifically speak to our project if you'd like and explain that.

LATHROP: You trap them in the barn.

JESSICA KOLTERMAN: Well, the barn is a portion of it but really one of the hallmarks of the poultry industry is to mitigate-- you mitigate the liquidity in the-- in the product. So in the barns they have specific techniques for drinking so that, for example, when the chicken is going to get their water, they tap it and it goes directly into their mouth. It's not like there's pans of water so that's one of the ways they protect. Interestingly enough, the output is only about a 25 to 30 percent liquidity. So at the end of a flock cycle, you have in the barn a base that is generally a carbon base. So in Nebraska it will be woodchips, probably cottonwood chips, and those will be composted and it will be dried down. And so what really causes the odor in poultry litter specifically is the ammonia. We use a product called PLT as well, which is a poultry litter treatment that will bind that ammonia, preventing it from becoming airborne or moving around.

LATHROP: OK.

JESSICA KOLTERMAN: So there's a lot of technologies that we use in our projects specifically. In the back of the room is my purse and in my purse there is about-- there's a baggie full of chicken litter.

LATHROP: Don't need to bring that up.

JESSICA KOLTERMAN: [LAUGH] And the point of that is it doesn't-- it doesn't emit an odor. And the reason I carry it is for illustration purposes such as this. And if I knew you were going to ask about it, I would have brought it up.

LATHROP: I would not have let you open it. But here's the point. This isn't about chickens.

JESSICA KOLTERMAN: I, I under--

LATHROP: It could be-- it could be somebody starting out with chickens with all the things and all the reasonable efforts that you're talking about and opening a hog operation. And this would-- this isn't unique to chickens. It could be--

JESSICA KOLTERMAN: I believe that this bill will provide protection for the entire livestock industry, which is from someone who is

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

working in a livestock industry, our growers are investing a lot of money to do this project. Our growers are highly risk tolerant. Farmers in Nebraska are used to taking risks. This is one way to mitigate some of that risk, whether it's for growers who are affiliated with my project specifically or whether it's for our cattle and pork friends. At the end of the day I think the people in Nebraska, while they still support agriculture, they're becoming more and more removed from the farm. And so things like odor and dust is not something as many people are accustomed to. It-- it's been very surprising to me the amount of people who get concerned about the poultry, but they're not concerned about cattle and hogs, which is fine. But I think they're just-- it's new so therefore there's a lot of fear associated with it.

LATHROP: Well, I might have concern about those and less about the chickens and the poultry. And it may just be the absence of deep background on this topic.

JESSICA KOLTERMAN: We would love to have you come out and spend some time on a feedlot and see that not every day of the year is a-- is a very odor-filled day.

LATHROP: Not everyone. Well, OK. The, the fact that somebody is using reasonable techniques though that's a little-- "Reasonable techniques" seems a little dependent upon the type of livestock or poultry. And one's man-- one man-- It's not going to be reasonable if I'm the neighbor. And here's-- here's the thing about nuisance suits for-- and we should distinguish nuisance suits from nuisance suits. These are not harassment suits we're talking about but people who, whose property is affected by the conduct or the operations of an adjacent property owner or somebody somewhere nearby. And that person, by the way, who would bring that suit has had the value of their real estate diminished.

JESSICA KOLTERMAN: I would--

LATHROP: So my farm sits next to this guy's farm. He's now going to double the size of his lot. He gets through all these different things. And now the, the, the smell and the flies which is typically what we're talking about. The dust I'm not particularly concerned about here, but the flies and the-- and the smell are-- I can't sell my house anymore.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

JESSICA KOLTERMAN: I will tell you that in the hearings that I go to we have someone who comes in and presents about property values specifically in Nebraska. The research that has been done in county by county in Nebraska for the most part--

LATHROP: Are we talking about poultry?

JESSICA KOLTERMAN: No, because there's not a lot of poultry here yet.

LATHROP: OK.

JESSICA KOLTERMAN: But what they do is they pull the data from the county where we're doing a hearing. So let's pretend my county, Seward County, let's pretend we're in Seward County. This group will pull the data and they will look at existing areas and they will say, OK, here's a feedlot in Seward County there; there's a feedlot over here; there's a hog unit over here and they'll look at the surrounding property values to see what they do. And almost universally in every county where we've had our project presented those property values have gone up.

LATHROP: Now when you say our project, we're talking about poultry.

JESSICA KOLTERMAN: Right but I-- but they don't have anything to look at for poultry because those aren't existing yet. So we look at pigs and cattle.

LATHROP: I'm not saying I'm against this bill. I'm certainly not against your project.

JESSICA KOLTERMAN: I understand. I understand.

LATHROP: But what I can say, I'll listen. Hopefully there's some opponents that come up and can articulate what I'm afraid of, which is being the neighbor. And Seward's a great example. Dodge County, for example, they've embraced this project. So the county board's likely to go, we're good with the zoning. Go ahead and put that thing in there because we need these barns nearby near Fremont in Dodge County.

JESSICA KOLTERMAN: Grows tax base.

LATHROP: Right? So I do have concerns about the neighboring properties and I don't have deep background about this. But I do know that if I were in Seward County and by that I mean somewhere that's reasonably

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

close to an urban area. Right? You're not very far from Lincoln.
Right? People are--

JESSICA KOLTERMAN: Seward is about 25 miles from Lincoln.

LATHROP: Yeah. People are starting to move to Seward County and commute to Lincoln. I think that's true with Dodge and Washington, Saunders to some extent maybe. Those areas when you-- when you buy a place you have some expectation that those things aren't going to be part-- like you can go out there at night, smell the air, look at the flies and say, this is good by me. But if two years later it's the smell is horrible and the flies are thick and you say, I can't sell my place anymore. Or now I'm going to have to sell it for less because the guy next door just tripled the size of his operation, whatever that may be. And the-- what did you call it-- an odor footprint?

JESSICA KOLTERMAN: Correct.

LATHROP: The odor footprint has just gotten bigger or more intense. And the same with the insects. So I'll listen. You can tell this is-- there's not a lot that happens in Ag Committee that I get that engaged about. But the idea that somebody is going to be basically precluded from bringing some type of a cause of action to protect their interest in their own property is of some concern to me.

JESSICA KOLTERMAN: I am happy to get you some of the data that I shared about the property values. I know we can-- we can get that from some of our partners and we can also do more of a deep dive in any of the livestock types if you like.

LATHROP: OK. Thanks, Jessica.

JESSICA KOLTERMAN: Thank you.

HALLORAN: Thank you, Senator Lathrop. Senator Blood.

BLOOD: Thank you, Chairman Halloran. I'm sorry that you set me next to him because now I always have more questions. Can I call you Jessica?

JESSICA KOLTERMAN: Sure, of course.

BLOOD: Jessica, so listening to, to Senator Lathrop and listening to your answers, there's a couple of things that come to mind. I know that we have Senators here from urban areas and rural areas and then senators like me who grew up in a rural area and now lives in an urban

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

area. So we all kind of think differently about this stuff. I've talked to a lot of young farmers lately. I want to go back to reasonable techniques to start with.

JESSICA KOLTERMAN: Sure.

BLOOD: And so tell me if you think that this is true or not true or people are blowing smoke up my skirt, probably with a different expression. It seems that the young farmers that I talked to are really concerned about sustainability. And I see them doing things like planting additional windbreaks--

JESSICA KOLTERMAN: Um-hum.

BLOOD: --next to poultry housing, hog, hog, turkey. Some are even doing-- I don't know what they call those giant fans that help, help the ventilation so it's not going into their neighbor's.

JESSICA KOLTERMAN: There's like wind tunnel ventilation is what we have in our barns.

BLOOD: Yes. So, so would you say that there is a movement towards that when we talk about reasonable techniques to make things more sustainable, less stinky?

JESSICA KOLTERMAN: So, yes. I mean, if you compare the-- my industry specifically if you compare the practices and techniques they used in the industry even ten years ago and you compare it to the technology that we're using in this project specifically, it's night and day. I, I don't have it with me, but there is a picture of all the different aspects that we can track on the smartphone--

BLOOD: Uh-huh.

JESSICA KOLTERMAN: --so you can see humidity in the barns, you can see water usage, you can see temperature, you can see ammonia levels, you can see all of that. It's all available to you as a farmer right there on your phone. So if you see something that's out of whack, you can adjust a vent. You can change the temperature. You can go check out what's going on here. So, yes, I think that one technology, but also the other aspect that I think most, not most, all livestock producers are really starting to take advantage of is the litter and the manure aspects for soil health. I believe you had a hearing earlier this year relating to soil health and these are great practices through nutrient management where they can really add a lot of organic matter to the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

soil very-- in very responsible ways that will improve soil health and help with yields around our state.

BLOOD: Well, chicken poop is great for the ground.

JESSICA KOLTERMAN: Fantastic.

BLOOD: I use it in my garden. So there was a comment made about zoning and how if a community embraces it, maybe whoever sits on the zoning board might just say, yeah, go ahead and let's just do it. But in most communities it's really-- I mean they have specific rules they have to follow, right?

JESSICA KOLTERMAN: Most counties-- I wouldn't-- I can't give you an exact number. But in the county-- I probably would say two thirds of the counties that we're working in have very specific zoning. So when you go into the county, they'll give you, you know, here's our zoning; here are our setbacks; here are our requirements. Now I did reference Seward. I will tell you the eastern side of Seward County is a water conservation area. So we cannot put any large-scale livestock in that side of the county. So between Lincoln and Seward itself, there really isn't a lot of new livestock development that can occur unless it's on a very, very small scale. But in the rural more open parts of the county, there's great opportunity for farmers to diversify their portfolio into another, you know, into some type of livestock.

BLOOD: And that leads me perfectly into the last question that I have. Isn't it the expectation, especially with our younger farmers too, that they're always looking for a way to get more out of their land? How, how can we keep the family farm? And I-- even back in the '60s and '70s I think it was. And maybe this is just my impression. Would you say it's your impression that if you have land you want to make it profitable? And it's not unusual to be living next to a farm that expands in some way; that that's more the norm than not the norm?

JESSICA KOLTERMAN: I would agree. You know, the reason we are so excited about this project for our farm families is in almost every circumstance farmers are bringing a child or keeping a child home on the farm. So in the Borg's case, for example, their daughter is graduating this spring and will be coming back to help raise the chickens. And that's just one of dozens of examples of farm families that we are associated with and working with. But I have a cousin who wanted to go home to the farm and so he figured out how he could raise

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

cattle. You know, it's just-- it's a way to diversify your income and make more income on the same amount of land.

BLOOD: So again just to reconfirm, it's the general expectation that the vast majority farmers that I know and it sounds like that you know that if you've got the property your neighbor is more than likely going to do whatever they can to keep the family farm.

JESSICA KOLTERMAN: Yes, I would agree. My-- I have an uncle that moved to Florida and my dad went down to visit him and he has goats. That's his-- that's his livestock adventure is in goats. And he has this great big sign at the edge of his property that says: This is a farm. It smells here. Sometimes there's flies here. But if you are living in this neighborhood, you should have an expectation that that's going to occur. And my dad, of course, took a picture and sent it to me and is like you should have these all over Nebraska, you know, and put them up in neighborhoods but--

BLOOD: That would be real popular.

JESSICA KOLTERMAN: [LAUGH] But I think, you know, in that specific little pocket in Florida they, you know, people move into that neighborhood know that there's going to be a "farnesque" type area so to expect that there will be livestock.

BLOOD: I just think it's interesting how things have changed. I can remember driving out to western Nebraska and periodically you would find the smells sometimes stronger out there because there's more cows. And my dad would always tell us it was the smell of money.

JESSICA KOLTERMAN: So did mine.

BLOOD: Thank you very much.

JESSICA KOLTERMAN: Of course.

HALLORAN: OK. Thanks, Senator Blood. I would say there are-- we all do things in life where we have some level realistic expectations and sometimes we have unrealistic expectations. Right. So and there's also, for example, if I were to have moved to Omaha, near Omaha near the Eppley airfield 40 years ago with the amount of traffic that was there, I would have said, oh, I can deal with that noise level. It's fine. Right? But over time with commercialism increasing in air traffic increasing, I'm living there and it's noisier than hell. And I'm saying, well, that's a nuisance. But I-- but caveat emptor, right,

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

let the buyer beware. I knew that when I moved there that it was a-- an airport and at some level there is going to be noise. And over time if I get uncomfortable with that. I knew that when I moved there. Same thing when you move into the country. You know, I-- smell of money, yeah, I've heard that for years. You know the smell I like? I like the smell of barbecue pork, barbecue chicken, and barbecue beef. So I live with the other stuff just so I can have that wonderful smell of barbecue meats. And with that, that's my-- not a question. Sorry.

JESSICA KOLTERMAN: That's all right.

HALLORAN: But that's my comment. Any further questions or comments from the committee?

JESSICA KOLTERMAN: Thank you.

HALLORAN: If not, thank you, Ms. Kolterman. Next proponent. Good afternoon.

KRISTI BLOCK: Good afternoon. Chairman Halloran and members of the Ag Committee, my name is Kristi Block, K-r-i-s-t-i B-l-o-c-k. I am the executive vice president and have the privilege of being the registered lobbyist for the Nebraska Grain and Feed Association. I'm testifying on behalf of our 154 member companies: Nebraska's public grain elevators, grain cooperatives, ethanol plants, merchandisers, and feed manufacturers in support of LB227 with Senator Hughes's amendment. This bill recognizes the work our industry does to mitigate dust and noise while focusing on the future of ag development. In addition to a nuisance, grain dust poses a safety hazard since it can cause dust explosions. As an industry, we work very hard to mitigate safety hazards. To mitigate such safety hazards and meet or surpass recognized environmental standards, grain handling facilities use various combinations of controls and operational practices to limit dust generation and collect dust that is generated. Examples include baghouses and cyclones that collect and filter out the dust; mineral oil application that causes the dust to adhere to the grain baffles on the unloading pits that prevent dust from blowing out of the pit; choke feeding which prevents damages to the grain by limiting the drop height; which reduces dust generation; socks and dust suppression hoppers on unloading spouts that limit the drop height and exposure to open air. If the dust level exceeds a certain amount, the Nebraska Department of Environmental Quality may require an air construction or operating permit and the industry works with the department in such circumstances. Grain elevators and operations occurring around grain

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

elevators such as truck or rail traffic do produce noise. However, technology continues to advance and be implemented in the construction and equipment of our facilities. Again dust and noise is a recognized safety hazard and our industry works to mitigate these hazards. Although noise from aeration fans and drivers can be a nuisance, most noise-generating equipment runs on electricity, natural gas, or propane so it is in the best interest of a grain handler to minimize use, which reduces costs and optimizes efficiency. Additionally, overuse of dryers and aeration fans can damage grain. Therefore, grain handling facilities use some of the following equipment and operational practices: meteorological control units on ground storage piles, aeration fans that run only when the weather conditions require, silencers, barriers, timing to avoid nighttime operation of noise-generation equipment. This bill, LB227, with the amendment provides Nebraska agribusinesses with written protections encouraging infrastructure upgrades as technologies develop to increase safety and efficiency in our operations. It also promotes continued growth for public grain warehouses, which help farmers and ranchers store and add value to their commodities benefiting every community in the state. We'd like to thank Senator Hughes for introducing this bill. Again the members of the Nebraska Grain and Feed Association support the bill, LB227, with its amendment and urge the committee to support this bill with its amendment. Are there any questions?

HALLORAN: Thank you, Ms. Block. I was about to ask the same. Are there any questions from the committee of Ms. Block? Seeing none, very good.

KRISTI BLOCK: Thank you.

HALLORAN: Thank you. Next proponent, please. Next proponent. Seeing no more proponents, are there any opponents? Any opponents?

JONATHAN LEO: Opponents?

HALLORAN: Yes, opponents.

JONATHAN LEO: I missed my cue. Pardon me.

HALLORAN: It's quite all right. Welcome.

JONATHAN LEO: Thank you. My name is Jonathan Leo, J-o-n-a-t-h-a-n, last name Leo, L-e-o. I feel like I just lost five inches in height. I live at 2321 Devonshire Drive in Lincoln. I'm a, an environmental attorney of over 30 years, environmental consultant for about 12 to 15

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

years. I'm speaking on behalf of Nebraska Interfaith Power and Light, of which organization I'm on the board of directors here in Lincoln. I've been in Lincoln with my wife for about 15 months and lived in many places before that. Originally I'm from California, which is where my legal experience is from. And in my legal career I've represented-- I started out as an environmental crimes prosecutor for the city of Los Angeles, the city's environmental lobbyist on state legislation in Sacramento for a couple of years, the land use it's in the civil division of the city attorney's office, also in private practice in San Francisco for 15 years representing businesses, cities, individuals, corporations, in a host of areas, including one very memorable defense of a waste management company that had been sued by residents about a quarter of a mile away or half a mile away because of odors from the landfill due to an expansion of the landfill into an area previously reserved that had been-- was much closer to those residents. So I've been on both sides of this issue. I'm speaking in opposition for several reasons. The first of which is and I think the most important from my perspective, I believe that this statute to a proposed statutory restriction on the ability of people, whether they are individuals with, with residences or businesses, farmers with, people with acreages, farmers of any kind, businesses restriction on bringing nuisance actions against operations which they did not come to which existed when they were already living there, but which have changed in some scope or nature, is a deprivation of property rights and by that the potential violation of the due process clause of the Nebraska Constitution. As I suspect you know, one of the rights of property owners is the right to use and quiet enjoyment of your property. You're entitled to that obviously within, within reasonable bounds. And that's why coming to a nuisance is a defense for someone who you sue where you made the choice to come and move to an area where an operation exists. You are on notice or should have been on notice that the operation was what it was; and if it bothers you, that's too bad. But if you live in an area and this addresses I believe some of the questions that you had, Senator Lathrop, if you live in an area and there is an operation which creates some kind of odor or a groundwater or surface, surface water contamination of some kind in its operations and there's no change in the operation from when you first moved there, you don't have the right to bring a nuisance action. If, however, there is a significant change in the nature of that operation and there is a significant change in the nature of the nuisance meaning only a quality of that operation which interferes with your enjoyment of your property, this is a hot-- then you do not have a right, pardon me, then you do have a right where

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

there's been a change that is significant that changes your sense of use and quiet enjoyment. You have the right to bring a nuisance action and that's what nuisance actions are supposed to be for. There is also an aspect of uncon-- I would suggest unconstitutionality here with respect to the-- the article of the Nebraska Constitution Article I, Section 13, Equal Access to the Courts, which says that "All courts shall be open, and every person, for any injury done him or her in his or her lands, goods, person, or reputation, shall have a remedy by due course of law and justice," et cetera. This legislation, proposed legislation is problematic for me for both of those reasons. But also I would suggest that and I would-- I would ask for help because I think I don't understand the, the purpose of Section 2, which defines what significant change is or is not. It begins with: There is no significant change in the type of farm or public grain warehouse where that farm or public grain warehouse has been in existence for at least a year and was not a nuisance at the time that it began.

HALLORAN: Mr. Leo, I'd ask you to wrap it up, please.

JONATHAN LEO: OK. What follows are four set-- subsections that say what a significant change does not include. And here's where I'm troubled. All four of these significant changes, all four of these items that are not significant changes seem to me to be very significant. In fact, I can't imagine what could be more significant than a change in the ownership or size without regard to quantity or, or, or of dimension of a farm or public grain warehouse.

HALLORAN: Mr. Leo.

JONATHAN LEO: OK.

HALLORAN: I'm sorry.

JONATHAN LEO: I'll take questions. My apologies.

HALLORAN: That's fine. Do we have any questions for Mr. Leo? Seeing none, I thank you for your testimony.

JONATHAN LEO: Thank you.

HALLORAN: Any other opponents? Anyone in the neutral? Welcome.

ANTHONY SCHUTZ: Welcome. We're almost done. My name's Anthony Schutz, A-n-t-h-o-n-y S-c-h-u-t-z. I teach at the University of Nebraska College of Law. I don't represent the university in my testimony

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

today, but I've been teaching land use and agricultural law for about ten years now, so this is kind of the area that I've worked in. In fact, one of the first pieces I wrote was a chapter in this book by Alan Gless, "The History of Nebraska Law", and it was on land use law and its intersection with livestock production. I'm from Elwood, Nebraska. I grew up on a-- on a hog and dairy farm, so I have a lot of experience with the smells that are agriculture, as well as the law associated with agricultural production, specifically nuisance law and our Right to Farm Acts. So what I'd like to do today is provide a little bit of background on our Right to Farm Acts, and then talk a little bit about what nuisance law is and how it fits into the larger regulatory landscape, because I think that's something that's been overlooked a little bit today. This attempt at modifying our Right to Farm Act would be probably the fourth-- well, it would be the fourth effort at dealing with right-to-farm statutes in Nebraska. The first right-to-farm statute was 1977 and it actually isn't the one that's being amended, although it is on the books. It was passed in the wake of a case called Botsch v. Leigh Land Company. The Leigh Land Company owned a feedlot and ran a feedlot for a number of years and got sued in nuisance by a neighbor. They'd been there for a long time and got sued, right, and it was that quintessential, I've been here-- this isn't necessarily a new neighbor, but, you know, they've-- they're upset with me and they dragged me into court on an-- in a nuisance case. Leigh Land Company won in the district court. It went up to the Nebraska Supreme Court and the Nebraska Supreme Court reversed and said, you shouldn't have granted summary judgment to the feedlot because coming to the nuisance isn't an absolute defense because the manner of operations isn't an absolute defense; in other words, you need to go litigate this, there's questions of fact. The Nebraska Legislature was so taken aback by that outcome that they went to the statute books and wrote a statute that was so geared at Botsch that it was framed in terms of providing the defendant with a prima facie case so that they could avoid summary judgment. So that was 1977; 1980, we went back to the drawing board and we changed that prima facie case language to say a livestock operation is not a nuisance if they're in compliance with zoning and if they're using reasonable techniques to keep dust, noise, and all of that sort of stuff at a minimum. That was 1980; 1982, we adopted the Right to Farm Act that's being amended this time. And we did away with compliance with zoning and we did away with reasonable techniques and we just said if you're there first, you're not a nuisance as long as you weren't a nuisance before. All right? So that's our current Right to Farm Act. Our current Right to Farm Act protects livestock operations, agricultural operations, so long as

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

they were there first, right, and so long as they weren't a nuisance before. It's all about time, really, at the end of the day. This provision changes that remarkably. It changes it in a way that makes time pretty much irrelevant. In other words, the sum total of this provision is, at least in its current form, if you are a farming operation, you will never be a nuisance, period. All of the farming operations are in existence now. If you own a row crop operation and you put 10,000 head of hogs right next to me as a, I don't know, a southern Lancaster County acreage owner, I don't have the ability to sue. That was a conversion that is insulated from nuisance liability, expansions to or insulated from nuisance liability. And the question is, do we want to-- to do that? Now, in order for that person to get their 10,000 head of hogs right next to me as the acreage owner in southern Lancaster County, they had to go through a lot of permitting, right? The Lancaster County zoning ordinance has about four lines on livestock operations right now. That was what was at issue with the chicken barns in southern Lancaster County, I don't know, in the last couple of months. The special use permit provision in Lancaster County, one of the most highly regulated places for land use if you consider Lincoln as the land use regulatory aspect of Lancaster County, it has very little on county zoning. Some counties have a lot on county zoning. Some counties have very little on county zoning. And the reason I bring that up is not to criticize Lancaster County. They're going to go back to the drawing board. Maybe they'll adopt the matrix; maybe they'll do something else. But it's to point out that there are holes in the zoning ordinances and once a zoning ordinance-- once you go through that zoning ordinance and get your special use permit, that doesn't necessarily protect a neighbor from the imposition of the burdens that are where you seek compensation in a nuisance action, if that makes any sense. There's a couple of other things about the land use regulatory process that make nuisance suits somewhat necessary. In some instances, the regulatory authority can't even consider the impact on the neighbor. They're charged with regulating in the public interest. You can't zone, you can't deny a special use permit simply because a neighbor objects, simply because there would be a harm on the neighbor. In fact, the neighbor's rights are somewhat irrelevant, but they're not a sufficient basis for taking any land use action at the governmental level. So the nuisance action acts as a backdrop, a way for that neighbor to protect themselves in the event that regulatory process falls through. The final problem with the regulatory process and its ability to deal with the harm on neighbors is at the outset of an operation, when you're looking at all of these plans on paper, it's very difficult to figure out what

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

exactly the impact is going to be on the people that are-- that are downwind, that are within a mile of this particular operation, or just outside that setback. I see I'm out of time. Do you want me to finish the thought?

HALLORAN: Please wrap it up, yes.

ANTHONY SCHUTZ: So the point is, ex ante, it's very difficult for the land use regulatory authority to anticipate all of the impacts. Again, nuisance law acts as a backdrop in those instances where the burdens sort of fall through the cracks. And that's one of the-- those are the main things that nuisance law can help do in the land use regulatory process. If you take that away, you get rid of them.

HALLORAN: OK. Thank you. Any questions from the committee? Senator Lathrop.

LATHROP: Can I just do a lawyer question?

ANTHONY SCHUTZ: Sure.

HALLORAN: No.

LATHROP: Tell me what the elements of a nuisance case are.

ANTHONY SCHUTZ: So Nebraska is a bit convoluted in its nuisance law. We have two standards. If you sue for an injunction, the standard the courts utilize is one of substantial interference with your use and enjoyment of property such that it interferes with the day-to-day use of the property; in other words, it smells so bad you can't go outside. Right? It causes a person of ordinary sensibilities actual physical discomfort. That's the standard for injunction-- injunctive relief.

LATHROP: For-- for-- to enjoin the operations--

ANTHONY SCHUTZ: Yeah.

LATHROP: --on the neighboring farm. OK.

ANTHONY SCHUTZ: That's one standard that's out there. If you sue for injunctive relief, that's it. And, you know, that's one thing to think about is, what is the standard for nuisance cases? It's not like you just wind up liable. Right? You have to establish the nuisance and the only time the Right to Farm Act would protect the operation is if they

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

were liable in nuisance. Right? I mean otherwise it's irrelevant. If you don't meet the nuisance standard, you don't make out the claim. So actual physical discomfort, you can't leave your home, your kids are sick, right, that sort of stuff gets you injunctive relief. For damages, the Nebraska Supreme Court adopted a standard from the restatement that the intentional and unreasonable invasion of one's, what did you say, intentional and unreasonable interference with one's use and enjoyment of their property, and that involves a big balancing test that balances the utility of the nuisance-causing conduct against the utility of the plaintiff's use of the property. And we look at a lot of different things and it's-- it's actually quite complicated and there's a lot of different factors, as you would imagine a restatement sort of standard would involve. But when you look at the cases, the cases where people are-- are successful in nuisance are cases where you can't leave your house, right, where you can't have people over, where you can't entertain other folks anymore, right? They're cases where you've got a residential use against some industrial kind of use, and agriculture is becoming more and more industrial, which is I think a good thing. It's very-- there's a lot of efficiencies associated with it. It-- I mean we're producing food at a level that we've never produced before at the lowest cost that we've ever produced it at. I mean that's an amazing thing. But as agriculture becomes industrial, it has to be treated as such. And part of that is the land use game and some of that is nuisance liability.

LATHROP: OK. Thank you.

HALLORAN: Any other questions from the committee? Yes, Senator Malcolm [SIC] -- Senator Moser, excuse me.

MOSER: I'll overlook that.

HALLORAN: I didn't call you "Senator Hemp."

MOSER: I'll look that over-- I'll overlook that. Well, I think-- let me offer a couple of generalizations here and you can correct me if I'm incorrect. First of all, I think hogs smell the worst.

ANTHONY SCHUTZ: I think that's probably true.

MOSER: Yeah.

ANTHONY SCHUTZ: Yeah.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

MOSER: So that's kind of the question that you asked before. You know, but they can all be managed and not all operators are equal, you know, because I've-- we had hogs. We've had cattle. I fed the hogs. I fed the chickens. So, you know, on the relative spectrum of smells, that may be it. But I think what this bill is trying to do and what they've tried to do in the previous versions of the law is that farmers would be trying to make a living and they're raising animals and the neighbors sue them and the neighbors don't really have real substantial problems with the use of their property. And the farmers look at it as a nuisance toward them that they're being hassled and they have to spend a lot of money to defend what they do for a living. So I think that's kind of why the law wound up where we are.

ANTHONY SCHUTZ: I-- I think you're right.

MOSER: OK.

ANTHONY SCHUTZ: I think there's two aspects of that that are sort of reflected--

MOSER: Go ahead.

ANTHONY SCHUTZ: --in the law. The nuisance standard itself is built to take all of that into account, right? If your plaintiff is just being dainty, really, at the end of the day--

MOSER: But that's-- but that's after how many thousand dollars of legal fees?

ANTHONY SCHUTZ: That's true. No, I-- that's true. The civil litigation process can be abused by plaintiff's attorneys.

MOSER: Well, or just-- it's a fair question.

ANTHONY SCHUTZ: Yeah.

MOSER: I wouldn't say it's abuse. It's just expensive. If I have--

ANTHONY SCHUTZ: It's just expensive. And one way of dealing with that would be an attorney's fees provision, right? That would be one way that you wouldn't have to throw the baby out with the bathwater. You could keep nuisance litigation but you could have the ability to recover attorney's fees in the event you're successful as a-- as a defendant in those sorts of cases.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

MOSER: That would--

ANTHONY SCHUTZ: That would take care of those transaction costs.

MOSER: That would bump up the loss if you lose.

ANTHONY SCHUTZ: It would. The other thing-- and what's good for the goose is good for the gander. If you're successful in a suit like that, perhaps you should get attorney's fees, too, or you can do lots of different things. There's a lot of different ways of going about that. The other thing that is interesting about what you said is sometimes the smells aren't avoidable, right? I mean it just smells to raise hogs and it smells to raise cattle and there's--

MOSER: They're getting better.

ANTHONY SCHUTZ: --and there's--

MOSER: They're getting better at controlling those things.

ANTHONY SCHUTZ: --there's things we can do in order to minimize the impact, right? But sometimes they're unavoidable. Nuisance litigation, it has sort of this long history. *Botsch v. Leigh Land Company* involved a claim by the feedlot that, look, we are using state-of-the-art technology here, this is the best we can do. It still smells, right? The court, when it reversed that grant of summary judgment, sent it back and said the manner of the operation isn't relevant to the existence of the nuisance. And the reason it said that is because nuisance litigation is all about how significant the harm is that the neighbor is experiencing. They can't get out of their house, right? That's what nuisance litigation is about. It's not about how good it-- how good the, I don't know, concrete-mixing facility is at mixing concrete or the asphalt plant is at making asphalt or the hog operation is at controlling the odor from manure. Now the Right to Farm Act, though, introduced in some instances the manner of the operation as a relevant piece of the calculus. In this bill, at least the version of it I've seen, has a provision in it that talks about the manner of the operation. In the third subsection it talks about the manner of the operation. The problem with the bill as it's currently written is it places that in the disjunctive relative to the other two subsections. Subsections (1) and (2) are-- subsections (1), (2), and (3) under the current bill are all in the disjunctive and it actually makes no sense. The first two subsections at a minimum should be in the conjunctive, and I believe, in fact, the third subsection

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

should be in the conjunctive, as well. Then you get nuisance liability if you were there first, you haven't done a substantial change, and you're using reasonable techniques to keep dust, odor, and noise-- noise at a minimum and you're in compliance with all the regs. If you can check all of those boxes, fine, do your nuisance, right? The difficulty there comes in with the substantial change notion, right? Well, how are we going to define those? Expansions are one thing. That's a lot like the airport growing. But conversions are a lot like I move to Carter Lake and they build an airport and I didn't know they were going to build an airport when I moved there, right? And so that's the difficulty you run into. One place where you could maybe achieve some compromise on the bill would be strike "conversion" and keep "expansion," right, and maybe that would-- would help.

MOSER: OK. So-- so the-- the previous bills were kind of a way to tilt a little bit toward agriculture to protect the producers so that were an ag-- an ag state and we want to be able to continue to keep our number-one industry going. OK, then this bill takes it to another-- expands that a little bit.

ANTHONY SCHUTZ: It-- it's a further step. You know, one problem with the Right to Farm Acts is that you lose the right-to-farm protection when you expand, right, and when you--

MOSER: Now.

ANTHONY SCHUTZ: Now you do, right. In a lot of states that's been the case. But, you know, things become nuisances when they expand, so it just-- it raises the question that we've always run into.

MOSER: Well, does it move the bar a little bit or does it--

ANTHONY SCHUTZ: I think so.

MOSER: --make it impossible to raise-- to bring a nuisance case against a bad operator?

ANTHONY SCHUTZ: As it's currently written, it would-- it would make it impossible to make a nuisance claim against an existing farming operation, whether it was row crop-- I mean, as long as it's at least in row crop, at this point in time, it'll never be liable in nuisance. And I think that does actually raise some constitutional questions. I don't know if they're due process. I think they're more along the lines of like a takings claim, like if we wrote a statute, for

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

example, that said landowners had to allow easements for power lines across their property with zero compensation, that-- that would be a taking, clearly, right? That would violate the takings clause of the Nebraska Constitution and the-- this isn't fundamentally different than that. If there's a nuisance, we would be requiring an adjacent landowner or acreage owner to tolerate this imposition on their property without any compensation and that could raise problems, I mean, just absolutely. But if, on the other hand, you say, if you were there first, you get the protection and we define substantial change and we say in the event of no substantial change you get the protection and we say you must use reasonable techniques and introduce that manner, then we're a lot closer to avoiding that constitutional sort of claim.

MOSER: But you sound like you're against it, but you filed as a-- as a neutral or are you opponent?

ANTHONY SCHUTZ: No, I'm not-- I'm-- and I'm critical of everything because I'm a lawyer, that's sort of what I do-- [LAUGH]

MOSER: I'm not a lawyer--

ANTHONY SCHUTZ: Yeah.

MOSER: --but I'm kind of critical too.

ANTHONY SCHUTZ: --and a law professor. So, no, I mean, my main point in the testimony was to say, look, nuisance law has an important-- plays an important role in the larger regulatory landscape and we ought not forget that. As a policy matter, if you want to insulate all agricultural producers from nuisance liability, that's entirely within-- within your realm to do. I--

MOSER: You think this does that?

ANTHONY SCHUTZ: I do. Now if you put an "and" in the-- in between (2) and (3), then I don't think it does. There's some conditions associated with it. But that would be-- my reading of it would be as long as it's a farm now, it'll never be a nuisance.

MOSER: You following this?

LATHROP: Completely.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

MOSER: Oh, of course.

HALLORAN: Hey, they're lawyers. They understand each other.

LATHROP: I just want to make this observation, if I may, Mr. Chair. I really appreciate it when members of the bar, particularly people that come out of-- that are teaching in the law school bring their expertise to this committee, and not just this committee but all the committees. I'm over in Judiciary Committee. We have lawyers that come in from the law school, we have people that come in from the Uniform Law Commission that testify, and this Legislature is served by the testimony of people who have expertise in the area. I certainly don't, as you can probably tell, the way I stumbled through some questions. And the rest of you need to understand that this is exactly what law school is like. So you may not want to take the LSAT, Mr. Chairman.

ANTHONY SCHUTZ: We're happy to help.

HALLORAN: [INAUDIBLE]

ANTHONY SCHUTZ: And folks like Rick, I've been involved with for a number of years, so--

LATHROP: Yeah. Thank you.

ANTHONY SCHUTZ: Thank you. Any other questions?

HALLORAN: All right. Thank you, Senator Moser. Thank you, Senator Lathrop. And thank you. Are there additional questions? Seeing none, thank you for your testimony. Senator-- oh, we have one more. Excuse me. Neutral?

ED WOEPPEL: Yes.

HALLORAN: Welcome.

ED WOEPPEL: Thank you. Senator Halloran and members of the Agriculture Committee, my name is Ed Whoepfel, that's E-d W-o-e-p-p-e-l, and I'm appearing today on behalf of the Nebraska Cooperative Council. The council is the trade organization representing approximately 96 percent of Nebraska's farmer-owned grain and supply marketing cooperatives. LB227 would change provisions relating to public nuisances involving farms and public grain warehouses The intent of the bill indicates that if the farm or grain or public grain warehouse existed prior to changes in surrounding property, the farm or public

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

grain warehouse shall not be found to be a nuisance. The council supports the intent of LB227 of extending protection to farm and public grain warehouses in nuisance claims when surrounding land use changes. The council appears today in a neutral position on LB227 solely because the bill as drafted removes all references to the "or farm operation" and-- or grain-- "public grain warehouse operation" that is currently in the existing statute. Senator Hughes has been very responsive to our concerns and we understand that with AM281, that is being considered by the committee when it takes up LB227. We believe that it's important as the current law recognizes that the farm and farming operation and the public grain warehouse operation, as well as the public grain warehouse, continue to be protected as set forth in current law and as that protection is expanded by LB227. Nuisance claims that arise out of dust or noise from a public grain warehouse facility, if the dust or noise is as a result of a train being loaded with grain, operational effects that can arise separate from the existence of the actual public grain warehouse itself, would these operations continue to have protection if the reference in the law to operations is removed? We believe that removing the reference "operations" from the current statutes call into question whether the activities associated with operating the public grain warehouse would likewise be protected. We believe that those claiming a nuisance could claim that the removal of the operations of the farm or public grain warehouse indicate an intent by the Legislature to not protect the operations and that our membership would end up more exposed to nuisance actions rather than enjoy the greater protection that is intended under LB227. We're thereby requesting that AM281 achieves the language we're seeking in that each-- in each instance where there is "or farm operation," "or public grain warehouse operation," that was deleted in the original version of LB227, that the bill be amended to leave those phrases in current law. LB2-- or, excuse me, AM281 further amends LB227 so that each of the instances in Section 2 of the bill where the farm or public grain warehouse is mentioned, those words be followed with "or farm operation," "or public grain warehouse operation," respectively. If the AM281 amendments are made to LB227, the Nebraska Cooperative Council would wholeheartedly support the amended bill on an ongoing forward basis. For the foregoing reasons, we encourage the committee to adopt AM281, amending LB227, before advancing it to the full Legislature for consideration. So I thank you for your consideration. I know I went through a lot of numbers on the amendments and so forth, but I'd be happy to respond to any questions that you may have.

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

HALLORAN: Any questions for Mr. Woeppel? Seeing none, you must have been pretty thorough.

ED WOEPPEL: Thank you. Or I'm at the end of the day.

MOSER: He's the last one.

HALLORAN: He's the last one. OK. My question is, are there any more neutral testifiers? If not, Senator Hughes--

HUGHES: Thank you, Chairman Halloran. Members of the committee, I apologize. The-- I didn't think it was going to be that long of a hearing. But a couple of things I want to-- I want to point out. And if there are issues that we need to work on, you know, I'm certainly open to doing that. But the Right to Farm passed in 1982, so that's, you know, 36, 37 years ago. A lot of things have changed since that point. We have zoning that has come into counties that protect the citizenry from expansion issues. There's also a lot more robust involvement from the state from Department of Environmental Quality, those types of things, that are protecting our natural resources. Part of what this really does is, in reinforcing those protections that are in place, the population is becoming farther and farther removed from the farm and there's less and less tolerance, if you will, of the industry, because it is a dirty, smelly, sometimes not-very-pleasant operation. And, you know, for those of us that are in that, we accept that, we're willing to take that on. But to try and help with the peace of mind that if we make a change in our operation, you know, the-- the nuisance lawsuits won't be coming our way. We focused a lot on-- on livestock today, which that's what everybody normally thinks of, but is a significant change in my operation if I convert an irrigated field from flood irrigation to center pivot? You know, now I have a, you know, 15-foot-tall machine going around there in that field. Is that-- does my new-- my neighbor consider that a nuisance now because their view out their front window is different, you know, when the crop is not there? If I change type of crop, you know, from wheat to corn and the residue from the corn crop is much more subjectable to the wind through the wintertime, you have shucks blowing around, is that a nuisance where when I was raising wheat that's not a problem? There's a lot of different things in agriculture, more than just livestock, and there is a lot of concern, you know, coming from my industry of trying to maintain the protections that we've got-- we have from nuisance lawsuits. And this bill is just an attempt to try and reinforce those, to give some peace of mind to my colleagues that we can continue to operate within the

Transcript Prepared by Clerk of the Legislature Transcribers Office
Agriculture Committee February 12, 2019

framework of zoning and state regulations for the benefit of all Nebraskans, not just agriculture, because, you know, we like providing high-quality, cheap food for everybody. So thank you, Mr. Chairman. Thank you, members of the committee.

HALLORAN: Thank you, Senator Hughes. Any questions from the committee for Senator Hughes?

LATHROP: None.

HALLORAN: OK. Seeing none, thank you, sir.

HUGHES: Thank you.

HALLORAN: I would entertain a motion to go into-- oh, excuse me, I do. [INAUDIBLE] All right. I have letters to enter into the record. Proponents: Kevin Cooksley, Nebraska State Grange; Kristen Hassebrook, Nebraska State Chamber. Again, Senators, these are in-- in your book, your binders, so you can look through those. I would now entertain a motion to go into Executive Session.

BLOOD: Motion to go into Executive Session.

BRANDT: Second.

HALLORAN: Motion by Carol Blood, second by Senator Brandt.

BLOOD: How come I'm "Carol" and he's "Senator"?

HALLORAN: Senator-- Blood.

BLOOD: Thank you.

HALLORAN: I tell you what, we got so many--

BLOOD: Hey, I'm returning that title.

[BREAK]