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Agriculture Committee
February 18, 2014

[LB941 LB942 LB1080]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 18, 2014, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB942, LB1080, and LB941. Senators present: Ken Schilz, Chairperson; Norm Wallman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Tom Hansen; Burke Harr; Jerry Johnson; and Steve Lathrop. Senators absent: None.

SENATOR SCHILZ: Good afternoon and welcome to the Agriculture Committee hearing for this Tuesday, February 18. My name is Senator Ken Schilz. I'm from Ogallala and I represent District 47, and I will allow the folks who are here to go ahead and introduce themselves. We'll start over here with Senator Bloomfield.

SENATOR BLOOMFIELD: Senator Dave Bloomfield, District 17 in the northeast corner of the state.

SENATOR WALLMAN: Senator Norm Wallman, District 30. It goes from Lincoln to Kansas.

SENATOR JOHNSON: Senator Jerry Johnson from Wahoo. I represent Saunders, Butler, and Colfax Counties.

SENATOR SCHILZ: Thank you. And we expect other senators to come along as the day progresses, so we expect them to be in and out, so. We appreciate you all coming today. I'd also like to introduce up here to my right is Rick Leonard, the research analyst for the Agriculture Committee; and here to the far left is Jamaica Erwin, who is the committee clerk. We also have two pages with us today: Chandler, over there, and Colton, who have been with the committee since we started hearings this year. Let me go a little bit through the procedure of how we'll work things today. The committee typically begins with the introducer's introductory statement. Then we ask for those speaking in a proponent capacity to come forward, followed by opponents, and then finally neutral testimony, if there is any. If you do plan to testify, please fill out a testifier's sheet and those are available by the door. If you are presenting testimony on behalf of an organization and your comments will represent the organization's view on the bill, please indicate the organization you're representing. If your testimony is your own personal views, then...and you're not authorized to represent the views of other persons, then you may leave the space under "representing" blank, or write in "self." When you're ready to testify, please hand your testifier sheet to our committee clerk. Please begin your testimony by stating your name and spelling it for the record; that way our transcribers may get your name correct. Again, please indicate verbally if you're testifying as a representative or not of an organization. If you have copies or exhibits to share with the committee, please indicate to one of our pages and they will hand them out for you. And we request that if you have items to hand out, please have ten copies.

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And if you need copies made, we will take care of that for you. There will be no...we will use the clock today, so you'll see up there we'll have five minutes. You'll have four minutes as a green light, and then the light will turn yellow, and you'll have a minute before it turns red, so you should have plenty of time to wrap things up. I would hope that people will keep their testimony succinct, to the point, and focused; and please try not to reiterate anybody else's testimony. And one other thing, we do not show any outward signs of support or opposition to any of the testimony that's heard here today. Please shut off all your cell phones or turn them into a silent mode. And if you do need to make or answer a phone call, please step out of the hearing room to do that. And with that, we will go ahead and I will turn it over here. We have three bills today, LB942, LB1080, and LB941. And I will move over to the testifier's chair and turn it over to Senator Wallman, the Vice Chair.

SENATOR WALLMAN: We have two more senators join us: Senator Lathrop and Senator Hansen. And welcome to the hot seat, Chairman Schilz.

SENATOR SCHILZ: (Exhibits 1a, 1b, and 1c) It is a little warm in here, isn't it? Yeah. (Laughter) Thank you, Senator Wallman and members of the committee. I'm here today to introduce LB942. My name is Ken Schilz, spelled K-e-n S-c-h-i-l-z, and I represent District 47. The effect of LB942 is self-evident, but technically LB942 amends Section 54-2604 of the Competitive Livestock Markets Act. This section currently prohibits packers, defined as persons engaged in the slaughter of livestock in excess of 150,000 animal units annually, from feeding and keeping of livestock for the production of livestock or livestock products, except for incidental feeding just prior to slaughter. Livestock is defined by that act to mean cattle and swine. LB942 would narrow the prohibition found in Section 54-2604 to confine the prohibition to the feeding or keeping of cattle for the production of beef or beef products, thus excluding the keeping and feeding of swine. The bill undoubtedly touches upon a very sensitive issue within the agricultural community. Livestock production has become increasingly integrated and coordinated. An October 2013 report of the USDA Economic Research Service finds that the percentage of feeder hog operations marketing through production contracts grew from 5 percent in 1992 to 71 percent in 2009. The trend towards integration is becoming an increasing challenge to pork producers in Nebraska with or without that ban on packer feeding currently in place here. I think that has a number of implications for Nebraska that we cannot ignore. I wanted to direct you to the handout, which is a summary chart from a 2013 report of the University of Nebraska Extension entitled, "U.S. Livestock Industry Trends and Nebraska's Role." What is apparent is the large gap between packer slaughter capacity and the in-state market hog inventory. While our pig crop matches our butchering capacity, the relatively low numbers of market hogs finished in Nebraska indicates that our packing facilities rely on out-of-state sourcing for slaughter hogs, and that feeder pigs are leaving the state to be fed before returning for slaughter. In other words, we are outsourcing hog feeding to producers in other states and Nebraska packers are outsourcing procurement of market hogs to states where

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producers are not restricted in production contract arrangements. An important implication is that a recipe for investment in packing facilities as plants age and need to be replaced and renovated, we are increasingly risking that investment to follow where the production is. The trend toward vertical integration is driven by a number of factors. All meat sectors have attempted to capture value by offering value-added products that appeal to consumer tastes and lifestyles. The percentage of meat sold as cuts prepared at home continues to decline, and there is a growing preference for value-added products that demand quality control throughout the production and marketing chain. Various types of marketing arrangements with producers have been sought by both packers and producers and they provide access to value-added chains, reduce transaction costs, help secure supplies for packing plants while securing markets for producers. Many types of forward contracting are already available and utilized by Nebraska producers today even with the current ban on packer ownership. Producers are free to enter into marketing contracts whereby they commit their production to a packer buyer. Simultaneously, this commits a packer to purchasing their production. Whether we like it or not, the marketplace for independent producers in Nebraska is becoming increasingly challenged whether this bill passes or not. What this bill would allow is production contracting whereby producers essentially are compensated for their facilities and management in producing hogs while some of the ownership risks and costs are transferred to the packer. I would suggest that this type of arrangement is particularly beneficial for young, beginning farmers who lack capital to be able to obtain financing through traditional farm lenders. I believe we will hear from a couple of young producers from Iowa to speak to their experiences under contract feeding and how contract guarantees and the sharing of costs and risks with purchasers help them secure the backing of lenders to make necessary investments. With that, I would draw your attention to my second handout, a recent analysis by that that appeared in the February edition of Amber Waves, a magazine published by the Economic Research Service that speaks to small producers utilizing contracting to grow their operations. I anticipate that the committee will hear a number of arguments in opposition. A key issue with contracting is the transfer of marketing power to the processing sector. There is legitimate concern that the ability of packers to secure supplies through marketing and production contract procurement reduces competitive bidding outlets for independent producers. Some experienced with production contracting in other sectors suggests that producers often perceive that the contract terms and application have been onerous. But I believe those concerns will become increasingly prevalent in Nebraska whether the packer ban and the Competitive Livestock Markets Act remain in place or not. Before concluding, I wanted to offer AM1721, which I published in the Journal on January 28. The amendment seeks to avoid interpretation that the ban on packer ownership of cattle that remains, expands the act to apply to ownership structure in dairy production. The Competitive Livestock Markets Act is directed to limiting vertical integration in production of meat products, and the restriction is on packer ownership of cattle and swine for that purpose. The introduced version including dairy terms is unnecessary and that the keeping or feeding of dairy cattle for the purpose of producing

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milk and dairy products is not the business of slaughtering cattle for meat. The amendment retains that the restriction applies to the keeping of all cattle by packers for meat production, which would include dairy animals. I anticipate there to be both vigorous support and opposition to this bill. I concede that contracting is a sensitive issue, but I do not believe it is possible to wish or legislate away vertical integration which exists in the pork production industry today. Regardless of the outcome of this bill, it is incumbent on this body, the pork industry, and the agricultural sector to understand the implications of integration and to enable our producers to compete in light of the realities of the marketplace today. And with that, I would be happy to try and answer any of your questions, and there are others behind me that will be able to do so as well. Oh, yes, and there a couple of letters that we need to read into the record. A letter from Director Ibach and the Department of Ag that we have entered into the record. And with that, I'd like to answer any questions. [LB942]

SENATOR WALLMAN: Thank you, Senator. Senator Lathrop. [LB942]

SENATOR LATHROP: I have one, Senator Schilz. As I look at this, it seems to stop...it goes from livestock...it makes it unlawful for a packer to directly or indirectly be engaged in the ownership, keeping, or feeding of livestock, which is the current law; and now we change livestock to beef. Right? [LB942]

SENATOR SCHILZ: Right. Correct. [LB942]

SENATOR LATHROP: So what we're doing is carving out and allowing them to engage in, own, and directly or indirectly keep pork. Right? [LB942]

SENATOR SCHILZ: Right. Correct. Just like... [LB942]

SENATOR LATHROP: Is there a reason we don't do beef at the same time? [LB942]

SENATOR SCHILZ: Well, just like when this law was originally passed in 1998, we carved out poultry in that as well as being...because as we talked to producers and we talked to people that were doing that, they didn't want those kind of restrictions placed upon them. And what this does now is this looks at the same criteria from hog producers; and the folks that brought me this bill would like to have that same consideration. [LB942]

SENATOR LATHROP: And let me ask you...and I'm not doing this to be a wise guy, but why wouldn't we do it...why wouldn't we allow them to do it for beef as well? [LB942]

SENATOR SCHILZ: Because as we went through the negotiations on this and how far to take it, the folks in the beef industry were not interested at this time in having that. The beef industry is much less integrated than the hog industry has become; and with

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that they would prefer not to allow packer ownership in the beef industry. [LB942]

SENATOR LATHROP: So what would be the concern...and I ask you this to understand... [LB942]

SENATOR SCHILZ: Sure. [LB942]

SENATOR LATHROP: ...the downside to doing this bill, what's the concern the cattle guys would have on opening this up entirely? [LB942]

SENATOR SCHILZ: You know, it depends on the cattle guys that you talk to. You know, myself being a feeder and having managed and owned a feedyard and fed a lot of cattle, before 1998 we actually used to feed some packer-owned cattle. Quite honestly, some of the best customers we ever had, they'd pay more at the livestock barns than we could pay for the animals. They would bring them to our facility, they would feed them there, they would pay their bills on time, never a problem with that, and when they shipped a pen out they always brought a pen back. This is kind of my...you know, what I would call my consideration for the beef industry in that they didn't ask to be included and so we didn't include them, and that's the whole reason. And as far as the reasons for that are not...I'm hoping that possibly we'll have somebody here that will be able to answer that for you. [LB942]

SENATOR LATHROP: My next question, and again this is a sincere question. If this helps the young guy that doesn't have the ability to raise the capital to set up one of these operations, what does it do to the guy who has an existing operation? Is he now at a competitive disadvantage because he's gone through, built the operation, paid for it himself, and he's counting on the opportunity to make a profit, as opposed to be on somebody's payroll? [LB942]

SENATOR SCHILZ: Right. And what we found out, and if you read through this, it depends on what size of a lot you are. If you have a sizable yard, it doesn't affect...whether there's contracts out there or not, it doesn't affect it. As a small producer, if contracts are part of the mix, what the research says and what the articles say is that those that are able to contract, not saying that they necessarily do, but that those that are able to contract under the law, their growth was larger than places where they didn't have production contracts in place. [LB942]

SENATOR LATHROP: How about the small farmer, and I'm thinking of the guy who is raising corn, he's got crops, and he's got a pen out back with a few animals, not a lot, not the big operations that are all indoors and mechanized, but what about those guys? Are they going to have a market for their animals, or are these packers only going to be buying from the people who they contract with in the first place? [LB942]

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SENATOR SCHILZ: Right. And I can't specifically speak for the hog industry having never been in that. But what I know from the beef industry and being there is that a lot of times there are many opportunities for marketing your animals. Just like in our feedyard, we would have cattle on feed for Tyson through their formula program; we would have cattle on feed that were on the open market; we would have cattle on feed that came in that were directed from the very moment those animals were born to go to natural programs like Coleman Natural Meats or other programs like that. So what I'm saying is, there are a multitude of marketing opportunities out there. And this wouldn't preclude... [LB942]

SENATOR LATHROP: But if a packer can own, keep, or feed hogs, why would they ever buy a hog from... [LB942]

SENATOR SCHILZ: I can explain that. [LB942]

SENATOR LATHROP: ...Joe the small guy who has, you know, he's doing corn, he's doing beans, he's doing...he has a few cattle and he's got a few hogs? [LB942]

SENATOR SCHILZ: I can tell you this, that the packing industry out there today cannot afford to own every animal they need, nor do they want to. But they do like to have a mix, and it would make sense that these folks would still have an opportunity, as far as I can see. You know, there's a lot of factors in marketing livestock to a packer. You need quality, you need to be able to show those guys that you can replicate that time after time, and then you need to be able to do it, and make that work. And the biggest problem that we see going forward is, at least in my opinion as you look at this, is that these folks are running into problems with financing more than anything. The capital intensiveness to run these industries continues to move up and up and up, and we continue to run into those kind of barriers as well. So I, on a case-by-case basis, I can't tell you if anyone would have trouble marketing their animals or not, and hopefully there will be someone behind me that will be able to help you there too. [LB942]

SENATOR LATHROP: Okay. Good. I appreciate your answers, Senator Schilz. [LB942]

SENATOR SCHILZ: No problem. [LB942]

SENATOR WALLMAN: Thank you, Senator Lathrop. Senator Bloomfield. [LB942]

SENATOR BLOOMFIELD: Thank you. Senator Schilz, on the face of this, I'm going to be opposed to it, but are you going to be here to close? Are you going to have a closing statement? [LB942]

SENATOR SCHILZ: Well, I hope so. I do have another bill in Appropriations that may come up, but it's my intention to close, yes. And if I don't get it closed, I'm always

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around to answer questions otherwise. [LB942]

SENATOR BLOOMFIELD: Okay. Yeah, I will listen to what people have to say back and forth here and then probably have some questions on close. [LB942]

SENATOR WALLMAN: Senator Harr. [LB942]

SENATOR HARR: Thank you. Thank you, Chairman Schilz. I just want to ask a couple of questions based on e-mails I've gotten and I'm sorry I didn't get a chance to talk to you beforehand. [LB942]

SENATOR SCHILZ: I bet I got the same ones. (Laugh) [LB942]

SENATOR HARR: I bet you did, yeah. So the issues were, this creates a vertical monopoly and there's an antitrust issue. And I think you might have addressed that partially with your previous answer where you said, they don't want to own all the production. But is there a possibility of a problem with vertical monopolies and creating antitrust issues? [LB942]

SENATOR SCHILZ: You know, in the other states where this happens and this goes on, I don't think they've had any trouble with that before 1998 when the bill was in place. I personally can't remember anytime when there was an antitrust issue brought up. And I know this, what I found from in my experience with feeding cattle for packers is, that if there was a problem out there that they saw, we would know about it right away and they would alleviate that problem for themselves. [LB942]

SENATOR HARR: Okay. [LB942]

SENATOR SCHILZ: In other words, they just wouldn't feed (inaudible) if that was the case. [LB942]

SENATOR HARR: And the other fear is that I've heard, or I've gotten e-mails on, is that in essence we're going back to how we used to farm in which we have more or less glorified indentured servants. [LB942]

SENATOR SCHILZ: Hum. I can tell you this, there is nothing in this bill that forces anyone to do anything. You can still market the way you want to and you always can. [LB942]

SENATOR HARR: Well, no one forced anyone to go into indentured servitude, either. [LB942]

SENATOR SCHILZ: What's that? [LB942]

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SENATOR HARR: No one forced anyone to go into indentured servitude either. [LB942]

SENATOR SCHILZ: Okay. Yeah. Well, I can tell you this, there's a great opportunity out here called the economy. And if you find yourself in that position in any place, what I would do is suggest that, you know, you look around you and if somebody is holding you down...as I look at it, if that ever happened to me in the cattle industry, I'd have said, you know what, I don't think I want to do business with these people anymore. That's how I look at this. I mean, everybody has the opportunity to make that choice and to move on. And I understand that people love feeding livestock and that's their livelihoods and stuff, but that's the way I look at it. And I can tell you from my experience, and I mean, I don't...the only experience that I have to go on is what I have experienced and we weren't a huge feedyard. I mean, we were a middle road feedyard, 10,000 to 20,000 head, but we had four or five packers show up every single week, even though we were feeding cattle for another packer and even though we had other cattle on programs for others. If you have good quality animals and you do a good job, I just haven't seen it where the packers don't show up. [LB942]

SENATOR HARR: Okay. I appreciate that. Thank you. [LB942]

SENATOR LATHROP: I do want to follow up if I can, Ken. Because I don't understand this industry, I ask these questions only to learn and not to try to make a point. But if this bill passes, is there anything stopping...and I don't even know who the packers are, but I'll just use a Tyson. Does Tyson, are they in pork production? [LB942]

SENATOR SCHILZ: I'm sure at someplace, yeah. [LB942]

SENATOR LATHROP: Okay, I'm demonstrating my urban background. (Laughter) So can Tyson go out and buy a farm and build the facility, and I get that they're very expensive, and then just start hiring people to work in there? There's nothing in here that says you've got to use a Nebraska farmer to raise it and that they'll own all the animals. They could build a megaplant somewhere and own it, right? [LB942]

SENATOR SCHILZ: Right. Well, and I would suppose they could, but the key to that then is if that's a concern to the committee, the key to that is to push this more and to point this law at those production contracts. Because then that way, right, the owners of the land would then be able to feed hogs for a packer, but the packers couldn't build the facilities themselves. [LB942]

SENATOR LATHROP: Okay. If that was the case, tell me the difference between the way it is now and if this passed, does the producer have an opportunity to make a profit or do they...they don't own the animals, so they're not selling them, they're not subject to the market, it's just going to be, we're going to pay you X to bring the animal from this

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stage to the next stage. [LB942]

SENATOR SCHILZ: Right, which would be negotiated out in that contract before that feeder would ever have to say yes. So they would still have the ability at the end once they're negotiated to say, you know what, no, I'm not interested in that; I'll feed my own hogs and you just keep coming back and buying them. [LB942]

SENATOR LATHROP: Okay. [LB942]

SENATOR SCHILZ: Yep, I mean that would be available. This doesn't preclude anyone from owning their own animals ever. [LB942]

SENATOR LATHROP: You say that and I get it, but I wonder if in the end anybody can afford to compete with a mega operation. And I'm not picking on Tyson because I don't know what their intentions are if this passed (inaudible), but I don't know how the Joe Farmer, the guy who has a, you know, I don't know, I'm making something up because again I'm an urban guy, I live a long ways from a farm, but if there's some guy with 200 acres, he's raising some corn, he's got some cattle and he's got a few hogs, that guy can't compete with somebody who's building these megafarms with shed after shed full of animals. [LB942]

SENATOR SCHILZ: Well, and that's an issue that's real and it's out there. There's no doubt about that. But if... [LB942]

SENATOR LATHROP: Well, what happens to our farms after that? [LB942]

SENATOR SCHILZ: Well, they get bigger. Farms have gotten bigger ever since. I mean, when we talk... [LB942]

SENATOR LATHROP: They get bigger but the number of them get smaller, don't they? [LB942]

SENATOR SCHILZ: Absolutely. Well, I can tell you this. Be careful of that because if we go out here and we look around at the average age of the farmers that are out there, they're going to get a lot less moving forward. I mean, we have to find ways to bring young people back to the farm because the age of the existing farmers that are out there is probably in the 60s, maybe even close to 70 now. It's a real issue and a real problem. And I can tell you this, you talked about competition and a lot of what we talk about here is price discovery, and when does that happen and when should it happen. And you know, as I was in my life as a cattle feeder when I did this stuff, we competed with a lot of people, but most of the times when you're selling something to somebody, they're considered your customer, not your competition. And so a packing plant is not necessarily a production guy's competition. You may not necessarily get along with

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them all the time, but they are your customer and we need to think about them in that respect because... [LB942]

SENATOR LATHROP: Well, won't they become your competitor under this bill? [LB942]

SENATOR SCHILZ: No, absolutely not. We can partner up with them. [LB942]

SENATOR LATHROP: So if I have a small farm, my hypothetical small farm, I don't even know if I have described one, but if that's a hypothetical small farm and Tyson owns a megaplant someplace and they have acres and acres of these metal buildings full of animals that are going from start to finish in a shed, and they're fed with machines that drop grain in there, and it's all mechanized... [LB942]

SENATOR SCHILZ: Which is a lot of the way, 90 percent of the hog industry is today. [LB942]

SENATOR LATHROP: Yeah, but they're not...they are my competitor at some point, right? [LB942]

SENATOR SCHILZ: The competitor that you're dealing with is that other producer that wants those stalls that are in that packing plant. That's who you're really competing with. So do you provide a better product to them than the other guy down the street? And when I talked about price discovery, this is the important part, when you asked, then wouldn't you be competing against them, right? If you have to go out there and go to the packer every week and say, what are you going to give me this week? And if you don't get enough to make a profit, then too bad. If you get enough to make a profit, then that's great. But unfortunately what it does is in that sort of scenario it sets up the producers to think that their competition is the packer. And if you look at a business model, what could happen...and you may not like it, you may not like that your customer can come in and has leverage over you, but it's the reality. If you want to look at the packing plant as your competitor, then...and I know a lot of people do that, but I just don't ascribe to that model. [LB942]

SENATOR LATHROP: Okay. Well, I'm sure we'll hear a lot of testimony... [LB942]

SENATOR SCHILZ: (Laugh) I guess we will, yeah. [LB942]

SENATOR WALLMAN: Senator Harr. [LB942]

SENATOR HARR: I just want to follow up. This is a great conversation. So you...are we just securitizing the future's market in essence? How do these contracts look like? Are they a year to year? I mean, how do they differ from a futures, if I do my futures three years out? [LB942]

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SENATOR SCHILZ: Right. Yeah, the whole thing is where the ownership of those animals lie, as far as I can tell. And there will be others that will be able to explain this much better than I because I don't have any experience with the production contract in the hog industry. But as I see it, and you're asking how this works, a forward contract, what you would do is you would buy hogs or animals or livestock or whatever and then you would go to the packer and you would say, I want to sell these to you at this price on this date, and they come in. And they say, okay... [LB942]

SENATOR HARR: And the farmer is long. [LB942]

SENATOR SCHILZ: Right, and they do that. The only difference here is that the packer would bring you the animals; say, hey, you feed them for me, and I want them on this date. [LB942]

SENATOR HARR: Who's responsible for the cost of the grain? [LB942]

SENATOR SCHILZ: The cost of the grain usually comes...and folks can correct me if I'm wrong, but in here...and there can be a number of different ways the contracts go, but normally what happens, if you have a production contract, the way I understand it, is that the feed, the hogs, and other things are covered by the packers. [LB942]

SENATOR HARR: Okay. So since I get X amount per pig as opposed to...so you don't have any...you get a set amount for pig is that right? So you don't have much risk? [LB942]

SENATOR SCHILZ: If I understand it, yes. And that's the whole point is the risk is lowered so then the financing becomes easier for these younger farmers to be able to do that. Now, inevitably...inevitably, others will take advantage of this. But it will...and what we've seen in the research is that it will help smaller farmers become...and here's the point, it will help smaller farmers get to the size that they need to be to survive the realities of the market today. [LB942]

SENATOR HARR: I appreciate it. Thanks. It's interesting. [LB942]

SENATOR WALLMAN: Thank you. Anybody else? Senator Chambers? Senator Chambers has joined us now. [LB942]

SENATOR CHAMBERS: Senator Schilz, I'm late, but I want to ask you something about this amendment. I'm looking at the amendment and the green copy. Okay, on page 2, lines 5, 14, 15, and 21 strike "beef or", correct? [LB942]

SENATOR SCHILZ: Yes. Basically all we wanted to do was make sure that people

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didn't confuse that, and if I understand it right, that dairy would be included in this. We wanted to make that exclusively we were talking about hogs. [LB942]

SENATOR CHAMBERS: So it would say, it's unlawful to keep or feed cattle. [LB942]

SENATOR SCHILZ: For slaughter, yes, correct. [LB942]

SENATOR CHAMBERS: Okay, so cattle would not be covered by this bill. [LB942]

SENATOR SCHILZ: Correct. [LB942]

SENATOR CHAMBERS: But without the amendment, cattle would have been covered. [LB942]

SENATOR SCHILZ: Well, we had a question as to whether or not dairy cattle would have been covered in there and that's a whole different model than we have out there. So when we put cattle in there, that was to exclude dairy cattle from the milk production and the marketing of milk as compared to the slaughter of dairy cattle, which this bill would still prohibit packers owning those subsequent and beyond that to slaughter. [LB942]

SENATOR CHAMBERS: Well, why shouldn't they be allowed to own all these cattle since they're going to own all kind of the...you want it to affect only hogs. [LB942]

SENATOR SCHILZ: Correct. And that...and Senator Chambers, that was a decision that was made in collaboration with the pork producers and the cattlemen out there in saying that the cattle industry does not want to see that changed today. That was my compromise. [LB942]

SENATOR CHAMBERS: Why not? If it's good for hogs, why isn't it good for cattle? [LB942]

SENATOR SCHILZ: In my opinion, it doesn't make a difference. But at this time, the cattle industry did not want to take that up. I can tell you this in answer to a question from Senator Lathrop before, we have seen so much more movement towards integration in the hog industry, so much more than we have seen in the cattle industry, and that's a lot of the reason why you see the hogs being the only ones. The hogs are basically where the poultry was when this bill was first passed in 1998. [LB942]

SENATOR CHAMBERS: Okay. And I want to limit mine because you probably covered this and I don't want to extend it, but I'm just trying to get caught up. [LB942]

SENATOR SCHILZ: Sure, you're fine. [LB942]

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SENATOR CHAMBERS: Who wanted this bill? [LB942]

SENATOR SCHILZ: The Pork Producers came to me and asked if I would be interested in introducing this to... [LB942]

SENATOR CHAMBERS: Would they be described as big pork producers? [LB942]

SENATOR SCHILZ: I will tell you today that I think we have a number of different pork producers here, some that are small, some that are just getting started in the industry, and some that are from our neighboring state of Iowa that will talk to us about all of those issues. [LB942]

SENATOR CHAMBERS: And that's all I'll ask right now. Thank you. [LB942]

SENATOR SCHILZ: Okay. Thank you. [LB942]

SENATOR WALLMAN: Thank you, Senator Chambers. Anybody else? Thank you, Senator Schilz. [LB942]

SENATOR SCHILZ: Thank you. [LB942]

SENATOR WALLMAN: First proponent. Welcome, Mr. Spilker. [LB942]

SENATOR LATHROP: Are you going to use the light system? [LB942]

SENATOR WALLMAN: Yes. We're using the light system. Yes. [LB942]

SENATOR LATHROP: Do you think you better...? [LB942]

SENATOR WALLMAN: He explained that to you, didn't he? Welcome, Mr. Spilker. [LB942]

SCOTT SPILKER: (Exhibit 1) Yes. Yes, thank you. Yes, Senator Wallman and members of the Ag Committee, my name is Scott Spilker, S-c-o-t-t S-p-i-l-k-e-r. I'm a pork producer from Beatrice, and I currently serve as the vice president of the Nebraska Pork Producers Association, and I'm here today to testify in favor of LB942 for the Pork Producers and for myself as a hog farmer. LB942 changes the current statute to allow comparable, competitive custom swine feeding contracts between a packer contractor and a farmer. Comparable, competitive contracts will allow Nebraska farmers the ability to choose from several options, which now would include packers. This custom feeding change does not include the cattle and dairy industry, as you pointed out, and their member's right to remain as the current statute defines. Custom feeding in the pork

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industry is an enterprise in which two or more parties form a relationship in which they share the risks, responsibilities, and rewards of producing hogs. It gives flexibility and additional opportunities to new, young, and existing farmers and landowners to put up facilities, and it brings additional risk management tools to the table. Current statute has restricted Nebraska farmers and the state of Nebraska from attracting potential opportunities to keep young farmers on the farm, and to keep our farm and rural communities alive and well. The revision of this restrictive statute for the pork industry is welcomed and appreciated, as it adds financial borrowing abilities to the young aspiring farmers to enter into swine production; and for producers who have existing facilities, it allows them an opportunity to revitalize and grow their farming operations while invigorating and inviting the next generation to remain in the rural setting. These farmers and producers will continue on their own land where custom feeding is located while the animals in their care are owned by their relationship partners. I want to point out some real data here to the committee. These charts go back to 1990 when only 3 percent of the hogs were contracted, 3 to 5 percent through today, through 2012, when hogs are nearly 70 percent contracted. Okay, this first chart is the state of Iowa. These figures come from the University of Nebraska. It shows there, growth in the state of Iowa from 14 million hogs to just over 20 million. This is the state of Nebraska from 1990 to the present where we went from 4.5 million hogs down to the current 3 million. I think those are pretty stark numbers. Other real numbers that are reported, we have three major packers here in the state. We have Smithfield or Farmland, Hormel, and Tyson. Two of those plants show that 70 percent of their hogs came from out of state, and one of them 60 percent. Let me point out that not one of those plants came to us as pork producers or custom contract growers have asked for this change. This change came from the farmers. It's time to join other states and focus our efforts on growing all sectors of the state and the resulting increase for farms, schools, and communities. In conclusion, barring Nebraska's pork producers from using modern pork industry business models, which are allowed for poultry, will hurt (1) Nebraska producer's ability to compete, and (2) ultimately impact job creation and retention and economic opportunity and tax revenue. So the Nebraska Pork Producers support the advancement and passage of this bill. Thank you. Any questions? [LB942]

SENATOR WALLMAN: Thank you, Scott. Any questions? Senator Harr. [LB942]

SENATOR HARR: Thanks. You have these two graphs you gave us that has the dotted line and a blue line. What does the dotted line mean? [LB942]

SCOTT SPILKER: That's just the trend. It's a statistical way of... [LB942]

SENATOR HARR: So it's averaging out the line. [LB942]

SCOTT SPILKER: Averaging, right, um-hum. [LB942]

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SENATOR HARR: And it says y equals...on the one for Nebraska, so y equals a negative $67638x+4E+06$. What does that mean? [LB942]

SCOTT SPILKER: I may need a statistician to help me out on that one. (Laughter) Does anyone on the committee know what that statistical... [LB942]

SENATOR HARR: No, I don't. I mean... [LB942]

SCOTT SPILKER: I could get back to you on that. I'm not sure what... [LB942]

SENATOR HARR: And then it says R^2 equals .6114. [LB942]

SCOTT SPILKER: I should have paid attention a little more on my statistics class in college. (Laughter) But those are statistical numbers and I can get an answer for that. [LB942]

SENATOR HARR: I mean, but what...okay. So they're statistical numbers, but what are they meant to show, though, I guess is the question really, if you know; and if you don't, that's fine. [LB942]

SCOTT SPILKER: I don't. I can't answer that. [LB942]

SENATOR HARR: Okay. And so it would be the same on the Iowa one, too; you probably don't know. [LB942]

SCOTT SPILKER: Yes. [LB942]

SENATOR HARR: But they're different numbers, right; y equals $299111x+1E+07$. [LB942]

SCOTT SPILKER: I would guess it has something to do with the trend, but I can get an answer for you on that, Senator. [LB942]

SENATOR HARR: Okay. Yeah, if you could. It would be...I'm just kind of interested in what the heck that means. Thanks. I appreciate it. Thanks for coming and testifying. [LB942]

SENATOR WALLMAN: Thanks, Senator Harr. Anybody else have a question? Senator Johnson. [LB942]

SENATOR JOHNSON: Thank you. Thank you, Mr. Spilker. Scott, I know your operation a little bit from a few years back and I think you know my involvement in promoting pork. I definitely want to stay up with what's happening in the trends. How much of a factor do

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you think...a negative factor, maybe, is of Nebraska being livestock friendly. Will this help grow or is that going to be the inhibiting factor, our relationship with the theme of being livestock friendly? [LB942]

SCOTT SPILKER: Well, I think those livestock friendly counties are some of the first places that some hog barns should be able to go up with some more cash infused into the industry. And I would like to point out that, as Senator Schilz did, that this just adds another option. It isn't...we're not requiring you to sign a contract with a packer. In fact, we have a lot of local zoning now, and Jerry points out the...Senator Johnson points out the...well, livestock friendly. You know, if you were in a county that opposed a packer coming in and owning hogs, you could go to the public hearing and oppose that on a county level, if you were opposed to that kind of a relationship. So I mean, there are checks and balances in place. I know a lot of you think the sky is falling, but if you look at these real numbers, we need more pigs in Nebraska. We've got three major packers. We have...we've got an abundant corn supply. I think we export about 30 percent as a commodity, and we have the by-product of the ethanol industry that we can use. These are things that we should be capitalizing on and adding value to and helping our state. And that's where we're coming from. [LB942]

SENATOR JOHNSON: I guess I have another one, kind of a follow-up. We talked about corn production and I know there's some information here from the soybean growers. Do you know in these contracts if they supply the feed, where...do those contracts give a point where that feed is going to be originated, or do you have any option in that being bought in Nebraska? [LB942]

SCOTT SPILKER: That would be something you could maybe take up in your contract negotiations, but generally the... [LB942]

SENATOR JOHNSON: Okay. You don't know what the trend is? [LB942]

SCOTT SPILKER: ...generally the contractor... [LB942]

SENATOR JOHNSON: Dictates. [LB942]

SCOTT SPILKER: ...dictates that. But that would be something that you...all of this can be negotiated. [LB942]

SENATOR JOHNSON: Okay. Thank you. That's all I have. [LB942]

SENATOR WALLMAN: Thank you. Senator Bloomfield. [LB942]

SENATOR BLOOMFIELD: Thank you. If you are a packer that does 500,000 hogs a year--just to pick a number out of the air--and you own 500,000 hogs, what chance do I,

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as a small producer, have of selling you hogs? [LB942]

SCOTT SPILKER: Probably have to go to a different packer, wouldn't you? There's that option. And what some producers... [LB942]

SENATOR BLOOMFIELD: Thank you. If there's one within 500 miles of you or... [LB942]

SCOTT SPILKER: Well, as what some producers did was went together and built a packing plant in St. Joe, Missouri, Triumph Foods. I don't know if you're familiar with that, but there are other options. As Senator Schilz pointed out, if the economics are there, you can do it. [LB942]

SENATOR BLOOMFIELD: Thank you. [LB942]

SENATOR WALLMAN: Thank you. [LB942]

SENATOR LATHROP: I do have a question if I may. [LB942]

SENATOR WALLMAN: Senator Lathrop. [LB942]

SENATOR LATHROP: And I don't know if you can answer this, but I guess I want to take a hypothetical community in greater Nebraska where, let's say, you have 25 guys that are raising hogs on a fairly small to average operation and you bring one of these barns in, doesn't it replace the 25 guys that were making a living with hogs, replaces it with one corporation that's going to own the entire operation? I'm just wondering if this is growing rural Nebraska or contributing to the depopulation of rural Nebraska, because we talk about this a lot on the floor. And my friends from outside of the urban areas talk about the depopulation in greater Nebraska. And it seems to me that if Hormel--I said...I've been using Tyson, apparently they don't do this--but if Hormel came in and bought up and set up these operations, they set up five of them and they put 200 farmers out of business in terms of they're done doing hogs because they can't compete, are we advancing a public purpose with this process? And then the other question I have for you, and you can answer them both at once if you want, if what we're doing is going to try to get the hogs that have left Nebraska...they were started in Nebraska, they go over to Iowa where they're at one of these barns right now in Iowa, and then come back here to be slaughtered, do you think they're going to not want to keep their animals in Iowa where they already have the facilities? What makes you think they'll come here in the first place? [LB942]

SCOTT SPILKER: Well, for one thing, transportation costs on your second point. [LB942]

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SENATOR LATHROP: Okay. [LB942]

SCOTT SPILKER: You know if we had the barns here, you're going to save that. You're first point is... [LB942]

SENATOR LATHROP: So how about the first one? Are we contributing to the...are we going to end up with communities where there's one rich guy who has the big operation and everybody else is working for him that wants to stick around, as opposed to the current circumstance where we have a number of small producers who all raise, you know, 25 of these things a year and take them to the market and sell them at the market to these very packers? [LB942]

SCOTT SPILKER: Right. I guess I have just two points there. For one thing, the barns are going to be built in rural Nebraska; so there's some rural economic development there with the building of the barns, tax revenues, the feed, you know. So it isn't going to be built in Omaha and Lincoln; so we have some rural economic development. And the second part of that is, I'd say the smaller producer, if you're committed to raising pigs, you're going to find out a way of making that work, whether that be a niche market, whether it be a local locker for 25 pigs that you have, whether it be...maybe have to drive a little bit farther to market if your local packer doesn't...you can't see eye to eye with him. But if you're willing to, if you have in your heart that you want to raise pigs, you can do it. [LB942]

SENATOR LATHROP: I suppose you can. (Laughter) I just don't know if you're going to have a place to sell them when you get done with them. [LB942]

SCOTT SPILKER: Well, it's philosophical. I see where you're coming from. [LB942]

SENATOR LATHROP: Well, I know, and we hear the conversation about the depopulation in greater Nebraska, and it seems like every year we see policies that are contributing to that, and no one says, hang on a minute, we're going to have a lot less people living in whatever county it is, Gage County. [LB942]

SCOTT SPILKER: I guess, do you go back to nostalgia? Are we able to do that, to turn the clock back? [LB942]

SENATOR LATHROP: Okay. Well, I think you answered my question. [LB942]

SENATOR WALLMAN: Thank you. Thank you, Mr. Spilker, Scott. [LB942]

SENATOR CHAMBERS: Excuse me. [LB942]

SENATOR WALLMAN: Oh, excuse me. Senator Chambers. [LB942]

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SENATOR CHAMBERS: Thank you. Mr. Spilker, if you know, how many pork producers are there in Nebraska? Or can you estimate? And let me ask... [LB942]

SCOTT SPILKER: A thousand. [LB942]

SENATOR CHAMBERS: A thousand. Just for a round number, how many belong to the Pork Producers Association? [LB942]

SCOTT SPILKER: Two hundred. [LB942]

SENATOR CHAMBERS: So the majority of them do not belong to this association. How do you go about becoming a member? [LB942]

SCOTT SPILKER: You pay a voluntary checkoff on your...every pig you sell. [LB942]

SENATOR CHAMBERS: And if you don't want...if it's voluntary, that means you can choose to do it or not do it. If you don't want to pay the checkoff, can you still be a member? [LB942]

SCOTT SPILKER: You do have to pay a mandatory checkoff also. In order to do policy, you have to pay the voluntary checkoff. And if you choose not to, then you don't get to be a part of the... [LB942]

SENATOR CHAMBERS: You don't vote. [LB942]

SCOTT SPILKER: You don't get to vote. [LB942]

SENATOR CHAMBERS: How many participated...was the position of the organization on this bill decided at a meeting of the pork producers? [LB942]

SCOTT SPILKER: We took a vote, a mail-in ballot. [LB942]

SENATOR CHAMBERS: And how many voted for it? [LB942]

SCOTT SPILKER: I'm not sure of that. [LB942]

SENATOR CHAMBERS: What percentage would you say voted for it? [LB942]

SCOTT SPILKER: It was close. [LB942]

SENATOR CHAMBERS: Who counts the ballots? [LB942]

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SCOTT SPILKER: The state office. [LB942]

SENATOR CHAMBERS: The who? [LB942]

SCOTT SPILKER: The state Pork Producers office. [LB942]

SENATOR CHAMBERS: The office. How many people are in that office? [LB942]

SCOTT SPILKER: Five. [LB942]

SENATOR CHAMBERS: And those five would do the counting, and those five pay the mandatory checkoff and the voluntary checkoff. [LB942]

SCOTT SPILKER: Those people are hired by us to... [LB942]

SENATOR CHAMBERS: They're hired? [LB942]

SCOTT SPILKER: Um-hum. [LB942]

SENATOR CHAMBERS: And how are they hired? Is there a group within the Pork Producers which is something like a steering committee and they did the hiring? How are these people hired? [LB942]

SCOTT SPILKER: We hire the executive director, the board does, which I'm a part of. And then he hires the people that help in the office. [LB942]

SENATOR CHAMBERS: How many executive directors are...how many directors are there? [LB942]

SCOTT SPILKER: One director. [LB942]

SENATOR CHAMBERS: And that's you. [LB942]

SCOTT SPILKER: No. I'm on the board. I'm a producer. [LB942]

SENATOR CHAMBERS: How does the director get to be a director? [LB942]

SCOTT SPILKER: We hire him. [LB942]

SENATOR BLOOMFIELD: Executive director. [LB942]

SCOTT SPILKER: The executive director. [LB942]

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SENATOR CHAMBERS: So when you say we hired him, who are the "we"? [LB942]

SCOTT SPILKER: The pork producers, the board. [LB942]

SENATOR CHAMBERS: Well, how many are on the board? [LB942]

SCOTT SPILKER: Five. [LB942]

SENATOR CHAMBER: And how did they get on the board? [LB942]

SCOTT SPILKER: We get elected. [LB942]

SENATOR CHAMBERS: By whom? [LB942]

SCOTT SPILKER: By those people that pay that checkoff that we talked about earlier. [LB942]

SENATOR CHAMBERS: And how do they vote? [LB942]

SCOTT SPILKER: They vote at our annual meeting, on the board members. [LB942]

SENATOR CHAMBERS: And that's not a write-in vote. [LB942]

SCOTT SPILKER: No. [LB942]

SENATOR CHAMBER: It's voted on by those who attend this meeting. [LB942]

SCOTT SPILKER: Yes. [LB942]

SENATOR CHAMBERS: How many attended the meeting? [LB942]

SCOTT SPILKER: It's coming up Thursday, the day after tomorrow, in Norfolk. There's 120 people signed up, I know. [LB942]

SENATOR CHAMBERS: One-hundred twenty net to put those five people on the board? [LB942]

SCOTT SPILKER: What's your point? [LB942]

SENATOR CHAMBERS: I want answers to the questions. You don't even need to know if I have a point. [LB942]

SCOTT SPILKER: Okay. I was just wondering if... [LB942]

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SENATOR CHAMBERS: I'm trying to get information from you. (Laughter) I want to know how the organization operates. You have five members on your board. These five members hire all of the employees who work. [LB942]

SCOTT SPILKER: Actually, I'm mistaken on that. There's five members on the executive board. There's a ten-person board. [LB942]

SENATOR CHAMBERS: See? [LB942]

SCOTT SPILKER: Yes. [LB942]

SENATOR CHAMBERS: If I didn't ask questions we'd have had that misperception. [LB942]

SCOTT SPILKER: Miscommunication there. Um-hum. [LB942]

SENATOR CHAMBERS: When I don't know something, I'll ask all the questions I need to get the information. So there is a group of ten. [LB942]

SCOTT SPILKER: That is the board, yes. [LB942]

SENATOR CHAMBERS: That's the board. [LB942]

SCOTT SPILKER: And the executive board is the officers of that. I apologize, I misspoke. [LB942]

SENATOR CHAMBERS: So five of those ten become the executive board. Okay. Now I'm going to take it slowly for my sake. How do these ten get to be where they are? They are elected? [LB942]

SCOTT SPILKER: They are elected, yes. [LB942]

SENATOR CHAMBERS: By a write-in vote? [LB942]

SCOTT SPILKER: No, at our annual meeting. [LB942]

SENATOR CHAMBERS: Okay. And at the last annual meeting, how many people would you estimate attended that meeting? [LB942]

SCOTT SPILKER: Well, I know we have 120 signed up for the meeting Thursday and it's similar. [LB942]

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SENATOR CHAMBERS: But that doesn't mean all of them came, does it? [LB942]

SCOTT SPILKER: No. [LB942]

SENATOR CHAMBERS: So if you estimated, how many would you say came? Or it's never been necessary to do that in the past, right? To know how many actually come. [LB942]

SCOTT SPILKER: To estimate how many came to the meeting. The people that care about these kind of issues come to those meetings. [LB942]

SENATOR CHAMBERS: So if somebody doesn't come, that means they don't care about these issues. [LB942]

SCOTT SPILKER: No, that...I should have rephrased that. The people that want to be involved in the process come to the meetings, and the rest of the people allow us to make the decisions. [LB942]

SENATOR CHAMBERS: At what gathering was the position on this bill taken? Was this bill discussed with the pork producers? Now we know that doesn't mean all of the producers because the majority of the producers don't even belong to this association. So who...those who are members of the association at some point stated what their position...the association's position ought to be on this bill. [LB942]

SCOTT SPILKER: Um-hum. [LB942]

SENATOR CHAMBERS: How was that position determined? By a vote, a show of hands or just how? [LB942]

SCOTT SPILKER: It was a write-in ballot and it was taken around the first of the year. [LB942]

SENATOR CHAMBERS: And was that at one of these meetings? [LB942]

SCOTT SPILKER: No, it was a write-in ballot. It was mailed out to all the people that had paid the checkoff and that are members of the pork producers. And that vote was tallied and we were told that it passed. [LB942]

SENATOR CHAMBERS: So this was not done by a portion of the pork producers; it was by a ballot sent to everybody. How many ballots were sent out? [LB942]

SCOTT SPILKER: To everyone that has paid the mandatory checkoff. [LB942]

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SENATOR CHAMBERS: And that would be about 200 from what you told me. How many ballots came back? [LB942]

SCOTT SPILKER: I can't answer that. [LB942]

SENATOR CHAMBERS: But it's clear that not a majority of the Pork Producers had anything to do with this at all from what you told me. When the decisions were made they were made by less than a majority of the pork producers. In fact, 200 out of a thousand would be one-fifth, or 20 percent. Is that right or is that wrong? So 20 percent are the ones who participate, who were allowed to participate because they belong, but never does the totality of a membership participate in anything. So fewer than 20 percent of all of the pork producers in the state took a position on this bill, and that position was a close vote based on what you told me. So we'll say 12 percent said yes, and 8 percent said no. That's not a big percentage of all the pork producers at all. And that...the point that I was trying to get to from the purpose of my slow-functioning mind as a city person has been taken care of, and my conclusion is, from what you told me, there are people who are interested in this kind of activity going on and those are the people who participate in the decision-making process, whatever it is, and that percentage from what I've gathered is very, very small. But we'll have an opportunity as the hearing goes on to explore that further. [LB942]

SCOTT SPILKER: If you had ideas on how we would get more people involved, I would welcome to hear that. We do try to get more people involved. Some people just don't want to be involved, Senator. [LB942]

SENATOR CHAMBERS: Well, if you have a product that people want, some come running, some don't; but build a better mousetrap, my friend, and they'll beat a path to your door. (Laughter) I won't even charge you for that. That's all that I have, but thank you. And you were very patient and I appreciate it. [LB942]

SENATOR WALLMAN: Anybody else? Thank you, Scott. Next proponent. [LB942]

KEVIN PETERSON: (Exhibit 2) Senator Wallman, members of the committee, my name is Kevin Peterson, and for the record that is spelled K-e-v-i-n P-e-t-e-r-s-o-n. I'm a fifth-generation farmer raising hogs and row crops. And right now, I currently serve as the president of Polk County Farm Bureau, and I'm here today on behalf of Nebraska Farm Bureau in support of LB942. Farm Bureau members are strongly committed to growing Nebraska agriculture and the livestock industry. And as such, our members have continually reiterated their support for policies which would facilitate livestock growth and opportunities to help bring the next generation back to the farm. We believe LB942 would broaden the opportunity for young people and others to come back to the farm. And thus, we certainly appreciate Senator Schilz introducing this bill. The large investment in land and equipment required to get involved in crop production prevents

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many young farmers from getting into crop farming. Custom feeding of livestock, though, can be a viable way for young people to come back to the farm and start a farming business. A young farmer's investment in a custom livestock feeding operation is generally limited to ownership of the livestock barn, making it a more realistic option. Young farmers and others are being allowed to participate in these custom feeding arrangements in other states with pork processors, but farmers in Nebraska are not, missing out on opportunities available to young farmers in other states. When I came back to the farm in the year 2000, I found that custom hog feeding would be the best way to build my own ag business, support my growing family, and aid in the day-to-day operation of my father's cattle and grain farm. At that time it cost about \$500,000 to construct and permit a 2,400-head facility that would help me reach these goals. That cost has risen substantially over the years after my initial construction. And without a contract arrangement with an established pork producer, I would have been unable to secure the needed capital to make my farming dream a reality. I was 21 years old at the time, and imagine me walking into my lender, or any lender's office, and telling him that I needed that much money to build a farm, and at the same time was going to buy inputs and feeder animals on the open market, as well as selling the finished hogs without any price protection. I'm sure you can about guess what his answer would be. Managing my risk being a contract grower got my foot in the agricultural door in my hometown, and the income from it has allowed me to double my hog feeding capacity as well as grow my row crop farming operation. It also gives me options if any or all of my three young children wish to return to the farm like I did. LB942, by removing the restriction on processors engaging in custom hog feeding, would provide more alternatives for young farmers, and in reality, increase the competition for arrangements available to farmers. Right now, there are probably three to four entities I could call if I wanted to explore custom feeding arrangements. With LB942, the number of entities might increase to six or seven. Locating hog finishing facilities in Nebraska is good for Nebraska's economy in other ways. A 2013 NPPD study estimated the one-time total economic benefits for the construction of a \$1.16 million, 4,400-head wean-to-finish facility and equipment, would include \$1.7 million of total output and \$472,000 in labor income. The study also concluded the annual contribution to economic output in the state from operation of the facility to be \$74,000 in labor income effects and \$245,000 in valued-added impacts when you include the value of the manure. Also, such a facility is estimated to increase annual property taxes by \$6,600. Imagine the economic impacts to the state if we could just feed a portion of the five million hogs shipped to Nebraska for processing. No doubt it would be significant. The reality is custom feeding arrangements between pork processors and hog farmers occur in other states. These other states are seeing growth in their hog numbers and hog farmers' numbers. Nebraska's numbers are not. Nebraska is at a crossroads and we must decide whether we want a hog industry in the future. LB942 would help assure a viable industry into the future and more opportunities to bring back the next generation to the farm. Again, Nebraska Farm Bureau supports LB942 and encourages the committee to advance the bill. And I'd be happy to answer any questions that any members of the committee would have. Thank you. [LB942]

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SENATOR WALLMAN: Thank you, Kevin. Any questions? Senator Chambers. [LB942]

SENATOR CHAMBERS: Thank you. Mr. Peterson, you heard me question the other testifier, so I have similar questions. The Farm Bureau Federation is an organization and it has members. [LB942]

KEVIN PETERSON: Certainly. [LB942]

SENATOR CHAMBERS: The majority of those members are nonfarmers, isn't that true? [LB942]

KEVIN PETERSON: That is true. [LB942]

SENATOR CHAMBERS: There are a lot of urban people who belong to the Farm Bureau. [LB942]

KEVIN PETERSON: That is true. [LB942]

SENATOR CHAMBERS: Why would they belong if they're not farmers? [LB942]

KEVIN PETERSON: As you know, they are members because they choose to have insurance with Nebraska Farm Bureau. [LB942]

SENATOR CHAMBERS: And the Farm Bureau is known primarily for its insurance aspect, in my opinion. How about yours? [LB942]

KEVIN PETERSON: I would dispute that claim personally. And I just talked to my cousin, Shannon yesterday. She's a Farm Bureau agent, insurance agent, and she markets in kind of a urban/rural split area. And what she told me yesterday was consumers want to have a connection to their food. And she finds that it actually helps having that Farm Bureau membership and that Farm Bureau name, because those folks know when they support that insurance product, by buying it they're supporting farmers and ranchers in Nebraska and they enjoy that tie back to their own food supply. [LB942]

SENATOR CHAMBERS: Oh, you naive young man. (Laughter) Now, does the Farm Bureau have a board of directors? [LB942]

KEVIN PETERSON: Yes. [LB942]

SENATOR CHAMBERS: How many are on that board? [LB942]

KEVIN PETERSON: Thirteen. [LB942]

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SENATOR CHAMBERS: And how are they selected? [LB942]

KEVIN PETERSON: They are elected by a house of delegates. [LB942]

SENATOR CHAMBERS: And how many are in the house of delegates? [LB942]

KEVIN PETERSON: Right around 200. [LB942]

SENATOR CHAMBERS: And how do you get to be in the house of delegates? [LB942]

KEVIN PETERSON: You have to be a farmer-rancher member of Nebraska Farm Bureau. And, excuse me, and you have to be elected by your county affiliate to fill that delegate seat. [LB942]

SENATOR CHAMBERS: So to be in the decision-making body, or that part of the apparatus, you have to be involved in farming. [LB942]

KEVIN PETERSON: Correct. [LB942]

SENATOR CHAMBERS: But the vast majority of the members are nonfarmers. [LB942]

KEVIN PETERSON: That's correct. [LB942]

SENATOR CHAMBERS: So the vast majority of the members have no role whatsoever in the decision making. Isn't that true? [LB942]

KEVIN PETERSON: But they have a role with where they choose to purchase their insurance and if they did not like what Farm Bureau did in the ag advocacy... [LB942]

SENATOR CHAMBERS: But that's not the question. I'm not trying to get into that kind of dispute. The vast majority of people are nonfarmers. To be in the house of delegates you must be a farmer, so the vast majority of members have no role in the decision making. [LB942]

KEVIN PETERSON: I think that that's fair to state, yes. [LB942]

SENATOR CHAMBERS: Okay. And then from the house of delegates you select the board? [LB942]

KEVIN PETERSON: Yes. [LB942]

SENATOR CHAMBERS: And that has 13 members? [LB942]

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KEVIN PETERSON: Yes. [LB942]

SENATOR CHAMBERS: So 13 people are the ones who took a position on this bill, or the house of delegates took the position? [LB942]

KEVIN PETERSON: The house of delegates took the position on the bill. [LB942]

SENATOR CHAMBERS: Was that by secret ballot or a written ballot? [LB942]

KEVIN PETERSON: That was by a majority vote. [LB942]

SENATOR CHAMBERS: And how did they vote, if you know? How did they conduct the voting? Did they have a meeting? [LB942]

KEVIN PETERSON: Yes, you have a meeting and it's done in person. [LB942]

SENATOR CHAMBERS: And it was done at that meeting. [LB942]

KEVIN PETERSON: It was done at that meeting. The policy proposal which frames our support to this bill was in a policy...a policy packet, I guess, or a policy recommendation from our policy committee, which is another committee, a larger committee of farmers and ranchers across the state. And the house of delegates voted in the affirmative on that portion of that policy. And that's how we came to support this bill. [LB942]

SENATOR CHAMBERS: At these elections or these votes where the house of delegates will vote, is it required that there be a majority of the house of delegates present, or however many are present will do the voting? [LB942]

KEVIN PETERSON: Bylaws state that there has to be a certain number of delegates on the floor, and that is...those delegates are assigned to how many members you have in your county. There is also a stipulation in there that a number of counties has to be represented as well. And so I think that answers your question, I guess. [LB942]

SENATOR CHAMBERS: Would there have to be...now, there are 93 counties. [LB942]

KEVIN PETERSON: Yes. [LB942]

SENATOR CHAMBERS: Would there have to be a majority of those...of that 93 number represented? [LB942]

KEVIN PETERSON: There's...it's at least in the majority and it may be two-thirds. I would have to check the bylaws again. [LB942]

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SENATOR CHAMBERS: Okay. And in the board, if the house of delegates determined the position on this bill, the board didn't take...they didn't have any role to play in the taking of a position on this bill. Is that correct? [LB942]

KEVIN PETERSON: No. I would say that they did not have an active role in that. No, it was...all the board does with the policy and this is coming...I just finished up six years on the state board of directors and the only time that the board takes action on a policy per se is if the house of delegates did not lay out in our policy book which way they wanted the organization to be. [LB942]

SENATOR CHAMBERS: Okay, now you were 21 when you got started in this farming activity and you were lucky because your father had a cattle and grain farm. [LB942]

KEVIN PETERSON: I'm lucky for many different reasons, but that's one of them, yes. [LB942]

SENATOR CHAMBERS: But I meant when it comes to the money, that made it possible for you to get involved in this activity. Did he underwrite your entry? [LB942]

KEVIN PETERSON: No. [LB942]

SENATOR CHAMBERS: Then where did you get the money? [LB942]

KEVIN PETERSON: From a lender. [LB942]

SENATOR CHAMBERS: Then you didn't need your father's backing to get it. You did go there as a 21-year-old and say, lend me this money, and the lender lent it to you. [LB942]

KEVIN PETERSON: Well, certainly. [LB942]

SENATOR CHAMBERS: Okay. I thought... [LB942]

KEVIN PETERSON: My father's role in that initial loan was, while he did not put up any cash capital, he put up a first lien on one of his pieces of farm ground, which needed to happen because I had no liquid capital at that time. [LB942]

SENATOR CHAMBERS: So your father was the backing that made it possible for you to get this money. [LB942]

KEVIN PETERSON: I would say no to that. I would say no to that. What made the funding possible, Senator Chambers, was the fact that with these arrangements, you

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can take...you're paid on a per pig basis--yardage, for instance. [LB942]

SENATOR CHAMBERS: Which arrangements? The ones you made or the ones that would occur if this bill were enacted? [LB942]

KEVIN PETERSON: I would assume that all arrangements would be different, but they would all, you know, ascribe to kind of the same framework. [LB942]

SENATOR CHAMBERS: So in your case, here's what I understand you to say. Your father was not the backing that the lender relied on. Some people call it a cosigner and the lender looks to the cosigner to pay off. If the cosigner signs and has enough collateral to cover the loan, then it doesn't matter if the one who signed the loan skips town tomorrow, because the loan is not made on the basis of that individual, but what is backing that individual. And if your father had gotten that loan, and if...you said that there's some land, if I understood you, that the lender looked to, to back that loan. Or did I misunderstand? [LB942]

KEVIN PETERSON Certainly there was a lien. There was a lien on a piece of land that my father owned, yes. [LB942]

SENATOR CHAMBERS: Okay. So again, it was not you as a 21-year-old that the lender thought was going to make a go of it. It's the fact that your father had the wherewithal to persuade the lender to lend you the money. [LB942]

KEVIN PETERSON: I would disagree with that. [LB942]

SENATOR CHAMBERS: Okay. [LB942]

KEVIN PETERSON: What happened in that initial loan, Senator Chambers, and for any other member of the committee that might be interested, is when we looked into...I wanted to return to the farm. We looked into contract growing of pigs. Spoke to one or two different people that were in that business in the state at the time. I'm still in business with those people today. Now, they had a certain yardage rate that was paid per pig space, and what we did was, we sat down and we did a cash flow statement based upon that yardage, what income would come off that property, what expenses you could expect, all those different things, and took that to the bank. And anytime I think that you get a real estate loan, and I have grown my row crop business by one ownership stake in one piece of row crop farm, but I think that you have to have a...you have to have a lien on another piece of property to guarantee that loan. I know that I put a lien on my first pork production facility to buy that piece of farm that I bought here a couple of years ago. [LB942]

SENATOR CHAMBERS: Okay. And whose property was the lien attached to, in your

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case? [LB942]

KEVIN PETERSON: Initially? [LB942]

SENATOR CHAMBERS: Yes. [LB942]

KEVIN PETERSON: Initially it was my father's. That lien has been released. [LB942]

SENATOR CHAMBERS: Okay, that answers the question. Now, if this bill were in place and you went to get the loan, you wouldn't need your father or anybody else to help you, would you? You could just tell them, you talk about what this law allows and they would then lend you money because you're going to make a go of it on the basis of what you can do under this law. Is that your understanding of how you'll get young farmers into farming simply by passing this law? [LB942]

KEVIN PETERSON: I don't think...I think it would take a heck of a lot more than just this law to get young people in this sector of production, but I think that this law helps a lot. I think... [LB942]

SENATOR CHAMBERS: They'd have to have some backing like you had, right? [LB942]

KEVIN PETERSON: I don't know that they have to have the exact backing that I had, but just the available folks out there, whether they be processors or whether they be hog farmers out there, if you open it up to processors and double the folks in this state that are willing to enter into these contracts, that raises competition and that makes those yardage payments higher, that makes those loans easier to come by. [LB942]

SENATOR CHAMBERS: But you still are going to have to have somebody that the lender has hooks in, in order to get that money. [LB942]

KEVIN PETERSON: I would hate to generalize as far as that goes, Senator Chambers. I would assume that... [LB942]

SENATOR CHAMBERS: Well, let me generalize. [LB942]

KEVIN PETERSON: ...any loan is going to be judged on its own merits. It's not going to say, this is a loan for a hog production facility and this is what we're going to do across the board. [LB942]

SENATOR CHAMBERS: Let me generalize. If I were borrowing from a banker, and I don't know anything about economics, I don't know anything about borrowing and lending other than what I have just picked up listening to people talk about it, if I go and

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get a loan from the bank, then a time comes when there are people who audit the bank and they want to see if all these loans that are outstanding are backed by sufficient collateral to cover the loan. And if this loan does not have sufficient collateral, it's called classified. And then you have to find that person to tell him or her, you've got to put some more collateral into this loan to cover it. Is that right so far? [LB942]

KEVIN PETERSON: I think you know a lot more about economics than you give yourself credit for. (Laughter) [LB942]

SENATOR CHAMBERS: Is that right so far? [LB942]

KEVIN PETERSON: I'm not a banker. [LB942]

SENATOR CHAMBERS: I'm just kind of stumbling and fumbling. [LB942]

KEVIN PETERSON: I'm not a banker. [LB942]

SENATOR CHAMBERS: Okay. [LB942]

KEVIN PETERSON: I don't know how those...I don't know how it all happens, to tell you the truth, sir. [LB942]

SENATOR CHAMBERS: Okay, well, maybe a banker will come. But here's what I'm trying to get to and I wanted to get it by questioning you and letting you answer instead of me state conclusions. I do not believe that this bill is going to bring young people back to the farm on the basis of this bill. If they want to farm, first of all, that will have to be, I think, a precondition. If the person is not interested in farming, you can bring this to the person and explain it and the person can say, I'm not interested. So you've got somebody interested already. That probably would be interest that developed because the person was involved in farming directly or indirectly, meaning the family owned a farm or this person worked for somebody with a farm and wanted to make a go of it. He or she is not going to have enough money to run it, so loans will be made after the passage of this bill in the same way they're made before the passage. If a young person comes and doesn't have backing, the existence of this bill is not going to make it any easier for that specific person to get a loan, in my opinion. That's the point that I was getting to, and maybe I'm mistaken but that's my belief. [LB942]

KEVIN PETERSON: Would you...do you wish me to respond to that? I guess I would disagree with you. Just like I said before, the more folks that are out there looking for these contract arrangements, the more people that are out there trying to do those things, no matter how their business structure is, I would think that that would raise competition and make the terms of those contracts sweeter to the people, the young farmer or rancher that might be coming back, or that person... [LB942]

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SENATOR CHAMBERS: Excuse me. [LB942]

KEVIN PETERSON: Go ahead. [LB942]

SENATOR CHAMBERS: You know, if you had one big guy, then you don't need competition because this guy is going to cover the waterfront. Correct? [LB942]

KEVIN PETERSON: I don't know...I don't know if we're defining big guy by the same numbers, I guess. [LB942]

SENATOR CHAMBERS: Well, the same way that Senator Lathrop meant it. But let me touch on something else and then I'll be through with you. When the gentleman from the Pork Producers was here, it was established to my satisfaction that a very small percentage of the pork producers throughout Nebraska supported this bill by way of a formal action. What I know about the Farm Bureau, a very small percentage of the membership had anything to do with determining the position on this bill. So thus far...well, don't frown. You told me there were 200 members of the house of delegates. You have way more members than that 200 and way more of them are urban people and others who are not farmers because of the insurance. So we have two organizations that took a position and a small minority of their membership took a position on this bill. But I will see when those who are opposed to it come up here, I'll ask them some questions and we'll see just what the support for this bill is and what the origin of it is, but thank you. [LB942]

KEVIN PETERSON: Thank you. [LB942]

SENATOR WALLMAN: Anybody else have a question? Senator Bloomfield. [LB942]

SENATOR BLOOMFIELD: Thank you, Senator Wallman. You mentioned approximately \$1.6 million to build a facility? [LB942]

KEVIN PETERSON: \$1.16 million, yes, for 4,400 head, correct. [LB942]

SENATOR BLOOMFIELD: If a farmer, young, old, or otherwise, builds this facility and enters into a contract, what guarantees are there that five years into this that packer, owner of the livestock, doesn't say, we can't go there anymore, and this young man is now left holding the bag on what he still owes \$800,000 on? [LB942]

KEVIN PETERSON: Well, I would think that any termination of the contract outside of what the terms would allow would allow for significant financial compensation to that young or old farmer that you speak of. [LB942]

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SENATOR BLOOMFIELD: There is...you are involved in such an arrangement now apparently. [LB942]

KEVIN PETERSON: I am, yes. Not with a processor... [LB942]

SENATOR BLOOMFIELD: Right. [LB942]

KEVIN PETERSON: ...but with a...but, yeah, with a large grower. [LB942]

SENATOR BLOOMFIELD: Is there something in there that says if they decide to quit feeding, they have to pay you for what you have invested in the facilities? [LB942]

KEVIN PETERSON: There is stipulations in the contract, yes, that allow for that, yes. [LB942]

SENATOR BLOOMFIELD: Thank you. [LB942]

SENATOR WALLMAN: Senator Johnson. [LB942]

SENATOR JOHNSON: Well, yeah, just to follow up a little bit on when you talked about the contract that you have now. And when I first was thinking of it, and I know a little bit about your situation, but I thought maybe the contract you had was a futures contract where you were guaranteed. That's still part of your own discretion? [LB942]

KEVIN PETERSON: And I work nothing on the futures. I do not own the pigs. I own the facility. I am paid a certain amount; yardage, I guess is what we call it. That's what the terms are in the contract for labor and management and leasing that facility for those pigs. [LB942]

SENATOR JOHNSON: So you don't have to do any of the futures marketing now? [LB942]

KEVIN PETERSON: No, none of the marketing is done. [LB942]

SENATOR JOHNSON: You wouldn't have to under this new agreement either. It's not that... [LB942]

KEVIN PETERSON: None of the marketing is done. [LB942]

SENATOR JOHNSON: The only difference you would have would be instead of you contracting space with a producer, you would be contracting space with a packer. [LB942]

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KEVIN PETERSON: That would be...yes, that would be... [LB942]

SENATOR JOHNSON: That's basically the difference. [LB942]

KEVIN PETERSON: That would be the only difference. And I think that there are...you know, not all...there are certainly differing levels of integration within all packers. And so there's certain...you know, there's a certain amount of stuff that those guys want to do as far as that, I think. [LB942]

SENATOR JOHNSON: Thank you. [LB942]

SENATOR WALLMAN: Senator Bloomfield. [LB942]

SENATOR BLOOMFIELD: Okay. Thank you, again. In your 4,400-head facility, is that a capacity at a time or is that an annual? [LB942]

KEVIN PETERSON: I would assume by that number that that's a one-time capacity. [LB942]

SENATOR BLOOMFIELD: Okay. So how many hogs would you expect to turn out of that in a year's time? [LB942]

KEVIN PETERSON: It says wean-to-finish in there so you...and that's exactly what I do. You get two groups of pigs through a year, so it would be 8,800 head. [LB942]

SENATOR WALLMAN: Thank you. Anybody else? Thank you. [LB942]

KEVIN PETERSON: If I might, Senator Wallman, I apologize for this but there was a couple...Senator Lathrop asked a question to Senator Schilz when he introduced the bill and I wanted to address it if I could. [LB942]

SENATOR WALLMAN: Sure. [LB942]

KEVIN PETERSON: Your question was, what about the existing growers out there? And I thought of that and I wanted to respond at this time. As an existing guy, this bill doesn't scare me at all. What it actually does is, you know, when the terms of my contract are up with the people that I feed for, it's going...there's going to be more competition for my services out there. You see what I'm saying? [LB942]

SENATOR LATHROP: Yeah, but do you think you can produce...I don't want to get off on the wrong terminology, is it hogs? [LB942]

KEVIN PETERSON: Yeah. [LB942]

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SENATOR LATHROP: That's the terminology? Okay. Do you think you can produce hogs in a 4,400 animal facility cheaper than a smaller producer? Do you have the economies of scale? [LB942]

KEVIN PETERSON: Yes. [LB942]

SENATOR LATHROP: And so you're going to be able to produce it and enter into a contract that may be actually lower than what a small producer would spend raising the same animal and so on it. [LB942]

KEVIN PETERSON: You could say that definitely. [LB942]

SENATOR LATHROP: Okay. And so the net effect of this would be to reduce the number of producers, and we would move from several smaller or medium-sized producers to a smaller number of large producers just because you have the advantage of the economies of scale and it will be cheaper for you to raise these animals from beginning to end. [LB942]

KEVIN PETERSON: There is certainly an advantage to the economies of scale. One thing that I have seen over the last few years is a lot of those smaller producers, as you defined them, the 25 head in the back lot types of things, they're really more centered towards urban areas, and they're marketing on a value-added basis to those folks that might want that...they don't want to walk past a meat case in the supermarket and buy their meat. They want to know, you know, who the farmer is. Now from my point... [LB942]

SENATOR LATHROP: So they will be left to sell it to a guy like me that wants to fill a freezer full of pork and I deal with a locker in Hooper. [LB942]

KEVIN PETERSON: Exactly. That's... [LB942]

SENATOR LATHROP: And that will be the market they're left to sell their animals in because they won't be able to compete with you as you are producing them for an outfit like Hormel. [LB942]

KEVIN PETERSON: I don't think that those two...I don't think that those two things are in direct competition with one another. [LB942]

SENATOR LATHROP: Why would Hormel pay the medium-sized or the small producer more than what they would pay you if you're doing this on a contract basis? [LB942]

KEVIN PETERSON: They wouldn't. [LB942]

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SENATOR LATHROP: Exactly. Okay. Thank you. [LB942]

SENATOR WALLMAN: (Inaudible), Senator? [LB942]

SENATOR BLOOMFIELD: We'll let it go. He pretty well covered that. [LB942]

SENATOR WALLMAN: Okay, thank you. [LB942]

KEVIN PETERSON: Thank you. [LB942]

SENATOR WALLMAN: Next proponent. [LB942]

BRIAN HUNTER: Good afternoon. My name is Brian Hunter, B-r-i-a-n H-u-n-t-e-r. And I guess I'm one of the young guys from Iowa he said that's coming over here, (laughter) but I don't know who they were looking at, but. A little background about myself. I'm a fifth-generation farmer also, born and raised in Greene County, Iowa. I've lived there my whole life. I've been involved in agriculture since the mid-'70s when I was in high school. Started helping my grandfather raise pigs and graduated from high school in 1980 and started to rent some farm ground. And I'm married and have two boys, both also involved in agriculture. And I'm here today...I was asked to come here today by the Nebraska Pork Producers. We, in Iowa, have went through the same challenges that you guys are going through now, about 15 years ago. It started happening in the early '90s. And by the mid-'90s, there was a lot of controversy of the changes this would make and what would happen to the small farms, what would happen, just what would happen in general. It was new territory. And I'm going to give you a little background about our operation. Like I say, I helped my grandfather in the early...or in the late '70s, went to high school in the '80s, raised pigs in the older facilities back in those days. Went through the farm crisis of the '80s. By the '90s, things were kind of tough. The old hog buildings I were using were outdated, obsolete. The banks wouldn't loan any money to anyone. And about that time what little ground I was farming, 160 acres, one way that helped me be a little successful was with contracting of soybean production, soybean seeds. Same type of contracts that we're talking about in the hog business. And by the mid-'90s, contract hog production looked like a thing that my wife and I thought we should look at, and we did; and we liked the stability, is what it was all about. Here I am, I was going to say a young guy, but I was in my thirties then, and at that time there was probably no other way for my family to continue in agriculture without having something to do besides grain farm. So we built our first contract hog facility. It was three barns in 1997, and it went very well from the get-go and it was a contract production just like you're talking about today. By 2000, our company that we contract with, the hog market was growing, expansion was needed, we built two more barns. In 2001, we added a barn; and last year in 2013, we built two more barns. Right now, our operation has my entire family working there and three other full-time employees and some part-time

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people. I have nothing but good things to say about the contract production, and I'm not just necessarily meaning pork production. Soybeans, seed corn. It puts the stability back in agriculture, because it is very, very hard. A tractor today costs \$150,000 to \$300,000, \$400,000. Lenders would probably not have loaned me the money to build that first facility without some type of contract to make sure that they could get paid for. What I would really like to do today is, I would like...I'm sitting here. I have been with contracts for 15, 16 years, 17 years. I would like to answer any questions you guys might have about the actual contracts themselves because it's been part of our operation for a long time. [LB942]

SENATOR WALLMAN: Thank you. Any questions? [LB942]

SENATOR JOHNSON: I'll make a comment first. I know...when I was in the business I knew we were behind Iowa, but I didn't realize we were 15 years behind. (Laugh) [LB942]

BRIAN HUNTER: Yeah, we... [LB942]

SENATOR JOHNSON: And that's in other phases of it too. [LB942]

BRIAN HUNTER: Even worse though, sir, even my county...when I started this I was...had zoning ordinances. You could not have more than 2,000 head of pigs at your farm in 1995, and that was the first obstacle I had to overcome and there's many more along the way. [LB942]

SENATOR JOHNSON: Yeah. I guess, one phase of the contract that you have, what are your risks in this contract? [LB942]

BRIAN HUNTER: Our risks are not being able to fulfill the contract's requirements. [LB942]

SENATOR JOHNSON: Numbers or...? [LB942]

BRIAN HUNTER: Not necessarily numbers. There's different kinds of contracts out there. My wife and I chose a company who...let's just, for instance, say you're paid by the amount of pigs that you put out the door. That's not something we want because we are not in control of what that packer may have brought us for pigs or the health status of those pigs. So our contracts are paid by pig space. So all of our facilities are 4,400-head pig spaces. We are going to be paid by the pig space, regardless of if the packer can fulfill his end or not. Does that answer that question? [LB942]

SENATOR JOHNSON: Yeah. Okay, so the health side of it. And let's say something happens and hopefully it's not something that you did not vaccinate for. Do they cover

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any of that to make sure that you are producing a healthy pig? [LB942]

BRIAN HUNTER: Yes, sir. They will cover all the medicine and any veterinary services that are needed, but...and I'm sure contracts are different. Our contracts, we provide entirely all the labor of whatever it takes to run this facility with no outside help. If you choose to hire outside help to power wash your buildings or vaccinate your hogs or load them, you surely can do so. But we elect...we do everything ourselves. [LB942]

SENATOR JOHNSON: Okay. I'm sure they provide the ration for you. [LB942]

BRIAN HUNTER: Yes, sir. [LB942]

SENATOR JOHNSON: What's your flexibility in where you have that feed ground, mixed? [LB942]

BRIAN HUNTER: Oh, we have no flexibility on that. That's all through the company. [LB942]

SENATOR JOHNSON: Through them. [LB942]

BRIAN HUNTER: Um-hum. [LB942]

SENATOR JOHNSON: So you don't know for sure where your corn is coming from or your soybean or whatever. [LB942]

BRIAN HUNTER: No, sir. No, I can't say that I know for sure. But I do know it's probably as local as they can get it in order to keep the cost down. [LB942]

SENATOR JOHNSON: Right, I would assume so. [LB942]

BRIAN HUNTER: Yeah. [LB942]

SENATOR JOHNSON: Okay. That's all I'll ask for now. [LB942]

SENATOR WALLMAN: Senator Bloomfield. [LB942]

SENATOR BLOOMFIELD: Thank you, Senator Wallman. Without getting too personal into your finances, would you give us some idea of what you can collect a year for pig space? [LB942]

BRIAN HUNTER: It depends on what you're going to do. The most expensive payment that I know of right now...it might not be the most expensive, but what I know of is called wean-to-finish. So we get pigs that are, like, one month old. And it takes a lot of extra

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propane and a lot of extra labor. And we'll produce those pigs all the way until market weight and load those out. So those contracts right now run from probably \$36 a pig space to \$44 a pig space, depending on the types of facilities you've got, the age of your facilities, and, you know, the capacity that you can run through them. And also something is what kind of performance you get out of your site. They're not all the same. Some growers don't do as well as other growers. The top-notch growers can get a little more money. It's just like the seed corn producer that can raise a little better seed or a little better quality. [LB942]

SENATOR BLOOMFIELD: Okay. Thank you. [LB942]

SENATOR WALLMAN: Thank you. So welcome here from Iowa. I've got family in Iowa, so... [LB942]

BRIAN JOHNSON: Thank you. I wanted to say, "Go Hawks," but I thought I was outnumbered. (Laughter) [LB942]

SENATOR WALLMAN: Well, that's what my son-in-law says, "Go Hawks." And I've just got one simple question: Have they ever adjusted your rates, what you get for contracts since inflation? [LB942]

BRIAN HUNTER: Been several contract changes since I've started. [LB942]

SENATOR WALLMAN: Okay. [LB942]

BRIAN HUNTER: When the contracts first started there was clauses in the...the very first contracts--I'll back up--were just feeder pig contracts before wean-to-finish was... [LB942]

SENATOR WALLMAN: Um-hum. [LB942]

BRIAN HUNTER: I never thought wean-to-finish could ever work, so you'd get a 50-pound pig and raise it. Those contracts had clauses in them as far as bonus programs and things like that, some mortality clauses. And what happened there is growers...which we do have some say-so about what goes on here. I'm not going to be a part of a contract that has a mortality clause in it unless it's my fault. If they have sick pigs and I get those pigs and they die, that's not my fault. So over the years these contracts have changed. The company I am with has no death loss clause unless it's your fault. And rates have changed, depending on what you're doing. Like I say, the wean-to-finish right now in our operation pays the most. It's the most work though, also. [LB942]

SENATOR WALLMAN: Sure. Thank you. [LB942]

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BRIAN HUNTER: Yeah. [LB942]

SENATOR WALLMAN: Anybody else? [LB942]

SENATOR HANSEN: I've got one. [LB942]

SENATOR WALLMAN: Oh, Senator Hansen. [LB942]

SENATOR HANSEN: Thank you, Mr. Hunter. Say your hog barn needs a roof. Who pays for that? [LB942]

BRIAN HUNTER: I would. [LB942]

SENATOR HANSEN: Say one of your lagoons has a leak in it or becomes nonaccepted by your DEQ or whatever you call it. Who pays for that? [LB942]

BRIAN HUNTER: That would be my repair. [LB942]

SENATOR HANSEN: Yeah. [LB942]

BRIAN HUNTER: Um-hum. [LB942]

SENATOR HANSEN: So you're...you have all the expenses for all the infrastructure. [LB942]

BRIAN JOHNSON: Yes, sir. [LB942]

SENATOR HANSEN: Okay. And then you buy the feed. Do you buy the feed or is it... [LB942]

BRIAN HUNTER: No, sir. That's... [LB942]

SENATOR HANSEN: It's brought to you... [LB942]

BRIAN HUNTER: That's the company's. [LB942]

SENATOR HANSEN: ...ground and everything? [LB942]

BRIAN HUNTER: Yes, sir. [LB942]

SENATOR HANSEN: Do you still raise soybeans for seed on your 160 acres? [LB942]

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BRIAN HUNTER: No. And now we farm 1,100 acres since all this, so I don't...I no longer raise...or raise a lot of corn, continuous corn. The hog facilities have helped our grain farming operation tremendously. With the fertility and the fertilizer, that's also helped us a lot. [LB942]

SENATOR HANSEN: Thank you. [LB942]

BRIAN HUNTER: You're welcome. [LB942]

SENATOR WALLMAN: Thank you. Senator Chambers. [LB942]

SENATOR CHAMBERS: Mr. Hunter, as long as I'm in the room, anybody who comes here can be referred to as a young person, compared to me. (Laughter) But even aside from that, you are young. Have you looked at any other contracts besides your own or you're only...here's what I'm getting at. [LB942]

BRIAN HUNTER: Sure. [LB942]

SENATOR CHAMBERS: Does this operation have a standard contract with certain main provisions that will be in every contract they have with anybody? [LB942]

BRIAN HUNTER: For the same type of unit you're going to operate, yes. [LB942]

SENATOR CHAMBERS: So when they present that contract, you take it or leave it. There's not room to negotiate on those major provisions. [LB942]

BRIAN HUNTER: There never has been in my contracts, no. It's pretty much cut and dried. I never have tried to negotiate anything. Everything has been basically like it's been for 15 or 16 years. So, no, sir, I have not tried to negotiate. [LB942]

SENATOR CHAMBERS: Do you follow Iowa football fairly closely? [LB942]

BRIAN HUNTER: Somewhat. [LB942]

SENATOR CHAMBERS: Did you follow when they played LSU? [LB942]

BRIAN HUNTER: No, I didn't see that. [LB942]

SENATOR CHAMBERS: Did you listen to it on the radio or watch it on TV? [LB942]

BRIAN HUNTER: No, I was...(laugh) no. [LB942]

SENATOR CHAMBERS: I was going to show how much interest I have in his team, but

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I can't get (inaudible)...that's all I have. (Laughter) Thank you. [LB942]

BRIAN HUNTER: I'm sorry. [LB942]

SENATOR CHAMBERS: Okay. Oh, but that's all I have. [LB942]

BRIAN HUNTER: Okay. [LB942]

SENATOR CHAMBERS: Thank you. [LB942]

BRIAN HUNTER: Okay. [LB942]

SENATOR WALLMAN: Thank you, Senator Chambers. Thank you. [LB942]

BRIAN HUNTER: I would love to answer any...I mean, I'm...Senators, I want you to know one thing about me. I am very passionate about young people. In Iowa I have helped many young people get started. That's kind of my goal here the rest of my years I'm going to have. And there are some big obstacles against young people. And I'm going to step a little bit out of line right now by what I'm going to say. But when you talked earlier about what's going to stop the big mega corporation from building that building and putting someone else in it, and I might get in trouble for this because I'm in the pork business, but we do have some of that in Iowa. And it breaks my heart to see a big facility going in with someone else running it when there's a young person that could do it. And you guys have the power to draft this law as you see fit. And I'm for the young people if it could be done. [LB942]

SENATOR LATHROP: Can I ask just a couple questions? [LB942]

BRIAN HUNTER: Yes, sir. [LB942]

SENATOR LATHROP: You said you and your wife run this operation with three people that work for you. [LB942]

BRIAN HUNTER: Yes, and in... [LB942]

SENATOR LATHROP: What kind of a job is that? [LB942]

BRIAN HUNTER: I have... [LB942]

SENATOR LATHROP: How are these guys doing that are working for you? [LB942]

BRIAN HUNTER: Okay. And you remember, this is my grain farming operation also. I have two young gals in their late twenties that I like to have them go to the site that has

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the young baby pigs. They're by far better than any guy could ever be. I mean, they do, they have that ability. And then the next... [LB942]

SENATOR LATHROP: What kind of living are they making doing this, working on your farm? [LB942]

BRIAN HUNTER: Fifteen dollars an hour is my one that's been with me for about two years now, and the other one is \$13 an hour. [LB942]

SENATOR LATHROP: Okay. [LB942]

SENATOR WALLMAN: Senator Johnson. [LB942]

SENATOR JOHNSON: I have one since you're willing to answer some questions. [LB942]

BRIAN HUNTER: Yes, sir. [LB942]

SENATOR JOHNSON: One of them, we talked about...what percent of the hogs in Iowa are on this type of a program? In other words, what percentage are the packers? What percentage of the market do the packers have? [LB942]

BRIAN HUNTER: Quite large. I couldn't give the exact percent, but I've watched it grow over the years. And we still...like, 10 or 12 years ago, we still had some outdoor lots that we would fill and market on our own. That market is still there. We really did okay on those outdoor lots also. We've even tried the antibiotic free in the outdoor lots and done that. We decided that's not for us. That's way too labor intense for the return. But I...I mean, I've seen a lot of change and I came all the way over here today just to answer questions like this because we've been through it all. And we're still not done yet. There's still a lot of opponents against it. I built my last...my newest site a year ago and there's still people that are just against livestock in general, basically, over there. [LB942]

SENATOR LATHROP: I have thought of something else. [LB942]

BRIAN HUNTER: Um-hum. [LB942]

SENATOR LATHROP: With...you talked about how you're starting to see some of the packers actually build the facilities. [LB942]

BRIAN HUNTER: Um-hum. [LB942]

SENATOR LATHROP: And in terms of the trend, did it start out with guys like you

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owning them and now you're seeing more packers own the entire operation? [LB942]

BRIAN HUNTER: No, sir. No, sir. These are packers that's just came in and built the facilities and put other people in them and then take them to their plants and... [LB942]

SENATOR LATHROP: So the packing company now owns the entire operation that looks like yours. [LB942]

BRIAN HUNTER: The building and all and... [LB942]

SENATOR LATHROP: Okay. Is that becoming more prevalent? [LB942]

BRIAN HUNTER: No. It's kind of stayed the same. But every time I see one of those go up, in my opinion, that's one young person that could have got one built somewhere else because those packers need pigs and they don't have to change their rules very much to let a young guy get started. Just change your law a little bit that says a farmer has got to own the facility, or whatever you guys would do, you senators, but...and I'm probably out of line by saying this because it's hard for me. I'm in the pork business, you know, and kind of against my own ally, so to speak. But again, I am passionate about the young people. If we want to keep the young people, we're going to have to make some changes. When I was a young kid, there was four school buses went south of Scranton, Iowa, to pick up all the kids. Now there's one school bus, and the school in Scranton is gone. It goes to Jefferson and there's not very many people left. That's why these operations have gotten larger. Ours is still a family farm. It's all of us there. It's just a little bigger. [LB942]

SENATOR LATHROP: Okay. [LB942]

SENATOR WALLMAN: Thank you. [LB942]

BRIAN HUNTER: Very welcome. [LB942]

SENATOR WALLMAN: Welcome. [LB942]

MIKE WILLIAMS: Welcome. Thank you. My name is Mike Williams. I'm from Williams, Iowa. M-i-k-e W-i-l-l-i-a-m-s. Back in the late '80s, we had just come through the '80s and that was not a fun stretch of time on the farm, and we were in need of trying to find some way to stabilize our income. Yeah, you know, you can handle the corn and bean prices, but you couldn't handle them...if they're all in the ditch at the same time, you weren't going to last very long. So we saw this program and we decided, my family and I, which is my dad and my uncle, and in the process we wound up building 12 barns. And we went into it with the idea that, yeah, we were going to need the income. We didn't realize that we had the...we didn't take a real good look at what the manure value

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was and we all know what fertilizer prices have done in the past. So in the process, we did, and with the company that I worked with, they supply feed, veterinary services, support staff. I no longer have to worry about feed rations, genetics, procurement, sales. That's all taken care of. So I was able to leverage my time in a lot better way. At the point in time when we built those, I didn't know where I was going to be. I didn't know if I was going to be on the farm anymore. So when we did that, that has established me in the...on the farm--steady incomes, everything. And as time has gone by, you can be able to put a little money away and maybe retire, a retirement plan now, which I don't know if I would ever have had that before. So with that, if I was to do it all over again, I'd do it all over again; I wouldn't bat an eye. With that, I'd entertain any questions. [LB942]

SENATOR WALLMAN: Any questions? Senator Hansen. [LB942]

SENATOR HANSEN: Thank you, Mr. Williams. You appear to be a family farmer. Is that correct? [LB942]

MIKE WILLIAMS: Um-hum, third generation. [LB942]

SENATOR HANSEN: Are there any of these family farmers that are incorporated in the state of Iowa? [LB942]

MIKE WILLIAMS: Oh, yes, yes. [LB942]

SENATOR HANSEN: So they are corporations... [LB942]

MIKE WILLIAMS: Um-hum. [LB942]

SENATOR HANSEN: ...with stockholders limited to family members? [LB942]

MIKE WILLIAMS: Well, family members, yeah. [LB942]

SENATOR HANSEN: Okay. Do you ever see any of these hogs, these feeder pigs, come from Nebraska that are raised in Nebraska, go to Iowa to be fed, and then come back to Nebraska? [LB942]

MIKE WILLIAMS: No, but hogs from my farm have gone to Nebraska. [LB942]

SENATOR HANSEN: Okay. [LB942]

MIKE WILLIAMS: Yeah. [LB942]

SENATOR HANSEN: To be processed? [LB942]

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MIKE WILLIAMS: Um-hum. [LB942]

SENATOR HANSEN: Okay. Do you think that a law like LB942, we're talking about today, where we do allow packers to own hogs, do you think it would hurt the state of Iowa? [LB942]

MIKE WILLIAMS: No. [LB942]

SENATOR HANSEN: Because you're so far ahead of us? (Laughter) [LB942]

MIKE WILLIAMS: Well, you've got a little growth to go there, but, yeah. No, I don't think so. [LB942]

SENATOR HANSEN: Okay. All right. Thank you. [LB942]

SENATOR WALLMAN: Anybody else? Senator Chambers. [LB942]

SENATOR CHAMBERS: Is your position similar to that of an employee with this outfit that you're dealing with? [LB942]

MIKE WILLIAMS Private contractor. [LB942]

SENATOR CHAMBERS: Well, that's what they call newspaper carriers and that's what they call people who work for Walmart. But in reality, the decisions are all made by Walmart. Are the decisions made...as was indicated by the previous testifier, they have standard contracts, there's very little room for negotiation. Maybe they make it so good there's no desire or even the feeling of a need to negotiate. You have a contract with a packer. [LB942]

MIKE WILLIAMS: Yes. [LB942]

SENATOR CHAMBERS: And are most of the significant provisions in the contract presented, and you either accept it or you don't get the contract? [LB942]

MIKE WILLIAMS: Correct. [LB942]

SENATOR CHAMBERS: Do you feel that you're in a position of equality with the company? Or is the company up here, like Goliath, and you're down here, like Tom Thumb, more or less? [LB942]

MIKE WILLIAMS: We're all in this thing together. And so we all have to work together. [LB942]

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SENATOR CHAMBERS: Well, Goliath and Tom Thumb live in the same universe, but their positions and status are not the same. [LB942]

MIKE WILLIAMS: Yeah. I understand, but... [LB942]

SENATOR CHAMBERS: Okay. Under ordinary circumstances, this would be called an adhesion contract where there's such a big disparity between the one issuing the contract and the one signing it that the one signing it is told, in effect, take it or leave it. And that's the way it seems to me from everything I've heard. You're presented a contract, you take it or you leave it. [LB942]

MIKE WILLIAMS: Well, you have... [LB942]

SENATOR CHAMBERS: Maybe they sweeten it enough to make you want to take it, but you don't negotiate with these people because they don't have to negotiate with you. [LB942]

MIKE WILLIAMS: Yeah, but there's more than one packer out there that's looking to place pigs too. You have that option. [LB942]

SENATOR CHAMBERS: And is there a lot of difference between what these packers offer? [LB942]

MIKE WILLIAMS: I can't answer that. I don't know. I don't know. [LB942]

SENATOR CHAMBERS: Okay. Let me see if there's something else. See, you're a guest in Nebraska, so I want to be very cordial and inviting. And that's the memory and recollection I'd like you to have, of a very saintly...well, maybe not saintly, (laughter) but a kind, elderly gentleman who could be your grandfather. [LB942]

MIKE WILLIAMS: Um-hum. I might add, I don't know if I said this, but I've been at this for 23 years. We've been under that same program. [LB942]

SENATOR WALLMAN: Mr. Williams, your pigs all come from...your feeder pigs come from pretty close around your area? [LB942]

MIKE WILLIAMS: Most of them come from Missouri. Some of them can come from Oklahoma, but the majority of them come from Missouri. [LB942]

SENATOR WALLMAN: None from Canada, huh? [LB942]

MIKE WILLIAMS: No. [LB942]

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SENATOR WALLMAN: Thank you. Anybody else? [LB942]

SENATOR JOHNSON: I have one. [LB942]

SENATOR WALLMAN: Oh, Senator Johnson. [LB942]

SENATOR JOHNSON: Just a kind of a comment but hopefully you can answer it fairly quick. When I was in the business, I always promoted the fact that the best value-added grain was when you ran it through your own livestock. [LB942]

MIKE WILLIAMS: Um-hum. That is true. [LB942]

SENATOR JOHNSON: And you give that up with this contract. [LB942]

MIKE WILLIAMS: Um-hum. [LB942]

SENATOR JOHNSON: The offset would be some risk, a lot of risk, and you've said the value of the manure back to your crop. Is there anything else that you feel that, in order for us to sell this to other people, here's what you give up but here's what you get back out of this contract? [LB942]

MIKE WILLIAMS: Well, the best thing I can say is it's a good, steady income. That's...to me that was everything. [LB942]

SENATOR JOHNSON: Yeah, there's value there. Thank you. [LB942]

MIKE WILLIAMS: Um-hum. [LB942]

SENATOR WALLMAN: Anybody else? Thank you. [LB942]

MIKE WILLIAMS: Thank you. [LB942]

SENATOR WALLMAN: Thank you for coming here. Welcome. [LB942]

JERRY CROGHAN: Welcome. Thank you. My name is Jerry Croghan, that's C-r-o-g-h-a-n, and I'm from Manning, Iowa, which is, from Omaha, about 70 miles northeast. I am a contract producer, just like the former two guys. And I'll kind of go right on to my story about how this all came about to be for me 15 years ago. I...after we were married, me and my wife, we moved to Arizona. It was the early...it was the mid '80s. We...jobs weren't plentiful here. She was just graduated as a registered nurse and I was a carpenter. So what I did...you know, we moved to Arizona and were down there six years and we started a family. And I wanted to raise my children back on the farm where I was raised, you know, back in rural America. So one Christmas I...dad was

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about 65. And I said, what do you plan to do with the farm? And he just kind of said, I don't know. And I says, well, if it works out, I want to come back and farm. And we're sitting at the airport when this happened and he goes...he, about a week later, calls me up: Were you serious? I said, yeah, I am. And that spring I was back on the farm, farming. And it's not a big farm, 200 acres, and I did the sows. In fact, Dad started some pigs for me, got them started so I could have some sows back when I got back. We did some cattle, not a big operation. And about...in 1998, things weren't working. There just wasn't enough income off the farm. I was working a full-time job. My wife was working a full-time job. We now have five children. I had to make a decision. I was at a crossroads. It was either time to pack up and walk away from my dream or look at something else that was more stable, more income. So we looked into the contract feeding. We placed our first pigs in March of '99. Purchased at the deal...at the time there was...you purchased ten acres. You needed ten acres of ground, and the lender would go ahead and finance the rest. So we borrowed the money, put up the facility, and shortly after that, hogs dropped to 8 cents a pound. Here I'm sitting with a brand-new facility, first group of pigs, and 8-cent hogs. Not my concern that the hogs were 8 cents, except, are they going to be able to fulfill their contract? They did fulfill their contract. They stayed...every payment stayed on time. I was able to make my obligations. And so we kept going. In 2002, we expanded, put a fourth barn up, went to the wean-to-finish operation where you get the pigs right from the sow, 15-pound pigs in. And it was a...we moved up to a 4,400-head site. This...at this whole time I...we were...I was able to quit my job in town. I was able to support the family. The wife kept working for insurance and things like that. We supported the family. It gave me time to help with raising the kids, a lot more flexible schedule, things like that. I guess this has been 15 years of a very, very good experience. And you have other contracts out there in the state now. They're with individuals; they're not with packers. This is just one more option that an individual in your state could have and go ahead and expand. Any questions? [LB942]

SENATOR WALLMAN: Thank you. Any questions? [LB942]

SENATOR LATHROP: I do have a question. [LB942]

JERRY CROGHAN: Yes. [LB942]

SENATOR WALLMAN: Senator Lathrop. [LB942]

SENATOR LATHROP: I'm curious because I don't understand this. But do you qualify for farm subsidies from the federal government? [LB942]

JERRY CROGHAN: Yes, on the...I do have a row crop, yes. [LB942]

SENATOR LATHROP: But not from this operation? [LB942]

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JERRY CROGHAN: No, no, there is... [LB942]

SENATOR LATHROP: These type of operations don't get you anything under the farm bill? [LB942]

JERRY CROGHAN: I don't think there is any ag...or animal subsidy provisions, so...but...and the row crop we do. [LB942]

SENATOR LATHROP: Okay. Have you grown this operation? You started out with 200 acres. How many do you have now? [LB942]

JERRY CROGHAN: Well, I still rent the 200 acres from my mom. My dad has passed away. I rent the farm but I own the 4,400-head site free and clear. That loan has been paid off for two years now. [LB942]

SENATOR LATHROP: Okay. [LB942]

JERRY CROGHAN: We refinanced the facility when we put the fourth barn on for another ten-year contract, ten-year loan, in order to cover that. [LB942]

SENATOR LATHROP: Okay. Thank you. [LB942]

SENATOR WALLMAN: Anybody else? Thank you for coming. [LB942]

JERRY CROGHAN: Thank you. [LB942]

SENATOR WALLMAN: Welcome. [LB942]

LUKAS FRICKE: Hi. [LB942]

SENATOR WALLMAN: You can start anytime. [LB942]

LUKAS FRICKE: (Exhibit 2) Okay. My name is Lukas Fricke, L-u-k-a-s F-r-i-c-k-e. I'm a member of the Nebraska Pork Producers Association and a proud Butler County farmer and livestock producer. From a young age I've worked to further my family, our operation, and that includes my parents and my brother, and my community through livestock and its development. LB942 will help young people interested in raising pigs and allowing the farmer to enter into the pork industry without the overwhelming financial burden. Financial institutions, such as Farm Credit, require 30 to 40 percent down payment when asking for a loan, something that most producers, like myself, will not be able to put down. Opportunities, such as an increase in the basis price, for all producers would occur, meaning the price paid for the animals will increase, making it

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more profitable for producers like myself, an increase in the opportunities for the producer to choose from, keeping the industry honest and competitive. This would help producers be successful in allowing them to build equity and relationships through custom feeding. Nearly 25 percent of the piglets born here in Nebraska are shipped out of the state to be fed, then shipped back into the state to be processed again. Why? Simply stated, neighboring states are offering incentives and other programs of processor ownership in the latter stages of growth and feeding, a time that can prove to be the most financially risky. Nebraskans lose the opportunity of wealth creation by not adding value to their corn and soybean crops. The ability for 25 percent of the pigs to remain in the state is important in itself. Examples of a 25 percent increase in pork finishing would result in a direct impact of more than 765 jobs, \$27 million in labor and proprietor income, and \$55 million added in value-added sales. The total economic impact would result in 2,900 more jobs, \$98 million in labor and proprietor income, and \$195 million in value-added sales, according to the Nebraska Public Power economic impact conducted by the IMPLAN model. Overall, we could see an increase in the amount of finishing...in the amount of taxes being reinvested in our state and our communities, figures such as \$1.3 million in finishing facility property tax, other property taxes of \$3 million, and local sales tax of \$322,000, adding up to \$6.4 million added taxes to our economy. By not passing this bill, I have placed limits upon myself and with whom I can do business with. Most importantly, it limits the opportunity, the pork industry in Nebraska, and Nebraska as a whole. Even in today's Lincoln Journal Star, as I have attached a copy of the article on the back, Nebraska's economists and bankers see the need to diversify livestock and add value to our lower crop values being experienced by many Nebraska grain farmers. This not only benefits crop producers in themselves, but the state as a whole, by adding livestock. Rural communities would be able to thrive with the passage of LB942. I believe in the future of this state and its community. The passage of LB942 would enhance the ability for rural communities to thrive, the expansion of local businesses to occur, and the ability for families to support future generations, like my family. I deeply encourage all of you to think of the future of agriculture and the young people of this state. Let's truly bring home the bacon and fire up Nebraska pork farming in the future generations of agriculturists by providing them an opportunity in a place they want to call home. Thank you very much. [LB942]

SENATOR WALLMAN: Any questions? Senator Bloomfield. [LB942]

SENATOR BLOOMFIELD: Thank you, Senator Wallman. You mentioned the property tax generated by one of these facilities. Have you done a comparison to see how much property tax would be lost by the 10 or 15 farm places that would be dozed in? [LB942]

LUKAS FRICKE: No, I have not, sir. [LB942]

SENATOR BLOOMFIELD: Thank you. [LB942]

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SENATOR WALLMAN: Anybody else? Thank you, Lukas. If you signed one of these contracts, would FHA or FFA borrow more...I mean Farm Credit. Would they less the down payment? [LB942]

LUKAS FRICKE: In my understanding of this bill, the processor would be there, almost like our father, or someone else, in helping us support that when signing a loan to that extent. [LB942]

SENATOR WALLMAN: Okay. [LB942]

LUKAS FRICKE: So they'd be like, you know, our father to a certain extent. [LB942]

SENATOR WALLMAN: Thank you. [LB942]

LUKAS FRICKE: Thank you very much. [LB942]

SENATOR WALLMAN: Welcome. [LB942]

REBEKAH SPADER: (Exhibit 3) Looks like I'm the only girl here. Okay. Senator Wallman, Ag Committee, hi. My name is Rebekah Spader, spelled R-e-b-e-k-a-h S-p-a-d-e-r. I'm a member of the Nebraska Pork Producers Association and a fourth-generation Nebraska pork producer and farmer. I live in York County and I've been involved in agriculture my entire life, and I'm very proud to say that I have been involved in ag. I have a strong desire to return to pork production after college. However, I don't have the capital necessary to start my own feeding facility at 20 years of age. LB942 would make it possible for me to share the risk of being a young producer facing a high cost of entry into pork production. I alone cannot bear this full financial risk. By this I mean, if I'm a young producer and I just borrowed \$1.2 million, \$1.3 million, \$1.4 million, and I own everything myself and there's a blip in the market, there's no way I would be able to stay financially afloat, make the payments on my buildings, and support my family. By feeding pigs with someone who has the ability to bear such risks, I will have the opportunity to earn a steady income, to know that I can make my payments, and build equity with lower financial risks so that after my contract is up in 12-15 years, whatever it is, should I choose to not renew my contract, I would have the ability to do what I see fit with my operation because I would own it. Lifting this ban would allow for more opportunities for Nebraska pork production to expand. By allowing integrated ownership, it would allow companies to be closer to their source of pigs, closer to their processing facilities that are located in or near Nebraska, and close to the feed sources, which would include corn and soybeans, which are grown here in Nebraska. All of these factors would reduce transportation costs for the pigs themselves, as well as the corn and soybeans, which would give integrated owners an incentive to partner with us as Nebraska pork producers. This would provide farmers, especially young producers, like myself, an opportunity to both generate income and

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build equity while increasing the tax revenue for our local communities and the state of Nebraska. On a personal level, this will give me the opportunity to fulfill a lifelong dream. How many girls do you know that their dream is to be a pork producer? I'm one of them. All I've ever wanted to do was to raise pigs and be in my community, around my family. This would give me that ability. This would let me give back to my community in terms of the increased tax revenue I would bring, my building's facilities, and the money that I would spend in the community by raising my family there. It would provide me with steady income to take care of my family and not have to worry about market changes. And it would give me the ability to feed pigs using the latest technology. And it would also give me many other resources that without this, I would not have access to. This bill would also increase opportunities for pork farmers, as well as those who are just entering the industry. It would bring more jobs to the state, as there would be a need for construction companies, as well as more people to work in the barns, the feed mills, and trucking companies. It also has the potential to not only keep more families in rural Nebraska, but to attract others to move to our rural communities. It would increase revenue for Nebraska farmers by feeding more of the pigs that are born in our state, rather than exporting them to other states to be raised. I would like to also add that I feel personally by passing LB942, it would indeed allow young producers more opportunities to expand and enter the industry without hurting existing producers, such as my dad, who some people would consider "Joe Farmer," who is a small producer who owns everything from farrow to finish, including the feed sources. I think I'm out of time. That means I'm out of time, doesn't it? [LB942]

SENATOR WALLMAN: Well, thank you, and a good job. You are interested in, also, farrow to finish? [LB942]

REBEKAH SPADER: Yeah, any way that I can get back into pork production. [LB942]

SENATOR WALLMAN: Well, thank you, because that's a job. [LB942]

REBEKAH SPADER: And I... [LB942]

SENATOR WALLMAN: Anybody else have a question? Senator Johnson. [LB942]

SENATOR JOHNSON: Thank you for coming in. I should have asked this question maybe before, but maybe you can still answer it. And you talked about the contract being 10, 12, 15 years. [LB942]

REBEKAH SPADER: Um-hum. [LB942]

SENATOR JOHNSON: And that's based probably on...with your lender, and so you have a contract, need to have a contract that long with a packer. Do you know how long a contract is? Is it an annual contract with packers or does it go multiple years?

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Because it would be hard to keep switching around from one to another. [LB942]

REBEKAH SPADER: I've actually looked into building barns and trying to find an integrated person to work with, and a lot of the contracts are 12 years. [LB942]

SENATOR JOHNSON: Twelve years. [LB942]

REBEKAH SPADER: Yep. [LB942]

SENATOR JOHNSON: So in that 12-year span you have...there's probably a way to get out if, whatever reason, you have a desire or it's just not working or whatever the circumstances? [LB942]

REBEKAH SPADER: I'm sure that with any contract there is ways to be relieved of your contract, as you would probably have to find somebody to take over your contract. But other places, people are fighting for barns. [LB942]

SENATOR JOHNSON: Yeah. [LB942]

REBEKAH SPADER: In Nebraska we're fighting to put them up. [LB942]

SENATOR JOHNSON: Okay. Thank you. [LB942]

SENATOR WALLMAN: Anybody else? Senator Hansen. [LB942]

SENATOR HANSEN: Thank you. Are you a UNL student? [LB942]

REBEKAH SPADER: Yes, I am. [LB942]

SENATOR HANSEN: In pork production? [LB942]

REBEKAH SPADER: Actually, ag economics. [LB942]

SENATOR HANSEN: Ag? Well, that's important too. So if you don't have to worry about genetics, if the packers increase the genetics somewhere and bring you a weaned pig, you don't have to worry about genetics, you don't have to worry about the rations because the rations are already formulated for what genetics they bring to you, what was the advantage of going to university? [LB942]

REBEKAH SPADER: The advantage of going to the university? [LB942]

SENATOR HANSEN: Yeah. [LB942]

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SENATOR LATHROP: (Laugh) Good point. [LB942]

REBEKAH SPADER: Because I wanted to get an education and even... [LB942]

SENATOR HANSEN: In ag? [LB942]

REBEKAH SPADER: I mean, my dad is a...we have raised pigs for as long as I can remember. He still went to the university. He went to the university and got a teaching endorsement, too, but he knew all he wanted to do was go back to the farm. But like anybody, you probably want to have a second option for just in case. This is my second option, going to the university was. [LB942]

SENATOR HANSEN: Thank you. [LB942]

SENATOR WALLMAN: Anybody else? [LB942]

REBEKAH SPADER: If I could? [LB942]

SENATOR WALLMAN: Sure. [LB942]

REBEKAH SPADER: Senator Bloomfield, you asked about the tax revenue. We have buildings in two different counties, and I know that talking to the county assessor in York County, we would pay for a 4,800-head wean to finish it would be \$20,000 for, like, in that school district is what your taxes would be. And then in the Utica school district, which is Seward County, it would be \$12,000. So that's just some of the numbers and, if you are interested, I'm sure that anybody here who has talked tonight who has pigs already would be more than willing to share their different... [LB942]

SENATOR BLOOMFIELD: Okay. Thank you. [LB942]

REBEKAH SPADER: Yep. [LB942]

SENATOR WALLMAN: Thank you. Good job. [LB942]

REBEKAH SPADER: Thanks. [LB942]

SENATOR WALLMAN: Oh. Any other proponents? Seeing none, opponents? [LB942]

PENNY DAVIDS: (Exhibit 4) My name is Penny Davids, D-a-v-i-d-s. Good afternoon and thank you for letting me speak to you today. I am from Plainview, Nebraska, and I came here today to talk about corporate greed. I grew up on a small hog farm in northwest Iowa. Thirty years ago, 90,000 Iowa pork producers raised 25 percent of the hogs in the United States. These hogs helped farmers buy land, put their children

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through college, supported local schools, local churches, and small towns. The profits stayed in Iowa. Today Iowa has less than 5,000 people owning hogs. Fifty percent of the profits go out of the state, and 40 percent more go to the corporate pork clan and to the packers. Less than 5 percent goes to family farmers. When packers own pigs, small towns dry up--no hog-buying stations, no feed stores, no veterinarians. It decimates the rural economy. I'm sure that many of you have already made up your minds on how you are going to vote, and many of you have been lobbied by these corporate cronies. Ask yourself this question: Who are you representing, family hog producers or corporate America? Remember what has happened in Iowa. When packers own everything, semen to cellophane, no one can compete. When packers kill their own hogs first, give the next shackle space to the corporate clan and their premium contracts, then that means smaller, independent producers, if they can get their hogs killed at all, become nothing more than a residual supplier and take the lowest price of all. When the corporate clan is dragging diseases all over the state, no one can compete and livestock producers give up. It is called Armageddon. And while some will say the hog market is already vertically integrated, that it doesn't matter; actually, yes, it does. They may say they just want to do this for hogs now. But I believe if this prohibition on packer ownership of hogs is lifted, they will just as sure come after cattle next. Packers are not trying to make Nebraska a better place to live. They are only, once again, trying to pad their pockets. If corporate wealth is the only measure of our society, ladies and gentlemen, even our democracy is lost, and that is corporate greed. Thank you. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Senator Johnson. [LB942]

SENATOR JOHNSON: Yep, a couple. You've thrown out some facts here. I'm curious, you know, where you got that information--not questioning it, just where you got it. And the last part of it...the second part of it would be 50 percent of it is going out of state. [LB942]

PENNY DAVIDS: Yes. There are... [LB942]

SENATOR JOHNSON: And can you quantify where that's going, what segment of the process? [LB942]

PENNY DAVIDS: It's going to all the corporate pork...the corporate owners. They do not live around our areas. They don't live around the smell. It all goes to them. It all goes to where they live. It goes to Missouri, where the hogs are coming from. None of it is staying where we are. [LB942]

SENATOR JOHNSON: And where did your figures come from? [LB942]

PENNY DAVIDS: From...hold on. I have to...I got them...my...I stole...my father raises hogs in Iowa, Linus Solberg, and he has fought against this for years. And he helped

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me write this speech and, for the life of me, I cannot remember where he said. Yes. [LB942]

SENATOR JOHNSON: No, that's all right. That's fine. [LB942]

PENNY DAVIDS: My son knows. [LB942]

SENATOR JOHNSON: Okay. [LB942]

PENNY DAVIDS: I'm sorry. I can't...I'm a little nervous. Sorry. [LB942]

SENATOR JOHNSON: That's fine. You did a good job. [LB942]

SENATOR WALLMAN: Anybody else? Senator Hansen. [LB942]

SENATOR HANSEN: I do have one. On the second page, top line of your written testimony, it says the corporate clan is dragging diseases all over the state. Now what would the...why would that benefit packers? [LB942]

PENNY DAVIDS: Because... [LB942]

SENATOR HANSEN: Why would they not be concerned about that probably as number one? [LB942]

PENNY DAVIDS: They don't care about the independent farmer, the one who still has his small farm. Their diseases come in and, yes, they will treat their hogs. But those diseases spread, and I've seen what happens. It can wipe out a whole entire herd of hogs. And it can go in their manure when they're out spreading. It...and they don't give medicine to that independent farmer who was just wiped out. They just take care of their own buildings. Their trucks coming in spread the disease. [LB942]

SENATOR HANSEN: Okay. Thank you. [LB942]

PENNY DAVIDS: Um-hum. [LB942]

SENATOR WALLMAN: Anybody else? Thank you. [LB942]

PENNY DAVIDS: Thank you very much. [LB942]

SENATOR WALLMAN: Next opponent. Welcome. [LB942]

DAVE DOMINA: (Exhibit 5) Thank you. Welcome, Senator. [LB942]

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SENATOR WALLMAN: You may proceed. [LB942]

DAVE DOMINA: Thank you, Senator. And, members of the Ag Committee, I'm Dave Domina. I am from Cedar County. I have farming interests there, have some banking interests in Wayne County. My brother raises hogs in Cedar County. Hogs have been a part of the Domina family clan since before I castrated my first one more than 50 years ago. I have also had a great deal of experience at production agriculture involving contracts, and some experience that hasn't been commented on today about the poultry industry and the predecessor for what is going on in the swine industry that has already dominated chickens. I'd like to share some of that information with you. I have distributed here documents, three separate documents. They're extensive. The first is a five-page summary of what I'd like to have you know generally about my testimony. The second is a paper I coauthored with an Auburn University ag economist named Robert Taylor. That was done for some USDA/U.S. Department of Justice hearings on the livestock industry in 2010. And the third is the authors'--our, Dr. Taylor's and my--copy of a Law Review article published at 15 Drake Ag Law Journal, Section 61, in late 2010, studying the effects of contract agriculture on markets and on family farms. I'd like to start by saying that almost everything that has been learned about the chicken industry will almost inevitably be learned by the swine industry if this statute is enacted. I listened with interest to the recitations from the...our neighbors from Iowa and our hopeful young farmers from Nebraska. I share their optimism about Nebraska and Nebraska as a place to farm. But I know that we cannot improve the state of Nebraska or its agriculture by allowing corporate ownership of our livestock and resigning our people to caring for that livestock on a contract basis. It just doesn't make sense that exporting our wealth will enhance our income or our revenue. Let me say this. This statute is pernicious. Its problems don't appear on its face. Here's one of them. Building the facilities you've heard about today at a capital cost of a million dollars plus involves a 20- to 30-year loan. You heard it said today that some of these contracts are 12-year contracts. The attorney general of Iowa has made a practice of posting contracts involving swine on a Web site that he maintains through his office, and you'll see that most of these contracts involving the swine industry are five years or shorter. Poultry contracts tend to be two or three years. So once one has a 20- to 30-year mortgage on a facility and is into a first or second 2-, 3-, or 5-year contract, the disparity between pressing debt and the inability to negotiate a new or renewed contract crushes the farmer. There is no ability to negotiate on parity. The contracts always include arbitration clauses. They always include secrecy and confidentiality clauses. They are often accompanied by oral promises that, you, you do a really good job, we like your animals, you get a sweetheart deal. But in a confidential communication with the next producer down the road, the same promise is repeated and it doesn't prove to be true. There's another serious problem with these contracts and their mismatch, and that is that there is no market for these animals. Understand, please, that what is proposed here is that the packer will become the owner of the animal when it is farrowed and will own the animal until it is rendered. It will not be sold, not as a weaned pig, not as a pig to be fed, not as a fat animal to be

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butchered. There will be no market. And anyone knows that the way that wealth is generated is to be involved in transactions involving the sale of assets and the acquisition of assets and a vibrant market in which people both bid to sell or accept bids to sell and bid to buy. That's eliminated by this statute. In the poultry industry, the elimination of that process has led to a different kind of competition. It's called tournament payment, and it works this way. A plant with a series of contracts devotes a pool of bonus money available to producers to the bonus process, announces the tournament terms, and sets the producers against one another to compete for that modest bonus. So instead of neighbors helping neighbors, neighbors are incited to hurt neighbors. Let me just be brief about a couple of other points, and then I think what I've written for you covers this. We could find no evidence--and I want to stress that, after an econometric investigation by my coauthor who is an economist, I'm the lawyer and the color writer in this work--no evidence based on USDA data that anywhere in the poultry industry was there an improvement in the status of living of the people who entered into these contracts. You have heard about neophyte contracts in Iowa and I want you to consider that they are neophytes. Senator, I'm out of time. [LB942]

SENATOR WALLMAN: Yeah, yes. [LB942]

DAVE DOMINA: And I understand. [LB942]

SENATOR WALLMAN: And any questions? [LB942]

SENATOR LATHROP: Can I just ask this, Mr. Domina? Apparently we did this with chickens and this would be a step with the pork industry and we're not going to do it with the cattle. What's the lesson from the chicken industry? [LB942]

DAVE DOMINA: The lesson... [LB942]

SENATOR LATHROP: Or do you expect the same outcome if we go down that road with the pork producers? [LB942]

DAVE DOMINA: The lesson from the chicken industry is that the income of the chicken producers declines, that the termination of a plant to which production is contracted, if it closes, automatically bankrupts the producers contracted to it. And that's because the concentric circle from which the supply is drawn gets ever tighter as the number of contracts is developed so that the transportation cost goes down. If the plant is closed to modernize, or for any other reason, you don't need that circle. Those people disappear. The debt burden is crushing. The number of bankruptcies, divorces, suicides among producers all increased in every chicken-producing state in the United States without question. [LB942]

SENATOR LATHROP: Do you have an opinion about what this would do to the

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depopulation of rural Nebraska? [LB942]

DAVE DOMINA: It will continue the depopulation of this state. [LB942]

SENATOR LATHROP: And what...and how has that happened? [LB942]

DAVE DOMINA: That... [LB942]

SENATOR LATHROP: Is this something you've studied? [LB942]

DAVE DOMINA: Yes, it is. [LB942]

SENATOR LATHROP: Okay. [LB942]

DAVE DOMINA: And it's commented on in these materials. It happens in three basic ways. Number one, the number of producers required declines. Number two, the viability of the production process diminishes, and the number of workers required to assist with the process declines. And number three, as those declines occur, secondary declines in towns follow. [LB942]

SENATOR LATHROP: Is the state...are the producers in Nebraska, if you know, and I'm not inviting speculation, but if this is something you've studied, we hear that this is happening in other states, that this is just a nod to the reality of raising hogs, is...what's going to happen to Nebraska if we don't...if we don't do this, are we going to be at such a disadvantage that Iowa, regardless of whether we like it or not, is going to be producing pigs in these big pig factories for less money and the guys in Nebraska won't be able to compete with that and we'll just be left behind? [LB942]

DAVE DOMINA: Well, Senator, the best way to answer that is with data. The average daily slaughter of swine in the United States is about 440,000 head. Smithfield slaughters about 120,000 head. Smithfield was acquired by exclusive Chinese ownership in July of 2013. Smithfield owns nearly a million sows already. Smithfield is essentially out of this equation. If there is no economic advantage, desire, or interest for the packers to own more animals, why would they put more capital cost in the system that now produces and supplies their raw goods? They have to squeeze the production costs down even more or they get no return on the capital investment in these animals, and that's what they intend to do. That will come at the expense of Nebraskans. Now it may be true that in the transition time, pressure on Nebraska producers is greater. In the long run, the only way for Nebraska producers to survive is to own their operations and at least have these choices: I can stay in or I can get out. These contracts will eliminate one of those choices until the end of the contract term and leave the producer with a mortgage. Senator. [LB942]

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SENATOR CHAMBERS: Mr. Domina, even before you began your presentation, a lot was said about this bill drawing young people into farming, and I did not understand it, how that would happen. Will that happen and, if so, how will this be a stimulus for that and, if not, why not? [LB942]

DAVE DOMINA: Senator, this bill could permit a young person to have less capital cost to enter into the production of swine because the young person wouldn't buy the animals. So the investment in capital cost would be limited to the building, the land, and the startup cost that goes without the animal. So there is that advantage. The disadvantage is in the loss of all of the alternatives that young farmer has about what to do with what is produced and the rigidity with which that young farmer must remain locked in a relationship with the packer in order to retire the initial debt on the land and building. There has been no comment on the disparity between the duration of the production contract and the fixed cost of the building loan. And I dare say that bankers, my own experience at that being limited to 30 years of service as a bank director in a small ag bank, I think bankers are intensively interested in having the duration of the capital loan and the consistency of some expectation of income, either from a free market or from a fixed contract, relatively coincide. There's nothing in this bill to assure that will occur. [LB942]

SENATOR CHAMBERS: Just one other question. I had applied the term "adhesion" to these types of contracts because it does seem to me that they can say, take it or leave it, and that's exactly what you have to do or you're not going to get the contract. [LB942]

DAVE DOMINA: Senator, I think you're exactly right, and I might comment that my client mix over the years of persons in agriculture has, unfortunately, included some of the neighbors of our friends from Greene County, Iowa, who have found themselves in litigation over those adhesion contracts. [LB942]

SENATOR CHAMBERS: Thank you. [LB942]

SENATOR WALLMAN: Senator Bloomfield. [LB942]

SENATOR BLOOMFIELD: Thank you, Senator Wallman. Welcome down here. [LB942]

DAVE DOMINA: Thank you, Senator. [LB942]

SENATOR BLOOMFIELD: It's good to see somebody from our part of the state. [LB942]

DAVE DOMINA: All good things start in northeast Nebraska. [LB942]

SENATOR BLOOMFIELD: Pretty much. (Laughter) I'd questioned somebody earlier, one of the other testifiers about the possibility of young people investing this much

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money and then having the contract bail out, and I was assured that that was all taken care of, that the packer would have some arrangement with them or they would pay them off if that were to happen. Is that not what you see in your studies? [LB942]

DAVE DOMINA: Senator, I've never, ever seen that happen in the poultry industry, and it certainly did not happen with the clients I've represented who have had difficulties with swine contracts. The swine contract litigation I've handled is over delivery contracts, not packer-owned animals, so there is that distinction. But the economics of that distinction is who has the capital cost in the animal. [LB942]

SENATOR BLOOMFIELD: Thank you. [LB942]

SENATOR WALLMAN: Anybody else? [LB942]

DAVE DOMINA: Thank you for allowing me to be with you. [LB942]

SENATOR WALLMAN: Thank you, Mr. Domina. Thanks. Next opponent. Welcome. [LB942]

KENNETH MOORE: Thank you. Senator Wallman and members of the Ag Committee, my name is Kenneth Moore, K-e-n-n-e-t-h M-o-o-r-e, and I'm the successor of Marilyn Mecham, who was the executive of Interchurch Ministries of Nebraska. And I want to bring a faith perspective on this issue. The scriptures say the earth is the Lord's, and everything in it, the world, and all who live in it. Interchurch Ministries of Nebraska strongly opposes LB942 because this legislation would lead to agricultural concentration, industry-wide consolidation, and other outcomes that would be detrimental to Nebraska's family farms and the current system of fair, open, and competitive markets. We are grateful that our creator has blessed the state of Nebraska with soil, water, clean air, and climate that sustains one of the great agricultural resources of the nation and world. IMN has, since the farm crisis of the 1980s, operated a rural response hot line in partnership with the state of Nebraska as part of our effort to preserve the family farm system and the vitality of our rural communities. We are convinced that family farms are the most effective stewards of the land and other natural resources. Because of their love of the land and the participation in the life of rural communities, we believe that these farmers are best able to conserve, protect, and help regenerate the lands under their cultivation. We do not believe that it would be good stewardship to allow hog processors to own hogs in Nebraska. Such industry-wide consolidation would be detrimental to smaller producers, neither do we feel that this bill would benefit our state. We do not feel that this represents a faithful stewardship of our god-given land and natural resources. Thank you. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Thank you. Welcome. [LB942]

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DAVID WRIGHT: Thank you, Senators. [LB942]

SENATOR WALLMAN: I think you were cattle...I thought you were a cattle producer. [LB942]

DAVID WRIGHT: Well, yes, I'm a cattle producer. My name is David Wright, and I'm the president of Independent Cattlemen of Nebraska. I'd like to thank the committee for the opportunity to speak in opposition of LB942. We are fearful that this will lead to the undermining of the current law. We can't help but wonder how long it'll be before the cries of discrimination will be heard in the hallways of this institution. After all, Tyson does slaughter chickens and hogs and cattle. And the Chairman has expressed that he would like to see the law changed, as well. So I would like to touch back on when Senator Dierks ran this bill back in '98-99, it passed the Legislature 48 to 0. Governor Johanns signed it into law because the question at the time--and mind you, I'm talking about cattle for the moment--the question at the time is, who sets the price that the cattle or...if the livestock are all under contract, usually there's a price set to determine what the contract is. So who sets it? It winds up being the producer, who doesn't...the producer, who is caught in the corner, who is getting beat down because cattle keep coming in or hogs keep coming in and what I'm going to touch on...and, well, Texas, Colorado, and Kansas are all 80-90 percent captive supply. The only place there's a cash market is here, in Nebraska. That's what sets the price. So our fear is, if this passes, in a couple years things are going to be...they're going to look to change cattle. And do you realize Nebraska is poised to be the number-one feeding state in the country? We're going to surpass Texas. It will be here, in Nebraska. So the groundwork is being laid to change the law so that cattle can be owned by packers. Now that's ICON's, or Independent Cattlemen's, viewpoint or stance. Mine is personal now. My in-laws were all hog farmers, three generations. They did not have contracts in the late '90s, early 2000s. What they did was they sold their hogs at the local buying station. And what they were told was there was no shackle space and they want those hogs to weigh 240 pounds. And if there's no shackle space, then you can't sell your hogs, so you've got to go home. And guess what? You have to keep feeding them. And if you think cattle grow, what do you think a hog does in a week? He grows, and then he's too heavy, and then they break them and then they knock the price off. And that's how they eliminated 90 percent of the producers in this country, by claiming that there was no shackle space. We can't take your hogs right now. And then to boot, they beat them up with \$8 hogs. So my in-laws are all out. They're gone. They're gone. So as I've listened to this testimony, I find this really fascinating because you talk about bringing young producers back but the producers really don't own the livestock in the shed. They don't own it. You know, at least, if you have a...at least, if you have packers owning cattle, it's at the feedyard and, you know, somewhere they've got to buy the cattle. Somewhere they've got to buy them. But in this sense, this sense, what we're talking about is we're talking about slumlords. We're talking about building facilities so that we can make 1 percent or 2 percent. And I guarantee you, main street in the small towns will feel it.

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The...in Antelope County we have a lot of large hog units. And if you go to the supervisors' meetings, you will hear those guys who own those units come in and they will complain that you need to lower the taxes because their units are depreciated out so, therefore, you need to lower those taxes. Once you do that, once you start lowering that tax base, you start affecting the school and the county, not to mention the entrepreneurs who are trying to make it out there in the rural areas and putting children in the schools to help keep those communities going. In essence, the more I look at this and the more I listen to the testimony, we're fearful that it's going to turn to cattle in a year or two. But right now, at the moment, you're just talking about slumlords. You're talking about building a facility so somebody can make a small percentage. And Senator Chambers pointed it out quite well: This is good for a few, just a few. And that's my testimony. I'd entertain any questions. [LB942]

SENATOR WALLMAN: Thank you, David. Senator Harr. [LB942]

SENATOR HARR: Thank you. Thank you for coming down here again. I always appreciate having you. [LB942]

DAVID WRIGHT: Thank you. [LB942]

SENATOR HARR: And if this is too personal, let me know. Do you borrow from a bank now? [LB942]

DAVID WRIGHT: I do. I borrow a lot of money from a bank. (Laughter) [LB942]

SENATOR HARR: Okay. And is it...you're able to do it, aren't you? [LB942]

DAVID WRIGHT: Yes, I am. [LB942]

SENATOR HARR: Okay. Why are you able to do it when hog producers aren't, if you know? [LB942]

DAVID WRIGHT: I'd have no idea, absolutely have no idea. I've been to meetings where you'll hear the bankers talk about, you know, the word slips me now, the bill to be repaid. Risk management is what they like to call it. [LB942]

SENATOR HARR: Yeah, yeah. [LB942]

DAVID WRIGHT: But in the cattle business, you know, we buy cattle. You know, we raise...I just bought 150 head of cows the other day. It cost me \$2,300 a cow. That's ridiculous. But, you know, we...I own some land, you know. [LB942]

SENATOR HARR: Yeah. [LB942]

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DAVID WRIGHT: I own land to...like Mr. Chambers was pointing out earlier, I own land to offset. You know, the banker has got to have some collateral. But when I started...when I started, we milked cows at the time and I went to the different milk companies to try and get some money, you know, and they would loan me money. But my dad would say no because he sells his milk to AMPI. I wound up finding a banker who finally just loaned me the money, but he wanted the milk check and I got to keep the calves and then asked for...to say that my dad had anything to do with it, I had to pay dad rent. He did not cosign, none...not a piece of ground, nothing turned over. I paid him rent and it was...extortion is what it was. (Laughter) It was really high. So I got just enough to pay the bank and just enough to live off the calves. But as to say...you know, even when we bought the newspaper, you buy any business, you have to show that you can cash flow it. To sign a contract with the devil seems like a bad way to cash flow a business. [LB942]

SENATOR HARR: Okay. Thank you. [LB942]

SENATOR WALLMAN: Thank you. Senator Hansen. [LB942]

SENATOR HANSEN: Thank you. Mr. Wright, the Iowa folks testified earlier and I think it was the last one--maybe or maybe not, I'm not sure--anyway, they said that they could either sell...they could either contract with the packer or contract with an individual. [LB942]

DAVID WRIGHT: Um-hum. [LB942]

SENATOR HANSEN: So if we could get rid of those evil corporations and go all to an individual, would that change your mind any? I mean, it's going to be a similar situation where they're going to own the pigs, they're going to bring the feed, and all that,... [LB942]

DAVID WRIGHT: Um-hum. [LB942]

SENATOR HANSEN: ...but it's just on a corporation. Is that the hang-up, just the corporation? [LB942]

DAVID WRIGHT: Even if it's...well, I suppose on an individual basis, you know, Bob Peterson did that for years for IBP. Bob Peterson owned cattle all over the country. He owned almost all the cattle down in Wheeler County. He was an individual. But who was Bob Peterson? He was IBP. That's who he was. So somewhere you get...somewhere you've got liberties. You don't want to step on liberties and I understand what you're saying about individuals. It would be nice if we had Initiative 300 back. That way we could forget...you wouldn't have to worry about the corporations side--you know,

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corporate owning livestock or property in this state. [LB942]

SENATOR HANSEN: But we don't. [LB942]

DAVID WRIGHT: But we don't. We don't, and it was deemed unconstitutional. So to try and write a law saying that you can't have packers own the facility, I guess you're really going to be fighting an uphill battle there because you've already got precedent from the state...or from the courts. But back to your...individuals, you know, I'm going to have to...I...you can't. How can you stop individuals from engaging in commerce? [LB942]

SENATOR HANSEN: It's pretty tough. [LB942]

DAVID WRIGHT: It is. [LB942]

SENATOR HANSEN: Pretty tough. I'm not an individual anymore. Our ranch is a corporation. [LB942]

DAVID WRIGHT: Um-hum. [LB942]

SENATOR HANSEN: We have stockholders. [LB942]

DAVID WRIGHT: Um-hum. [LB942]

SENATOR HANSEN: But I've helped three young ranchers get in the business and they're all still going. But they have risk. They have risk and they have a reward. Some of them probably...maybe one of them sold you some of those \$2,300 cows and I say good for them. (Laugh) [LB942]

DAVID WRIGHT: Um-hum, um-hum. [LB942]

SENATOR HANSEN: It depends on whether you're selling or buying that...if things are too high. But I think...I don't see the huge disconnect between corporations and an individual who is willing to risk everything. [LB942]

DAVID WRIGHT: To an individual. [LB942]

SENATOR HANSEN: To an individual. [LB942]

DAVID WRIGHT: But the corporation we're talking about here is the end user. It's the slaughterhouse. It's the packer. He's the end user so, therefore, there's never really a price set in place. If you and I enter into a contract as individuals, we're going to talk about what it's going to cost for the cattle. We're going to talk about what it's going to cost to raise them or whatever the livestock we're exchanging. These contracts they're

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talking about is you're basically renting my facility from me. [LB942]

SENATOR HANSEN: You could do that from an individual, too, according to the testifiers from Iowa. [LB942]

DAVID WRIGHT: From an individual. [LB942]

SENATOR HANSEN: Yes. I don't want to lengthen this out anymore, so thank you. [LB942]

DAVID WRIGHT: Okay. [LB942]

SENATOR WALLMAN: Thank you. Anybody else? Thank you, David. [LB942]

DAVID WRIGHT: Thank you. [LB942]

SENATOR WALLMAN: Next opponent. Welcome. [LB942]

ROBERT HENDRICKSON: Hi. Robert Hendrickson, R-o-b-e-r-t H-e-n-d-r-i-c-k-s-o-n. I own a diversified crop and livestock farm in Shickley, Nebraska. Oh, excuse me. I own a diversified crop, cattle, and swine farm in Shickley. I am opposed to LB942 because it will lead to further erosion of market access and transparency. It is somewhat ironic that the stated objective of this bill, to harmonize provisions, attempts to do this by implicitly allowing packers to own, keep, or feed hogs and/or sheep. It would now explicitly point to cattle as the only type of livestock with a ban of packer ownership. Is there a problem with packer ownership of livestock? Yesterday's hog report showed 3.66 percent in negotiated sales. I interpret that to mean 3.66 percent of the hogs sold set the price of the other 96.54 percent hogs sold. Maybe that is evidence the market doesn't need any cash sales. I think it is evidence of the control the packer can exert on the market. I also think those numbers suggest control, i.e., indirectly engaged in the ownership of livestock that the current statute, 54-2604, makes unlawful. One of the reasons I raise hogs for a niche market is a lack of access to a functioning cash market. My hogs, by the way, go out of state for processing. The local sale barn does have a swine sale. Last time I took sows there, three people were around the ring: the auctioneer, the buyer, and myself. When the cattle sale starts, the crowd arrives, and there are always several bidders. I know which situation I prefer. I also know which situation I would prefer when buying feeder cattle. I also raise cattle, both a cow-calf operation and buy some cattle with a background and have custom fit. I have contracted cattle for sale. I also have gone down to the wire with the cattle standoff where no cattle change hands until late Thursday or Friday, and that may be for two weeks out. At times, that delivery time becomes a real driver in price. Now has ownership been transferred? No money changes hands. I am responsible for debts. I better turn over X number but I have lost a lot of control. Thirty years ago this whole statute was unnecessary. There was a

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functioning cash market. Packers knew if they wanted animals they needed to pay for the supply. Now the hog packers say we need contract production to ensure supply. Twenty years from now, or sooner, the cattle packers will say, we need contract production to ensure supply. Then the cattle packers will be here with "LB-blank" to permanently repeal the Competitive Livestock Markets Act. Think it won't happen? It used to be said hog production would never have contract production, like poultry. I suspect at some point you'll be discussing contract corn production in the same vein, and then you will see the elevator Web pages with posted prices disappear. Before I...I'd like to thank you for your time and opportunity. But I have a couple other comments. And like some of the previous testifiers have said, in '98 you could maybe book space, and then you'd find out later what your pigs are worth. And possibly, you know, the trend, maybe the trend is right. We might all be on the trail, but is it the wrong branch? And I think it was also referred that, you know, the packers are my customers. But take Walmart, they could ban four customers. If I would ban four customers, who would I sell to? Thank you. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Seeing none, thanks. Welcome. [LB942]

JIM KNOPIK: (Exhibits 6 and 7) Thank you. Good afternoon, Senators. My name is Jim Knopik, J-i-m K-n-o-p-i-k. I come today and every day in opposition of bills like LB942. I am 65 years old and I have farmed all but about two years on the same farm. I was one year old when my folks moved to the farm near North Star. At that time, there were right at 49 homes within a two-mile radius of our farm. All but six families were farmers. Now there are four families and two of these are farmers. Let me take that back. One is a farmer and one is a producer. In 1950, I am pretty sure that nearly all of the farmers raised chickens, hogs, fattened a few cattle, and milked cows. Times did not seem easy, but everybody could put plenty of food on the table. Everyone was also pretty healthy and physically fit then. There were schools on every 36 sections, with a high school and a doctor in every town. Small towns were thriving with communities working together and helping anyone who might need a helping hand from time to time. Back then there was much more competition in the marketplace and prices were determined more by supply and demand. I also remember that we could get a drink of clean water from any well in the country and we could swim in any river or any lake in Nebraska. I remember taking deep breaths of fresh air, a deep-blue sky, and not worrying about any of the food we ate. What happened to all these clean things and our rights as citizens to have them? Passing legislation like the bill in front of us today is not for the good of the whole but for more power for a few. The result always leads to more concentration of not only animals but, eventually, people too. But of course, legislation like this is not new. If one cannot see how our past six or seven decades of farming history has destroyed the face of the earth and we refuse to change, then nature has a remedy for us. If we look, we can see her trying to heal the problems technology through human science has caused. It hasn't necessarily been the lack of intelligence, but the lack of

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courage and the power of money to allow this concentration to happen. The control by the monopolies of large packers and grain buyers, seed and chemical companies are squeezing farmers and contract growers so much in a myth of cheap food policy that CAFOs and large producers worry only about production while their bankers worry about their bottom lines. Corporate farming practices would not exist if they could not pass their cost of doing business onto our environment. They dump their waste into our aquifers, streams, and rivers, and fill our air with the stench of standing manure or the hazardous waste of harmful contaminants. We desperately need to stop the destruction of our environment and allowing industrial-type commodity producers from baring our land and soil. The remedies to our problems are really simple, but it will be the journey to correct our paths that is hard because we keep putting it off. For the sake of our next generation, I have never heard a young person say, I want to be a serf or a contract grower for someone else. Thank you for the time. [LB942]

SENATOR WALLMAN: Thank you. Have any questions? Seeing none, thank you. [LB942]

JIM KNOPIK: Thanks. [LB942]

SENATOR WALLMAN: Welcome. [LB942]

SAM BRUCKNER: (Exhibit 8) Hi. My name is Sam Bruckner, S-a-m B-r-u-c-k-n-e-r. I live in Wayne, Nebraska, and I am currently in the eighth grade. Today I am testifying in opposition of the LB942 because I believe lifting the prohibition on packer ownership of hogs will do great damage to our state's future and also to my future. I am involved in Wayne County 4-H. I show breeding heifers and market steers. From my start in 4-H, I am slowly building a small cow-calf herd, and I hope that one day I might actually have a large enough herd to help me get a start in farming. You may think I'm too young to know much about this. I would disagree with that, however. I am not too young to understand that packers don't care about my future or the future of my rural community. They don't care if we have a strong 4-H program based on independent family livestock producers that help kids, like me, chart a future in agriculture. They don't care if I stay rooted in my rural community or if I never return after completing college. They simply care about maximizing their profits. Nebraska needs you all to care that young men, like myself, find opportunity for a prosperous future in rural Nebraska. They can say this is just about hogs now, but we all know that this will be about cattle next. I urge you...I urge that you vote no on the LB942. My future and the future of our communities depends on doing everything we can to maximize the opportunity for independent, beginning, and small, mid-sized farmers and ranchers, not maximizing profits for packers. [LB942]

SENATOR WALLMAN: Thank you, Sam. Any questions? You got one? [LB942]

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SENATOR BLOOMFIELD: Just more a comment. [LB942]

SENATOR WALLMAN: Okay. [LB942]

SENATOR BLOOMFIELD: Thank you, Mr. Bruckner, for coming down, and you're doing a fine job of testifying. And again, all good things start in northeast Nebraska. [LB942]

SAM BRUCKNER: That's true. [LB942]

SENATOR WALLMAN: I started at a very early age in farming, as well, and so thank you. [LB942]

SAM BRUCKNER: Thank you. [LB942]

SENATOR WALLMAN: Senator Chambers. [LB942]

SENATOR CHAMBERS: I just...Mr. Bruckner, from the oldest man probably in the state of Nebraska, I'm mightily impressed by your presentation. I'm going to keep this document. I'm going to write a date on it. Your grammar is perfect. The way you developed your argument, your presentation, your inflections were what any teacher, any parent, or anybody who appreciates the language and an active mind couldn't help but admire. So thanks for coming. [LB942]

SAM BRUCKNER: Thank you. [LB942]

SENATOR WALLMAN: Next. Next opponent. Welcome. [LB942]

CALEB NUEHRING: Senator Wallman, the rest of the committee, my name is Caleb Nuehring, C-a-l-e-b N-u-e-h-r-i-n-g. I'm a freshman here at the University of Nebraska. I've grown up in Plainview, Nebraska, on a small family farm since I was about three years old. My dad lives in Iowa. I've helped my grandpa on a hog farm for...since I was four years old, sitting out in the farrowing house at 5:30 in the morning in January, so I come from a long background of this. I would like to start out...factory farms are killing family farms. For every factory farm that goes up, ten family farms are destroyed. Confinement buildings are popping up all over the United States, especially in Iowa, the largest pork-producing state in the nation. Price discrimination is a huge problem against family farms. The government has laws against the monopolizing of a business, but this, for some reason, does not apply to the pork industry. Packing plants are purchasing their own pigs to raise and slaughter, and the average small farmer is losing about \$1,000 a day. Factory farmers are getting paid \$18 to \$25 more per pig when selling them at a slaughterhouse. If small farmers received \$25 more per pig on a secret contract like factory farmers, the big farmers would be making a huge stink and Washington would have to pay attention. Factory farms bring in diseases that should

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not affect the size of pigs that they do. The PRRS disease should not affect a full-grown hog, but in factory farms full-grown hogs die of a disease that should affect small pigs and rarely, on occasion, pigs that go to market. But sows in gestation crates are killed because of the cramped quarters and lack of exercise. And I believe it was Senator Lathrop that addressed the size of a family farm. My grandpa is 70 years old and has farmed for about 50 years in northwest Iowa and he owns about a thousand acres. And in the early 2000s, when he was still a bigger operation, as you could say, he had about 720 piglets per year is what he raised from farrow to finish. And factory farms do not care about where they spread their manure. As of about ten years ago, Palo Alto County, Iowa, put into effect a law that required confinement buildings and the manure spreading must be half a mile away from any small family farm that did not agree to their building. Some people have called this the "chickenization" of the pork industry. Having such large amounts of hogs in one space causes a great environment for diseases to be created. These diseases are airborne and pose a threat to animals on other farms. To the factory farmer who is all right with the loss of a pig here and a pig there, these diseases may not seem like a big deal. But to a small farmer who relies on almost every pig surviving, the diseases can be catastrophic. Iowa had more than 8 million pigs moved into the state in 2003. This may not seem like a large number, but most of these pigs were moved in from Canada, which, unlike Iowa, is pseudorabies free. Pseudorabies is a disease that is extremely contagious and causes reproductive problems in pork. It cost Iowa \$10 million to get rid of this disease that took a toll on the hog industry. Factory farms are destroying family farms by bringing in diseases and receiving better prices. This goes against all the values of agriculture. What does the word "agriculture" mean? The main meaning of the word clearly suggests food and all that goes into its production, such as farmers, food companies, grocery stores, and all the things alike. That's important, but the second part of the word is even more important. Farming is a culture. Family farmers have helped build the American experiment into history's best and finest example of mankind's pursuit of freedom, greatness, and culture. Every means at the disposal of people should be used to protect this wonderful, irreplaceable part of America. If people do not, the essence of America will be lost. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Nice job. Thank you. [LB942]

CALEB NUEHRING: Would it be all right if I addressed your question of the opposition or the...? [LB942]

SENATOR CHAMBERS: Well, I don't...he's the Chairman. You have to ask him. [LB942]

CALEB NUEHRING: Is that okay? [LB942]

SENATOR WALLMAN: Sure, yes. [LB942]

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CALEB NUEHRING: Senator Chambers, you...I don't remember who you happened to ask, but you asked how this would help kids come back to the farm and then you also stated, I believe it was you that stated that most of the kids who come back to the farm started on a farm or were in close ties with a farm, and I would like to completely agree with you on that. I don't see how this bill can help anybody, such as my situation. I'm going to go back and farm eventually, but the cost is unbelievably high, obviously. I don't see how contracting with a corporation is going to do me any good because, as stated before, what are they going to do if the hog market crashes and they can't cover our contract? A large number of people custom farming today in the state of Iowa were, including my uncles...so far, my uncles went bankrupt because they couldn't...their buildings weren't getting filled. And so I don't see how this bill is going to help me because I can't come in with...when these corporations come in and take over and it's me against "Farmer Joe" who's been farming for 30 years, we'll say, and me just starting, what's this bill going to do for me when the hog market crashes? The only thing that I see possible: The guys that stayed afloat were the farmers who made it on their own and stayed...let the hard work pull them through, rather than trying to bank on a corporation. [LB942]

SENATOR WALLMAN: Okay. Thank you. Welcome. [LB942]

JOE MAXWELL: (Exhibit 9) Thank you very much. It's an honor to be here, Mr. Chairman. Members of the committee, my name is Joe Maxwell. I'm perhaps the "Farmer Joe" that's been referred to a few times, M-a-x-w-e-l-l. Mr. Chairman and members of the committee, I want to thank you for allowing me to testify here today in opposition to LB942. I will submit this testimony in writing, along with some documents that I'll refer to in my testimony, and will be happy to provide any further information this committee may need in its deliberations. I'm Joe Maxwell. I am the vice president of outreach and engagement for the Humane Society of the United States, the HSUS. I come here today representing our Nebraska members and our Nebraska Agriculture Council. As importantly, I'm a hog farmer from Missouri. I'm not a pork producer. I raise animals, not pork chops. This legislation is at the heart of the vertically integrated model of industrialized agriculture. The issue that this committee is presented with here today is, what kind of agriculture does Nebraska want to have? You have a choice, and we as a country can have whatever kind of agriculture our public policy supports. It's our choice. It's your choice. Will Nebraska have an agriculture policy that supports traditional, family-farm agriculture, or will it go the way of other agricultural states, such as mine, turning its back on traditional family farmers and ranchers? HSUS is here today to join the others and ask you to support traditional, family-farm agriculture and vote no on LB942. Evidence clearly demonstrates when packers own and control the livestock--and that's the significant issue here, the vertical integration, not whether it's corporation versus farmer, but is it a corporate, vertical model that destroys the marketplace--that when packers own and control these markets, farmers become serfs

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to the contracts. Farmers are driven from the land, animals are caged and crated, and our environment and our rural economies are degraded. The Humane Society of the United States wants to see more farmers on the land and more animals out of crates and cages, not the reverse. This legislation would do just the reverse. Your citizens agree. In 2011, in an NIRA poll, 69 percent of Nebraska rural citizens agreed animal welfare includes providing adequate exercise, space, and social activities for the animals on family farms. The USDA completed a study of the hog industry from 1992 to 2004. It found the number of hog farmers fell by more than 70 percent, with the number of hogs in the country staying about the same. It concluded the issue was who was going to raise the hogs and how were they going to be raised. It demonstrated the "who" is the vertical integrators, packers, packer owners. The "how" is unfair contracts for farmers and animals in crates and cages. It further found hog operations operating under packer-controlled contracts grew by 25 percent. And by 2004, these contracts represented over two-thirds of the hogs raised in the United States. During this same time, the price paid to the farmers stayed the same, at 73 cents per pound, while consumers paid, on the average, 59 cents more per pound at the retail grocery store. The efficiency, if any, in this model did not give consumers lower prices. It was just more profitable for the vertical integrator. As reported by Food and Water Watch, this model of agriculture is not economic development. In fact, of 51 studies analyzed, 82 percent of them indicated that the industrialized agricultural impact to local communities was a negative. One of the former editorial writers for the Des Moines Register, Bill Leonard, captured the truth about the industrialized agriculture takeover of his home state of Iowa. He wrote: The state has turned into the toilet for the industrialized agriculture. There could be another way, one that respects the animals, the farmer, the land, and the rural economy. Just this past Friday, Paul Willis of Niman Ranch was quoted in the Kearney Hub that Niman Ranch could use 20 percent more production. He demonstrated that his type of agriculture clearly is economic development for the rural communities. The HSUS through its rural development program knows of market opportunities in the region equal to the need for about 6,000 more sows owned by independent family farmers, and it's growing every day. Our objective is to get more farmers back on the land and more animals out of crates. With our collaboration with the Nebraska Farmers Union and Nebraska Agriculture Council, we are committed to finding ways to support your family farmers. We would rather be having a conversation about that today, but it is just as important that we join in today to ask you to vote no on LB942. Thank you very much for this opportunity, Mr. Chairman. [LB942]

SENATOR WALLMAN: Thank you, Mr. Maxwell. Any questions? Senator Chambers. [LB942]

SENATOR CHAMBERS: Just one, maybe a comment. In listening to those who favored the bill, I got the impression and I used the term that they were employees of these big operations and compared it to the situation where Walmart wants to call its employees independent contractors or whatever, so they have no responsibility to them, but all of

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the obligations run one way, from the employee to the big operation. Here's what I want to get to: I wish I had thought to apply the word "serfs," because that's what it amounts to. And the amount of time that they sell themselves, their family, and their labor can be the time beyond these contracts, but the debt that they'll have for constructing these facilities...and as Mr. Domina pointed out, the length of the contract is not going to be coextensive with the amount of time that you're going to be paying off the mortgage or the loan for constructing. And I wish that it were possible for ordinary people to see these intricate issues and not just look at what is right there today, where you're going to have a steady income, how much income, how long will it last, how is it going to be when I weigh it against what my obligations that I'm assuming are going to put on me. You were my sounding board. I hope you don't mind. [LB942]

JOE MAXWELL: No. If I might make a couple of comments to that, Senator? One, the length of the contracts, you can call your colleagues in Oklahoma, former state Senator Paul Muegge. I can tell you how Cargill moved out of Oklahoma to move into Missouri here a few years ago, leaving those producers bankrupt. The second thing I would say is that there are other options, and this would also go to Senator Hansen's comment. It's not about corporations. I was a state senator that handled the value-added tax credit bill in Missouri that helped the Triumph plant get started. I was also the lieutenant governor that ushered, helped usher through financing, gap financing for that plant. There are other options that aren't about corporations being the bad guys or gals. But it's about that serfdom, it's about that contract and closing down other market opportunities that holds then that farmer to a contract that they have no say in, and they hold the mortgage over their head as a big stick. [LB942]

SENATOR CHAMBERS: Thank you. [LB942]

JOE MAXWELL: Thank you. [LB942]

SENATOR WALLMAN: Thank you, Mr. Maxwell. [LB942]

JOE MAXWELL: Thank you, Senators. Thank you, Mr. Chairman. [LB942]

SENATOR WALLMAN: Welcome. [LB942]

JAREL VINDUSKA: Hi. Members of the Agricultural Committee, my name is Jarel Vinduska. That's spelled J-a-r-e-l, Vinduska is V-i-n-d-u-s-k-a. I'm here in opposition to LB942, representing myself. My parents and I are family farmers in Sarpy County. I'm also representing the Nebraska Wildlife Federation in which I'm a board member of. Now you might ask...I'll keep it short because everybody has covered the subject more eloquently than I probably can. We're not hog producers, so those people are more experienced at that. But the reason I'm here on behalf of the Wildlife Federation is because, you know, you might wonder what we'd want to be commenting on it for, but

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the reason that is, is it's our belief that family farmers are the best...Nebraska family farmers are the best stewards of the land. And consolidation of agriculture and having fewer and fewer people on the land has resulted in diminished wildlife habitats. That's just the reality of the situation nowadays. As farms have gotten bigger, there's less room for wildlife because the more land you have to farm, the bigger equipment you need, you...GMO crops, we have Roundup or more chemicals, more of everything that's basically against the...working against nature instead of with nature. A smaller operation is more able to work with nature better. And so that's the reason I'm here. I think this is a step in the wrong direction. There's just no doubt about it. The more we consolidate agriculture, the more environmental problems we have. It's just not natural to concentrate animals that way because of the inherent problems of it. We were meant to spread those nutrients over a big area. And from an animal welfare standpoint, we all know it's just not healthy to be concentrating animals. We have to use more antibiotics and it's not to the animals' best interest to be crowded that way too. They're better off...they have a better life on a family farm. [LB942]

SENATOR WALLMAN: Thank you. [LB942]

JAREL VINDUSKA: Thank you. [LB942]

SENATOR WALLMAN: Any questions? Seeing none. How many more opponents do we have here, you want to raise your hands? Oh, wow. Yeah, we'd better cut it down to three minutes. [LB942]

TRACI BRUCKNER: (Exhibit 10) Good afternoon. [LB942]

SENATOR WALLMAN: Welcome. [LB942]

TRACI BRUCKNER: My name is Traci Bruckner, T-r-a-c-i B-r-u-c-k-n-e-r. I'm testifying on behalf of the Center for Rural Affairs in opposition to LB942. I also speak to you as a farmer who experienced growing consolidation and packer concentration. My husband and I were independent hog producers. We raised hogs, farrow to finish, near Osmond, Nebraska. By the time we decided to get out of the hog production business around 1996 or so, nearly all four of the buying stations within 20 to 30 miles of our farm had vanished. Increasing packer ownership of hogs relegates smaller family farm producers, like my husband and me, to the role of residual suppliers, taking lower prices or even lesser contracts at virtually every turn. Packers don't contract outside of total confinement, which makes packer ownership a barrier to entry for young farmers because debt financing confinement operations is a massive financial undertaking. Banning packers from owning livestock is the last protection we have to try and preserve what is left of independent livestock producers in Nebraska. Initiative 300 is no longer the law of the land, but that is not because the people made the decision to undo I-300. It was the court's decision. LB942 will further undermine what the courts have

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already taken from us. In 1980 there were over 666,000 hog farms across the nation. But as of September 2010, that number had dwindled to 67,000. The single most important driving force behind that 90 percent attrition rate was vertical integration combined with growing consolidation in the meat packers. The 2007 Census of Agriculture, the most recent available, shows a striking difference between Nebraska, with an intact prohibition of packer ownership of livestock, and Iowa, without the same protection. At that time, 73 percent of hogs marketed in Nebraska were sold by independent producers and 27 percent were vertically integrated. In Iowa, however, 47 percent of the hogs marketed were from independent farms and 53 percent were vertically integrated. That level of integration has continued to increase dramatically in Iowa, precisely because they have no prohibition against packer ownership. This legislation is not about helping family farmers; it is not about jobs or rebuilding communities. If consolidation of vertical integration created jobs and built healthy communities, Nebraska would be a paradise today. But in truth, this bill will result in fewer farmers, declining rural population, and shrinking small-town economic opportunities. We at the Center for Rural Affairs respectfully request that you indefinitely postpone LB942. Family farmers should own livestock, not packers. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Senator Chambers. [LB942]

SENATOR CHAMBERS: One. [LB942]

SENATOR WALLMAN: Seeing none, thanks. [LB942]

SENATOR BLOOMFIELD: Senator Chambers has one. [LB942]

SENATOR WALLMAN: Oh, excuse me. Senator Chambers. [LB942]

SENATOR CHAMBERS: Do you know the young man named Bruckner who was here earlier? [LB942]

TRACI BRUCKNER: That's my son. [LB942]

SENATOR CHAMBERS: I thought so. He did a good job. Be proud of him. [LB942]

SENATOR WALLMAN: Thank you. [LB942]

TRACI BRUCKNER: Thank you for your time. [LB942]

SENATOR WALLMAN: Next opponent. [LB942]

RICK HAMMOND: Hello. Thank you for having me. [LB942]

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SENATOR WALLMAN: You bet. Welcome. [LB942]

RICK HAMMOND: (Exhibit 11) On this beautiful day I should be home working, instead of pushing back against big business. They never have an end to their greed. I can't believe it. But anyway, I'm a farmer and rancher from York County and I've been farming for 30 years. And during that time I've seen nothing but consolidation in the livestock industry. We used to raise... [LB942]

SENATOR WALLMAN: Oh, yeah. We need your name, sir. [LB942]

RICK HAMMOND: I'm sorry. Rick Hammond, H-a-m-m-o-n-d. [LB942]

SENATOR WALLMAN: Thank you. [LB942]

RICK HAMMOND: We used to raise 3,000 head of hogs, and the economic environment of the 8-cent hogs, previously alluded to, changed that considerably. And we did do contract feeding just for private people. And I should have had Dave Domina writing the contracts for me because they weren't successful, I mean, in any length of time. So anyway, changing the language of LB942 will only aid the big packers in further consolidation to where they can completely control the price of our commodities. This is not good for farmers or consumers. It's only good for big business. Vertical integration will allow them to control all aspects of livestock pricing. If we allow this, beef and dairy will be next. And I believe Senator Harr has said indentured servitude. I think that's closer. But whether it's serfdom or indentured servitude, we don't want the packers owning them from birth to hanging up, so thank you. [LB942]

SENATOR WALLMAN: Any questions? Seeing none, thank you. [LB942]

RICK HAMMOND: Thank you. [LB942]

SENATOR WALLMAN: Next opponent. Welcome. [LB942]

TED GENOWAYS: (Exhibit 12) Thank you. My name is Ted Genoways, that's T-e-d G-e-n-o-w-a-y-s. I'm the editor-at-large for OnEarth, the magazine of the Natural Resources Defense Council, and I'm a writer currently completing a book about Hormel Foods and the hog industry for HarperCollins. I live here in Lincoln with my family. I'm speaking in opposition to LB942 because I've spent the last six months investigating the environmental effects of a very similar decision in Iowa in 2005 and '06. The results of that investigation became the cover story of the new issue of On Earth, which I've just circulated. I encourage you to read it to get the full picture. And, Senator Chambers, I would love to have your feedback on the grammar and writing. I could use it. (Laughter) As a brief summary of its contents though, in 2005, in response to a lawsuit by Smithfield, the Iowa Attorney General decided to provide a special exemption that would

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allow just that one company to own livestock in the state. Of course, other companies filed similar lawsuits, and by the end of 2006, there were similar exemptions for Hormel, Cargill, Christensen, and Tyson. I don't have to tell you it's the very same companies hoping to modify this law in Nebraska and they're hoping for similar results. So let's take a look at what happened in Iowa. First, it's important to know that the large packers demand, as you've heard, that all hogs be raised in total confinement conditions. In Iowa, the hog industry went from having about 800 confinements to about 8,500 in a few short years. Second, all that concentrated animal raising means that animal waste is also concentrated. Many of these confinements have waste pits that hold hundreds of thousands of gallons of liquid manure. That manure, not surprisingly, is in high demand among row crop farmers. It costs a fraction of what they have to pay for commercially produced anhydrous ammonia. But those low costs have tempted many into overapplication. When that manure is overapplied to drought-hardened soil, like we have here in the state right now and for the foreseeable future, when it is applied to land where every available acre has been taken out of CRP and planted, it dramatically increases the chance of runoff and contaminating the surface water, streams, and rivers. If you'll allow me the time, I just want to say that I had the opportunity to visit with scientists at the Des Moines Water Works and they explained to me that between May and July of last year, as they had heavy rains, the manure contamination spiked to staggering levels at the intake sites at the Raccoon and Des Moines Rivers, the primary sources of drinking water for roughly one out of every six Iowans. At one point last summer, nitrate in the Raccoon reached 240 percent of the level allowable under the Clean Water Act. They have told me that if they have similar rains again this spring that they simply will not have the reserves and resources to keep the drinking water for the state within compliance with the Clean Water Act. We can't allow that to happen in our state and I hope that you will oppose the passage of LB942. I'd be glad to take any questions. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Senator Chambers. [LB942]

SENATOR CHAMBERS: Just one. [LB942]

TED GENOWAYS: Yeah. [LB942]

SENATOR CHAMBERS: That last part that you discussed, about the contamination,... [LB942]

TED GENOWAYS: That's correct, yeah. [LB942]

SENATOR CHAMBERS: If something dramatic happens, as it did in West Virginia,... [LB942]

TED GENOWAYS: Right. [LB942]

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SENATOR CHAMBERS: ...where it happened suddenly and on a large scale, everybody is aware of it. What you're talking about could be more damaging... [LB942]

TED GENOWAYS: That's correct. [LB942]

SENATOR CHAMBERS: ...for a longer period of time to more people, and I wasn't even aware of it until today, so you've improved my education and I thank you. [LB942]

TED GENOWAYS: Well, thank you. I...the...I...well, I would encourage you to take a look at the article. The EPA threatened earlier...well, in September of last year, to step in if Iowa didn't do more at the state level to control the problem with, specifically, with nitrates. But the Iowa Department of Natural Resources, their own estimate is that the main waterways, the main rivers in Iowa, they need to reduce the nitrate levels by 60 percent and the E. coli levels by 99 percent. And that's the direct result, talking to the people there who are dealing with the problem, it's the direct result of the hog industry. [LB942]

SENATOR CHAMBERS: Did you address that in the document you gave us? [LB942]

TED GENOWAYS: Yes. [LB942]

SENATOR CHAMBERS: Okay. Thank you. [LB942]

TED GENOWAYS: Yeah. [LB942]

SENATOR WALLMAN: Thank you, sir. [LB942]

TED GENOWAYS: Thank you. [LB942]

SENATOR WALLMAN: Next opponent. Welcome. [LB942]

JOHN CRABTREE: (Exhibit 13) Thank you, Mr. Chairman. My name is John Crabtree, from Lyons, Nebraska. That's Crabtree, C-r-a-b-t-r-e-e. I'm turning 50 this year and I just started wearing the glasses. I'm getting a lot of trouble getting used to them. I'm sorry. Senators, you heard a lot of testimony today, so brevity seems the better part of valor. Okay. I accepted the Chairman's admonition about avoiding redundancy, so my testimony is winnowed down to just basically two points. I ask you to consider the study that I submitted to the committee, beginning especially on page 8. It includes a significant body of economic research about many of the things that the opponents here today have been talking about and I'll leave that to you to look. And if you have any questions, please, follow up with me. To just a couple of points then. Competition: This bill will not create competition between producers and packers because that would be

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an economic absurdity. This legislation would turn independent farmers into residual suppliers; in other words, it would put them in the position of selling hogs into a market that resembles a salvage market. The second point: There is no example anywhere whatsoever of a state doing this, passing legislation like this or anything like it, and witnessing an increase in hog producers or young farmers, not one. Thirdly, shackle space is king. Currently, in the hog market, sweetheart contracts give larger, favored firms an advantage in getting their hogs killed under reasonable terms. But as packer ownership increases, access to shackle space, even getting your hogs killed, will be determined by whether or not one has a packer contract. And when that is the case, size, the size of operation, the volume of production will determine success in hog farming, in hog production, and nothing else. That concludes my testimony. I'm happy to answer any questions. [LB942]

SENATOR WALLMAN: Thank you. Senator Lathrop. [LB942]

SENATOR LATHROP: I do want to ask you this question because we've listened to the proponents and we've listened to the opponents and we have good reason to be skeptical about the bill, or I do. But I also have to wonder that if Nebraska is this oasis of small farming surrounded by the large farmers who can have the larger operations that we've heard described here today and they can produce the animals at a cheaper price, are we going to be right on principle and have the hog farmers in Nebraska unable to compete in the marketplace? Does that make sense to you? [LB942]

JOHN CRABTREE: Mr. Chairman, Senator, it does, and I think it's a reasonable question. I think the best way to draw a conclusion about it is to look at historically the differences in public policy in Nebraska and how they've influenced this over time. Again, earlier Traci Bruckner mentioned the attrition of hogs, hog producers across the country, which happened very similarly in most states. However, during the time of the existence of Initiative 300, from 1982 forward, until it was overturned, and during the existence of this legislation, Nebraska not only maintained its number-one status in producing red meat and processing red meat in this country and one of the top cattle-feeding states in the country, we're also...was regularly in the top five or six in pork production. We have maintained that level of production at the same time, with those public policies, maintaining a greater number of producers. [LB942]

SENATOR LATHROP: I want you to assume though for a second, for purposes of my question, that over in Iowa they consolidate through this process. They've bought into it and they consolidate through this process and they have 100 guys with great big operations, and the same in South Dakota, and the same in Kansas, Colorado, Wyoming. And here sits Nebraska. We have 10,000 people all doing it, but it costs them more to do it than the super producers over in Iowa and in the neighboring states. So in the end, are we, by having...by imposing these restrictions, in the end, do we put ourselves at a competitive disadvantage so that we may be right on principle, but in the

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end we can't compete in the market as it's evolved... [LB942]

JOHN CRABTREE: You know, and I... [LB942]

SENATOR LATHROP: ...with these megafarms in the neighboring states? [LB942]

JOHN CRABTREE: And I take your point and I do believe the answer is no. And I think, again, the historical performance of public policy in Nebraska has demonstrated... [LB942]

SENATOR LATHROP: No, what... [LB942]

JOHN CRABTREE: ...that we have held more producers and maintained that competitive...maintained a competitive level that allowed us to maintain that production, as well, and those packing plants. [LB942]

SENATOR LATHROP: Do you think the guy with a...the guy...Joe, average farmer, the one I've described in my hypothetical all afternoon, do you think that guy can raise an animal from start to finish as cheaply as somebody on a megafarm? [LB942]

JOHN CRABTREE: He absolutely can, and actually... [LB942]

SENATOR LATHROP: Do you think so? Okay. [LB942]

JOHN CRABTREE: It's absolutely demonstrated. And you can look at the research out of Iowa State University on farm records research and it will demonstrate that size is not the sole determiner. And in fact, what...again, to the point that I made at the end, the determining factor is whether or not people have access, and that's about market power. That's not about efficiency. So on an efficiency level, at ISU, their research points out you get to about 150 sows farrow to finish and you've topped out on economies of scale. It doesn't get any better if you go up to 1,500 or 15,000 sows. It remains the same. [LB942]

SENATOR LATHROP: Okay. Okay. [LB942]

SENATOR WALLMAN: Thank you. Anybody else? Thank you, sir. [LB942]

JOHN CRABTREE: Thank you. [LB942]

SENATOR WALLMAN: Next. Welcome. [LB942]

ROBERT BERNT: Thank you. My name is Robert Bernt, R-o-b-e-r-t B-e-r-n-t, and I'm here on behalf of myself, my wife, and my 12 children. We operate an organic farm in

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central Nebraska approximately 170 miles from here. Our main operation currently is a dairy operation we make cheese from. But we do have hogs. And up until just recently, we run a...I'd considered a large number of hogs, 120 head of sows, and that 120 head of sows was able to generate somewhere around \$48,000 worth of income for us a year. Now if you replace that with these megafarms, you're looking at somewhere around 36 families that you would remove to do this. Now I know you've all heard this today and you've heard it several times. But with us and our 12 children, it's vitally important for me and my wife that we maintain some sort of a standard out there that these children can come back and replace and return to this country. We need them out there. The thing that I haven't heard today, and I don't want to try to integrate too many things, but the thing that does concern me here, we haven't talked about the consumer and the price that they're going to be paying for this product, and that's a very important part of what this bill represents. We need to get to that because there will be a control there that will affect that and it's going to come out of that consumer's pocket at the end. The other thing that I've talked...that has been talked about is water quality, and I'm on...a member of the NRD, local NRD advisory board on a creek that runs through my property that is currently contaminated with E. coli and bacteria. At the head of this creek we have six megafarms. This creek has got such a high level of contamination that we're trying to determine where exactly it's coming from, that we're not allowed or should not be swimming in it or fishing from the local lake where it runs through. We've determined that there's such a large amount of E. coli that if it is stopped at the source, this E. coli will continue to live in the backwater for an indefinite period of time. They don't know if they'll ever be able to clean that stream up because it'll just work, go to sleep, come back out into the water flow, and move on down. Another issue is disease control. I think when you consolidate these animals and put them into these large confinement operations--and we're recently seeing this as a problem--diseases move into them and have effects, and it's having effects now, another reason why smaller, diversified operations would have a better way of controlling this and less effect on the consumer's bottom dollar when he goes to purchase, or she, that product. Thank you. I really appreciate your time. I've got a lot of respect for what you gentlemen are going through. Thank you. [LB942]

SENATOR WALLMAN: Anybody have a question? Thank you very much. Next. [LB942]

KEN WINSTON: (Exhibit 14) Good afternoon, Senator Wallman, members of the Ag Committee. [LB942]

SENATOR WALLMAN: Welcome, Ken. [LB942]

KEN WINSTON: My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska Sierra Club in opposition to LB942. There are a lot of people who have spoken previously who know a lot more about this issue than I do and have provided a lot of good reasons why this bill should be stopped. I just wanted to make a couple of

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comments, first of all, about...I've been to Mr. Bernt's farm a couple of times and had some of his pork and it's absolutely delicious. And so he knows what he's talking about in terms of providing a good product for people to eat. There are just a couple points that I wanted to make that I don't think other people have talked about. Yes, basically, our primary reason for opposing it is just our basic concern about the idea that if policies like LB942 are enacted, there will be fewer people living on the land, fewer people with a direct stake in their future, and more economic benefits that leave the state of Nebraska. And then the thing that...I was at a Natural Resources Committee hearing last week and one of the things that...there's a guy named Danny Kluthe who came in and talked about net metering and about converting waste products into...using them to generate electricity. And we think that's a better way to go. Let's look at...let's make sure that the products that we have, that we make our agricultural operations more...in more harmony with the environment and provide more economic benefits to the people living there. And that's the way to go, as opposed to something like this which is basically providing an avenue to get more corporate involvement in Nebraska agriculture. With that, I would...we'd ask that LB942 be indefinitely postponed and would be glad to respond to questions. [LB942]

SENATOR WALLMAN: Any questions? Seeing none, thank you, Ken. [LB942]

KEN WINSTON: Thank you. [LB942]

SENATOR WALLMAN: Welcome. [LB942]

BEN GODFREY: Good evening. (Laughter) My name is Ben Godfrey, that's B-e-n G-o-d-f-r-e-y. I'm testifying on behalf of myself and 100 percent of my constituents endorse this message. I graduated from high school in Omaha. I enlisted from...into the Navy in Omaha. I'm an equipment operator at Fort Calhoun Nuclear Power Plant and I raise a small herd of hogs--I call them pigs--on pasture in Fort Calhoun. I have no farm debt. I'm a 2013 graduate of the Farm Beginnings class put on by UNL Extension and the Nebraska Sustainable Ag Society. Senator Lathrop, why would we want to raise hogs in Nebraska? This is where the corn grows. As long as we're growing corn here, we're going to be raising hogs here. Senator Schilz, simply because we cannot easily change the process or progress of vertical integration in the pork industry does not mean that we should surrender to it. If we want to double the number of farms raising pigs in Nebraska, if we want more jobs and we want more income to stay in Nebraska, we need to keep pork independent and ease the obstacles to farmers diversifying their business and raising some, less than 1,000, hogs per year. That would not require nearly \$1.16 million in indebtedness. I have no intention of taking on that level of indebtedness. The obstacles to raising pigs in this state, in my experience, do not come from a lack of processor ownership of my pigs but rather from a lack of USDA or state-certified slaughter facilities that are accessible to a farmer of my scale. Both the existence of the Unicameral itself and the existence of the public power entity that

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employs me speak to Nebraska's reticence to do what every other state does and instead to do what is best for the people of Nebraska. I am counting on this committee and I'm counting on this Legislature to come up with an equally unique solution to our livestock market issues. The deletion of three words is just too simple. Thank you. [LB942]

SENATOR WALLMAN: Thank you. Anybody? Seeing none. Welcome. [LB942]

KEITH MAHANEY: Good afternoon, Senators. My name is Keith Mahaney, K-e-i-t-h M-a-h-a-n-e-y. I'm a lifelong farmer in Thurston County. And this bill is about discrimination. It's discriminating against the producer who does all the work and raises the animal because he is not able to get a fair price from the packer. Why does a packer who has all the control and size and economics behind that size feel that he needs a handout or to tip the scale even more? I remember 1998 because in February I decided that rather than invest more money in expanding my hog operation, I as an independent producer would quit. I sold my last hogs for 57 cents. By November, they were 8 cents an animal for a pound. If I had stayed in, I would have lost all the profit from every hog that I had ever produced from the time I had started and it was all about unfair competition. We've heard about the kill...chain being...having shackle space. Three years ago my youngest son was dying to get back into hog production and he had all the latest facts. We can sign this contract. It was a million dollars to build the facilities; it was a million-dollar debt. And of course, Dad was supposed to help him with the debt. The longest...that was a ten-year payback on that million dollars, on the contract. The contract was three years. I said, no way; oh, well, we'll adjust it to five. We talked it over and decided that it was simply too much risk, there was no way to cover the debt for the whole term, and we decided against it. I don't think our neighbors to the east in Iowa have fully thought about this, that if we turn hog production over in the state of Nebraska to the route that Iowa has gone, the increased competition for more contracts will lower their contract price to themselves. That is an economic formula involved in that. So please, do not pass this bill. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Senator Bloomfield. [LB942]

SENATOR BLOOMFIELD: Thank you, Mr. Mahaney, for coming down. You did better than I did. I sold my last ones for 32 cents a pound. I darn near broke my arm patting myself on the back before it was over. But I'm glad you got out when you did. It was a good idea. [LB942]

KEITH MAHANEY: So am I. It was very fortunate. [LB942]

SENATOR WALLMAN: Thank you for coming. Welcome. [LB942]

VERN JANTZEN: (Exhibits 15-18) Senator Wallman and members of the committee,

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good afternoon or good evening, whatever time frame you want to use. My name is Vern Jantzen, V-e-r-n J-a-n-t-z-e-n. I'm a farmer from Plymouth, Nebraska, and I thank you for the opportunity to visit with you this afternoon about LB942. And I should mention before I get started that I have a neighbor that prepared testimony and he had to go home and do chores, and so that is in with my handouts, as well, for you to consider. I'm not going to read all of my testimony because the hour is late. I just want to mention that I was in the hog business until 1998. My plan was to take my milo out of the bin and run it through the grinder, get a little supplement from the co-op, and add value to that milo by running it through hogs. When they went down to 8 cents, I did a little pencil pushing and I decided, you know, I don't think I'm adding value to my milo anymore, so that was the end of my hog business. And so I will read my conclusion. I hope that members of this committee and members of the Legislature realize that approving this law will not cause the rural economy to suddenly grow and any increase that would occur in hog production will not take place in a productive and sustainable manner. Previous testimony that was given here this afternoon has shared the advantages that the testifiers said they received from having a contract, but when questioned they could not answer what happened to their neighbors who were raising hogs that did not have a contract. And so I think there will be winners and losers if you pass LB942 and you have to give that some serious consideration. There are only so many slots available at the packing plant, and the question is, who will have access to those? Now I have two handouts that I also have and it was mentioned here this afternoon already, what happens with hog production. This kind of paints the broad picture of the loss of U.S. livestock operations looking at cattle and swine and dairy and sheep. And you can see that the swine sector of society has really gotten hammered the most. And so we've heard all kinds of reasons why or theories why and I...you know, if you want numbers, these are numbers that come from the USDA for you to consider. The last chart then deals with the concentration issue, and that's a big problem here. If you want to look at bringing livestock numbers back to Nebraska, you have to look at the market situation. How do we have a fair, competitive, and open market? And if you look at this chart, you'll see that there are so...the percentage of the top four people who do beef packing, who do pork packing, who do broilers, all these animal sectors. And the other thing that's interesting if you look, how much overlap there is, how many of these companies are involved in all of these situations. And so my light is on and I'm stopping. Any questions that I could answer for you? [LB942]

SENATOR WALLMAN: Yes, I do. [LB942]

VERN JANTZEN: Yes, sir. [LB942]

SENATOR WALLMAN: Thank you, Vern. You always give good testimony. And do you know how much percentage of the sows are owned by these packers? [LB942]

VERN JANTZEN: No, I can't tell you that, Senator. [LB942]

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SENATOR WALLMAN: I'll bet it would probably be scary, wouldn't it? [LB942]

VERY JANTZEN: It would be scary. I don't know if you want to even go there. But we can figure that out. [LB942]

SENATOR WALLMAN: (Laugh) Okay. [LB942]

VERN JANTZEN: And we'll find that out. [LB942]

SENATOR WALLMAN: Thank you, Vern. [LB942]

VERN JANTZEN: Thank you. [LB942]

SENATOR WALLMAN: How many are left out here to testify? Please keep it short if you can. Thank you. [LB942]

DON GOEBEL: This will be short. (Laugh) Donnie Goebel, Fairbury. I don't raise hogs but my neighbor does. And the kid started raising hogs when he was ten years old. He was just one of these guys that liked pigs. The parents never encouraged him or discouraged him, just let him do what he needed to with it. Well, this has been 40...30 years ago anyway. He now has 16,000 sows that he raised for feeder pigs, another 4,000 that he finishes. Since he's in Nebraska, he owns them. They're not contract livestock. Now how he got his money and everything else like that, I have no idea. The only thing I know is he's a neighbor and he's got a lot of hogs and he didn't have rich parents so that's...all I'm saying is that you can do this. But part of the formula is, like Senator Chambers said, you have to want to. You have to get up early, stay late, do something in between time, and keep it up, and you'll probably get somewhere. So, you know...and...but I've heard a lot of stuff today about contracts and how they need, you know, \$1.5 million to build a hog barn and, you know, the numbers go up. Well, probably, maybe so. There's risk involved, you know, in everything. And the only thing I'd just like to point out is that, you know, if these contract guys, if these packers want to provide the feed and the facilities and basically give you a paycheck, what I was thinking is, what happens if the contractor welshes...what if the packer welshes out on something? What if the packer goes broke? You know, where are you guys then? You know, what have got then? So the only thing I would suggest is that if you stay and you're running your own operation and really concentrate and study on how to offset risk through futures options, all that--and there's a lot of help around, but make sure you know what you're doing--that's certainly one thing that I would encourage people to do because you can bet your bottom dollar that that packer is doing exactly the same thing. They're not putting all that money out there and just taking the market risk on their own, neither is the elevator. So play on their own turf and learn how to do this for your own self and, you know, it takes some doing, but I think you can do it. And that's all I've got

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to say. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Thank you for coming. [LB942]

DON GOEBEL: Okay, okay. [LB942]

ZACK HAMILTON: Good evening. [LB942]

SENATOR WALLMAN: Welcome, welcome. [LB942]

ZACK HAMILTON: Senator Wallman, committee, thank you for having me today. My name is Zack Hamilton, Z-a-c-k H-a-m-i-l-t-o-n. I am a small, beginning family farmer in Saunders County, Nebraska, and I am also the vice president of District 5, Nebraska Farmers Union. I'm here today representing 250 family farmers from an eight-county area here in eastern Nebraska. My members do not want this bill. It will not help family farmers. It will only give big packers one more tool to take over animal agriculture and continue to manipulate the markets. We need fair, competitive markets for farmers to thrive, and this bill will not do anything to increase fairness, nor competition, in the hog market. It is a one-sided bill and Nebraska farmers would be on the losing end. With the average age of farmers being 55-plus, we need to attract youth back to agriculture. This bill would eliminate any potential new hog farmer from having a viable business. We must focus on building up our rural communities, and this bill would do nothing but help big, corporate ag, such as Chinese-owned Smithfield, to own and feed hogs in our state. This is not acceptable. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Seeing none, thanks. [LB942]

ZACK HAMILTON: Thank you. [LB942]

SENATOR WALLMAN: Next. Next opponent. Welcome. [LB942]

BEN GOTSCHALL: Thank you, Chairman. Thank you, members of the committee. My name is Ben Gotschall, that's B-e-n G-o-t-s-c-h-a-l-l, and I'm the Lancaster County president of the Nebraska Farmers Union and I've also...someone handed me their...some testimony or their comments, and so I handed that in for them. So that's what's going around. I didn't really bring anything. I'm going to keep it short. There's been a lot of good testimony here, especially the one about the impacts to water. That's something that we folks in the Sandhills and other areas definitely care about a lot. But there basically seems to me, there have to be three things in order for agriculture to be successful. There has to be a cash market, there has to be fair competition, and there has to be...farmers have to have agency, not necessarily control. I mean, there's enough risk in agriculture and variabilities, control is kind of a relative term. But they need agency. They need to be able to make the decisions of the day to day of their

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operation. And as I see it, this bill doesn't promote any of those three things. Farmers...we're not NASCAR drivers. We shouldn't have to have corporate sponsors in order to be able to compete in the market. Two experiences that I've had that really lead me to believe that bills like this should not be passed is, one, when I was living down in North Carolina, I had some neighbors and friends that were chicken farmers and they were contract...I think it was to Pilgrim's Pride. I don't even know if that outfit is in business anymore. But basically, the only thing that he got to control was whether he put on clean socks in the morning or whether he wore the same ones as yesterday, because there...he didn't have any choices to make. He didn't have a choice whether he had to upgrade his barn. He didn't have a choice about what kind of chickens to use, what kind of feed to use. That was all dictated to him and he was basically a slave on his own property. And I just don't think that that's the kind of system we need. And in my own experience with my family's dairy, basically, you know, the dairy industry is kind of going this way. They don't...the big milk firms that buy milk, they don't compete on price. They just basically compete on regional market share, and that's basically what bills like this promote, just establishing a region where the big corporations have a market share in that area. They don't have to pay any set price, they don't have to compete, and so, you know, that's...when we got out of selling milk to the truck, to the co-ops, they wanted us to sign contracts like this. And when we didn't, they still bought our milk, but when they started lowering the price to where we couldn't make a living, we at least had the option to sell that milk to our neighbors or to spray it on the ground for fertilizer because we still owned the milk. And I would welcome any questions. [LB942]

SENATOR WALLMAN: Any questions? Thank you for coming. Welcome. Good evening, I guess. [LB942]

BEN SCHOLE: Good evening, I guess. That's right. You need light in here sometimes. My name is Ben Schole. I'm from Dodge County. It's B-e-n S-c-h-o-l-e. I'm a hog farmer. I am a niche farmer. I've farm for Niman Ranch or have to sell my hogs to Niman Ranch. It was brought up about Paul Willis. We have 500 producers throughout the United States and I'm one of those producers, and so is my son, and I have another son involved in cows and calves. So as far as putting people back on the land, I've been there a long time and my sons came back. One of the questions came up is, can a family farmer compete with a corporate farmer? Well, Einstein said, not everything that counts can be counted. And so guess what? You know, guess what, I don't have a lagoon. You can't have a lagoon and be in Niman Ranch. I'm always surprised at how many of my urban friends say, I didn't know I paid for that lagoon. Most of those lagoons are cost shared. That's extra cost on the consumer, the taxpayer. All my manures are composted. They go back. And my costs go back on the land and they do not become a pollutant. And so one of the other things is the average age in Niman Ranch--these are niche producers, 500 across the United States--average age is 47. The average age in the commercial markets are 57. We attract young producers and they...guess what, Niman Ranch provides tremendous numbers of scholarships through our food holders,

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like Chipotle, Whole Foods, Trader Joe's. So we have a movement and it's not a fad. We have people more and more interested in how their food is produced and who is producing it. And every...and it's so important to...and I hear the situations where people take on this huge risk, you know, building a huge operation and then having to work with a packer. And you know, it reminds me a little bit of the housing situation that we were in. The people bought houses for \$200,000, then it went to...hoping that it'd go to \$300,000. And some of them walked away from those things and never said a...never were concerned that they went bankrupt. And guess what? If a farmer in a situation here gets involved in a contract and walks away, he has to file a bankruptcy or whatever, it's a little bit different. When I...if I would do that, I would be tremendously ashamed. But today's young people can walk away from a situation that I feel that's a lot different than that. And I think that's a shortcoming in our society but...to take on some of the risk that involved. But this thing about today is one thing before a...yeah, because most of the statements have been saying it. But I've got lots of neighbors that aren't niche producers and I'm wondering where they are at today because they're regular commercial producers. And where are those producers today in saying, hey, we need to...? I've never, in living out there in Dodge County, Nebraska, heard any commercial hog operator next to me say we need packer feeding of livestock. [LB942]

SENATOR WALLMAN: Yeah, thank you for coming. Your light is on. [LB942]

BEN SCHOLE: Okay. [LB942]

SENATOR WALLMAN: Senator Chambers. [LB942]

SENATOR CHAMBERS: Just a comment in behalf of the young people. They are not worse than anybody and, in fact, they are what they are because we who are older are what we are. We've been good teachers and instructors, but we taught the wrong thing. We instructed them the wrong way. We made them feel that, if I'm a banker and I can cut corners, I can hide fees, I can get you into debt that you can never pay, when you get under that then you realize how you've been treated. So you said, I don't owe him anything, I'm not going to pay him; he stuck me up first; well, all I can do is get it back the best way that I can. So I think until there is a greater sense of justice overall throughout this society, it's going to be who gets whom first and who can afford to lose the most. The banker might get 20 of us, one might sting the banker; but the banker is not hurt at all. And for those people who don't know about betting and gambling, the bookie sets a point spread not because it's a prediction of the outcome of a game. One team is so much stronger than the other that you have to have points given to the weaker team to get people to bet on that weak team. What the bookie hopes is that there's an equal amount on the left hand as on the right hand and he gets what's called vigorish, or that 10 percent that is wagered. And they follow, like the insurance companies. Insurance companies have what they call reinsurance. If you cannot cover all the losses that might occur under the policies you have, you may find a company that

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will insure you for that, that you can't handle. Bookies have people who will lay off. If I'm in Oklahoma and people are foolish enough to think that because Oklahoma is the home team that will always win, I get a lot of money on Oklahoma. The bookie in Nebraska gets a lot of money on Nebraska. So what you in Nebraska and I in Oklahoma will do, because we're businessmen, we will lay off those bets and try to even it out so that we come out ahead; otherwise, each one of us takes a bath. Here's why I'm taking a long time to say that. I hear so many people condemning young people. And I'm often asked, with the--they call it preaching--with all your preaching, with all your lecturing, you never talk about how ratty and wrong these young people are. I say, well there are enough of you doing that, so that's not what I have to do. I have to try to heal those wounds. I have to bind up the hurt of those who have no place else to go and show by an example the way that people ought to be treated. But, see, somebody like me am talking to the wind. When we have these kind of bills, a long hearing, they wear people out. But it's a relatively small amount of time out of our lifetime, even out of the whole day, and I think the things that have come forth have been worth it. And those who are in this room should realize, if they're not aware of it, that these hearings do go out over that mysterious thing called the Web. These hearings can be watched by anybody who has access to that computer, which I don't use. I don't even turn it on or off. So people have not been talking only to those of us in this room. And some who have left have had to answer the call of nature. Since I am an android, I don't have those problems that other people have. (Laughter) I don't have to drink water, so I don't make water. And this final thing, because everybody in here is grown now: They thought it was a miracle because Jesus, according to one of the stories, turned water into wine. Well, the wino on the corner said, I'm not magic, but I turn wine into water every day. (Laughter) [LB942]

SENATOR WALLMAN: Thank you. (Laugh) [LB942]

BEN SCHOLE: Thank you very much. [LB942]

SENATOR WALLMAN: Next opponent. How many more opponents do we have? One more, okay. [LB942]

DOUGLAS LIEWER: Hi. My name is Doug Liewer. [LB942]

SENATOR WALLMAN: Hi, Doug. [LB942]

DOUG LIEWER: L-i-e-w-e-r is my last name. And I'm opposed to LB942. When Senator Schilz just takes out livestock and puts just beef and dairy, there's also another industry that my brother is involved in, which is sheep. Everybody talks about the hogs, and they are an expert at that. I don't raise hogs or anything, but my brother raises sheep. And so if this passes, then packers, Cargill, other people, Smithfield, they could do this on the sheep also in that industry. So there's also a different...another livestock out there

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besides the hogs and the sheep. And there's also a documentary called Food, Inc. if you want to learn more about the chicken industry of what happens to the chickens when the farmers put up these big facilities, million-dollar facilities. And then the Smithfield or Tyson says, well, your facility has windows right now, you need to update your facility and not have windows; so the farmer has to do that. Otherwise, they don't get the contract. And so you keep updating and updating and updating, putting more and more debt onto the farmer, because the person said that if...or you, Mr. Hansen, you said that if you need a new roof, who pays for that? The farmer did in Iowa. And so if they keep saying, you need to update, update, that gets more debt onto the farmer. So that's why we're opposed to the corporate-owned hogs and sheep. Let's see. And the other thing is, if you look on the Internet, Joel Salatin talks a lot about raising humanely pasture-raised pigs and pasture-raised cattle and beef. And that's another person to look to on what his feelings are. And when you read the first ten amendments of the constitution, one thing the founders forgot is that we need to have freedom of food choice. They didn't put that in there because they didn't foresee that all these corporations would get that market share. But we still need freedom of food choice here in America. [LB942]

SENATOR WALLMAN: Thank you. Any questions? Thanks for coming down. [LB942]

DOUGLAS LIEWER: Thank you. [LB942]

SENATOR WALLMAN: Next opponent. [LB942]

JOHN HANSEN: (Exhibits 19-23) Mr. Vice Chairman, members of the committee, for the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I am the lucky recipient of a bunch of testimony to turn in here at the end of the day. And if you would indulge me, the first is a letter from former Chairman of this committee, Senator "Cap" Dierks, and I would like to have that distributed to the committee and entered into the record. Another set of testimony for the committee is from Mike Callicrate, the president of the Organization for Competitive Markets. Another is from Pam Potthoff, who is the president of Nebraska WIFE. Another is from Sherry Miller, who is the president of the League of Women Voters. And another is from Richard Janing from the Nebraska Grange. And if we could have those distributed. And then last, but maybe least, is my own written testimony, and would send that around, as well. We've heard a lot of testimony today. The good news is that people still care about who produces our food and fiber. They still care about what kind of food production system do we have. The good news is the consumers still prefer to buy their food from family farmers instead of factories. And as we look at the issue of getting new farmers started--and I'm involved in that in my own family operation, as well, as I'm getting my nephew started--the folks who are getting started are having to find access to new and different markets that provide more value, that provide better marketing opportunities, because the primary, mainline market is broken. And so the problem with LB942 is that for every winner that

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you get, where you get one more contract farmer, you've dramatically increased the amount of captive supply, which is absolutely toxic to the functioning of a market. And so we already have this system of noncompetitive markets. We already have this system where we have more and more consolidation and concentration of access to the marketplace. And then when you give the meat packer, on top of all the advantages that a meat packer has, more captive supply, you have shrunk the size of the overall market for the average producer. And so this bill unintentionally, but nevertheless, shrinks the opportunity, shrinks the size of markets, means we have less real opportunity to do price discovery, value allocation. And who is winning and who is losing? The folks who have access to markets. So the captive supply system is not about increasing access to markets, it's about doing an end around, so that the meat packer can have more control in exchange for a "take it or leave it" contract. My experience in 24 years of working with the contract poultry growers around the country mirrors that of Dave Domina. It's a train wreck. All you have to do is to look at that to see where this future goes. That's not a future that we want. And with that, I'll be glad to answer any questions if you have any at this late date. [LB942]

SENATOR WALLMAN: Thank you, Mr. Hansen. Any questions? Thank you for testifying, John. [LB942]

JOHN HANSEN: Thank you. [LB942]

SENATOR WALLMAN: (See also Exhibits 24-26) Anybody else in the opponents? Neutral? Is Senator Schilz here? Okay, we'll just close the hearing on this bill, and we'll take a little break before the next bill. [LB942]

BREAK

SENATOR SCHILZ: Welcome, Senator Bloomfield. We'll go ahead and start on LB1080. [LB1080]

SENATOR BLOOMFIELD: Good evening, Chairman Schilz and members of the Agriculture Committee. For the record, my name is Senator Dave Bloomfield, D-a-v-e B-l-o-o-m-f-i-e-l-d, and I represent the 17th Legislative District. I'm here today to present you with LB1080, and then ask you not to go forward with the bill. I have not been able to get all the groups involved together, that includes the university; the stock growers; the nonprofits, such as garden clubs and FFA members. LB1080 is not the vehicle to address the concerns that exist. I will probably be asking for an interim study on this, and at our first Exec Session I will make a motion to IPP my bill. [LB942]

SENATOR SCHILZ: Okay. Thank you, Senator Bloomfield. Any questions? Seeing none, thank you for your testimony. Any proponents of LB1080? Seeing none, any opponents? Come on up. Welcome, sir. [LB1080]

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DAVID LIONBERGER: Good evening, gentlemen. Thank you for your long day of service. I admire your ability to do that. My name is David Lionberger; it's L-i-o-n-b-e-r-g-e-r, and I am the current president of the Lincoln Iris Society, which is an affiliate of the American Iris Society, which was incorporated in the state of Pennsylvania in 1927 as a nonprofit organization. Our main concern with the amendment, as I see it, is that we would request reconsideration with eliminating the plant sales to one per year, because this is generally--our organization, in particular, and I think true in most of them--our main fund-raiser for the year. And we have in this year, for the first time, branched out to having more than one, and we're going to be in the Spring Affair over at the Lancaster County Event Center where we will be selling plants, and then in August we have our iris rhizome sale, which is the best time of the year to transplant and sell iris. So we would like to have that changed to more than one, to as many as we can have, I guess. Our members, of course, are people that are knowledgeable about the afflictions of the iris; and it's only in our best interest, of course, to display and sell only the top grade insect- and disease-free plants, and our members are knowledgeable in regard to all of these problems, and we strive always to furnish at our sales nothing but clean plants. And I can understand the state's concern, perhaps, to inspect. However, we have never had any problem. We also would like to bring to your attention that the various flower of this type of organization, we do have out-of-state people come in. We have various conventions and things such as our society, the Greater Omaha Iris Society, Nebraska Daylily Society, and etcetera; bring in visitors and revenue to the state by hosting garden tours; and these tours, while not on an annual basis, do bring in visitors from across the United States and Canada. Weakening nonprofit garden club by eliminating their supply of plants to sell and the amount of plant sales they can have will have a long-term negative impact on the overall ability of the club to continue to host such events, thereby reducing the exposure to Nebraska gardens. Our society, this spring, we will host what they call a convention 21...uh, what's it called, Gary? Okay, a Region 21 convention. And that will bring in people even as far as from Canada. So we appreciate your time and consideration of this matter, and thank you very much. [LB1080]

SENATOR SCHILZ: Thank you, sir. Are there any questions for Mr. Lionberger? Yes, Senator Bloomfield. [LB1080]

SENATOR BLOOMFIELD: Thank you, Chairman. As I said, I don't intend to go forward with this bill this year. I do intend to ask for a study, and I hope you will be involved in that study through the summer. [LB1080]

DAVID LIONBERGER: Okay, thank you, sir. [LB1080]

SENATOR BLOOMFIELD: Would you be willing to work with us on that? [LB1080]

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DAVID LIONBERGER: Yes, I would be happy to. [LB1080]

SENATOR BLOOMFIELD: Thank you. [LB1080]

DAVID LIONBERGER: You bet. Thank you. [LB1080]

SENATOR SCHILZ: Okay. Any other opponents? Come on up. And the next person, if there's one more, you can be ready right up here; we'll be ready to go. Welcome. [LB1080]

GARY WHITE: Thank you. My name is Gary White, G-a-r-y W-h-i-t-e, and I am a member of over 20 horticultural nonprofits, including the Lincoln Iris Society, the Greater Omaha Iris Society, Region 21 of the American Iris Society. Most of those are in Nebraska, although Region 21 is a multistate region and includes three provinces in Canada. And I'm currently the president of the Historic Iris Preservation Society, which is a worldwide society with 800 members. And I would like to kind of say that I think this bill is unfair to limit, as Dave mentioned, to one sale per year. That money that these clubs make, and they are all...none of the people make any salaries. Nobody gets paid in any of these organizations, for the most part. And it's a very small amount of money, usually \$2,000 to \$3,000 operating income per year. And if you limit it to just one sale, that limits that small amount of money; and some of these clubs will not be able to survive. Horticulture gardening groups are already under a lot of pressure from various sides, and are losing members. It's a thing across the country. And we don't charge our members very much in the way of dues. We...they're fairly low in order to get people involved; but without the increased money of only \$2,000 to \$3,000 a year most of these clubs just will not be able to survive. So I think that, you know, if you want to limit it, make it three or four but not just one. For instance, the Greater Omaha Iris Society gets invited every year by Lauritzen Gardens to participate in their Spring into Spring. And they sell plants at that venue, not very many, but it helps them a little bit; and then they have their major fund-raising event in late July. And without that little bit of an increase in the spring, they just are not able to get as many new members as they can, as they would, or to be able to operate as effectively. And some of these clubs operate, as I mentioned, on a very low margin. And it's, I believe, you know, an unfair way to limit these groups to just one sale. [LB1080]

SENATOR SCHILZ: Great. Thank you. Any questions? [LB1080]

SENATOR WALLMAN: Thank you, Chairman Schilz. Yes, a couple questions here. Number one, doesn't Lauritzen Gardens charge admission? [LB1080]

GARY WHITE: They do. They charge admission. But the groups that come in to...you know, to the venue...these organizations, like the Greater Omaha Iris Society, don't get that money from the admission. Lauritzen gets the admission money. [LB1080]

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SENATOR WALLMAN: Thanks. [LB1080]

SENATOR SCHILZ: Senator Bloomfield. [LB1080]

SENATOR BLOOMFIELD: Thank you. Do you file a report with the Department of Agriculture to pay that \$100 fee every year? [LB1080]

GARY WHITE: Myself? Yes, I do. [LB1080]

SENATOR BLOOMFIELD: Do you know what the percentage of people is, that do? [LB1080]

GARY WHITE: In our local club, the Lincoln Iris Society, I believe only about four of our members are... [LB1080]

SENATOR BLOOMFIELD: Okay. Thank you. Therein lies the rub. [LB1080]

GARY WHITE: Yeah. [LB1080]

SENATOR SCHILZ: Thank you, Senator Bloomfield. Any other questions? Seeing none, thank you very much for your testimony this evening. [LB1080]

GARY WHITE: Thank you. [LB1080]

SENATOR SCHILZ: Next opposition. Good evening. Welcome. [LB1080]

DEAN DOUGLAS: Good evening, folks. Thank you for hearing us. My name is Dean Douglas, D-e-a-n D-o-u-g-l-a-s. I live at Elmwood, Nebraska, out in the country north of town, and I have a commercial iris garden and I have had...it started out as a hobby and it's a hobby that kind of got out of control; so I'm actually selling iris and have been for about the last 15-16 years. So our garden has been inspected every year, so I'm familiar with that. I'm still trying to justify the \$125...or \$115 fee. It takes them about 15 minutes to inspect our garden; and we have about, what, a third of an acre, so it doesn't take long. And I'm trying to figure out...it was \$25, and the first I found about that was when I got the bill (laugh) in December. But being past that, I'm here representing the Lincoln Iris Society as a grower member of that club, have been for a number of years, and I've also been in charge of their sale for the last number of years. And the way our sales operate, the plants are normally dug by members, and most of the gardens come from small backyard gardens. Like Gary mentioned, there's only like four, I think, that are commercial gardens out of our 40-some members that we have in our club. But most of them dig their iris. They know the name of them. They are a registered name with the American Iris Society. And they bring them, first thing on Saturday morning,

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and they have to be washed clean; most of them are dipped in 10 percent Clorox water to resist disease, and they're clean and they're labeled and they're ready to go. And the sale starts at 10 a.m. and it's over with by about 2 p.m.; most of them are gone by 12 p.m. (Laugh). But that's our one fund-raiser that we have every year. And this year we're trying to have additional fund-raising selling potted plants, as Gary mentioned, at the Spring Event Center. But anyway, that's our situation. I don't know how you inspect plants from, you know, 30 members or so, and do it all in that period of time. Our garden will be inspected and so will the others, but there's probably half of our plants come from gardens that are not inspected. But we do know iris and we know what's healthy, and if they're not healthy we don't put them on the table. So it's as simple as that. So we've been doing this for, what, 30 years now, and had no complaints, that I know of, ever. So I don't know why this all of a sudden came up, but it did, and it surprised all of us. And that's about all I have, so. [LB1080]

SENATOR SCHILZ: Okay. Thank you, sir. Any questions? Seeing none, we very much appreciate your testimony. Thank you. [LB1080]

DEAN DOUGLAS: Yeah, thank you for hearing us. Yeah. [LB1080]

SENATOR SCHILZ: Other opponents to LB1080? Seeing none, any neutral testimony? Seeing none, that will close our bill on LB1080. Thank you very much. And we'll move on to LB941. [LB1080]

SENATOR BLOOMFIELD: I can't. I may have wanted to close. [LB1080]

SENATOR SCHILZ: Do you want to close? Okay. I'll move out of the way if you want. [LB1080]

SENATOR WALLMAN: Welcome to the hot seat again, Chairman Schilz. [LB941]

SENATOR SCHILZ: It is a little warm up here. Thank you, Senator Wallman. And my name is Ken Schilz, spelled K-e-n S-c-h-i-l-z, and I represent District 47, and I'm here today to introduce LB941. LB941 would assign a duty to the Department of Agriculture to prepare a study of the dairy industry in Nebraska and to examine, both quantitatively and qualitatively, characteristics of milk production and milk processing in the state, the relationships between milk supply and processing investment, opportunities for expanded milk production, and to examine Nebraska's effort and competitiveness in encouraging and maintaining milk production and processing. And according to the bill, we will go ahead and use the Commercial Feed Cash Fund for the expenditures to underwrite the costs of this report. And that's my short and simple introduction, and if you have any questions I'd be more than happy to try to answer them, but I know there's others behind me that know much more about this than I do. [LB941]

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SENATOR WALLMAN: No questions? Thank you, Senator. First proponent. [LB941]

ROD JOHNSON: It's been a long day. [LB941]

SENATOR WALLMAN: Yes, it has. Good evening. [LB941]

ROD JOHNSON: (Exhibit 27) My name is Rod Johnson. I am the executive director of the Nebraska Pork Producers Association and I appreciate Senator Wallman and the committee for the time you've put in, and I appreciate Senator Schilz for taking a look at the dairy industry in Nebraska. We had a discussion earlier this fall after a recent closure of one of the cheese plants in Nebraska, and the primary reason given for the cheese plant closure was the fact that they could not get enough milk to make their plant operate; so we have taken a very close look at this situation. The dairy industry, and I'm passing some cards around, one side of this card is talking about the dairy industry and the commitment to sustainability of our planet and our communities. The industry puts an awful lot of effort into the responsible use of natural resources, investments made in their operations, a safe workplace for employees, and the care of the animals. This is...a productive animal is good for everybody. Dairy growth is rural economic development. As you will see on the back side of this card, as you get that passed around there, a 1,000-cow dairy will contribute nearly \$1 million in labor income into the community, pay business taxes of around \$100,000, and have a total output of about \$5.5 million, with the majority of that distributed within a 50-mile radius of the dairy, as they buy feed along with other goods, services, hiring electricians, plumbers, purchasing fuel, etcetera. Nebraska's dairy industry is not huge but it does generate about \$250 million in milk sales annually. Like much of agriculture, dairy has seen consolidation and reduction in numbers of farms. But regardless of size, these are family operations rooted in their communities. The dairy industry is noted for having nearly 98 percent of all the dairies, family farms. It does not matter what size of farm it is, in Nebraska we have sizes of farms ranging from the smallest to the largest, the family operations are very involved. The association has been very active in working with the Alliance for the Future of Ag in Nebraska, and the Nebraska Department of Agriculture in looking at what we can do to help not only our existing producers but also our...look for other producers who may look at Nebraska as a destination to bring their dairy. We have a lot of young operators in our state. I know recently your committee visited one of the dairies up north of West Point where they expanded in order to bring a young family member into the dairy. Last summer, we had a young family move to the Seward area from California and relocated their dairy. So there is a lot of good things going on there. I appreciate what you're looking at on this bill, and I look forward to working with the committee in supplying some of the information that might be needed for the bill. And I would take any questions. [LB941]

SENATOR WALLMAN: Yes, thanks for coming, Rod. We went through that cheese plant and that up there, you know. Do we have to bid too much for Blue Bunny and

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that? You know, Blue Bunny milk comes out of our area. I've got a big dairy in, you know, Firth--Prairieland. [LB941]

ROD JOHNSON: Right. [LB941]

SENATOR WALLMAN: I think a lot of that goes to Blue Bunny. [LB941]

ROD JOHNSON: Actually what they are not processing themselves goes to West Point, which is a butter plant. [LB941]

SENATOR WALLMAN: That's a neat plant. [LB941]

ROD JOHNSON: Yeah. [LB941]

SENATOR WALLMAN: Thank you. [LB941]

ROD JOHNSON: Thank you. [LB941]

SENATOR WALLMAN: Next. Good evening. [LB941]

BILL THIELE: Good evening. Thank you, Senators. My name is Bill Thiele, T-h-i-e-l-e. I represent three brothers in the dairy business and ag business in Clearwater, Nebraska, up in the northeastern part of the state, as well as I am the president of the Nebraska State Dairy Association. I'll kind of wear my just producer hat for now, but I think as the organization would echo my thoughts at this point. We are a third-generation dairy farm. We milk approximately 1,400 cows in northeast Nebraska, and we are very much a family farm. My mother stills lives there. is part of it, the three of us brothers; and our one goal for probably the last ten years is to provide a sustainable business that the next generation could carry on what we have been doing. It is becoming increasingly more difficult with time, to do so. Consolidation of all ag industry is definitely happening. In the state of Nebraska, within the industry, we've been working very hard for I would think the last four or five years on trying to figure out what is it that Nebraska is not able to increase the number of cows or the number of pounds of production going on in the state. For some reason, we seem to be at a disadvantage in Nebraska compared to South Dakota, Iowa, Minnesota, Kansas. We have lost more milk and more producers here than any of our neighboring states, but especially in pounds of production. We have all the natural resources here that any of those states do, if we compare the number one state and number two states for milk production, they have a lot of issues we have that we do not have. Number one, we do not have the disadvantages of a lot of resistance normally from environmentalists; we don't have the water issues; and we have plenty of farm ground and availability. What we do have some problem with is the lack of processors. There is very...we have only two processors in the state of Nebraska left now. When my brothers and my dad were starting the business, and ourselves, we

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had multiple cheese factories, including Ravenna, Dodge, Orchard, Hartington. I think I could probably go on and on if I think about it. Those are now gone. But the one area of the nation now that is the hot spot for dairy is right next to us. It starts at about Sioux City, Iowa, and goes north. It's called the I-29 corridor, and there's actually no resources that they have that we don't have right here. In fact, if you list the things that I did, the only things that's missing is just the processors. And what's bringing the processors to that area is that the government and the state is beside and behind the industry. I think Rod has done an excellent job of promoting and establishing the facts of what dairy can do for the state and the economy of our local communities. But, for example, I checked into it about ten years ago, if you go to South Dakota I could go up there and my taxes would be next to nothing to start a dairy. They would build a blacktop road out to my dairy for me. I could have my choice of spots that were already permitted for anything livestock. They had cookie cutters. If I...cost, that were updated every six months. If I wanted to milk 500 cows, 1,000 cows, 1,500 cows, whatever the case may be. They have been fully behind the livestock industry. They are not only dairy; I don't want to limit it to that, but livestock in general; but they've been extremely successful in bringing in dairies, not only from the Midwest, enlarging those, but from nationwide. They have actually even been successful of bringing in dairies from the other parts of the world, all because of the resources and the ability to process the milk. [LB941]

SENATOR WALLMAN: Bill, thanks for coming. I agree. A person from Firth, they actually went up north to Sioux City. [LB941]

BILL THIELE: Hmm, that's right. [LB941]

SENATOR WALLMAN: And I don't know. I never talked to them, why they did that, but I think part of it was cheaper taxes than around here. [LB941]

BILL THIELE: Um-hum. A big part of it. [LB941]

SENATOR WALLMAN: Real estate is a big thing. [LB941]

BILL THIELE: Our biggest...if I may add one thing? As an example, we at probably about, at our dairy we produce two tanker-loads of milk a day, which is just a difference in where we have to truck our milk daily is approximately...we have to be \$150 a day better than anybody closer to us when we cross the state line, just to pay for our transportation costs. I would highly encourage...I thank you for looking into the matter. I appreciate it. And I do think a lot of the background work has already been established, and I do believe Rod is readily available and can provide a lot of answers for you to save some time. [LB941]

SENATOR WALLMAN: Okay. Thank you. Anybody else have a question. Seeing none, thank you. [LB941]

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BILL THIELE: Thank you. [LB941]

SENATOR WALLMAN: More proponents. [LB941]

ANTHONY AERTS: Good evening, Senator...or Vice Chair Wallman, other members of the Agriculture Committee. My name is Anthony Aerts, A-n-t-h-o-n-y A-e-r-t-s. I'm the assistant director of state governmental relations for the Nebraska Farm Bureau Federation. I'm here tonight on behalf of the organization to testify in support of this bill, LB941. As you all know, Farm Bureau members are strongly committed to growing the state's livestock industry, and that includes expanding the size of the dairy industry in this state. In fact, the existence of dairies in the state actually helps to achieve a number of our fundamental policy goals: livestock growth, obviously; but then also enhanced rural economic development and also the opportunity, it seems to me, for additional consumer outreach and ag education and interaction. So, you know, given the fact that this bill aims to facilitate the growth of this industry, we obviously urge you guys to advance it out of committee. With that, I'll end my testimony and answer any questions if there are any. [LB941]

SENATOR WALLMAN: Any questions for Anthony? Thank you. Next proponent? Opponents? Neutral? That closes the...oh, I'm sorry. Neutral? [LB941]

JOHN HANSEN: I should be punished for being neutral. [LB941]

SENATOR LATHROP: You can be punished for going too long, not for being neutral. [LB941]

SENATOR WALLMAN: Watch the light, John. [LB941]

JOHN HANSEN: Mr. Vice Chairman, members of the committee, for the record my name is John Hansen, J-o-h-n H-a-n-s-e-n. I'm the president of the Nebraska Farmers Union and also their lobbyist. I support...I thank Senator Schilz for bringing this forward but I'm in a neutral capacity to try to make a point, and try to help make some, what I think are some helpful suggestions. The milk industry is also plagued by noncompetitive markets, by huge consolidation, and the fact that the folks who are taking producers' money and claiming to represent them in public policy have done an awful job. And so if you look at national dairy policy, which really decides kind of the income safety net, the support level, kind of how it is we shake out here in the Midwest, our national dairy policy is a disgrace. It has failed our dairy producers and for 24 years each one of those plants that Mr. Thiele enumerated, we have met with the Governor, we have met with state officials, we have intervened, we have tried to say what of this can we do to try to keep this plant going, what can the state of Nebraska do. And I have to tell you, for 24 years the state of Nebraska has sat on their hands and done next to nothing. It's been

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pitiful, especially when you look at other states. And yet we have all these resources. So yes, I think we ought to do this, but yes, I also think that we ought to broaden it from the director to include other folks, including Farm Bureau, including Farmers Union, and including anybody else who has ideas about how it is that we actually help build market capacity and help make things work in this state, because there's a lot of us that spent an awful lot of time on these issues and there has been no set of ears that wanted to hear anything we had to say about trying to keep processing plants open. And that's market opportunity. That decides whether or not folks stay in business or not. And so I would also point out that Director Ibach, there is absolutely nothing holding him back for his efforts to go forward, and if he had a big interest in this he could have done this a long time ago but didn't; and so based on that, I think we need to bring more stakeholders who have more longstanding interest in this issue, because the time to watch and do nothing I hope will come to an end and our state will actually move forward. With that, I'd close. [LB941]

SENATOR WALLMAN: Thank you, John. [LB941]

SENATOR LATHROP: I just want to ask a question and maybe you know the answer and maybe somebody else does. Where are the two plants that are left? Do you know? [LB941]

JOHN HANSEN: I don't. There's a cheese plant in West Point. There's the big cheese plant. [LB941]

SENATOR LATHROP: No, no, that's a butter. [LB941]

JOHN HANSEN: It's a butter? [LB941]

BILL THIELE: Can I answer that question? [LB941]

SENATOR LATHROP: Sure. [LB941]

SENATOR WALLMAN: Yes. [LB941]

BILL THIELE: We have a yogurt plant in Omaha. We have a milk bottling plant in Omaha. We have a butter plant in West Point. We have an ice cream plant in Norfolk. We have a speciality ingredients plant in Norfolk. So there's actually five different locations. [LB941]

SENATOR LATHROP: And who does the bottling in Omaha? Is that a Roberts? [LB941]

BILL THIELE: It's Hiland. It used to be the Roberts plant. [LB941]

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SENATOR LATHROP: Okay, that's...I thought so, but. Okay. [LB941]

JOHN HANSEN: Nope. You got the answer you needed. [LB941]

SENATOR LATHROP: I got the answer I needed. [LB941]

SENATOR WALLMAN: Okay. Thanks, John. [LB941]

JOHN HANSEN: Thank you. Good luck. [LB941]

SENATOR WALLMAN: Next testifier. Good evening. [LB941]

BEN GOTSCHALL: Good evening, and thank you. My name is Ben Gotschall; that's B-e-n G-o-t-s-c-h-a-l-l, and I'm here representing myself, although I am the Lancaster County president of the Nebraska Farmers Union. I am an active dairy producer. I raise dairy cattle for genetics as well as for direct sale of value-added products. I make cheese. In the dairy where I milk my cows, we do a lot of direct marketing and things. And the speciality kind of direct to consumer market has been about the only option for folks of my scale, you know, for a lot of years. And so I think the previous bill that was discussed, LB942, brings up a lot of issues that need to be studied in regard to the dairy industry as Mr. Hansen indicated before. The lack of processing, in particular, value-added processing, in our state has been really what has caused a lot of smaller scale and beginning producers to either go out of business or not try to get started. Anything that we can do to encourage a competitive cash market for not just raw milk but value-added products is going to help folks my age and younger who are just getting ready to move maybe to the next step to get started. And so I think, to not repeat what Mr. Hansen said, I definitely agree that the study needs to be expanded. Particularly with my experience, I used to work on a dairy in southern Missouri, and in that region they were experiencing a lot of influx from dairies from New Zealand moving in and doing a lot of grass-based pasture dairy, and you saw a lot of issues arise in those communities as a result of that type of influx; and so I would be interested in finding out the study of different types of dairy systems and their impact, particularly pasture-based systems, because in my experience a lot of the younger more beginning producers are very interested in the pasture-based system of dairy. [LB941]

SENATOR WALLMAN: (See also Exhibit 1a) Thank you. Any questions? Seeing none, next testifier. Neutral? Opponent? This ends the hearing. Okay, a letter from Greg Ibach. We will enter this into the record. [LB941]

SENATOR SCHILZ: I waive. [LB941]

SENATOR WALLMAN: Waive closing. Thank you. [LB941]