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Agriculture Committee  
February 10, 2015

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[LB175 LB176]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 10, 2015, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB176 and LB175. Senators present: Jerry Johnson, Chairperson; Mark Kolterman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Burke Harr; Tyson Larson; Merv Riepe; and Ken Schilz. Senators absent: None.

SENATOR JOHNSON: Good afternoon. Welcome to the Ag Committee hearing this afternoon, on February 10, for the record. We appreciate another committee allowing us to use this room today. It's more convenient. And we did anticipate a crowd, and we appreciate that. First of all, I want to remind you to turn your cell phones off or on silent or vibrate so we do not have that interference. We also do not allow any expressions, public or visual or any type of an exhibit, that would show preference to any of the testimony. We ask that you fill out a green sheet if you're going to testify. When you come up to testify, hand your green sheet to the committee clerk. And when you begin your testimony, we ask you to give your name and spell your name so we have it accurate in the record. If you are attending and want your position known and are not going to testify, there's a white sheet at both of the doors for you to complete and you can indicate your preference there. Also, since we are going to be using lights today and we do have a timed hearing from the standpoint of total time for testimony, if you, either proponent or opponent, want to testify and we run out of time or you're not able to and you have a letter, you can submit that to the committee today. Or if you want to submit a letter and have not written it yet, we will accept, for the record, we will accept letters in my office, 1022, up until noon tomorrow. That's in case people do not have a chance to express their opinions today. As I stated, we will be using the lights today. Normally, the introducer gets open time but I'm limiting the introducer to five minutes, then the testifiers to three minutes. You'll have a green light, for those testifying, you'll have a green light which will stay green for two minutes. Then you'll have an orange light or amber light, and then the red light means you need to wrap up. Again, we'll have one hour. It does not include the time that the introducer takes. But once we open it up for testimony, the pro testimony, they will start the clock for one hour. Again, turn in your green sheet when you come forward. At this time, I'll introduce the members of the committee. I'll start on my far left. Senator Chambers is on the committee. He's in Judiciary right now but he, we understand, he will be coming to this hearing. Next to him is Senator Bloomfield; next to him is Senator Merv Riepe; next to him, Senator Burke Harr. To my right, Senator Larson, Tyson Larson, will be joining us, I believe; Senator Ken Schilz; and Senator Mark Kolterman. To my right is the research analyst for the committee, Rick Leonard. To the far left is Travis Moore, our committee clerk. Two pages today: Kelli Bowlin from Cody; and Jay Linton from Dalton. They're both students at UNL. I believe that's the announcements. We will officially open up the hearing on LB176 and ask Senator Schilz to begin. [LB176]

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SENATOR SCHILZ: Thank you, Chairman Johnson, members of the committee. My name is Ken Schilz, spelled K-e-n S-c-h-i-l-z, and I represent the 47th District. Today I am introducing LB176. In 1999, LB835 was passed and that bill, that law, prohibited a packer--which is defined in statute as a Nebraska entity that processes more than 150,000 animal units per year--from owning livestock, either directly or indirectly. LB176 would change the law to allow for hogs to be owned by a processor. In the last ten years, the Nebraska hog industry matched the national average in growth--14 percent for the last decade. During that same period, surrounding states grew at a much greater rate. South Dakota was 53 percent; Iowa was 30 percent; Minnesota, 25 percent; and Missouri, 22 percent. An interesting statistic there is that Iowa has taken the lead over North Carolina in all hog statistics moving forward. It's a huge change and a huge shift in hog production in the United States, and it's one that Nebraska needs to take a close look at. Annual market hog inventory grew in Nebraska at a rate of 3 percent, while the U.S. average was 11 percent; Iowa, once again, 32 percent; Minnesota, 20 percent; Kansas, 17 percent. So once again, Nebraska, as an ag state, lags behind many others. Nebraska does not even feed out all of its annual pig crop to market-level weight. One-third of its crop is exported to other states to be fed and then shipped back to Nebraska for slaughter. Another interesting aside is that 40 percent of Nebraska's corn crop is also shipped out of state. What does this mean? Well, it means that Nebraska has an opportunity to grow its industry here and that industry has to match what's going on in the rest of the nation in order to do that. It also means that we're hauling hogs out of state at the expense of our producers. I would like to keep some of that money in their pockets and I think this is one way to do that. Approximately 70 percent of all hogs in the U.S. are under some sort of a production contract today. This is up from the 1990s when it was around 10 percent or 15 percent. Those numbers have drastically changed over time. This is the issue that we deal with today. Production contracts, as laid out in the bill, would allow packers to own hogs but not to own land or facilities, and that's an important concept too. As we look around, that was one of the issues when we introduced the bill last year, seemed to be one of the sticking points, is that we didn't want processors to come in and, carte blanche, own everything. So we made that available in this law and we think that we've done a good job in doing that. I think that this bill will do a couple of things. One thing that it does is it could help, in time, alleviate property tax issues. Obviously, if you can grow the economy you can alleviate property taxes, and we all know that that's an issue. The other thing is I look at this as regulations on business. If I'm a producer, should I have regulations out there that keep me from operating my business the way I see fit? As a farmer, as a rancher, am I not of sound mind to be able to make those decisions and enter into those contracts that I deem fit for me and my operation with whomever I want? Or should the state of Nebraska be able to sit there and dictate who I can do business with and how I can do business with them? So that's a huge question. It's also a jobs issue. Not only do we talk about the producers and the folks that work with the hogs every day, but we also talk about the processors. And within the state we have three major processing plants and upwards of 5,000 jobs that could be on the line if hog numbers keep sliding the way

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they are. Last question on the packer ban is one of, is it constitutionally sound as it is? And we can go through all the stuff and we can...and I can sit here and read to you many issues on when Initiative 300 came down and how that all worked. And when it was found unconstitutional in Jones v. Gale, many of the same language that was in Initiative 300 was also cited in this law and this bill when it was brought up. In fact what it says, Jones v. Gale, which was heard by the Eighth Circuit in 2006, holding that Nebraska's Initiative 300, which banned most corporations and syndicates from the ownership, keeping, or feeding of animal for the production of livestock or livestock products, was unconstitutional under the Commerce Clause. South Dakota's bill, who was fashioned after Initiative 300, was also found unconstitutional for the same reasons. And we can go through that, but I see my time is up so I will stop there and ask if there's any questions. [LB176]

SENATOR JOHNSON: Thank you, Senator. Are there questions of Senator Schilz? Bloomfield, Riepe. [LB176]

SENATOR BLOOMFIELD: Thank you. Senator Schilz, do you know how many different major packing corporations there are in the United States? [LB176]

SENATOR SCHILZ: I do not. I know...and it depends on what you're talking about. Are you talking about just hog processors? [LB176]

SENATOR BLOOMFIELD: Hog. Hog processors, yes. [LB176]

SENATOR SCHILZ: Gosh, I couldn't say and be right, so. But I know we have three here in Nebraska. [LB176]

SENATOR BLOOMFIELD: Do you know what country of origin the ownership is based in on those three? [LB176]

SENATOR SCHILZ: On those three? Yes, I do. [LB176]

SENATOR BLOOMFIELD: Would you be willing to share that? [LB176]

SENATOR SCHILZ: Sure. We have one...a couple of them, I'm pretty sure, are owned, if you're talking about just hogs, we have ownership in the United States and I think we have ownership with a partnership from China. [LB176]

SENATOR BLOOMFIELD: Okay. My information tells me that we have two that are owned by China and one probably by Brazil, but I could be mistaken on that. So thank you. [LB176]

SENATOR SCHILZ: Sure. [LB176]

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SENATOR JOHNSON: Senator Riepe. [LB176]

SENATOR RIEPE: Thank you, Senator. The question I have is I always like to learn from how other states do or don't do and wins and losses that they experience. Can you give us a little bit of idea of what the impact has been in other states environmentally or on conflicts in rural communities between producers and owners and... [LB176]

SENATOR SCHILZ: When you say producers and owners, you'll have to... [LB176]

SENATOR RIEPE: Well, just, you know, there would be some people who would, as I understand it, raise the swine for others, and others are in...fundamentally in competition but they're smaller players. And I'm just curious, does that create a great divide in those communities? [LB176]

SENATOR SCHILZ: You know, that's a great question. I don't know if it does or not but I know this, that we have folks that are coming behind me that would be better able to answer that question. But I can tell you this from my experience in the cattle industry, and we used to feed cattle for all sorts of folks and we used to partner with different packers, including some of the big three or four at that time, as well as smaller packers that did niche marketing, as in natural markets and things like that. And we always looked at our place within the supply chain as being a partner rather than competition, because as we looked at it, we were that middle section that the rancher had to have the feeder, who had to have the processor to get it to the consumer in order for it to be...in order for it to be garnered by that consumer. So everybody within the system had to work together; otherwise, none of it worked the way it should. And that's much different than what you've heard in the '40s and the '50s and everything like that, because people that are in the industry now understand that this industry isn't about getting an advantage over somebody else. It's about working together with people to become as efficient as possible to make sure that when you put a product on the shelf, not only is it the most healthy product that you can get but it is the cheapest to the consumer and the best at marketing that can get out there so that your product moves off the shelf. So the competition doesn't come from the suppliers to that packer. The competition comes from the different packers that are in place. And so that's how I always looked at it. [LB176]

SENATOR RIEPE: So it's vertical integration no matter which way you look at it. [LB176]

SENATOR SCHILZ: If not integration it would be coordination,... [LB176]

SENATOR RIEPE: Well, yeah. [LB176]

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SENATOR SCHILZ: ...which is somewhat different, but same concept, only different in some respects. [LB176]

SENATOR RIEPE: Yeah. Okay. Thank you. [LB176]

SENATOR JOHNSON: Senator Chambers. [LB176]

SENATOR CHAMBERS: Senator Schilz, I have kind of a general question so you can give a general answer. [LB176]

SENATOR SCHILZ: Uh-huh. Sure. [LB176]

SENATOR CHAMBERS: If you have an industry and a large percentage of that industry is controlled by one entity or whatever, and the rest is kind of fragmented, these small operations,... [LB176]

SENATOR SCHILZ: Uh-huh. [LB176]

SENATOR CHAMBERS: ...what happens in that industry is going to be governed and determined by the one who holds the biggest amount or controls the most of it. Would you agree or would you disagree? [LB176]

SENATOR SCHILZ: At times. At times I would say that that's correct. But what we've also seen in the past, in generality, is that sometimes when those...when those big boys, as you like to call them, take control and start doing things, it gives opportunities for some of the smaller ones to come together and really make a lot of hay where those big ones don't come in. And what I'm talking about is what I talked about when we did business with Coleman Natural meats. I got paid more sometimes through Coleman than I ever could through the big boys because I used that niche market to do that. Other times I got paid more through the big guys because of market situations. So it just depended. But what I did, what I was able to do is diversify my market so that I had an opportunity on both sides to protect myself. [LB176]

SENATOR CHAMBERS: As the testimony goes on, I might refine my question. But at least it will give...alert people to some of what my thinking is. [LB176]

SENATOR SCHILZ: Sure. [LB176]

SENATOR CHAMBERS: Because I think if you have large operators and they're allowed to control more of what happens from the ground all the way to the dinner table, they are going to determine to a great extent what happens in that industry. And there are others who might can be undersold, they can be dealt with in such a way that they're not really in the game. They might get some of the leavings and then be forced

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to go along with certain things that the big operators want or they might not get anything at all. And you don't even have to respond to that but just to alert people to the direction that I'm thinking right now. [LB176]

SENATOR SCHILZ: That's okay, Senator, but if I could respond, I'd love to. [LB176]

SENATOR CHAMBERS: Sure. [LB176]

SENATOR SCHILZ: Forever the United States, as a government, has opted for and moved towards and actually worked in favor of a cheap food policy. So the United States itself has said, hey look, we need to work these markets in order to create a cheap food policy for the consumers, because those consumers are what matters most. And keeping cheap food on the table for those folks is what we should all be striving for, because those other folks out there, whether they're the big boys or not, as you've said in the past, they can take care of themselves. But it really is about the consumer. And so as we become more and more efficient, as we do that within supply chains and we make partnerships within those supply chains to become more efficient, it is better in the end for the consumer. And that's what all of these markets tend to do over time and that's why you see a lot of what you see, is not necessarily because of, quote unquote, greed on the big packer side, but it's because of the way our country has set things up to get the cheapest food to the most people, in my opinion. [LB176]

SENATOR CHAMBERS: My final thing to you, because there are a lot of people who want to speak for or against,.. [LB176]

SENATOR SCHILZ: Uh-huh, yes. [LB176]

SENATOR CHAMBERS: ...and some might sound like they're going both directions. But I think that...maybe I'll wait on that one. [LB176]

SENATOR SCHILZ: Okay. [LB176]

SENATOR CHAMBERS: Thank you, Senator Schilz. [LB176]

SENATOR SCHILZ: Thank you, Senator. [LB176]

SENATOR JOHNSON: Senator Harr. [LB176]

SENATOR HARR: Thank you. Thank you, Senator Schilz, for coming here today. I guess my question, as I'm listening to your testimony,... [LB176]

SENATOR SCHILZ: Uh-huh. [LB176]

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SENATOR HARR: ...and my question is, why are we limiting this to swine and to pork producers? You talked about how you used to have it on your property. [LB176]

SENATOR SCHILZ: Uh-huh. [LB176]

SENATOR HARR: Why not just do it...and this isn't the '40s or the '50s, and yet it seems like we're keeping it '40s and '50s for certain sectors and we're trying to advance it in others. [LB176]

SENATOR SCHILZ: Well, I think that...I think...and that's a very good question, Senator Harr, and I think it's one that needs to be answered. If you look at what has happened over time with the hog industry and how that market has moved, right, we haven't seen the same sort of movement in the beef industry. There is no movement into the concentrations like we've seen in the hogs and people wanting to do these kind of production contracts in the beef industry like we see in the hog industry. There may be some, but at this point beef folks are not interested in this arrangement. Beef packers are not interested in these kinds of arrangements, per se. And so we're not pursuing that part of it. [LB176]

SENATOR HARR: Okay. But why don't we give them the option to? You talked about, hey, let the farmer decide or... [LB176]

SENATOR SCHILZ: That, once again, is a good question. And I am basically sitting here today saying that, as we all got together and we all discussed this, it was the agreement of the whole group that when we talked, including beef representatives and hog representatives, that at this point today the beef sector did not want to be a part of this. [LB176]

SENATOR HARR: Okay. Do the same restrictions apply to the poultry industry? [LB176]

SENATOR SCHILZ: The poultry is not involved in this bill, in this law at all. [LB176]

SENATOR HARR: Okay, as it current... [LB176]

SENATOR SCHILZ: Never, they never were. [LB176]

SENATOR HARR: Never were. [LB176]

SENATOR SCHILZ: Right. [LB176]

SENATOR HARR: Okay. All right. [LB176]

SENATOR SCHILZ: That's correct. [LB176]

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SENATOR HARR: And why is that? [LB176]

SENATOR SCHILZ: Because in the beginning when this happened, the poultry industry was already...almost every bird that was raised in the state of Nebraska was already under production contract anyway. There was...if you would have done that, you would have basically moved the whole poultry industry out of Nebraska. [LB176]

SENATOR HARR: Okay. Is it your belief we'll be back, someone will be back in ten years for the beef product or beef industry? [LB176]

SENATOR SCHILZ: You know, I don't...I can't say for sure because you never know what the economy is going to do exactly. But I just have to think that with how much capital goes into raising beef that I just don't see that that's going to happen. But I may be wrong. I mean, who knows? I mean... [LB176]

SENATOR HARR: Okay. [LB176]

SENATOR SCHILZ: ...you'll have to ask somebody. You'll have to keep an eye on it in ten years and see if that happens. I don't know. [LB176]

SENATOR HARR: Okay. All right. I appreciate it. Thank you very much. [LB176]

SENATOR SCHILZ: Yep. [LB176]

SENATOR JOHNSON: Senator Kolterman. [LB176]

SENATOR KOLTERMAN: Thank you, Senator. Senator Schilz, I've been in the insurance business for a long time and I'm a small-town insurance agent. I believe in the ability of we need small businesses in our communities. [LB176]

SENATOR SCHILZ: Uh-huh. [LB176]

SENATOR KOLTERMAN: And yet we also need people to help them get started, the younger people. [LB176]

SENATOR SCHILZ: Uh-huh. [LB176]

SENATOR KOLTERMAN: So I struggle a little bit with this bill. Tell me how this will help the small farmer that wants to get into agriculture, how this will benefit them. Give me the advantages of what this can do for them. [LB176]

SENATOR SCHILZ: Sure. Well, I don't know if...and I don't know how much you know

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about the hog industry, but feeding, selling... [LB176]

SENATOR KOLTERMAN: I've been in a few hog confinement facilities, yeah. [LB176]

SENATOR SCHILZ: ...yeah, feeding, selling, and marketing hogs can be a very, very volatile situation. Markets go up; markets go down. The key here is that by taking that risk of ownership from that smaller producer, first of all...and there's folks behind me that can explain this much better than me, but that risk somewhat disappears. The banks like it because they know that there's a situation in place, and you'll hear from somebody here today that has experience with that. It also lessens the amount of capital that that person would have to go in, and some of these contracts, we heard...I heard earlier from somebody that I was talking with, that some of these contracts will go down to just a few head. I mean they don't have to be a huge number of hogs to be able to do this. So it's not like you have to have 10,000 hogs or 20,000 hogs. Some of these are 100 hogs or 50 hogs. They'll contract those. So they will work with a producer to get this done. So there's a number of ways that it helps that smaller person that's just trying to get into the market. [LB176]

SENATOR KOLTERMAN: So if I hear you correctly, even the smaller hog operators will be eligible to participate, if I'm hearing you correctly. This is not an either/or type of a situation. Is that a correct statement? [LB176]

SENATOR SCHILZ: That is correct. This would not make anyone either enter into a contract or not enter into a contract. They would have that choice moving forward. And it will not...and it will probably...it will not preclude anyone from being an independent feeder and moving on just as they were today, if that's what they're doing. [LB176]

SENATOR KOLTERMAN: So if an independent contractor, independent feeder signs one of these agreements,... [LB176]

SENATOR SCHILZ: Uh-huh. [LB176]

SENATOR KOLTERMAN: ...and several years down the road decide that this isn't working, they can just give up the agreement and go back to doing what they did before? [LB176]

SENATOR SCHILZ: I would guess that as long as they do it within the contract, with what the contract says in how you get out of a contract,... [LB176]

SENATOR KOLTERMAN: Uh-huh. [LB176]

SENATOR SCHILZ: ...then, yes, they could do that, no problem. [LB176]

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SENATOR KOLTERMAN: All right. Thank you very much. [LB176]

SENATOR SCHILZ: Yeah. [LB176]

SENATOR JOHNSON: Any other questions? Senator Chambers. [LB176]

SENATOR CHAMBERS: Senator Schilz,... [LB176]

SENATOR SCHILZ: Uh-huh. [LB176]

SENATOR CHAMBERS: ...although this person who enters the contract is going to feed the animals, are there any things on that person's property that the big shot can dictate relative to what's going to be done on those premises? [LB176]

SENATOR SCHILZ: And I would guess...I would guess that as it comes to feeding the hogs, yes, that would be the case. You have to make sure that you don't feed them anything that would be illegal. There's certain things that you can't feed. You have to make sure that the medicines that are given, that withdrawal times are adhered to. You have to make sure that if...and certain contracts, certain contracts may call that hogs can only be of a certain size or a certain breed. Every contract may have different stipulations in them. But that would be between that producer and whoever they're contracting with. [LB176]

SENATOR CHAMBERS: Now if I'm the packer and I'm old enough to let you be the young producer, compared agewise,... [LB176]

SENATOR SCHILZ: We'll give you that one, okay? [LB176]

SENATOR CHAMBERS: ...I have experience in what it is that I'm doing and what I want to achieve. And I've talked to psychologists, I've talked to consultants to teach me how to make my approach or send people to approach this young guy who has no experience in this at all. So I'm going to give the impression that this is a no-lose situation. You are going to be able to do something that you couldn't do on your own. So I'm in a position of writing the contract the way I want it written, because you don't know anything about it. All you're looking at is the pot of gold that I told you is at the end of the rainbow. Now we don't see it because we don't know what's going to happen ten years out, but I don't want you to think about that. This is going to give you an opportunity to step through a door that otherwise you wouldn't. That's to set the context. This could put the packer in a position to take unfair advantage of somebody without the person even realizing that he or she is being taken advantage of. Do you agree that that can happen? [LB176]

SENATOR SCHILZ: Do I agree that that could happen? [LB176]

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SENATOR CHAMBERS: When somebody knows a lot more about a situation than another person, and the one who knows a lot has only one goal and that's to make as much profit as possible at as little expenditure as possible. [LB176]

SENATOR SCHILZ: If, and with...yes, with this caveat. If that packer wants to be around and buying hogs from others ten years down the road, he shouldn't do that too many times because word does get around. And if people get taken advantage of in the country, word travels fast. And I can tell you this, that, yes, you can write whatever you want to in a contract, but as we've all said here before, we're all big people that come down to this room and when we get into business we're all big people. I can tell you that most producers, when they sit down to do something like this, they have a support team around them as well, whether it's their lawyer and their banker and the person that usually is their mentor, which is usually family. There is...there's a support team around them as well. So don't think that everybody is just coming out of here bright-eyed, bushy-tailed, and doesn't really know what's going on. They might not but there's ways to get your...there's ways to learn this stuff without hurting yourself. But I can see where you're coming from but buyer beware. [LB176]

SENATOR CHAMBERS: Would you agree that the bankers, I'm saying this and asking it... [LB176]

SENATOR SCHILZ: Uh-huh. [LB176]

SENATOR CHAMBERS: ...as a question. You may not agree. A banker is always interested, first of all, in protecting that investment, that loan; wants to have adequate collateral that can be liquidated, if necessary, to cover what is owed. So if the banker sits down, the banker is not interested in that person who's entering the contract. The banker is interested in how the banker's interests are going to be protected. Is that why the banker is there? [LB176]

SENATOR SCHILZ: I would...I will say this. I will say that in the end that is the first thing that they must do. But I know this from having relationships with bankers my whole life in that they don't want to get to that point. They don't want that to have to happen. So they would much rather turn down a loan that looks iffy than take on a loan and then have to say no. [LB176]

SENATOR CHAMBERS: Even...oh, excuse me. [LB176]

SENATOR SCHILZ: And I've seen that happen. I've seen that happen a number of times. It's happened to me a number of times (laugh) and I wasn't happy about it. But in the end, it was probably the right thing. [LB176]

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SENATOR CHAMBERS: This is my last comment to you because I already said I don't want to extend it... [LB176]

SENATOR SCHILZ: Sure. [LB176]

SENATOR CHAMBERS: ...too much. I've been around a lot of years. I've been in the Legislature for a lot of years. I've never worked on a farm, certainly never have owned a farm, but I read and pay attention to what happens. And I remember when farmers were encouraged to plant from fence post to fence post or fence row to fence row. They were encouraged by bankers to get these loans, and it was something like building a pile. An organized pile is where you have enough at the lower levels to support what's going to be above it. But some of these loans were built here and the next one put you out here, and the next one out there. Then when it all collapsed, the banker turned out not to be your friend. The banker was the one looking out for the banker's interest, and the bankers didn't get hurt like the farmers did. And there developed a crisis. Well, I don't know whether that will ever happen again. But my concern, and those who testify maybe can address it, I don't think the bankers have the interest of that person who wants to enter the contract at heart. I don't think the packer has that person's interest at heart. And I think the person who's entering the contract does not really understand fully what's going to happen. And I don't think any of these people who enter these contracts are knowledgeable enough about the economy, even if they've grown pigs all their life, how the bigger economy is going to affect them 10 or 12 years down the line. So this is the question I'm getting to. If you enter a contract for 12 years, is there usually in these contracts a provision where you can break it without penalty? [LB176]

SENATOR SCHILZ: That's a question that I would want to wait for somebody else to answer. [LB176]

SENATOR CHAMBERS: Okay. [LB176]

SENATOR SCHILZ: I've never entered into that, I have to say. But I will tell you this, Senator Chambers. If you're ever interested in coming out to a farm and you'd like to come see one, I'd be more than happy to invite you out to ours. [LB176]

SENATOR CHAMBERS: Do you grow hogs there? [LB176]

SENATOR SCHILZ: We do not, but I know some people that do and I'd love to take you there. [LB176]

SENATOR CHAMBERS: Oh, because I've...no, no, I've been around them enough to know that I'll take people's word for what happens there. (Laughter) [LB176]

SENATOR SCHILZ: Thank you, Senator Chambers. [LB176]

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SENATOR JOHNSON: Okay. Senator Bloomfield. [LB176]

SENATOR BLOOMFIELD: Just one more question, Senator Schilz. If there was a liability arises, say a environmental spill or something,... [LB176]

SENATOR SCHILZ: Uh-huh. [LB176]

SENATOR BLOOMFIELD: ...who's liable? [LB176]

SENATOR SCHILZ: Well, if the person that owns the land and person that owns the facility, they would be liable for it. [LB176]

SENATOR BLOOMFIELD: Thank you. [LB176]

SENATOR JOHNSON: Any other questions? Seeing none, thank you, Senator Schilz. [LB176]

SENATOR SCHILZ: Thank you. [LB176]

SENATOR JOHNSON: Okay, we will start the proponent testimony. I want just a word of advice. This is to the committee members also. We are on a time limit for one hour, so I would ask that you be concise in your questions and somewhat concise in your answers so that we're able to move through as many testifiers as we possibly can. With that being said, I'll ask for the first proponent to come forward. Yeah, if you have handouts, give them to the clerk and he will distribute them to the pages and they will distribute them to the committee. Mr. Spilker, please, your name, and spell your name, please. [LB176]

SCOTT SPILKER: (Exhibit 1) Chairman Johnson and members of the Ag Committee, my name is Scott Spilker, S-c-o-t-t S-p-i-l-k-e-r. I raise hogs and farm north of Beatrice. I'm testifying on behalf of Nebraska Pork Producers in favor of LB176, and I do have a copy of my testimony. We would like to see more of our Nebraska youth return to the farm and make a living in production agriculture. As you're all well aware, farmland is very expensive, as is cash rent and machinery, and this makes the entrance into farming very difficult, if not impossible, for many individuals. An opportunity to care for hogs via contract feeding allows individuals the income it takes to make a living in livestock production. Among the economic benefits to young farmers, the use of the resulting manure can also be used in crop production to decrease fertilizer expenses, making crop enterprises more profitable as well. Start-up facility costs can be extremely prohibitive to new producers. Common-sized barns are 2,400, 3,600, 7,200 head. It's approximately \$725,000 for a 3,600-head barn, and \$1.1 million for a 7,200-head facility. A multiyear contract with a pig supplier gives an ag lender the confidence that

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the producer can service a loan of this size. This allows producers to borrow, build, and pay for these buildings. Nebraska state law currently forbids packer ownership of hogs, and we've seen a slowdown of the growth in our industry here in Nebraska while expansion of contract feeding in neighboring states has encouraged substantial growth in those states, and I point out Iowa, Minnesota, and Kansas. In Nebraska, we've struggled to maintain our numbers. In the last 25 years the number of hogs fed and processed in Nebraska has seen a steady decline--and I think I've got a chart there that you can see--from approximately 4 million hogs in '91 to under 3 million in 2012. Allowing packer ownership not only opens contract feeding opportunities but will also strengthen Nebraska packinghouses and give producers such as myself long-term access to shackle space, whether as a contract grower or an independent supplier. Expansion of swine feeding in Nebraska adds value to the corn already being produced here. This expansion brings economic benefits to rural communities, which in turn will benefit local school, county, and the state tax treasuries. For Nebraska swine producers to take advantage of this potential, our state laws need to give us the same opportunities to succeed that other states give their producers. The result would be to promote Nebraska as a state where swine producers, working with packers, can retain and attract young, forward-thinking producers to thrive in livestock production. It would send a signal to packers that we're serious about growing the hog feeding business here in our state. This would encourage them to invest in their packing plants and, if the hog numbers were to warrant, even add shifts for increased slaughter capacity. This would mean job creation and even more value-added production. I respectfully request the advancement of LB176, which will allow Nebraska farmers equal opportunities to succeed in the pork business, opportunities that surrounding states currently offer. We have tremendous potential for livestock expansion and the resulting economic benefits. Nebraska pork producers need regulations and laws to allow for greater cooperation and business relationships between producers and packers. Thank you. [LB176]

SENATOR JOHNSON: Thank you. Any questions? Senator Chambers. [LB176]

SENATOR CHAMBERS: I just have one. You had mentioned how the industry was growing in these other states where they allow the contract feeding and so forth. When you say that, do you mean more animals are produced or more young farmers are getting into the industry or that there are more small farms now growing up? [LB176]

SCOTT SPILKER: I would say both of those things are occurring: more animals obviously from the chart, but also more potential for young farmers to enter into those agreements and get a start. [LB176]

SENATOR CHAMBERS: But here's what I'm asking. Since you've got figures on all this other, do you have any figures on how many more farms there are producing these animals? [LB176]

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SCOTT SPILKER: I think some other testifiers may have some of that information. [LB176]

SENATOR CHAMBERS: Okay. That's all I have. Thank you. [LB176]

SENATOR JOHNSON: Bloomfield, then Riepe. [LB176]

SENATOR BLOOMFIELD: Mr. Spilker, do we not already have feeding agreements that these young farmers can enter into with other entities other than the packer? [LB176]

SCOTT SPILKER: Yes, there are. There are some of those. This would just be another tool in the toolbox and competition for some of those other contracts. [LB176]

SENATOR BLOOMFIELD: I'm a little concerned when the, what I would refer to in this conversation as the final customer, the person that's going to end up buying the live hogs or owning the live hogs has control of both raising the animal and producing the animal. And I think we've got enough folks out there that will enter into these agreements with young people, if young people are really wanting to do it, within the feed producers and whatnot, without going to that ultimate buyer. Do you disagree with that? [LB176]

SCOTT SPILKER: No, I'm all for expansion in any means. I think we've got potential here in Nebraska and I wouldn't be opposed to those other entities entering into contract arrangements. I would want to point out also, though under a case like this, a person could sign a seven- to ten-year contract with a packer, get his barn paid for like the figures I had in my testimony. And then after that contract was up decide, hey, I'm going to feed my own hogs. [LB176]

SENATOR BLOOMFIELD: But could he not do that also with the feed supplier under current law? [LB176]

SCOTT SPILKER: Yes. [LB176]

SENATOR BLOOMFIELD: Thank you. [LB176]

SENATOR JOHNSON: Senator Riepe. [LB176]

SENATOR RIEPE: Thank you. Thank you very much for being here today, and all of you for being here to testify. It's very help for us. My question gets to be, and I grew up as a farm kid at the time when a handshake worked it all. And so I'm interested in the contracts, if they're exclusive, if they are transparent, if they're open and available. Or are they considered proprietary and, therefore, you cannot show this to your spouse, you cannot...I'm just interested in the contract, because when you get down to it,

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everything is into that contract. And if you...a desperate person might sign a contract to get into the business and end up with buyer's remorse a few years down the road when he or she can't walk away and go into business on his or her own. [LB176]

SCOTT SPILKER: Senator, we do have some testifiers from Iowa that actually do have these contracts, so I would defer to them. [LB176]

SENATOR RIEPE: Okay. [LB176]

SCOTT SPILKER: They can answer that. [LB176]

SENATOR RIEPE: Same contract here, there? Nebraska, Iowa, it's all pretty much...? [LB176]

SCOTT SPILKER: Well, if it would be allowed in Nebraska, we would have, yeah, it would be. I would...it would be the same kind of contract, yes. [LB176]

SENATOR RIEPE: Okay. Good. Thank you. [LB176]

SENATOR JOHNSON: Senator Kolterman. [LB176]

SENATOR KOLTERMAN: Thank you, Senator. Mr. Spilker, my question deals with your organization, the Nebraska Pork Producers. How many members do you have in the state or approximately how many members? Does it include most of the producers? [LB176]

SCOTT SPILKER: If you pay the checkoff, which means if you sell a pig and pay the mandatory checkoff, that, yes, you are a... [LB176]

SENATOR KOLTERMAN: You're automatically. So, in essence,... [LB176]

SCOTT SPILKER: Around 1,200 members. [LB176]

SENATOR KOLTERMAN: ...so, in essence, it includes all producers. [LB176]

SCOTT SPILKER: Yes. [LB176]

SENATOR KOLTERMAN: Okay. Then my next question is, what percentage of those in your...asked you to support this bill? [LB176]

SCOTT SPILKER: Well, we've...there's 13 directors that are elected at our annual meeting and we've discussed this issue and we've looked at the numbers that I showed the committee, and we're very concerned that we're losing business here in Nebraska.

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And so we, at our September meeting, we had a motion to support this effort and those 13 directors are voted in to do the business for Nebraska Pork Producers, and it passed on a voice vote, solid, solid majority. [LB176]

SENATOR KOLTERMAN: Okay. Thank you. [LB176]

SENATOR JOHNSON: Other questions? Seeing none, thank you, Mr. Spilker. Next proponent. Welcome. [LB176]

RUSS VERING: (Exhibit 2) Good afternoon, gentlemen. Chairman Johnson and members of the Agriculture Committee, my name is Russ Vering, R-u-s-s V-e-r-i-n-g. I live and own a feed mill and swine facilities near Howells, Nebraska, and I am here today representing the Nebraska Pork Producers to testify in favor of LB176. Iowa has continued as a leading pork production state and now has 29.5 percent of the U.S. inventory in kept-for-market category, and now has more pigs than the next two highest states: North Carolina and Minnesota. Minnesota now has had three consecutive years of USDA inventories estimates placing the kept-for-market category at least 1 percent higher than breeding. The difference for Iowa and Minnesota represents weaned and feeder pigs that are transported into these states for growth, and one of the most common origination states of those pigs is Nebraska. In other words, even though Nebraska benefits from some of the best farmland and corn and soybean producers in the world, hundreds of thousands of our weaned pigs are shipped to Iowa and Minnesota for finishing, which results in a loss of consumption of our Nebraska corn and soybean meal, loss of Nebraska jobs, and loss of tax base for Nebraska. Meanwhile, worldwide demand for meat and value-added food products will continue to increase, and 46 percent of worldwide meat consumption is pork. Twenty-seven percent of total U.S. production is exported, and the value of every hog marketed in the U.S. received \$63.21 from the export market in 2014. The Pacific Rim nations compose two-thirds of the world's middle class, and middle-class consumers are expected to be 32 billion by 2030. Pacific Rim economics are working together to eliminate trade barriers and harmonize regulations covering two-fifths of the world economy and one-third of all global trade. Sixty percent of the U.S. pork exports are shipped via water and eighty percent of that sixty percent goes out West Coast ports to Pacific Rim nations. The remaining large volume pork exports are primarily Mexico and Canada. Taking these facts into consideration and that in today's world the cost of moving product is of main concern, who will serve these markets? And what pork-producing state with a major east-west interstate, two of the nation's largest railroads, and three pork processing plants in America is closest to the Mexican and Pacific Rim markets? It's Nebraska. A strategy to produce more pork protein in Nebraska should be planned and must contain cooperation for growth in Nebraska's food-related sectors, including state government rules, regulations, and laws, in order to help Nebraska pork producers serve the middle class, 32 billion hungry people, which includes millions of middle-class American consumers. Senators, in conclusion, I ask that you please move forward LB176, which

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could provide rewards to our producers, communities, counties, and state in many ways. Thank you. [LB176]

SENATOR JOHNSON: Thank you, Mr. Vering. [LB176]

RUSS VERING: I see I have a red light. Does that mean I'm... [LB176]

SENATOR JOHNSON: Yeah. [LB176]

RUSS VERING: Oh well. [LB176]

SENATOR JOHNSON: (Laugh) It goes fast. [LB176]

RUSS VERING: Any questions? [LB176]

SENATOR JOHNSON: Yeah. Senator Chambers. [LB176]

SENATOR CHAMBERS: You mentioned two of the nation's largest railroads. Would those be Union Pacific and BNSF? [LB176]

RUSS VERING: Yes. [LB176]

SENATOR CHAMBERS: Do you know who owns them? [LB176]

RUSS VERING: I don't know for sure. [LB176]

SENATOR CHAMBERS: Would W.B. give you a hint? I call him "Rumplesuitskin," "Rumpledskinskin." [LB176]

RUSS VERING: Yes, sir. [LB176]

SENATOR CHAMBERS: Warren Buffett. Do you know if he has any interest in any aspect of livestock production, processing, or selling? [LB176]

RUSS VERING: One thing that I know for sure is that we have to export a lot of our grain from this state,... [LB176]

SENATOR CHAMBERS: Uh-huh. [LB176]

RUSS VERING: ...about 40 percent. I think it's about 40 percent, if not more than that. And so...and that puts a big strain on the railroads. So I think that if we can keep more livestock here in the state of Nebraska, we can keep more grain here, which actually would probably not send as much money towards Mr. "Suitskin," right? That's what you

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said? (Laughter) [LB176]

SENATOR CHAMBERS: And then this question. It's the only one. [LB176]

RUSS VERING: Sure. [LB176]

SENATOR CHAMBERS: Are you maintaining, and are those who mentioned the growth in these other states, that this contract arrangement with the packer is the explanation for all of the growth they're experiencing in their industry? [LB176]

RUSS VERING: It's a form of contract production and, yeah, there are...Iowa has grown significantly, especially... [LB176]

SENATOR CHAMBERS: But I'm saying you lay it all at the doorstep of this contracting arrangement? If you didn't have that then you wouldn't have the growth in these states? [LB176]

RUSS VERING: I would, you know, it would really be hard for me to put a percentage... [LB176]

SENATOR CHAMBERS: Okay. [LB176]

RUSS VERING: ...or an exact number on that. [LB176]

SENATOR CHAMBERS: And that's all I have. Thank you. [LB176]

RUSS VERING: Okay. [LB176]

SENATOR JOHNSON: Other...do you have a question, Kolterman? [LB176]

SENATOR KOLTERMAN: Yeah, thank you. Thank you, Mr. Vering, for coming. [LB176]

RUSS VERING: Sure. [LB176]

SENATOR KOLTERMAN: You're a small-town businessman,... [LB176]

RUSS VERING: Yes. [LB176]

SENATOR KOLTERMAN: ...southwest side of Howells, correct? [LB176]

RUSS VERING: Yeah, I am. [LB176]

SENATOR KOLTERMAN: I've been by your place many times. Does it concern you at

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all that if this type of an arrangement comes into play the large packers might decide to bypass you and produce the feed direct to them? Have you thought about that? [LB176]

RUSS VERING: You know, there are some areas where...in different states where they have built feed manufacturing facilities. We have a very diversified business. We serve beef as well. And we have distribution from Ogallala actually to Des Moines, so we cover a pretty big area. I don't hang my hat on every day of just selling hog feed, I guess is one thing that I would answer that question with. And number two, we spend a lot of time and a lot of work on research and making sure that we build a really good product, and right now we do service some fairly large customers. And when it comes down to providing a good team that can put out a really good product and supply the quantity that they demand, we do really well there. And so, you know, that's the competitive advantage we're trying to work for and that's what we work hard to do. If we can supply them without them being able to do it themselves more economically, I think that's our right answer to trying to stay in that business. [LB176]

SENATOR KOLTERMAN: Okay. Thank you very much. [LB176]

RUSS VERING: Sure. [LB176]

SENATOR JOHNSON: Other questions? Senator Bloomfield. [LB176]

SENATOR BLOOMFIELD: Thank you. I'd like to follow up a little bit on Senator Kolterman's question. Where you are a small company trying to supply this food, do you think you could compete equitably with the Chinese government if they decided to open up a facility to make the feed for these hogs that they are now going to own? [LB176]

RUSS VERING: Well, I mean economics in the states are a lot different than they are in China. So I think from the standpoint of, you know, freight, distribution, those kinds of things, but you know, I guess they have an unlimited amount of money so they probably could compete better. [LB176]

SENATOR BLOOMFIELD: Okay. Thank you. [LB176]

SENATOR JOHNSON: Any other questions? Seeing none, thank you, Mr. Vering. [LB176]

RUSS VERING: Thanks. [LB176]

SENATOR JOHNSON: Next proponent. If you move up quickly so we don't lose a lot of time. Welcome, Director. [LB176]

GREG IBACH: (Exhibits 3, 4, and 5) Thank you. I am Greg Ibach, G-r-e-g I-b-a-c-h. I

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am the Nebraska director of Agriculture. I'm here today to testify in favor of LB176, which addresses changes in the Competitive Livestock Markets Act. The Nebraska Department of Agriculture, along with agriculture industry partners, has worked diligently to expand the state's livestock sector. We have placed emphasis on livestock development as this form of value-added agriculture provides tremendous opportunity to grow the state's economy. This point has been outlined in two recent reports authored by the University of Nebraska-Lincoln professors, in collaboration with the department, and then a third sponsored by the Nebraska Corn and Soybean Boards. I have distributed all three for your background and the record. The reports highlight the special synergy Nebraska has between our crop, livestock, and processing sectors. These three sectors, and their related impacts on the economy, amount for an estimated 27 percent of the overall gross state product in Nebraska, as well as one in four jobs. The reports show that Nebraska is a national leader in a number of crop and livestock categories, but we have fallen behind some of our neighboring states in the pork sector, as has been shown in previous testimony. The report especially highlights the gap in the annual pig crop, in other words, the number of piglets born in Nebraska and the market hog inventory and number of hogs slaughtered in the state. So while these piglets are born here, they are shipped out of the state for feeding and then shipped back to Nebraska for processing. This inefficiency is lost production value for Nebraska. It is a lost opportunity to add value to corn and soybeans grown here. It is a lost opportunity for young and beginning farmers to raise livestock. And it forces our pork processing sector to rely on market hogs from other states to remain at full capacity. If we provide the opportunity for a variety of business arrangements, we can increase the number of swine born, raised, and processed in Nebraska. I ask that you evaluate this piece of legislation with the understanding that Nebraska's economy is greatly enhanced by the synergies created because we have crop, livestock, and processing together here in the state. Thank you. [LB176]

SENATOR JOHNSON: Thank you, Director Ibach. Questions? Senator Chambers and Senator Riepe next. [LB176]

SENATOR CHAMBERS: Mr. Director, why are not these animals fed in Nebraska? [LB176]

GREG IBACH: Oh, I think the report that...the reports that I handed out evaluate some of those cause and effects. [LB176]

SENATOR CHAMBERS: But I'd like you to answer so I don't...I can get that from you. [LB176]

GREG IBACH: And one of the...one of the items that are discussed in the report and that has been analyzed by the academic professors at the university does point to this packer ban as perhaps one of the causes. [LB176]

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SENATOR CHAMBERS: So their feeling is that there would be more animals fed in Nebraska if the packers were allowed to own pigs. [LB176]

GREG IBACH: I think that they...they think that that's maybe not the sole cause of it, but it is a contributing factor. Also, if you look at where the swine numbers and the new construction is going on in our neighboring states, a lot of it is concentrated very near the Nebraska border because we have... [LB176]

SENATOR CHAMBERS: But here's what I want to know. [LB176]

GREG IBACH: ...slaughter capacity. [LB176]

SENATOR CHAMBERS: Why cannot somebody set up facilities to feed these animals without having to enter a contract with a packer? [LB176]

GREG IBACH: Well, I think that risk management is one of the factors, that some producers feel that the risk of doing it without that relationship with the packer is too great. They want that security (inaudible). [LB176]

SENATOR CHAMBERS: And that's what the academics conclude? Is that what the academics conclude in their report? I'm not challenging you. I'm just asking you. [LB176]

GREG IBACH: No, I don't know that that is discussed in the report. I'm providing probably a personal opinion. [LB176]

SENATOR CHAMBERS: Well, on one of these covers it shows pigs, cows, and chickens, but the cow...well, the cattle industry is not interested in this kind of arrangement. If the process involved in this kind of contracting between the producer and the packer, if that process is so good, why don't they want to follow it in the cattle industry and get all these benefits, if you have an opinion? If you don't, just tell me you don't. [LB176]

GREG IBACH: Well, I think that, and Senator Schilz spoke about the capital investment, and I don't know that it's the...it's always the producer that doesn't want this arrangement in the beef industry. It may also be the packer that doesn't want to enter into the risk side of it, of owning the cattle, because of the investment up-front for him. So maybe it goes two ways as well. [LB176]

SENATOR CHAMBERS: Oh, that's all I have. Thank you. [LB176]

SENATOR JOHNSON: Senator Larson, a committee member, just arrived. Senator

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Riepe. [LB176]

SENATOR RIEPE: Yes, sir, I had a question. Is it more economical to move the livestock to the feed than it is to move the feed to the livestock? And I'm sensing that while Nebraska is a current corn-growing state, probably the greatest portion of that is on the east side of the state. And Iowa, of course, is pretty much all over grain producing. And so my father, who fed cattle, bought cattle in Nebraska. We happened to live in Iowa. Moved them to Iowa to feed them out because that was less expensive than vice versa. Is that the case here that... [LB176]

GREG IBACH: So we have a lot of excess corn production in Nebraska. I mean I think previous testifiers have talked about the 40 percent that moves out of the state yet. Soybeans, every other row of soybeans is destined to go out of the state, at least, if not more. So I think we have plenty of production here. You know, in the...oh, in my previous experience with feeding hogs, it took about...it takes more truckloads of corn to feed the hogs than it does the truckload of hogs to haul back to the packing plant. So I don't think it would be more efficient to move the corn to the livestock, no. [LB176]

SENATOR RIEPE: Do you feel then that the legislation or the law as it exists is the single thing and the only thing that's holding back pork production or pork expansion in the state of Nebraska? [LB176]

GREG IBACH: I think we're working on several fronts to try to expand livestock production in agriculture, so this would be one of those fronts. Another front would be to work with counties to welcome livestock expansion. We're working, at the department, the livestock friendly program. We're having counties join that program at an increasing rate. Here in the next few weeks, we will be over 30 counties that have applied for and been approved. And then we also see this as a great opportunity to provide opportunities for young people. Over the last few months I've attended two open houses and more have been held, but the two that I attended at a swine production facility were situations where a young producer had worked with the USDA and obtained help...that helped with low-interest financing that enabled them to come home to the family farm. It allowed them to build an income stream in a corner of their crop operation and do something that they wouldn't have been able to do if they would have had to go out and look for additional row crop acres to support that family. [LB176]

SENATOR RIEPE: Okay. Thank you. [LB176]

SENATOR JOHNSON: Senator Harr. [LB176]

SENATOR HARR: Thank you, Chairman Johnson. Your last comment struck a nerve with me and it's going to be very unpopular in this room, but I'm going to say it anyway. You can't...well, how do I say this nicely? We sit here and we talk about young farmers

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and they need these loans and all this, and yet if you don't have a family farm you can't go into the farming industry. It just doesn't exist. It's too capital intensive. Even if we pass this, you still have to have a family farm. I couldn't...my kid wanted to be a farmer, it would be darn near impossible unless I cash in from being a state senator and have a trust fund. (Laughter) But you know,... [LB176]

GREG IBACH: Can I respond to that? [LB176]

SENATOR HARR: Yeah. Yeah. [LB176]

GREG IBACH: Not the cash-in part, the (laugh)... [LB176]

SENATOR HARR: Yeah. But, yeah, so the first part, I mean I hear this over and over again that we're denying our, you know, these people who want to come back to the farm, and that's good and that's great and that's well. But you know, you have to have a family farm to come back to because it's impossible for someone, who wants to go into the farming industry, to go into it. [LB176]

GREG IBACH: So I think that that is a concern that people from the outside don't view it as a possibility. You know, when we did the dairy study that we presented to this committee in the interim, one of the things that came out loud and clear out of that study was of our small- and medium-size producers, 500 cows and less, over half of them had no transition plan or succession plan for their operation. So one of the things that I am working on and the department is now working on is how can we talk to those small- and medium-size dairy producers. And this could apply to all segments of production agriculture. If you don't have a succession plan in place, it's probably because your kids may not want to come home to the farm. That provides us a great opportunity to look outside that normal model, that assumption that we make that you have to have a family farm to be able to return to the farm. And so we're hoping to be able to challenge that belief and see if there's ways to provide opportunities for farms to be able to bring people in that may not come from a family farm. [LB176]

SENATOR HARR: And that's good and, you know, we have...I could spend a day on this. I won't. But just I think the way we farm is obviously changing; that's why we're here today. I think we're going to have more and more absentee landlords and we have to figure out how we're going to address that issue. But I want to ask you about your...the Nebraska Extension "U.S. Livestock Industry Trends and Nebraska's Role" report. It says, and I'm in Chapter 3, page 20, "Pork production in Nebraska represents the second strongest segment of the state's livestock industry." It doesn't say second largest; says second strongest. Is there a reason why you would use the term "strong"? That, to me, sounds like we're doing well, not that we need to do something to prop up that industry or change the way we're doing it. [LB176]

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GREG IBACH: Yeah, I don't know that that necessarily is what they mean. It is the second largest and when you compare it to the other livestock, you know, poultry and dairying. So I would guess that that was more of a use of terms... [LB176]

SENATOR HARR: Okay. [LB176]

GREG IBACH: ...to do "large" rather than "strong." But you know, our pork industry right now is profitable. [LB176]

SENATOR HARR: Okay. [LB176]

GREG IBACH: And you know, we...it's just like the beef industry or any other industry. It goes in cycles. [LB176]

SENATOR HARR: Is it the second strongest as far as performance financially? [LB176]

GREG IBACH: It would probably be, yeah, probably be,... [LB176]

SENATOR HARR: Be second. Okay. [LB176]

GREG IBACH: ...yeah, of the livestock industry. [LB176]

SENATOR HARR: Okay, livestock. And then it goes on, on page 20, to say over the past decade the annual U.S. pig crop has increased about 14 percent. Nebraska has kept pace with the national growth. Have we kept pace? Are we where we were a decade ago? [LB176]

GREG IBACH: In pigs born we're keeping pace, but we're not keeping pace on hogs fed. So what that means... [LB176]

SENATOR HARR: Okay. [LB176]

GREG IBACH: ...is the pigs are born here in Nebraska, they go somewhere else to be fed,... [LB176]

SENATOR HARR: Minnesota? [LB176]

GREG IBACH: ...and Iowa, Kansas, South Dakota, Minnesota. They come back to Nebraska to be harvested. [LB176]

SENATOR HARR: Okay. That helps me a lot. Thank you for your time. I appreciate it. [LB176]

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SENATOR JOHNSON: Senator Kolterman. [LB176]

SENATOR KOLTERMAN: Thank you. Thank you, Director, for coming. A question about the subject of China has come up several times today, and I'm going to make a statement. I'd like you to correct me if I'm wrong. But from what I'm reading and what I'm hearing, one of the reasons China is choosing to invest in Nebraska and invest in some of these companies is because we have the ability to produce, in this particular case, hogs, pigs at a much more competitive rate than they can do in China. Would that be a fair statement? [LB176]

GREG IBACH: Yeah. You know, when you look at several factors, feed availability, science and...access to science and technology, experience of our producers, and then, you know, the corn is grown here, I think that's why other nations look to the Midwest as to address their food security needs. And that's the number one reason why countries around the world, China included or maybe at the top of this list, is looking to the Midwest and looking to Nebraska. It's because they're worried about how they're going to feed their people, and I think that's a compliment to Nebraska and a compliment to the Midwest that we're seen as having the right natural resources and the right human resources available to be able to be a long-term competitive producer. [LB176]

SENATOR KOLTERMAN: Okay. Then...thank you very much. One follow-up question: You've been involved in a lot of trade, trade missions or I don't know what you want to call them, but you've gone to different countries to promote agriculture in general but also the sale of pork. Is that not correct? [LB176]

GREG IBACH: That's correct. [LB176]

SENATOR KOLTERMAN: Do you see that as a continually expanding opportunity for us in the state of Nebraska, especially in light of the fact if we allow this to happen? [LB176]

GREG IBACH: Our beef industry has a very strong record of production. We became the number one cattle-on-feed state two years in a row. We maintained that status again in 2014. We're the number one red meat producing state in the nation. And so, you know, I...and we surpassed \$1 billion in beef export sales in 11 months in 2014. And I think that, you know, we're really proud of our beef industry. We're also proud of our pork industry. And I think that if we were able to attract the fed hogs here in Nebraska to be able to supply our packing industry and not have to import market hogs and also maybe even have the hope of someday expanding our hog packing capacity, we could have the same kind of meat production records accomplished in the pork industry as we're having accomplished in the beef industry. [LB176]

SENATOR KOLTERMAN: Okay. Thank you very much. [LB176]

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SENATOR JOHNSON: Senator Bloomfield. [LB176]

SENATOR BLOOMFIELD: Thank you, Mr. Director. You, if I understood correctly, said the hog industry is strong and profitable in Nebraska. Would you address the old saying that if it ain't broke don't fix it? [LB176]

GREG IBACH: Well, I think that that's not a constant line. As you're close enough to agriculture, you realize that we go above and below the line. And I think that, you know, we need to provide opportunities for us to stay above the line more often than dropping below the line. And if you look at that profitability relationship in the profit line, it's probably below the line more than it is above the line in the past five or ten years. [LB176]

SENATOR BLOOMFIELD: Yeah. I have enjoyed or endured both sides of the above and below the line in hog production. But I still don't know that that constitutes bringing foreign competition in, which is how I see this. Thank you. [LB176]

SENATOR JOHNSON: Any other questions? Seeing none, thank you, Director. [LB176]

GREG IBACH: Thank you. [LB176]

SENATOR JOHNSON: Next proponent. [LB176]

KEVIN PETERSON: Thank you, Chairman Johnson, members of the Ag Committee. My name is Kevin Peterson and that is spelled K-e-v-i-n P-e-t-e-r-s-o-n, and I'm a fifth-generation farmer raising hogs and row crops. And I'm president of Polk County Farm Bureau and I'm here today on behalf of Nebraska Farm Bureau in support of LB176. 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 LB176 would broaden the opportunity for young people and others to come back to the farm. Thus, we certainly appreciate Senator Schilz for introducing the bill. The large investment in land and equipment required to get involved in crop production prevents many young farmers from getting into crop farming. Custom feeding of livestock, though, can be a viable way for a young person 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 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 2000, I found that custom hog feeding would be the best way for me to build my own

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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 those goals. That cost has risen substantially in 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'm sure you can...managing my risk by 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 three of my young children wish to return to the farm like I did. Presently, Nebraska has three pork processors located in the state and we have heard anecdotally that they would be interested in adding another shift if the hogs were available for processing. This, too, would have economic benefits to the state in terms of employment, labor, income, and taxes. Again, Nebraska Farm Bureau supports LB176 and encourages the committee to advance the bill. And I would be happy to answer any questions that you have. [LB176]

SENATOR JOHNSON: Thank you. Questions of Mr. Peterson? Bloomfield, you're first this time. [LB176]

SENATOR BLOOMFIELD: Thank you, Mr. Peterson. When and how did Farm Bureau decide to support this idea? [LB176]

KEVIN PETERSON: That would be...that would have been at state convention 14 months ago, December of 2013, I think. [LB176]

SENATOR BLOOMFIELD: Okay. Do you...are you able to tell me what the vote was on that, by how big a majority Farm Bureau... [LB176]

KEVIN PETERSON: I was in the room that day. I do not know exactly what the vote count was, but it was fairly close, as I recall, yes. [LB176]

SENATOR BLOOMFIELD: I am told repeatedly it was one vote. Does that sound right? [LB176]

KEVIN PETERSON: To my recollections, when there is a close vote, they use the clickers. I've never seen the votes displayed as an actual count. It's always displayed as a percentage. Now it could very well have been one percentage point,... [LB176]

SENATOR BLOOMFIELD: Okay. [LB176]

KEVIN PETERSON: ...but I've never seen votes in the house of delegates displayed, you know, down to this, down to a single vote. [LB176]

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SENATOR BLOOMFIELD: Okay. Thank you. [LB176]

SENATOR JOHNSON: Senator Chambers. [LB176]

SENATOR CHAMBERS: Isn't the Farm Bureau more of an insurance operation than actually engaged in any aspect of farming? It's not really a farm organization, is it? [LB176]

KEVIN PETERSON: Well, it certainly is. The policy that Senator Bloomfield asked about was entirely set by farmer and rancher members of Nebraska Farm Bureau. [LB176]

SENATOR CHAMBERS: There are more nonfarmers who are members of the Farm Bureau. Isn't that true? [LB176]

KEVIN PETERSON: That is a safe assumption, yes. [LB176]

SENATOR CHAMBERS: And more of them are from the urban areas than the rural areas. Isn't that true? [LB176]

KEVIN PETERSON: There is more people in urban areas than the rural areas and, yes, the... [LB176]

SENATOR CHAMBERS: Who belong to the Farm Bureau. [LB176]

KEVIN PETERSON: Yes. [LB176]

SENATOR CHAMBERS: And they're there for the insurance primarily, rather than to possibly become farmers. Isn't that true? [LB176]

KEVIN PETERSON: I could not say for sure whether that's true. I could give you an anecdote that my cousin would tell me as an insurance agent. She sells in a urban-rural split area and she says that her customers that are not farmers and ranchers identified with the advocacy work the Farm Bureau does to a great degree. That really helps her market her insurance products. [LB176]

SENATOR CHAMBERS: But I just want it clear from the record that, from my position, Farm Bureau is a misnomer for that organization. But here's what I'd like to ask you in terms of what we're talking about here. The Farm Bureau, however they arrived at their conclusion to support this bill and for whatever reasons, are of the opinion that if we allow this kind of contracting with these young, bright-eyed, bushy-tail guys who want to...and ladies who want to get into farming, is going to work a remarkable change in Nebraska as far as the production of swine. Is that what the Farm Bureau people believe? [LB176]

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KEVIN PETERSON: That was...that is...that is what the Farm Bureau believes, yes. [LB176]

SENATOR CHAMBERS: And you're fifth generation. Your...do you farm? [LB176]

KEVIN PETERSON: I do. I do. I did hog chores this morning. [LB176]

SENATOR CHAMBERS: What did you do? [LB176]

KEVIN PETERSON: I'm sorry? [LB176]

SENATOR CHAMBERS: You said you did some farm work this morning. [LB176]

KEVIN PETERSON: I did. [LB176]

SENATOR CHAMBERS: What did you do? [LB176]

KEVIN PETERSON: Well, I...to... [LB176]

SENATOR CHAMBERS: Ate some bacon and eggs? (Laughter) [LB176]

KEVIN PETERSON: No. No, sir. I was up at 5:45 this morning, Senator, well, 4:45 actually. Made it to my hog facility. We received baby pigs last week and this week. I "chored" all those. I walk through every pen every day. [LB176]

SENATOR CHAMBERS: But I mean you don't use a pick and...well, I meant a pitchfork. You don't drive a tractor. You don't drive a combine. You don't do any of that, do you? [LB176]

KEVIN PETERSON: I drive tractors and combines. I am a farmer, Senator. [LB176]

SENATOR CHAMBERS: Okay. [LB176]

KEVIN PETERSON: I very much am a farmer. I get no other income from any other enterprise. [LB176]

SENATOR CHAMBERS: Do you...would you want to be involved in this kind of contracting, if it were available, in your farming operation? [LB176]

KEVIN PETERSON: I certainly would give it a long, hard look, yes. [LB176]

SENATOR CHAMBERS: But do you support this? [LB176]

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KEVIN PETERSON: Yes. [LB176]

SENATOR CHAMBERS: Haven't you given it a long, hard look in order to support it? [LB176]

KEVIN PETERSON: Well, your question pertained to my operation individually. Now that would...I would take a separate look at that, you know, pros and cons as to my own situation. But a long, hard look as to the direction of the livestock industry in the state of Nebraska, yes. [LB176]

SENATOR CHAMBERS: Without asking for figures, you'd make more money from swine or this row cropping that you mentioned? Which one do you make the most money from? [LB176]

KEVIN PETERSON: In 2014, it was close to being equal. [LB176]

SENATOR CHAMBERS: Okay. [LB176]

KEVIN PETERSON: In years prior to that, when the row crop prices were very high, I was...received more income from row crop than from my hog production business, but. [LB176]

SENATOR CHAMBERS: Do you have some business training, too, or any education along that line? [LB176]

KEVIN PETERSON: I have an associate's degree in...I can't remember what it was in, from Southeast Community College at Beatrice. [LB176]

SENATOR CHAMBERS: But it was in the realm of business. [LB176]

KEVIN PETERSON: There might have been a class or two on business. [LB176]

SENATOR CHAMBERS: And you don't remember. How long ago was that? [LB176]

KEVIN PETERSON: I...that's why I went to community college, Senator. I barely made it through. (Laughter) I've been out of college 15 years or so. Yeah. [LB176]

SENATOR CHAMBERS: I've been out longer ago than you've been in this world and I remember more about mine than you do. But anyway,... [LB176]

KEVIN PETERSON: I'm sure you probably do. [LB176]

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SENATOR CHAMBERS: ...here's what I'm getting to. I've listened to what has been said. I've been here at least one other time when a bill like this was presented, and it seems to me that it's more of an employer-employee type relationship, if I was going to characterize it, rather than a partnership. I think the upper hand is with the packer. The banker, if I'm lending money, you can be as poor as Job's turkey, but if you got old, rich Schilz over there signing your bond, he's the one I'm interested in. And if you go under, I don't even care about you. So the banker is not looking to you to be a success. He's looking at the packer. So the packer has got the upper hand, and the hand that feeds controls. These are my opinions. So I cannot see this kind of arrangement benefiting young farmers. I see it being a type of thing, peonage might be overly harsh, indentured servitude might be overly harsh, but it also might be closer to correct than a partnership. How would you characterize this arrangement between the packer and the producer, and the producer is a young person that we've heard so much about? [LB176]

KEVIN PETERSON: I guess that I would not use any of those descriptive terms to describe it at all, Senator Chambers. I do see it more as a partnership. And you can think of that whichever you would like, but. [LB176]

SENATOR CHAMBERS: Well, I just asked for yours. I'm not going to quarrel, because you gave me your opinion and I'm not going to quarrel with what your opinion is. But I was just curious. And I don't want to extend it. So I've asked all the questions; you've answered them. And you ought consider stand-up comedy if your farm goes under. (Laugh) [LB176]

KEVIN PETERSON: Thank you. [LB176]

SENATOR JOHNSON: Senator Riepe. [LB176]

SENATOR RIEPE: Thank you, Senator Johnson. For some young farmers, would this be the only opportunity or the most likely opportunity to return to agriculture and to...that they might be able to do this on an 80-acre piece of land or 160? [LB176]

KEVIN PETERSON: It would be, yes. I think that it is more from a cash flow perspective, and I can tell you this. As I started out in the year 2000 and that's what, you know, as a lender, those folks look at the ability for that business to cash flow. And this...these contract feeding arrangements do; they do, do that. The contracts pay for, you know, the amortization of the facilities in a reasonable period of time. A lot of times, that lines up with when the contract terms end, the original contract terms end. And it also, you know, allows for, you know, a living wage for the owner of the facility and their family. [LB176]

SENATOR RIEPE: Would someone...excuse me. Would some of the slaughterhouses that want to vertically integrate and get into this business be more amenable to putting

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up the capital as opposed to a bank? [LB176]

KEVIN PETERSON: I... [LB176]

SENATOR RIEPE: I'm trying to look for options for this young farmer. [LB176]

KEVIN PETERSON: I wouldn't know. That would be up to that individual packer. I couldn't...I could not speculate. I don't know what regulations are on the books as, you know, as it applies to those arrangements. [LB176]

SENATOR RIEPE: Okay. Thank you. [LB176]

SENATOR JOHNSON: Let me interrupt the discussion for just a little bit. How many more proponents do we have to testify? One, two, three? Okay. That being said, I am going to extend the time for both sides by 15 minutes. That way I believe we should be able to accomplish that. So, Senator Bloomfield. [LB176]

SENATOR BLOOMFIELD: Thank you, Chair. Mr. Peterson, have you physically seen one of these contracts that the packers would offer? [LB176]

KEVIN PETERSON: I have not seen a packer contract, no. I mean I operate under a production contract. I'm a contract grower and I am familiar with mine, yes. [LB176]

SENATOR BLOOMFIELD: Okay. I was just wondering how many people had actually seen the packer contracts. But thank you. [LB176]

KEVIN PETERSON: I think that we have some people that are going to testify here coming up that actually are feeding for a packer in other states, and they would be more able to answer that question than I would. [LB176]

SENATOR BLOOMFIELD: Okay. Thank you. [LB176]

SENATOR JOHNSON: Other questions? Thank you, Mr. Peterson. [LB176]

KEVIN PETERSON: Thank you. [LB176]

SENATOR JOHNSON: Next testifier. Other testifiers come forward so we can keep moving on. Thank you. [LB176]

TODD WEGENER: Good afternoon. My name is Todd Wegener, T-o-d-d W-e-g-e-n-e-r. I've been a contract grower with Murphy-Brown since 1997. At that time, prior to that, I was an independent producer in Iowa and wanted...thought we had opportunity to begin farming, buying acreage, and start grain farming. And when I went to my bank, he, you

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know, they said, you know, if we could get a production contract with the contract grower feeder that we could, you know, pursue this operation, so it would give us a good cash flow to make the payments on everything. Little nervous. [LB176]

SENATOR JOHNSON: It's all right. [LB176]

TODD WEGENER: I've got a good friend that is also an independent producer. We get along great. It's been my choice to be an independent...or a contract feeder and it's been his choice to be an independent feeder. It's allowed my wife to stay home with our three kids and raise them on the farm. My oldest boy is now a contract grower with Murphy-Brown. It's allowed him to come back and farm. He's going to have the opportunity to start grain farming this next year. Other than that, do you have any questions? [LB176]

SENATOR JOHNSON: I'll ask the first question. You're a contract grower. Does that mean you have a signed contract and they own the pigs, like we're talking about in Nebraska? [LB176]

TODD WEGENER: Yes. [LB176]

SENATOR JOHNSON: Can you talk a little bit about the contract and... [LB176]

TODD WEGENER: Yeah. My contract, it's...was a ten-year contract. I've signed up, I've resigned my contract once and it...they supply the feed, the medical, the vet, all the costs. I supply the labor and the buildings for the pigs. [LB176]

SENATOR JOHNSON: Did you have access to that contract so that you could talk with your legal counsel? [LB176]

TODD WEGENER: Yep. My wife, my banker, my lawyers all looked at it and it's, you know, as long as... [LB176]

SENATOR JOHNSON: Were you allowed to make any changes from their contract or did you feel the need do? [LB176]

TODD WEGENER: There wasn't any need to change anything. [LB176]

SENATOR JOHNSON: Okay. That's all I have. Riepe. [LB176]

SENATOR RIEPE: Thank you. Did you have a noncompete in your contract so that, you know, you wouldn't be able to make a living if you walked away from them from...for a disagreement? [LB176]

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TODD WEGENER: I don't recall. I don't believe there was anything like that in our contract. [LB176]

SENATOR RIEPE: Okay. The other question I have, is there a ratio between the land that's required? Obviously, the size of the building would be, but could a young farmer go out and do this on 40 acres? Did you say you have an acreage? [LB176]

TODD WEGENER: Yeah, we bought an acreage. We did, yes. [LB176]

SENATOR RIEPE: So you don't have...it's not like you have to have 1,000 acres... [LB176]

TODD WEGENER: No. [LB176]

SENATOR RIEPE: ...or 500 or... [LB176]

TODD WEGENER: My boy actually, when he put his up this past two years, he bought 5 acres from a neighbor and put up the barn there. [LB176]

SENATOR RIEPE: Were there zoning requirements and all that stuff, any environmental stuff that... [LB176]

TODD WEGENER: Yes. [LB176]

SENATOR RIEPE: Okay. [LB176]

TODD WEGENER: Yep, zoning requirements by each county. [LB176]

SENATOR RIEPE: And if you had to do it all over again, you'd do it. [LB176]

TODD WEGENER: I would do it again. [LB176]

SENATOR RIEPE: Okay. [LB176]

SENATOR JOHNSON: Senator Chambers. [LB176]

SENATOR CHAMBERS: Me? [LB176]

SENATOR JOHNSON: Uh-huh. [LB176]

SENATOR CHAMBERS: Do you...did your contract have an escape clause so that if you chose to walk away from it you could without penalty? Let me ask it a different way. [LB176]

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TODD WEGENER: Okay. [LB176]

SENATOR CHAMBERS: If you did break the contract, was there a penalty that would attach? [LB176]

TODD WEGENER: I don't recall that. There's probably other people in the room that can answer that question better than me. [LB176]

SENATOR CHAMBERS: Okay, because I don't want to take up a lot of time with my questions. [LB176]

TODD WEGENER: Yeah. Yeah. [LB176]

SENATOR CHAMBERS: In effect, you are an employee of that packer, aren't you,... [LB176]

TODD WEGENER: I don't... [LB176]

SENATOR CHAMBERS: ...because you couldn't have done this without that help? The banker is looking at that company and you happen to be the instrumentality by which the company and the bank can work together, and you're the pass-through instrumentality. Isn't that true? [LB176]

TODD WEGENER: I don't look at myself as an employee for that company. My banker was an independent, small-town bank that helped us in this operation; had no connections with the packer. [LB176]

SENATOR CHAMBERS: I will save my other questions for somebody else. But this seems to me similar...do you know what a sharecropper is? [LB176]

TODD WEGENER: Uh-huh. [LB176]

SENATOR CHAMBERS: What is a sharecropper? What is the relationship? [LB176]

TODD WEGENER: It's where the...there's an owner of the ground, supplies the ground, and somebody farms it for him on a fifty-fifty basis. [LB176]

SENATOR CHAMBERS: And you don't...you don't... [LB176]

TODD WEGENER: He supplies half the materials and... [LB176]

SENATOR CHAMBERS: You don't see yourself as a share grower? [LB176]

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TODD WEGENER: No, I don't. [LB176]

SENATOR CHAMBERS: Okay. That's all I have. Thank you. [LB176]

SENATOR JOHNSON: Bloomfield, then I got you. [LB176]

SENATOR BLOOMFIELD: Thank you. Who did you say you contracted with? [LB176]

TODD WEGENER: Murphy-Brown. [LB176]

SENATOR BLOOMFIELD: I'm not familiar with them. [LB176]

TODD WEGENER: Okay. [LB176]

SENATOR BLOOMFIELD: I assume that's a packaging facility in Iowa? [LB176]

TODD WEGENER: Yeah. [LB176]

SENATOR BLOOMFIELD: Okay. Thank you. [LB176]

SENATOR JOHNSON: Senator Harr. [LB176]

SENATOR HARR: Thank you. Just for the record, in Nebraska, even if there's a noncompete in the contract, I doubt it would be enforceable. I know you're from Iowa, but I don't think that noncompete would be enforceable. The pigs that you feed, are you told how much to feed them? [LB176]

TODD WEGENER: We're told to keep feed in front of them every day. [LB176]

SENATOR HARR: Well, no... [LB176]

TODD WEGENER: I mean... [LB176]

SENATOR HARR: No, and I'm not trying to be flip here,... [LB176]

TODD WEGENER: Okay. [LB176]

SENATOR HARR: ...but what I'm asking is, are you told to feed them 4 ounces of Purina pig chow? [LB176]

TODD WEGENER: No. [LB176]

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SENATOR HARR: Okay. You can feed them as much or as little as you want? [LB176]

TODD WEGENER: They supply the feed. [LB176]

SENATOR HARR: Okay. [LB176]

TODD WEGENER: And we have to keep and maintain, you know, that we have to keep the feeders full in the barns. Yes. [LB176]

SENATOR HARR: Okay. But they do provide it. [LB176]

TODD WEGENER: Yes. [LB176]

SENATOR HARR: Okay. All right. Look, I'm a city slicker. I don't know how this stuff works... [LB176]

TODD WEGENER: Okay, I...that's just fine. [LB176]

SENATOR HARR: ...and I'm just trying to figure out. So, okay, thank you very much. [LB176]

SENATOR JOHNSON: Senator Larson, then Riepe. [LB176]

SENATOR LARSON: Thank you, Senator Johnson. Thank you for coming and testifying. Senator Chambers was trying to label the sharecropping in a negative connotation. Do you feel even the concept, and I come from O'Neill, a small town and a lot of cash rent, things of that of, you know, a lot of renting of ground. Is being a sharecropper a bad thing in today's society? [LB176]

TODD WEGENER: No. [LB176]

SENATOR LARSON: All right. Thank you. [LB176]

TODD WEGENER: Uh-huh. [LB176]

SENATOR CHAMBERS: Mr. Chairman, just for the correction,... [LB176]

SENATOR JOHNSON: Yes. [LB176]

SENATOR CHAMBERS: ...I didn't try to...I don't think anything I said portrayed it in a negative light but, rather, trying to establish the nature of the relationship, because I mentioned other types of ways it could be characterized. So if you thought I was...did you think I was labeling it negatively when I asked did you know what a sharecrop...?

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[LB176]

TODD WEGENER: No. [LB176]

SENATOR CHAMBERS: Okay,... [LB176]

TODD WEGENER: No. [LB176]

SENATOR CHAMBERS: ...because that was not my intent. So I think the young whippersnapper (laughter) did not quite properly construe our conversation. [LB176]

SENATOR JOHNSON: Moving on. Senator Riepe and then Bloomfield. [LB176]

SENATOR RIEPE: Yes, sir. We appreciate very much you coming over here because it gives us some experiences how things are being applied or working out in other markets. My question would be, and this is a friendly question, is were you invited, encouraged? I mean what motivated you to come talk to us today? [LB176]

TODD WEGENER: I'm very proud to be a hog farmer in Iowa and a contract grower. [LB176]

SENATOR RIEPE: Good enough. Okay, thank you. [LB176]

SENATOR JOHNSON: Bloomfield. [LB176]

SENATOR BLOOMFIELD: When you say that the owner or the packer supplies the feed, can you tell us how he does that? Does he bring it in, in a truck and put it in the feeders? [LB176]

TODD WEGENER: They have a...yeah, they supply the truck. They haul the feed from the feed mill to the hog facility, fill the bins and then we... [LB176]

SENATOR BLOOMFIELD: And they determine the ration and everything else. [LB176]

TODD WEGENER: They determine the rations. [LB176]

SENATOR BLOOMFIELD: All...your main obligation is to make sure the feed gets from the bin to the self-feeder. [LB176]

TODD WEGENER: To the feeders, to the pigs, yeah. [LB176]

SENATOR BLOOMFIELD: Okay. Thank you. [LB176]

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SENATOR JOHNSON: Other questions? Seeing none, thank you... [LB176]

TODD WEGENER: Thank you. [LB176]

SENATOR JOHNSON: ...for coming over from Iowa. Next testifier. Welcome. [LB176]

STEVE STANTON: Welcome, Senator Johnson and fellow committee members. My name is Steve Stanton and I am with Rabo AgriFinance, an ag lender. And I'm here to testify in behalf of support of this bill and also share some observations and experiences that have occurred over 20 years of financing this industry. First of all, the lender that I work for, as well as many other lenders, view this relationship as a very positive one. It is a very competitive field to finance these buildings. We will loan many times up to 75 and 85 percent of appraised value, and we make our loans for the length of the contract, which typically runs between 10 and 15 years. We also do a very rigorous review of that contract, not only on behalf of ourselves, but on behalf of that farmer also. And I think one thing to grasp and take a hold of is that this is a very competitive industry in contract finishing in the state of Iowa. There are many integrators that are offering contracts. There are many lenders pursuing those contracts. The loan relationship is between, for instance, ourselves and the farmer/borrower, not with the integrator. We looked at the strength of the contract based on the integrator and the strength of that repayment. And in many times, those payments are made directly from that integrator for the amounts of principal and interest due monthly directly to us as a lender. Then the residual amount is paid to the farmer. So it's a very crisp, simple process. But we do spend a fair amount of time reviewing that contract and making sure that it is a win-win. Another thing I think you've heard already this afternoon is that farmers that put up one site many times put up additional sites, and they will invest between \$500 and \$1 million. And I view that very simply from the common-sense standpoint as a win-win. Many of these contracts are entered into not only with beginning farmers and their parents but also very established row crop operators that use the nutrients off those buildings on their farm ground, which helps alleviate other expenses. So the actual process of both competing for the loans and companies competing for those contracts when they mature--I think you heard Todd say that he re-upped after ten years--there are many companies out there that would solicit his business to get their pigs in those buildings. So it is competitive, it is time tested, and it's been a very sound practice. And with that, I thank you for the time this afternoon. [LB176]

SENATOR JOHNSON: Questions? Kolterman, we'll start on this side. [LB176]

SENATOR KOLTERMAN: Yeah. Thank you for coming. A couple of questions. Do you work for a small-town bank? [LB176]

STEVE STANTON: No. I work for Rabo AgriFinance, which is spread across the entire

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United States. [LB176]

SENATOR KOLTERMAN: Okay. And in a case like this you say that the integrator really doesn't have a lot to do with the producer and the packer as far as the loan. They don't collateralize the loan, do they? [LB176]

STEVE STANTON: No. The collateral for the loan which is the main...and it's a key thing for a lender to look at, is that cash flow. It's cash that pays the payments, not the liquidation of the collateral. [LB176]

SENATOR KOLTERMAN: Okay. And then my next question is typically what kind of an amortization period are you utilizing on a facility like these that we're talking about? [LB176]

STEVE STANTON: Sure. These are typically amortized over 10 to 15 years, which would be the length of the contract. Some contracts are 10 years, some are 12, some are 15. And we match that loan length up typically with the length of that contract. The payments are typically either due quarterly or monthly, and that depends on the cash flow that comes from the contract. [LB176]

SENATOR KOLTERMAN: So if...let's say that we have a young farmer that wants to build a building. You set up the loan to 12-year amortization schedule and a 12-year contract. What has your experience been after that 10 or 12 years? Is that facility outdated? Is it worn out? Does it need a lot of upgrading? Are we then going to have to turn around and invest a bunch more money back into it? Or is it then at that point when the young farmer, who is now 12 years older, has an opportunity to reap a little more profit? What's your experience with that? [LB176]

STEVE STANTON: Well, the experience has been, first of all, that ongoing maintenance, like any other facility, is necessary as well as technological upgrades that are done based upon the industry. But typically at the end of that 12 years that note would be paid in full and so then all the income...my loan would be paid so I wouldn't get...the farmer would be getting all the income. That contract is renewed, either with the first or another integrator. And there are many times when I will make loans on buildings that are 16, 17, 18 years old and loan money against them because they are still in process. They are technologically sound. And they raise pigs very, very well. And there are people who will put pigs in there. It is a very competitive business in Iowa to find pig spaces. [LB176]

SENATOR KOLTERMAN: Thank you. Then one last question. If I'm a young farmer and I want to get into this business or even a city folk, as Senator Harr over here would call them, if I'm in that situation and I came to you and I said I want to do this. It's going to cost me, what we saw earlier, maybe up to \$750,000. What kind of a down payment

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would a person need to get into a loan like that? I mean you say it's based on cash flow. But obviously you have to have some down. [LB176]

STEVE STANTON: Sure. The typical down payment is 15 to 25 percent... [LB176]

SENATOR KOLTERMAN: Okay. [LB176]

STEVE STANTON: ...based on the length of the contract. [LB176]

SENATOR KOLTERMAN: Okay. Thank you very much. [LB176]

STEVE STANTON: Thank you. [LB176]

SENATOR JOHNSON: Bloomfield is next and then Riepe and then Harr. [LB176]

SENATOR BLOOMFIELD: Thank you, Mr. Chairman. Did I understand you to say that the bank gets paid first and then the farmer gets a residual check or whatever? [LB176]

STEVE STANTON: Well, what's done is the payments, for instance, are made on the 15th and there will be two checks come out at the same time. One check would come to the direction of the lender, and the other check would go to the farmer. So they're cut at the same time. They just go different directions. [LB176]

SENATOR BLOOMFIELD: Excuse me, but they're cut at the same time but we make sure the lender gets his before the so-called owner gets theirs. Is that correct? [LB176]

STEVE STANTON: And many times that's at the request of the borrower for ease of bookkeeping so they don't have to worry about writing out a check. [LB176]

SENATOR BLOOMFIELD: Okay. What happens if the farmer passes away in the middle of one of these contracts versus what happens if the packer goes bankrupt or belly up? [LB176]

STEVE STANTON: First case, if the farmer passes away, the farmer...we still look to the farmer for responsibility of payment of the note. And in some cases, there's other farming income there. But typically if there's no other family members or anybody that wants to continue the contract, obviously the first step would be...one of the steps would be contact the contractor and see who else can be taking care of those pigs. Because the other...remember, the integrator wants to keep pigs out there and keep pigs being fed there so they have a desire also to make sure that pigs get out there and payments get made. And we've never had one go bankrupt so I can't address that area that if we've had anyone go bankrupt or default. We've never had a payment default. [LB176]

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SENATOR BLOOMFIELD: Okay. So under these contracts, if the primary signer of that, or the farmer as we call him in this, passes away, his heirs are obligated to keep growing hogs there or what? [LB176]

STEVE STANTON: Well, most contracts will address that. And it's at the point of mutual agreement...in the contract case I'm thinking of, it's mutual agreement of both parties to continue on with the contract. [LB176]

SENATOR BLOOMFIELD: Be pretty tough to do that from six feet underground. [LB176]

STEVE STANTON: Well, that's what I'm saying, if there's other people that would step in and do it. I mean what it does is people sit around the table just like they would in any other relationship or loan relationship, work it out from that reasonable standpoint. [LB176]

SENATOR BLOOMFIELD: Thank you. [LB176]

SENATOR JOHNSON: Senator Riepe. [LB176]

SENATOR RIEPE: Thank you, Senator Johnson. I was a bit entertained when you referred to manure as nutrients. That struck a chord with me. The question that I have is do you conduct...as the lender, do you conduct a legal review with your own legal staff or legal representation? [LB176]

STEVE STANTON: Yes. We review those contracts. The first time we get a contract from an integrator, it's reviewed by myself, our credit team, and our legal team. [LB176]

SENATOR RIEPE: Okay. [LB176]

STEVE STANTON: And we look for certain criteria in each contract to determine validity of the contract. [LB176]

SENATOR RIEPE: So in some ways, the producer is going to get some extra coverage there, if you will, because I assume he or she will also have his or her own attorney who review it. So you're getting kind of a couple of attorneys looking at this contract. [LB176]

STEVE STANTON: Absolutely. We're going to look at it from the standpoint of we as a lender. We're not going to give... [LB176]

SENATOR RIEPE: Sure. [LB176]

STEVE STANTON: ...borrowers legal advice from that standpoint. We always advise

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them if you have any questions go to your attorney. [LB176]

SENATOR RIEPE: Absolutely. Okay, thank you. [LB176]

STEVE STANTON: You bet. [LB176]

SENATOR JOHNSON: Senator Harr. [LB176]

SENATOR HARR: Thank you. Are these contracts...this is a follow-up to Senator Bloomfield, I'm going to start with a question. Are they transferable? Meaning, if I have a pig production and I'm in year five of my contract and I want to sell my pig production, are the contracts transferable? [LB176]

STEVE STANTON: Upon approval, the contracts that I review, they would be upon approval of the integrator to make sure that the proper husbandry and management is there. [LB176]

SENATOR HARR: And probably yourself as well. [LB176]

STEVE STANTON: Yes. [LB176]

SENATOR HARR: And is there a dollar amount attributed to those contracts? [LB176]

STEVE STANTON: Yes. That's all stated. As far as what the payments are per pig space, that's all laid out very, very early in the beginning. And if you were to come and apply to me for a loan, one of the first things I'm going to ask for is where's a copy of your contract so we can sit down and review it. [LB176]

SENATOR HARR: Okay. So if I'm in...let's say the contract says I agree to pay or that the producer will get \$100 a pig. I'm in year five of a ten-year contract. When I go to sell, I'm the producer and I go to sell that contract, what's the value you give it? [LB176]

STEVE STANTON: Well, that would be upon the value of the contract. I've never seen that contract sold as what you're describing of. And you'd have to value that contract...what it's really tied to, that building and the producer. I mean it's very specific that they're tied together. You can't sell the contract without having a facility to finish the pigs in so it dovetails together. [LB176]

SENATOR HARR: Yeah. Okay. Okay. I'm John... [LB176]

STEVE STANTON: Okay. [LB176]

SENATOR HARR: ...John Q. Pig Producer. [LB176]

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STEVE STANTON: Yes. [LB176]

SENATOR HARR: And after five years I decided, you know what...or let's make it simple. My wife doesn't like me, doesn't like living on the farm anymore. [LB176]

STEVE STANTON: Sure. [LB176]

SENATOR HARR: Okay? She wants to move into the city, I say fine, and I want to sell my production and I want to sell the contracts that go with it. What's the value that's given to those contracts? [LB176]

STEVE STANTON: It's a market value based on the marketplace out there. I mean there are individuals and producers that will contact myself or others and say, hey, if you ever see a building or anything that comes up that I could get into, let me know, tell me who to talk to. [LB176]

SENATOR HARR: So is it kind of like a bond? The value of it depends on what the... [LB176]

STEVE STANTON: Yeah. It's driven by the market, yes. [LB176]

SENATOR HARR: Okay. And is there any way for a farmer to securitize these contracts? [LB176]

STEVE STANTON: Absolutely. [LB176]

SENATOR HARR: And how do they do that? [LB176]

STEVE STANTON: We do that by an assignment of the payments. If you were to enter into a contract, we would take an assignment of those payments for the term of the loan. The other option is to take assignment of the contract, which we do not do. We just take assignment of the payment. We let the contract assignment, just like a cash rent assignment, stay in place. [LB176]

SENATOR HARR: Okay. And just one final follow-up is you're not the farmer's attorney though, right? Just like you said... [LB176]

STEVE STANTON: Absolutely. Yes. That's correct. [LB176]

SENATOR HARR: Okay, I just want to make that... [LB176]

STEVE STANTON: Thank you for recognizing that. [LB176]

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SENATOR HARR: Yeah, okay. A second pair of eyes is nice, but you're not their attorney. [LB176]

STEVE STANTON: Sure. We look at it strictly from the credit standpoint: Is that, you know, a sound practice to be doing here? [LB176]

SENATOR HARR: Right. Thank you very much. I appreciate it. [LB176]

SENATOR JOHNSON: Senator Chambers. [LB176]

SENATOR CHAMBERS: Over here the sound is not quite so good so did you say integrator or instigator? [LB176]

STEVE STANTON: Integrator. [LB176]

SENATOR CHAMBERS: Okay. And who is the integrator? [LB176]

STEVE STANTON: That's an interchangeable term I use for the company...the hog production company. [LB176]

SENATOR CHAMBERS: But it's not you ever, the lender. [LB176]

STEVE STANTON: Absolutely, no, not. [LB176]

SENATOR CHAMBERS: Okay. Now do these contracts specify a number of pigs that will be fed or a number of pounds that will be...in other words, is it poundage or number of animals? What's it based on? [LB176]

STEVE STANTON: Typically, it's always the number of animals. [LB176]

SENATOR CHAMBERS: And that's what the farmer has to agree to supply, I meant to feed for the integrator. [LB176]

STEVE STANTON: Yes. And typically how it's done, if it's a 4,400-head building it would be 4,400 times X dollars per pig per year. [LB176]

SENATOR CHAMBERS: Okay. And the market value would not have any impact on this contract once it has been signed. If it's for ten years, if the market goes up or if the market goes bust, then the payments are still made to the farmer without regard to what the market price value of those pigs would be. Is that correct? [LB176]

STEVE STANTON: That's correct. And the other factor is that farmer gets paid whether

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there are pigs in that building or not. [LB176]

SENATOR CHAMBERS: Now when you have a situation where somebody stays in this contract for the full amount of time and by that time...say that a part of the reason that the person got into the contract so certain facilities could be constructed. Is that ever part of the consideration for this contracting, that facilities will be built along the way and some of the money made available by you would go to the construction of those buildings? [LB176]

STEVE STANTON: That's correct. That's correct. [LB176]

SENATOR CHAMBERS: And by the time the...but those buildings are not the collateral because they're not there. It's the payment that the integrator is going to give to that farmer. Is that true? [LB176]

STEVE STANTON: Well, what happens, that contract for pig production does not start until pigs get placed in the building after the construction period. [LB176]

SENATOR CHAMBERS: So before the pigs are there, how is the payment made to you? [LB176]

STEVE STANTON: The farmer typically...let's say if it's a 90- or 120-day construction period, that farmer would pay me interest only monthly until the buildings are completed and in production. [LB176]

SENATOR CHAMBERS: And then the buildings become a part of the collateral? [LB176]

STEVE STANTON: The buildings are part of the collateral. The mortgage is filed before construction starts. [LB176]

SENATOR CHAMBERS: When the ten... [LB176]

STEVE STANTON: So... [LB176]

SENATOR CHAMBERS: Go ahead. [LB176]

STEVE STANTON: So the building in process and equipment is collateral prior to the production. [LB176]

SENATOR CHAMBERS: And when the contract is over, are the buildings and whatever else was contracted for, are those expected to be paid for by the end of the contract? [LB176]

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STEVE STANTON: Yes, that's correct. [LB176]

SENATOR CHAMBERS: And if another contract were entered, it would not have anything to do with construction of those buildings. So would you still rely on the payment to the farmer or would the buildings become collateral? [LB176]

STEVE STANTON: No. The buildings at that point, if ten years was done, the buildings are paid for, the loan was paid, collateral would be released. There would be no collateral or payment assignment on that contract. [LB176]

SENATOR CHAMBERS: Now when you say that the payment is made directly to you from the integrator, that doesn't indicate to me that the contract that you have with the farmer is between you and the farmer. It seems like a three-way contract to me. [LB176]

STEVE STANTON: It's a three-way payment assignment between the farmer and the integrator and myself. And it's not always done 100 percent that way. I'm just saying that's a typical way. There are some farmers that make the payment directly themselves. That's fine. [LB176]

SENATOR CHAMBERS: But without the farmer, you would not have a contract with the integrator, would you? The farmer is the pass through. [LB176]

STEVE STANTON: I do not have a contract with the integrator. [LB176]

SENATOR CHAMBERS: Right. But there is something in that paper that the farmer signs with you that draws the integrator into it so that that money goes directly from the integrator to you. That has to be a part of the contract, doesn't it? [LB176]

STEVE STANTON: No. That's not part of the original contract. This is very simple sheet of paper that's separate from the contract and it's at the request of the farmer that he's saying company A paid lender B X amount to pay my loan. It's at their request. [LB176]

SENATOR CHAMBERS: Well, you can say it's a piece of paper but it's a contract. And you can say that the farmer requests it. But isn't this something that the lender wants the farmer to do so that the lender can count on getting his or her money? [LB176]

STEVE STANTON: Sure. It's a very convenient way, absolutely. [LB176]

SENATOR CHAMBERS: And what I don't want this record to indicate is that these borrowers are free to say yea or nay. They are in pincers in effect. The lender is one part of the tong and the company or the integrator, as you call them, is the other. And when these two jaws come together, the farmer is in the middle. The thing that connects

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you to the integrator is the farmer. You wouldn't have anything to do with the integrator without the farmer. And the farmer would have nothing to do with you without the integrator. You're not looking at the farmer as being a good steward or shepherd or anything else. You're looking at the fact that this farmer is the conduit through which cash will flow from the integrator to you by virtue of your contract with the farmer. Isn't that right? [LB176]

STEVE STANTON: No. I would respectfully dispute that because there are times, many times that I finance individual producers that have no contractual relationships. There are times that I finance directly with farmers that... [LB176]

SENATOR CHAMBERS: Not to interrupt, but the kind that I'm talking about that you describe where payments come to you directly from the integrator, without that farmer involved, you would have nothing to do with that integrator, would you? [LB176]

STEVE STANTON: Well, I'd have no reason for a loan without that farmer involved. [LB176]

SENATOR CHAMBERS: So the farmer is the pass through that connects two who otherwise wouldn't be connected. Your contract isn't based on what the farmer is going to do. Your contract is based on payments that are going to come directly to you based on what the farmer does for the integrator. And I know that's not too complicated for you to understand. You're about 30 miles ahead of me right now, wondering if I'm ever going to catch up to you. So you showed me you're too smart for me to think that my little pitiful examples are challenging your knowledge or mine at all. [LB176]

STEVE STANTON: No, sir. I just think there's numerous different examples; and there are examples, whether they be a contract integration or other financing arrangements outside of livestock production, that present their own unique situations. And I shared that as an example of a system that works and has worked very well over the years. [LB176]

SENATOR CHAMBERS: Is there...you've read these contracts, haven't you... [LB176]

STEVE STANTON: Yes. [LB176]

SENATOR CHAMBERS: ...that the farmer has with the integrator? [LB176]

STEVE STANTON: Yes, sir. [LB176]

SENATOR CHAMBERS: Is there what I would call an escape clause that would allow the farmer to walk away without penalty? [LB176]

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STEVE STANTON: Typically no. It's a contract. [LB176]

SENATOR CHAMBERS: Okay. Is the farmer's relationship to that integrator a partnership or more like an employer/employee? [LB176]

STEVE STANTON: It's a contractual relationship. There is no escape clause for the farmer nor is there an escape clause for the integrator. [LB176]

SENATOR CHAMBERS: Who has the upper hand? Let me put it like this: Who is in the stronger position, the integrator or the farmer? [LB176]

STEVE STANTON: Well, I think they view it as a win-win on both sides. [LB176]

SENATOR CHAMBERS: But the negotiating stage is not between equals, is it, because the farmer has got nothing and the integrator has everything. And when he who has everything negotiates with he who has nothing, it's not a negotiation. It's a do it this way or it's not done at all. Isn't that right? [LB176]

STEVE STANTON: Well, I'll answer it this way, saying it is very competitive out there that if company A is offering certain contract payment terms, there are companies B, C, and D out there. There's not just one choice in many cases. [LB176]

SENATOR CHAMBERS: But whichever one the farmer goes with is going to be the one who sets out the way things are going to go, in my opinion, but you would disagree with that, correct? I'm not going to argue with you. [LB176]

STEVE STANTON: I would, yeah. No, I understand. I would disagree. [LB176]

SENATOR JOHNSON: Can we wrap up with one more question so we can keep moving? [LB176]

SENATOR CHAMBERS: Well, can it have 16 parts? (Laughter) No, in the interest of time, I've asked enough questions. Thank you. And I will stop. [LB176]

SENATOR JOHNSON: Thank you, I appreciate that. Okay. Any other questions? Okay. Thank you. [LB176]

STEVE STANTON: Thank you. [LB176]

SENATOR JOHNSON: We'll take one more testifier, and we'll be looking at the time when we get done so we'll treat everybody equal. And remember, between the two of you, you have three minutes. [LB176]

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TOM HUNTLEY: Okay. My name is Tom Huntley, T-o-m H-u-n-t-l-e-y. [LB176]

NATE HUNTLEY: I'm Nate Huntley, N-a-t-e H-u-n-t-l-e-y. [LB176]

TOM HUNTLEY: We are father/son. We...I myself farm and Nathan wanted to...he went to college and decided he wanted to come back to farm. I looked at contract growing back in 1988 and was going to do it and I took a different path at the time. I've watched several friends and people do it. I wish I would have done it at the time. Nathan wanted to pursue that so he could be around. So we built a 4,400-head unit and we contract pigs. You've heard all the other stuff. And I just feel it's given my family an opportunity to stay together. Nathan, you... [LB176]

NATE HUNTLEY: Yeah. I went to college and decided I wanted to come back home. I wasn't going where I wanted to go there. And so I came home and bought an acreage from a family friend of ours and got the opportunity to rent some ground. And I wasn't making enough to live off from that ground so I looked into this. And after probably a year and a half of looking into it I...while I was talking to Dad and he said, well, I'm for it if you want to because I should have. And with him I had to...with using the family farm, I had the opportunity, because I don't have the...I didn't have the capital to build. So we built one half and half. And now I can...I take care of pigs and farm, and this was my way of giving back or helping on the family side to keep growing. Some day hopefully after this building is paid for, I'll be able to grow on the farm side of it, where I want to. And we are looking into building another one soon in the future. [LB176]

SENATOR JOHNSON: Okay. [LB176]

TOM HUNTLEY: We're in north-central Iowa, I didn't say that I guess, is where we're located. [LB176]

SENATOR JOHNSON: Okay. Let me ask the first question. There's two of you. Are you in a partnership with the contract or the integrator or are you a cosigner for your son? [LB176]

TOM HUNTLEY: No, we're...we have a joint venture. There's different ways to do it,... [LB176]

SENATOR JOHNSON: Right. [LB176]

TOM HUNTLEY: ...but we have a joint venture. We're half and half on the building so. [LB176]

SENATOR JOHNSON: Okay. Questions? Senator Bloomfield. [LB176]

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SENATOR BLOOMFIELD: Thank you. Not to get too personal into your business, but can you tell us roughly how much per hog you get paid for taking care of them and how many times a year you can flip that use of that building? [LB176]

TOM HUNTLEY: I guess I don't know I can say what we get paid per head, but we do get a monthly check per head space. So we get paid for 4,400 pigs every month, no matter if we have zero pigs or 2,000 pigs or 4,400. [LB176]

SENATOR BLOOMFIELD: Okay. [LB176]

TOM HUNTLEY: And we pay the...of course, any maintenance, the electricity, all the stuff. And we also...we're not with the last gentleman. I'm with Farm Credit. We set it up to where they pay Farm Credit. It's just like having your car paid for or anything else. It's just so that I don't have to turn around and write a check. So that's... [LB176]

SENATOR BLOOMFIELD: But you don't know or you don't choose to share how much per head space you get? [LB176]

TOM HUNTLEY: I don't choose to share. [LB176]

SENATOR BLOOMFIELD: Okay. [LB176]

TOM HUNTLEY: I'm not exact. I mean I have...I can figure it out because I know what the check is a month. But I... [LB176]

SENATOR BLOOMFIELD: That's understandable. Thank you. [LB176]

SENATOR JOHNSON: Senator Kolterman. [LB176]

SENATOR KOLTERMAN: Yeah. First of all, thanks for coming all the way from Iowa. We appreciate that. My question comes to you, the younger one, and I'm sorry I'm not good with names but... [LB176]

NATE HUNTLEY: It's all right. [LB176]

SENATOR KOLTERMAN: You said that you were struggling just in the farming operation. Would you...is it a fair statement, if I heard you correctly, you probably wouldn't be doing this had you not set up a growing house? Or is it enabling you to stay in farming? [LB176]

NATE HUNTLEY: It was...well, yeah, I just looked at it as an opportunity to stay so I didn't have to go get a job in town that I didn't want. Now I can go do pig chores in the morning, go farm, go do what we need to do on the farm and then go back and do

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chores in the afternoon and not have to have a job in town. [LB176]

SENATOR KOLTERMAN: All right, thank you. Good luck. [LB176]

SENATOR JOHNSON: Questions? Senator Harr. [LB176]

SENATOR HARR: Thank you. And thanks for coming. You say you get paid whether you have 4,400 pigs or not. How often do you have less than 4,400 pigs? [LB176]

TOM HUNTLEY: Well, we have wean to finish. In other words, the pigs come in anywhere from 12 pounds on up. It takes around six months so then you have...it varies on time, but anywhere from a couple of days to a week maybe that you are washing the building out, cleaning, getting ready for the next ones. And then you get pigs in again and so... [LB176]

SENATOR HARR: And they bring 4,400 at that time, right, or closer to? [LB176]

TOM HUNTLEY: Or, yeah, or whatever they have available so. [LB176]

SENATOR HARR: And what percentage of those pigs come from Nebraska? [LB176]

TOM HUNTLEY: I can't say for sure. That's the contractor does that. [LB176]

SENATOR HARR: Okay. [LB176]

TOM HUNTLEY: I just...we just take care of them. We don't... [LB176]

SENATOR HARR: That's fine. [LB176]

TOM HUNTLEY: You know what... [LB176]

SENATOR HARR: No, that's fine, yeah. And I guess...this is a little awkward, the next question. We appreciate you coming to Nebraska, but how do you say this delicately? It seems a little strange that a person would come from their state where we say this is the better way of doing it rather than the way we do it here. You're in essence coming over and saying we want to help our competition to do it the way we do. Were you...what was your motivation for coming today? Did someone ask you? Were you paid or how did that work? [LB176]

TOM HUNTLEY: We weren't paid. We were asked if we would come to represent. We...I don't see it as competition, you know. There's just like raising...I raise cattle also. I don't see my neighbor as a competitor that he raises cattle also, you know. I mean I...we're just sharing our story. It works for us. I have many friends that it's worked for.

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We're just sharing our story... [LB176]

SENATOR HARR: Okay. [LB176]

TOM HUNTLEY: ...that I...that's it. [LB176]

SENATOR HARR: And who asked you to come? [LB176]

TOM HUNTLEY: Murphy, who we contract with. [LB176]

SENATOR HARR: Who? Sorry. [LB176]

TOM HUNTLEY: Murphy-Brown, who we contract with. [LB176]

SENATOR HARR: Okay. And in Iowa, what percentage of the farmers are contracting and what percentage are independent, if you know? [LB176]

TOM HUNTLEY: I don't know for sure. But I know most everybody I know contracts. I mean there's a few guys that are still doing some small things, but most of it's contract. It takes the risk out of it. [LB176]

SENATOR HARR: Okay. That's fair. Okay. Thank you very much. Thanks for coming, appreciate it. [LB176]

SENATOR JOHNSON: Senator Schilz, your first question. [LB176]

SENATOR SCHILZ: Thank you. And I won't...I just want to ask one. And thanks for coming in. I really appreciate everybody that came. It's been a great debate so far. When we talk about the contracts and you talk about you thought about it for a year and a half, did you explore the different opportunities that you had there and talk amongst the different contracts that were out there and different folks? How did that process work? Could you just run through that. Did you negotiate any? Was there any opportunity to look at the terms and say, hey, this works for us, can we change this, can we do that? Can you tell us a little bit about that? [LB176]

NATE HUNTLEY: Well, I think our biggest concern was looking at other companies on what our cost is going to be. Different building types have different...which...I don't know that I need to get into all that, but our cost was what we were...I mean the less that we had to pay out and they're all paying the same amount of money per head space. Who is going to...in the end, if we're going to get more money was our decision. [LB176]

SENATOR SCHILZ: So you had the opportunity to look amongst different... [LB176]

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NATE HUNTLEY: Oh, yeah. [LB176]

TOM HUNTLEY: Yeah. We looked at several of them. [LB176]

SENATOR SCHILZ: Right. Do you feel...and I'll piggyback off of Senator Chambers' question. Do you feel that you're a partner in this or do you feel more like an employee? Do you feel like you're dictated to as to what you should do or do you feel more like a partner in this? I mean, are they there every day looking down your...over your shoulder? [LB176]

NATE HUNTLEY: I, doing chores, I think it's a partnership. If I don't do my chores right, I want to grow healthy pigs. I want to try to put as many pigs out the door as I can that they brought me. And it's just kind of a, what do I say, proud. [LB176]

SENATOR SCHILZ: And then one last thing and I don't care how much and obviously it's been working. But is it profitable? [LB176]

NATE HUNTLEY: Oh, yeah. [LB176]

SENATOR SCHILZ: Thank you. [LB176]

SENATOR JOHNSON: Senator Chambers. [LB176]

SENATOR CHAMBERS: I just want to make an observation. You must have been a pretty good father for your son to want to come back home and work with you. And you must be a pretty good son to come back and want to pull your own weight. So you're a good example of that. And all the other things I will deal with these other people on. But this is something that resonates with me and I, for that reason, appreciate the two of you coming. [LB176]

TOM HUNTLEY: Thank you. [LB176]

SENATOR JOHNSON: Any other questions? If not, I think you've covered the proponents. Senator Schilz, do you want to close? [LB176]

SENATOR SCHILZ: Better take the opponents first. [LB176]

SENATOR JOHNSON: Oh, that's right. [LB176]

SENATOR SCHILZ: I'd love to, but you better have the opponents (laugh). [LB176]

SENATOR JOHNSON: (Exhibits 6, 7, 8, 9, 10) Oh, that's right. I wasn't trying to...I knew I had one more step to do here and I apologize. These are the proponents that want

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their testimony read into the record: Nebraska Chamber of Commerce and Industry, Nebraska Bankers Association, Farm Credit Services of America, Nebraska Soybean Association, and Nebraska Corn Growers. He's figuring out the time here. Let's move...okay, an hour and 35. So we will start with opponents. [LB176]

JIM PAPPAS: Mr. Chairman, committee members, my name is Jim Pappas, P-a-p-p-a-s. I'm here to oppose LB176. Give you a little background on my credibility. I am a former pig farmer. I'm a former pork All-American from Nebraska. And I'm also a former president of Nebraska Pork Producers, somewhat been a long time ago. But I basically do have a firm understanding of pork production. After listening to all this testimony on these contracts and how to keep people started in it, I was thinking to myself this sounds so great. I wished I was 21 again. I'd love to go do this, get started in pig farming again. But then I thought to myself, I can't. I couldn't go back into pork production like this with a 3,600- or 7,200-head unit unless I was back into a family that had unlimited wealth to support me so I could get a loan. You cannot go down to any bank in Nebraska or anyplace else and put 15 or 25 percent down with a contract for 10 or 12 years for production. It's not going to happen. Testimony last year that Senator Chambers pointed out, the one guy finally admitted that his father had to put up a quarter of ground for collateral. So this bill will benefit very few people in the state of Nebraska. The problem in the state of Nebraska is what's going to happen when pork production is in the hands of packers all the way across the country. There's...what is going to happen to the consumer? They'll be at whatever the packers want to charge, whatever the packers want to do with consumption and do it. Poultry is a prime example right now. When was the last time you've seen huge deviations in poultry production? You don't see high swings and lows because poultry production is all in corporate deal. They're not deal to the whims of nature, different markets, or anything else. They can control their own production because they handle all...control the complete production. And we do not have that. And another thing we don't talk about that we have to change because Nebraska's pork production has gone down over the years, it has. In 1980 there were over 20,000 hog farmers in the state of Nebraska. In 2012 there were 1,476 hog farmers in the state of Nebraska. There's reasons for that. But at the same time, in cattle production in 1980 there were 375 feedlots with over 1,000-head capacity, and under 1,000 head, just 12,525 under 1,000 head, quite a bit. In 2007, over 1,000 head jumped up to 770, almost double, and that's not corporate feeding. That's individual guys. They did it without any help from contract feeding or anything else. They did it on their own. And Nebraska went and became number one cattle producing, cattle feeding state in the nation, not through contract feeding either. They did it on their own. So why do we need it in pork production? I also contest when they talk about the outflow of feeder pigs in the state of Nebraska. There is an outflow. We are probably a net exporter of feeder pigs. But also unless things are changed, you go up in northeast Nebraska and southeast Nebraska, you'll find feeders in Nebraska importing feeder pigs from Missouri and importing pigs in northeast Nebraska from Minnesota. They're bringing them down. There's a lot of reasons what happened to pork production in the

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state of Nebraska other than we do not allow corporate feeding of pigs. And you know, over the past years the Legislature has done many, many things to help incentives to help businesses but not very many things that they did to help farming or pork production as far as it goes. Around 1990, 1992, I met with the, at that time, the board of directors of the Nebraska Pork Producers. And I talked to them, I said, one of the things you guys need to do back then is try to get the Legislature to pass incentives to get young guys started in pork production. I said, one of them you might be able to look at is get some type of elimination of property tax on new facilities, small facilities, not the mega facilities that hold 3,600 head or 7,200 head, the smaller ones to get the young guys started. And that did not happen. They did not pursue it and we didn't get it. In the meantime, we have passed incentives for property tax relief, for a lot of other businesses, things like that. But this bill is not a cure-all for pork production in Nebraska. It's going to eliminate very few people. But the bottom line is it's not going to be good for the consumer either. [LB176]

SENATOR JOHNSON: Questions? Senator Schilz. [LB176]

SENATOR SCHILZ: Yeah. Thank you, Jim, for coming in. My question to you is, can we do that with property tax? Can we abate the property tax for individuals? [LB176]

JIM PAPPAS: Yeah, you can give them for credits and stuff like that. [LB176]

SENATOR SCHILZ: Oh, you credit but you couldn't abate it. [LB176]

JIM PAPPAS: Yeah. No, you couldn't abate it, but you could give it for credit, same thing you did for business incentives... [LB176]

SENATOR SCHILZ: Right, which I... [LB176]

JIM PAPPAS: ...through LB775 all the way through there. Yeah. [LB176]

SENATOR SCHILZ: Right, which I would say that that would be something that we can sure take a look at. [LB176]

JIM PAPPAS: Yeah, should have a long time ago really, Senator. [LB176]

SENATOR SCHILZ: Yeah. Well, I wouldn't disagree with you there. But my other question then is, as the law is written today that defines a packer as a Nebraska entity that kills this many animals, is that a disincentive to keep those packers here and move them across the border, take all those jobs out of Nebraska but yet then they could feed as many pigs here in Nebraska as they want? [LB176]

JIM PAPPAS: I don't think so. I think what... [LB176]

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SENATOR SCHILZ: Have you read the law? [LB176]

JIM PAPPAS: Yeah. And I... [LB176]

SENATOR SCHILZ: What does the law say? It defines packer as a Nebraska entity, correct? [LB176]

JIM PAPPAS: Oh, yes. But I don't think that's going to harm it. [LB176]

SENATOR SCHILZ: So anybody that's outside, anything outside of Nebraska as in a company, say, like...what's the company, Triumph in Missouri, they could feed as many hogs in Nebraska as they want and kill them all in Missouri. They would be completely within the law and they could contract every single one of them here, couldn't they, today? [LB176]

JIM PAPPAS: Yeah. They're probably doing it now. [LB176]

SENATOR SCHILZ: Is that correct? Is that right? [LB176]

JIM PAPPAS: No. [LB176]

SENATOR SCHILZ: In your mind, it's not right. [LB176]

JIM PAPPAS: No. [LB176]

SENATOR SCHILZ: So the law is basically flawed as it is. [LB176]

JIM PAPPAS: Yeah. Then change the law... [LB176]

SENATOR SCHILZ: Thank you. [LB176]

JIM PAPPAS: ...to protect them. [LB176]

SENATOR SCHILZ: Who do we need to protect? [LB176]

JIM PAPPAS: The small guy. [LB176]

SENATOR SCHILZ: The small guy. [LB176]

JIM PAPPAS: And the consumer. And the consumer. [LB176]

SENATOR SCHILZ: How does this help the consumer or the small guy? [LB176]

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JIM PAPPAS: No, if you change the law protecting the consumer, so the consumer has protection. So all the industry does not fall in the hands of the corporate people. [LB176]

SENATOR SCHILZ: The corporate people? [LB176]

JIM PAPPAS: Yes, the packers. [LB176]

SENATOR SCHILZ: And how does it...and...okay. Now I have to back up. If it falls into the packers' hands or corporate, as you ask, now I owned a feedlot that was owned by a corporation, just happened that that corporation was a family-owned corporation that came in under Initiative 300. That came out and went. We had actually done some of the stuff where we were actually feeding under contract for...actually, no. The packers just don't...we didn't have a contract. They were just paying us to commercially feed them, which didn't work. [LB176]

JIM PAPPAS: And we've discussed this before. You said you did quite well when you was doing that too, yeah. [LB176]

SENATOR SCHILZ: Yeah, well, because of that though, when that left, we had to sell our feedyard to a corporation. So what I'm asking you is the corporations are there. They're going to do it. And they're going to work to do it as efficiently as possible so that they can sell that meat on the shelves as cheaply as possible. How is that bad for the consumer? [LB176]

JIM PAPPAS: It depends on who owns the packers. [LB176]

SENATOR SCHILZ: For the consumer? [LB176]

JIM PAPPAS: Who owns the packing companies. [LB176]

SENATOR SCHILZ: Okay. That's enough. Thank you. [LB176]

SENATOR JOHNSON: Senator Larson. [LB176]

SENATOR LARSON: Thank you. You talk about wanting to change the law to protect the consumer from these corporations. And so Senator Schilz said a Missouri company can feed hogs in Nebraska. Can you tell me how can Nebraska, as a state, tell another company or individual in another state that, one, they can't send their animals here or have our producers, our agricultural producers, feed their animals here? How can we ban a company or a group of individuals that may have an LLC in Missouri from sending their hogs here? [LB176]

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JIM PAPPAS: Well, one, you could try to through some livestock inspection, health inspections if you wanted to. [LB176]

SENATOR LARSON: But I meant legally how can... [LB176]

JIM PAPPAS: Well, that can be legally too. [LB176]

SENATOR LARSON: How can we... [LB176]

JIM PAPPAS: You can quarantine them. [LB176]

SENATOR LARSON: How can we ban...how can we tell? And you think it's right for us to tell people in other states we don't want to feed your pigs, whether it's an individual or group of individuals in a company? You believe that that's right? [LB176]

JIM PAPPAS: No. But I don't think this has anything to do with the bill. [LB176]

SENATOR LARSON: But you just said earlier that you do want to change the law in terms of saying that packers shouldn't be able to...if that packer is in another state that they shouldn't be able to own them. [LB176]

JIM PAPPAS: Is that the only example you have is the one from the packer from Missouri? [LB176]

SENATOR LARSON: No. I'm just saying... [LB176]

JIM PAPPAS: Okay, I was just curious. [LB176]

SENATOR LARSON: ...that it doesn't matter if it's Missouri or Iowa or Virginia. [LB176]

JIM PAPPAS: Okay. I just thought maybe that was the only one you had. (Inaudible.) [LB176]

SENATOR LARSON: It doesn't matter how many there are. [LB176]

JIM PAPPAS: Okay. [LB176]

SENATOR LARSON: You were making the point that the law should be changed to where they couldn't feed their hogs... [LB176]

JIM PAPPAS: Yeah. The question I'm addressing is whether or not this law, who it's going to benefit in the state. And it's not going...it's going to benefit very few people in the state. [LB176]

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SENATOR LARSON: Well, and going back, you know, as Senator Schilz was starting to talk to you in terms of the consumer, you realize it is...and you talk about outside interests. Who are you referring to in terms of who owns the packer? [LB176]

JIM PAPPAS: Do you know about Tyson Foods a year ago, two years ago? [LB176]

SENATOR LARSON: No, I'm asking... [LB176]

JIM PAPPAS: Okay. Excuse me. I forgot. I forgot, right. [LB176]

SENATOR LARSON: First of all, you can't...first of all, you...I think you've been on this side of things. You don't ask the questions. [LB176]

JIM PAPPAS: It's more fun over there, too, I might add. [LB176]

SENATOR LARSON: Who are you worried about? You say it depends who owns the packer. What do you...who are you referring to? [LB176]

JIM PAPPAS: Well, my big concern right now, representing Independent Cattlemen of Nebraska, if the pork production goes away of contract feeding of corporate people, the next thing is going to be beef industry. And the beef industry does not need it, and they do not feel the pork industry needs it either. [LB176]

SENATOR LARSON: And I can...but who are you scared in terms of you said to Senator Schilz it depends who owns the packer? Who are you referring to there? [LB176]

JIM PAPPAS: The company who bought...China, from China that bought out Tyson Foods. [LB176]

SENATOR LARSON: You mean when China bought Smithfield. [LB176]

JIM PAPPAS: Yeah. [LB176]

SENATOR LARSON: All right. When it comes to that, do you feel that the Chinese are trying to infiltrate the U.S. supply chain or why does it matter if... [LB176]

JIM PAPPAS: I don't really think China is investing in the packing industry and pork feeding in the United States for the benefit of Joe Moe from Podunk, Nebraska. I think they're more concerned about, one, their stockholders in China and the people in China and that's where the...their interest is going to lie in the future. In case of, you know, any surplus or shortage in the world, I think the United States consumers is going to be the

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ones that are going to pay for it. [LB176]

SENATOR LARSON: I think...I actually have a lot of knowledge on Smithfield and what happened there and the Chinese interests in the hog industry. I'm sure, since you're concerned, I'm sure you know that pork is the number one consumed meat in China. [LB176]

JIM PAPPAS: What? [LB176]

SENATOR LARSON: Pork is the number one consumed meat in China. [LB176]

JIM PAPPAS: Yeah. [LB176]

SENATOR LARSON: And I'm sure you understand the cultural significance of pork in China. [LB176]

JIM PAPPAS: Poultry is big too. [LB176]

SENATOR LARSON: That actually the Chinese symbol for pork or for family is a pig and underneath a roof. It is that culturally important to the Chinese. In the sense of...I don't think they bought Smithfield to disrupt the U.S. supply chain. They bought Smithfield because they need to boost their pork. Over 500 million pigs are processed. [LB176]

JIM PAPPAS: Senator, I did not say they bought it to disrupt the supply chain of the United States. I said it could if they had a big enough shortage there and they look after their own. [LB176]

SENATOR LARSON: But I think the bigger thing here is it doesn't matter who owns what corporation to say that the Chinese or to start to pick on the Chinese and their buying of X corporation. You know what? I could say Warren Buffett buys BNSF and opposes TransCanada's Keystone XL because it fattens his pocket, too, because of the railways. I mean we can go off on X and Y and Z all the time. And so just be careful. In closing real quick, what about JBS with beef? What are your feelings on that? [LB176]

JIM PAPPAS: Same thing, from Brazil? [LB176]

SENATOR LARSON: Yeah. [LB176]

JIM PAPPAS: Same thing. Who are they going to look out for number one? Their number one--they're going to look after themselves. [LB176]

SENATOR LARSON: All right. [LB176]

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JIM PAPPAS: You don't buy something for the betterment of the people, your consumer. You buy something for your stockholders. Of course, that again, I don't...I remember that some people I know had never been in business for themselves. [LB176]

SENATOR JOHNSON: Any other questions? Thank you, Mr. Pappas. Next opponent. [LB176]

KEVIN COOKSLEY: (Exhibit 11) Good afternoon, Senators. I am Kevin Cooksley, K-e-v-i-n C-o-o-k-s-l-e-y, from rural Broken Bow. I'm here today acting on behalf of the Nebraska State Grange as their state president in opposing LB176. I'm a fifth generation producer on a family-owned, 135-year-old-plus family farm and ranch operation in Custer County. All five generations of us have raised hogs at one time or another, including myself. Nebraska State Grange is the oldest farm organization in Nebraska and in the United States. I passed out my testimony today to you. I will just hit the highlights because a lot of points have been already covered and time is short. Stated bluntly, I find it very hard not to take this proposal today as a personal assault on our ability to survive in a free-market ag economy. I have fought fire, flood, drought, economies, and market fluctuations, as have done my forefathers. Family operations are not large enough nor powerful enough to survive the threat of packers eventually owning the marketplace and competing directly with our ability to produce for our families and our future generations. I will highlight a couple of items and reasons why I believe that this bill is a bad idea. One is in Custer County we have family-owned swine production which is flourishing. One in particular, Thomas Livestock, produced over 560,000 hogs last year. They contract with neighbor farms and ranches and farm families to produce these hogs. They also consume 8 million bushels of corn, which provides a market for the local corn growers. They've done it without the packers acting as their partner. One of the other items that was mentioned earlier today was that if we open this door to pork packers in the state where land, feed, and groundwater is plentiful, I predict the ink will not have time to dry before the beef packers will be drafting their lawsuit seeking the same rights because they have been discriminated against. What will your defense argument be, I wonder? If you realize this was a mistake and try to go back, good luck with that. You will never win. I will also point out in the cash cattle market that in the states where packers are able to own cattle that the cash market prices are almost always lower than they are in Nebraska. The United States should not have a cheap food policy that comes at the expense of my family's right to compete in a free-market economy. I do not think...I think that this bill sends the wrong signal that Nebraska is for sale to the packer. The packers are sending people over here to testify in favor of this. I, myself, have asked two hog producers of large size to come down and testify against this when they said they did not like this bill, and both of them declined to do so for fear of retribution in the marketplace. Thank you. [LB176]

SENATOR JOHNSON: Any questions of Mr. Cooksley? Senator Larson. [LB176]

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SENATOR LARSON: Can you define the free market for me? [LB176]

KEVIN COOKSLEY: The free market is to be unencumbered, at the same time be protected against unfair competition from people who have infinitely deeper pockets. [LB176]

SENATOR LARSON: That's your definition of the free market you mean, not the... [LB176]

KEVIN COOKSLEY: Well, you know, a few years ago Rabobank tried to take Farm Credit Services over. And they fought a big battle over that with the stockholders of Farm Credit Services and the people that owned Farm Credit Services said no. And I notice today, I believe, Rabobank was here supporting this. [LB176]

SENATOR LARSON: And we can get into, you know, antitrust and those things. My quick definition search of the free market is a free market is a market system on which prices for goods and services are set freely by consent between sellers and consumers in which laws and forces of supply and demand are free from any intervention by a government, price-setting monopoly, or other authority. By no means do I think does this create a price-setting monopoly. And when we talk about free from intervention of government, I think our definitions of the free market aren't on par essentially. And we can agree to disagree, but just...I just wanted to make sure for the record my definition of the free market might not be quite exactly what yours is. And so I appreciate you coming in though. Thank you. [LB176]

SENATOR JOHNSON: Other questions? Seeing none, thank you, Mr. Cooksley. [LB176]

KEVIN COOKSLEY: Thank you. [LB176]

SENATOR JOHNSON: Next opponent. If the opponents would come forward as we prepare so we don't lose time on your behalf. [LB176]

VERN JANTZEN: (Exhibit 12) Good afternoon, Mr. Chairman, members of the committee. My name is Vern Jantzen, V-e-r-n J-a-n-t-z-e-n. I am a farmer from Plymouth, Nebraska, and I thank you for the opportunity to visit with you this afternoon about LB176. When I heard this bill came up again, I remember testifying here last year in relation to a similar bill that was entitled LB942 I believe. And so I went back and looked at that testimony. It's very interesting. I would encourage those members of this committee that were not here last year to go back and look at that. And that may answer some questions that you have that don't come up at today's hearing. There were exhibits that were introduced and so forth that you may find helpful. I'm opposed to

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LB176 because it allows packers to own pigs in the state of Nebraska, and I think that's a bad idea. It allows them to own it through the mechanism of a contract. And so when you do that, that removes those pigs or puts them in a position of being a captive supply. And so Mr. Larson talked about a free market, and so I think that has an impact on the free market if those pigs are contractually obligated to arrive at a packing plant at a certain time. And with those captive supplies, you then have a means of deciding, well, I don't need to go buy pigs from somebody else. At the time that I was raising hogs, I would call up the Farmland plant in Crete and say I've got a load of pigs ready to go and the buyer would say, well, we're out of the market. The first time he told me that, I didn't even know what that meant. And so I found out later on what that meant. It meant that he had enough semis coming up from Oklahoma that he didn't need my pigs. And so I had to work around that. Eventually, it got to the point where the price was cheap enough that I said I don't think I'm adding any value to my own grain anymore. I'll just take it to Plymouth and sell it there. And so I was out of the hog business and I lost enough equity that I decided I don't think I can afford to get back into it. So I have facilities now at home that are just sitting there empty, and I think that's unfortunate. So I hope that you look at this very closely, see what the dynamics are of this kind of arrangement, what that does not only to people who have the contracts, but to people who don't. Some of the testimony mentioned shackle space and that's what I ran up into when I was raising hogs is there is a certain amount of space in a packing plant to have pigs go through. If those pigs are under contract, the packer knows where they are. He knows how many he's got. If he doesn't need any extras, he doesn't need mine as an independent grower. And so that not only has an impact on people that contract the pigs, but it has an impact on the rest of the community that does not have the opportunity to have that kind of a contract. So I'd encourage you to oppose this bill and see if we can come up with something better. Thank you. [LB176]

SENATOR JOHNSON: Thank you, Mr. Jantzen. [LB176]

VERN JANTZEN: Any questions? [LB176]

SENATOR JOHNSON: Questions? Seeing none, thank you. Next testifier. [LB176]

TED GENOWAYS: (Exhibit 13) My name is Ted Genoways, T-e-d G-e-n-o-w-a-y-s. I'm a writer and journalist from Lincoln and most recently the author of The Chain: Farm, Factory, and the Fate of Our Food. This book focuses on the Hormel Foods Corporation, which has one of its two largest plants up Highway 77 in Fremont. Because of that research, I not only know where this bill comes from but can tell you a bit about where it would lead. A little background first. In 2002, the USDA decided to experiment with placing fewer certified meat inspectors on lines in a handful of pork packing plants in order to allow those companies to speed their production--more work from each worker for the same pay, more profits for the companies. Hormel Foods got three of their cut and kill operations, all three, into that handful, including the plant in

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Fremont. In short order, Hormel increased the speed of its lines from 900 hogs per hour to 1,350. But then they had a problem. They weren't getting enough hogs to the loading docks every day. So naturally what they wanted was to be able to own their own hogs, to own their own farmland, to control the whole supply chain from seed to slaughter. So Hormel, along with Smithfield and Cargill, sued the state of Iowa, arguing that the ban on packer ownership of livestock there was discriminatory. Iowa made a devil's bargain, halting the enforcement of that ban. With packers now allowed to put up capital, the construction of hog barns jumped nearly tenfold. Proponents of this bill point to that example as proof of its potential benefits here in Nebraska. But here's the thing. Those new barns were often built under contracts as we've heard that exploitative in the extreme. Hundreds of farmers in Iowa went bankrupt as a result of them. Those who were able to stay in business often did so by cutting every input cost. They took farmland out of CRP, planted fence row to fence row with feed corn, injected the maximum amount of hog manure allowed under the law, and often more. Now the concentration of nitrate compounds and E. coli in the waterways of Iowa is so high that the Des Moines Water Works says that perhaps a quarter of the state could be without safe drinking water this spring. The vertical integration has also led to immigration issues here in Nebraska and in other states, strain on public entities like our schools, and has compromised food safety. So why is this bill back? Is it possibly because the USDA is now considering reducing inspection in pork packing plants nationwide, allowing all big pork packers to get in on Hormel's sweetheart deal? If so, I can see how this would be a good deal for Christensen Farms or Tyson Foods or Hormel. What I don't see is how this benefits Nebraska farmers or Nebraska rural communities or one single company that's headquartered in Nebraska. I urge you to reject this proposal. [LB176]

SENATOR JOHNSON: Questions for Mr. Genoways? Mr. Riepe. [LB176]

SENATOR RIEPE: Thank you, Senator Johnson. First of all, I'm very impressed and I'm influenced because of the fact that you're probably as objective as one can be. You're not in the business or trying to get into the business. And so I would simply by asking you this or opening this up maybe gives you a little more opportunity if you had some area that you didn't quite get to finish up on. [LB176]

TED GENOWAYS: I guess the number one thing that I would encourage everyone to look at is the example of what's happened to Iowa's water. There's currently a lawsuit that's been brought by Des Moines against three northwest counties in Iowa because what is described as nutrients, hog manure that's being applied and overapplied to the fields in that area on the Raccoon River and the Des Moines River watersheds, is producing so much of the nitrogen and E. coli that it's more than the Des Moines Water Works is able to remove. And if you figure that the Des Moines Water Works is almost two thirds of the way down the watershed from those entry points, it means that anybody who is pulling their water from a local municipality upstream, anyone who's

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drawing from a well or from surface water is almost certainly drinking water that is not legal under the Clean Water Act. [LB176]

SENATOR RIEPE: Thank you. [LB176]

SENATOR JOHNSON: Senator Harr and then Bloomfield. [LB176]

SENATOR HARR: Thank you, Mr. Genoways. What is your background? Where are you from originally? Let's start with that. [LB176]

TED GENOWAYS: I was born in Texas, but I consider myself a fourth generation Nebraskan. Both my parents are from Nebraska and on back. [LB176]

SENATOR HARR: Okay. And where did you go to school? [LB176]

TED GENOWAYS: I went to Nebraska Wesleyan. [LB176]

SENATOR HARR: Okay. And were you a journalism major? [LB176]

TED GENOWAYS: I was a journalism minor. I was an English major. [LB176]

SENATOR HARR: English major. And so how did you get involved with this subject matter? [LB176]

TED GENOWAYS: I originally got involved with the subject matter because my grandfather worked in a Swift packinghouse in Omaha when he was a young man and later worked in western Nebraska as a sharecropper, an arrangement that I assure you he did not find to be a noble one or one that was to his liking, and then also worked other jobs in western Nebraska to augment what he did as a sharecropper there. [LB176]

SENATOR HARR: Okay. [LB176]

TED GENOWAYS: So a family interest originally. [LB176]

SENATOR HARR: A family interest. And your book, was this part of a doctorate, master's, or how did you get involved with writing that? [LB176]

TED GENOWAYS: I primarily support myself as a magazine writer so I was writing stories about...originally wrote one story about Hormel Foods and about an outbreak among workers in their plant in Austin, Minnesota. And when I talked to workers there about what had led to this and to public health officials about what had led to it, they said that it was line speed, that it was all about trying to produce too much too fast and

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the problems were occurring up and down the supply chain. [LB176]

SENATOR HARR: And when did this outbreak occur at Hormel? [LB176]

TED GENOWAYS: It occurred in 2006 and 2007. [LB176]

SENATOR HARR: Okay. And you have a handout and I'm cheating. I went to the end... [LB176]

TED GENOWAYS: Oh. Oh, good. [LB176]

SENATOR HARR: ...and got the conclusion. It says you received a 2014 National Press Club Award for your coverage of Hormel's involvement in drafting and introduction of ag-gag laws. What's that article about? What are ag-gag laws? [LB176]

TED GENOWAYS: They are measures that aim to, in one way or another, restrain the rights of journalists, whistle-blowers, animal activists to be able to report on conditions that are going on inside of agricultural facilities, whether those are confinements or slaughter operations or anything of that sort. [LB176]

SENATOR HARR: Have you had a chance to ever review any of these contracts? [LB176]

TED GENOWAYS: I have, yes, absolutely. [LB176]

SENATOR HARR: Is there anything that in the contract where the producer, pig farmer, is prohibited from allowing journalists into their buildings? [LB176]

TED GENOWAYS: There are arrangements now that, yes, is the short answer. And, yes, there are company contracts now that if you are hiring employees for one of these meat packers and you become a contract grower there are sort of standard hiring forms that are issued for your employees. And there are several of those meat packers that now include language that requires you to disclose if you have a relationship with any of the...with an animal activist group, with a journalistic enterprise. And not doing so, depending on the state, can be...there can be a legal penalty. [LB176]

SENATOR HARR: Okay. And how common are these clauses in the contracts? [LB176]

TED GENOWAYS: I've seen three examples of them. But when you consider the number of barns that are owned by some of the large contractors, I mean that translates to quite a few producers. [LB176]

SENATOR HARR: So it's three...was it three separate producers or... [LB176]

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TED GENOWAYS: Three different companies,... [LB176]

SENATOR HARR: Companies. [LB176]

TED GENOWAYS: ...three different contracts from different companies, yeah. [LB176]

SENATOR HARR: Okay. And do you know how many companies...were these three of the larger, three of the smaller, medium? [LB176]

TED GENOWAYS: I can get you the exact contracts, and I would be glad to do so. It's the larger places that tend to do this because they have more at stake. [LB176]

SENATOR HARR: Okay. Okay. I'm trying to think if I have any follow-up. And I can't think of any right now. I appreciate you taking...do you live here in Lincoln now? [LB176]

TED GENOWAYS: I do. Yeah. [LB176]

SENATOR HARR: Okay. I appreciate you taking the time to come and testify today. Thank you. [LB176]

TED GENOWAYS: Sure. [LB176]

SENATOR JOHNSON: Senator Bloomfield, then Kolterman. [LB176]

SENATOR BLOOMFIELD: Thank you, Chair. You were talking about the contamination of the water. [LB176]

TED GENOWAYS: Yes. [LB176]

SENATOR BLOOMFIELD: What percentage of that do you think comes from the pork industry basically and what percentage of it, if any, comes from row crop? [LB176]

TED GENOWAYS: Right. Well, those things are related, of course, because what's going on is I think that in Iowa there's a great deal of regulation governing the containment pits underneath the confinement barns. There's very little oversight and regulation of that very same manure once it is applied to row crops. And that's really where the problem exists. As the question of how much of this can be traced back to the hog industry, I can tell you that when I talked to the microbiologist who is employed by the Des Moines Water Works, he said to me: Consider for a moment that there are about 3 million humans in Iowa. There are about 22 million hogs. Next consider that the average hog is producing about eight times as much waste as the average human. Now when you find things like E. coli that come from that kind of waste, what do you think the

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point source is likely to be? Is it more likely that it's an agricultural source or more likely that it's a human source? On top of that, I would just add that he said there's actually a very simple way to scientifically determine where it's come from and it's by doing a caffeine test. They don't feed hogs caffeine. Almost every human has caffeine in their system. And he recommended doing a caffeine test when they have these sorts of contamination issues in order to identify the source. And it came down from the Environmental Protection Council in Iowa and the Department of Natural Resources that they were not to do those sorts of tests. They don't want to know what the source is. [LB176]

SENATOR BLOOMFIELD: Okay. But to follow up on that, is any of that contamination, to your notion, to chemical farming instead of injecting the manure? I'm familiar with... [LB176]

TED GENOWAYS: Sure. [LB176]

SENATOR BLOOMFIELD: ...being over there when they're doing that. They put a lot of... [LB176]

TED GENOWAYS: Yeah. I mean, the thing that I can say is that there's been a nitrate contamination issue in Midwestern states and on the entire Mississippi River watershed for a number of years. The problem has spiked since the vertical integration ban was lifted in Iowa. And that's when they have seen the dramatic increase in the problem, and they have...they've brought new equipment on-line in order to remove the contaminants. And they've seen every time they buy that equipment and add additional reverse osmosis devices so that they can purify the water, the levels just keep climbing. And so what they trace it back to is the availability of manure because it is so much less expensive than commercial fertilizer would be. [LB176]

SENATOR BLOOMFIELD: Okay. We've been having an argument here in Nebraska about a Keystone pipeline because we don't want to build it through our precious aquifer. [LB176]

TED GENOWAYS: Right. [LB176]

SENATOR BLOOMFIELD: What do you think the chances are that we would endanger that aquifer with the same thing that Iowa is seeing? [LB176]

TED GENOWAYS: Yeah. Well, I'm not...I have written about Keystone XL. I'm not an aquifer expert. I don't know how hog manure passes through an aquifer system. I can say that I think it is definitely a localized issue. There's no question about it because there are any number of cases of well contamination that go on all the time in Iowa. And, you know, many of the people that I talked to as hog farmers, the point where they

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became aware of problems and began to question this sort of arrangement was when they had problems with their own wells and started to realize, you know, if this is jeopardizing my own water, what's it doing to everyone's? [LB176]

SENATOR BLOOMFIELD: Okay. Thank you. I have other questions I'd like to ask you, but I'm not going to at this time. [LB176]

TED GENOWAYS: Sure. [LB176]

SENATOR JOHNSON: Senator. [LB176]

SENATOR KOLTERMAN: I yield to Senator Riepe. He had a question. [LB176]

SENATOR JOHNSON: Okay, Riepe. [LB176]

SENATOR RIEPE: I had a quick question. You've mentioned Hormel in here several times. Have they ever come back and threatened you with...for libel and slander or? [LB176]

TED GENOWAYS: Hormel doesn't talk to me. [LB176]

SENATOR RIEPE: Okay. I was just curious. [LB176]

TED GENOWAYS: I would love it if Hormel would speak to me at all, but, no, they...I've been writing about them in various places since 2011 and they've never responded. [LB176]

SENATOR RIEPE: I thought maybe they would give you an ultimatum and try to shut you up. [LB176]

TED GENOWAYS: I would say this. I would think that if I said anything that was actionable I would have heard from them. [LB176]

SENATOR RIEPE: Thank you. [LB176]

SENATOR JOHNSON: Senator Kolterman, do you still have one? [LB176]

SENATOR KOLTERMAN: Yeah. I just...I appreciate you coming to testify today, Mr. Genoways. But pardon me, but you're a journalist. [LB176]

TED GENOWAYS: That's true. [LB176]

SENATOR KOLTERMAN: And I've always been told that don't always believe

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everything you read in the papers. [LB176]

TED GENOWAYS: I think that's true. [LB176]

SENATOR KOLTERMAN: And one of my questions is you're talking a lot about biological testing and things of that nature and how it affects the ground, the soil, the water. I don't have a problem with your opinion. On the other hand, if we're going to use that as sound research, then we ought to have a biologist or somebody here that specializes in that area. [LB176]

TED GENOWAYS: I totally agree. And this is why, you know...the resolution, as I recall, of a hearing very much like this one a year ago was that there was going to be...that there was a resolution that was introduced and there was going to be an investigation into what the potential impact of legislation like this would be. It's my understanding that that study was completed, but there has not been a report issued. [LB176]

SENATOR KOLTERMAN: And I wasn't here a year ago so I can't speak to that either. [LB176]

TED GENOWAYS: Well, I believe that Senator Schilz introduced the legislative resolution on that. So perhaps you can... [LB176]

SENATOR KOLTERMAN: I'm just asking if this is really germane to the issue that we're talking about today. [LB176]

TED GENOWAYS: What I'm saying is that I think it's incredibly germane. If what we're talking about is encouraging more hog barn construction in our state, then it seems to me that it only makes sense to look at the case study of what doing exactly that in the neighboring state shows us. And unquestionably in Iowa, there's just no question that water contamination is on that list. Now if the Legislature feels that there's a way to mitigate that problem or address that problem to head it off before it becomes a problem, then that's up to the legislators. But I don't think that we can simply discount what has happened in Iowa because it's at crisis level in Iowa at this point. [LB176]

SENATOR KOLTERMAN: But you bring up the point that there are places that that can happen in this state, and we're doing that with our zoning. We're doing that with our environmental studies. We have all kinds of hoops to jump through before you can place one of these. [LB176]

TED GENOWAYS: And in Iowa it's much the same way. Here's the thing. When Governor Branstad was elected and allowed to make appointments to the environmental protection council in Iowa, which oversees this sort of issue in the state, the people that he appointed to the environmental protection council included a former

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president of the Iowa Pork Producers Council, the person who is the president of the largest hog barn construction company in Iowa. These were the sorts of people that he appointed to that council. Also when Iowa decided that they were going to...that local people decided that they wanted to have more control over where these barns were built, the department of natural resources said, we will establish a standard that any barn that is over 1,000 animal units will have to be reviewed by the people locally. If you read the language of this bill, you'll see that it's the same case here as in Iowa that an animal unit equals five hogs. So with these units that they're talking about that are 4,400 hogs are short of that 1,000 animal unit measurement. Therefore, in a place like Estherville, Iowa, which is one of the places I wrote about, anyone who wants to build a confinement of 4,400 hogs within a mile of the town is free to do so without any sort of review from the town. And this, despite the fact that the University of Iowa has recently determined that the rate of respiratory illness for people who live within a mile of a hog confinement is roughly tripled for that of people who don't live in that same area. I think that people should have say over these sorts of projects. That's all I'm advocating. [LB176]

SENATOR KOLTERMAN: What I'm submitting to you is I believe those items are already in place in Nebraska at the present time to alleviate that problem... [LB176]

TED GENOWAYS: And I guess I would... [LB176]

SENATOR KOLTERMAN: ...through zoning and regulation. [LB176]

TED GENOWAYS: I guess I would submit to you that the way that this is currently constructed--and I agree that the measure that is currently in place is not perfect--but I think that the way that right now maintaining a separation between the packers and the growers is to the benefit of almost everyone in Nebraska. [LB176]

SENATOR KOLTERMAN: All right. Thank you. [LB176]

SENATOR JOHNSON: Senator Larson. [LB176]

SENATOR LARSON: Thank you for coming, Mr. Genoways. I heard Senator Riepe thank you for the unbiased. Would you consider yourself unbiased? [LB176]

TED GENOWAYS: I would not consider myself unbiased at this point. Because I do think that when I start to do research for a number of years and formulate a picture of what's happening, I do start to form opinions as well. [LB176]

SENATOR LARSON: And, well, and I...yeah, and I can appreciate that, that you can say that and, you know, concerning who...yeah, we can talk about that in a minute. Going back to the Iowa and the nitrates, it's great that you brought that up actually. I

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was just driving the other day and I listened to an NPR broadcast of this specific issue that you're talking about. And the NPR representative was actually...had ran a radio report a couple of weeks earlier essentially explaining what you just did explain and then was contacted by a person, I think it was at Iowa State, and walked through the actual...because the city of Des Moines is facing certain issues and whatnot with the water flows. And what they actually came back and said and the NPR essentially issued a correction and it wasn't the fact that...and for your own...and it's not so much a question as it's what they actually said...when the crops are in, the row crops, the corn, the beans, the regular row crops and they're putting the fertilizer on, the manure or whatnot, those nitrates aren't essentially being consumed, being used to their fullest consent. The issue that the state of Iowa is facing and these farmers, they're not planting cover crops in the winter to continue to use those nitrates. And that and then that dead space is when this nitrate problem is creating, whether they're using regular fertilizer or manure or anything else. And as the NPR reporter continued on, essentially saying there needs to be more education on in our farmers and our...in Iowa essentially that there are ways to alleviate this nitrate problem. And cover crops or cold weather crops, as they're said, essentially is the method. And it's not necessarily the, you know, the huge amount of manure that's coming from them or the massive amount of fertilizer that's coming that is causing the issue, but there are ways to solve the problem. And I don't think it's necessarily the manure's fault caused from the hog facilities or extra fertilizer. It's just changing agriculture in the way that agriculture does business in the nonwinter months. So I don't...I think you're right in the sense that Iowa is facing a nitrate problem. To put it on the backs of the hog facilities or even the backs of just people overfertilizing I think is wrong because I think they've recognized what the issues are and are starting to fix those issues because it's not that they're overfertilizing. Because then they're fertilizing, all the nitrates are being used. But it's just the natural nitrates that are happening after that that are flowing downstream. So just for the record, I wanted to clarify that. [LB176]

TED GENOWAYS: Yeah. And for the record, I would say that...I would invite you to look at the periods of peak contamination of Iowa's waterways. They are October and November and March through May. That's not winter cover crops. That's peak application times. [LB176]

SENATOR LARSON: As I said, there's ways and they've gone through the...and like I said, Iowa, I'm pretty sure she was from Iowa State, there are... [LB176]

TED GENOWAYS: I'm certain she was. [LB176]

SENATOR LARSON: They're running these programs to, you know, these cover crops and it is decreasing the nitrates. So I think agriculture is making good strides in terms of solving the nitrate problem in Iowa. And I'm not disputing that there isn't, but we're working on that. This is going to be a broad question. [LB176]

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TED GENOWAYS: You're not going to ask me to define what a pig is, are you? [LB176]

SENATOR LARSON: No, no, no. I'm going to ask you what is your ideal version of animal agriculture? [LB176]

TED GENOWAYS: My ideal version? My ideal version of animal agriculture would be a system where the farmers themselves, farmers and ranchers, have a great deal of say in how they run their own operations and would have the autonomy that...in running those operations and then would have access to a market that would allow them to get fair price for what they produce according to the methods that they choose. [LB176]

SENATOR LARSON: So say the autonomy to enter into a contract with whoever they want to provide the best business they can? [LB176]

TED GENOWAYS: I, you know, I think that farmers...anyone should be legally permitted to enter into bad contracts if they so choose. I also think that we as a civil society can say that we value certain things and that we want things to be balanced enough that someone is able to make those decisions of their own free choice, and not because they feel forced or coerced. [LB176]

SENATOR LARSON: So if they don't feel forced or coerced, they should be able to enter into a contract with a packer if it is best for their family. [LB176]

TED GENOWAYS: If I thought that people were entering into contracts with packers because they benefited the farmers, then I think it would be great for the farmers to do that. But I don't believe for one second that the packers want to be able to own hogs in Nebraska so that it will be a better situation for hog farmers. [LB176]

SENATOR LARSON: You personally don't believe that. [LB176]

TED GENOWAYS: I don't believe that. [LB176]

SENATOR LARSON: But that's not necessarily saying farmer X or farmer Y wouldn't believe that. Correct? So they might believe that it is in their benefit. [LB176]

TED GENOWAYS: I believe that people believe all sorts of things, yes. [LB176]

SENATOR LARSON: So in your definition of animal ag, the ability for a producer to do what he or she, you know, to move forward and grow their business might be X. So in your definition of animal ag, LB176, would give them that opportunity. [LB176]

TED GENOWAYS: I would like for people to be able to do what is in their own best

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interest. [LB176]

SENATOR LARSON: But you know what their best interest is more than they do. [LB176]

TED GENOWAYS: I certainly do not. [LB176]

SENATOR LARSON: Okay. [LB176]

TED GENOWAYS: But what I do know is that I talked to any number of contract growers who say again and again, I entered into this because I had to because I didn't see any way to keep my operation afloat without doing this. I didn't want to do it. I don't like any part of the way that this is run. And you hear that enough times, you start to think that maybe they're telling you the truth. [LB176]

SENATOR LARSON: All right. [LB176]

SENATOR JOHNSON: Can you wrap it up? [LB176]

SENATOR LARSON: Yep, one more. You mentioned Christensen Farms in your closing. [LB176]

TED GENOWAYS: I did. [LB176]

SENATOR LARSON: You didn't say it on the mike, but it's in the written copy. [LB176]

TED GENOWAYS: Yes. I know I said it. [LB176]

SENATOR LARSON: Oh, yeah. Do you believe farms such as Christensen Farms, or of that size and that magnitude, do you think they should be allowed or should they be able to be a business in themselves, a farm or operation of that magnitude regarding how many acres they farm--obviously is big, how many pigs they have? Should the state regulate how big something of the nature of Christensen Farms should be? [LB176]

TED GENOWAYS: I think it's more complicated than that. I think that the issue is really...I mean, if we're going to try and tackle a problem at that level, I would say that there are questions of environmental impact, of animal welfare, of worker safety, of food safety, and all those things should be considered. [LB176]

SENATOR LARSON: You're not answering my question in the sense of... [LB176]

TED GENOWAYS: Do I think the Christensen Farms... [LB176]

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SENATOR LARSON: Or people or... [LB176]

TED GENOWAYS: ...does any of those things? They do not. They don't. [LB176]

SENATOR LARSON: ...or farms of that magnitude. [LB176]

TED GENOWAYS: I think they could but they don't. [LB176]

SENATOR LARSON: So should they be allowed? Should farms of that magnitude and that size or production...operations of that size and magnitude, should...are those good for the economy? Are those good for Holt County or are they bad for Holt County? [LB176]

TED GENOWAYS: Well, I... [LB176]

SENATOR LARSON: Should they be allowed? [LB176]

TED GENOWAYS: Again, I guess my question is whether we're asking the question... [LB176]

SENATOR LARSON: In your opinion. I'm asking it in your opinion because we got your opinion on other stuff. [LB176]

TED GENOWAYS: Uh-huh. [LB176]

SENATOR LARSON: In your opinion, is Christensen...should a producer and a farm such as Christensen's, because they're big and we both know how large they are... [LB176]

TED GENOWAYS: They are very big. [LB176]

SENATOR LARSON: ...and I have a couple of very big producers in Holt County... [LB176]

TED GENOWAYS: I know you do. [LB176]

SENATOR LARSON: Are they...you know, in your ideal personal, should they be allowed? You know, the I-300 wouldn't allow a Christensen Farms. I-300 wouldn't allow Scribner Grain. Should they be allowed in your ideal vision of animal ag? And this is in your opinion, not looking at these questions. [LB176]

TED GENOWAYS: In my ideal version of animal agriculture, things would not be done

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the way that Christensen Farms does things. [LB176]

SENATOR LARSON: Thank you. [LB176]

SENATOR JOHNSON: Any other questions? If not, thank you, Mr. Genoways. [LB176]

TED GENOWAYS: Thank you. [LB176]

TRACI BRUCKNER: (Exhibit 14) Good afternoon, Chairman Johnson and members of the Ag Committee. My name is Traci Bruckner. Thank you for the opportunity to testify today. You can spell my name T-r-a-c-i B-r-u-c-k-n-e-r. And I'm testifying on behalf of the Center for Rural Affairs in opposition to LB176. Increasing packer ownership of hogs relegates smaller family farm producers 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. Packer ownership and the shift to total confinement production is a threat to the development of alternative pork production and marketing systems, such as Niman Ranch. And those alternative systems, including direct marketing, hold some of the best hopes for a new generation of family hog producers to get their start. Banning packers from owning livestock is the last protection we have to preserve what is left of independent livestock producers in Nebraska. I-300 is no longer the law of the land but that is not because the people made the decision to undo I-300. The courts made that decision. LB176 would further undermine what the courts have already taken from us. In addition, the change in LB176 from what was introduced last year in a very similar bill, LB942, whereby the prohibition of packer ownership for hogs is lifted if they are raised through contract agreements, is nothing more than a red herring. Packers are not interested in raising the hogs and owning the buildings or livestock operations. But they are interested in owning the hogs, and that is where the opportunity lies. Moreover, raising hogs on contract for a meat packing corporation is fraught with a different kind of risk than owning hogs. Vertical integrators hold all the economic power in contractual relationships with growers. Integrators reserve the right to and often use any excusable available reason to cancel contracts, leaving growers with the economic burden of debt-financed confinement buildings and other portions of their operation. In fact, integrators are protected by federal law that allows them to retaliate against growers that join grower associations or share information about their contracts with others, including their spouse, their Representative or Senators in Congress, their state senator or even their attorney. We've seen this play out and become rampant within the poultry sector. The 2012 census of agriculture, which is the most recent available, shows a striking difference between Nebraska and Iowa. Nebraska has the intact prohibition of packer ownership. At that time, 78 percent of hogs marketed in Nebraska were through independent family farms. In Iowa, however--got to find my number here--43 percent of hogs were marketed through independent family farms. So our ban against packer

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ownership of livestock is working to preserve family farmers in Nebraska. The legislation is unnecessary. It's not about helping family farmers, jobs, or rebuilding rural communities. In truth, this bill will result in fewer farmers, declining rural populations, and shrinking small town economic opportunities. In a world where packers own all the livestock, what opportunity is there for independent farmers and ranchers? We request that you indefinitely postpone LB176. [LB176]

SENATOR JOHNSON: Any questions? Senator Schilz. [LB176]

SENATOR SCHILZ: Thank you. Ms. Bruckner, thank you for coming in today. And you mentioned Niman Ranch. And Niman Ranch is an entity that I have some familiarity with. And they...when they contract, and they contract with people, correct? [LB176]

TRACI BRUCKNER: The farmers own the hogs clear up and... [LB176]

SENATOR SCHILZ: Right. But they contract with people, don't they? [LB176]

TRACI BRUCKNER: They...I do not know if they do. They don't own the hogs. [LB176]

SENATOR SCHILZ: Okay. Let me ask you this. Let me ask you this. Do they... [LB176]

TRACI BRUCKNER: They may contract, but they do not own the hogs. [LB176]

SENATOR SCHILZ: Thank you. Do they have protocols that those farmers have to follow? [LB176]

TRACI BRUCKNER: Yes. They have... [LB176]

SENATOR SCHILZ: Are those...okay, thank you. Are those protocols expected to be followed by those farmers? [LB176]

TRACI BRUCKNER: Yes. [LB176]

SENATOR SCHILZ: Are those hogs destined to go to that Niman Ranch in the end? They're not...they are expected to go to Niman Ranch. Correct? [LB176]

TRACI BRUCKNER: That is their market opportunity, but they are not...that is the market opportunity those farmers have chosen, but that is not...that does not mean that they have to go to Niman Ranch. They have the ability to sell those hogs on the open cash market should they choose. [LB176]

SENATOR SCHILZ: So when they set up a...so when they call up Niman Ranch and they say, hey, I've got this pen of hogs or whatever that I want to sell to you, Niman

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Ranch puts them down or not? They don't plan on those hogs or they do to come to their slaughter facility? [LB176]

TRACI BRUCKNER: The way I understand how Niman Ranch works is they have a... [LB176]

SENATOR SCHILZ: They work on shackle space as well, don't they? [LB176]

TRACI BRUCKNER: They have certain meat packers that they work with, small scale meat packers that they work with. [LB176]

SENATOR SCHILZ: Right. But they expect those hogs to be there in the end. [LB176]

TRACI BRUCKNER: Well, they expect those hogs to be there, but they're not bound. [LB176]

SENATOR SCHILZ: They're not bound? [LB176]

TRACI BRUCKNER: They're not bound as far as I understand. [LB176]

SENATOR SCHILZ: Really, in the end? [LB176]

TRACI BRUCKNER: And if I'm incorrect, I will certainly get that information... [LB176]

SENATOR SCHILZ: Okay. Well, I appreciate that because... [LB176]

TRACI BRUCKNER: ...because my brother-in-law actually raises hogs for Niman Ranch. [LB176]

SENATOR SCHILZ: Well, I understand. [LB176]

TRACI BRUCKNER: And he has found it to be a very fruitful opportunity. [LB176]

SENATOR SCHILZ: Oh, I'm not saying it's not. What I'm saying is...and I've done the same with cattle for Coleman Natural meats. And those cattle are expected to go to Coleman. If they're not, I have to make sure that they know that they're not going there, and I...but the whole pen is expected. Now if I have some that get sick or something like that, there's a certain percentage that go outside of that. But those cattle are, in a sense, indirectly controlled by Niman Ranch. Because you don't... [LB176]

TRACI BRUCKNER: Not in the same manner as packer ownership would control. [LB176]

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SENATOR SCHILZ: Indirectly. You understand there's a word called "indirect ownership" in the law, correct? [LB176]

TRACI BRUCKNER: Yes, I do understand that. [LB176]

SENATOR SCHILZ: Do you know what indirect means? [LB176]

TRACI BRUCKNER: It means that they have a contractual relationship,... [LB176]

SENATOR SCHILZ: No, it doesn't. [LB176]

TRACI BRUCKNER: ...but it's not the same as if the packers own the hogs. [LB176]

SENATOR SCHILZ: Well, does Niman Ranch have a contract? [LB176]

TRACI BRUCKNER: I do not know how those contracts work exactly. [LB176]

SENATOR SCHILZ: Niman Ranch... [LB176]

TRACI BRUCKNER: But I would be happy to have my brother-in-law give you a call. [LB176]

SENATOR SCHILZ: Well, that would be great, but I think I can tell you right now because we've seen the contract. Niman Ranch has a contract. And when you sign up for that, they expect those hogs or whatever they're killing to be there. And that's... [LB176]

TRACI BRUCKNER: Have you seen the contracts from other packers? [LB176]

SENATOR SCHILZ: Yes. [LB176]

TRACI BRUCKNER: Have you seen the contracts from poultry integrators? At least Niman Ranch... [LB176]

SENATOR SCHILZ: Ma'am, excuse me. I'm here, I ask the questions. I don't mean to be rude. I don't, and I apologize. My question is, excuse me, ma'am, my question is there are other packers out there that do the same thing, but because they fall under the numbers, the 700 and...or the 150,000 animal units per year, they are allowed to do this every day in Nebraska. And that...and this...let me ask you this question. Because they're under that level is that okay, in your mind? [LB176]

TRACI BRUCKNER: To me it's not about the level. It's about who maintains the ownership. The ownership... [LB176]

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SENATOR SCHILZ: Okay. [LB176]

TRACI BRUCKNER: ...the opportunity is in owning the productive asset. [LB176]

SENATOR SCHILZ: Right. [LB176]

TRACI BRUCKNER: Farmers who farm with Niman Ranch or sell their hogs through Niman Ranch, it is a network. It is not where the Niman Ranch company owns the hogs. [LB176]

SENATOR SCHILZ: Right, but... [LB176]

TRACI BRUCKNER: And they also guarantee a premium price. The packers are interested in doing this to maximize their profits and, you know, produce that hog at the lowest economic cost possible. Under Niman Ranch, this has been the best opportunity for beginning farmers. And we grew...we grew beginning farmers in this state in the last census, in the 2012 census, by about 2,000... [LB176]

SENATOR SCHILZ: Right. [LB176]

TRACI BRUCKNER: ...in the young and first-five-years category, and those are in the small scale size. So that's where the opportunity has been in Nebraska. And those hogs that are raised under Niman Ranch, they're not owned by Niman Ranch. They're owned by the farmer throughout the production process. [LB176]

SENATOR SCHILZ: Right. So at any time they could take all those hogs that they have and turn them in a different direction and move forward with no penalty. [LB176]

TRACI BRUCKNER: I don't believe that they are under a strict contract obligation... [LB176]

SENATOR SCHILZ: Okay. [LB176]

TRACI BRUCKNER: ...in the sense where like if you have a grain contract and you don't deliver the grain, you're liable for that production amount. [LB176]

SENATOR SCHILZ: Okay. [LB176]

TRACI BRUCKNER: I don't believe they operate in that way. [LB176]

SENATOR SCHILZ: I appreciate that. So my question is, though, under the law as it is today, there could be a packer out there that could have a production contract as long

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as they didn't...as long as they didn't slaughter over 150,000 animal units per year. You understand that, correct? [LB176]

TRACI BRUCKNER: I'm not aware of that. [LB176]

SENATOR SCHILZ: In the law today, that's the case. This law that we're trying to change has that in there right now. So production contracts are legal in the state of Nebraska in a couple instances. One is if you're below the threshold of the number of head, and the second one is if you're a packer that resides outside of the state of Nebraska. So there's two ways that you could actually have contracts here in Nebraska. Is that...do you... [LB176]

TRACI BRUCKNER: Well, thanks. Thank you for informing me of that. [LB176]

SENATOR SCHILZ: Yeah, but do you agree with that? [LB176]

TRACI BRUCKNER: I agree that I think the opportunity is with owning the hogs, owning the productive asset, and I believe in this state that family farmers should be the ones who own the hogs and not the packers. [LB176]

SENATOR SCHILZ: I agree. I don't necessarily disagree with you at all. And if this law would pass, all farmers would have that same opportunity to do that. [LB176]

TRACI BRUCKNER: No, they would not. This is about shackle space. [LB176]

SENATOR SCHILZ: And how can you...excuse me. How can you say that a farmer couldn't go buy hogs? [LB176]

TRACI BRUCKNER: This, this is about shackle space. When you have that captive supply... [LB176]

SENATOR SCHILZ: Ma'am. [LB176]

TRACI BRUCKNER: ...from packers. [LB176]

SENATOR SCHILZ: You just told me that Niman Ranch is out there ready to do business. [LB176]

TRACI BRUCKNER: But the farmers own those hogs. [LB176]

SENATOR SCHILZ: Which they would be able to do tomorrow if this bill passes. [LB176]

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TRACI BRUCKNER: That's fine. But when you...what I'm trying to say, is it the best opportunity for beginning farmers? This bill has been touted as the opportunity for beginning farmers to allow them to work in contractual relationships with packers. We do not believe this is the best opportunity for beginning farmers. It puts them at the whim of a packer who wants to cancel their contract whenever they feel that desire. We believe that the opportunity... [LB176]

SENATOR SCHILZ: That's your opinion, correct? [LB176]

TRACI BRUCKNER: That's our opinion and that's what we have seen happen, play out, over and over again in the poultry industry that's fully integrated. [LB176]

SENATOR SCHILZ: And where has that occurred in Nebraska? [LB176]

TRACI BRUCKNER: There are plenty of stories... [LB176]

SENATOR SCHILZ: And how long ago did that occur? Was that here recently? [LB176]

TRACI BRUCKNER: I'm not saying that this has occurred in Nebraska. I'm saying this has occurred in southern states where the poultry industry is... [LB176]

SENATOR SCHILZ: Has that happened within...and I don't mean to...I want to keep going so I can get the...has that happened within the last 20 years? [LB176]

TRACI BRUCKNER: Yes. [LB176]

SENATOR SCHILZ: In the south... [LB176]

TRACI BRUCKNER: Yes, there are documented cases of people who are raising poultry under contract. They've been retaliated against. They have been single-handedly targeted because they spoke out about the bad terms of their contracts. [LB176]

SENATOR SCHILZ: I would...I appreciate it and I would so much appreciate it if you would give me the information, because I don't want to be wrong either. So if you've got some of that information, I'd like to see it. [LB176]

TRACI BRUCKNER: I will be happy to e-mail that to you. [LB176]

SENATOR SCHILZ: Okay. Thank you. Appreciate it. [LB176]

SENATOR JOHNSON: Other questions? None? Thank you. [LB176]

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DON GOEBEL: (Exhibit 15) Senators, I'm Don Goebel from Fairbury, D-o-n G-o-e-... [LB176]

SENATOR JOHNSON: Could you speak up a little bit to the mike? [LB176]

DON GOEBEL: D-o-n G-o-e-b-e-l from Fairbury. I just noticed from Greg Ibach's testimony and a couple of others that they had a real problem with shipping feeder pigs outside the state to be finished and then have to ship them back in to be processed. He said this is a real big inefficiency that must be corrected. And I think, well, you know, if that's the case and since there's a lot of interest in trying to upgrade finish facilities on the packers' behalf so they can go ahead and have this here, I'm thinking I think we should think in terms of upgrading a facility somehow for the hog farmers' behalf and let them sell it to the packers. Instead of sending them outside to be finished, we can finish them in the state where we can retain ownership this way. I mean if we have some attention on that, we can still maintain distribution of ownership between the packer and the finisher, and we can have market access between Smithfield and JBS (J.B. Swift). They can have an alternative to ship them to, say, either one or others if they want to, and we can maintain price discovery and we can maintain a market for finished hogs and we can still produce them in the state. So that's all I wanted to say basically, so. [LB176]

SENATOR JOHNSON: Okay. Anybody have questions of Don? [LB176]

DON GOEBEL: So that way we could actually maybe even get to the point where we could have some leverage on the packer from the finisher. We could, you know, we would not get into a position where we'd have a bunch of hired hands out here calling themselves hog producers. So... [LB176]

SENATOR JOHNSON: Okay. [LB176]

DON GOEBEL: ...I'm...yeah, I hope you table this bill, is what I'm saying. [LB176]

SENATOR JOHNSON: Thank you for your...thanks for coming in. Thanks for your testimony. [LB176]

DON GOEBEL: Okay. [LB176]

JOHN HANSEN: (Exhibit 16) Mr. 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 president of Nebraska Farmers Union and appear before you today as my organization's president and also our lobbyist. I have been before this committee I believe for well over 35 years on this same topic. We have covered a lot of the same ground. There's, to my point of view, a lot of this goes back to the fundamental issues that have been in conflict for

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going back to when Farmers Union started doing corporate farming bills in 1968, and that is that we have tried to protect our traditional system of independent family farmer, owner-operator agriculture, because we believe that that is the way that you maximize the economic development benefits to the community. It's the most responsible way environmentally. It's the best for the animals. It's the most consistent production structure, all things considered. And it's that individual initiative and it's that system that has been the envy of the rest of the world. And that is in conflict with an effort to transform that system into the vertically integrated, industrialized, corporate top-down managed and controlled system; that meat packers have been at the back of that effort in our efforts all these years of fighting all corporate farming restrictions. They have wanted...they do not want a competitive marketing system that actually does price discovery and allocates value. They want a low-cost, raw material procurement system. So those two...those fundamentals of those two different kinds of systems have been in play all of these years and so all of these arguments are more than familiar to me as the discussions proceed. But I have handed out to the committee, I admit that I used to do research for a living and so as I've been researching this topic I researched a bunch of the ownership issues that we have raised that do impact this issue in Nebraska, and that is the roll of state capitalism as it pertains to the ownership structure of Smithfield. This Chinese company is joined at the hip with the Chinese government. It does what the Chinese government wants. Their buyout of Smithfield was a part of their Communist Party and government strategy that was put in play to...over a five-year plan to help secure their national food security needs. It's also a part, and one of the articles that I distributed made it fairly clear that when they get done biting this off that they will also be looking at the rest of the food sector...of the pork sector. So these are very ambitious folks. You know that they're ambitious when they can pay 30 percent over the market price for an operation the size of Smithfield and arrange a loan of \$7.1 billion magnitude in less than 24 hours. That tells you the unfairness of the competition relative to other players. So with that, I see the red light is on. I'll be glad to end my testimony and answer any questions that I might be able to do so for the committee today. [LB176]

SENATOR JOHNSON: Thank you. Questions for Hansen? I guess not. Thank you. [LB176]

JOHN HANSEN: Thank you. [LB176]

ROBERT BERNT: Mr. Chairman, board, I appreciate you giving me the opportunity to come here and speak to you about LB176, in opposition. My name is Robert Bernt from Spalding, Nebraska. I live in Wheeler County and I operate in Wheeler and Greeley County. I'm representing myself, my family, and also four of my brothers-in-law and father-in-law who live in Holt County and farm and ranch there. We all oppose LB176 based on what it will do to the youth. We have very...I have 12 children. They have a large family. We're all concerned about what will happen to the future generations of the farmers and how it will control them. For instance, let's focus on the 30 percent of these

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hogs that are not under contractual contracts currently that are being sold. That 30 percent is also representing the largest number of producers out there. If we do not have an opportunity for them to be able to sell these hogs, we'll lose the largest number of producers out there currently. Secondly, with our youth program in the state of Nebraska, we focus on 4-H. All of our 93 counties have hog shows every summer through the months of July, August, September. At the end of that show--and I was a superintendent of Wheeler County--these hogs today currently go to the local livestock market where they're sold. With this in place, that's going to eliminate that program. These hogs will not be sold through that sale barn and there's not contractors that will buy a pen of three hogs. That concerns me, in the future, what could happen there. The second thing is let's talk about the sale barns. I've got four sale barns that do purchase these hogs on a weekly basis around me. If we were to stop this and remove them contractors from that, from their being able to do this or not wanting to do this, we're going to end up affecting families that work at that sale barn. Ranchers and farmers in rural America, rural Nebraska that need that job weekly, they won't be there. It's going to affect that sale barn owner. I know a lot of people have covered a lot of things and I'm trying not to double up. And the other thing is, I recently had, as a producer myself since 1972--and I've owned hogs every year since--I recently had two young individuals come to me, wanting to purchase gilts. This encourages me. You know, if we allow this to happen, it's not going to benefit them a bit to actually purchase those gilts and to produce livestock. I've been able to bring home two of my children, their spouses, and their children to my operation to help with what we do. Concerning the problem with contamination, recently Iowa has been...has had problems with surface water contamination due to runoff from hog units. I have a small stream and a lake by me, Clear Creek running into Pibel Lake. Used to be a state recreation area, now owned by the NRD. They took a sample. Three major hog units up the river from Bartlett, Nebraska, south. Our stream and our lake has high levels of E. coli, which they say can never be removed now, and nitrates. And this does concern me. So for research and statistics, that was done by the NRD in their samples, and that really does worry us and what's going to happen there. Nebraska has improved in the number of farmers in this state. The last statistic says we increased our farm numbers, farmers numbers. Thank you. [LB176]

SENATOR JOHNSON: Any questions? Seeing none, thank you, Mr. Bernt. Welcome. [LB176]

RON MEYER: (Exhibit 17) Senator Johnson and members of the Agriculture Committee, my name is Ron Meyer, R-o-n M-e-y-e-r. I'm a fourth-generation farmer from Nuckolls County. My experience is over 40 years with a cow-calf operation with diversified crops. I retired a year ago, sold my cow heard to my nephew, and now have moved to an acreage near Lincoln here. But I testify in opposition to LB176. I lived in a county that in 1990 had three hog buying stations and several hundred independent hog producers. Today we have no hog buying stations and, as far as I can tell, there's only

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four hog producers in the whole county. The free and competitive market structure is gone. The trend is toward large, contract producers who grow animals that have to conform to processor demands and terms. This trend has not been conducive to sustaining rural communities or to protecting the environment. LB176 opens the door to give more control of the pork industry to the processors that consists mainly of four companies. These companies are now coming under the control of foreign companies and with the help of the foreign government. The poultry industry has already taken this path and I am convinced that the beef industry will be next. I know in the 1970s people thought the hog industry would never go down the path of corporate ownership, and so...and now today we're at that point and there's no reason for me to believe that the beef industry is targeted next. I urge you not to advance this bill and I thank you for this opportunity to testify. [LB176]

SENATOR JOHNSON: Questions? Seeing none. [LB176]

RON MEYER: Thank you. [LB176]

KEN WINSTON: Good afternoon, Chairman Johnson, members of the Agriculture Committee. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska Chapter of the Sierra Club in opposition to LB176. We look at LB176 as legislation that's going the wrong direction for Nebraska. And one of the things that I was struck by, was looking at unemployment statistics last night, and Nebraska has one of the lowest unemployment rates in the country at 2.9 percent, which is...well, it's incredibly low by most national and worldwide standards. And Iowa is not doing badly, but their unemployment rate is higher than ours at 4.1 percent. So one of the other things that I've observed and I guess is one of those things that you observe more as you get a little older, is that Nebraska did fairly well during the recent recession and one of the reasons it did well is because of the fact that our agricultural economy was strong. And so this is one of these situations where it appears that we're trying to solve a problem that doesn't exist; that actually our agricultural economy is doing very well and that farmers are doing well in Nebraska and that Nebraska would not have the economic strength that it did, that it does if our agricultural economy wasn't doing well. But there's a couple things that we are concerned about. One is the continued depopulation of rural areas, and a lot of that is due to the fact that agricultural operations continue to get larger and larger, and also the growth of income inequality. And LB176, by providing an opportunity for corporate ownership of the assets of production, appears to facilitate those things. And so I guess just to follow up on a couple of other things, local ownership and local control are fundamental pillars of the Nebraska way of life and we're used to having...we like to do things on a local level. And somebody who owns their own...who owns what they use and produce just seems to be one of the fundamentals of our way of life, as I said. So we're concerned in the same way that we're concerned...that a lot of people have concerns about the federal government telling us what to do, we have concerns about corporate entities telling local

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farmers what to do. And then as Mr. Genoways indicated, there are a lot of instances of...there were...Iowa was touted as an example that we should follow, but there's many instances, and I have a whole page load of...a whole page of references to environmental violations related to untreated manure getting into water bodies, and it's a large concern. So just to end, we believe that Nebraska needs policies that promote family farmers who take care of the land because it takes care of them, not policies that promote multinational corporations. Thank you. [LB176]

SENATOR JOHNSON: Thank you, Mr. Winston. Questions? Senator Bloomfield. [LB176]

SENATOR BLOOMFIELD: Thank you. It's my understanding from testimony that we've heard that in the case of this contamination, the farmer himself is liable and not the packer as the owner. Is that how you understand it also? [LB176]

KEN WINSTON: I don't know how it works in the state of Iowa, so I would hesitate to...I don't know who would be liable, probably the farmer. [LB176]

SENATOR BLOOMFIELD: Okay. Thank you. [LB176]

SENATOR JOHNSON: Any other questions? Senator Larson. [LB176]

SENATOR LARSON: Thank you, Mr. Winston. And your analogy to the unemployment rate was inventive. Opponents of gambling in Nebraska point towards divorce, bankruptcy, and STD rates as reasons, you know, higher rates would happen if we legalize gaming. But when you compare to Iowa rates, Nebraska has higher rates of divorces, bankruptcy, and STDs. So do you think if we legalize gaming that our divorce, bankruptcy, and STD rates will go down too? [LB176]

KEN WINSTON: Well, Senator, I'm not sure how this is relevant to this bill, so. [LB176]

SENATOR LARSON: It's relevant in the sense that just because they have lower unemployment than we...or a higher unemployment than we do right now, it's not because they have corporate farming or corporate ownership of hogs. There's a lot of things that go into it. And so, as I said, using that as a reason why is inventive, to say the least. [LB176]

KEN WINSTON: Thank you, Senator. [LB176]

SENATOR LARSON: And that's (laugh) and that's what I was saying in the sense of the opponents of gaming say that...try to use the same type of statistics that just don't quite match up. [LB176]

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KEN WINSTON: Well, I appreciate the compliment, Senator. Well,... [LB176]

SENATOR LARSON: But that's...but I appreciate you coming in and thanks for testifying, Mr. Winston. [LB176]

KEN WINSTON: Yeah. Well, and just to respond briefly to your point, I guess my point was that we do have one of the lowest unemployment rates in the nation. We have one of the strongest agricultural economies in the nation. [LB176]

SENATOR LARSON: Yeah, I got it. I understood what your point was. [LB176]

KEN WINSTON: Okay. All right. Okay. And that we don't necessarily need to emulate Iowa, thank you, in that regard. [LB176]

SENATOR JOHNSON: Any other questions? [LB176]

KEN WINSTON: Thank you, Senator. [LB176]

SENATOR JOHNSON: No. Thank you, Mr. Winston. Next testifier. Have about 12 minutes left. [LB176]

BEN GOTSCHALL: (Exhibit 18) Thank you, Chairman Johnson and members of the Agriculture Committee. My name is Ben Gotschall, that's B-e-n G-o-t-s-c-h-a-l-l, and I raise dairy cattle in Raymond, Nebraska, where I also market my family's organic, humane-certified, grass-fed beef that my dad and my brother raise on our ranch in Holt County. I oppose LB176 because I oppose the packer ownership of all livestock, not just hogs. I believe passage of LB176 opens the door to packer ownership of beef, which would be devastating to the independent cattle ranchers of Nebraska, like myself and my family. When a Chinese corporation purchased Smithfield at about the same time as then-Governor Heineman was touring China and talking about international agricultural trade, I knew we would see another incarnation of last year's LB942, and here it is. We don't allow foreign corporations to own farmland in Nebraska, and we should not allow them to own livestock either. Packer ownership of livestock eliminates many components of a functioning ag economy, including transparency, fairness, competition, and price discovery. Farmers should not have to have a corporate contract in order to participate and compete in the marketplace, and farmers who do not have a corporate contract should not be competing against corporations who, in that scenario, have resources that allow them to exploit the system to their advantage, to the detriment of independent family farmers. I've seen firsthand the problems with the chicken industry in North Carolina, where I used to live for a time. People in Iowa, who can't drink their water due to pollution from hog waste, are now seeing the impact of unchecked corporate agricultural growth in their state. We do not want to see those same problems come to Nebraska. Our state was built on the tradition of family farm and ranch

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agriculture by farmers and ranchers who grew crops and raised livestock that they were proud to sell to their neighbors and put on their own tables. I, for one, do not want to eat the rotten pork sandwich that would be LB176, were it to be passed into law. I urge you to vote no on LB176 and kill it in this committee. Thank you. [LB176]

SENATOR JOHNSON: Thank you. Any questions? Seeing none, thank you, Mr. Gotschall. [LB176]

BEN GOTSCHALL: Thank you. [LB176]

JIM KNOPIK: (Exhibit 19) Good afternoon, Senator Johnson and members of the Ag Committee. My name is Jim Knopik, J-i-m K-n-o-p-i-k. I am a farmer in Nance County and I come, as you can see by my testimony, my written testimony, I was pretty discouraged with this bill coming into play today. After hearing a lot of the testimony, I just wanted to make it known that there's a lot of other things that the packers would own besides just pork. I believe the packers own people now too. You know, that's a way to control them. If we would look at all the packinghouses that's been closed throughout the state of Nebraska and see how they have taken away the competition and put the risk on the farmers and the producers to get the livestock to their facilities at a certain time, at a certain weight and everything, that's actually controlling the people more than it is benefiting them. Another thing that I've noticed in the past several years is the packinghouses. Like I said, they buy out other packinghouses. And at first, we think it's going to be more competition in our state and, you know, they say they're going to promote more jobs, but they end up closing those packinghouses and consolidating them someplace else. I believe that J.B. Swift now owns Grand Island because of the large employment base that they have and that if they close that plant they would put, you know, a lot of problems into that town, although it's as big as it is. There's other towns that are going to have those same problems. West Point went through that problem just a few years ago. Another thing that they hold over one city versus another is that if they threaten to move out of that town, they want a lot of free things, which I call subsidies, and they're subsidized through their water works and those types of benefits that a lot of small businesses don't get. TIF financing is a major one going on right now in our small town where if you don't spend \$100,000 or more, you're not entitled to TIF financing. The small businesses that only spend \$10,000 or \$15,000 get no help at all. Thanks a lot for your time today. I really appreciate that, so. [LB176]

SENATOR JOHNSON: Thank you for coming in. Senator Riepe. [LB176]

SENATOR RIEPE: Senator Johnson, sir, my question is, so is this integration a missed opportunity for farm co-ops? [LB176]

JIM KNOPIK: Excuse me? [LB176]

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SENATOR RIEPE: I wondered if this was a missed opportunity by farm co-ops. Farm co-ops could have, instead of packers moving this way, farm co-ops could have gone back and integrated this. [LB176]

JIM KNOPIK: Yes. Actually, I just belong to a farm co-op. We had started out with seven families and we sold directly to families here in Lincoln and Omaha and surrounding territories. And we got to establish our own prices... [LB176]

SENATOR RIEPE: Yeah. [LB176]

JIM KNOPIK: ...yeah, for them. [LB176]

SENATOR RIEPE: Seems to me that any time there's a void in the market, someone or something will fill it. [LB176]

JIM KNOPIK: Yes. [LB176]

SENATOR RIEPE: And this is what's happening. [LB176]

JIM KNOPIK: But the only problem is that all the infrastructure of small processing plants, the more strict regulations that are harder for small processors to comply to, mainly just through paperwork, not because of food safety, and those of the large packers who now sit behind a desk in an office and their information is brought in by the employees of the packers to them. It's not. [LB176]

SENATOR RIEPE: Also it seems like it would be very hard to get a collective group of farmers to come up with \$100,000 each at a given time to be able to make something like this happen, so. [LB176]

JIM KNOPIK: That's been tried, but they... [LB176]

SENATOR RIEPE: Yeah. [LB176]

JIM KNOPIK: ...they can't distinguish themselves from a packer. When you only have a price to compete with in that business, then most cooperatives can't because their standards aren't high enough to attract other buyers. [LB176]

SENATOR RIEPE: Thank you. [LB176]

JIM KNOPIK: Uh-huh. [LB176]

SENATOR JOHNSON: Yeah. Any other questions? If not, thank you. [LB176]

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JIM KNOPIK: Thank you. [LB176]

SENATOR JOHNSON: Other opponents? I think probably would be probably the last one. [LB176]

RICK HAMMOND: (Exhibit 20) Hello, Senators. Thank you for having me. My name is Rick Hammond, H-a-m-m-o-n-d, and I'm a farmer, rancher from York County. And most of the things have been covered that I wanted to address, but as the Rabobank representative said, integrator, so what this is about is vertical integration and we all know that that will destroy the price discovery process. And the other thing is, Senator Chambers, I think you're closer on indentured servitude in definition, because for the life of the contract and for the life of the loan, those people are indentured servants. And I should be home working instead of pushing back again against big business' never-ending greed. I'm a farmer and rancher and I've been farming for 30 years. During that time, I've seen nothing but consolidation in the livestock industry. We used to raise 3,000 head of hogs a year, and the economic environment has even changed that size of business. Changing the language of last year's LB942 into LB176 will only aid the big packers in further consolidation to where they can completely control the price of commodities. It's 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 that's all I had. So thank you. [LB176]

SENATOR JOHNSON: Thank you. Any questions? Thank you, Mr. Hammond. [LB176]

RICK HAMMOND: Thank you. [LB176]

SENATOR JOHNSON: Any other opponents? [LB176]

ROBERT HENDRICKSON: (Exhibit 21) I'm Bob Hendrickson, H-e-n-d-r-i-c-k-s-o-n. I'm a diversified crop and livestock farmer from Shickley, Nebraska. I probably should clarify, crop, cattle, and hogs, since you want to separate out hogs from the cattle as livestock. And I guess I raise hogs for Niman Ranch. I don't raise a whole lot. But I don't really know where I would go if I wasn't selling to Niman Ranch. And contracts themselves aren't bad, but when they get to be the majority of the business, then that's where the problem arises. If they're like only 10 to 25 percent, it probably wouldn't be bad. You wind up with the...I think there's 11,000 head yesterday were sold on a negotiated basis out of like 400,000, so the price of those 11,000 set the price for everything else. And as far as talk about reducing the risk by a contract, it reduces the risk for the banker but I'm not sure that it reduces the risk for the farmer himself. He still has to make a guess, like on electricity, and there's all kinds of other costs that go into that, that he has no control over and for the life of the contract. And the other thing, since I've been raising hogs we've gone from like a Cargill-type feeding floor to modified open fronts to buildings with pens in them to now wide-open buildings. And each time

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it's supposed to be better, and then those other buildings become more or less worthless. So if you're maybe at the beginning of that stream, maybe everything works out and you get more than the ten years or whatever it is, but if you're at the end of the stream, you may not get another chance. So I guess I'll close my comments there. [LB176]

SENATOR JOHNSON: Okay. [LB176]

ROBERT HENDRICKSON: Oh, one other thing, I notice that the solution for corn farmers is more markets. It seems like they're kind of telling us the solution for pork production is actually to have fewer markets. [LB176]

SENATOR JOHNSON: Okay. Any questions? [LB176]

ROBERT HENDRICKSON: Thank you. [LB176]

SENATOR JOHNSON: Seeing none, thank you, Mr. Hendrickson. Other opponents? Anyone in the neutral position? [LB176]

GAYLAND REGIER: I have some testimony here I would just like to submit. I'm a family farmer, Gage County, and have an experience here that I've written out. I know you (inaudible) for us to take more time but I'm against LB... [LB176]

SENATOR JOHNSON: You want it in the record? [LB176]

GAYLAND REGIER: ...and I would like to have it in the record. [LB176]

SENATOR JOHNSON: Okay. [LB176]

GAYLAND REGIER: Thank you. [LB176]

SENATOR JOHNSON: Thank you. No one in the neutral? Now we'll go to...we've got some to read in here. (Exhibits 22, 23, 24, 25, and 25) While he's coming up there, we have some letters, opposition: an individual, Pam Potthoff, Involved in Farm Economics; Bill Bullard, R-CALF USA; Mike Callicrate, competitive markets; Cynthia Tiedeman, League of Women Voters; Cap Dierks, a former state senator are the ones that read into the record. (See also Exhibits 27, 28, 29, 30, 31, and 32) Okay. Senator Schilz. [LB176]

SENATOR SCHILZ: Thank you, Senator Johnson and everyone else. And I know this has taken a long time and I want to thank everyone, not just the proponents, not just...but everyone that came in to testify because this is an important issue. And I know there's strong feelings on both sides and those feelings are okay. That's fine. I get that. I

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understand that. And just like everybody that has those feelings on both sides, I agree that those people should be able to do what they want when they want and they should have the ability to make that choice. And that's why I introduced LB176, to make sure that we're giving everyone that's out there the opportunity to do business as they see fit. I'm not going to take up a bunch of time. I don't want to. So with that, I'll end my closing and I'll circle back with everyone later, if possible. [LB176]

SENATOR JOHNSON: Okay. [LB176]

SENATOR SCHILZ: But if there's other questions, I would rather answer them later. But if there's some that need to go now, I can do that. [LB176]

SENATOR JOHNSON: Anybody have one that needs to go now? Okay. We will close the hearing on LB176. We will open the hearing on LB175. Just so we've got a feel of time, if you're going to testify as a proponent, would you raise your hand? Okay. Opponents? Okay. Thank you. [LB176]

SENATOR SCHILZ: Great. [LB175]

SENATOR JOHNSON: Thank you. [LB175]

SENATOR SCHILZ: (Exhibit 1) Thank you, Mr. Johnson. My name is...Senator Johnson. (Laugh) [LB175]

SENATOR JOHNSON: It's all right. [LB175]

SENATOR SCHILZ: My name is Ken Schilz, K-e-n S-c-h-i-l-z, and I am representing District 47. And I'm here today to introduce LB175. Senator Riepe, you asked if the bill, LB176, was a be-all, end-all magic bullet to getting livestock development into Nebraska, hog development, and the answer is obviously no. And the bill that I'm bringing next, LB175, would be another thing that could help us do that. And this comes in the planning stages and being able to build infrastructure and things to help facilities and counties decide where facilities should be sited and what facilities should be sited within individual counties. So I bring LB175 before you today to address the public interest in assisting efforts of the livestock industry and rural communities to preserve and enhance livestock development as an essential element of economic development. The bill is in an updated version of LB550 from 2013 and allows the Legislature to seek reasonable means to nurture and support the livestock sector of this state. LB175 creates the Livestock Growth Act to assist counties that have received a Livestock Friendly designation from the director of Agriculture. This act works to bring the Department of Environmental Quality, Department of Ag, Department of Economic Development, and local stakeholders together to assist counties in identifying and assessing sites suitable for livestock expansion. It would make available a no-interest

loan program to counties administered by the Department of Economic Development to finance the infrastructure necessary to accommodate livestock expansion. Finally, LB175 would increase caps for tax credits available through the Nebraska Advantage Rural Development Act to incentivize livestock expansion and modernize modernization to the benefit of rural communities and Nebraska's total economy. I provided you with an amendment, AM257, which fixes a technical error on page 5 by removing the Commercial Feed Administration Cash Fund from the monies accessible for the loans. That was not our intent to include that fund and I ask for your support of LB175 with AM257. And I'd be happy to try to answer any of your questions. I would like to say one other thing before we go. This bill is an effort to get people to understand that, much like they do in economic development, when they talk about economic development certified communities, that economic development setup, if you qualify for that designation, you get extra tools that economic development allows you as a community to use. As I...because I was president of our county economic development group for a number of years and we became an economic development certified community, I saw the benefits of that program and what we could use that for, for economic development. And I'm trying to do the same thing with "livestock friendly," to give that designation the same sort of tools and the same sort of opportunities that economic development certified communities have. It doesn't say in here that there's any sort of size or scale or anything like that that any livestock facility has to be. And it also...there's also another bill that I'll be introducing in Banking and Commerce that would go right alongside of this, LB395, that would then look to help create processing and other things that would be out there, whether it's for milking, whether it's for processing of livestock, or whatever. And that also doesn't talk about size or scale or anything like that. I am in no way saying that any one size is better than another, nor am I saying that anything has to be done in any of these counties. This is all there that if a county decides they want to use it, they can. With that, I'd answer any questions. Thank you. [LB175]

SENATOR JOHNSON: Questions? Senator Riepe. [LB175]

SENATOR RIEPE: I have a quick question. You talk about size doesn't matter. So the question is, does...this tax credit could be to the benefit of the producers or it could be to the advantage of the slaughterhouses, as I call them. [LB175]

SENATOR SCHILZ: This would only be for the producers. [LB175]

SENATOR RIEPE: Only for the producers. [LB175]

SENATOR SCHILZ: That's right. [LB175]

SENATOR RIEPE: Oh, okay. [LB175]

SENATOR SCHILZ: The other...the...I'm sorry. [LB175]

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SENATOR RIEPE: No. [LB175]

SENATOR SCHILZ: I shouldn't have mixed those up. The other one would be used for the processing. I'm sorry. Yeah. [LB175]

SENATOR RIEPE: Okay. No. Thank you. [LB175]

SENATOR JOHNSON: Okay. Any other questions? Senator Larson. [LB175]

SENATOR LARSON: On the size doesn't matter...any facility...they don't...could, regardless of the size of...as long as it's an expansion of barn, the size of that...you know, for a hog facility, let's say. If it's under the...what is required to go to DEQ to get permitting and all that, could that...would that still be available under this? [LB175]

SENATOR SCHILZ: I... [LB175]

SENATOR LARSON: Or would they have to be over the...you get the question that I'm asking. [LB175]

SENATOR SCHILZ: I understand, and I... [LB175]

SENATOR LARSON: I might not be asking... [LB175]

SENATOR SCHILZ: ...and I think... [LB175]

SENATOR LARSON: ...it quite eloquently enough, but... [LB175]

SENATOR SCHILZ: Right. And I think it depends on what the counties want to do, because the counties can get a grant, and then it depends on the stuff in place. I will study that and I will get back to you on that. [LB175]

SENATOR LARSON: Yeah, I can...like I said, I have a number of producers that are looking to build new facilities and...but they'll fall under the...what it takes to receive that permit, so... [LB175]

SENATOR SCHILZ: Sure. I understand. [LB175]

SENATOR LARSON: All right. Thank you. [LB175]

SENATOR JOHNSON: Thank you. Anything else? Thank you, Senator Schilz. First proponent. Welcome. [LB175]

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ELAINE MENZEL: Thank you. Chairman Johnson and members of the Agriculture Committee, for the record, my name is Elaine Menzel. It's M-e-n-z-e-l. And I'm here on behalf of the Nebraska Association of County Officials in support of LB175. I won't be duplicative of Senator Schilz's comments for purposes of respect for the committee's time. But we are supportive of this legislation and it would be available to those counties that are "livestock friendly" designated. And as the director of Agriculture formerly testified, there's approximately one-third of those counties that are. It would be beneficial in that it could assist them in helping develop agricultural planning and that type of thing. I would thank you for your consideration of these comments, and I encourage you to advance this bill to General File. I will just make one comment and in the event you do advance it, I would offer my assistance and...to the committee counsel for a technical suggestion. And with that, I will close my testimony and answer any questions if you have any. [LB175]

SENATOR JOHNSON: Okay. Thank you. Any questions? Thank you. [LB175]

ELAINE MENZEL: Thank you. [LB175]

SENATOR JOHNSON: Other proponents? Welcome. [LB175]

JAY REMPE: (Exhibits 2, 3, 4) Senator Johnson, good afternoon. Members of the committee, my name is Jay Rempe, J-a-y R-e-m-p-e. I sit before you today on behalf of Nebraska Farm Bureau. And Nebraska Cattlemen as well asked me to speak on their behalf. And then for the record, I also handed in letters of support from Nebraska Corn Growers, Nebraska Soybean Association, and Nebraska Dairy Association in support of the bill. We're trying to, in the interest of time, gang up here today. I'll be really brief. We thank Senator Schilz for introducing the bill. There are some ideas captured in the bill that we've worked on for a couple, three years with Senator Schilz and others on that. One of...there are kind of two segments of the bill as Senator Schilz explained. One of the things that we worked...run into when we're working with counties and trying to go beyond the livestock county friendly (sic) program is they want to do some strategic planning, some thinking about how to grow livestock in their counties, but resources are always an issue. And so the grant program is...that's provided in the bill, I think, would be very helpful of that. The other thing that we've run into is, as occasionally when you have a new livestock operation, there might be some infrastructure needs: a new bridge, widen a turning lane or paving a road or something like that. The grant dollars here would help in that regard. So that's one good thing we're supportive of. The second part dealing with the incentives: The incentive program that exists today in the Nebraska Advantage...Rural Advantage Act (sic) was started...Senator Wehrbein passed the legislation many years ago on that. And like everything, I think it's time to look at that again and restructure it to meet what we need for today. It does a couple different things. One, right now, there's a million-dollar cap underneath the program that both livestock projects and other rural economic development projects compete under the

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same million dollars for those dollars. This would carve that out and create a separate fund for livestock of \$1.5 million which would benefit both the livestock side of things and the other rural economic development projects. And then it also would bump up the incentives. The value of investments that we're looking at in new livestock operations have grown tremendously. I was told this morning that just for an average-sized dairy now, you're looking at \$4,000 to \$6,000 per head of capital investment. So for a 1,000-head dairy, you're looking anywhere from \$4 million to \$6 million. So this bumps up the incentives or the maximum credits that somebody could apply for up to \$300,000 per project which would just...again, just keeping up with the times. So we're very supportive of this bill. We want to work with the committee on trying to advance it forward, and I'd be happy to answer any questions you might have. [LB175]

SENATOR JOHNSON: Any questions? We do have the letters from the associations that you mentioned, so they will be in the record. [LB175]

JAY REMPE: Okay. [LB175]

SENATOR JOHNSON: Any other questions of Mr. Rempe? Thank you. [LB175]

JAY REMPE: Yeah. [LB175]

SENATOR JOHNSON: (Exhibit 5) Other proponents. Seeing none, we have letters of support...oh, just one letter...oh, to pass around, Nebraska Pork Producers. Page, do you want to... [LB175]

SENATOR RIEPE: Thank you, sir. [LB175]

SENATOR JOHNSON ...send those around? [LB175]

SENATOR RIEPE: Oh, I see. [LB175]

SENATOR JOHNSON: That's all right. [LB175]

SENATOR RIEPE: Am I doing your job? (Laughter) [LB175]

KELLI BOWLIN: It's easy. (Laugh) [LB175]

SENATOR JOHNSON: Okay. First opponent to testify. I think we're going to be okay timewise. Again, in the interest of time, we'll still go with the three minutes, and I would hope that we're still going to be able to be within our hour. [LB175]

BEN GOTSCHALL: (Exhibit 6) Thank you, again, Chairman Johnson and members of the Agriculture Committee. My name is Ben Gotschall. That's B-e-n G-o-t-s-c-h-a-l-l.

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And I still raise dairy cattle in Raymond and I still market my family's grass-fed beef that they raise on the ranch up in Holt County. I oppose LB175 because I oppose the livestock friendly county initiative in Nebraska and I do not believe it should be funded. Calling the initiative livestock friendly is kind of a cruel irony because the initiative does nothing to promote animal welfare or well-being but, in fact, promotes the growth of corporate agriculture, often at a large scale. The type of confinement operations that the program facilitates have a long record of animal welfare problems and environmental concerns. The only checks and balances Nebraskans have when it comes to this type of development is through local control. County planning and zoning exists to protect the interests of the residents and to provide a system of review for development on a case-by-case basis. The fast-track, plug-and-play streamlining of megadairy, megafeedlot, and mega-hog confinement operations is not in the long-term economic or environmental interests of Nebraskans. Livestock friendly erodes local control and should not be funded. I also take issue with the source of the funding. A couple of the products that I produce are for pet food. As such, I have paid licensing and permit fees for animal feed production, all of which have gone into the Commercial Feed Administrative (sic) Fund. I oppose the use of my fees to be used to fund the livestock friendly county initiative. I do not want the money that I have paid into the fund to be used to facilitate, develop, and promote corporate agriculture operations that would be in direct, unfair competition with me and producers like me. I would, again, echo the concerns that I mentioned earlier about foreign-owned, corporate livestock entities and the problems that we've seen in Iowa with drinking water that we don't need here. And I urge you to indefinitely postpone LB175. Thank you. [LB175]

SENATOR JOHNSON: Thank you for your testimony. Any questions? Seeing none, thank you, Mr. Gotschall. [LB175]

RICK HAMMOND: Hello again. Rick Hammond, H-a-m-m-o-n-d, farmer/rancher, York County. My remarks are brief. They were attached to my other comments on LB176. As to LB175, it should be titled funding the CAFO-friendly process. They should at least have the guts to call it what it is, because friendly to livestock is not what CAFOs are about. The state does not need to help fund CAFO-friendly counties or give tax incentives to an industry that is currently enjoying record profits. As a cow/calf producer, I do not believe LB175 will help small or beginning farmers or ranchers. It will only help further consolidation in the industry by creating tax benefits that are not needed or deserved. That's all I've got. [LB175]

SENATOR JOHNSON: Thank you, Mr. Hammond. [LB175]

RICK HAMMOND: Thank you. [LB175]

SENATOR JOHNSON: Questions? Seeing none, thank you. Mr. Jantzen. [LB175]

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VERN JANTZEN: (Exhibit 7) Good afternoon again, Mr. Chairman and members of the committee. My name is Vern Jantzen, V-e-r-n J-a-n-t-z-e-n. I am a farmer from Plymouth, Nebraska, and I thank you for the opportunity to visit with you this afternoon about LB175. I am opposed to LB175 because this bill has the potential to put pressure on local zoning policies and allows for infrastructure improvement funding that would...that could give an unfair advantage to new operations over existing operations. This law would provide funding for the review of zoning and land use regulations, and I see the possibility of this review being used to call for changes in current local zoning regulations to allow livestock operations that local committees have determined are not appropriate for their county. There is also a local evaluation component to this law, and again I question what happens when a review recommends a location that the local zoning group has determined is not appropriate for that part of the county. The other part of this legislation that I wonder about is the funding infrastructure improvements. Will these improvements benefit new livestock operations over those already in existence? There's always a cost associated with moving production to market. How should those costs be allocated and does the size, location, and age of a livestock production unit make a difference? And so, to me, this comes down to several questions of fairness. Number one, we talk about livestock friendly counties. There's a designation made there. If you read the law, it says just the fact that the county does not have that designation doesn't mean they should be discriminated against. Yet this bill goes ahead and does discriminate in the amount of funding that is provided only to those that have that livestock friendly delegation. There is a question then of what happens. I have a real problem with this funding for infrastructure because I live on a road that isn't very good. And I have seen roads that have been improved to new operations but nobody ever comes to fix mine. I guess that's up to the county and apparently I don't pay enough taxes to make them excited. So I guess 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 increase. And any increase that would occur in livestock production may not take place in a productive and sustainable manner. The best way to increase animal agriculture in our state is to work at building fair, competitive, and open markets for the products we produce. And that's the reason I am no longer in livestock production, is because those markets were shut off to me. There are better tools available to improve the amount of livestock production in Nebraska than LB175. Thank you. And I would be happy to try and answer any questions. [LB175]

SENATOR JOHNSON: Any questions? Seeing none...it must be getting late in the day. We don't have a lot of questions. [LB175]

JIM KNOPIK: (Exhibit 8) Good afternoon again, Senators. My name is Jim Knopik, J-i-m K-n-o-p-i-k. I am a Nance County resident. Attached is a letter to the editor that I had written in 2001 responding to a Sands Livestock lawyer. I decided to present it for my testimony for you today. Although it was written 14 years ago, the information in it predicted the future of our environment and ecosystem if CAFOs were not subjected to

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better standards for animal waste. Of course, the sound science spouted by the corporate-type CAFOs continues to be the science of choice and is still being used by them today. After those first few years of 2000, counties in Nebraska tripled to put zoning regulations in place to protect themselves from the corporate rape of their resources and to protect their citizens. Later on, livestock friendly county designation was used to dilute those zoning regulations passed by the counties and hand the power back to the Nebraska Department of Ag. Today, carrots are being used to influence more counties to adopt livestock friendly county designations. LB175 is one of those carrots to entice more counties to adopt livestock friendly county designation. Livestock friendly county designation doesn't mean livestock friendly at all. It means corporate friendly. Thank you again for your time and consideration of my testimony. [LB175]

SENATOR JOHNSON: Any questions for Mr. Knopik? Thank you. [LB175]

ROBERT BERNT: Mr. Chairman, board, thank you for letting me come forward again. My name is Robert Bernt, B-e-r-n-t, from Spalding, Nebraska. I'm a resident of Wheeler County and Greeley County I farm in. I'm a member of the Nebraska Farm Bureau and I don't approve of this. I'm a corn grower and I don't approve of it. I'm a dairyman and I don't approve of it. And I'm also a beef and a pork producer and I do not approve of it. If there's any chance that this would increase--and there is--and make counties such as mine, with only 1,000 people, a little bit more attractive to large-scale producers, we don't want it. We've already had our share of contamination and it hurts. I'm...I brought this up earlier concerning streams that flow through my property, the Cedar River and Clear Creek, into an adjacent lake called Pibel Lake State Recreation Area. This lake became a serious problem to the state and they actually turned it over to the NRD because of the problem. They refurbished it, putting \$1.5 million into it, and they've not been able to reestablish the fish population because of poisoning that is ongoing in the lake. It actually has completely exterminated the lake three separate times with 100 percent kill. The NRD has asked me to sit on a board with them and try to improve the water quality going in and out of this lake, Clear Creek, and the Cedar River. And our tests have proven that with...to me, without a doubt, that the contamination is coming from large-scale feeding operations. The nitrate problem that exists we feel can be filtered and done away with, but the problem with the E. coli is really scary. This E. coli works itself in the backwaters on these streams and it lays in there and it grows and it contaminates and then it filters back in and moves on down. And we're talking about one of our most important, precious resources we have in the country right here. And if we contaminate it, and it's going to move itself on down the line, it's going to contaminate as it goes. I don't know how far it will go. I don't know how serious it will be, but my kids swim and live in that river and in that creek and in that lake throughout the summer, as a lot of other people do that come from all around. Now, it has hurt the state because of the fact that this is no longer a recreational source for the state of Nebraska. It's got to a point where they actually released it and give it to the NRD to see if they can improve it. So this is a problem I'm real concerned about. I appreciate your time. If

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you've got any questions, I'd love to answer them. [LB175]

SENATOR JOHNSON: Senator Riepe. [LB175]

SENATOR RIEPE: Thank you. My question is, has the state tested for this E. coli that you...you're contending that there is E. coli in this lake. Is that right? [LB175]

ROBERT BERNT: The NRD done the testing. [LB175]

SENATOR RIEPE: The NRD did? [LB175]

ROBERT BERNT: I don't know if the state did prior to, you know, giving the lake to the NRD or not. But I know the state did. [LB175]

SENATOR RIEPE: Do they test that routinely then? [LB175]

ROBERT BERNT: They are now, yes. They're trying to... [LB175]

SENATOR RIEPE: And it's coming up positive? [LB175]

ROBERT BERNT: Yes, at alarming levels, at levels high enough that it's concerning whether or not we should allow people to be present in the water. [LB175]

SENATOR RIEPE: Have they proposed what their next step would be, what corrective action? [LB175]

ROBERT BERNT: Well, what they did was...what they've done is they've actually brought landowners on board--which I think was a great idea--and made us aware of it that are in the area. And that's the first big step. If we can really sit down and get an understanding of what this could cost and the harm from it, now we'll take steps on our own. But it's actually...they're actually doing things that I have been doing in practice at my farm and ranch and that's protecting the waterways from grass strips and filter strips. And I think they'll eliminate, like I said earlier, the nitrogen problems. But the E. coli problem is really scary the way it inhabits itself and rebreeds and then stretches itself back out into the water and moves. I don't know what's going to happen. I don't think you could literally chlorinate a river. That's not feasible. So I don't...we don't know what to do. [LB175]

SENATOR RIEPE: Thank you. [LB175]

SENATOR JOHNSON: Thank you. Senator Schilz. [LB175]

SENATOR SCHILZ: I'm sorry, sir. Which NRD is this again? [LB175]

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ROBERT BERNT: It's the NRD out of Ord. It would be the...it wouldn't be the Upper Elkhorn. It's the Lower Loup NRD. [LB175]

SENATOR SCHILZ: Okay. Thank you very much, appreciate it. [LB175]

SENATOR JOHNSON: Any other questions? Thank you. [LB175]

ROBERT BERNT: Thank you. [LB175]

RON MEYER: (Exhibit 9) Mr. Chairman and members of the Ag Committee, I'm back again. My name is Ron Meyer, R-o-n M-e-y-e-r, now living here in Lincoln but I farmed for 40 years near Nelson in Nuckolls County. Over those 40 years our family was involved in dairy, pork, and beef production and raised diversified crops. I am here to testify against LB175. My concern is that our state is bending over backwards to attract large megadairies and feeding facilities. This bill offers incentives to counties for infrastructure building and perhaps for changing zoning provisions to accommodate these megafacilities. This is at the expense of local business and owner-operated farms that have been the mainstay of rural communities for decades. Some would have us believe that these megaproducers are the most efficient. If so, they need to play by the same rules that everyone else does. They should not be given advantages and incentives just because of their size. And the term "livestock friendly" is rather deceptive. Rural areas of Nebraska have always been livestock friendly. The reason the livestock numbers have decreased is because of a market structure that has destroyed market access and the lack of fair and transparent markets. I urge you not to advance this bill. And thank you for the opportunity to testify. [LB175]

SENATOR JOHNSON: Thank you, Mr. Meyer. Any questions? Seeing none, thank you. [LB175]

RON MEYER: Thank you. [LB175]

SENATOR JOHNSON: Next opponent. [LB175]

KEN WINSTON: (Exhibit 10) Good afternoon, Chairman Johnson and members of the Agriculture Committee. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the Nebraska chapter of the Sierra Club in opposition to LB175. I'm going to recite some more statistics. Hopefully they will be creative, although I guess Senator Larson is not here to appreciate them. The...as I indicated earlier, we do have one of the lowest unemployment rates in the country and our ag sector is currently very strong. The next statistic that I cite is that we are already number one in red meat production and that we're ahead of the state of Texas, and that's a state that's synonymous with cattle production. Texas is almost four times larger than Nebraska and they're also very

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friendly to corporate agriculture. The reason we're beating Texas at their own game is because we have water and they don't. Protecting our natural resources is the best way to support our agricultural economy. The drought of 2012 hit Nebraska's economy hard but the access to water by Nebraska farmers and ranchers helped blunt the negative impacts. Even so, some ranchers were forced to liquidate herds and many crop yields were seriously reduced. Climate scientists project that hot, dry years like 2012 will become more common which will lead to more stresses on our water resources. There is increasing...finally, there is increasing interest in local food, farm-to-table production, sustainable practices, and organic agriculture. These are the areas that have the potential to create more economic growth for Nebraska, not incentives for corporate agriculture. We would ask that LB175 be indefinitely postponed. Thank you. [LB175]

SENATOR JOHNSON: Thank you for your testimony. Questions? Seeing none, thank you again, Mr. Winston. [LB175]

KEN WINSTON: Thank you. [LB175]

SENATOR JOHNSON: Next opponent. [LB175]

RICHARD SANNE: (Exhibit 11) Senator Johnson, members of the committee, my name is Richard Sanne, R-i-c-h-a-r-d, last name is S-a-n-n-e. And I'm here on behalf of the Nebraska Grain and Feed Association. We are a trade association that represents grain warehouses, the feed industry, and others in Nebraska grain trade. We are a statewide association. We have members throughout the state of Nebraska. I'd like to thank you for this opportunity to appear. We do not...let me rephrase that. We support the goal of LB175. We do not oppose the goal of rural economic development in Nebraska through the development of livestock industry. We absolutely support that goal. There is only one thing, one portion of the bill, that I'm here to say that we oppose. And actually, if I understand it correctly, Senator Schilz has already taken care of that by the amendment that he offered you in his opening. We do oppose the provision that authorizes the transfer of funds out of the Commercial Feed Administration Cash Fund. We believe that those funds should remain in that fund and used for the purpose that they were intended. And assuming that you would adopt that amendment that Senator Schilz offered, that would remove our opposition. [LB175]

SENATOR JOHNSON: Would you consider yourself neutral at that point or pro? [LB175]

RICHARD SANNE: At least neutral. (Laughter) [LB175]

SENATOR JOHNSON: At least neutral? [LB175]

RICHARD SANNE: Yes. [LB175]

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SENATOR JOHNSON: Okay. Thank you. Any other questions? Thank you for this. [LB175]

RICHARD SANNE: Thank you. [LB175]

SENATOR JOHNSON: Next testifier. [LB175]

JOHN HANSEN: Mr. Chairman, members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union, our state's second oldest and second largest general farm organization. We are in support of the effort, I think, in part, and certainly parts of it, but in the end, are thinking that this particular approach needs to be more inclusive, have more different kinds of options. I think any county that wants to do livestock, work on increasing livestock in a fashion they think is appropriate, should get funding. It shouldn't just be livestock friendly counties. There are some counties that consider themselves, I think, livestock friendly counties but were uneasy about some of the provisions of being a livestock friendly county relative to the impact that they thought it had relative to their own autonomy in local planning and zoning decision making. So they were reluctant to do it. But anywhere and everywhere that we can help with good, constructive livestock enhancement would be constructive and we'd be more than willing to work with our friend, Senator Schilz, if...to broaden it and help do other kinds of things that also ought to be included, in our view. And it's been said earlier at the previous hearing but where we're getting the most interest, where we're getting the most action is with an awful lot of smaller, differentiated kinds of operations that are not big. They're not going to be CAFOs. But they are value added. And folks can get a start with smaller kinds of things. And they're...these are real entrepreneurs. And when we work with these guys, I am impressed with these guys. They come in and they want to know what the market is saying. They're willing to talk to their customers. They're willing to figure out what they can do to meet that demand. And so those kinds of operations, in our view, ought to also be included. And so if there was some movement in that area, we'd reconsider our position. With that, I'll just close my remarks and wish the committee well. [LB175]

SENATOR JOHNSON: Thank you, Mr. Hansen. Questions? Thank you. [LB175]

JOHN HANSEN: Thank you. [LB175]

SENATOR JOHNSON: Appreciate you coming in. Next testifier, opponent? Is that...is there anyone in a neutral position? [LB175]

ED WOEPPEL: Senator Johnson and members of the committee, I'm Ed Woepfel, and that's E-d W-o-e-p-p-e-l, here today on behalf of the Nebraska Cooperative Council.

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Bob Andersen was not able to be here today so I'm here in his stead. I'll be very brief with my comments. Certainly we support the expansion of the livestock industry in Nebraska. Our concern with the bill as introduced was the transfer of the fees from the Commercial Livestock and I think Mr. Sanne has addressed that issue. So that...we certainly appreciate Senator Schilz providing this amendment. So that takes care of our concern, if you will. So with that, if anybody has any questions, I'd sure try to respond. Otherwise I'll excuse myself. [LB175]

SENATOR JOHNSON: Okay. Any questions for Mr. Woeppel? Seeing none, thank you, Mr. Woeppel. [LB175]

ED WOEPPEL: All right. [LB175]

SENATOR JOHNSON: Next neutral. [LB175]

GREG IBACH: Senator Johnson, members of the Ag Committee, I'm Greg Ibach, G-r-e-g I-b-a-c-h, and I am the director of the Nebraska Department of Agriculture. I am here today to offer neutral testimony on LB175. The Nebraska Department of Agriculture, as you are aware, along with industry partners, has worked diligently to expand the state's livestock sector. Recent studies conducted by the University of Nebraska that I shared with you earlier and submitted for the record in the previous hearing show a special synergy between our crop, livestock, and processing centers...sectors. These three sectors and their related impacts on the economy account for an estimated 27 percent of the overall gross state product in Nebraska as well as one in four jobs. The conversation about livestock development is happening across the state. In the past three years, the livestock friendly county has grown by 15 counties with 29 now officially designated. Several more are working through the process. LB175 provides an opportunity to help these livestock friendly counties take the next step. As you know, the department was asked to provide a fiscal note for the legislation as the Commercial Feed Cash Fund is identified as a potential funding source. I understand that that probably has since addressed this concern. However, provided in that cash flow document and for purposes of discussion, we have included \$150,000 allocation to this grant program per year. And this would provide funding for ten strategic planning grants at \$15,000 maximum per year. At this rate, our projections would show a negative cash flow in the Commercial Feed Fund after the third year, barring any new revenues. After the third year, the department would require additional funds in the way of fee increases or General Fund appropriations to continue the program. I am also concerned about the proposed changes to the Nebraska Advantage Rural Development Act which would have a \$1.5 million impact on the General Fund. So while I believe there is a logical nexus that supports the use of Commercial Feed Program Funds for livestock development purposes, I am concerned about the impact of the Livestock Growth Act on the fund balance. Lastly, I want to address what I understand may also be proposed in the amendment that the amendment would make

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much-needed change to the definition of production for livestock operations to qualify for modernization grants. The definition of production currently used by the Revenue Department for tax incentive purposes only covers livestock operations producing livestock for meat. This unfairly leaves out dairy cattle raised to produce milk and chickens raised to lay eggs. This change is important in order to keep opportunities open for all types of livestock expansion. I appreciate your attention to this proposed legislation as well as to my comments. Thank you. [LB175]

SENATOR JOHNSON: Thank you, Mr. Ibach. Questions? Seeing none, again, thank you. [LB175]

GREG IBACH: Thank you. [LB175]

SENATOR JOHNSON: (Exhibits 12, 13) Anyone else in the neutral? Your closing? We do have two letters that I failed to recognize that are opponents. One is Pam Potthoff with the WIFE--Women Involved in Farm Economics, and the Humane Society of the United States in opposition to this. And we have copies for the committee. Thank you. [LB175]

SENATOR SCHILZ: Thank you, Senator Johnson. [LB175]

SENATOR JOHNSON: Thank you. [LB175]

SENATOR SCHILZ: I appreciate the opportunity to close and I don't want to keep anybody here too long. But just to go back and...what everybody said about worrying about Concentrated Animal Feeding Operations and all that, I think if you look at the page...and one of the reasons why you designate certain entities or counties or whatever to be able to do this and maybe not others is that you want to make sure that when you present yourself to somebody that wants to place a facility in your state, in your county, that that county is ready to handle that growth and is ready to do it. So when we look at and we see strategic planning to accommodate and encourage investment in livestock production including one of the more (sic) following activities: review zoning and land use regulations, okay? Are we able to handle the type of livestock facilities that are going to come in? Do we want to place them next to a lake? No, I don't think so. You want to make sure that you have it in the right place at the right time to make sure that that's right. The value of work force availability, educational, institutional...this is not about moving things towards necessarily making it easier for big operations to come in. It's making sure that if something wants to come in that it fits your county. It's not necessarily wiping off the regulations. It's making sure that the regulations fit what is coming in or that the entity fits the regulations that are there so that you don't have these problems going forward. That's what we're talking about. If you ask the Economic Development office over there why they do it this way, they'll tell you it's real easy to get a black eye out there and it's really easy to get folks saying, hey,

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you don't go to Nebraska, because all you do is just get the runaround. We've heard it a lot. And so that's why they moved to make economic development certified communities and to make the bar higher for those. That's what this intends to do, is to make sure that those counties that are prepared and ready and that have done these things and understand where those livestock facilities should be so they're not sitting right next to a lake, so they're not sitting one mile away from somebody's place, so that these counties know where they should be, so they're livestock ready is what we talk about. That's what I'm trying to do here. Now, I understand the funds are short. They're always short. Maybe we can find some other place to do that. I also understand that Director Ibach with the milking and things like that...and those are amendments that are there and we will present those to the committee. But I very much appreciate the opportunity today. I very much appreciate everybody's time that came in and sat through these hearings and I very much appreciate everybody's opinions. Thank you. And with that, I would answer a question or two or as many as you have. [LB175]

SENATOR JOHNSON: Any questions? Seeing none, thank you. [LB175]

SENATOR SCHILZ: Phew. Thank you. [LB175]

SENATOR JOHNSON: (Exhibits 14, 15, 16) And thank you to everyone that came in and testified. It's been a long afternoon but, as you can see, we...some of you had the same interests on both bills so that's what we wanted to handle. Yeah, we'll close the hearing. Just an announcement to the committee. The crowd can leave. This has to do...tomorrow morning we will have--depending on what's happening on the floor--we're looking at an Executive Session at 10:00 a.m. in room 2022. We're going to be discussing the dry bean bill. [LB175]