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Agriculture Committee
February 24, 2015

[LB393 LB544 LB558]

The Committee on Agriculture met at 1:30 p.m. on Tuesday, February 24, 2015, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB544, LB558, and LB393. Senators present: Jerry Johnson, Chairperson; Mark Kolterman, Vice Chairperson; Dave Bloomfield; Ernie Chambers; Burke Harr; Merv Riepe; and Ken Schilz. Senators absent: Tyson Larson.

SENATOR JOHNSON: (Recorder malfunction)...Committee hearing. My name is Jerry Johnson, Chairman of the Ag Committee, I'm District 23. Go through some formalities first. I ask that you turn your cell phones off or to silent. If you're going to testify today, we ask that you complete a green sheet and present that to the committee clerk when you come forward. And also, if you have any handouts to bring 12 handouts. If you don't have those our pages will make copies for you so they can be distributed. We're going to probably use lights today. How many are here to testify on the first bill? Okay. I think we'll be okay. We'll have a five-minute limit and hopefully we can get that in in five minutes for each testimony. Introduce the senators that are here. Senator Chambers is tied up for part of the afternoon, he's not here yet. Next will be Senator Bloomfield. He's testifying in another hearing. Senator Riepe is here, Merv Riepe from Omaha. And over here is...Senator Larson is testifying. Senator Schilz is en route. And Senator Kolterman from Seward, to my right. Also to my right is Rick Leonard, our research analyst. And to the far left is Travis Moore, who is our committee clerk. Our pages today are Jay Linton from Dalton and Kelli Bowlin from Cody, both are students at the University of Nebraska. We will begin our hearing and first on is LB544. Senator Harr, you have the floor. [LB544]

SENATOR HARR: Thank you, Chairman Johnson, members of the Ag Committee. My name is Burke Harr, H-a-r-r, and I am here on LB544, the Community Gardens Act. Last legislative session I introduced a legislative resolution that called for an interim study to examine the ways the state and municipalities could encourage the development of community gardens. A public hearing was held on this resolution by the Agriculture Committee at the NorthStar community center in Omaha. Thank you, Senator Schilz, if you are here, for organizing that. And the committee received a great deal of insight and information regarding a community garden. At the hearing, the committee learned that a community garden is any piece of land, public or private, where plants are grown and maintained by a group of individuals in the community. The benefit of community gardens and the need for the state and municipalities to encourage the development of community gardens in a variety of ways was extensively discussed at the hearing. As a result of listening to that testimony we learned there is also a need for a seed library, which I'll get into. I introduced...I have today, LB554. Not only does it establish community gardens, it also addresses a concern raised which was the seed libraries...need to read ahead. Under LB544 libraries mean a nonprofit, governmental, or cooperative organization that donates or receives donations of seeds with the

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

Agriculture Committee
February 24, 2015

purpose of promoting seed saving, educating the public about seeds, and providing access to free seeds. In some states, and apparently at least once in Nebraska, there has been a question raised about whether or not seed libraries conflict with state commercial seed laws that require labeling and testing of commercial seeds. The changes found in LB544 addresses this concern. LB544 also creates the Community Gardens Act. The act allows state agencies or municipalities to use vacant lands for community gardens but may be conditioned on the community organization having appropriate liability insurance. The act would also allow state agencies or municipalities to establish an application process to allow community gardens to utilize vacant public lands in order to establish community gardens. As part of that process, the applicant may include a request to access an available source of water and the act encourages agencies to consider whether to offer a reduced or fixed rate. The act would also require the Director of Ag establish a community gardens task force that would exist until the end of 2016. The director would appoint no more than nine people to the task force and they would include at least three members of the community garden organizations. The remaining members would be representatives of state agencies, existing community gardens, counties, cities, towns, villages, utility districts, or school districts. The task force will study, evaluate, and make recommendations regarding such issues as the establishment and expansion of community gardens, the donation of food from such gardens, and the increasing of any benefits from the community gardens to their respective communities. You can look at the fiscal note. I want to specifically thank the Director of Ag, Mr. Ibach, for the detail in this. First of all, there is no fiscal note on this bill. And he goes into great detail of how this would work. So it's actually one of the better done. I mean, it's very detailed. I want to thank him for his hard work on that. With that, I would ask that you please advance LB544 and I would entertain any questions you may have. [LB544]

SENATOR JOHNSON: Any questions from the committee? Senator Riepe. [LB544]

SENATOR RIEPE: Senator Johnson. Thank you, Senator Harr. One of the questions I had on terms of the vacant public lands on which the gardens...is, this is a situation much like cash rent on a farm that you have to be notified that you need to vacate or how many years do you...what continuity is there to this? I mean, how quick can you be pushed off? [LB544]

SENATOR HARR: And some of this will be addressed. But what we're looking at is using land that the land bank has that we can allow community gardens on. In addition, Department of Roads often purchases land in anticipation of future growth, but that land is not being used. In California they use that approach where they allow that land to be used. The city will take land also. Outside of the land bank, they may take land from tax foreclosure. You could use that land. So there are a number of vacant properties that exist right now that we could use that on. [LB544]

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

Agriculture Committee
February 24, 2015

SENATOR RIEPE: Once you get a garden in place, though, they honor the fact so that they don't come in in the middle of it? [LB544]

SENATOR HARR: Yeah, that is a contract issue. And so the idea would be, hopefully, we could set up something as long as a five-year contract on there. You know, one of the big issues we found for these gardens is access to water. And so it's access to land, access to water, and liability were the three issues I found were the most prevalent. And so that addresses access to land issues. A lot of these vacant lots already have water hookups on them. So that can hopefully take care of the access to water issue then as well. [LB544]

SENATOR RIEPE: And who pays the water bill? Is that by... [LB544]

SENATOR HARR: The community garden would. Hopefully, they'd set up a 501(c)(3) and they would pay for that. [LB544]

SENATOR RIEPE: Okay. I have a second question, Mr. Chairman. [LB544]

SENATOR JOHNSON: Yeah, go ahead. [LB544]

SENATOR RIEPE: That is on...it talks about "seeks to exclude certain cooperative activities." Can you clarify that a little bit? [LB544]

SENATOR HARR: Where are you? [LB544]

SENATOR RIEPE: It's on a memo to the Ag Committee from Richard Leonard, it's dated February 17. [LB544]

SENATOR HARR: And he said he'd like to exclude certain cooperatives? [LB544]

SENATOR RIEPE: Well, it says: LB359 contains two distinct substantive elements. First, the bill seeks to exclude certain cooperative activities that facilitate seed saving and sharing population, "da-dada-dada." I was just trying to...that exclusion. I was just trying to figure out what's in and what's out. [LB544]

SENATOR HARR: What we're trying to do is, there are seed libraries--and there will be people coming up after me that will do a much better job of describing seed libraries. But it's kind of a recent phenomenon in that we passed some bills for quality of seeds, right, for the commercial. And it seemed like a good idea at the time and we wanted to make sure that the seeds that were being passed out were good. But what we didn't have at that time were these seed libraries, where people take seeds from the products they already have, save them, put them in a library--there's one in my district--and they pass them to each other. And so they're not sold commercially. But there are people

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

Agriculture Committee
February 24, 2015

that are coming up after me that will do a much better job describing how they do what they do and why they're doing what they do. I think you'll be impressed. [LB544]

SENATOR RIEPE: Thank you. [LB544]

SENATOR HARR: Thank you. [LB544]

SENATOR JOHNSON: Any other questions from committee? I do have one. [LB544]

SENATOR HARR: Yes, sir. [LB544]

SENATOR JOHNSON: I was at the hearing and it was very informational and very good. [LB544]

SENATOR HARR: Thank you for coming. [LB544]

SENATOR JOHNSON: Yes. Structured for municipalities or for Omaha type of thing, which is not exclusive to that. So my question is, smaller towns that want to have...and there's somebody that's just willing to let them use their lot, are they going to have any extra hoops to run through or do they have to do anything different than they're doing now? [LB544]

SENATOR HARR: No, it would be the same. What we're trying to do is adjust the liability on that for the smaller towns. You know, ideally what I would...in my world...you know we're going to a world where schools, year-round, are open year-round pretty much. We already have summer food programs. I would love to see a situation where each school had a community garden, where you brought in kids from the neighborhood and got them involved with the school. They could see how food is grown from a seed to a finished product. And let them know more about what it takes and how difficult it is to grow something. And it provides fresh fruits and vegetables or maybe not--well, some fruits--in areas that probably are food deserts or have issues of access to fresh fruits and vegetables. [LB544]

SENATOR JOHNSON: Okay. [LB544]

SENATOR HARR: One thing I'd be remiss if I didn't mention, I'm going to leave it here. I'll make copies and hand it out later. I have copies from 68 individuals regarding the seed library, supporting the legislation and for local food systems using the seed libraries. So a lot of work went into that and I appreciate the hard work. And so I'll make a copy for everyone so that you each have one. I'll probably scan it and send it to you to save trees, but I didn't have time to before. [LB544]

SENATOR JOHNSON: Thank you. Any questions? Thank you. [LB544]

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

Agriculture Committee
February 24, 2015

SENATOR HARR: Thank you. And I want to personally again thank Senator Schilz for having the intro study for me in Omaha. Thank you. [LB544]

SENATOR JOHNSON: Thank you. First proponent. I know you know the rules. Please state your name and spell it, please. Thank you. [LB544]

JESSICA KOLTERMAN: Thank you. Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. Thank you, Senator Johnson, members of the committee. I come before you today on behalf of Nebraska Farm Bureau Federation, where I serve as the director of state governmental relations. Senator Harr approached us about this legislation and I took a look at the bill. And it really ties into a lot of the things that we've been working on for the last several years. One thing that we got excited about was the idea that we have a challenge in our industry and that's that people are removed many generations from the farm. And so anything we can do to get especially children engaged in agriculture and growing food and being part of the land is something that we get excited about. I know we've been before the Education Committee in the past couple of years to talk about agriculture in the classroom and tying in agriculture lessons into regular curriculum and practices that they teach in schools. But if there's a way we can do that in the community as well, that's something that we're supportive of. I appreciated the fiscal note being nonexistent, so that is something else we were excited about. And I'd be happy to answer any questions you have, but Farm Bureau does stand in support of the bill. [LB544]

SENATOR JOHNSON: Any questions? Seeing none, thank you. [LB544]

JESSICA KOLTERMAN: Thank you. [LB544]

SENATOR JOHNSON: Next proponent. [LB544]

ELIZABETH GOODMAN: (Exhibit 1) Elizabeth Goodman, E-l-i-z-a-b-e-t-h G-o-o-d-m-a-n. Thank you, Chairman Johnson, committee members, committee staffers, and fellow constituents. I am testifying as myself, the volunteer coordinator of Common Soil Seed Library in Omaha, secretary of the Metro Omaha Food Policy Council, production assistant at Blooms Organic Farm, and market manager of Main Street Market in Council Bluffs. Common Soil Seed Library is housed in three branches of the Omaha Public Library. We serve 600,000 patrons in the Omaha community. Last year we had 5,000 check outs. We operate on a \$3,000 budget. And so to begin, our forefathers provided free seed and encouraged us to have seed shares each spring and fall in order to build diversity and regional adaptation. This is how we came to have such strong, secure, and healthy communities. As political servants, it's your responsibility to put policies in place that support food security. Locally adapted seed is rare in this particular region. Because of issues of mold, mildew, pests, and harsh winters it is quite

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

Agriculture Committee
February 24, 2015

complicated to save a lot of seed here. Food security begins with locally adapted seed. Ironically, our emblem is the seed sower. Since Common Soil Seed Library opened I have not found another person able or willing to teach about seed saving many different varieties of vegetables, herbs, and flowers. It's just me and I'm a 27-year-old young woman, only five years learned on the subject and I do not come from a farming background. In fact, I come from a political background with Edward Zorinsky as my grandfather. Agriculture is not only Nebraska's cultural heritage, it's our economic heritage. By encouraging community gardens and seed libraries in each city and town across this state, you are supporting economic welfare by lessening our dependence on outside resources and by cycling the money within every community. Gardening supports sustained public health. We have some of the most productive soils on this planet. Access to unprocessed whole foods should not be limited. We claim that we are feeding the world when we have food deserts across this state. More than anywhere else, the Midwest needs to exemplify our land's ability to produce abundance by having community gardens and seed libraries in every community. Hear my plea to prioritize and move forward with LB544 and say yes to supporting our agricultural heritage, health, and food security for many generations to come. Thank you. [LB544]

SENATOR JOHNSON: Just a moment. Any questions? I guess not. Thank you for your testimony. Next proponent. Welcome. [LB544]

DAVID MIXDORF: My name is David Mixdorf, D-a-v-i-d M-i-x-d-o-r-f. I'm a fourth generation seed saver. We have things down on our farm that we've traced back over 100 years and we've been saving it generation, generation, generation. We still farmed with horses up till the '70s, so that's how devoted we were. To give you an idea what a seed library is, think of a general library where people go in and check out an item, take it home, bring it back. A seed library operates just like that. They come in, check out seeds of a certain variety. They're all open, pollinated varieties. They are seeds that anybody can save. They've been around...some new varieties are relatively new, open, pollinated varieties. But most of them are 50, 60, 70 years old. You check out the items. In our library you have to take classes to be able to check out the items and be able to save them correctly. And you go through a little process and then we literally check up on the individual, seeing if they're doing it correctly. At the end of the growing season, that's when you can bring back items. The interesting thing is you don't get fined if you had a bad weather time period and your crop was destroyed or you lost things. For us, predominantly it's an educational opportunity. If you know anything about South Sioux City, the majority of our population is second language individuals that are relatively new to the United States. And so this is an opportunity for them to learn how to garden. And once we run them through the variety of classes that they have that chance, then they get free seeds, literally to take home and try for the first time. Many of our individuals are also very low-income individuals and this is an opportunity for them to put in a garden. We have now two community garden spaces in our community. We're looking at two more spots. And it does cost money to get a garden spot and that's what

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

Agriculture Committee
February 24, 2015

pays for the water, pays for the liability insurance, and all that. We've also just recently put in an orchard, over 200-plus trees. And this year we're doing about 12 different orchard classes on how to be able to maintain an orchard, do things like that. So the big thing that we look for, the benefits of the seed library, it's educating that population again. Especially, the generation that's out there now, the 20- to 30-year-olds that never have really grown up. Most of you guys are my age and you actually remember planting gardens and taking care of gardens and planting field crops and taking care of field crops. So many of our generation, the younger kids nowadays don't have a clue. And so this to us, is a big educational process for us. And once again, there's no money exchanged at all. It's an opportunity, as I call it, to learn. Thank you. [LB544]

SENATOR JOHNSON: Any questions? I have a question. [LB544]

DAVID MIXDORF: Yes. [LB544]

SENATOR JOHNSON: And I don't know the location, but it was in, I think, north-central Iowa where there was a seed bank that was preserving original seed. [LB544]

DAVID MIXDORF: Seed Savers Exchange is in northeast Iowa. And that's one of the places that we do get a variety of our seeds. [LB544]

SENATOR JOHNSON: Okay. Okay, that's what I was wondering. [LB544]

DAVID MIXDORF: And they actually are the one coming down to do...we're doing an apple tree grafting class in March at our library as part of the orchard program. And they are bringing in heirloom apple trees, putting them on new dwarf root stock, so it's kind of taking the old and putting it onto the new. People are learning how to create new types of apple trees that they can grow. So that's one of the places. There are several places here in the Midwest. And we really emphasize that you get...if you get really interested in this, you stick to the seeds that you can find in the Midwest, because it's just like prairie grasses. Certain prairie grasses grow good here because that's where they developed. Certain vegetables grow good here because that's where they came from. [LB544]

SENATOR JOHNSON: Okay. Any questions? Seeing none, thank you. Thanks for coming in today. [LB544]

DAVID MIXDORF: Thank you. [LB544]

SENATOR JOHNSON: Next proponent. Welcome. [LB544]

INGRID KIRST: (Exhibit 2) Thank you. Good afternoon. My name is Ingrid Kirst, I-n-g-r-i-d K-i-r-s-t. I'm here as the executive director of Community Crops. We are a

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

Agriculture Committee
February 24, 2015

local Lincoln-based nonprofit organization that helps people grow food. I've been doing this since 2003. We have community gardens throughout Lincoln, we do a lot of youth garden education, and we also train beginning farmers. Briefly, on the seed library issue, we have not started a seed library yet, although we've had a lot of interest in that. We have had seed exchanges over the years, just informal groups of people coming together to share seeds, particularly community gardeners. And they've been very popular, so the seed library would be a really nice next step when this bill passes that will give us a lot more authority and "comfortableness" that we can do that without having to worry about some of the current regulations for seeds. Second, towards the Community Gardens Act, I wanted to talk about that a little bit more. Community gardens have been becoming very popular across the entire country. And we've got dozens of gardens right here in Nebraska. There's plenty up in Omaha, but there are also in many other cities, Beatrice, Kearney, Fremont, Auburn, as well as Lincoln, started by lots of different organizations. Community gardens provide fresh vegetables to those who are gardening, including 30,000 pounds of vegetables raised by Community Crops gardeners in 2014. But they have many benefits that go beyond just food. Studies have shown that community gardeners improve their health by eating more servings of fresh vegetables, as well as they're engaging in low-impact exercise as they garden. There are also many valuable mental health benefits that come from working outside and working the soil. And there's a lot of connections amongst the gardeners, creating a stronger community. Community Crops manages 12 community gardens on a variety of sites throughout Lincoln. The majority of them are on church land and then many of them are also on private land. But there's a limit to landowners who are willing to let us use land for a long period of time as a garden. And so municipal and state owned land being used for this purpose would be very valuable. The city of Lincoln made increasing the amount of community garden space into a goal and it's LPlan 2040 Comprehensive Plan, which also encouraged the use of public land for community gardens. And in response, the City of Lincoln Parks and Rec Department established a procedure for developing gardens. And last year we were able to establish a community garden in Peter Pan Park--so it was the garden in a city park in the city of Lincoln--which went very successfully. And we now have...city council has approved us continuing that garden for the next four years. So I really think this would be a great opportunity for other communities across the state to have gardens on municipal land. It's a valuable resource, land that's not being used anyway, we might as well be using it to grow food. I have a couple of suggestions in my testimony of improvements to the bill. But overall I'm in support of LB544 and hope it will be advanced from here. [LB544]

SENATOR JOHNSON: Okay. Any questions? Senator Schilz. [LB544]

SENATOR SCHILZ: Thank you, Senator Johnson. Ms. Kirst, thanks for coming in today. I guess first off, you said you had a couple of things that you'd like to see in the bill. Could you go ahead and line those up for us, if you don't mind? [LB544]

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

Agriculture Committee
February 24, 2015

INGRID KIRST: Sure. So a couple things that I thought possible suggestions. One, it talks about a community organization being the entity that could have a community garden, but it never defines a community organization. So I thought that might be something to mention. The Parks and Rec Department settled on, it needed to be comprised of at least five members and be a legally formed entity via corporation, LLC, or other recognized organization. So that was one. And then the other one was, Parks and Rec decided not to do this. But I still think it's a good thing to at least think about, whether people could sell produce off of this property even though it's municipally owned, still giving that opportunity because then you have an opportunity to create economic development, start small businesses, get new farmers started on a small piece of land. That's a lot of what we're doing is, getting people started on small pieces of land and then they can grow their business into a full-time farming occupation. So I don't know whether we should address it in the bill or just leave it open, but just wanted to make that suggestion. [LB544]

SENATOR SCHILZ: Sure. And you said you manage 12 of these around the city of Lincoln. Is that correct? [LB544]

INGRID KIRST: Correct. [LB544]

SENATOR SCHILZ: Can you tell me...it talks about in the bill wanting to have...making sure...or it may mean that the community...make sure that you have the proper liability insurance and stuff like this. Can you give us some idea of what kind of costs go into that insurance and how it works and if you have any issues with the folks that are private landowners, and how that all works? [LB544]

INGRID KIRST: Yeah. So we've always had liability insurance that covers community garden activity. It took us a little bit of finding an insurance company that was willing to insure that because it is an unusual request. Hopefully, that's getting easier as community gardens are getting more popular. It's bundled into a whole bunch of other insurance so I don't remember the exact dollar amount. But I would say it was under \$1,000 for all of our gardens. [LB544]

SENATOR SCHILZ: For everything? [LB544]

INGRID KIRST: Right. The most significant cost for starting a new garden for us has been water. If we can...a lot of our gardens we hook up to the neighboring building. So if it's at a church, we're getting that. But for the city park, we had to connect into the city water supply was the original plan and that was going to be an \$8,000 cost. In the end, we wound up putting in a well, which was even more. But it is...that water cost is the most significant. [LB544]

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

Agriculture Committee
February 24, 2015

SENATOR SCHILZ: And then do you reimburse any of the churches or anything for your water use or anything like that? [LB544]

INGRID KIRST: Some churches are able to donate that as just a congregation and some are not. And so, yeah, we will try to get funding. Either gardeners pay a small fee if they are able to or we'll get grant funding for that. [LB544]

SENATOR SCHILZ: And then, I guess one last question. I don't know if this is...if you take this and then you allow folks to take their produce or whatever they're producing off of this community garden and sell it, does that change the liability situation, in your mind? [LB544]

INGRID KIRST: They would then need to have their own product liability insurance, which is a relatively inexpensive policy. But, yeah, they would need to have that set up. [LB544]

SENATOR SCHILZ: Sure. Okay, thank you. [LB544]

SENATOR JOHNSON: Thank you. Any other questions? Senator Bloomfield. I need to recognize Senator Bloomfield coming in and Senator Schilz were not here when we introduced, so. Senator Bloomfield, go ahead. [LB544]

SENATOR BLOOMFIELD: Thank you, Senator Johnson. I was across the hall introducing a bill and Senator Harr may have covered it in his opening, I don't know. But what liability would the city fall under if someone got hurt in the process of operating that community garden? [LB544]

INGRID KIRST: Well, part of this bill would be to require the community organization to have liability insurance to cover anything like that. So I'm not an insurance expert, but that would definitely be a requirement. [LB544]

SENATOR BLOOMFIELD: Okay. Thank you. [LB544]

SENATOR JOHNSON: Any other questions? I have one. You have several...what's the average size? Or what is a manageable size for a family as far as square footage or that for a garden? And how big...it depends on how much space you have available and how much water you have available, so it could be huge. But per person or per family, what's the average size? [LB544]

INGRID KIRST: So we start our families out on a 10-by-10 plot, so 100 square feet. They can get larger spaces if they demonstrate that they know how to garden and they keep up with it--so they can return the next year and get a larger space--up to about 400 square feet, is what we're limited to to get everybody in. Our gardens vary in size. The

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

Agriculture Committee
February 24, 2015

one at Peter Pan Park is about 40 families, which is a manageable size. Smaller than that and it's less efficient for our work and bigger than that, it gets a little unwieldy just the number of people involved. [LB544]

SENATOR JOHNSON: Okay. Senator Riepe. [LB544]

SENATOR RIEPE: Senator, thank you. Do you have--we're talking about liability--do you have--and I know contracts sound unfriendly--but do you have agreements of people that are going to participate that they might sign onto a hold harmless so that it would reduce your risk and therefore reduce...I assume, you may have like \$1 million umbrella policy. [LB544]

INGRID KIRST: Yeah. Yeah, we have them sign a agreement that, yeah, it has hold harmless language in it. I know that is not completely enforceable but we do encourage that. And then just trying to make sure the garden is a safe place and think about those things in advance. [LB544]

SENATOR RIEPE: So if they step into a prairie dog hole, you're not liable for it? [LB544]

INGRID KIRST: That would be our hope, yes. [LB544]

SENATOR RIEPE: Just something we've been talking about...clarification, yeah. [LB544]

SENATOR JOHNSON: Thank you. Any other questions? If not, thank you. Thank you for coming forward. Next proponent. Welcome. [LB544]

GUS VON ROENN: (Exhibit 3) Thanks. Hello. My name is Gus Von Roenn, G-u-s V-o-n R-o-e-n-n. I am speaking today on behalf of Douglas County, Nebraska, Farmers Union, testifying as a proponent for today's LB544 and Community Garden Act. We are an organization that restores degraded and unwanted vacant land through urban agriculture. We use this land to nurture entrepreneurial incubator projects. This legislation will allow people of many socioeconomic backgrounds to pursue the most instinctual of mankind's practices unabated, gardening and saving seeds. To encourage true market-side economics our state should allow a level playing field for people who are trying to achieve success with fewer resources. Our organization is increasingly representing people who have big dreams but no access to land. The ethnically diverse populations within Nebraska would be more than capable to add many unique, value-added products toward Nebraskan taxable sales if given the chance. The wildly exotic food crops that can be grown in an agriculturally rich region like Nebraska are limitless. As the seeds of these new gardens are planted, a sense of community and shared civic responsibility will grow, not just food. The Community Garden Act and the seed library legislation resides at the foundation of local food movements. Local food is

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

Agriculture Committee
February 24, 2015

only possible if people can grow produce and sell food locally. As a farming state we should not hesitate in elevating this local food movement to enrich us all. Please support the Community Garden Act and the Nebraska seed library system. Thank you for your time. [LB544]

SENATOR JOHNSON: Any questions? Senator Riepe. [LB544]

SENATOR RIEPE: I have a quick question. [LB544]

GUS VON ROENN: Yes. [LB544]

SENATOR RIEPE: Thank you for being here. [LB544]

GUS VON ROENN: Sure. [LB544]

SENATOR RIEPE: My question is, is this on an honor system that, like this row and these plants are yours and these are mine? Or how do you... [LB544]

GUS VON ROENN: Well, as Ms. Kirst pointed out, was a lot of times the plot would be allocated to a family. And if they show good stewardship to that plot that they would be given more. I think in most vacant land situations we're looking for anybody who is eager to come out and farm or do some gardening. But you're right, we don't want to let it create a blemish on the neighborhood as a whole, so we want to make sure that each farm or each gardener makes it look nice for the neighborhood. [LB544]

SENATOR RIEPE: You need to have some rules of rules of engagement. [LB544]

GUS VON ROENN: True. [LB544]

SENATOR RIEPE: Okay, thank you. [LB544]

GUS VON ROENN: Sure. [LB544]

SENATOR JOHNSON: Senator Bloomfield. [LB544]

SENATOR BLOOMFIELD: Thank you. Do you ever have issues with, he stole my tomato or they ripped off my food out of my garden because theirs wasn't doing well? [LB544]

GUS VON ROENN: That does happen. I guess the probably best way to approach this and subside a lot of these issues is to grow a lot of food so no one will have these issues. And a lot of community garden plots not only have a center where most of the family plots will be, but on the periphery around on the edges of the property usually

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

Agriculture Committee
February 24, 2015

we're growing some more communally accessible plots so that if people were walking by and they notice it's a community garden that we don't have any problem if they were to pluck something. [LB544]

SENATOR BLOOMFIELD: We used to have problems with people driving 15 or 20 miles just to mash watermelons on Halloween. Do you have any vandalism problems? [LB544]

GUS VON ROENN: They do happen, but I think they're part of this new movement that's starting swelling. I guess if we start to see a lot of people have gardens, with gardens everywhere, I don't think we'll start having to see people travel other distances to... [LB544]

SENATOR BLOOMFIELD: No, they can get them when they're close. Thank you. [LB544]

SENATOR JOHNSON: Any other questions? I have maybe a clarification. Maybe I heard it wrong. Your testimony you handed out has a different name. [LB544]

GUS VON ROENN: Yes. [LB544]

SENATOR JOHNSON: No problem. I just...for the record. [LB544]

GUS VON ROENN: Oh, sure. For the record, I am testifying on Douglas County Nebraska Farmers Union's behalf today. [LB544]

SENATOR JOHNSON: Okay. Now is that affiliated with the Nebraska Farmers Union? [LB544]

GUS VON ROENN: Yes, it is. [LB544]

SENATOR JOHNSON: Okay, thank you. Just clarification, thank you. [LB544]

GUS VON ROENN: Sure. [LB544]

SENATOR JOHNSON: Next proponent. Welcome. [LB544]

TIM RINNE: (Exhibit 4) Thank you, Senator. My name is Tim Rinne, I am the state coordinator of Nebraskans for Peace and I am testifying today on behalf of LB544 and in favor. [LB544]

SENATOR JOHNSON: Would you spell your name, please? [LB544]

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Transcriber's Office

Agriculture Committee
February 24, 2015

TIM RINNE: Oh, yes. Thank you. R-i-n-n-e. First name is Tim, T-i-m. [LB544]

SENATOR JOHNSON: Thank you. [LB544]

TIM RINNE: You'd think after all these years I would remember that. We're passing out something here today and as you can see on the cover sheet there and you're going to follow along with me, if you would. Reasons to support local food: economic development, let's keep these dollars at home; health benefits, let's eat fresher food; environmental impact, let's reduce our carbon footprint if we can, all right; taste, I'm a foodie, I fully admit it, I love to cook, okay. But what I want to talk about today is one item that we don't really cover very often, and that's food security. And we have a definition underneath here that came out of the Food and Agriculture Organization of the United Nations in 1996 that says that: Food security exists when all people, at all times, have physical and economic access to sufficient, safe, and nutritious food that meets their dietary needs and food preferences for an active and healthy life. Sounds great. Go to the next page. This past March, though, the Intergovernmental Panel on Climate Change, the premier body of climate science in the entire world said in their report: Throughout the 21st century, climate change impacts are projected to further erode food security, prolong existing and create new poverty traps, particularly in urban areas and emerging hot spots of hunger. All aspects of food security are potentially affected by climate change, including food access, utilization, and price stability. Next page. In May, the National Climate Assessment of the United States put out a report called "Climate Change Impacts in the U.S." and it said under the agriculture section: Climate disruptions to agricultural production have increased in the past 40 years and are projected to increase over the next 25 years. By mid-century and beyond, these impacts will be increasingly negative on most crops and livestock. Then this past September the University of Nebraska released its own report on climate change and the impact that it will have on our state here in Nebraska. And they reported that under both low and high emission scenarios, the number of high temperature stress days over 100 degrees Fahrenheit is projected to increase substantially in Nebraska and the Great Plains region. By mid-century--which they count 2041 to 2070--this increase for Nebraska would equate to experiencing typical summer temperatures equivalent to those experienced during the 2012 drought and heat wave, which was a record setter that we hadn't seen since the Dust Bowl. Next page. It's not just the climate scientists that are speaking out on this. Here's former Nebraska Congressman Doug Bereuter who chaired, along with Dan Glickman, a former Agriculture Secretary, the Global Agricultural Development Initiative for the Chicago Council on Global Affairs. And in their report that they released this past May: Climate change will bring hotter temperatures, changing rainfall patterns, and more frequent natural disasters. These effects could slow the growth of food production by 2 percent each decade for the rest of the century. Farmers everywhere will be affected. If these challenges are not addressed, consumers will need to be prepared for higher food prices and potential food shortages. Then a month later, a couple of establishment Republicans, Henry Paulson,

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

Agriculture Committee
February 24, 2015

who was George W. Bush's Treasury Secretary and George Shultz, who was Ronald Reagan's Secretary of State, which are members of this group called the Risky Business Project, they released a report which said: Our research shows that under the business as usual scenario and assuming no significant adaptation by farmers, the Midwest region as a whole faces likely yield declines of up to 19 percent by mid-century and 63 percent by the end of the century. [LB544]

SENATOR JOHNSON: Can you start to wrap up a little bit? [LB544]

TIM RINNE: Oh, yes, sir. All right. Okay. [LB544]

SENATOR JOHNSON: Thank you. [LB544]

TIM RINNE: And then they actually came out with a report this past January where they talked about actually, it's going to be worse than that. Over the next 5 to 25 years, we're going to see serious yield decline. The Department of Defense has weighed in on this. All right? They've talked about the fact that we're going to be facing food and water scarcity. And Senator Chuck Hagel...not Senator Chuck Hagel, former Secretary of Defense Chuck Hagel, he's talked about food shortages and the fact that the Pentagon needs to prepare for them. The final four pages talk about some food facts. All right? And I know I'm getting over my time here, but the Pentagon figured out in 1969 that the average bite of food on our plate travels 1,346 miles to get there. That's 45 years ago. It's gotten worse, it's gotten longer. All right? We get 70 percent of our lettuce from the California Central Valley. It's in a 500-year drought and there's no end in sight. Ninety percent of the money that Nebraskans spend on food annually--which is \$4.4 billion--leaves the state because we can't buy fresh food here in the state. And the largest irrigated crop in the United States is the lawn. The upshot is, is the takeaway. The farther we get away from our food supply the more food insecure we are, which is why doing things like community gardens and changing the urban landscapes that it's not just a consumer but it's also a producer, is critical. We can grow fresh produce in the city and we need to do this. I urge you to support LB544. [LB544]

SENATOR JOHNSON: Thank you. Questions? Senator Riepe. [LB544]

SENATOR RIEPE: Yes, sir. Thank you. You've linked in local gardens into climate change. And I guess my question is, you seriously believe in climate change and hometown gardens. Would you be prepared to export this to China and India as well, that they might help with the climate control? [LB544]

TIM RINNE: I can't really address that, Senator, but what I can tell you is that...and I will leave this with you here. This is an article that appeared in a national publication about our Holly Hamlet here in Lincoln, where we have taken grass out of production in our block and now have six-tenths of an acre of garden. And we have 20 families

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

Agriculture Committee
February 24, 2015

participating in our city block. And we're just doing that on our own without city assistance on any level and so forth. We would like to see a version of this spread everywhere. There's no reason that people should not be growing lettuce. In our hamlet right now--we call it the Holly Hamlet--in our hamlet right now, we're growing fresh lettuce right now in our hoop houses, in unheated hoop houses. I never knew that you could grow lettuce in the wintertime under freezing temperatures and you can. So when we want a salad, we walk outside into our hoop house and we get it. This can be done all over Lincoln, all over Nebraska. I think that this is the way to go. We need to get the city from being simply an eater to starting to be a producer for those things that we can. We can't produce corn and wheat, we don't have fields for that in town. We can't...you know, with grass, humans can't eat it and we can't keep the animals in the city that can. Okay? So this is our opportunity to weigh in, in the food production system. We're not going to be going...we're not going to be pushing wheat farmers out of business or corn farmers out of business and so forth, but we can grow something in the city and I think that we need to. [LB544]

SENATOR RIEPE: I'm all for the garden plot, I think that's great. I just struggle to try to make a link of a garden plot in Lincoln, Nebraska, with worldwide climate change. I didn't make the transition with you. [LB544]

TIM RINNE: Well, I guess that's why I quoted these officials because they are making the connection. They're saying whether we choose to accept their conclusions or not, they're saying that climate change is going to make it harder to grow food all around the world. And I think it behooves us, particularly those of us in the cities who have basically been moochers, we've counted on somebody else to feed us for decades. We don't give any thought to our food. This is an opportunity for city people to start getting engaged in the food production process so that they begin to get an appreciation of how complicated agriculture is, how risky it is to put a seed in the ground and think that you're going to produce a harvest out of that. This is our opportunity to start pulling our weight in the food production system. [LB544]

SENATOR JOHNSON: Thank you. Senator Bloomfield. [LB544]

SENATOR BLOOMFIELD: Mr. Rinne, you said something about your little community garden there that struck a chord with me, that you have done it without city or government involvement. Why don't we just keep it that way? If you've got a backyard, plant you a garden. Why get the city involved? Why get the counties involved? I don't know why in the world we're involved, but I like the free enterprise system. [LB544]

TIM RINNE: Well, and I appreciate that too. But I can tell you in my block that we've got entire areas where we have no choice but to have it in grass. There's too much shade, there's too many tree roots. You can't grow there. Okay? And so you're not going to get enough sunlight. You might be able to grow a little lettuce. Okay? But you're not going

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

Agriculture Committee
February 24, 2015

to be able to get a little sunlight. So we've carved out--like I said--six-tenths of an acre in our block and we might be able to boost that to about three-quarters of an acre. But after that, we've got too many trees. You can't do it. So there's a limit on what's available and we have people in the block who want a garden but they have no space. Their yards don't permit it. You've got people who live in apartments that might be interested in doing this but they can't do it because they have no space. And so creating community gardens creates options for people. Not everybody is going to be interested in doing gardening. But those that are interested, we should give them the tools to do it if they need ground. And that's one of the things that I think this bill could do. [LB544]

SENATOR JOHNSON: Thank you. Anybody else? Thank you for coming in. [LB544]

TIM RINNE: And here is--like I said--if you're going to pass it around, this is the story about our hamlet. Thank you very much. [LB544]

SENATOR JOHNSON: Okay. Thank you. Next proponent. How many more proponents do we have? Three, at least. Do you want to come up closer so we're not losing time in between? That would be great. Welcome. [LB544]

CHRIS FOSTER: (Exhibit 5) Hi. My name is Chris Foster, I'm representing the Gifford Park Community Garden. It's near 35th & Cass in Omaha in midtown. And the information I'm passing around is... [LB544]

SENATOR JOHNSON: Could you spell your last name? [LB544]

CHRIS FOSTER: Yes, Foster, F-o-s-t-e-r, first name Chris, C-h-r-i-s. [LB544]

SENATOR JOHNSON: Thank you. [LB544]

CHRIS FOSTER: And I'm the landowner and director of the community garden and our youth garden program. We started in 2001 and our youth program started in 2004. And we're basically a project--the way we're structured--we're a project of the Gifford Park Neighborhood Association, which is a 501(c)(3). And just to answer a couple of questions or items I heard other people talk about, I pay the liability insurance since I'm the landowner. So it's about \$250 to \$300 a year for an umbrella policy that goes on top of my homeowners insurance. And the property is actually--as you may see one of those pictures--is actually right behind my house. It was a vacant double lot and just overgrown, junk, tires, things like that and I convinced my wife let's buy it. We were inspired by the City Sprouts Community Garden which also has a letter of support and started it back in 2001. Just real quick, I wanted to show those pictures to give you kind of a flavor and description of what we do in our community garden and other community gardens also do the same thing. We've got 32 family plots--and they're roughly 5 feet by 15 feet--and the charge is \$15 a year. It basically pays for the water bill and some of the

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

Agriculture Committee
February 24, 2015

kids' tools and some other things but mainly the water bill. We've got 45 30 inch by 30 inch raised beds for the kids. We have a youth program every Saturday morning to teach kids about good stewardship of the land, how to grow. We bring snakes, reptiles, bees. Betsy Goodman talked about the seed saving. She teaches kids hands-on about how to save seeds. We actually go through that procedure. And this goes from May through the end of August. We also have 20 chickens. We got a permit from the Douglas County Health Department and it's been incredibly successful. We sell the eggs at our Friday night market down on 33rd and California in our business district. The kids get to see the chicks grow up so they learn about taking care of the chickens. One of the pictures just kind of shows an overview. Again, we've kind of expanded and we're even going to add another program called "adventure playground" this year, which is kind of an extension of the youth garden program where kids can actually build things on the garden site. One of the documents is the schedule for our youth garden program. And then the sign-up sheet and just some pictures of the kids, again, learning, working together. We're all volunteer-based and we have some incredible volunteers. Like I said, I mentioned Betsy and other folks. And I guess I'd just like to just finish up with the water chart that I've heard from other people that that's our biggest challenge. Our bill was basically \$600 last year; just shy of that. But we pay \$264 in the infrastructure costs and we feel like community gardens actually help with preventing water runoff, absorbs, cooler, other things. So that's really what's kind of killing us as far as cost. And you can see the actual...so out of the \$600 the actual water usage was \$43 last year. And I realize it was a...we got a lot of rain last year, but it kind of shows...seems like something could be done about that. So I'd entertain any questions. [LB544]

SENATOR JOHNSON: Any questions? Seeing none, thank you. Next proponent. Welcome. [LB544]

LAUREEN RIEDESEL: (Exhibit 6) Thank you. Good afternoon. I'm Laureen Riedesel, L-a-u-r-e-e-n R-i-e-d-e-s-e-l, I'm the director of the Beatrice Public Library, which is one of the other...in fact, it's the third seed library in the state and that's why I came to talk to you today. I appreciate all the things I'm learning about community gardens and we do cooperate with your community garden, actually, a couple of them. We have one at Homestead National Monument of America. And that one, the garden that they're dealing with is actually a pioneer garden, which is one of the reasons that the whole seed saver idea is so crucial for them because they are truly dealing with plants that are the plants that our pioneer ancestors would have been dealing with 150 years ago. They also have a community component where people in the community could come out and grow and, of course, use modern plants and modern techniques. The other one is one that is done with a local church group and they've been using our seeds for that one. And you'll be happy to know that the bounty of that crop is also donated to our local food pantry which another church coordinates. So in that case we are seeing the seeds that were given away at the public library creating plants and creating things to eat that are, in turn, given to the neediest people in our community. So we're happy to be part of

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

Agriculture Committee
February 24, 2015

that process. I am not like David, my colleague, who had the four generations of people going on and on planting seeds. My grandmothers were great gardeners but I am not. However, I am a library director and one of my jobs is to look at opportunities and see if it's something that looks like something that belongs in our community. I was at a conference three years ago in Washington State and sat and heard someone from Arizona tell about their seed library. And I thought, my goodness, if they can do this in Arizona we certainly could do it in Nebraska and do it even better. And so I was really excited about the opportunity. It fits, of course, who we are as Nebraskans. It fits who we are in Beatrice because our particular library is on the site of a nurseryman's mansion and we have trees there that go back there that are now over 100 years old. So we were really pleased to have this chance to tie into this. I wanted to point out, on the sheet that I handed out that talks about starting this, I'd like to just highlight who our partners are because, again, there's some sense in some people's minds that this is a bunch of people who don't know what they're doing and are, in fact, endangering Nebraska agriculture. Our partners are: The Nebraska University here in Lincoln, Extension Service; they're the Master Gardeners. You can't get any more knowledgeable or people who probably care more about Nebraska plants and agriculture than that group; Southeast Nebraska Farmers Market Coalition; our local Main Street Group; Homestead National Monument of America; and we also are coordinating with Nebraska Statewide Arboretum, of which we are a landmark member. So I just want to encourage you that I truly think this really is all about who we are as people, what we value, what we've been doing since the day those of us who are western European descendants got here, we've been trying to grow things, we've been sharing the very things that we were able to produce. We've been experimenting to see what will really grow in this incredible climate. And it just seems to me like nothing could be closer to who we are as people than the idea of these seed libraries and our opportunity to share them with our communities. So I thank you so much for your time. I'll be glad to answer questions if there's anything that I could share that I haven't already. [LB544]

SENATOR JOHNSON: Any questions? Seeing none, thank you. Thank you for coming in. [LB544]

LAUREEN RIEDESEL: Thank you very much. [LB544]

SENATOR JOHNSON: Any other proponents? Welcome. [LB544]

MICHAEL SHAMBAUGH-MILLER: (Exhibit 7) Thank you, Mr. Chairman, committee members, committee staffers. My name is Professor Michael Shambaugh-Miller. I'm a former research project director at the Rural Policy Research Institute at the University of Nebraska Medical Center. And I'm currently the director of the Nebraska chapter of the Society of St. Andrew. We're a national nonprofit organization that provides gleaning services to farms, farmers, farmers' markets, commercial producers, distributors,

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

Agriculture Committee
February 24, 2015

community and personal gardens. Last year nationally our group saved over 30 million pounds of produce that was considered too ugly or would not have a sufficient shelf life for commercial sale. In addition, we have many suppliers who allow us to glean the excess from their fields after their harvest or that they have planted intentionally for donation to our organization. All of this produce goes to feed a portion of the chronically hungry in our country. The most important item that can be distributed to food pantries is fresh fruit and vegetables. They're among the healthiest and, unfortunately, the most limited portion of food items that are available to these critical community assistance programs. Last summer was the first growing season for St. Andrews in Nebraska. We ran a test gleaning operation with two Lincoln area farmers' markets, two community gardens, and three Lancaster County farms. From this limited sample we were able to glean over 15,000 pounds of fresh produce; that translates into 50,000 individual servings of fresh, healthy produce for families that rarely have it available in their diets. With an increase in the number of community gardens it is simple mathematics that donations will also increase. Research and real world experience shows that this increase in donations helps to relieve pressure upon local government resources to feed our state's most needy families. In addition, the nutritious produce introduced into meals leads to healthier children, children that then perform better at school and children that then carry those healthy behaviors into adulthood. A key component of the success of these gardens is access to affordable and a wide variety of seed. When a crop producer becomes dependent upon a limited variety of commercially produced feed a cascade of potential events are set in motion. First, obviously, is the cost. Though a few dollars for a package of seed may seem negligible to most of us, to a community nonprofit every dollar is needed to fulfill their mission. Any savings on production costs will in turn be seen as increased services. Second, access to seed variety provides for a range of vital nutrition provided to the consumer. Humans require a multitude of vitamins and minerals to maintain overall health. Dependence on a small selection of produce limits this important variation in the diet. Finally, we have the whims of nature. Weather and other environmental issues can lead to one or more crops to fail and in extreme cases can lead to a single crop elimination due to disease or insect infestation. Seed libraries provide the service of storing a variety of seed for a range of produce and help ensure that the community will always have access to these basic materials needed to ensure we can feed ourselves and our fellow citizens. The libraries ensure that we can survive blight or other environmental disasters that may wipe out a key type of produce. LB544 allows the individual and the community to do the right thing, the God given right thing. That is sharing the resources of the land and preserving the bounty that we've been blessed with in Nebraska. This bill gives legal recognition to what our state is about, using the land to provide a simple living, to feed our families, and to lend a hand to our neighbors in need. Thank you. [LB544]

SENATOR JOHNSON: Thank you. Any questions? Seeing none, thank you for your testimony. Next proponent. Welcome. [LB544]

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

Agriculture Committee
February 24, 2015

KEN WINSTON: (Exhibit 8) Good afternoon, Chairman Johnson and members of the Agriculture Committee. My name is Ken Winston, I'm appearing on behalf of the Nebraska Sierra Club. The name is spelled K-e-n W-i-n-s-t-o-n. I won't read my testimony because it repeats a lot of things that other people have said. But I was just thinking about the fact that I wish that there was a community garden in my neighborhood because I have a very small yard and a large dog. And between those two things it's hard to grow much of anything. And so if there was a community space that was set aside for a garden, it'd be much more likely that I'd be able to actually have a garden in my neighborhood. So on a personal level as well as a professional level I think this is an excellent bill. [LB544]

SENATOR JOHNSON: Thank you. Thanks for your written testimony and being brief. Any questions? Seeing none, thank you. [LB544]

KEN WINSTON: And, Senator, could I offer my letter in support of LB558 as well? [LB544]

SENATOR JOHNSON: Why don't you hand it in off over there and then we'll read it in. [LB544]

KEN WINSTON: Okay. All right. [LB544]

SENATOR JOHNSON: Thank you. [LB544]

KEN WINSTON: Thank you, Mr. Chairman. [LB544]

SENATOR JOHNSON: Welcome. [LB544]

ROBERT BERNT: Hello. Thank you, Senator Johnson and the rest of the committee. My name is Robert Bernt, B-e-r-n-t, from Wheeler County, Nebraska. It's about 160 miles drive down here for me, but I want you to know that I've been producing a 20-acre vegetable garden--my family has--with 6,000 square feet of high-tunnel greenhouse year-round growing, extended growing for the last 12 to 15 years, I guess. We market our products directly to our consumers in Omaha. We're a member of a 960 CSA that receives our products that we grow. Any time that we can encourage saving of seeds, especially as the gentleman earlier testified, we...our seeds, our plants adapt to our region. It's important that we maintain those seeds and allow those seeds to be grown to keep producing the fruits and vegetables that we have. On the other aspect, any time we can encourage a young individual to grow something, work the soil and receive from it we need to do that, we need to encourage that. Now as a large vegetable producer, you know, I'm probably testifying on something that could harm me. But in the last ten years I've seen this grow to a point where you cannot answer the demand for the local food that's out there. All right, we produce roughly \$40,000 a year from our vegetable

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

Agriculture Committee
February 24, 2015

garden. And I know by sitting here today there's no way that testifying in favor of this bill will harm me because there's a demand growing larger than I currently...or what we've seen. It's just phenomenal. So we need to encourage that growth. We need to encourage the participation from these community gardens to grow that local food for these individuals. We do see a problem with families that cannot afford that transportation cost from a commercial grower and they would be able to take advantage of this. And we, ourselves, try to encourage that. So thank you for your time. [LB544]

SENATOR JOHNSON: Thank you. Any questions? Seeing none, thank you. Welcome, Mr. Hansen. [LB544]

JOHN HANSEN: Mr. Chairman, members of the committee, good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I appear before you today as the president of my organization. We are in strong support of the seed saver program and have been a strong advocate of seed saver programs as this and also for commercial agriculture. My family used to raise and grow different kinds of grass seeds as well as small grains and we kept our own library of sorts of always keeping some back in different bins from different varieties from years gone by that were tried and true and worked in our area. And so the value of the seed saver program is just, by itself, I think a really strong part of this bill. But the second part, we're also in strong support of and we are a part of the Omaha food working group. We are part of the Community Crops program. We are a corporate sponsor of one of the Lincoln community gardens as an organization. We work with Michael Shambaugh-Miller through the gleaning program. And that particular program I think speaks to maybe something that is--for me as a farmer and as somebody who grew up my family always had a half an acre garden and we continue to be big gardeners and canners and keeping our own food and raising it--is the business of letting things go to waste. And so part of our organization's support for Mr. Miller's efforts is just the whole idea of letting perfectly good food go to waste. And in the case of small, vacant parts of lots in town, as a farmer I drive by that and I think, good grief, that could be used for a better purpose. We have folks who live in apartments, don't have appropriate backyards and these kinds of things could be put to good use to not only grow food but also help acquaint folks with the good earth from which we all come from. And the business of putting your hands in the dirt and growing things has enormous social benefits. And we thank the sponsor of this bill and we now know why it is he's put in all these meetings and all this time on this committee laying the groundwork for this bill and would thank you. And wish you well in your deliberations and urge you to bring this bill forward. [LB544]

SENATOR JOHNSON: Thank you. Questions? Senator Bloomfield. [LB544]

SENATOR BLOOMFIELD: Thank you. Mr. Hansen, you laid out that you support the growing and whatnot. Have you...how much involvement does your organization or any

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

Agriculture Committee
February 24, 2015

of the other organizations that you're aware of have to do with preserving food once it is grown, teaching people how to can and freeze things? Do you get involved in that? [LB544]

JOHN HANSEN: Not as much as we should. A lot of our members are big canners. I come from a family that canned about everything that moved and a few things that didn't. And so my wife is a big canner as well. You know, it's a simple thing and yet it makes a huge difference in terms of being able to preserve foods in a cost effective and safe way. [LB544]

SENATOR BLOOMFIELD: I actually should have asked that question earlier when we had the people up here that were sponsoring the gardens and whatnot because if you grow it and it rots you really haven't accomplished much. [LB544]

JOHN HANSEN: Right. But as we've done direct marketing efforts, there's a whole ongoing need to teach people how to cook again, who've gotten used to buying prepared foods in stores, but also just to do basic good food preparation, freezing, canning, just the basics. [LB544]

SENATOR BLOOMFIELD: Okay, thank you. [LB544]

JOHN HANSEN: You bet. [LB544]

SENATOR JOHNSON: Any other questions? Thank you. [LB544]

JOHN HANSEN: Thank you. [LB544]

SENATOR JOHNSON: Any other proponents? Welcome. [LB544]

BILL HAWKINS: Senator Johnson, committee members, I thank you much for your time. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s, and I'm here in support of LB544 and I appreciate Senator Harr for addressing this. I've been an organic farmer for over 40 years north of Lincoln, growing trees, produce, and herbs. And so anything you can do to encourage people to get out and farm the land is something that I would appreciate you encouraging. I worked with kids my whole life in a gardening situation; helped start gardens in schools; was part of the People's Gardening network that exploded into the Community Crops program. And Ms. Kirst and her staff and everything is to be commended for how they've developed that, a real benefit to the community of Lincoln. And there's other gardening programs across the state that really add to our communities. To develop community gardens it takes resources, you've talked about insurance. To address Senator Bloomfield's question on preserving food, I will speak for the Community Crops program. I've taught seed saving workshops with them. They have canning workshops. They have raising chicken workshops. There's

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

Agriculture Committee
February 24, 2015

beginning farmers programs which really teaches the farmers to be financially responsible in doing community gardens and farmers' markets. And so it is a lot about education and they work with their kids' program. I've worked with starting a community garden at Matt Talbot which they have a community outreach where they have kids from surrounding schools that come and learn about food nutrition and the benefits of fresh produce. So I really encourage you to look at this as an economic benefit to our communities and a way to develop value-added foods. The critical part of this bill that I'd like to address very quickly is seed libraries. With our ever-changing climate, whether it's global warming or going back to a glacier, whatever is happening, adapted seed to regions where we are is vital to us. The beginning of agriculture in our civilizations was gathering seed and saving the seed. And so that is a right that we need to protect, especially in this great state of Nebraska that has agriculture as its base. So I thank you for your time and encourage your support of this LB544. Any questions? [LB544]

SENATOR JOHNSON: Thank you. Questions? Seeing none. [LB544]

BILL HAWKINS: Thank you much for your time. [LB544]

SENATOR JOHNSON: Okay. Any other proponents? Any opponents? Welcome. [LB544]

MARY JANE TRUEMPER: Thank you. My name is Mary Jane Truemper, T-r-u-e-m-p-e-r, from Omaha. I would first of all like to say, I have agreed with just about everything that the previous speakers have said. I am a very big proponent of community gardening. I believe in seed saving; I do it myself. Love to can. In fact, I think in a community, community gardens is probably one of the most revolutionary things that you could see grass-roots people do. It fosters independence, keeps you from being dependent solely on a grocery store if you're in an urban area. But we had, I think it was Senator Hilkemann, had asked one of the speakers, don't we already have community gardens? Or Senator Riepe, I'm sorry. And the person said, yes, but we want to expand. Well, that's where I diverge on this bill. Another speaker had said, what do we value? I value private property rights. This bill had me until we got to page 10, Section (4,) when we start talking about conservation easements and zoning and development rights. And so that's where you lose me. I don't believe we have to abrogate private property rights in order to support community gardens. I think that that's a false choice that we're given today and that part of the bill is not necessary. Then we also talked about apartment dwellers. Well, you know, people have choices and there are consequences to your choices. If you live in an apartment, yeah, you're probably not going to have a garden. Hate to be the one to break it to you but that's how I see it. But there are areas that are in use in Omaha for sure that I know of in my neighborhood where community gardens are set up. And I'm very sorry if there's not enough land or we can't eke out some more land in this place or that place, but I certainly don't think we have to abrogate other people's private property rights in order

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Agriculture Committee
February 24, 2015

to do this. And that's why I oppose this bill. Thank you. [LB544]

SENATOR JOHNSON: Any questions? Seeing none, any other opponents? Anyone in a neutral position? Seeing no one, Senator Harr, you want to close? [LB544]

SENATOR HARR: Yeah. You know, I wasn't going to close, but I will just quickly. I hear what Ms. Truemper has to say is more political than ideological and actual. Here's a situation we have: We're not forcing anyone to do anything they don't want to do. Private rights? It doesn't impinge on anyone's private rights to land. They can do whatever they want on their own land. What we're trying to do here is to create an education process where we can help people get back to the earth, understand how plants are grown. It's an education for our kids but it's also for those in the middle...you know, for myself. I'm not going to complain about the size of my lot but I can't grow on my land that my house is on. I tried the "darndest" to grow pumpkins and it didn't work. I got one and it was about, I don't know, not more than a foot. And I had it out for one night and someone grabbed and threw it. I was furious. So community gardens serve a purpose. We have them all over our neighborhoods. I think Ms. Truemper is a constituent of mine. If she's not, she's right across the street. And so she understands the importance of community gardens. I think we all understand what they do. The seed libraries, it's...I think the case, our testifiers made it. I was hoping this would be a consent calendar bill. It's not going to be now, so. Thank you very much, I appreciate your time. I'll entertain any questions you may have. [LB544]

SENATOR JOHNSON: Okay, thank you. Okay, Senator Bloomfield. [LB544]

SENATOR BLOOMFIELD: Thank you. Senator Harr, I see we have zero fiscal note. Is that correct? [LB544]

SENATOR HARR: What's that? [LB544]

SENATOR BLOOMFIELD: No fiscal note? [LB544]

SENATOR HARR: No fiscal note. [LB544]

SENATOR BLOOMFIELD: How do we, when on line 3 of page 10 it says, the Director of Agriculture shall establish a community gardens task force on or before August 1 and so on and so forth? [LB544]

SENATOR HARR: Yeah. And you weren't here for my opening. [LB544]

SENATOR BLOOMFIELD: I was not. [LB544]

SENATOR HARR: And I thank Mr. Ibach or commissioner...Director Ibach and Mr.

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Transcriber's Office

Agriculture Committee
February 24, 2015

Storant from the Department of Ag. So they currently have an ag promotion coordinator and that person would handle the cost of that. So they have staff that can handle this because this is promoting agriculture in the state. [LB544]

SENATOR BLOOMFIELD: Okay. Thank you. [LB544]

SENATOR HARR: Thank you. [LB544]

SENATOR JOHNSON: Senator Riepe. [LB544]

SENATOR RIEPE: Thank you, Senator Harr. I wanted to follow up on Mrs. Truemper's concern here a little bit. And that was, do these gardens, community gardens comply with all covenants and zoning requirements and neighborhood association rules and regulations? [LB544]

SENATOR HARR: They have to. [LB544]

SENATOR RIEPE: Okay. I just wanted confirmation of that. [LB544]

SENATOR HARR: Yeah, they have to. And you know, I'll say that my brother and my mom or my parents and my sister live in a neighborhood that don't allow you to have gardens. That's part of their neighborhood covenants. You couldn't have a community garden there either. And you know, that takes precedence. What we're looking at is land that is currently vacant as defined in the statute. And we're trying to find ways to encourage growth of products, organic or however. But we're trying to create...we're trying to address the issue of feeding the world. And the answer is, we're not going to solve the whole global warming issue with community gardens. Right? But every marathon starts with one step and it's a small step. The carbon it takes to drive across country with just a cabbage from California to here, maybe we grow that cabbage here or radishes, you name it. But it provides fresh, locally grown fruit and vegetables. [LB544]

SENATOR JOHNSON: You have follow-up? [LB544]

SENATOR RIEPE: Yeah. Some of the pictures in here were very attractive in terms of the gardens. And I was just curious, does Keep Omaha Beautiful, as an organization, are they engaged in this process? Or is there some understanding with everybody that participates that these things aren't supposed to look like weed patches? [LB544]

SENATOR HARR: Yeah. I haven't talked to Keep Omaha Beautiful. I've worked with Destination Midtown and they're big proponents of community gardens because we live in a dense area. And so this is a way to produce products on land that otherwise would not be productive. [LB544]

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

Agriculture Committee
February 24, 2015

SENATOR RIEPE: Okay, thank you. [LB544]

SENATOR JOHNSON: Thank you. [LB544]

SENATOR HARR: Thank you. [LB544]

SENATOR JOHNSON: Before we close the hearing I'll ask the committee clerk if we have some letters other than what...you had 68, something like that? [LB544]

TRAVIS MOORE: (Exhibits 9-20) We do. We have a letter of support from Don Zebolsky; a letter of support from Amanda Breitbach; a letter of support from the Center for Rural Affairs; a letter of support from Pete Festersen, Omaha City Council; a letter of support from Nathan Morgan, Executive Director of United Methodist Ministries; letter of support from Lisa Clabaugh, Beatrice Public Seed Library Volunteer; a letter of support from Eric Williams; a letter of support from Mary Green, President of Dundee Community Garden; a letter of support from William A. Powers, Executive Director of the Nebraska Sustainable Agriculture Society; a letter of support from Roxanne Williams of City Sprouts; a letter of support from Ali Clark, co-owner and farmer of Big Muddy Urban Farm; a letter of support from Jim Knopik; that's it. [LB544]

SENATOR JOHNSON: Okay. [LB544]

SENATOR BLOOMFIELD: You have a lot of friends. [LB544]

SENATOR HARR: Yeah, I guess so. [LB544]

SENATOR JOHNSON: Thank you. With that, we will close the hearing on LB544. And I see our next presenter is here. We will open the hearing on LB558, Senator Kolowski. [LB544 LB558]

SENATOR KOLOWSKI: (Exhibit 1) Thank you and good afternoon, Senator Johnson and members of the Agriculture Committee. My name is Senator Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, and I represent Legislative District 31 in southwest Omaha. Currently, Nebraska law allows a person to prepare baked goods, jam, and other low-risk foods from their personal kitchens and sell them on a small scale directly to consumers at farmers' markets. LB558 with AM489 allows these same foods to be sold directly to consumers and indirectly through restaurants, stores, and other food establishments as long as: Number one, the home obtains a permit with the Department of Agriculture and passes an annual inspection that is detailed on page 2 and 3 of the amendment in front of you. Two, only the specific nonhazardous foods are produced. I have provided you a list of these foods. Three, the products are clearly labeled. An example of the label is also in front of you on page 8 of the manual that's before you. Four, the permittee has

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

Agriculture Committee
February 24, 2015

no more than \$50,000 in gross annual sales during a calendar year. Five, the permittee does not employ more than one full-time employee, not including the family member. Six, the permittee and employee have undergone a food handler training course provided on-line by the department. And currently, Lancaster County requires this training on-line. Several years ago a similar bill was introduced by Senator Loudon and you will hear from him later today, I believe. And one of the main concerns was setting a limit of sales to determine when a business could reach, a level where they were big enough to need a commercial kitchen to maintain food safety. LB558 with AM489 models Texas and California in determining a \$50,000 annual limit on gross sales. We have also based our language off of a 2012 Regulatory Guidance manual for cottage food legislation created by the National Association of Food and Drug Officials. I have provided you with a copy of that manual as well. Nebraska is falling behind in a growing number of states that are adopting legislation similar to LB558, legislation that champions entrepreneurship by allowing for the growth of local food startups who cannot yet afford the overhead costs of a commercial kitchen. Today you'll hear from a number of these local producers. Please join me in supporting LB558 and in doing so, supporting our local producers and entrepreneurs from overregulation. I'd like to note that after further research we may not be able to allow homemade food to be sold through a third-party food establishment. Our food establishments are bound by the Nebraska Pure Food Act, which requires that they only sell food that has been prepared in a commercial kitchen. Other states such as California, have changed these regulations. This is something the committee will have to discuss and see whether it wants to pursue this or drop it from the bill and only allow direct sales to customers. Thank you and I'm happy to take questions. Thank you very much. [LB558]

SENATOR JOHNSON: Thank you for your opening. Any questions for the introducer? Senator Kolterman. [LB558]

SENATOR KOLTERMAN: Senator, my question deals with the farmers' markets. You know, every Wednesday afternoon, Saturday mornings we have a farmers' market around our square. [LB558]

SENATOR KOLOWSKI: Yes, sir. [LB558]

SENATOR KOLTERMAN: And people from all around bring in their fresh baked pies and cinnamon rolls and all those things you shouldn't have. But anyway, they're not labeled. Is this...I mean, they're doing in essence the same thing there, aren't they? [LB558]

SENATOR KOLOWSKI: They are but there's a great desire to expand beyond the simplicity of a small farmers' market into a larger amount of possible sales and locations that might be done. In my personal behavior, I've seen these expand tremendously in the last decade. And we've got a great deal of contact in the last 18 months as we've

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

Agriculture Committee
February 24, 2015

been working on the concept, this concept of cottage industries and what might take place as far as potentials within our own state. We've had a lot of contact. This goes beyond just pies and muffins at a Saturday market that you might have attended in the past because there's also a greater discussion going on of year-round production in greenhouses and caves and lots of different places where things could be grown to cut down on the carbon footprint of delivery of such things as vegetables on the year-round basis. And we have the added benefit of the population of the state from Sioux City, Council Bluffs, Omaha, down to Lincoln looking like a big J on the map. But there's a great deal of population here and a great deal of enthusiasm and changing of tastes within our population as to dietary issues and wanting more fresh vegetables and fruits or whatever else can be produced and hopefully delivered on, in some cases and some times, a yearly basis. So there's a great, growing appetite--if I can use that word--for the opportunities that could be coming with entrepreneurial activities such as this. And that matches a lot of the flavor of the growth of attitudes on the part of our population. It's changing. I think of my two sons and their families and how they're raising their children and what they're feeding them and the carefulness. They both have food sources from a local area where they live in Colorado and Virginia from a homegrown variety that nurtures their family. And that's significantly different than everything comes from the store or everything comes from wherever I might be doing most of my shopping. It's changing, changing considerably. [LB558]

SENATOR KOLTERMAN: And one last question. And I understand what we're trying to do here, but. [LB558]

SENATOR KOLOWSKI: Sure. [LB558]

SENATOR KOLTERMAN: So when you get to the \$50,000 threshold, is that when you have to go into a commercial venture? [LB558]

SENATOR KOLOWSKI: Diversify, yes. I think you would have to stop at that venture with what we're doing right now and you'd have to look at other aspects of what you might do or something else you might have to get into. But if someone hits that level, that's doing very well. We would hope the entrepreneurial spirit would stay alive in other spin-offs as far as doing other things. [LB558]

SENATOR KOLTERMAN: Okay, thank you, Senator. [LB558]

SENATOR KOLOWSKI: Yes, sir. [LB558]

SENATOR JOHNSON: Yes, Senator Riepe. [LB558]

SENATOR RIEPE: Senator Kolowski, thank you for being here. I was curious listening to that remark if you've thought about maybe that \$50,000 ceiling maybe being two or

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

Agriculture Committee
February 24, 2015

three years or so in a row. Somebody might have it one year for some reason and then fall back underneath. [LB558]

SENATOR KOLOWSKI: An average over those times. Yes, sir, that could be. [LB558]

SENATOR RIEPE: The other question I have--and it goes always to the knotty fiscal notes--and that is, it talks about an estimated \$2,000 for annual development...annual. And then it talks about .10 FTE kind of thing. Has this been looked at? Would that be formed in a co-op so that those costs would not be born by the state but born by the producers in sort of in the interest of not arguing over fees or taxes, that it would be a fee that they would pay a fee to participate? [LB558]

SENATOR KOLOWSKI: It could be handled, yes. [LB558]

SENATOR RIEPE: I'm just trying to make sure that the state doesn't get paying...I don't think that the state needs to pay for something like this, it should stand for itself. But that's personal maybe. [LB558]

SENATOR KOLOWSKI: Well, in the same way, if people are making money, they're paying taxes and more is going into the state as well, so the cycle...it's a full cycle when you look at it that way. And we've heard our current Governor and others talk about this entrepreneurial spirit of not just big projects, but small projects across the state that could be very successfully handled and the people we have met with and worked with and talked with are looking for assistance and encouragement to do these things across our state. And it's a concept and a time that's really come for us and I think it has. [LB558]

SENATOR RIEPE: Excuse me. [LB558]

SENATOR KOLOWSKI: Yes, sir. [LB558]

SENATOR RIEPE: Would see it as then kind of a start-up, like it's three years and then it sunsets, goes away after three years? [LB558]

SENATOR KOLOWSKI: We'd be open for any conceptual structure. And if it proves itself functional and important to our state and communities, I think that we could renew at that time and relook at something if that's a limitation we want to look at, at this time. We're open for any level of investigation or cooperation. [LB558]

SENATOR RIEPE: Thank you. [LB558]

SENATOR KOLOWSKI: Thank you. [LB558]

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

Agriculture Committee
February 24, 2015

SENATOR JOHNSON: Senator Bloomfield. [LB558]

SENATOR BLOOMFIELD: Thank you. And with the realization that it would be illegal, stranger things have been known to happen. You mentioned Colorado. I would be a little concerned about some of that fine Colorado product finding its way into some of our cookies if we don't have some regulation over that. What would you suggest there? How do we keep that out if we don't have people looking at it? [LB558]

SENATOR KOLOWSKI: Correct. All of a sudden we're into another border crisis. [LB558]

SENATOR BLOOMFIELD: Yes, we are. [LB558]

SENATOR KOLOWSKI: I think that's being handled very well by law enforcement in the western part of the state. But they're stretched, they're stretched. [LB558]

SENATOR BLOOMFIELD: I'm more concerned about the eastern part of the state right now. [LB558]

SENATOR KOLOWSKI: Well, that also. [LB558]

SENATOR BLOOMFIELD: Thank you. [LB558]

SENATOR KOLOWSKI: Our State Patrol does very well on Route 80, I know that. [LB558]

SENATOR JOHNSON: Any other questions? If not, thank you on the opening. [LB558]

SENATOR KOLOWSKI: Thank you. I'll be here. [LB558]

SENATOR JOHNSON: Okay. First proponent. Welcome back, Senator Louden. [LB558]

LeROY LOUDEN: (Exhibit 2) Thank you. Good afternoon, Chairman Johnson, and members of the Agriculture Committee. My name is LeRoy Louden, I'm from Ellsworth, Nebraska, and testifying in favor of LB558 introduced by Senator Kolowski. Spell the last name, L-o-u-d-e-n. Several years ago when I was a member of the Legislature I worked on legislation similar to what is expressed in LB558. There are people in Nebraska that have some enterprising ideas and would try an industry to see if they are capable to manage, create, and market a product. At the time I became involved with this matter, there were regulations that only allowed a person to make a product but they couldn't sell it for a profit. Our daughter-in-law wanted to make and sell birthday and cupcakes. However, she was told she couldn't do it for a profit and they had to be baked in a commercial kitchen. I then took an interest into the matter and as a senator I

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

Agriculture Committee
February 24, 2015

asked the Department of Agriculture to send me a copy of their regulations. And as I researched the regulations I found that the statutes authorizing many of the regulations had been repealed years ago, some of them as long as 19 years prior to the time I was working on the project. We were fortunate that we had my mother's house available. With some minor renovations we were able to meet the rules and statutes and pass inspection for a commercial kitchen so our daughter-in-law was able to continue with her business idea and see if it could be successful without investing a large sum of money. Now as I read LB558 and the proposed amendment, I understand it to allow people to try creative business with a minimum investment and/or to see if they are able to create a source of supplemental income. Cottage industries are good for the communities and especially in rural areas. As products become available at local outlets, tourists, workers, and visitors purchase such products bringing in outside money. We need to allow enterprising individuals the ability to try their ideas without overwhelming regulations that cause them to withdraw before they can try their ideas. I believe LB558 will allow enterprising individuals to begin a business. The bill requires labeling and signage to signify where the product has been prepared. I think there's all kinds of enterprising people out there in Nebraska and has been all the way from Dorothy Lynch to these folks over here at Grafton Ely Farms, they call it, with their pickled asparagus. Village PieMakers...when I first came down to the Legislature, the Village PieMakers were just starting out and the only place you could buy them was over here on 27th Street at Ideal Market. Nowadays, I'm buying Village PieMakers in Scottsbluff, Alliance, and all over the state of Nebraska. All of these people had to start to see if they were capable of making a business out of it. The Dorothy Lynch, I don't know if any of you are old enough to know the story about Dorothy Lynch. But she started it over here at Columbus, Nebraska. And it was a recipe that the extension service sent out to these people. And Dorothy Lynch took that recipe and played around with it a little bit and got it patented or whatever you do with recipes and was able to make it the salad dressing. My mom was in extension service back there in the late 19...late '40s and '50s and she wouldn't buy Dorothy Lynch because she'd make it herself. She had the recipe that came out from it and it started out with soup but Dorothy Lynch worked that over. So there are success stories all over. Now not every one that goes ahead and starts a business can continue and make it. But there are those that we need to offer them to give them a chance to give a try and see if they can, as I say, create and market it. And that's a big deal usually with making something is to market the thing. And this is where the enterprise comes in. Thank you. [LB558]

SENATOR JOHNSON: Thank you. Senator Bloomfield. [LB558]

SENATOR BLOOMFIELD: Thank you. It's good to see you, Senator Louden. [LB558]

LeROY LOUDEN: Well, thank you, Senator. [LB558]

SENATOR BLOOMFIELD: How's the daughter-in-law's business working? [LB558]

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

Agriculture Committee
February 24, 2015

LeROY LOUDEN: Well, she's booked till into 2016 right now. [LB558]

SENATOR BLOOMFIELD: Okay. The reason I asked is my daughter-in-law ran into this similar thing. And they spent \$35,000, \$40,000 to set up a commercial bakery set up to where she could make cookies and sell at the local grocery store. And she was doing well enough that she decided she needed to hire somebody to help her. At that point she could not afford, with the rules and regulations that come from OSHA and from workmen's comp and everything else, to hire somebody. And she folded up at that time on account of those regulations. Has your daughter-in-law run into that problem or do you see a problem there? [LB558]

LeROY LOUDEN: Well, as I say, her business is really a one-man operation because she decorates cakes and that's what it is. And, of course, that's really a form of art so it's hard to get somebody to help. I suppose she can get somebody to help with some of the cooking and stuff. But, yes, by using my mom's house and having this commercial kitchen for a period of time she found out she could make it. And then when they built onto their house they put a commercial kitchen onto the house with this \$4,000 dishwasher and stuff like that. [LB558]

SENATOR BLOOMFIELD: With the private entry? [LB558]

LeROY LOUDEN: Yeah and, you know, the whole separate deal. But that is the point where these entrepreneurs have to work is, when they go from this one-man operation in order to make it go into something that they can hire a few people. My understanding is, these ladies with Village PieMakers...there's several ladies in there that do that. I've never been to their factory over here in Eustis that their bakery that makes those Village PieMakers. But I can tell you ever since they've come out we haven't had a pie baked at our house since then. [LB558]

SENATOR BLOOMFIELD: Your wife probably likes that idea better than you do. Thank you. [LB558]

SENATOR LOUDEN: Yeah. [LB558]

SENATOR JOHNSON: Okay. Other questions? Thank you. Next proponent. [LB558]

ROBERT BERNT: Mr. Chairman and the rest of the committee, thank you for listening to me today. My name is Robert Bernt, B-e-r-n-t, from Wheeler County, Nebraska. And like I said, it's about a three-hour drive for me so I like to make my time worthwhile down here. But we actually have a certified processing facility on our farm. We take milk from our Jersey dairy cows and process it into cheese. This processing facility can't be used for anything else but dairy, which is fine. And we've built this business by, thank God,

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

Agriculture Committee
February 24, 2015

other people helping us and making our cheese for us to the point where we were able to establish and then take it off and go. Now we are building a certified kitchen on the farm. The certified kitchen is going to cost us about \$50,000 to meet the specs and standards of what is needed. But we're going to utilize the vegetables from our garden and extend their selling period, such as blanching and freezing green beans when they're in abundance. So it's kind of important that we have this out there and accessible. And I think that we've already had a 40-mile radius with people of interest to come to our certified kitchen and helping. We've got one gentleman with strawberries that he can take his strawberries and make them into jelly--which he doesn't like to do--and market them. But if he destems that strawberry and puts it in the freezer, that's illegal. He can't do that. And that's a sorry state for him because his product, at that point, goes to waste. All right? So the certified kitchens are something that is needed, especially in our area. They will allow us to establish a customer base, which we were able to do with our cheese business. And then when we reached a certain level, at that point then we could see where we were able to venture into the cost of building a processing plant. And that's the same thing as we are doing here with the certified kitchen. We've reached a customer base, now we are capable--and we've asked for more...customers have already asked for more products--and now we're sure we can cover the cost of that certified kitchen to offset what we're doing there with our vegetables along with some other products that we're going to produce in that certified kitchen, let alone what we're going to do for the area, we feel, with other producers utilizing it to help them out. So it's a very promising bill. I very much do appreciate Senator Kolowski for proposing it. And I see it as being a big benefit to the economy of rural Nebraska. Thank you for your time. [LB558]

SENATOR JOHNSON: Any questions? Seeing none, thank you. Next proponent. [LB558]

PHILLIP SENG: (Exhibit 3) Good afternoon, Senator Johnson, members of the Agriculture Committee. My name is Phillip Seng, P-h-i-l-l-i-p S-e-n-g, I'm here today in support of LB558, the bill that allows Nebraskans to bake and prepare low-risk foods from their personal kitchens and sell them on a small scale directly to consumers and then directly through restaurants and stores. Almost one year ago I started a limited liability company called "P.S. It's Gluten Free, LLC" for the primary reason of selling gluten free baked goods at the Old Cheney Road Farmers Market here in Lincoln. I bake from my home kitchen which is gluten free. I chose to create an LLC in order to provide a liability shield for my family, property, and assets. There also is a hope that the LLC will grow into a brick and mortar bakery one day. But I'm not yet in a position to borrow the several thousands of dollars needed for such a venture. Other traditional bakery startups are able to rent time in a variety of commercial kitchens as a step between baking from home and investing in a brick and mortar enterprise. I cannot simply rent a space where flours from wheat or barley are used. My options are limited to either baking in my home kitchen or building my own gluten-free bakery. And the only

legal venues for sales while baking from my home are farmers' markets. Eighteen months ago a local boxed lunch chain was interesting in using my gluten-free chocolate chip cookies for their gluten-free lunches. But because I didn't have an inspected kitchen I could not sell to the business. My booth at the farmers' market last year was successful. I don't really know what success means but I was in the black so I count that as a win. I gained a loyal following of customers who needed to eat gluten-free foods and many who could eat any kind of foods and favored what I made. However, when the market season concluded I could no longer bake for these customers. The provisions of LB558 would allow me to expand my business to compete for shelf space in grocery stores and coffee shops. I could provide my product to restaurants looking to provide gluten-free options for diners. While local catering and store owners have expressed interest in my products, without your support of this bill it remains impossible for me to expand beyond farmers' markets. Many small business startups fail. They take a big risk on short loans with high rates and being able to build a customer base within a year or two. I am slowly building a customer base but without the ability to expand my sales venues I'm unable to provide my product year-round on a consistent basis. This bill supports small Nebraska businesses like mine and gives customers greater choice of local produce or products. I am an example of one business that needs this bill as an intermediate step to allow "P.S. It's Gluten Free" to expand at a sustainable rate. And I am just one of many small business people that need your support. So I urge your support of this bill and I'll entertain any questions. Thank you. [LB558]

SENATOR JOHNSON: Thank you. Questions? Senator Riepe. [LB558]

SENATOR RIEPE: Thank you, Senator Johnson. I have a question. Are we being asked to take on a role of being a state venture capitalist? Is that part of what you see us, that our helping you and other organizations in startups like you? [LB558]

PHILLIP SENG: Is the senator offering to invest in my company? [LB558]

SENATOR RIEPE: I do like cookies. [LB558]

PHILLIP SENG: If the bill makes it out of committee, I will bring you cookies. [LB558]

SENATOR RIEPE: You're a good bargainer. [LB558]

PHILLIP SENG: I don't believe the bill has that purpose in mind. I think, from my point of view which is the only one I can talk about, I don't have any other option except a farmers' market unless I go \$40,000, \$50,000 in debt. And I have a niche market as my primary market are gluten-free people, people that are allergic or intolerant of gluten. So that's a huge risk that I would have to build that base and then even expand to the wider bakery appeal or baked goods appeal. And you know, carrying the name "P.S. It's Gluten-Free" people will say, oh, I don't need that. [LB558]

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

Agriculture Committee
February 24, 2015

SENATOR RIEPE: I was just curious whether you have explored some angel investors...venture capitalists that are...they're not big time but they're willing to maybe put up \$50,000? Or do you watch the TV show, the Sharks (sic)? You know, maybe... [LB558]

PHILLIP SENG: I have seen a few episodes of that. I would wilt in front of Mark Cuban I think. [LB558]

SENATOR RIEPE: I'm just curious as to...I think it's great that people are willing to take some risk. I'm a real liker of that and so I admire you for it. [LB558]

PHILLIP SENG: Were I in a different position in life, right now my wife and I have a toddler and we moved to Lincoln two years ago so we have a brand new mortgage. [LB558]

SENATOR RIEPE: A lot of diapers? [LB558]

PHILLIP SENG: We're hopefully moving out of those, she is moving out of those. I'm already out of them. [LB558]

SENATOR JOHNSON: Senator Bloomfield. [LB558]

PHILLIP SENG: Thank you. [LB558]

SENATOR BLOOMFIELD: Thank you. There's a limit in here of \$50,000, if you exceed \$50,000. That just to me seems rather high. [LB558]

PHILLIP SENG: If I were to make \$50,000 in one year, I would probably then invest in a commercial kitchen or pay off student loans and then invest in it. But, yes. [LB558]

SENATOR BLOOMFIELD: Does that seem higher than necessary to you? [LB558]

PHILLIP SENG: I don't know what necessary would be. I mean, from the farmers' market point of view if I were to make \$50,000 in a season at the farmers' market, I would be just beside myself with joy. But if I'm thinking about a year-round operation in which I can market and sell any day of the week to customers and do events and catering, sell to catering companies or things like that, or get my product on the shelves at HyVee or in coffee shops, I don't know what kind of numbers that would be. [LB558]

SENATOR BLOOMFIELD: Okay. Thank you. [LB558]

PHILLIP SENG: So I don't know if \$50,000 is good or bad. If I were to make \$50,000 I

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Agriculture Committee
February 24, 2015

would start setting something aside for a brick and mortar bakery. [LB558]

SENATOR BLOOMFIELD: It just seemed like a big number to me. Thank you. [LB558]

PHILLIP SENG: Oh, it does to me, too. Thank you, Senator. [LB558]

SENATOR JOHNSON: Senator Kolterman. [LB558]

SENATOR KOLTERMAN: Yeah, my question...it's just to kind of get a background of...so is this what you do full time with your kitchen or do you have a full-time job in addition to? [LB558]

PHILLIP SENG: I am a stay-at-home dad ever since we moved to Nebraska a couple of years ago. [LB558]

SENATOR KOLTERMAN: So you're using this as a supplement to the income of the family? [LB558]

PHILLIP SENG: This is something I kind of wanted to do. In my previous life I was a professor and then... [LB558]

SENATOR KOLTERMAN: I'm just curious if that's the kind...are we talking about people that are doing this starting with the idea that they will get into the \$50,000 or is this just something to supplement income? [LB558]

PHILLIP SENG: I can only speak for myself because I'm in the unique position of a gluten-free baker and there were no others at the market last year. And I don't think there are even any at the Haymarket Farmers' Market downtown, which is a bigger one. But I think this bill would also apply to many produce growers as well that they could sell directly, is my understanding, and people who make honey, make goat cheese, all sorts of producers of products. So I don't know. I can't really speak beyond my own experience. And it would be a dream to have a brick and mortar bakery one day. I don't know if it will work out. But until...so what I...my wife and I have sort of talked about this, that what I'm doing is using the time until our daughter goes to school--she's three years old now--to see how big I can grow it with the farmers' market and in the legal framework that exists. [LB558]

SENATOR KOLTERMAN: The other...just as a point of comment, I did get a letter of support from the Celiac Association, which is gluten-free. I don't know...I'll get that to the record. But there is a huge need for that type of bakery or that type of food. And so I think there aren't that many organizations that sell gluten-free food. [LB558]

PHILLIP SENG: No. And, again, I can only speak for myself or my experience at the

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Transcriber's Office

Agriculture Committee
February 24, 2015

market. The customers I met and who came back week after week thought that what I was making was much better than anything available in the stores. And so, of course, I would love to be able to do that year-round. And I was serious, if it gets out of committee, I will send cookies to the committee. [LB558]

SENATOR KOLTERMAN: That's called bribery. [LB558]

PHILLIP SENG: It would be just a pleasure. Thank you. [LB558]

SENATOR JOHNSON: I believe we'll end the discussion there. (Inaudible) Bloomfield. [LB558]

SENATOR BLOOMFIELD: I don't know if this is totally proper to do or not, but I'm going to do it anyway. If you're interested in a brick and mortar bakery I believe there's one sitting empty in Seward and I'm sure they would be glad to work out an arrangement with you. [LB558]

PHILLIP SENG: But was it gluten free? [LB558]

SENATOR BLOOMFIELD: That would be your decision. It's sitting there empty. [LB558]

PHILLIP SENG: Well, was it gluten free beforehand? [LB558]

SENATOR BLOOMFIELD: Probably not. [LB558]

SENATOR RIEPE: Was it kosher? [LB558]

SENATOR BLOOMFIELD: Could you not make it gluten free? [LB558]

PHILLIP SENG: That's a great expense. It would be...because you'd have to meticulously clean every piece of equipment and the walls and the floors. [LB558]

SENATOR BLOOMFIELD: You have nothing else to do. Take your daughter along. Thank you. [LB558]

PHILLIP SENG: Thank you. [LB558]

SENATOR JOHNSON: Okay. [LB558]

PHILLIP SENG: Thank you very much. I appreciate it. [LB558]

SENATOR JOHNSON: Next proponent. How many more proponents do we have? One, two, three, four, five, six, seven. Okay. Welcome. [LB558]

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Transcriber's Office

Agriculture Committee
February 24, 2015

SHAMI MORSE: Good afternoon, Senators. My name is Shami Lucena Morse, that's S-h-a-m-i, middle name, L-u-c-e-n-a, Morse, M-o-r-s-e. I'm from Papillion, Nebraska. My partner, Tom, and I have a small business, Meristem Farm&Nursery. And I'd like to echo a number of things that you've already heard. Well, let me tell you just a little bit about our business. Our small, local business sells produce, plants, baked goods, and jams. The produce and plants we can market through several different venues. We do have a nursery stock license so we're able to sell the plants that way. The homemade baked goods and jams, however, are limited to sales at farmers' markets, where they've been quite popular. I've had several people say that they would like to be able to sell them at their restaurants. A couple of restaurants have approached me about that. But it's not possible because I don't have a commercial kitchen. And as we've heard, the commercial kitchens can cost a great deal of money to establish. What I see this bill doing is, as Senator Loudon said, giving an opportunity to find out whether this is a business that I want to do, whether it's going to be lucrative, whether I'm going to have enough customers to really make sense at doing it before I invest. And at my age I don't want to invest a whole lot in something that would take 10, 15 years to recoup. I'd also say that another opportunity that I would like for being able to sell my baked goods and jams is through the Nebraska Food Co-op, which I believe we'll hear about a little bit later. That would be an opportunity for me to sell indirectly to customers across the state of Nebraska, a much farther reach than I have now. And by the way, I think that that opportunity would be something that's very valuable, not only to myself in eastern Nebraska, but especially to people who live in rural areas and don't have access to farmers' markets. The amendment to LB558 would also allow me to sell directly to customers, not going through grocery stores, restaurants, and cooperatives. I could sell my baked to order bread, pies, cookies, kolaches, etc. from home as I did when I lived in Iowa previously. I was actually rather shocked to find out that I couldn't do that here. I could also advertise my baked goods and jams and be able to sell them...advertise on the Web site or in any other way and be able to sell them directly to consumers, which I can't do now. We also have a CSA program on our farm, Community Supported Agriculture, where people picked up shares of produce from our farm. I would love to be able to add my baked goods and jams to those boxes as well. And as I understand the law now, that would also not be permitted as well as having people buy them at the farm would not be permitted. So I see this as a very positive step in allowing people like me to grow our business without the huge investment of a commercial kitchen. Thank you. [LB558]

SENATOR JOHNSON: Okay. Any questions? Seeing none, thank you. [LB558]

SHAMI MORSE: Thank you. [LB558]

SENATOR JOHNSON: Next proponent. [LB558]

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Transcriber's Office

Agriculture Committee
February 24, 2015

BILL HAWKINS: (Exhibit 4) Senator Johnson and committee members that are remaining, I appreciate your time here. My name is Bill Hawkins, B-i-l-l H-a-w-k-i-n-s, and I'm here speaking in favor of LB558. I greatly appreciate Senator Kolowski for addressing the need to help our small entrepreneurial businesses. I'm an organic farmer north of Lincoln and I've worked for years with the Sustainable Ag Society and was involved with a group at Kimmel Research Center in Nebraska City that was working on revitalizing rural Nebraska communities. I was in the Haymarket Farmers' Market years ago and I was at the Old Cheney Farmers' Market where I sold plants and produce. I also sold garlic cheddar and apple cinnamon fry bread. I would make the dough the night before, get up early in the morning, load it all my vehicle with all my produce and everything. I would put the dough into balls, proof it as I'm going to the farmers' market, would take my grill, build a fire, take my cast iron skillet, fill it full of grease and do fried bread right there for them and sell them for a buck. I had a gentleman next to me who sold \$35 to \$50 begonia baskets. And I would work my tail off for that buck and he laughed because he got \$50 apiece for those baskets and they just walked off the shelf for him. But he had a lot of investment in greenhouse and growing those baskets. And so a lot of that was just for entertainment. And most of these marketers and these small businesses that this bill is addressing don't make a lot of money. They don't count their time per hour and what it costs to get that produce to the market. And so they work hard all week growing and caring for all this, load it up in a vehicle, drive to a bare parking lot early in the morning and set up a decorative stand in all kinds of weather. And so when people come at 8:00 or 9:00 in the morning when that market starts, they have a village of dedicated entrepreneurs there who are presenting them with fresh, local, value-added products. And so anything you can do to help them is greatly appreciated. And LB558 starts to address that need for these small businesses by giving them other avenues for their value-added products. To encourage local businesses to buy locally produced products from other local businesses creates a sustainable economy. Local dollars stay in local communities. With a large part of a person's budget going for food, we need to give all the incentives we can to build a local sustainable food system. Thank you for your time and I'd be happy to answer any questions. [LB558]

SENATOR JOHNSON: Okay. Questions? Senator Riepe. [LB558]

BILL HAWKINS: Yes, sir. [LB558]

SENATOR RIEPE: Obviously, the rules for inspection and oversight were set up for a reason. My concern...we're talking about food products here beyond gluten-free cookies that the first time we have an outbreak of salmonella it's going to blow this thing all apart. Is that a concern of yours? [LB558]

BILL HAWKINS: I thought about that issue when preparing for this. And one comment I could make in my own experience and experience with a lot of these people that I know that are doing this and building this local, sustainable food system is, these people eat

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Transcriber's Office

Agriculture Committee
February 24, 2015

that food. They care about producing food that they eat. And so as compared to our mass marketed food systems that is...food is canned 1,500, 2,000 miles away, grown...if you've ever watched How It's Made on TV where they make 500,000 a cans a minute--that's an exaggeration, but--these people care about what they're producing. And they face that customer every day, every weekend. And so inspections are good, you need to know where that is being produced. But pricing them out of the market is...our local entrepreneurs are a vital part of our economy and especially here in rural Nebraska. And so I would, you know, that would be my comment is, they care about...I'm eating that fry bread right there along with everybody else that I'm giving it to, so. And most of these people are probably feeding their families with those same foods. [LB558]

SENATOR RIEPE: Okay, thank you. [LB558]

SENATOR JOHNSON: Thank you. [LB558]

BILL HAWKINS: All right. Thank you very much for your time. [LB558]

SENATOR JOHNSON: Next proponent. Welcome. [LB558]

CARYL GUISSINGER: (Exhibit 5) Good afternoon, Senators. Thank you for your time. My name is Caryl Guisinger, that's C-a-r-y-l G-u-i-s-i-n-g-e-r. I'm testifying today as the general manager for the Nebraska Food Cooperative and I ask for your support of LB558. This bill will allow Nebraskans across the state to prepare low-risk foods in their home kitchens and sell them outside of farmers' markets. These foods have been deemed safe to sell to the public at a farmers' market and yet are restricted from being sold through other outlets. If these foods are safe for purchase by informed customers at a farmers' market, then they should also be safe for purchase by informed customers in other venues as well. Of the 1.8 million Nebraskans around 35 percent of the population live in rural communities. And they lack easy access to a range of healthy, locally produced foods. At the same time, small food producers across the state are without ready access to the vitality of strong customer markets needed to support their businesses. The Nebraska Food Co-op is an on-line farmers' market that offers year-round access to local Nebraska products from family farms, ranches, and small businesses. As general manager I had the pleasure of connecting these producers with the local marketplace, currently serving over 1,800 members in 31 rural and urban communities from Omaha to Sidney. Since 2006, we have been providing transportation of local food from producers to people who want to support Nebraska family farmers, growers, and small businesses. This includes the population around Lincoln and Omaha where production of markets abound but also the Nebraska residents who live outside metropolitan areas where the current prohibition of selling certain foods on-line is stifling would-be businesses and blocking economic growth. Just last weekend in Sidney, I met with the mother of six children who actually has two kitchens in her home. In the

summer she sells baked goods at her local farmers' market, but that seasonal income is not sustainable for her family. This young entrepreneur would like to expand her home business to include baked goods like breads, muffins, and pastries. With the passage of this bill, NFC can provide Brook with the ability to sell her goods across the entire state on a year-round basis instead of for just four months. Producers who offer gluten-free products cannot rent time in commercial kitchens, as Mr. Seng relayed. Gluten-free producers need to ensure the safety of the gluten-free products, yet cannot do so by using a rented facility. With the passage of this bill gluten-free producers would be able to use their home kitchens to safely process gluten-free products for the special needs population that require it. I spoke recently with Kathy, a businesswoman from Pilger who found out just last week that her town will not be rebuilding their grocery store or gas station in the aftermath of the devastating tornado last year. Kathy would like to have year-round opportunity to sell her jams and jellies and to be able to sell them outside of her immediate community. With the passage of LB558 she would have that opportunity. From the consumer perspective, I have spoken with quite a few people living in rural communities who must travel up to four hours each way to Lincoln or Omaha to purchase gluten-free products or other specialty products from large specialty grocery stores. Not everyone can spare the time and resources necessary to regularly travel such distances, thus adding to the burden of living in the rural parts of the state. Stories like these abound across Nebraska's rural landscape, whether from inner city Omaha or rural Nebraska, many low-income families are trying to stand on their own and provide food desired and needed by others. By following the food safety guidelines outlined in this bill, these entrepreneurs would be able to augment their income stream without incurring the high cost of building, maintaining, or renting a commercial kitchen. Additionally, the on-line nature of our business means these producers would not need to speculate on possible sales at a local farmers' market, thus risking lost opportunities or wasted products. Rather, they can work efficiently in their own homes preparing only those products that have already been sold while meeting demand from across the state. Once again, in support of Nebraskan families on both sides of the cash register I urge the Ag Committee to support LB558. Thank you. [LB558]

SENATOR JOHNSON: Thank you. [LB558]

CARYL GUISSINGER: Thank you. [LB558]

SENATOR JOHNSON: Any questions? Seeing none, thank you for your testimony. [LB558]

CARYL GUISSINGER: Thank you, sir. [LB558]

SENATOR JOHNSON: Next proponent. Welcome. [LB558]

KATHY JENSEN: (Exhibit 6) Hello. I am Kathleen Jensen, K-a-t-h-l-e-e-n J-e-n-s-e-n. I

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Agriculture Committee
February 24, 2015

am, of course, from rural Pilger. I live on an acreage and I own a trucking company which is my main business. Two years ago, I semiretired from what I was doing to help my mother, who passed away of cancer. But in spending time with her, we got to go through a lot of her recipes and got to know some things that she used to do and what she did growing up and such. I've always had a small garden and mostly gave everything away. My kids always enjoyed the fresh vegetables and learned a lot from canning, preserving, and also baked goods like kolaches. In today's society we are all about healthy eating, healthy options, organic, etcetera. And I grew up on those values and we grew everything we ate on the farm. I sold cucumbers and onions by the truckloads for extra money growing up. Out in the country that's kind of all you did. I now bake and have a large garden as well as making jellies and jams. I sell at the local farmers' market in Norfolk, Nebraska, and a few different shows. But I am not allowed to sell everything as I do at the farmers' market, like the Nebraska Co-op. When asked if I could, they said I can't due to everything going on. I used to meet people in Pilger and sell them baked goods and jams before the tornado hit. Things have slowed down to a standstill there regarding food and they just depend on donations. It was decided at the meeting last Tuesday at the Farmers Co-op that there will not be a grocery store or fuel pumps due to the expensive cost. They consider the chemical and fertilizer buildings more profitable to build than a store. Now we have to depend on people like me to raise big gardens and make things to give or sell people so they don't have to drive long distances to find a farmers' market or grocery store. I would like to be able to sell my organic vegetables, fruits, jellies, jams, etcetera to other people. I don't make much doing this, it's only a hobby. But it does make me feel good helping out people and seeing the kids taste something that's homegrown and not candy. I'm a big supporter of LB558 and I would like you to consider my testimony regarding this. Thank you for your time. And I'm a little nervous, obviously. [LB558]

SENATOR JOHNSON: You did fine. [LB558]

KATHY JENSEN: Thank you. [LB558]

SENATOR JOHNSON: Any questions? Question. Do you, with your situation in Pilger and not having a outlet there at all, do you ever see yourself being able to start a business, main street type business? [LB558]

KATHY JENSEN: Yes, they've talked about that. It would be nice to have a bakery, obviously, in town of some type to draw more people in. [LB558]

SENATOR JOHNSON: So there could be a springboard toward... [LB558]

KATHY JENSEN: Possibly. [LB558]

SENATOR JOHNSON: Yeah. Okay. Thank you. Senator Bloomfield. [LB558]

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Transcriber's Office

Agriculture Committee
February 24, 2015

SENATOR BLOOMFIELD: Just curiosity, how much of the decision not to rebuild the school there, how much effect did that have on their ultimate decision not to redo the store? The last I knew they were going to do the gas pumps and the store. [LB558]

KATHY JENSEN: No, nothing. [LB558]

SENATOR BLOOMFIELD: But when they cancelled the school was that... [LB558]

KATHY JENSEN: That had nothing to do with the decision. [LB558]

SENATOR BLOOMFIELD: Nothing to do with it? Okay. [LB558]

KATHY JENSEN: Actually, the store that was there cost \$600,000. And they took that insurance money and put it toward the fertilizer plants. And to build a new store would be \$1.2 million to \$2.1 million and they don't want to go in debt just to do the store when it wasn't profitable to begin with. [LB558]

SENATOR BLOOMFIELD: Okay, thank you. [LB558]

SENATOR JOHNSON: Any other questions? Seeing none, thank you. Next proponent. Welcome again. [LB558]

GUS VON ROENN: (Exhibit 7) Hello. Thank you. My name is Gus Von Roenn, G-u-s V-o-n R-o-e-n-n. I'm speaking today on behalf of the Douglas County Nebraska Farmers Union. I am here testifying as a proponent for today's bill, LB558. We are an organization that restores degraded and unwanted vacant land through urban agriculture. We use this land to nurture entrepreneurial incubator projects. This legislation will allow many young and other aspiring food entrepreneurs to imagine an affordable opportunity in marketing their own unique products to Nebraskans. To encourage true market side economics, we should allow a level playing field for many people who are trying to achieve success with fewer resources. Our organization is increasingly representing people who have big dreams but no resources other than their smiles, optimism, and cultural heritage. In the 21st century as our state courts outside interests for future growth, I challenge everyone to recognize the ethnically diverse populations within Nebraska as a source of this growth. The culturally diverse people residing in Nebraska would be more than capable to add many new and unique value-added products to Nebraskan taxable sales if given a chance. As reflected in many enacted cottage food legislations of Texas and California, the local economic benefits are limitless. This legislation speaks to the foundation of the local food movement. The local food movement should be for everyone, not only those who can afford a commercial kitchen. Local food is only possible if people can produce and sell food locally and, yes, affordably. As a farming state we should not hesitate in supporting

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Transcriber's Office

Agriculture Committee
February 24, 2015

this local food movement to become a true, homegrown Nebraskan commodity. Therefore, please support this cottage food legislation, LB558. [LB558]

SENATOR JOHNSON: Thank you. [LB558]

GUS VON ROENN: I have another testimony of a letter. Would it be all right if I read it? Or I could submit it. [LB558]

SENATOR JOHNSON: Can you just...is it basically the same as what you have or... [LB558]

GUS VON ROENN: It's from another constituent so it's not... [LB558]

SENATOR JOHNSON: Why don't you just submit it. [LB558]

GUS VON ROENN: Okay, sure. [LB558]

SENATOR JOHNSON: I'd appreciate that with the factor of time, thank you. We'll read it and make sure it's read in. Thank you. [LB558]

JOHN HANSEN: Mr. Chairman, members of the committee, again for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, I am the president of the Nebraska Farmers Union. We are in strong support of LB558. We have a long history of trying to help small business. And these kinds of activities get started and grow and not only use these small businesses as a way to augment income but also to get started and grow into larger kinds of activities in some cases where that's the goal. This week, for example, Jeremiah Picard in our staff is starting today the fourth week of five different sets of one-day workshops for specialty crop producers in...starting today in Grand Island; tomorrow in Norfolk; Thursday in Lincoln; and Friday in Omaha. And these are the small guys, these are the small producers who are doing direct food marketing, trying to figure out...helping them figure out what they need to do to get the necessary certification and the nuts and bolts of how to do their business in terms of market development, insurance, human relations, working...hiring staff, all of those different kinds of things so that they can be successful and grow. There's a lot of interest in this area. We worked with the farmers' market effort for many years to help get it going. I know of no instance where there was a major food-borne problem as a result of a farmers' market food product. And so these kinds of products are the baked goods, the nonpotentially hazardous foods. They're particularly appropriate for this kind of endeavor. And if we can help these guys get going and make it a little bit easier, we're comfortable that we've done the things we need to do in order to be able to protect the public safety relative to food and food safety. And that's one of our starting places. But we also need to make sure that the regulation is not onerous and that I think that there's a good public interest and value in trying to help encourage and grow these kinds of

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Transcriber's Office

Agriculture Committee
February 24, 2015

businesses, especially if you are like me and you've had the opportunity to take advantage of the tremendous cooks that we have in rural Nebraska who are some of the best bakers and cooks that you would ever hope to meet and enjoy their products. These kinds of folks, if they have the opportunity, can use this in a successful way. And so with that, we'd encourage the committee to look favorably on LB558, if you would. [LB558]

SENATOR JOHNSON: Okay. Questions? Seeing none, thank you. [LB558]

JOHN HANSEN: Thank you. [LB558]

SENATOR JOHNSON: Next proponent. [LB558]

JACK ROUND: (Exhibit 8) My name is Jack Round, J-a-c-k R-o-u-n-d, and I'm reading a letter into the record for Pastor Marsha Stauss, that's M-a-r-s-h-a S-t-a-u-s-s. I know of a young, single mother who makes fantastic gourmet desserts for carry-ins at her church. People have asked her what she would charge to make these desserts for them, but since she only has her home kitchen to make them in she does not sell or make them for anyone. We live in a very small town with very few employment opportunities and the economy is extremely depressed. If Nebraska would allow the cottage food law to include selling food items from homes, this young mother could possibly support herself and her family and would no longer need to receive EBT support and other state-funded support to pay her bills. I hope you will support this legislation and vote LB558 out of committee to the full Legislature for debate. Sincerely, Pastor Marsha Stauss, Crawford, Nebraska. [LB558]

SENATOR JOHNSON: Thank you. I won't ask if there's any questions, but you probably could answer some if there were. Okay, thank you. Next proponent. Welcome. [LB558]

SARAH VAN PUTTEN: My name is Sarah Van Putten, that's V-a-n P-u-t-t-e-n. I'm from Omaha, Nebraska, and I'm the owner of Well Grounded Coffee. One of the issues that we've run into in opening the business is that every coffee shop in Omaha sells the same pastries. And so one of the things we want to do is be able to sell pastries that people in the community have made who don't necessarily have a commercial kitchen. So this bill would greatly help us be able to do that and add a uniqueness factor to be able to make it in the startup. That's really it. [LB558]

SENATOR JOHNSON: Okay. Any questions? Senator Bloomfield. [LB558]

SENATOR BLOOMFIELD: Thank you. The question was raised earlier about what happens if a case of salmonella breaks out. Would you have any fear of bringing somebody's homemade cookies in to sell at your coffee shop if they weren't inspected? [LB558]

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Transcriber's Office

Agriculture Committee
February 24, 2015

SARAH VAN PUTTON: Well, salmonella is from chicken, right? [LB558]

SENATOR BLOOMFIELD: It can be from a variety of different foods. [LB558]

SARAH VAN PUTTEN: Well, we definitely have insurance over everything that we sell. I wouldn't be afraid of bringing something like that in because most of the stuff would be baked. Salmonella is usually for raw food. [LB558]

SENATOR BLOOMFIELD: Depending how it's handled. [LB558]

SARAH VAN PUTTEN: Right. [LB558]

SENATOR BLOOMFIELD: If you lay a piece of raw chicken over here and you lay your cookie dough...you lay your cookie anywhere near it you may suddenly have it. [LB558]

SARAH VAN PUTTEN: Right. I would definitely want to use people that I trust that I've met and seen their operation. But yeah, I don't have too big of a fear of that. [LB558]

SENATOR BLOOMFIELD: Okay, thank you. [LB558]

SARAH VAN PUTTEN: Yeah. [LB558]

SENATOR JOHNSON: Questions? No? Thank you. Next proponent. Opponents. Welcome, Kathy. [LB558]

KATHY SIEFKEN: (Exhibit 9) Thank you, Chairman Johnson and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, here today in opposition to LB558 for a number of reasons. First of all, I'd like to tell you what our opposition is not about. It is not about competition and it is not about profits. It is all about food safety. And, Senator Bloomfield, you were asking about that a little bit earlier. I have served on the Nebraska Department of Ag's Food Advisory Board for many years. And we have a group that has been pulled together that is represented by regulatory agencies in addition to almost every aspect of the food industry that you could identify. There are grocers on that board, restaurant people, bakers, vending machine people, salvage companies, almost everyone that would touch food. And what this group has done is we've worked very, very hard to promote and develop food safety laws in the state of Nebraska. And our industry, the Grocery Association would be strongly opposed to any legislation that would dilute the current food code. And that's basically what this bill does. There is a handout that you were given and it's the "AFDO Regulatory Guidelines for Cottage Foods" and if you look on page 2--I think you probably already have that as a handout from earlier--but if you look on page 2, it specifically says that, "Food prepared in a private home may not be used or offered for human consumption in a

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Transcriber's Office

Agriculture Committee
February 24, 2015

food establishment." There is a reason why AFDO does that. If...and we're concerned about liability, but it's a health issue. If you will recall back in 2011 there was an outbreak with cantaloupe that came from Colorado. It was a horrific happening, 22 people died, and the producer lost their farm. It was absolutely horrible for everyone. Those are the things that we're very concerned about. The bill itself doesn't have a fiscal note, it appears, that goes with the amendment because...and the reason I say that is because the cost of the food safety training isn't...it's very expensive. They have to develop a course, they have updates, they've got to have a help desk, there are additional inspectors. And when we start talking about the inspectors, if inspectors now have to go into these cottage industries, it dilutes the number of inspections that can be done in grocery stores and in other areas where those inspectors are right now. The fees that are in the bill will not cover the cost of the paperwork and the inspections and hiring all those people and putting them on the road. There are things that are not in the bill because it is a private kitchen. So they don't address anything like two-compartment sinks, the type of ware washing facilities, sanitation issues, and there are so many other things. If you go to page 2, lines 10 through 25, those items on 10 through 25 would be very difficult for our inspectors to enforce. Also the farmers' market...and I'm sorry that my time is up. But a farmers' market is different than what this bill would promote. A farmers' market is where you take your product that you made and you sell it directly to the person that's going to buy it. In this bill you don't get to see who that person is. And the labeling doesn't help because it's in 8 point. And the labeling doesn't help the grocer because in 8 point the customer comes in and it says that it's not made in an inspected kitchen, some people can't even read 8 point font. There are many other issues in this bill and if you'd like to discuss them later, I would be happy to do that. But I would take any questions at this time. [LB558]

SENATOR JOHNSON: Questions? Senator Riepe. [LB558]

SENATOR RIEPE: It may be a curiosity question. On the cantaloupe that came in from Colorado, obviously, that...I don't know what precipitated that particular incident, but obviously they've been bringing cantaloupe in from Colorado forever. And has it occurred since then again or was it just an isolated... [LB558]

KATHY SIEFKEN: That facility was not using proper washing techniques. So when the cantaloupe was cut, the raw cantaloupe that was pieced and cut was contaminated. [LB558]

SENATOR RIEPE: Oh, okay. Thank you. So it wasn't--I'm sorry--it wasn't at the point of production, it was the point of consumption that the infection occurred or whatever. I come from a hospital background so I think of infections, but. [LB558]

KATHY SIEFKEN: The cantaloupe was contaminated when the knife went through the outer skin and that contaminated the inside. However,... [LB558]

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Transcriber's Office

Agriculture Committee
February 24, 2015

SENATOR RIEPE: But that didn't have anything to do with the person that produced it. I mean, if someone is making cookies... [LB558]

KATHY SIEFKEN: The person that produced it didn't wash it correctly. Had the washing been done correctly, the contamination wouldn't have been on the outside. [LB558]

SENATOR RIEPE: Okay. My expectation is you get someone to wash it before you eat it. But that's my way of living, I guess. Okay, thank you. Thank you, sir. [LB558]

SENATOR JOHNSON: Questions? So you're...I mean, the farmers' market, from your perspective, is okay. It's going to that third party or that other point of sale. [LB558]

KATHY SIEFKEN: We have no problem with the farmers' market simply because there's a placard on all of the booths that say that these products were made in an uninspected kitchen. And you have to be able to read it, it's big enough where you can read it without focusing. I mean, it's there on the booth. The problem with this bill is that anyone can make a professional-looking label nowadays. You can go down to any of the office supply places and pick up equipment and do your own labels. And so you could put together a label and the grocer wouldn't even know that the product wasn't prepared in an uninspected kitchen. And really today, everything is prepared in an inspected kitchen so that you don't have to look for that. I think it would cause mass confusion at the retail level in the stores. [LB558]

SENATOR JOHNSON: Okay. Senator Bloomfield. [LB558]

SENATOR BLOOMFIELD: Thank you. I would have some concern with store liability on this. [LB558]

KATHY SIEFKEN: Yes. [LB558]

SENATOR BLOOMFIELD: Do you see that as a huge second-step problem if... [LB558]

KATHY SIEFKEN: Oh, I see that as a huge step simply because if the grocery doesn't know or the retailer doesn't know that this has been prepared in a kitchen that hasn't gone through all of the inspection processes and someone gets ill, the grocer is liable. They're going to go to wherever they purchased it first and then it'll backtrack. And if you have someone that doesn't have enough money to even set up a kitchen, there won't be any money there to pay for any of the illnesses or the healthcare that would follow. [LB558]

SENATOR BLOOMFIELD: I think they refer to that as "deep pockets" and they would go back and go after the deepest pocket, which would be at that time the grocery store

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

Agriculture Committee
February 24, 2015

owner. [LB558]

KATHY SIEFKEN: Yes, it would. And then you'd probably, if it's a small grocer, he probably be gone...just gone. [LB558]

SENATOR BLOOMFIELD: Thank you. [LB558]

SENATOR JOHNSON: Any questions? Seeing none, thank you. [LB558]

KATHY SIEFKEN: Could I leave you with one thought? [LB558]

SENATOR JOHNSON: If it's a short one. [LB558]

KATHY SIEFKEN: It's a short one. When you are preparing food in an uninspected kitchen and regulators are not there and it's a home kitchen, I don't know how you would keep dogs, cats, or kids out of that kitchen on a day-to-day basis when it's in your home. I grew up with kids, dogs, and cats and you can't control cats. They're on the counter. Babies in diapers are on the counter. A home kitchen is not a place where prepared food should be made and sold to the general public without the general public knowing where that food is coming from. Thanks. [LB558]

SENATOR JOHNSON: Thank you. Other opponents? Anyone in neutral position? Welcome. [LB558]

JIM PARTINGTON: Thank you. Senator Johnson and members of the committee, my name is Jim Partington, P-a-r-t-i-n-g-t-o-n, I'm the executive director of the Nebraska Restaurant Association. I'm testifying neutral and restaurants are not really involved in this, it won't affect us from a competitive standpoint or any other way really. I share some of Kathy Siefken's concerns about this and I can just sum it up very shortly by saying what they are. And all the other food operating units in Nebraska are governed by the Nebraska Food Code and this is a governance outside and a separate legislative action that controls the food safety standards of this particular operation. And I think that I'm neutral on it. I think that what Kathy mentioned earlier is worth considering. And there's some things that should be taken into consideration as you go forward and discuss this. And just make sure that as you govern these through this legislation that they do meet the proper food safety standards. And that just basically concludes my presentation. [LB558]

SENATOR JOHNSON: Okay. Any questions for Mr. Partington? Seeing none, thank you. [LB558]

JIM PARTINGTON: Thank you. [LB558]

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

Agriculture Committee
February 24, 2015

SENATOR JOHNSON: Any other neutral? If not, Senator Kolowski, to close. [LB558]

SENATOR KOLOWSKI: Senator Johnson and committee members, thank you for your time today and consideration. I want to thank everyone who came forward and spoke to the committee as a whole. I think it's been a good day of enlightening some of our mind-sets on where we've been with this topic and where we might be able to go in the future. I look back on where this movement has come from, where it is now, and where we're going. And I think there is a great deal of possibilities that match the entrepreneurial spirit of the state and some of the opportunities that you've heard today that have been described. Let me describe something in my own home to you. I've got a pretty lush backyard. We've been there 30 years, a lot of things have had a chance to grow and they're nice sized. And when I look at the garden areas--by that, I mean flower gardens as well as a very large vegetable garden that we put in 30 years ago when we moved there. We have a real nice sit-down area in the back of that V of the backyard as it goes to the V and there's a gazebo there. We built that for my wife when she retired as a elementary principal in the Millard schools. She lives out there about three seasons a year, enjoying it very much and it's a beautiful spot to listen to the birds and squirrels and everything else that comes running across everything out there. We have one sign in that gazebo that was built and it says, there's magic in the soil. Someone gave that to us. We put it in our gazebo. Now we're from small towns in Illinois but it's rich farm country. My wife had three brothers-in-law that were farmers and I've walked beans, detasseled corn, picked this and that all over the place over my lifetime. But one thing I grew up with was gardening. Thirty years in that home, we've raised a lot of everything. Our boys were fed on it and there is magic in the soil. I believe that and we nurture that. And it's made a difference in health and well-being in their lives and our lives as time has gone out. We know there's a removal of that aspect of knowing soil like we grew up knowing soil and our kids today and grandkids today and wherever they might be. I think it's important to reintroduce them to those opportunities. And what you heard today from the speakers in our group today, backing the movement toward doing some of these things. I think it's, again, it's a movement whose time has truly come. The opposition statements about health and produce and all the rest I think are very accurate and very true. Yet in our research, we found no examples of any of the farmers' markets that were responsible for salmonella or any other outbreaks in our local areas for as far back as we could find. Yet we know that happens in restaurants and grocery stores in our communities. That's why you have regular checkups and testing and all the rest that goes with that. We're willing to sit down and work out any opportunities for compromise that we could find to move this forward and make such things available for a growing market of young--and all ages--entrepreneurs that are very, very desirous of making this work and seeing the difference made in our state. It's an area that has unlimited potential. And my favorite statement about speaking toward these issues would be one of...we're in February. Remember the taste of a California grown tomato shipped halfway across the country when you bite into it in late February. I don't know what yours taste like, but mine don't...the cellophane tastes about the

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

Agriculture Committee
February 24, 2015

same. We can do better than that. And there are those who want to do better and provide that for us in our local communities on a year-round basis. And if we give them the incentive and the assistance, I know they'll come through. I trust that will be the direction we can go and all be successful. Thank you for your time today. [LB558]

SENATOR JOHNSON: Thank you. Any questions? Senator Bloomfield. [LB558]

SENATOR BLOOMFIELD: Thank you. Senator Kolowski, I asked one of the testifiers this question. That \$50,000 lid you put on there, that seemed pretty high to me. How did you come up with that number? [LB558]

SENATOR KOLOWSKI: That came from two locations in California--what's the other one--Texas and California documents that were examined as far as the same kind of legislation that came out of both those states, sir. [LB558]

SENATOR BLOOMFIELD: Okay, thank you. [LB558]

SENATOR KOLOWSKI: Yes. And I hope we get to see that. Who knows? [LB558]

SENATOR JOHNSON: Senator Riepe. [LB558]

SENATOR KOLOWSKI: Yes, sir. [LB558]

SENATOR RIEPE: You're just talking about Texas and California. And safety...food safety (inaudible.) Do you have some...how do they address that? I'm always interested in learning how somebody else did something. [LB558]

SENATOR KOLOWSKI: We'd have to go back and do some checking up on that in more depth. And I would remind the committee that the Agriculture Department in Nebraska is not opposed to our bill and where we're coming from on this trend line. And we're very optimistic as far as...also, Lancaster County Health Department was not opposed to this at all. So we've touched base with both of them. The State Ag is neutral and Lancaster County is pro, so that was nice to have that touch base as well. If you haven't kept up with some of the current events in the city of Lincoln, Pershing Auditorium will soon become a very big distributive location for foodstuffs on a daily and weekly basis as they redo Pershing Auditorium and keep that building intact but have it prepared for a different phase of life and part of the community. We're looking forward to what that will turn into as well. [LB558]

SENATOR JOHNSON: Okay. Thank you. [LB558]

SENATOR KOLOWSKI: Thank you very much. [LB558]

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

Agriculture Committee
February 24, 2015

SENATOR JOHNSON: Okay. We have some letters to read in. [LB558]

TRAVIS MOORE: (Exhibits 10-16) We have a letter of support from Jennifer Rodriguez; letter of support from Anna Ranae West; letter of support from Shami Lucena Morse; letter of support from Shawn Wolverton; letter of support from Jeanette Loscutoff; letter of support from Kenneth Winston; and a letter of opposition from Allen Brown with the Nebraska Environmental Health Association. [LB558]

SENATOR JOHNSON: Okay. Thank you. With that, we will close the hearing on LB558. We will move to our third bill, LB393. Senator Schilz. [LB558 LB393]

SENATOR SCHILZ: Thank you, Senator Johnson, members of the committee. I think I only have like 30 testifiers to come up today, so it won't take much more than a couple of hours. Just kidding. Sorry. Give it a little...never mind. Good afternoon, Senator Johnson, members of the Ag Committee, my name is Ken Schilz, spelled K-e-n S-c-h-i-l-z. And I'm introducing LB393. LB393 would allow licensed veterinarians to be commissioned by the Director of Agriculture as investigative agents for the Department of Ag. These agents would be contracted and trained by the state, acting as state officers for all intents and purposes. The reasoning behind these commissions is to provide technical investigative expertise to local law enforcement to verify the truth of accusations of livestock abuse and neglect. LB393 also amends the standards of proper care from protecting the reasonable health of the animal to providing care consistent with the customary animal husbandry practices. This is a much clearer standard for both care and enforcement of care. The committee will receive an amendment that has been designed working with some interested parties. And these amendments differentiate between animal neglect and animal abuse while changing the current ability of prosecutors to stack misdemeanors and turning them into felonies. For neglect, this would prevent the triggering and use of the 5 to 15 year prohibition from being around or owning animals that could potentially put a commercial livestock producer out of business, especially if there are mitigating circumstances that could have led to that same thing and somebody gets it wrong. It also changes the standard of proof from the current standard which causes a defendant to prove that his care was consistent with the industry standard practice. The change would cause the county attorney to prove that the livestock operator did not operate in accordance with customary industry practices. This is a significant change as it brings the evidentiary standard back to the traditional legal bar of innocent until proven guilty rather than the other way around. And there are some behind me that are here to testify as well as to the overall importance of this legislation and how it would positively impact the livestock industry in Nebraska. And with that, I would try to answer any questions you might have. [LB393]

SENATOR JOHNSON: Any questions? Senator Riepe. [LB393]

SENATOR RIEPE: Senator Johnson, thank you. Thank you. In the healthcare business

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

Agriculture Committee
February 24, 2015

we have laws that require any healthcare worker, if they suspect abuse, whether it's a child or an adult, they are by law required to report that. And they do that without being commissioned or without being paid. It's just that's what they're obligated to do. How does this differ from that? [LB393]

SENATOR SCHILZ: That's a good question. I know it's been brought up before as to what somebody that would be like a veterinarian, as you had talked about, what their requirements and duties are if they actually see it. I know we've got a couple in the audience here and they would be able to answer your questions. [LB393]

SENATOR RIEPE: I'm just thinking in part the administrative fees and "yadadadadot" and fiscal note and I'm saying...you know? If it's an ethical thing that they're required, my opinion is they should be doing that. But go ahead. Thank you. [LB393]

SENATOR SCHILZ: Sure. [LB393]

SENATOR JOHNSON: Any other questions? Thank you. First proponent. Welcome, again. [LB393]

JOHN HANSEN: (Exhibit 1) Mr. Chairman, again, and for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. Several years ago we made some very substantial changes in how we deal with this difficult issue. And I think that it's fair to say that everyone that's been involved in this issue comes to this issue with good intent. No one knowingly wants to condone abuse or neglect in animals. And yet we want to try to find a process and a procedure that respects due process that is appropriate in its punishment and is a good process that gathers fact as it should. So of all the things that we have done, we have made several good changes in the original bill. And Senator Carlson, when he was Chair of the Ag Committee, led a legislative effort to be able to bring folks together. And so that first set of changes was a positive beginning. But in my organization's view from the beginning we have struggled to get to a proper starting place and that is the gathering of medical information to determine what exactly is going on. The vast majority of these cases in the case of commercial livestock has to do with someone who's had a mental or a financial or both kinds of breakdowns and are no longer taking care of themselves, their animals, their family. And so in those cases, there's just a lack of feed so things are fairly clear. We are familiar with a case where there was a contaminated feed source bought and it caused a very substantial problem with a producer. And the absence of a good fact-finding process really is shown in that case. And so when you don't gather the facts, then you go off in the wrong direction. So we are also proposing an amendment--and you have the amendment--it is also come back from the Bill Drafters. We think it is a good compromise and it does the things that Senator Schilz has already indicated, but it differentiates the treatment between neglect and abuse. But no one at any point in this process ever, from the beginning, ever intended to start out to say that with one single incident of neglect that we were going to

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

Agriculture Committee
February 24, 2015

put an active livestock producer out of business. And to my mind, I represent livestock producers. But it is one thing for someone who has a pet to not be able to have their pet but it's an altogether different thing, because of the way that we currently allow stackable offenses where we have multiple misdemeanors that can be counted as a felony, which then mandates a judge's treatment which is in our view entirely not commensurate with the problem and is inappropriate. And so we commend Senator Schilz for bringing this bill forward and would be glad to answer any questions if we could do so. [LB393]

SENATOR JOHNSON: Okay. Thank you. Senator Riepe. [LB393]

SENATOR RIEPE: Thank you, Senator Johnson. On the amendment, on page 2, line 23, it looks like it's two strikes and you're out. Is that correct? Or is it a second, subsequent offense, or at what point in time do they confiscate the animals? Or do they? [LB393]

JOHN HANSEN: Well, depending on what the situation is, this bill...these amendments do not deal with the confiscation of animals. [LB393]

SENATOR RIEPE: Okay. [LB393]

JOHN HANSEN: The section that we're dealing with deals with the penalties. And so the penalties...the first penalty for a misdemeanor...for multiple misdemeanors would not involve using the 5 to 15 year you can't be around animals, which for livestock producers, as you know, puts them out of business. There's no other state in the country in our research that does that. That level of penalty for that situation is inappropriate. And for cases of abuse, that kind of remedy is still in play. And so as someone has had an opportunity to make changes in their operation, if they fail to do so then when you get to the second or third offense, if that's appropriate, then you have the ability to be able to do that. So again, it's getting the penalties more commensurate and appropriate for what's going on in the particular situation. [LB393]

SENATOR RIEPE: Okay. Thank you. [LB393]

SENATOR JOHNSON: Any questions? Any more? [LB393]

SENATOR KOLTERMAN: I have one. [LB393]

SENATOR JOHNSON: Okay. Senator Kolterman. [LB393]

SENATOR KOLTERMAN: Mr. Hansen, thanks for coming. Question: I have a little bit of trouble delineating between neglect and abuse. Can you shed any light on that?
[LB393]

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Transcriber's Office

Agriculture Committee
February 24, 2015

JOHN HANSEN: I am constantly having to live with the fact that I'm actually not a lawyer. [LB393]

SENATOR KOLTERMAN: Nor am I. [LB393]

JOHN HANSEN: And I view that as a blessing most of the time. But to me, the difference between neglect and abuse, abuse to me means that somebody has made a conscious decision to do something that is harmful to the animal. Neglect, in my opinion, has to do with folks that are...we have irresponsible folks everywhere. Irresponsible folks when they raise livestock or have pets are a problem. And so if you're not taking care of business, on a hot day you forget to check the tanks and the water is low, well, that's neglect. If you do something knowingly, willfully harmful to the animal, then that to me is in the abuse category. But I'm not a lawyer. [LB393]

SENATOR KOLTERMAN: Okay, thank you. [LB393]

SENATOR JOHNSON: Thank you. Any other questions? Thank you. [LB393]

JOHN HANSEN: Thank you very much. [LB393]

SENATOR JOHNSON: Next proponent. Opponents? Welcome. [LB393]

MICK MINES: Senator Johnson, members of the committee, my name is Mick Mines, M-i-c-k M-i-n-e-s. I'm a registered lobbyist today representing the Nebraska Humane Society and we are opposed to LB393. Pardon my voice, I can't get rid of the cold. We have prepared testimony for the original bill and Mr. Hansen was kind enough to give me the amendment a little bit ago. So we, as the Nebraska Humane Society doesn't get involved or would prefer not to get involved in any abuse cases. But we get involved in equine cases because equine is classified as livestock. And the Nebraska Humane Society has the only two certified equine cruelty investigators in the state, so we've been involved. About every month the Human Society will get several calls from eastern Nebraska counties. And then throughout the year they'll get several more from counties further out from Omaha. And they try to help but resources are limited and they do the best they can. They also provide educational opportunities for local authorities regarding prosecution of animal abuse cases including equine. In 2013, they held four seminars throughout the state and about 100 people attended. In 2014, about 50 police officers, sheriffs, public defenders, and county attorneys attended an educational day in Grand Island. So that program is doing every well. It's a great example for new county attorneys. And, in fact, the vice president of field operations, Mark Langan, who has appeared a number of times before this committee, wrote the search warrant preparation guide that's used at this time. The amendment, as I went through briefly, suggests that we change the penalties. And I believe the Humane Society will struggle

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

Agriculture Committee
February 24, 2015

with changing penalties. They've been in place for a reason and they work, particularly in cases of negligence. As an example, Mr. Hansen cited a case where some equine were seized and the owner of the equine was taken to court and was convicted by a jury on six counts, spent time in jail and can't have animals for five years. But that's the judicial process. That was a court of law by jurors and a judge. We have a number of changes to the amendments and we have...to the original amendments. We also are concerned...I'm sorry, I'll have to stop there. [LB393]

SENATOR JOHNSON: Question: What are your other concerns? [LB393]

MICK MINES: Well, there are several--thank you very much--several incidents where...for particularly veterinarians, there's \$150 a day fee for a veterinarian. And, Senator Riepe, you brought up the issue of veterinarians. And it has been our experience that veterinarians, they run a business. And many of them serve most of the county they live in and they may or may not have served the abuser of the animals or their family members' animals. There is a relationship and we find sometimes that it's difficult for them to step forward in a case. So we suggest that the department engage their veterinarians in this process rather than contracting. And by the way, I don't know a veterinarian that would spend a day for you for \$150 as outlined in the bill. So we have concerns. Obviously, we're going to have to sit down with the amendment and look through that. But we are very comfortable with the penalties as is and we'd certainly like to sit down and talk about that. But at this point, we're opposed to LB393. And I'll answer any questions. [LB393]

SENATOR JOHNSON: Questions? Seeing none, thank you. [LB393]

MICK MINES: Thank you. [LB393]

SENATOR JOHNSON: Other opponents. [LB393]

TRAVIS MOORE: Having issues over here again. [LB393]

SENATOR JOHNSON: Oh, we've got a machine that's not working. [LB393]

TRAVIS MOORE: Yep. Okay. [LB393]

SENATOR JOHNSON: Okay, any other opponents? Anyone in a neutral position? Welcome. [LB393]

RICHARD COCKERILL: Thank you, Senator Johnson and committee. I am Richard Cockerill, C-o-c-k-e-r-i-l-l, I represent the Nebraska Veterinary Medical Association. I practiced in Albion, Nebraska. We think it is important to have veterinarians included in any animal welfare discussion and in the review of animal cruelty. We appreciate the

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

Agriculture Committee
February 24, 2015

authors taking our concerns from last year's bill and making LB393 an improved animal welfare bill. Our concerns last year included the liability of the veterinarian acting as an animal cruelty investigative agent. Under LB393, the veterinarian is acting as an agent of the state for purposes of the State Tort Claims Act, which we think addresses our concerns. We also wanted to be sure the veterinarian acting in this capacity is fairly compensated. And under the language of LB393 the veterinarian will be compensated \$150 per day plus costs, which is an improvement over last year's bill. With that, I have nothing else and I'd like to thank you for your time. [LB393]

SENATOR JOHNSON: Any questions? Senator Bloomfield. [LB393]

SENATOR BLOOMFIELD: Thank you. Mr. Cockerill, Mr. Mines brought up a question about the veterinarians being willing to turn in somebody that they had done business with for a number of years. Do you see an issue there? [LB393]

RICHARD COCKERILL: I think there's a certain degree of truth to that, especially like, say, in my practice time. But the way this bill is set up, if there's veterinarians out there willing to be animal cruelty investigative agents they can be trained and certified and compensated for their time. So this is just an avenue to keep veterinarians involved in the animal abuse or animal cruelty situations. [LB393]

SENATOR BLOOMFIELD: Okay, thank you. [LB393]

SENATOR JOHNSON: Any other questions? Thank you. [LB393]

RICHARD COCKERILL: Thank you. [LB393]

SENATOR JOHNSON: Any other in the neutral position? Welcome. [LB393]

JOE MAXWELL: Thank you, Mr. Chairman, members of the committee. For the record, my name is Joe Maxwell, J-o-e M-a-x-w-e-l-l. We're here to...I'm representing The Humane Society of the United States. I am the vice president of outreach and engagement for The Humane Society of the United States and my address is in Mexico, Missouri, so from a neighboring state. We appreciate the opportunity to be here today. We strongly, as does the Nebraska Humane Society, care and have great concerns about the treatment of animals as well as the penalties one would suffer for the failure to properly care for animals. Your particular statute...a question was asked about abandonment and neglect. Those issues are defined in your statute. What the amendment does--and for which we would be here neutral on the bill, but support what John Hansen and the Farmers Union is attempting to do--and that is, in the event that there is a misdemeanor which is for abandonment or neglect of an animal, not causing serious illness or harm to the animal as defined by your statute, in those instances of a misdemeanor that a rancher or a farmer with livestock would be able to still be

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

Agriculture Committee
February 24, 2015

convicted of a misdemeanor but not be threatened to lose their livestock for five years, and to leave that in the discretion of the courts as opposed to making it mandatory. We believe that in the first instance of a misdemeanor that that could be justifiable, the penalty is still there for a misdemeanor. And then second account or subsequent account would subject the individual farmer or rancher to a greater penalty of the court determining whether or not they should even be able to be a rancher or a farmer and raise animals. I'd be happy to answer any questions that you all may have. [LB393]

SENATOR JOHNSON: Questions? Seeing none, thank you. [LB393]

JOE MAXWELL: Thank you very much, Mr. Chairman, and members of the committee. [LB393]

SENATOR JOHNSON: (Inaudible) Maxwell. Any other neutral? Seeing none, Senator Schilz to close. [LB393]

SENATOR SCHILZ: Thank you, Senator Johnson and members of the committee. And thank you for taking the time to hear the bill. As we wrote the bill we looked at these situations that we saw...some of the issues that we talked about. If we're not quite there with everything, we can continue to work on that. I think we're pretty close. I think it has in it what we...the concepts are there. Maybe we need to refine them just a little bit and I'll continue to work on that as we move forward. And with that, I'll close on the bill. Thank you. [LB393]

SENATOR JOHNSON: Senator Bloomfield. [LB393]

SENATOR BLOOMFIELD: Are you content with the Hansen amendments that...? Have you studied those yet? [LB393]

SENATOR SCHILZ: Those are the ones that have been put in so far. At this point I would say I am, but I want to circle back around and talk to folks and see what happens. [LB393]

SENATOR BLOOMFIELD: Okay. Thank you. [LB393]

SENATOR SCHILZ: Thanks. [LB393]

SENATOR JOHNSON: Any other questions? Okay. Do we have any letters? [LB393]

TRAVIS MOORE: (Exhibit 2) We have a letter in the neutral capacity from Director Greg Ibach with the Department of Agriculture. [LB393]

SENATOR JOHNSON: Okay. Thank you. With that, we will close the hearing on LB393

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Transcriber's Office

Agriculture Committee
February 24, 2015

and end our hearings today. (See also Exhibit __) [LB393]